

ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND

IN THE MATTER OF: \*  
  
CORPORATE PROPERTY \*  
ASSOCIATES 15, INCORPORATED \*  
and \* Securities Division No. 2004-0694  
W.P. CAREY & CO., LLC \*  
and \*  
CAREY FINANCIAL, LLC, \*

RESPONDENTS.

\* \* \* \* \*  
\* \* \* \* \*

CONSENT ORDER

WHEREAS, the Securities Division of the Office of the Maryland Attorney General, pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Title 11, §11-101 *et seq.*, Corporations and Associations Article, Annotated Code of Maryland (2007 Repl. Vol. & Supp. 2010) ("Securities Act" or "Act"), undertook an investigation into the investment-related activities of Corporate Property Associates 15 Incorporated, W.P. Carey & Co., Inc., and Carey Financial, LLC (together, "Respondents"), in connection with the offer and sale of securities; and

WHEREAS, on the basis of that investigation the Maryland Securities Commissioner (the "Commissioner") found grounds to conclude that a violation of Section 11-501 of the Securities Act had occurred; and

WHEREAS, the Commissioner and Respondents have reached an agreement in this action whereby Respondents, without admitting or denying, consent to the jurisdiction of the

Commissioner in this matter and over them, to the Statement of Facts herein, and to the terms of this Order; and

WHEREAS, in settlement of any proceeding that could be brought based upon Respondents' violations of the Act, the Commissioner has determined that it is in the public interest to issue this Consent Order; and

WHEREAS, Respondents have agreed to the provisions set forth below;

THEREFORE, before the holding of a hearing in this matter, without trial or final adjudication of any issue of fact or law, and upon consent of the parties hereto, IT IS HEREBY AGREED AND THE COMMISSIONER ORDERS:

#### I. JURISDICTION

1. The Commissioner has jurisdiction in this proceeding and over Respondents pursuant to section 11-701.1 of the Securities Act.
2. Respondents permanently waive the right to a hearing and appeal under the Act and the rules and regulations promulgated thereunder with respect to this Consent Order.
3. If judicial intervention in this matter is sought by any party, Respondents consent to the jurisdiction of the Circuit Court for Baltimore City over any such proceeding and as to itself.

#### II. PARTIES

4. Melanie Senter Lubin is the Securities Commissioner for the State of Maryland.

5. Corporate Property Associates 15 Inc. ("CPA 15") is a Maryland corporation and a real estate investment trust ("REIT") with a business address of 50 Rockefeller Plaza, New York, NY.

6. W.P. Carey & Co., LLC ("WPC") is a Delaware limited liability company with a principal business address of 50 Rockefeller Plaza, New York, NY.

7. Carey Financial, LLC ("CF") is a Delaware limited liability company with a principal business address of 50 Rockefeller Plaza, New York, New York 10020. Carey Financial is the successor to Carey Financial Corporation, also a registered broker-dealer of the same address. CF is 100% owned by Carey Asset Management Corporation ("CAM"), and CAM is 100% owned by WPC.

### III. STATEMENT OF FACTS

8. WPC acted as adviser and manager to CPA 15 in connection with offering the shares in Maryland.

9. CF is a broker-dealer registered in Maryland, and acted as a selling person in connection with the CPA 15 offering.

10. CPA 15 conducted a registered offering of its common stock that concluded in 2002. The initial offering of CPA 15 shares ("Phase I") was declared effective by the Securities and Exchange Commission ("SEC") on November 7, 2001, and sold out and was closed to new investors in November 2002, having sold out its initial registration of 40 million shares. A registration statement for a second offering of an additional 69 million shares of the common stock of CPA 15 ("Phase II") was filed with the SEC on October 11, 2002 and declared effective by the SEC on March 19, 2003.

11. Respondents filed, on or about October 15, 2002, an application for registration of the Phase II offering with the Maryland Securities Division (the "Division"). The Division issued a letter to CPA 15 on October 23, 2002, listing the deficiencies in the application required to be satisfied before the Division declared the Offering effective in Maryland.

12. After October 23, 2002, CPA 15 submitted to the Division amendments to its registration application addressing the deficiencies, and on March 19, 2003, the Division declared the Phase II offering to be effective in Maryland, issuing to CPA 15 a letter to that effect.

13. Respondent provided the Division with information evidencing the offer and sale in and from Maryland of shares of common stock of CPA 15 (the "Shares") between October 2002 and March 2003. Throughout that period, CF – WPC's broker-dealer subsidiary that acted in a wholesaling capacity for offerings of CPA REITS – along with the network of retail distributors, continued to sell CPA 15 shares, even though the Phase I offering had closed and that the Phase II registration statement was not yet effective.

14. Respondents accepted the subscription funds referred to in Paragraph 13 above into an escrow account during the period of time in which the effectiveness of the registration statement was still pending in the state of Maryland.

15. Respondents have represented to the Commissioner that WPC's outside legal counsel provided incorrect legal advice to WPC, and in support of this representation have provided the Division the opinion letters of January 22, 2003 and March 11, 2004 from outside legal counsel. The opinion letters stated that it was permissible to solicit new purchasers, including subscriptions from Maryland residents, from October 15, 2002 through March 18, 2003, using a Phase II preliminary prospectus filed with the registration statement relating thereto, and

to accept funds into CPA 15's escrow account if the funds remained there until the Phase II offering was effective.

16. Based on records provided by Respondent, there were 108 investments by 95 Maryland residents, totaling \$2,339,800.00. Subscriptions accepted during the period between filing of the registration statement for the Phase II offering and its effectiveness were subject to cancellation and refund at the discretion of the subscribing investor.

17. Section 11-501 of the Securities Act provides that a person may not offer or sell a security in Maryland unless the security is registered, exempt from registration, or is a federal covered security as defined by the Act. Accepting subscription funds into an escrow account under the terms applicable to the Phase II offering constituted a "sale" for purposes of the Act.

18. Based on the information presented by the Respondents, the Commissioner has determined that Respondents offered and sold shares in violation of Section 11-501 of the Act by making unregistered and non-exempt offers and sales of those shares.

19. On March 18, 2008, the Securities and Exchange Commission settled charges against WPC and CF (as well as related individuals) on charges including, but not limited to, offers and sales of securities in 2002 and 2003 without a registration statement being in effect. WPC paid nearly \$20 million in disgorgement, to be distributed to the affected REITS, including CPA 15, and a permanent injunction from violating the registration provisions of the federal securities laws was entered.

20. That disgorgement resulted in the payment of \$9,110,653 to CPA 15 investors. According to the terms of that agreement, that amount was used to fund a portion of CPA 15's next distribution to investors.

21. During the Division's inquiry into the Phase II offering, CPA 15 provided information indicating that the returns actually received by investors in CPA 15 common stock who purchased during the pendency of effectiveness of the registration statement exceeded the statutory rate of return available to them had they exercised any available rights of rescission. Original Phase I and Phase II investors have received an average annual return in excess of 7%.

22. On February 2, 2004, WPC and Corporate Property Associates 12 Incorporated (together, the "2004 Parties") entered into a Consent Order with the Commissioner to resolve issues arising out of the offer and sale of unregistered, non-exempt securities in the form of shares of CPA 12 in Maryland.

23. The 2004 Parties had filed a notice of exemption with the Division in June 2001, which was effective July 16, 2001 until it expired on July 16, 2002. The 2004 Parties failed to renew the exemption and, representing they relied upon outside legal counsel, CPA 12 continued to offer and sell the shares through July 16, 2003, when the 2004 Parties filed an application to renew the exemption.

24. In the Consent Order resolving those violations, the 2004 Parties were assessed back fees and a civil penalty. Contemporaneously with issuance of that Order, the 2004 Parties submitted a copy of written, internal procedures addressing the filing requirements and other compliance measures implemented by the 2004 Parties (the "Blue Sky Procedures"), and agreed to comply with the Securities Act and the regulations thereunder.

25. An affiliate of the 2004 Parties, Corporate Property Associates 14 Incorporated ("CPA 14"), had previously filed a registration application in 1997. CPA 14 failed to renew that registration filing for the offering of its securities between January 1998 and October 1999, and

continued to sell, which CPA 14 represents was in reliance on outside legal counsel, Reed Smith, Shaw and McClay, failing to respond to a deficiency letter from the Division in connection with the renewal. In the Matter of Corporate Property Associates 14 Incorporated and Reed Smith, Shaw and McClay, the Commissioner accepted an undertaking dated December 17, 1999 from Reed Smith, Shaw and McClay that it would, “on behalf of its clients that conduct securities activities in Maryland, agree to comply with the Act and the regulations promulgated under the Act”, resolving the violations of the Act.

#### IV. CONCLUSIONS OF LAW

26. The Shares constitute "securities" within the definition at Section 11-101 of the Act.

27. Section 11-501 of the Act provides that it is unlawful to offer or sell any security in Maryland unless the security is registered with the Division, exempt from registration, or is a federal covered security.

28. Respondents violated section 11-501 of the Act by selling unregistered securities in Maryland, which, for the period of time between October 15, 2002, and March 18, 2003, were neither exempt from registration under the Act nor “federal covered securities.”

#### V. ORDER

NOW THEREFORE, IT IS HEREBY ORDERED, and the Respondents expressly agree and consent, that:

29. Respondents shall cease and desist from any future violations of Section 11-501 of the Act and the regulations promulgated under the Act.

30. Contemporaneous with the issuance of this Consent Order, Respondents shall pay to the Division a civil penalty of \$10,000.00, as a penalty for the violations of Section 11-501 of the Act. The civil monetary penalty has been paid to and received by the Division.

31. This Order is not intended to, and shall not, disqualify the Respondents or any of their respective affiliates, or any other person in which the respective officers, directors, promoters and control persons of the Respondents act as an officer, director, promoter or control person (or occupying a similar status or performing similar functions) with respect to such person from relying upon any exemption, exclusion, waiver or similar provision contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self-regulatory organizations or various states' securities laws, rules or regulations, in each case, as existing on the date hereof or as amended or promulgated subsequent to the date hereof, including any disqualifications from relying upon the registration exemptions or safe harbor provisions contained in Regulation D promulgated under the Securities Act of 1933, as amended. This Order is not intended to form the basis for any such disqualification and, to the extent applicable, this Order hereby waives any such disqualification solely by reason of this Order. This Order is not based on a violation of the antifraud provisions of Subtitle 3 of the Securities Act or other Maryland law or regulation that prohibits fraudulent, manipulative or deceptive conduct.

32. Carey Financial is hereby informed in writing that Docket NO. 2004-0694, relating to the Division's investigation of Carey Financial and CPA 15 has been resolved.



## VI. RELIANCE ON RESPONDENTS' REPRESENTATIONS

33. Respondents recognize that the Commissioner relied upon information and assertions of Respondents in her determination to consent to this Order, and that should the information provided or assertions made by Respondents prove to be incorrect or misrepresented, the Commissioner may seek such other administrative, civil or criminal remedies that may be available to her under the provisions of the Act.

## VII. CONSEQUENCES OF VIOLATION OF CONSENT ORDER

34. If any Respondent fails to comply with any term of this Consent Order, the Commissioner may declare this Consent Order to be null and void. The Commissioner may then proceed with full administrative and/or judicial proceedings to enforce this Consent Order against that Respondent, or to sanction that Respondent for violating an order of the Commissioner, and may take any other action authorized under the Act or any other applicable law. In any such proceeding, the facts and the violations of the Act set forth and incorporated in this Consent Order shall be deemed admitted and may be introduced into evidence against that Respondent.

## VIII. MODIFICATION OF TERMS OF THIS CONSENT ORDER

35. The terms of this Consent Order may only be modified by a subsequent order issued by the Commissioner.

IX. JURISDICTION RETAINED

36. Jurisdiction shall be retained by the Commissioner for the purpose of enabling any party to this Consent Order to apply for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Consent Order.

37. The provisions of this Consent Order shall become binding when this Consent Order has been executed by all Respondents and is issued by the Commissioner.

SO ORDERED:

\_\_\_\_\_, 2012

\_\_\_\_\_  
Melanie Senter Lubin  
Securities Commissioner

CONSENTED TO:

CORPORATE PROPERTY ASSOCIATES 15 INCORPORATED

BY: \_\_\_\_\_

\_\_\_\_\_  
Print name and title of executive officer

On this \_\_\_\_ day of \_\_\_\_\_, 2012,  
personally appeared \_\_\_\_\_,  
signer of the foregoing Consent Order, who did duly acknowledge to me  
the same to be his/her free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

CONSENTED TO:

W.P. CAREY & CO., LLC

BY: \_\_\_\_\_

\_\_\_\_\_  
Print name and title of executive officer

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012

personally appeared \_\_\_\_\_,

signer of the foregoing Consent Order, who did duly acknowledge to me

the same to be his/her free act and deed.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

CONSENTED TO:

CAREY FINANCIAL, LLC

BY: \_\_\_\_\_

\_\_\_\_\_  
Print name and title of executive officer

On this \_\_\_\_\_ day of \_\_\_\_\_, 2012,

personally appeared \_\_\_\_\_,

signer of the foregoing Consent Order, who did duly acknowledge to me

the same to be his/her free act and deed.

\_\_\_\_\_

Notary Public  
My Commission Expires \_\_\_\_\_