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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU
OF COMPLIANCE, INVESTIGATION AND
LICENSING

Docket No.: 08-091002-7 (ENF-CO)

v.

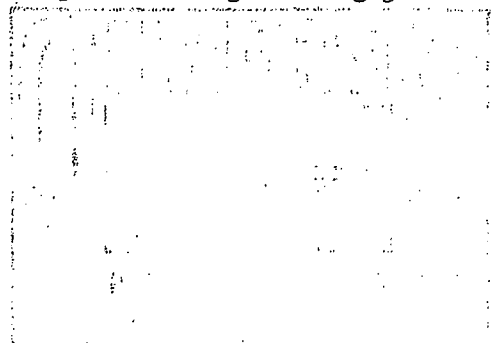
CAPITAL MORTGAGE FINANCE CORP.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations conducted an examination of Capital Mortgage Finance Corp. ("Capital Mortgage"), and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Capital Mortgage operated in violation of 7 Pa. C.S. § 6101 et seq. (the "Mortgage Act"). The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Act for the Department.



3. The Mortgage Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. § 456.301 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.

4. Capital Mortgage was formerly licensed as a First Mortgage Banker, license no. 11541, pursuant to the MBBCEPA and as a Secondary Mortgage Lender, license no. 11542, pursuant to the SMLA.

5. Capital Mortgage was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

6. Capital Mortgage's former principal place of business in Pennsylvania was located at 2200 East Market Street, York, PA 17402 (the "Former Principal Place").

7. On January 28, 2008, an examiner from the Department initiated an examination of Capital Mortgage at the Former Principal (the "Examination").

8. Since the Examination, Capital Mortgage has relocated its principal place of business in Pennsylvania to 1441 E. Market Street, Fl. 2, York, PA 17403-1254 and currently has licensed branch locations in Timonium, MD; Columbia, MD; Allentown, PA; State College, PA; Eldersburg, MD and Annapolis, MD.

Unlicensed Locations

9. The Examination revealed that Capital Mortgage originated three (3) first mortgage loans (the "Loans") involving Pennsylvania real property from an unlicensed location in Wilmington, Delaware (the "Delaware Location").

10. Specifically, the Uniform Residential Loan Applications (1003s) for the Loans identified an employee and phone number for the Delaware Location.

11. The Mortgage Act applies to, *inter alia*, “[a]ny mortgage loan which is . . . notwithstanding the place of execution, *secured by real property located in this Commonwealth.*” 7 Pa. C.S. § 6151(1)(iii) (emphasis added) (corresponding to 63 P.S. § 456.318(1)(iii) and 7 P.S. § 6620(a)(3)).

12. The Mortgage Act defines a “branch” as “[a]n office or other place of business, other than the principal place of business, located in this Commonwealth *or any other state*, where a person engages in the mortgage loan business subject to this chapter.” 7 Pa. C.S. § 6102 (emphasis added) (corresponding to 63 P.S. § 456.302).

13. Section 6131(a)(1)(ii) of the Mortgage Act provides, in relevant part, that an application for licensure shall include “the address *or addresses* where the applicant’s mortgage loan business is to be conducted.” 7 Pa. C.S. § 6131(a)(1)(ii) (emphasis added) (corresponding to 63 P.S. § 456.304(a)).

14. Section 6132(b)(2) of the Mortgage Act provides that a licensee must pay a renewal fee for each branch office. 7 Pa. C.S. § 6132(b)(2) (corresponding to Section 305(a) of the MBBCEPA, 63 P.S. § 456.305(a)).

15. Thus, based on the foregoing, any office of a licensee where mortgage loan business is conducted under the Mortgage Act must be licensed as a branch pursuant to the Mortgage Act.

Records and Staffing

16. The Examination revealed that Capital Mortgage was not maintaining its Pennsylvania mortgage records at the Former Principal Place.

17. Specifically, Capital Mortgage was maintaining its Pennsylvania mortgage records at the branch locations that originated the Pennsylvania mortgage loans.

18. Section 6135(a)(2) of the Mortgage Act (corresponding to Section 308(a)(2) of the MBBCEPA and Section 10(a)(2) of the SMLA) requires a licensee to maintain records at its principal place of business in Pennsylvania unless the licensee has authorization from the Department to maintain those records elsewhere. 7 Pa. C.S. § 6135(a)(2) (corresponding to 63 P.S. § 456.308(a)(2) and 7 Pa. C.S. § 6610(a)(2)).

19. At the time of the Examination, Capital Mortgage did not have authorization to maintain its records at any location other than its principal place of business in Pennsylvania.

20. Since the Examination, Capital Mortgage applied for, and was approved for, alternate site recordkeeping authorization.

Continuing Education

21. The Examination revealed that Capital Mortgage did not have an individual at the Former Principal Place obtain the required continuing education credits.

22. Section 6131(g)(2)(i) of the Mortgage Act (corresponding to Section 304(e) of the MBBCEPA) provides, in relevant part, that to maintain a license “[a] mortgage broker, mortgage lender or mortgage loan correspondent shall demonstrate to the satisfaction of the department that at least one individual from each licensed office that is not a mortgage originator, and all mortgage originators employed by the licensee, have attended a minimum of six hours of continuing education each year.” 7 Pa. C.S. § 6131(g)(2)(i) (corresponding to 63 P.S. § 456.304(e)).

Authority of the Department

23. Section 6138(a)(4) of the Mortgage Act (corresponding to Sections 310(a) of the MBBCEPA and 16(1) of the SMLA) grants the Department broad authority to issue orders for the enforcement of the Mortgage Act. 7 Pa. C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

24. Section 6140(b) of the Mortgage Act (corresponding to Section 314(c) of the MBBCEPA and Section 22(b) of the SMLA) provides, in relevant part, that “[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(b) (corresponding to 63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

VIOLATIONS

25. Capital Mortgage violated Sections 6131(a)(1)(ii) and 6132(b)(2) of the Mortgage Act (corresponding to Sections 304(a) and 305(a) of the MBBCEPA) by originating first mortgage loans involving Pennsylvania property from an unlicensed location in Delaware.

26. Capital Mortgage is in violation of Section 6135(2) of the Mortgage Act (corresponding to Section 308(a)(2) of the MBBCEPA and Section 10(a)(2) of the SMLA) by not maintaining required records at its principal place of business in Pennsylvania when Capital Mortgage did not have authorization to maintain the records elsewhere.

27. Capital Mortgage violated Section 6131(g)(2)(i) of the Mortgage Act (corresponding to Section 304(e) of the MBBCEPA) by not having an individual complete the continuing education requirements for the Former Principal Place.

RELIEF

28. Fine. Within thirty (30) days of the Effective Date of this Order, Capital Mortgage shall pay to the Department a fine of \$4,000. The fine payment shall be remitted by a certified check or money order made payable to the Department of Banking and payment shall be directed to: Department of Banking, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101.

29. Corrective Measures. Upon the Effective Date of this Order, Capital Mortgage shall:

- a. cease and desist originating loans from unlicensed locations; and
- b. complete its continuing education requirements as set forth in the Mortgage Act.

FURTHER PROVISIONS

30. Consent. Capital Mortgage hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Act and agrees that it understands all of the terms and conditions contained herein. Capital Mortgage, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

31. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).

32. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or

otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and Capital Mortgage.

33. Binding Nature. The Department, Capital Mortgage, and all officers, owners, directors, employees, heirs and assigns of Capital Mortgage intend to be and are legally bound by the terms of this Order.

34. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

35. Effectiveness. Capital Mortgage hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

36. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Capital Mortgage in the future regarding all matters not resolved by this Order.

b. Capital Mortgage acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

37. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

38. Counterparts. This Order may be executed in separate counterparts and by facsimile.

39. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department and Capital Mortgage intending to be legally bound do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE, INVESTIGATIONS AND LICENSING

Ryan M. Walsh, Administrator
Bureau of Compliance, Investigations and Licensing
Department of Banking

Date: February 5, 2009

FOR CAPITAL MORTGAGE FINANCE CORP.

(Officer Signature)

(Print Officer Name)

President
(Title)

Date: 1/20/09