

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-07-

STATE OF MAINE,

Plaintiff,

v.

COMMERCIAL STREET CAPITAL, LLC,  
DOWNEAST MORTGAGE  
CORPORATION, INC.,  
JAMES W. LINDVALL,  
CATHERINE CAMPBELL

Defendants.

COMPLAINT

### INTRODUCTION

1. The State brings this action pursuant to 5 M.R.S.A. §§ 207 and 209 (“UTPA”) to permanently enjoin the Defendants, Commercial Street Capital, Downeast Mortgage Corporation, James Lindvall and Catherine Campbell, from making commercial loans to finance the purchase of a home and from making misleading and deceptive statements in connection with such loans. The State also seeks relief for consumers and a civil penalty for intentional violations of the UTPA.

2. Plaintiff, the State of Maine, is a sovereign state that brings this action, by and through its Attorney General, pursuant to 5 M.R.S.A. §§ 191 and 209 and the powers vested in him by common law.

3. Defendant, Commercial Street Capital, LLC, is a Maine limited liability company located at 261 Gorham Road, South Portland, Maine. It is an asset based commercial lender.

4. Defendant, Downeast Mortgage Corporation, is a Maine corporation located at 261 Gorham Road, South Portland, Maine. Downeast is a supervised lender pursuant to Title 9-A M.R.S.A. § 2-301. It is a mortgage lender.

5. Defendant, James W. Lindvall, is shareholder of Downeast Mortgage Corporation and its President. He is also a member of Commercial Street Capital, LLC. His business address is 261 Gorham Road, South Portland, Maine.

6. Defendant, Catherine Campbell, is a loan officer employed by Downeast Mortgage Corporation. Her business address is 261 Gorham Road, South Portland, Maine.

#### JURISDICTION

7. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 105 and 5 M.R.S.A. § 209.

#### STATUTORY BACKGROUND

8. Pursuant to 5 M.R.S.A. § 207 of the UTPA, unfair and deceptive acts or practices in the conduct of any trade or business are unlawful.

9. Pursuant to 5 M.R.S.A. § 209, whenever the Attorney General reasonably believes that someone is violating or is about to violate the Act, and that such action is in the public interest, he may bring an action to enjoin the acts and seek injunctive relief, including restitution, to remedy the unfair and deceptive acts, as well as civil penalties for intentional violations and costs of suit.

10. Consumer loans, which are any loans made for personal, family or household purposes, are regulated at the state and federal level. In Maine, consumer lenders must be licensed, and their loan officers registered. Loans must be made in compliance with the Truth-in-Lending laws, the Real Estate Settlement Procedures Act

(RESPA) and other consumer protection and disclosure laws. Foreclosures of consumer loans are conducted in court.

11. Commercial loans, by contrast, involve no disclosure or protection limitations. Commercial lenders are not licensed, and foreclosures are generally accomplished through non-judicial "power of sale" procedures in which the lender reserves for itself, in advance, the power to schedule and hold a foreclosure sale if the commercial borrower defaults.

### FACTS

12. In 2005, Maine consumers Kyle and Melissa Wilkinson were renting a house located at 53 Maturo Drive in Casco, Maine.

13. The house located at 53 Maturo Drive in Casco, Maine, became available for sale because its owner was facing a foreclosure.

14. Kyle and Melissa Wilkinson wanted to buy the house that they were renting and living in at 53 Maturo Drive in Casco, Maine.

15. The house at 53 Maturo Drive is a two bedroom ranch. In 2005 it appraised for \$160,000.

16. Kyle and Melissa Wilkinson contacted Downeast Mortgage Corporation to apply for a home mortgage loan.

17. Catherine Campbell, a loan officer at Downeast Mortgage Corporation, was unable to secure a home mortgage loan for the Wilkinsons, due largely to their poor credit.

18. Unable to find a home mortgage for the Wilkinsons, Campbell referred their file to James Lindvall.

19. Lindvall is an owner and office manager of Downeast Mortgage Corporation, as well as being a member of Commercial Street Capital, LLC, a commercial lender.

20. Lindvall and Commercial Street Capital, LLC decided to make a commercial loan to Kyle Wilkinson so he could buy the house at 53 Maturo Drive in Casco, Maine.

21. To accomplish this loan, Kyle Wilkinson was directed by Lindvall or his agents to contact attorney Thomas Jewell, who would create a limited liability company ("LLC") for Wilkinson.

22. Attorney Thomas Jewell created KW Properties, LLC of which Kyle Wilkinson is the sole member.

23. Commercial Street Capital made a commercial loan of \$175,000 to KW Properties, LLC in December of 2005.

24. The note between KW Properties, LLC and Commercial Street Capital, a copy of which is attached hereto, provides for 12% interest rate. The Wilkinsons were to make 10 monthly payments of interest only. The entire balance on the note would be due in October of 2006. The note also provided for a power of sale foreclosure.

25. The Wilkinsons understood that they would be able to refinance at the end of ten months.

26. Commercial Street Capital took security for the loan in addition to the residence at 53 Maturo Drive in Casco, Maine.

27. Kyle Wilkinson, Melissa Wilkinson and Catherine Campbell persuaded James and Mary Alexander, Melissa Wilkinson's uncle and aunt, to guaranty the loan

from Commercial Street Capital to KW Properties, LLC. This guaranty took the form of a security interest in the house in Gardiner, Maine owned and lived in by the Alexanders.

28. The Alexanders understood, based upon statements made to them by the Wilkinsons and Catherine Campbell, that they were guaranteeing \$20,000 for a down payment.

29. The Alexanders were also told by Catherine Campbell and the Wilkinsons that their guaranty would be released after the Wilkinsons made the first two payments.

30. The Wilkinsons did not pay the 10 monthly payments in a timely manner.

31. In October of 2006, the note came due and the Wilkinsons did not pay it.

32. Lindvall agreed to extend the loan for 3 months to give the Wilkinsons more time to pay, if they paid \$25,000 for the extension.

33. The Wilkinsons did not pay to extend the loan and were unable to refinance, at least in part due to the \$25,000 demanded by Commercial Street Capital and Lindvall for the extension.

34. Commercial Street Capital has initiated foreclosure against KW Properties.

35. Beginning at least in 2005 and continuing to the present, the Wilkinsons have used the house at 53 Maturo Drive as a residence and have conducted no commercial activity there.

36. At the time KW Properties, LLC obtained the loan from Commercial Street Capital, LLC in December of 2005, the Wilkinsons intended only to live at 53 Maturo Drive and not to conduct any commercial activities there.

37. Commercial Street Capital and Lindvall knew at the time of the loan to KW Properties, LLC that the Wilkinsons intended to reside at the home on 53 Maturo Drive and not to conduct commercial activities there.

COUNT I  
(Unfair practice)

38. Plaintiff repeats and realleges the preceding paragraphs of the complaint.

39. Defendants James W. Lindvall and Commercial Street Capital made a commercial loan to a consumer to finance the purchase of a primary residence.

40. Defendants' act of providing a commercial loan to a consumer who was denied a home mortgage loan is likely to cause substantial injury that is not reasonably avoidable by the consumer and that is not outweighed by countervailing benefits to consumer or competition.

41. Defendants' practice of making a commercial loans for non-commercial, consumer purpose is unfair and in violation of 5 M.R.S.A. § 207.

42. Defendants' conduct as described herein is intentional.

COUNT II  
(Misrepresentation)

43. Plaintiff repeats and realleges the preceding paragraphs of this Complaint.

44. Catherine Campbell told the Alexanders that their guaranty was limited to a \$20,000 down payment and that it would be released after the Wilkinsons made their first two loan payments, which are not true statements.

45. The making of these misrepresentations by Defendant Campbell constitutes a deceptive trade practice in violation of 5 M.R.S.A. § 207.

46. Defendant's conduct as described herein is intentional.

## INJURY

47. Defendants made misrepresentations regarding loan terms, created fraudulent documents, encouraged the consumer to sign false documents and to make false statements to qualify for a loan that provided little or no benefit to the consumer. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

48. Section 209 of the UTPA empowers this Court to grant injunctive relief and such other relief as the Court may deem appropriate to halt and redress violations of the UTPA. The Court, in the exercise of its discretion, may award other ancillary relief, including consumer redress, disgorgement and restitution, to prevent and remedy injury caused by Defendants' violations of the law.

## RELIEF REQUESTED

Wherefore, Plaintiff requests that this Court enter the following relief:

1. Enjoin Defendants Downeast Mortgage Corporation and Catherine Campbell from referring consumers who are denied home mortgage loans to commercial lenders.
2. Enjoin Defendants James W. Lindvall and Commercial Street Capital from making commercial loans to finance the purchase of a single family residence.
3. Enjoin Defendant Catherine Campbell from misrepresenting loan terms to obtain guarantors for loans.
4. Release James and Mary Alexander from the guaranty they executed in connection with the loan from Commercial Street Capital to KW Properties, LLC.

5. Pursuant to 5 M.R.S.A. § 209, assess a civil penalty of up to \$10,000 against Defendant Lindvall for intentionally violating the Unfair Trade Practices Act.

6. Pursuant to 5 M.R.S.A. § 209, assess a civil penalty of up to \$10,000 against Defendant Commercial Street Capital for intentionally violating the Unfair Trade Practices Act.

7. Pursuant to 5 M.R.S.A. § 209 and 14 M.R.S.A § 1522, order the Defendants to pay the Office of the Attorney General its costs of suit, including its attorney's fees.

8. Award such other and further relief as the Court may deem necessary to remedy the effects of Defendants' unfair and deceptive trade practices.

Respectfully submitted,

G. STEVEN ROWE  
ATTORNEY GENERAL

Dated: September 28, 2007

  
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STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-07-283

STATE OF MAINE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CONSENT DECREE AND
	)	ORDER
	)	
COMMERCIAL STREET CAPITAL, LLC,	)	
DOWNEAST MORTGAGE	)	
CORPORATION, INC.,	)	
JAMES W. LINDVALL,	)	
CATHERINE CAMPBELL,	)	
	)	
Defendants	)	

1. Plaintiff State of Maine filed a Complaint, dated September 28, 2007, against Defendants Commercial Street Capital, LLC, Downeast Mortgage Corporation (“Downeast”), James W. Lindvall (“Lindvall”), and Catherine Campbell (“Campbell”). Defendants<sup>1</sup> now consent to the entry of this Consent Decree and Order (the “Order”), without trial or adjudication of any issue of fact or law, and without this Order constituting any evidence against or admission by Defendants. It is hereby ORDERED, ADJUDGED, and DECREED as follows:

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<sup>1</sup> Defendants Downeast and Commercial Street Capital, LLC are in the process of dissolution and no longer originate loans. Since the filing of the Complaint in this action, the Bureau of Consumer Credit Protection has issued an Order terminating Downeast’s mortgage origination licenses. In addition the Bureau has revoked the mortgage origination licenses for the three business names used by Downeast: Third Millennium Mortgage, Homeowners Assistance Corp., and Integrity One Mortgage.

## **I. JURISDICTION**

2. The Court has jurisdiction over the State and Defendants and over the subject matter of this action. The Complaint states a claim for relief under the Maine Unfair Trade Practices Act, specifically 5 M.R.S.A. § 207.

## **II. INJUNCTION**

3. Defendants Downeast Mortgage Corporation, Commercial Street Capital, LLC, James Lindvall and Catherine Campbell are enjoined for a period of four years from the date of this Order from:

- a) Referring a “consumer” as defined in 9-A M.R.S.A. § 1-301(10), who is denied a “consumer loan”, as defined in 9-A M.R.S.A. § 1-301(14), to anyone other than a supervised lender as defined in 9-A M.R.S.A. § 1-301(39) or a “loan broker,” as defined in 9-A M.R.S. § 10-102(1), for the purpose of obtaining a consumer loan.
- b) Making a loan which is not a consumer loan to finance the purchase of a single family residence when the borrower resides in the property that is being financed, other than by providing seller-financing either directly or through an entity in which any of the named defendants in this action has an interest;
- c) Misrepresenting loan terms to obtain guarantors for loans; and
- d) Violating any provision of the Maine Consumer Credit Code, Title 9-A of the Revised Maine Statutes or any rules promulgated thereunder.

## **III. RESTITUTION**

4. Pursuant to 5 M.R.S.A. § 209, Defendant Commercial Street Capital has released James and Mary Alexander from the guaranty they executed on December 8, 2005 in connection with the loan from Commercial Street Capital LLC to KW Properties LLC.

**IV. CIVIL PENALTIES**

5. Pursuant to 5 M.R.S.A. § 209, Defendants are jointly and severally ordered to pay a civil penalty of \$25,000, with all but \$5,000 suspended for a period of four years. Payment shall be made by certified check or money order made payable to "Treasurer, State of Maine." If, during this four-year period, any particular Defendant shall violate the injunctions described in paragraph 3 above for any transactions entered into after the effective date of this order, the suspended portion of the penalty shall be immediately due and payable to the State of Maine from that particular defendant; the obligation to pay the suspended portion of the fine is not joint and several.

**V. RETENTION OF JURISDICTION**

6. Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Order to apply to the Court at any time for further order and directions as may be necessary or appropriate for the modification, construction, enforcement, or execution of this Order. Each and every violation of this Order shall be treated as a separate contempt thereof.

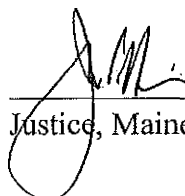
**VI. EFFECTIVE DATE**

7. This order shall be effective immediately upon entry.

**IT IS HEREBY ORDERED**

Dated: \_\_\_\_\_


9/27/08



Justice, Maine Superior Court

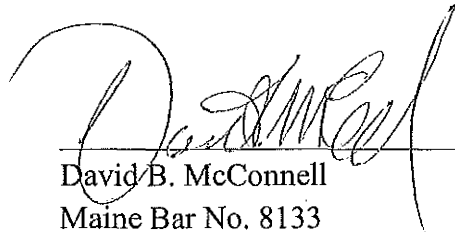
G. STEVEN ROWE  
ATTORNEY GENERAL

Dated: 9-11-08

  
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Dated: 9-10-08

  
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AND CATHERINE CAMPBELL