

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

FILED

2009 JUN 12 PM 1:06

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
NON-DEPOSITORY EXAMINATION,

Docket No.: 09 0772 (PA DEPT OF BANKING (ENF&D))

v.

PEOPLES FIRST FINANCIAL.

ORDER TO CEASE AND DESIST

Background

WHEREAS, the Department of Banking (the "Department") is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce 7 Pa. C.S. § 6101 et seq. (relating to mortgage loan industry licensing and consumer protection) (the "Mortgage Act"); and

WHEREAS, the Bureau of Non-Depository Examination (the "Bureau") has been authorized to issue orders pursuant to the Mortgage Act; and

WHEREAS, Peoples First Financial is a business located in California that is engaged in the business of negotiating modifications to existing mortgage loans of consumers; and

WHEREAS, on or around June 2009 the Bureau became aware that Peoples First Financial was engaged in the business of negotiating modifications to existing mortgage loans of Pennsylvania consumers; and

WHEREAS, specifically, Peoples First Financial's website www.peoplesfirstfinancial.com, offers home equity loans, refinance mortgage loans, home debt

consolidation loans, and home purchase loans for Pennsylvania consumers and offers to pull credit for pre-qualification on the application page of the website; and

WHEREAS, the Mortgage Act applies to any mortgage loan that is “(i) negotiated, offered or otherwise transacted within this Commonwealth, in whole or in part, whether by the ultimate lender or any other person; (ii) made or executed within this Commonwealth; or (iii) notwithstanding the place of execution, secured by real property located in this Commonwealth” or to “[a]ny person who engages in the mortgage loan business in this Commonwealth.” 7 Pa. C.S. § 6151; and

WHEREAS, Section 6102 of the Mortgage Act defines a “first mortgage loan” as “[a] loan which is secured in whole or in part by a first lien upon any interest in real property created by a security agreement, including a mortgage, indenture, deed of trust or any other similar instrument or document, which real property is used as a one-family to four-family dwelling, a portion of which may be used for nonresidential purposes.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Act defines a “secondary mortgage loan” as “[a] loan which is secured in whole or in part by a lien upon any interest in real property created by a security agreement, including a mortgage, indenture, deed of trust or any other similar instrument or document, which real property is subject to a prior lien and which is used as a one-family to four-family dwelling, a portion of which may be used for nonresidential purposes.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Act defines a “mortgage loan” as “[a] first or secondary mortgage loan, or both, as the context may require.” 7 Pa. C.S. § 6102; and

WHEREAS, Section 6102 of the Mortgage Act defines “mortgage loan business” as “[t]he business of *advertising*, causing to be advertised, soliciting, negotiating or arranging in the

ordinary course of business or offering to make or making mortgage loans.” 7 Pa. C.S. § 6102 (emphasis added); and

WHEREAS, by advertising mortgage loans as part of the loan modification process with Pennsylvania consumers, Peoples First Financial has engaged in the “mortgage loan business” as defined in the Mortgage Act; and

WHEREAS, Peoples First Financial is not licensed to conduct mortgage loan business in Pennsylvania; and

WHEREAS, Section 6111 of the Mortgage Act provides that “. . . no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter.” 7 Pa. C.S. § 6111; and

WHEREAS, Peoples First Financial has violated the Mortgage Act by engaging in the mortgage loan business in Pennsylvania without a license; and

WHEREAS, Section 6138(a)(4) of the Mortgage Act provides the Department with authority to issue orders as may be necessary for the proper conduct of the mortgage loan business and the enforcement of the Mortgage Act. 7 Pa. C.S. § 6138(a)(4); and

WHEREAS, Section 6140(a) of the Mortgage Act provides, in relevant part that “[a] person subject to the provisions of this chapter and not licensed by the department who violates any provision of this chapter or who commits any action which would subject a license to suspension, revocation or nonrenewal under section 6139 (relating to suspension, revocation or refusal) may be fined by the department up to \$10,000 for each offense.” 7 Pa. C.S. § 6140(a); and

AND NOW, THEREFORE, since Peoples First Financial has engaged in unlicensed activity, the Bureau, pursuant to its authority referenced above hereby imposes the following Order:

1. Upon the effective date of this Order, Peoples First Financial shall cease and desist from engaging in the mortgage loan business subject to the Mortgage Act, including, but not limited to, advertising (including website advertising) mortgage loans for Pennsylvania consumers, unless and until such time that Peoples First Financial is licensed by the Department pursuant to the Mortgage Act.

2. Upon the effective date of this Order, Peoples First Financial shall provide a list of Pennsylvania consumers that have worked with and are working with Peoples First Financial.

The list shall include, but is not limited to:

- a. The names of all Pennsylvania consumers that have responded to Peoples First Financial' advertisements or that Peoples First Financial has as clients;
- b. The address and telephone numbers of the consumers listed in (a); and
- c. Date of application; and
- d. The current application status.

The list shall be sent to Tim Knopp, Senior Financial Institutions Examiner, Bureau of Non-Depository Examination, at _____, by 5:00 PM eastern time on the effective date of this Order.

3. Upon the effective date of this Order, Peoples First Financial shall provide a list of any other websites or advertising sources that Peoples First Financial utilizes. The list shall be sent to Tim Knopp, Senior Financial Institutions Examiner, Bureau of Non-Depository Examination, at _____, by 5:00 PM eastern time on the effective date of this Order.

4. If Peoples First Financial is in the business of selling leads generated from its website, upon the effective date of this Order, Peoples First Financial shall provide a list of all companies Peoples First Financial sold the leads to. This list shall include:

- a. the name of the companies
- b. the address of the companies
- c. the telephone numbers; and
- d. name of a contact at the companies.

The list shall be sent to Tim Knopp, Senior Financial Institutions Examiner, Bureau of Non-Depository Examination, at _____, by 5:00 PM eastern time on the effective date of this Order.

5. Nothing in this Order shall prevent the Bureau from taking any further administrative action as deemed necessary including, but not limited to imposing fines pursuant to Section 6140(a) of the Mortgage Act or seeking restitution for Pennsylvania consumers.

IT IS SO ORDERED.

Timothy D. Knopp, Senior Financial Institutions Examiner
Bureau of Non-Depository Examination
Department of Banking,

06/12/2009

(Date)

FILED

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

2009 JUN 12 PM 1:06

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
NON-DEPOSITORY EXAMINATION,

Docket No.: 09 0712 (ENF-C&D)

PA DEPT OF BANKING

v.

PEOPLES FIRST FINANCIAL.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Order to Cease and Desist upon the parties below, who constitute the only parties of record in this proceeding, in accordance with the requirements of 1 Pa. Code §§ 33.35, 33.36 and 33.37:

BY CERTIFIED AND FIRST CLASS MAIL

Peoples First Financial Inc
10179 Huennekens Street
#200
San Diego, CA 92121

Dated this 12th day of June, 2009.

Lauren A. Sassani
Assistant Counsel
Attorney I.D. # 203016
FOR: Commonwealth of Pennsylvania
Department of Banking
17 North Second Street, Suite 1300
Harrisburg, PA 17101
(717) 787-1471