

STATE OF NORTH CAROLINA
COUNTY OF WAKE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

FILE NO.: 09 CV 013578

STATE OF NORTH CAROLINA, *ex rel.*)
ROY COOPER, Attorney General,)
)
Plaintiff,)
)
v.)
)
PEOPLES FIRST FINANCIAL, INC.)
)
Defendant.)

DEFAULT JUDGMENT

FILED
2011 JAN 25 AM 10:14
WAKE COUNTY, C.S.C.
BY _____

THIS CAUSE came on to be heard before the undersigned judge on the Plaintiff State of North Carolina's motion for a default judgment against defendant Peoples First Financial, Inc. The defendant did not appear and was not represented by counsel. From the record herein and argument of counsel, the Court finds as follows.

1. The Court has jurisdiction over the parties and subject matter.
2. The State filed its verified Complaint in this action on 13 July 2009. In its Complaint, the State alleged that the defendant was operating its business in violation of North Carolina's debt adjusting laws, G.S. § 14-423, *et seq.*, by charging homeowners illegal advance fees for purported mortgage loan modification and foreclosure assistance services; and in violation of G.S. § 75-1.1 by making deceptive representations and engaging in other unfair and deceptive trade practices. The Complaint alleged that the defendant solicited, through its Internet

website and through e-mail solicitations, North Carolina homeowners in foreclosure, or in danger of foreclosure, and advised such homeowners that the defendant could save their homes by negotiating with the homeowner's mortgage lender to modify the homeowner's mortgage loan to obtain reduced interest rates and lower monthly payments. The Complaint further alleged that the defendant routinely charged an advance fee in an amount of \$2495.00, and failed to provide any meaningful assistance or services to homeowners. With its verified Complaint, the State filed the affidavits of three (3) North Carolina consumer victims of the defendant.

3. The North Carolina Debt Adjusting statute, G.S. § 14-423, *et seq.*, prohibits the practice of debt adjusting in this State. Included within the definition of debt adjusting is the practice of "foreclosure assistance" or "debt settlement" where fees are charged "in advance of the debt settlement having been completed or in advance of all the services agreed to having been rendered in full." The statute, G.S. § 14-425, authorizes the Attorney General to obtain injunctive relief, consumer refunds, and attorneys fees.

4. The Court entered a Temporary Restraining Order on 15 July 2009, enjoining the defendant from offering or providing foreclosure assistance or mortgage loan modification services in violation of North Carolina law. The terms of the Temporary Restraining Order were continued in effect with the Court's entry of a Preliminary Injunction Order on 6 August 2009.

5. An entry of default was entered against defendant Peoples First Financial, Inc. by the Assistant Clerk of Court of Wake County on 17 August 2010.

6. In support of its Motion for a Default Judgment, the State has submitted the affidavit of David C. Evers, a Consumer Specialist with the Department of Justice, attesting that on 27 January 2009, the State issued a letter to defendant PFF, requesting that it immediately

cease and desist from offering its illegal foreclosure assistance and loan modification services to North Carolina consumers and from collecting any illegal fees for such services, and provide refunds to complainants. Defendant PFF, however, failed to respond. Mr. Evers further attested that the North Carolina Attorney General's Office has received complaints from five (5) North Carolina consumers who were solicited by defendant PFF, all of whom paid PFF for mortgage loan modification services. These North Carolina consumers paid defendant a total of \$9497.50 but received no beneficial services. Mr. Evers also attested that the State has received information from the California Better Business Bureau ("BBB") that, in addition to the North Carolina consumers who complained to the AGO, three additional North Carolina consumers filed complaints with the BBB regarding defendant PFF's mortgage loan modification services. The State therefore has represented that it has substantial reason to believe that there are numerous other North Carolina consumers who have been victimized by the defendant, but whose identities are not known to the State since the consumers did not file complaints with the Attorney General's Office, and the defendant has subsequently ceased business operations.

7. Defendant Peoples First Financial, Inc. has failed to plead or to appear in this action, and is subject to a default judgment as provided by Rule 55(b)(2) of the North Carolina Rules of Civil Procedure.

8. The defendant is not an infant or incompetent person.

9. From the affidavits and record in this case, the State has made a sufficient showing to support its allegations and the entry of this judgment, including an award of restitution and civil penalties.

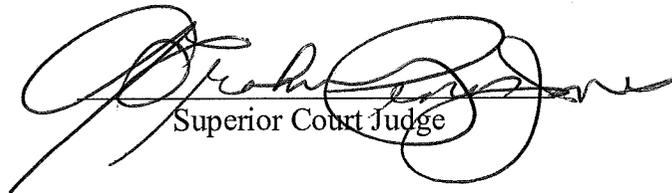
BASED ON THE FOREGOING and the record herein, the Court concludes that good and sufficient cause exists for entry of this Default Judgment and permanent injunction pursuant to G.S. §§ 14-425 and 75-14.

IT IS THEREFORE ORDERED that the defendant, its officers, agents, employees, and all persons acting in concert with them are hereby permanently enjoined from:

- (1) Advertising, soliciting, or offering any loan modification, foreclosure assistance, or other debt relief services to North Carolina consumers, in violation of North Carolina law, including N.C. Gen. Stat. §§ 14-423, *et seq.*, and § 75-1.1;
- (2) Entering into contracts or other agreements with North Carolina consumers for the performance of loan modification, foreclosure assistance, or other debt relief services, in violation of North Carolina law, including N.C. Gen. Stat. §§ 14-423, *et seq.*, and § 75-1.1;
- (3) Collecting any advance fees or other consideration from North Carolina consumers for the performance of loan modification, foreclosure assistance, or other debt relief services, in violation of North Carolina law, including N.C. Gen. Stat. §§ 14-423, *et seq.* and § 75-1.1;
- (4) Engaging in unfair or deceptive practices in the offering or conduct of any services related to loan modification, foreclosure assistance, or other debt relief services; and
- (5) Engaging in any of the foregoing activities or practices set forth in paragraphs (1) through (4) above, whether directly or indirectly, individually, or in affiliation with any other parties.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the plaintiff State of North Carolina, pursuant to G.S. § 14-425 and G.S. § 75-15.1, shall have and recover of the defendant Peoples First Financial, Inc., the principal sum of nine thousand four hundred and ninety-seven dollars and 50 cents (\$9497.50) to be applied to consumer restitution, attorney fees, and to costs of this action. Pursuant to G.S. § 75-15.2, the State shall further have and recover of the defendant Peoples First Financial, Inc. the sum of twenty-five thousand dollars (\$25,000) for civil penalties.

This the 25th day of January, 2011.


Superior Court Judge