

TERMS COMPLETED

ORDER SUMMARY – Case Number: C-13-1275

Name(s): Heather Lynne Cole ; Capital Funding Associates LLC

Order Number: C-13-1275-13-CO01

Effective Date: September 16, 2013

License Number: Capital Funding Associates, LLC DFI # 84957 NMLS ID:#1075160
Or NMLS Identifier Heather Lynne Cole: DFI: #57466 NMLS ID: #316683

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A/

Investigation Costs	\$1,500.97	Due: 11/16/13	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 11/14/13
Fine	\$3,000	Due: 11/16/13	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 11/14/13
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: R Cole will cease and desist from making false statements or misrepresentations to the Department during investigations.

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF INVESTIGATING
The mortgage broker license application under the
Mortgage Broker Practices Act of Washington
and
Determining whether there has been a violation of
the Consumer Loan Act of Washington by:

No.: C-13-1275-13-CO01

CONSENT ORDER

CAPITAL FUNDING ASSOCIATES, LLC,
NMLS #1075160, and
HEATHER LYNNE COLE, Owner, Designated
Broker, and Loan Originator, NMLS #316683,

Respondents.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Deborah Bortner, Division Director, Division of Consumer Services, and Capital Funding
Associates, LLC (Respondent CFA), and Heather Lynne Cole, owner, Designated Broker, and Loan
Originator (Respondent Cole), and finding that the issues raised in the above-captioned matter may
be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order
is entered pursuant to chapters 19.146 and 31.04 of the Revised Code of Washington (RCW), and
RCW 34.05.060 of the Administrative Procedure Act, based on the following:

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AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and
Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges
No. C-13-1275-13-SC01 (Statement of Charges), entered July 22, 2013, (copy attached hereto).
Pursuant to chapter 19.146 RCW, the Mortgage Broker Practices Act (Act), chapter 31.04 RCW, the
Consumer Loan Act, and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby
agree to the Department's entry of this Consent Order and further agree that the issues raised in the

1 above-captioned matter may be economically and efficiently settled by entry of this Consent Order.
2 The parties intend this Consent Order to fully resolve the Statement of Charges.

3 Based upon the foregoing:

4 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
5 of the activities discussed herein.

6 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
7 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
8 administrative and judicial review of the issues raised in this matter, or of the resolution reached
9 herein. Accordingly, Respondents, by their signatures below, withdraw their appeal to the Office of
10 Administrative Hearings.

11 **C. Mortgage Broker License Application.** It is AGREED that the Department's Licensing
12 Unit shall continue processing Respondent CFA's application for a mortgage broker license per the
13 Licensing Unit's standard procedures.

14 **D. Cease and Desist.** It is AGREED that Respondent Cole shall cease and desist from
15 making false statements or misrepresentations to the Department during investigations.

16 **E. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
17 \$3,000, in the form of a cashier's check made payable to the "Washington State Treasurer," within 60
18 days of entry of this Consent Order. Failure to pay the fine within 60 days shall be deemed a
19 violation of this Order any may result in revocation of Respondent CFA's license pursuant to RCW
20 19.146.220.

21 **F. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
22 investigation fee of \$1,500.97, in the form of a cashier's check made payable to the "Washington
23 State Treasurer," within 60 days of entry of this Consent Order. Failure to pay the fee within 60 days
24 shall be deemed a violation of this Order any may result in revocation of Respondent CFA's license

1 pursuant to RCW 19.146.220. The Fine and Investigation Fee may be paid together in one \$4,500.97
2 cashier's check made payable to the "Washington State Treasurer."

3 **G. Authority to Execute Order.** It is AGREED that the undersigned have represented and
4 warranted that they have the full power and right to execute this Consent Order on behalf of the
5 parties represented.

6 **H. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
7 abide by the terms and conditions of this Consent Order may result in further legal action by the
8 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
9 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

10 **I. Voluntarily Entered.** It is AGREED that Respondents have voluntarily entered into this
11 Consent Order, which is effective when signed by the Director's designee.

12 **J. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
13 this Consent Order in its entirety and fully understand and agree to all of the same.

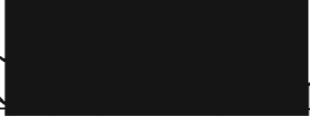
14 **RESPONDENTS:**

15 Capital Funding Associates, LLC

16 By: 

17 Heather Lynne Cole
18 Owner and Designated Broker

9/6/13
Date

19 
20 Heather Lynne Cole
21 Individually

9/6/13
Date

22 **DO NOT WRITE BELOW THIS LINE**

RECEIVED

THIS ORDER ENTERED THIS 16th DAY OF September, 2013



[Redacted signature]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[Redacted signature]

DEVON P. PHELPS
Financial Legal Examiner

Approved by:

[Redacted signature]

CHARLES E. CLARK
Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF INVESTIGATING
The mortgage broker license application under the
Mortgage Broker Practices Act of Washington
and
Determining whether there has been a violation of
the Consumer Loan Act of Washington by:

CAPITAL FUNDING ASSOCIATES, LLC,
NMLS #1075160, and
HEATHER LYNNE COLE, Owner, Designated
Broker, and Loan Originator, NMLS #316683,

Respondents.

No. C-13-1275-13-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO DENY APPLICATION FOR
MORTGAGE BROKER LICENSE,
SUSPEND LOAN ORIGINATOR LICENSE,
IMPOSE FINE, AND COLLECT
INVESTIGATION FEE

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INTRODUCTION

12 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of
13 Financial Institutions of the State of Washington (Director) is responsible for the administration of
14 chapter 19.146 RCW, the Mortgage Broker Practices Act (MBPA). The Director is also responsible
15 for the administration of chapter 31.04 RCW, the Consumer Loan Act (CLA) pursuant to RCW
16 31.04.165 and RCW 31.04.168. After having conducted an investigation pursuant to RCW
17 19.146.210, RCW 19.146.235, and RCW 31.04.145, and based upon the facts available as of date of
18 this Statement of Charges, the Director, through his designee, Division of Consumer Services
19 Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

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1.1 Respondents.

A. Capital Funding Associates, LLC (Respondent Capital Funding) submitted an
application to the Department of Financial Institutions of the State of Washington (Department) for a
license to conduct the business of a mortgage broker. The license application was received by the

1 Department, through the Nationwide Mortgage Licensing System and Registry, on or about July 8,
2 2013.

3 **B. Heather Lynne Cole (Respondent Cole)** is 100% owner of and Designated Broker
4 for Respondent Capital Funding. Respondent Cole was licensed by the Department to conduct
5 business as a loan originator on or about November 18, 2010, and continues to be licensed to date.
6 From June 1, 2012, to February 19, 2013, Respondent Cole was sponsored by TriStar Finance, Inc.
7 (TriStar), a consumer loan company licensed under the CLA. On February 19, 2013, Respondent
8 Cole was sponsored by Bay Equity, LLC (Bay Equity), another consumer loan company licensed
9 under the CLA, and continues to be sponsored by Bay Equity as of the date of this Statement of
10 Charges.

11 **1.2 Unfair and Deceptive Acts under the CLA.** During January 2013, Respondent Cole was
12 approached by borrowers [REDACTED] and [REDACTED] about refinancing their residential mortgage loan through
13 TriStar. Email communication between Respondent Cole and the borrowers was conducted
14 exclusively from Respondent Cole's TriStar company email address. Without the borrowers'
15 knowledge or consent, and without disclosing the application to TriStar, Respondent Cole transferred
16 the loan file to Bay Equity and originated the borrowers' refinance transaction through another loan
17 originator at Bay Equity.

18 **1.3 False Statements to the Department under the CLA.** In response to the Department's
19 investigation of the loan file transfer alleged above, Respondent Cole stated that the transfer was
20 discussed with the borrowers and was originated under a loan originator sponsored by Bay Equity
21 during her employment transition from TriStar to Bay Equity. The borrowers, however, informed the
22 Department that they did not know Respondent Cole had changed affiliations and thought they were
23 originating a loan with TriStar. The borrowers stated they never spoke with the loan originator at
24 Bay Equity who allegedly originated their loan. Respondent Cole further stated that the borrowers

1 acknowledged Bay Equity as their lender by signing the disclosures, but the borrowers stated they
2 thought they were originating a loan with TriStar and did not notice the name of the company on the
3 disclosures.

4 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the
5 MBPA and CLA by Respondents continues to date.

6 **II. GROUNDS FOR ENTRY OF ORDER UNDER MBPA**

7 **2.1 Requirement to Demonstrate Character and General Fitness.** Based on Factual
8 Allegations set forth in Section I above, Respondent Capital Funding fails to meet the requirements
9 of RCW 19.146.210(1)(f) and WAC 208-660-163(4) by Respondent Capital Funding's principal and
10 the designated broker, Respondent Cole, failing to demonstrate character and general fitness such as
11 to command the confidence of the community and to warrant a belief that the business will be
12 operated honestly, fairly, and efficiently within the purposes of the MBPA.

13 **III. GROUNDS FOR ENTRY OF ORDER UNDER CLA**

14 **3.1 Unfair and Deceptive Acts.** Based on the Factual Allegations set forth in Section I above,
15 Respondent Cole is in apparent violation of RCW 31.04.027(2) and WAC 208-620-700(2) for
16 transferring the borrowers' refinance transaction to Bay Equity without TriStar or the borrowers'
17 consent or knowledge.

18 **3.2 False Statements to the Department.** Based on the Factual Allegations set forth in Section I
19 above, Respondent Cole is in apparent violation of RCW 31.04.027(8) for making false statements to
20 the Department.

21 **IV. AUTHORITY TO IMPOSE SANCTIONS UNDER MBPA**

22 **4.1 Authority to Deny Application for Mortgage Broker License.** Pursuant to RCW
23 19.146.220(1), the Director may deny licenses to mortgage brokers. Pursuant to RCW

24 19.146.220(2), the Director may deny licenses for any violation of the MBPA. Pursuant to RCW

1 19.146.210(2), if the Director does not find the conditions of RCW 19.146.210(1) have been met, the
2 Director shall not issue the mortgage broker license and shall notify the applicant of the denial.

3 **V. AUTHORITY TO IMPOSE SANCTIONS UNDER CLA**

4 **5.1 Authority to Suspend Loan Originator License.** Pursuant to RCW 31.04.093(3), the
5 Director may suspend licenses for any violation of the CLA or the Rules adopted thereunder.

6 **5.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
7 up to one hundred dollars per day upon a loan originator for any violation of the CLA or the Rules
8 adopted thereunder.

9 **5.3 Authority to Collect Cost of Investigation.** Pursuant to RCW 31.04.145(3) and WAC 208-
10 620-590, every licensee investigated by the Director or the Director's designee shall pay to the
11 Director the cost of the investigation, calculated at the rate of \$69.01 per hour.

12 **VI. NOTICE OF INTENTION TO ENTER ORDER UNDER MBPA**

13 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC,
14 as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
15 Sanctions, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221,
16 RCW 19.146.223, and RCW 19.146.210. Therefore, it is the Director's intention to ORDER that:

17 **6.1** Respondent Capital Funding Associates, LLC's application for a license to conduct
18 business as a mortgage broker be denied.

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1 **VII. NOTICE OF INTENTION TO ENTER ORDER UNDER CLA**

2 Respondent Cole’s violations of the provisions of chapter 31.04 RCW and chapter 208-620
3 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to
4 Impose Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW
5 31.04.165, and RCW 31.04.205. Therefore, it is the Director’s intention to ORDER that:

- 6 **7.1** Respondent Heather Lynne Cole’s license to conduct business as a loan originator be
7 suspended for three (3) months.
- 8 **7.2** Respondent Heather Lynne Cole pay a fine which totals \$5,000 as of the date of this
9 Statement of Charges.
- 10 **7.3** Respondent Heather Lynne Cole pay an investigation fee which totals \$1,500.97 as of
11 the date of this Statement of Charges. Any investigation fee will also be joint and several
12 with any Respondents found to be in violation of the CLA under C-13-1251-13-SC01.

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1 **VIII. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Deny Application for
3 Mortgage Broker License, Suspend Loan Originator License, Impose Fine, and Collect Investigation
4 Fee (Statement of Charges) is entered pursuant to the provisions of RCW 19.146.220, RCW
5 19.146.221, RCW 19.146.223, RCW 19.146.230, RCW 31.04.093, RCW 31.04.165, RCW
6 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The
7 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
8 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
9 accompanying this Statement of Charges.

10
11 Dated this 22nd day of July, 2013



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14 **DEBORAH BORTNER**
15 Director, Division of Consumer Services
Department of Financial Institutions

16 Presented by:



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18 **DEVON P. PHELPS**
19 Financial Legal Examiner

20 Approved by:



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22 **CHARLES E. CLARK**
23 Enforcement Chief