

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2010 SEP 30 PM 3: 35

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

PA DEPT OF BANKING

Docket No.: 10 0239 (ENF-ORD)

v.

CAPITAL SYSTEMS INC.

ORDER

WHEREAS, the Department of Banking ("Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Licensing Act, 7 Pa. C.S. § 6101, *et. seq.*; and

WHEREAS, the Bureau of Compliance, Investigation and Licensing ("Bureau") is primarily responsible for administering and enforcing the Mortgage Licensing Act; and

WHEREAS, Capital Systems Inc. ("Capital System") is located at 84 Irish Meetinghouse Road, Perkasie, Pennsylvania 18944; and

WHEREAS, on November 5, 2008, the act known as the Mortgage Act, Act of July 8, 2008, P.L. 796, No. 56, became effective; and

WHEREAS, after passage of the Mortgage Act, the Department required mortgage licensees to transition onto the Nationwide Mortgage Licensing System and Registry ("NMLS"); and

WHEREAS, Capital Systems transitioned onto NMLS by applying for and receiving a conditional mortgage broker license, License No. 21896, NMLS Id. No. 148136, from the Department; and

WHEREAS, on August 5, 2009, the Act known as the Mortgage Act was amended to comply with the Federal Secure and Fair Enforcement Mortgage Licensing Act of 2008 (“SAFE Act”), 12 U.S.C.S. § 5101, *et. seq.*; and

WHEREAS, the act known as the Mortgage Act was titled the Mortgage Licensing Act (“MLA”), 7 Pa. C.S. § 6101(b); and

WHEREAS, the MLA, in relevant part, adopted the SAFE Act’s requirement that all mortgage licensees obtain and maintain their licenses on the NMLS, 7 Pa. C.S. § 6131(a); 12 U.S.C.S. § 5107; and

WHEREAS, the MLA also adopted the SAFE Act requirement that all mortgage licensees, including mortgage lenders, mortgage brokers and mortgage loan correspondents, obtain and maintain a surety bond, in a form acceptable to the Department from a surety company authorized to do business in the Commonwealth, 7 Pa. C.S. § 6131 (c)-(f); 12 U.S.C.S. § 5107(d)(6); and

WHEREAS, the MLA expressly sets forth the amount of the surety bonds that the licensees must obtain based upon the mortgage license type and the amount of mortgage loans originated or anticipated to be originated, 7 Pa. C.S. § 6131 (c)(5), (d)(3),(e)(3),(f)(3); and

WHEREAS, the purpose of the surety bond is for “the use of the Commonwealth” and any person or consumer who is injured by the acts or omissions of the licensee’s mortgage originators in the mortgage loan business, 7 Pa. C.S. § 6131 (c)-(f); and

WHEREAS, Capital Systems had to meet all of the requirements of the MLA to maintain its conditional mortgage license including providing an original and fully executed surety bond to the Department in the proper amount, in a form acceptable to the Department, by a company authorized to do business in the Commonwealth (“approved surety bond”); and

WHEREAS, the Department initially notified all mortgage licensees of the surety bond requirement by letter dated on or around September 9, 2009 (*See* a true and correct copy of the “notification letter” attached as Appendix A); and

WHEREAS, the notification letter was emailed to each licensee at the address provided by the licensee in the NMLS and the letter was posted on the Department’s website; and

WHEREAS, the Department made several additional attempts to obtain the approved surety bond from the mortgage licensees including Capital Systems; and

WHEREAS, to date, Capital Systems has not provided the approved surety bond to the Department; and

WHEREAS, Capital Systems has been operating as a mortgage licensee without the approved surety bond; and

WHEREAS, because Capital Systems has been operating without the approved surety bond, there is a risk of financial harm to Pennsylvania consumers if Capital Systems’s mortgage originators cause injury to consumers in the mortgage loan business; and

WHEREAS, Section 6133(f) of the MLA provides that if the Department determines that conditions imposed upon a licensee have not been fulfilled, the department may take *any action* against the licensee that the department deems necessary as set forth in the chapter, 7 Pa. C.S. § 6133(f) (emphasis added); and

WHEREAS, the Department has the authority to suspend . . . any license issued pursuant to the MLA if a licensee has failed to comply with or violated any provision of the MLA, 7 Pa. C.S. § 6139(a)(2); and

WHEREAS, the Department has the authority to issue orders for the enforcement of the MLA, 7 Pa. C.S. § 6138(a)(4); and

WHEREAS, the Department may fine a licensee up to \$10,000 per offense for violating the MLA or committing any action which would subject the licensee to license suspension, 7 Pa. C.S. § 6140(b); and

AND NOW THEREFORE, because Capital Systems Inc. has violated the MLA by failing to provide an approved surety bond to the Department, the Bureau under the authority cited above, hereby imposes the following Order. From the effective date of this Order, Capital Systems Inc.'s license is hereby **SUSPENDED** until it meets **both** of the following conditions:

1. Capital Systems Inc. provides an original and fully executed surety bond to the Department, in the proper amount, on a form approved by the Department by a company authorized to do business in the Commonwealth. The surety bond shall be mailed to:

Theresa L. Jones, AFIE
Bureau of Compliance
Pennsylvania Department of Banking
17 N. Second Street, Suite 1300
Harrisburg, PA 17101

2. Capital Systems Inc. pays a fine in the amount of \$5,000. Payment shall be made by certified check or money order to the "Department of Banking" and shall be sent to the following:

Department of Banking
Bureau of Compliance
17 N. Second Street, Suite 1300
Harrisburg, PA 17101

Because Capital Systems Inc.'s license is suspended, it shall not, in any way, engage in the mortgage loan business in this Commonwealth, as defined in the MLA, until such time that the Department reinstates its license upon receipt of the approved surety bond and \$5,000 fine. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary for the enforcement of the MLA.

IT IS SO ORDERED.

Ryan Walsh, Administrator
Department of Banking,
Bureau of Compliance, Investigation and Licensing

Dated: September 30, 2010

APPENDIX A



MARKET SQUARE PLAZA | 17 N SECOND STREET, SUITE 1300 | HARRISBURG, PA 17101
Ph 717.787.3717 Ex 717.787.8773 W www.banking.state.pa.us

SURETY BOND INFORMATION REGARDING THE MORTGAGE LICENSING ACT

On August 5, 2009, Governor Edward G. Rendell signed into law as Act 31 of 2009, House Bill 1654 (P.N. 2448), which amends Pennsylvania's existing mortgage licensing law, 7 Pa.C.S. Chapter 61, now titled the Mortgage Licensing Act ("MLA"), in order to implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the "SAFE Act"), 12 U.S.C. § 5101 *et seq.* Act 31 became effective immediately. The amendments contained in Act 31 implement the SAFE Act by merging its requirements into the MLA.

This letter provides the mortgage industry with further details regarding the surety bond requirements for mortgage originators and mortgage companies. Licensees will have until November 30, 2009 to provide the department with proof of surety bond coverage as prescribed by the MLA.

Surety Bond Requirement:

The MLA requires mortgage company licensees and applicants (including consumer discount companies and affiliates of banks and credit unions engaged in the mortgage loan business) to maintain a surety bond in an amount that reflects the volume of mortgage loans originated by the mortgage originators employed by the business. The amount of the bond will be determined by the amount of mortgage loans originated and secured by Pennsylvania real property in a calendar year as indicated on the licensee's annual report. For initial mortgage business applicants, the amount of the bond will be determined by the anticipated amount of mortgage loans originated and secured by Pennsylvania real property in the first calendar year of licensing.

Licensed mortgage originators will be responsible for maintaining an individual surety bond only if their employer is a business that is not required to be licensed by virtue of the MLA (i.e. agencies or instrumentalities of a federal, state or local government, or non-profit corporations) and elects not to maintain the required surety bond on behalf of its licensed mortgage originators. Should individually licensed mortgage originators require individual bonding, the amount of the surety bond required will be determined by the amount of mortgage loan originations secured by Pennsylvania real property in the most recent complete calendar year. For initial mortgage originator applicants, the amount of the bond will be determined by the anticipated amount of mortgage loans secured by Pennsylvania real property originated in the first calendar year of licensing.

The following summarizes the bond requirements:

Mortgage Lenders and Mortgage Loan Correspondents:

<u>Bond Amount</u>	<u>Anticipated or Actual Amount of PA Mortgage Loan Originations</u>
\$100,000	\$29,999,999.99 or less
\$200,000	\$30,000,000 - \$99,999,999.99
\$300,000	\$100,000,000 - \$249,999,999.99
\$500,000	\$250,000,000 or more

Mortgage Brokers

<u>Bond Amount</u>	<u>Anticipated or Actual Amount of PA Mortgage Loan Originations</u>
\$50,000	\$14,999,999.99 or less
\$75,000	\$15,000,000 - \$29,999,999.99
\$100,000	\$30,000,000 - \$49,999,999.99
\$150,000	\$50,000,000 or more

Mortgage Originators

<u>Bond Amount</u>	<u>Anticipated or Actual Amount of PA Mortgage Loan Originations</u>
\$25,000	\$7,499,999.99 or less
\$50,000	\$7,500,000 - \$14,999,999.99
\$75,000	\$15,000,000 - \$29,999,999.99
\$100,000	\$30,000,000 - \$49,999,999.99
\$150,000	\$50,000,000 or more

Note: This separate volume based surety bond requirement does not replace the additional requirement for Mortgage Brokers and Mortgage Loan Correspondents who are accepting advanced fees to obtain a separate bond in the amount of \$100,000.

Transition Plan:

Licensees and registrants are invited to visit the department's website (www.banking.state.pa.us) in order to download the approved surety bond form. All licensees must use this form and obtain coverage from a surety company authorized to do business in PA in order to meet the new surety bond requirements.

Licensees and registrants must submit the original and fully executed surety bond form to the department no later than **November 30, 2009**.

Send original bonds to the following address:

**Pennsylvania Department of Banking
Attention: Compliance Division
Marker Square Plaza
17 North Second Street
Harrisburg, PA 17101**

Conclusion:

The Department's licensing staff is committed to assisting you in this transition. Should you have any questions regarding the MLA or the transition plan, feel free to contact the licensing staff at (717) 787-3717 or email at ra-asklicensing@state.pa.us. For questions regarding NMLS and how to create a record on the system, please contact the NMLS Call Center at (240) 386-4444.

Thank you,

Jamie Robenseifner
Chief, Licensing Division
Bureau of Compliance, Investigation,
and Licensing

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DEPARTMENT OF BANKING

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LICENSING	:	
	:	Docket No.:10 <u>0239</u> (ENF-ORD)
v.	:	
	:	
CAPITAL SYSTEMS INC.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing **Order** upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code § 33.32:

BY CERTIFIED MAIL, RETURN RECIEPT REQUESTED,
AND FIRST CLASS MAIL:

Capital Systems Inc.
c/o Ronald Kaisen
84 Irish Meetinghouse Road
Perkasie, PA 18944

Dated: September 30, 2010

Beghe A. Bahl, Assistant Counsel
Commonwealth of Pennsylvania
Department of Banking
17 N. Second Street, Suite 1300
Harrisburg, PA 17101-2290
Telephone: (717) 787-1471
Fax: (717) 783-8427