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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	CRMLA NO.: 4130946
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	ACCUSATION IN SUPPORT OF NOTICE OF INTENTION TO ISSUE ORDER
)	SUSPENDING RESIDENTIAL MORTGAGE LENDING LICENSE AND IMPOSING PENALTIES
Complainant,)	
)	
v.)	
)	
PEOPLES HOME EQUITY, INC.,)	
)	
Respondent.)	

The Complainant is informed and believes, and based upon such information and belief, alleges and charges as follows:

I. Introduction

1. Respondent Peoples Home Equity, Inc. (“Peoples”) is a residential mortgage lender licensed by the California Commissioner of Business Oversight (“Commissioner”) of the Department of Business Oversight (“Department”) pursuant to the California Residential Mortgage Lending Act (Cal. Fin. Code § 50000 et seq.) (“CRMLA”).¹ Peoples has its principal place of business located at

¹ All subsequent statutory references are to the Financial Code, unless otherwise noted.

1 5205 Maryland Way, Suite 100, Brentwood, Tennessee 37027.

2 **II. The October 2010 Regulatory Examination**

3 2. In or about October, 2010, the Commissioner commenced a regulatory examination of
4 Peoples' books and records. In six (6) out of twenty-two (22) loans reviewed as part of the exam, or
5 approximately twenty-seven percent (27%), Peoples charged borrowers per diem interest in excess
6 of one day prior to the distribution date in violation of section 50204, subdivision (o), and
7 California Civil Code section 2948.5. During 2010, Peoples originated twenty-seven (27) loans in
8 California.

9 3. The per diem interest overcharges averaged \$109.98 per loan. The range of per diem
10 interest overcharges was between \$88.41 and \$197.56. The range of days the interest was
11 overcharged was between and (1) and three (3) days.

12 4. Based upon the findings of the 2010 regulatory examination, the Commissioner's
13 examination staff instructed Peoples to take measures to prevent any recurrence of per diem
14 overcharge to borrowers in the future. Additionally, the Commissioner's examination staff
15 instructed Peoples to conduct a self-audit, requiring review of all loans made between April 4, 2008
16 and April 12, 2011. Peoples was required to make appropriate refunds of excessive per diem
17 interest charged to consumers.

18 5. Concurrently, Peoples was required to provide a detailed report to the Commissioner's
19 examination staff of the files reviewed and the dollar amount of the overcharges established through
20 the review, including, but not limited to, the loan number, borrower's name, loan amount, interest
21 rate, date disbursed, date interest started being collected, interest overcharged and date interest was
22 refunded to the borrower.

23 **III. The April 2012 Regulatory Examination**

24 6. A subsequent regulatory exam, conducted on or about April 16, 2012, again disclosed
25 overcharging of per diem interest in eight (8) out of twenty-six (26) loans, or approximately thirty-
26 one (31%) of the loan files reviewed, in violation of section 50204, subdivision (o), and California
27 Civil Code section 2948.5. During 2012, Peoples originated fifty-nine (59) loans in California.

28 7. With regard to the per diem interest violations discovered during the exam, the overcharges

1 averaged \$145.53 per loan. The range of per diem interest overcharges was between \$39.06 and
2 \$588.02. The range of days that interest was overcharged was between one (1) and eight (8) days.

3 8. Additionally, the Commissioner’s examination staff instructed Peoples to review all loans
4 made between October, 2010, and December, 2012, and make appropriate refunds. Peoples
5 completed the request by providing details and supporting documents evidencing refunds made
6 from 2010-2012. Peoples refunded \$13,469.41 to 94 borrowers. Although Peoples had procedures
7 in place for preventing per diem overcharges, these policies were either not sufficient or were not
8 being followed.

9 9. The findings of the 2012 regulatory examination demonstrate that Peoples has failed to
10 implement procedures to ensure that excessive per diem interest would not continue be charged to
11 consumers as requested by the Commissioner’s examination staff.

12 **IV. Legal Grounds for Suspension**

13 10. Based on the above described conduct, the Commissioner may suspend Peoples’ CRMLA
14 License under either one (1) of two (2) different statutory grounds.

15 First, section 50327 provides in pertinent part:

16 (a) The commissioner may, after notice and a reasonable
17 opportunity to be heard, suspend or revoke any license, if the
18 commissioner finds that: (1) the licensee has violated any
19 provision of this division [commencing with Fin. Code § 50000] or
20 rule or order of the commissioner thereunder . . .

21 Peoples’ repeat conduct, discussed above, is a violation of section 50204, subdivision (o),
22 which states:

23 A licensee may not do any of the following:

24 . . .
25 (o) Commit an act in violation of Section 2948.5 of the Civil Code

26 Civil Code section 2948.5, subdivision (a)(1), prohibits a lender from requiring a borrower
27 to pay more than one (1) day of interest on a loan, prior to the day of disbursement to the borrower
28 or on the borrower’s behalf.

///

V. Legal Grounds for Penalties

11. Fines and penalties should be imposed on Peoples for the conduct discussed above. Section 50513 provides in pertinent part:

(a) The commissioner may do one or more of the following:

(4) Impose fines on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator pursuant to subdivisions (b), (c), and (d).

(b) The commissioner may impose a civil penalty on a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator, if the commissioner finds, on the record after notice and opportunity for hearing, that the mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator has violated or failed to comply with any requirement of this division [commencing with Fin. Code § 50000] or any regulation prescribed by the commissioner under this division or order issued under authority of this division.

(c) The maximum amount of penalty for each act or omission described in subdivision (b) shall be twenty-five thousand dollars (\$25,000).

(d) Each violation or failure to comply with any directive or order of the commissioner is a separate and distinct violation or failure.

VI. Conclusion

By reason of the foregoing, the Commissioner finds Peoples has repeatedly violated section 50204 and, therefore, grounds exist to:

(1) suspend Peoples' CRMLA residential mortgage lender license pursuant to section 50327; and

(2) levy penalties against Peoples pursuant to section 50513.

WHEREFORE, IT IS PRAYED that:

1. The residential mortgage lender license of Peoples Mortgage Company be suspended for twelve (12) months; and

2. Penalties be levied against Peoples for at least the eight (8) known violations of section

1 50204, subdivision (o) discovered during the 2012 exam and the 94 similar violations discovered
2 during the self-audit required as part of the 2012 exam, for a total amount of \$255,000, or according
3 to proof.

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5 Dated: November 30, 2015
6 Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

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By _____
ERIK BRUNKAL
Senior Counsel
Enforcement Division

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