

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

FILED

2012 JUN -6 PM 3: 07

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

PA DEPT OF BANKING

v.

Docket No.: 12 0055 (ENF-ORD)

CAPITAL WEALTH MANAGEMENT  
GROUP, LLC

2012 JUN 11 PM 12: 46  
PA DEPT OF BANKING

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NOTICE OF RIGHT TO APPEAL AND HEARING

You, Capital Wealth Management Group, LLC have the right to appeal the attached Order of Prohibition (the "Order") within 10 days of the date of service. See 1 Pa. Code § 35.20. The date of service is the date the Order is deposited in the mail or delivered to you in person, as the case may be, as set forth in 1 Pa. Code § 33.34. If you appeal the Order, you also have a right to a hearing.

To file an appeal and request a hearing on the Order, you must file a petition with the Secretary of Banking within 10 days of the date of service. 1 Pa. Code § 35.20. The petition must be in writing, state clearly and concisely your grounds of interest in the subject matter, the facts you rely upon, the law you rely upon, and the relief you seek. See 1 Pa. Code § 35.17. Please deliver your petition to:

Linnea Freeberg, Docket Clerk  
Office of Executive Deputy Secretary  
Pennsylvania Department of Banking  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101

The petition must be **received** by the Docket Clerk within the aforementioned 10 day deadline. If the Docket Clerk does not receive your petition on time, you will waive your right to an appeal and a hearing and the Order will be deemed final.

If you choose to file a petition challenging the Order, please send an additional copy to:

Sarah E. Sedlak, Assistant Counsel  
Pennsylvania Department of Banking  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101

Once you file your petition appealing the Order and requesting a hearing, you will be notified of the hearing date, time, place, the person who will preside at your hearing, and any other pertinent information.

You have the right to be represented by an attorney. Corporations may be required to be represented by an attorney.

The hearing and all other procedural matters will be governed by the Pennsylvania Administrative Agency Law, 2 Pa. C.S. §§ 501-508, 701-704, and the General Rules of Administrative Practice and Procedure, 1 Pa. Code §§ 31.1.-35.251.

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COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF BANKING, BUREAU OF :  
COMPLIANCE AND LICENSING :  
v. :  
CAPITAL WEALTH MANAGEMENT :  
GROUP, LLC :

PA DEPT OF BANKING

Docket No.: 12 0055 (ENF-ORD)

2012 JUN 11 PM 12:14:8  
PA DEPT OF BANKING

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ORDER

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

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

WHEREAS, the Mortgage Licensing Act was amended on August 5, 2009, by Act 31 of 2009, H.B. 1654 (P.N. 2448); and

WHEREAS, Capital Wealth Management Group, LLC ("Capital Wealth Management") is located at 133 West Main Street, Suite 112, Northville, Michigan 48167; and

Unlicensed Activity

WHEREAS, on or around November 19, 2010, the Department became aware that Capital Wealth Management was conducting mortgage loan business in Pennsylvania; and

WHEREAS, Capital Wealth Management solicited consumers with phone calls; and

WHEREAS, in these phone calls, Capital Wealth Management advertised its loan modification business and offered services for an advanced fee; and

**WHEREAS**, the Federal Trade Commission referred a Pennsylvania consumer (“Consumer”) complaint to the Department regarding Capital Wealth Management on or around November 19, 2010; and

**WHEREAS**, Capital Wealth Management offered and entered into a contract with the Consumer for loan modification services in January of 2010; and

**WHEREAS**, by negotiating, offering or otherwise transacting mortgage loan modifications to at least one consumer, Capital Wealth Management actively engaged in and held itself out as being engaged in the “mortgage loan business” as defined in the Mortgage Licensing Act, 7 Pa. C.S. § 6151(1)(i); and

**WHEREAS**, the Mortgage Licensing Act prohibits persons from engaging in the mortgage loan business in Pennsylvania without holding a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator license, 7 Pa. C.S. § 6111(a); and

**WHEREAS**, Capital Wealth Management does not hold a license issued by the Pennsylvania Department of Banking to engage in the mortgage loan business in Pennsylvania; and

**WHEREAS**, Sections 6111(b) and 6112 of the Mortgage Licensing Act set forth exceptions to the licensure requirements of Section 6111(a), 7 Pa. C.S. §§ 6111(b), 6112; and

**WHEREAS**, Capital Wealth Management Group does not meet any of the exceptions to licensure in Section 6111(b) and 6112 of the Mortgage Licensing Act, 7 Pa. C.S. §§ 6111(b), 6112; and

**WHEREAS**, the employees of Capital Wealth Management that conduct the mortgage loan modification negotiations with third party lenders on behalf of consumers are not licensed as mortgage originators pursuant to the Mortgage Licensing Act; and

**WHEREAS**, the employees of Capital Wealth Management do not meet any exception to licensure, See 7 Pa. C.S. §§ 6102, 6111(a), 6112; and

**WHEREAS**, Capital Wealth Management has violated the Mortgage Licensing Act by engaging in the mortgage loan business in Pennsylvania without a license; and

Advance Fees

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines an “advance fee” as “[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser,” See 7 Pa. C.S. § 6102; and

**WHEREAS**, a mortgage loan application may either be in writing or electronically submitted, including a written record of an oral application and is defined as the submission of a borrower's financial information including “the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator.”

**WHEREAS**, Capital Wealth Management contacted the Consumer for loan modification services regarding residential property; and

**WHEREAS**, the Consumer entered into a contract with Capital Wealth Management for the loan modification services for the residential properties; and

**WHEREAS**, the Consumers’ contract required a payment of fees through AltCharge, an electronic check processor, in advance of services being rendered by Capital Wealth Management; and

**WHEREAS**, those advance fees are connected to the mortgage loan business; and

**WHEREAS**, the Mortgage Licensing Act requires those collecting advance fees related to the mortgage business to obtain specific bond coverage, 7 Pa. C. S. § 6131(e)(1); and

**WHEREAS**, Capital Wealth Management had not obtained this bond; and

**WHEREAS**, the Consumer made the required advance payment through AltCharge to Capital Wealth Management; and

**WHEREAS**, by charging advance fees without obtaining the proper bond, Capital Wealth Management has violated the Mortgage Licensing Act; and

Mortgage Licensing Act

**WHEREAS**, the Mortgage Licensing Act applies to any mortgage loan that is “(i) negotiated, offered or otherwise transacted within this Commonwealth, in whole or in part, whether by the ultimate lender *or any other person*; (ii) made or executed within this Commonwealth; or (iii) notwithstanding the place of execution, secured by real property located in this Commonwealth.” 7 Pa. C.S. § 6151(1) (emphasis added); and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines an “advance fee” as “[a]ny funds requested by or to be paid to a person in advance of or during the processing of a mortgage loan application, excluding those fees paid by a consumer directly to a credit agency reporting bureau, title company or real estate appraiser.” 7 Pa. C.S. § 6102; and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines “mortgage loan business” as “[t]he business of advertising, causing to be advertised, soliciting, negotiating or arranging in the ordinary course of business or offering to make or making mortgage loans.” 7 Pa. C.S. § 6102; and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines a “mortgage originator” as:

- (1) An individual [that] takes a mortgage loan application or offers or negotiates terms of a mortgage loan for compensation or gain.
- (2) The term does not include any of the following:
  - (i) An individual engaged solely as a loan processor or underwriter consistent with section 6112(8) (relating to exceptions to licensing requirements).
  - (ii) A person or entity solely involved in extensions of credit relating to timeshare plans. . . .
- (3) Except as set forth in paragraph (4), the term does not include an employee of a licensee or person exempt or excepted from licensure under this chapter who *solely renegotiates terms for existing mortgage loans held or serviced by that licensee or person* and who does not otherwise act as a mortgage originator.
- (4) . . . .

7 Pa. C.S. § 6102 (emphasis added); and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines a “first mortgage loan” as a loan which is “(1) made primarily for personal, family or household use; and (2) secured by any first lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate.” 7 Pa. C.S. § 6102; and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines a “secondary mortgage loan” as “(1) made primarily for personal, family or household use; and (2) secured by any secondary lien mortgage, deed of trust, or equivalent consensual security interest on a dwelling or on residential real estate.” 7 Pa. C.S. § 6102; and

**WHEREAS**, Section 6102 of the Mortgage Licensing Act defines a “mortgage loan” as “[a] first or secondary mortgage loan, or both, as the context may require.” 7 Pa. C.S. § 6102; and

**WHEREAS**, Section 6111(a) of the Mortgage Licensing Act provides that “. . . no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter. A mortgage originator may not engage in the mortgage loan

business unless the mortgage originator is employed and supervised by a licensed mortgage broker, mortgage lender or mortgage loan correspondent. . .” 7 Pa. C.S. § 6111(a); and

**WHEREAS**, Section 6131(e)(1) of the Mortgage Licensing Act provides that mortgage broker license applicants must obtain and “maintain a bond in the amount of \$100,000, in a form acceptable to the department, prior to the issuance of the license, from a surety company authorized to do business in this Commonwealth. The bond shall be a penal bond conditioned on compliance with this chapter and subject to forfeiture by the department and shall run to the Commonwealth for its use. The bond shall also be for the use of any person against the mortgage broker for failure to carry out the terms of any provision for which advance fees are paid. . . .” 7 Pa. C.S. § 6131(e)(1); and

**WHEREAS**, Section 6138(a)(4) of the Mortgage Licensing Act provides the Department with authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the Mortgage Licensing Act. 7 Pa. C.S. § 6138(a)(4); and

**WHEREAS**, Section 6140(a) of the Mortgage Licensing Act provides, in relevant part that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(a); and

**AND NOW, THEREFORE**, since Capital Wealth Management has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Loan Origination. Upon the Effective Date of this Order<sup>1</sup>, Capital Wealth Management and any and all officers, members, managers, employees, independent contractors or agents of Capital Wealth Management shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Licensing Act, including, but not limited to, advertising (including soliciting phone calls), accepting applications and negotiating mortgage loans and mortgage loan modifications in Pennsylvania, unless and until such time that Capital Wealth Management and all mortgage originators as defined by the Mortgage Licensing Act are licensed by the Department pursuant to the Mortgage Licensing Act.

2. Fine. Upon the Effective Date of this Order, Capital Wealth Management shall pay a \$1,000 fine for violating the Mortgage Licensing Act. The fine shall be made by certified check or money order made payable to the "Department of Banking" and shall be sent to the attention of the Department of Banking, Bureau of Compliance and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

3. Pipeline Report. Upon the Effective Date of this Order, Capital Wealth Management shall provide a list of consumers that Capital Wealth Management has worked with in order to negotiate mortgage loan modifications ("Pipeline Report"). The Pipeline Report shall include, but is not limited to:

- a. The names, addresses and phone numbers of consumers that have responded to advertisements or that Capital Wealth Management has as clients;
- b. The amount of fees collected from the consumers;
- c. The current rate, term and payment of the consumers' loans;

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<sup>1</sup> This Order is effective ten days after the date of execution below, if no petition for hearing is timely filed. If a petition for hearing is timely filed, the Order will become effective on the date upon which a final order is issued.

- d. The proposed rate, term and payment of the loans subsequent to the loan modification; and
- e. The current status and/or resolution of the loan modification.

The Pipeline Report shall be sent to John Talalai, Administrator, Compliance Division, at [jtalalai@pa.gov](mailto:jtalalai@pa.gov), by 5:00 PM eastern time on the Effective Date of this Order. The Pipeline Report shall be updated weekly, until the Bureau no longer requires updates.

4. Advertising. Upon the effective date of this Order, Capital Wealth Management shall provide a list of websites or provide copies of any other advertising that Capital Wealth Management has utilized including, but not limited to, mail solicitations. The information shall be sent to John Talalai, Administrator, Compliance Division, at [jtalalai@pa.gov](mailto:jtalalai@pa.gov), by 5:00 PM eastern time on the Effective Date of this Order.

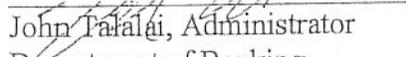
5. Contact Information. Upon the Effective Date of this Order, Capital Wealth Management shall provide a list of all owners, officers and employees of Capital Wealth Management. The list shall include the name, address, telephone number and position of these individuals. The information shall be sent to John Talalai, Administrator, Compliance Division, at [jtalalai@pa.gov](mailto:jtalalai@pa.gov), by 5:00 PM eastern time on the effective date of this Order.

6. Advance Fees. Upon the Effective Date of this Order, the Capital Wealth Management shall provide a refund to the Consumer listed in the table in Appendix A. See attached Appendix A. The refund shall be in the amount that corresponds with the Consumer in the table in Appendix A. Capital Wealth Management shall provide the Bureau with a copy of a cancelled/cleared check. A copy of the cancelled/cleared check shall be sent to John Talalai, Administrator, Compliance Division, at [jtalalai@pa.gov](mailto:jtalalai@pa.gov), by 5:00 PM eastern time on the Effective Date of this Order.

7. Waiver. Nothing in this Order shall prevent Capital Wealth Management from seeking a waiver from the Department to allow Capital Wealth Management to complete a loan modification for a consumer that is listed on the Pipeline Report as provided in Paragraph 3 in order to prevent further harm to the consumer and for no other reason. Requests for waiver may be made to John Talalai, Administrator, Compliance Division, at [jtalalai@pa.gov](mailto:jtalalai@pa.gov).

8. Reservation of Rights. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) or (b) of the Mortgage Licensing Act or seeking restitution for consumers.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
John Talalai, Administrator  
Department of Banking,  
Bureau of Compliance and Licensing

\_\_\_\_\_  
(Date)

6/16/2012

**APPENDIX A**

<b>Consumer Name</b>	<b>Amt. Owed</b>
Redacted	\$2,000.00

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CAPITAL WEALTH MANAGEMENT  
GROUP, LLC

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 §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

Capital Wealth Management, LLC  
133 W. Main Street  
Suite 112  
Northville, MI 48167

Dated this 6th day of June, 2012.

Sarah E. Sedlak, Assistant Counsel  
Attorney I.D. # 93810  
FOR: Commonwealth of Pennsylvania  
Department of Banking  
17 North Second Street, Suite 1300  
Harrisburg, PA 17101  
(717) 787-1471

