

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

2013 JUN 20 PM 1:59

PA DEPARTMENT OF BANKING AND SECURITIES

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

v.

Docket No. : 13 0045 (BNK-ORD)

CAPITAL FINANCIAL MORTGAGE CORP.
AND DAVID FILL, JR., Individually

NOTICE OF RIGHT TO APPEAL AND HEARING

You have the right to appeal the attached Order within **10 days** of the date of the Order as provided in 1 Pa. Code § 35.20. To appeal the Order, you must file a petition, in writing, with the Docket Clerk as set forth below. **If the Docket Clerk does not receive your petition within 10 days, you will waive your right to a hearing and the Order will be deemed final.**

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 as required by 1 Pa. Code §35.17.

The petition and all other documents relating to this matter must be filed with the Docket Clerk:

Linnea Freeberg, Docket Clerk
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Further, you must serve a copy of the petition on the person who signed the attached Order by providing a copy to their counsel set forth below:

Sharon M. Williams
Assistant Counsel
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101

Once you file your petition, you will be notified of pertinent information such as the name of the presiding officer designated by the Banking and Securities Commission to hear this

matter and, if a hearing is scheduled, the date, time and location of the hearing. You have the right to be represented by an attorney.

All 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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ORDER

WHEREAS, the Department of Banking and Securities ("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.* ("MLA") and the Proper Conduct of Lending and Brokering in the Mortgage Loan Business Regulation, 10 Pa. Code § 46.1 *et seq.* ("Proper Conduct Regulation"); and

WHEREAS, the Bureau of Compliance and Licensing ("Bureau") is primarily responsible for administering and enforcing the MLA and the Proper Conduct Regulation for the Department; and

WHEREAS, Capital Financial Mortgage Corp. ("Capital Financial Mortgage") is a Pennsylvania Business Corporation with its principal place of business located at 215 Kedrom Avenue, Folsom, PA 19033; and

WHEREAS, David Fili, Jr. ("Mr. Fili") is the President and 100% owner of Capital Financial Mortgage; and

Authority of the Department

WHEREAS, Section 6138(a)(4) of the MLA grants the Department broad authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the MLA. 7 Pa.C.S. § 6138(a)(4); and

WHEREAS, Section 6139(a) of the MLA authorizes the Department to suspend, revoke or refuse to renew a license issued under the MLA; *see* 7 Pa.C.S. § 6139(a); and

WHEREAS, Section 6138(a)(5) of the MLA provides the Department with the authority to “[p]rohibit or permanently remove a person or licensee responsible for a violation of this chapter from working in the present capacity or in any other capacity of the person or licensee related to activities regulated by the department.” 7 Pa.C.S. § 6138(a)(5); and

WHEREAS, Section 6138(a)(8) of the MLA provides the Department with the authority to impose such other conditions as the Department deems appropriate. 7 Pa.C.S. § 6138(a)(8); and

Capital Financial Mortgage Corp.

WHEREAS, Capital Financial Mortgage is currently licensed by the Department as a Mortgage Lender, License No. 21491, NMLS identification number 141553; and

WHEREAS, the Bureau learned that, on or around March 13, 2013, Capital Financial Mortgage ceased operations; and

WHEREAS, the Bureau issued an order suspending Capital Financial Mortgage’s Mortgage Lender license on March 19, 2013 for violating the MLA and the Proper Conduct Regulations; and

WHEREAS, Capital Financial Mortgage did not comply with the ordering paragraphs of the March 19, 2013 Suspension Order because, *inter alia*, it failed to: fund the consumers’ loans

as originally agreed; pay creditors, interest and/or penalties that may have incurred as a result of the non-funding of the consumers' loans; reimburse consumers for any fees or expenses that were incurred as a result of the non-funding of the consumers' loans; pay a \$40,000 fine to the Bureau; and provide the Bureau with a Pipeline Report; and

David Fili, Jr.

WHEREAS, Mr. Fili is currently licensed as a Mortgage Originator License No. 30755, NMLS identification number 141573; and

WHEREAS, the Department and the Pennsylvania Attorney General's Office received approximately 25 consumer complaints regarding mortgage loans closed through Capital Financial Mortgage prior to March 19, 2013; and

WHEREAS, Mr. Fili, as president of Capital Financial Mortgage, was responsible for the closing and funding of all loans processed through Capital Financial Mortgage; and

WHEREAS, Mr. Fili failed to ensure that consumer loans, originated by himself or by employees under his supervision and control, were funded in accordance with the MLA and the Truth in Lending Act (82 Stat. 146, 15 U.S.C. §§ 6101 et seq.); see 7 Pa.C.S. § 6121(3); and

WHEREAS, Mr. Fili violated the MLA and the Proper Conduct Regulations by engaging in improper conduct and negligent, dishonest, fraudulent, illegal, unfair and/or unethical business practices, and caused the company to become insolvent and unable to meet its obligations or to continue business with safety to its customers by not funding the closed loans which he was required to do; see 7 Pa.C.S. § 6139(a)(2), (3), (10), (12); 10 Pa. Code §§ 46.2(k)(1) – (4), 46.3; and

AND NOW THEREFORE, since Capital Financial Mortgage has failed to comply with the March 19, 2013 Suspension Order and David Fili, Jr. has not engaged in the proper conduct

of a mortgage lender or originator and violated the MLA when he failed to fund consumers' loans, the Bureau, pursuant to its authority referenced above hereby imposes the following Order: upon the effective date of this Order, Capital Financial Mortgage's mortgage lender license number 21491 shall be revoked; Mr. Fili's mortgage originator license, number 30755 shall be revoked; and Mr. Fili shall be prohibited from engaging, in any capacity, in the mortgage industry in the Commonwealth of Pennsylvania including, but not limited to, owner, shareholder, director, officer, independent contractor or employee for the remainder of his natural life. Nothing in this Order shall prevent the Bureau from taking any further administrative action, as deemed necessary.

IT IS SO ORDERED.

Ryan Walsh, Chief, Compliance Division
Department of Banking and Securities,
Bureau of Compliance and Licensing

Date: June 20, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on the 20 day of June, 2013, I have served a true and correct copy of the foregoing Order, upon the following individuals in accordance with the requirements of 1 Pa. Code § 33.31 (relating to service by agency), in the manner indicated below:

BY CERTIFIED AND FIRST CLASS MAIL

David Fili, Jr.
c/o the Law Offices of Mark P. Much, PC
341 W. Baltimore Ave.
PO Box 1238
Media, PA 19063-1238

Sharon M. Williams
Attorney I.D. # 207545
Commonwealth of Pennsylvania
Department of Banking and Securities
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471