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9
10 **BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT**
11 **OF THE STATE OF CALIFORNIA**

12 In the Matter of:) CRMLA NO.: 4130946
13)
14 THE COMMISSIONER OF BUSINESS) STATEMENT OF FACTS IN SUPPORT OF
OVERSIGHT,) ORDER TO DISCONTINUE VIOLATIONS
15) PURSUANT TO CALIFORNIA FINANCIAL
Complainant,) CODE SECTION 50321
16)
17 v.)
18)
PEOPLES HOME EQUITY, INC.,)
19)
Respondent.)
20)

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

23 1. Respondent Peoples Home Equity, Inc., (“Peoples”) is a residential mortgage lender
24 licensed by the California Commissioner of Business Oversight (“Commissioner”) of the
25 Department of Business Oversight (“Department”) pursuant to the California Residential Mortgage
26 Lending Act (Cal. Fin. Code § 50000 et seq.) (“CRMLA”).¹

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

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

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

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

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

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

26 7. With regard to the per diem interest violations discovered during the exam, the
27 overcharges averaged \$145.53 per loan. The range of per diem interest overcharges was between
28 \$39.06 and \$588.02. The range of days that interest was overcharged was between one (1) and

1 eight (8) days.

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

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

11 10. By reason of the foregoing, Peoples has violated section 50204, subdivision (o), and
12 California Civil Code section 2948.5.

13 11. Section 50321 provides in pertinent part:

14 If, after investigation, the commissioner has reasonable grounds to believe
15 that any licensee has violated its articles of incorporation or any law or
16 rule binding upon it, the commissioner shall, by written order addressed
17 to the licensee, direct the discontinuance of the violation. The order shall
18 be effective immediately, but shall not become final except in accordance
19 with the provisions of Section 50323.

20 12. Section 50323 provides:

21 (a) No order issued pursuant to Section 50321 or 50322 may become final
22 except after notice to the affected licensee of the commissioner's intention
23 to make the order final and of the reasons for the finding. The
24 commissioner shall also notify the licensee that upon receiving a request
25 the matter will be set for hearing to commence within 15 business days
26 after receipt. The licensee may consent to have the hearing commenced at
27 a later date. If no hearing is requested within 30 days after the mailing or
28 service of the required notice, and none is ordered by the commissioner,
the order may become final without hearing and the licensee shall
immediately discontinue the practices named in the order. If a hearing is
requested or ordered, it shall be held in accordance with the provisions of
the administrative Procedure Act (Chapter 5 (commencing with Section
11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the
commissioner shall have all the powers granted under that act. If, upon the
hearing, it appears to the commissioner that the licensee is conducting
business in an unsafe and injurious manner or is violating its articles of

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incorporation or any law of this state, or any rule binding upon it, the commissioner shall make the order of discontinuance final and the licensee shall immediately discontinue the practices named in the order.

(b) The licensee has 10 days after an order is made final to commence to restrain enforcement of the order. If enforcement of the order is not enjoined within 10 days by the court in which the action is brought, the licensee shall comply with the order.

WHEREFORE, good cause showing, the Commissioner is issuing an Order to Discontinue Violations Pursuant to section 50321 and notifying Peoples Home Equity, Inc., of her intention to make the order final.

Dated: November 30, 2015
Sacramento, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
ERIK BRUNKAL
Senior Counsel
Enforcement Division