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COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES

COMMONWEALTH OF PENNSYLVANIA:
DEPARTMENT OF BANKING AND
SECURITIES, COMPLIANCE OFFICE

v.

INTERCAP LENDING, INC.

DOCKET NO. 21 0007 (BNK-CAO)

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Compliance Office ("Office"), has reviewed the business practices of Intercap Lending, Inc. ("Intercap"). Based on the results of its review, together with certain disclosures Intercap has made to the Department, the Office believes that Intercap operated in violation of the Mortgage Licensing Act (the "MLA"), 7 Pa. C.S. § 6101 *et seq.* 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 ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the MLA.
2. The Office is primarily responsible for administering and enforcing the MLA for the Department.
3. Intercap's principal place of business is located at 11781 South Lone Peak Parkway, Suite 200, Draper, UT 84020.
4. Intercap is licensed as a Mortgage Lender, license # 59797, under the MLA but is not

licensed as a Mortgage Servicer.

5. Intercap has applied for licensure as a Mortgage Servicer.

6. "Mortgage servicer" is defined as "A person who engages in the mortgage loan business by directly or indirectly servicing a mortgage loan." 7 Pa. C.S. § 6102.

7. "Service mortgage loan" is defined as "A collecting or remitting payment or the right to collect or remit payments of principal, interest, tax, insurance or other payment under a mortgage loan." 7 Pa. C.S. § 6102.

8. A person engaged in the mortgage loan business as a mortgage servicer is required to be licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

9. A mortgage lender which is only servicing mortgage loans which the mortgage lender originated, negotiated and owns is excepted from the Mortgage Servicer licensing requirement. 7 Pa. C.S. § 6111(b)(1)(ii).

Unlicensed Period

10. Act 81 of 2017, which included the requirement that a mortgage servicer be licensed, was signed into law on December 22, 2017.

11. The Mortgage Servicer licensing requirement found in Section 6111(a) of the MLA became effective April 27, 2018.

12. The Department began accepting applications for licensure as a Mortgage Servicer on April 1, 2018.

13. Although the Mortgage Servicer licensing requirement became effective on April 27, 2018, the Department provided an administrative grace period allowing unlicensed persons until June 30, 2018 to apply for a license without penalty for unlicensed activity.

14. The Department issued press releases on January 23, 2018, February 6, 2018, March 28,

2018 and June 15, 2018, through many sources including the Department's website, on NMLS, via social media platforms, and by e-mail to thousands of industry e-mail addresses including the mortgage associations and all existing mortgage licensees, informing both the general public and particularly existing mortgage servicers of the mortgage servicer licensing requirements.

15. Intercap filed its application for licensure as a Mortgage Servicer on December 23, 2020.

16. Intercap serviced mortgage loans which Intercap did not originate or negotiate or did not own at the time of servicing.

17. By servicing mortgage loans which Intercap did not negotiate or originate or did not own at the time of servicing, Intercap acted as a mortgage servicer when it was not licensed to do so.

18. Intercap cooperated with the Department regarding the matters addressed in this Order.

Authority of the Department

19. The Department has the authority to issue orders as may be necessary for the proper conduct of the mortgage loan business by licensees and the enforcement of the MLA. 7 Pa. C.S. § 6138(a)(4).

20. The Department may fine a person, whether licensed or subject to the provisions of this chapter and not licensed, who violates the act or commits any action which would subject the license to suspension, revocation or nonrenewal under Section 6139 up to \$10,000 per offense. 7 Pa. C.S. § 6140(a) and (b).

VIOLATION

21. Intercap violated the MLA when it engaged in the business of a mortgage servicer while not licensed as a Mortgage Servicer. 7 Pa. C.S. § 6111(a).

RELIEF

22. Fine. Intercap agrees to pay a fine of eighteen thousand dollars (\$18,000) with the

payment due within thirty (30) days of the Effective Date of the Order. The fine payment shall be made by ACH or wire transfer, or if ACH or wire transfer is unavailable, by certified check, cashier's check, teller's check or money order made payable to the "Department of Banking and Securities" and shall be mailed, or delivered in person to the attention of: Department of Banking and Securities, Compliance Office, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101-2290.

23. Licensure. Within five (5) days of the Effective Date of this order, the Department will issue a Mortgage Servicer License to Intercap.

FURTHER PROVISIONS

24. Consent. Intercap hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Department's order authority under the MLA and agrees that it understands all of the terms and conditions contained herein. Intercap, 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.

25. Consumer's Rights. The Order shall not limit or impair a consumer's rights under the MLA.

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

27. 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 kinds whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Office and Intercap.

28. Binding Nature. The Department, Intercap, and all officers, owners, directors, employees,

heirs and assigns of Intercap intend to be and are legally bound by the terms of this Order.

29. Counsel. This Order is subject to review by the Department's Legal Division. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

30. Effectiveness. Intercap hereby stipulates and agrees that the Order shall become effective on the date that the Department's Legal Division docket the Order ("Effective Date").

31. 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 Intercap in the future regarding all matters not resolved by this Order.
- b. Intercap 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.

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

33. Counterparts. This Order may be executed in separate counterparts and by facsimile or electronic format.

34. 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 of Banking and Securities, Compliance Office, and InterCap intending to be legally bound do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
BANKING AND SECURITIES,
COMPLIANCE OFFICE

FOR INTERCAP LENDING, INC.

Redacted

James Keiser, Chief
Compliance Office
Department of Banking and Securities

Date: 02/04/2021

Redacted

(Officer Signature)

Brook Worthen
(Print Officer Name)

President
(Title)

Date: 2/1/2021

