

FILED

2009 APR 21 PM 1:09

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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

DOCKET No. 09 0040 (ENF-CO)

v.

UNIVERSAL CAPITAL SERVICES, INC.  
DBA U. S. MORTGAGELINE.

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Compliance, Investigation and Licensing (the "Bureau") has reviewed the business practices of Universal Capital Services Inc. d/b/a U. S. Mortgageline ("Universal Capital") and its officers, employees and directors. Based on the results of its review, the Bureau believes that Universal Capital is 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 On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.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. Universal Capital was licensed as a First Mortgage Broker, license no. 4579, pursuant to the MBBCEPA and as a Secondary Mortgage Broker, license no. 2045, pursuant to the SMLA.

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

6. Universal Capital is currently licensed as a Mortgage Lender pursuant to the Mortgage Act.

7. Universal Capital has its principal place of business in Pennsylvania located at 2 Bala Plaza, Ste 503, Bala Cynwyd, PA 19004-1514.

#### Misleading Advertising

8. The Department received a consumer complaint regarding a mail solicitation (the "Solicitation").

9. The Solicitation appears to be a Notice to Bucks County residents from a government entity. A copy of the Solicitation is attached as Exhibit A.

10. The Solicitation was sent by Universal Capital.

11. The Solicitation does not indicate directly that the consumer will have to re-finance their present mortgage to take the offer described in the Solicitation.

12. The Bureau believes that the Solicitation is false and misleading because it appears the Solicitation is an official notice which sole purpose is to create confusion and anxiety for its recipient.

Authority of the Department

13. 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)).

14. Section 6139(a)(3) of the Mortgage Act (corresponding to Section 313(a)(5) of the MBBCEPA) provides that the Department may suspend, revoke, or refuse to renew a license if the licensee has "[e]ngaged in dishonest, fraudulent or illegal practices or conduct in any business or unfair or unethical practices or conduct in connection with the mortgage business." 7 Pa. C.S. § 6139(a)(3) (corresponding to 63 P.S. § 456.313(a)(5)).

15. 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)).

16. Section 46.2(a) of the Proper Conduct of Lending and Brokering in the Mortgage Loan Business Regulation (the "Proper Conduct Reg"), 10 Pa. Code § 46.1 et seq., provides, in relevant part that a "licensee may not engage in false or misleading advertising." 10 Pa. Code § 46.2(a).

17. Section 46.3 of the Proper Conduct Reg provides that a violation of the Proper Conduct Reg is a violation of the Mortgage Act.

VIOLATION

18. Universal Capital engaged in false and misleading advertising by using the Solicitation.

RELIEF

19. Corrective Action. Upon the Effective Date of this Order, Universal Capital shall cease and desist from engaging in false or misleading advertising.

20. Fine. Universal Capital shall pay to the Department a fine in the amount of \$5,000 payable in five \$1,000 installment payments. The first installment payment shall be due and payable within thirty (30) days of the Effective Date of this Order. The second installment payment shall be due and payable within sixty (60) days of the Effective Date of this Order. The third installment payment shall be due and payable within ninety (90) of the Effective Date of this Order. The fourth installment payment shall be due and payable within one hundred twenty (120) days of the Effective Date of this Order. The fifth installment payment shall be due and payable within one hundred fifty (150) days of the Effective Date of this Order. All payments shall be payable by certified check or money order and remitted to the attention of the Bureau of Compliance, Investigation and Licensing, Pennsylvania Department of Banking, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

21. Suspension. Thirty (30) days from the Effective Date of this Order, Universal Capital's license shall be suspended for a period of 15 calendar days. Failure to abide by this provision will result in a 30 day suspension as permitted by law.

FURTHER PROVISIONS

22. Consent. Universal Capital 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. Universal Capital, 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.

23. 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).

24. 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 Universal Capital.

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

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

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

28. 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 Universal Capital in the future regarding all matters not resolved by this Order.

b. Universal Capital 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.

