



January 25, 2016

VIA First Class Mail and E-Mail to: mike.johnson@nelsonmullins.com

Michael F. Johnson, Esq.
Nelson Mullins Riley & Scarborough, LLP
101 Constitution Ave., 9th Floor
Washington, DC 20001

Re: Capital Corporation of America Request for No-Action Letter

Dear Mr. Johnson:

The Pennsylvania Department of Banking and Securities (the "Department") is in receipt of your letter, dated December 10, 2015, requesting a no-action letter providing that the Department staff would not recommend enforcement action against your client, The Capital Corporation of America, Inc., for engaging in the activities of a Mergers and Acquisitions Broker ("M & A Broker")¹. Specifically, your letter requests that the Department issue the no-action letter pursuant to its authority under Regulation 604.023, 10 Pa. Code §604.023, because your client's proposed activities do not fall within the definition of "broker-dealer" under Section 102(e) of the Pennsylvania Securities Act of 1972 ("1972 Act"), 70 P.S. §1-102(e).

Your letter provides that your client is headquartered in Greenville, South Carolina and offers mergers and acquisitions advisory services, corporate financing, financial consulting, recapitalizations, valuation analysis, transaction structuring and strategic planning. Your client focuses its representation on companies with revenues of between \$10 million and \$100 million and, as part of its business, desires to effect M & A transactions ("M & A Transactions")² in Pennsylvania as an M & A Broker.

The Department recognizes the SEC No-Action Letter which provides that the SEC would not recommend enforcement action if an M & A Broker were to effect securities transactions in connection with the transfer of ownership of a privately-held company without registering as a broker-dealer pursuant to Section 15(b) of the Securities Exchange Act of 1934. The SEC No-Action Letter is premised on the M & A Broker's compliance with ten specific conditions/representations set forth in that letter.

¹ Defined in the Securities and Exchange Commission M&A Broker No-Action Letter issued on January 31, 2014 (revised February 4, 2014) ("SEC No-Action Letter"), which is attached hereto.

² Defined in your letter as transactions "in connection with mergers, acquisitions, business sales, and business combinations of privately-held companies."

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The Department also recognizes that the North American Securities Administrators Association adopted the "Model Rule Exempting Certain Merger & Acquisition Brokers from Registration" on September 29, 2015 ("NASAA Model Rule"), which provides for an exemption from broker-dealer registration at the state level. While the NASAA Model Rule is similar to the SEC No-Action Letter, it provides certain additional investor protection provisions in the areas of financial disclosures and "bad actor" disqualifications. Finally, the Department recognizes that the United States Congress is currently contemplating legislation that, if passed, would exempt M & A Brokers from broker-dealer registration under certain conditions.

The Department may seek to draft a formal order or regulation once greater consensus is established regarding an M & A Broker exemption from the broker-dealer registration requirements under the 1972 Act. In the interim, the Department staff will not recommend enforcement action against an M & A Broker who engages in M & A Transactions and does not register as a broker-dealer in Pennsylvania, so long as the M & A Broker and M & A Transactions comply with the ten requirements enumerated in the SEC No-Action Letter. In addition, the M & A Broker must take reasonable steps to ensure that:

1. Any person acquiring securities or assets in an eligible transaction, prior to becoming legally bound to consummate the transaction, receive or have reasonable access to the most recent fiscal year-end financial statements of the issuer of the securities offered in the M & A Transaction, and if the financial statements are audited, reviewed, or compiled, any related statements by the independent accountant; a balance sheet dated not more than 120 days before the date of the exchange offer; and information pertaining to the management, business, results of operations for the period covered by the foregoing financial statements, and any material loss contingencies of the issuer; and
2. Those persons covered by Rule 506(d) of Regulation D of the Securities Act of 1933 (i.e. "bad actors") do not participate in the M & A Transaction.

This letter is provided pursuant to Regulation 604.023 and expresses only the current position of Department staff with respect to an enforcement action against the specific persons engaging in the specific transactions detailed in your December 10, 2015 letter. Any different facts or circumstances may require a different response. This letter merely expresses the position of the Department on enforcement and does not purport to express any binding or precedential legal conclusion. We also direct your attention to the antifraud provisions of the 1972 Act and note that responsibility for compliance with these and other applicable provisions of the 1972 Act rests with the parties.

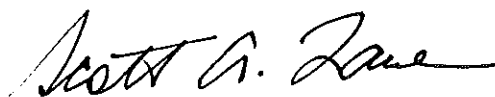
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Should you have any questions, please do not hesitate to contact the undersigned.

For the Commonwealth of Pennsylvania
Department of Banking and Securities:

A handwritten signature in black ink that reads "Scott A. Lane". The signature is written in a cursive style with a long, sweeping underline.

Scott A. Lane
Sr. Deputy Chief Counsel for Securities

Cc: The Honorable Robin L. Wiessmann,
Secretary of Banking and Securities

Leo Pandeladis, Chief Counsel

Joseph J. Minisi, Acting Deputy Secretary for Securities