

1 In re the Matter of: ) Case No.: 10-183  
 2 State of New Hampshire Banking )  
 3 Department, )  
 4 Petitioner, ) Order to Show Cause  
 5 and )  
 6 People's Choice Mortgage Inc. d/b/a )  
 7 TPC Mortgage, and David M. Fasano, )  
 8 Respondents )

9 NOTICE OF ORDER TO SHOW CAUSE AND ("ORDER")

10 1. This Order commences an adjudicative proceeding under the provisions  
 11 of RSA Chapter 397-A and RSA Chapter 541-A.

12 RESPONDENTS

13 2. People's Choice Mortgage Inc. d/b/a TPC Mortgage ("Respondent People's  
 14 Choice") is a corporation duly formed in Massachusetts on September 4, 2001  
 15 and registered in New Hampshire on April 7, 2004 with its principal office  
 16 location in Randolph, Massachusetts. Respondent People's Choice was  
 17 administratively suspended by the New Hampshire Secretary of State on August  
 18 2, 2010.

19 3. Respondent People's Choice was licensed as a Mortgage Banker with the  
 20 New Hampshire Banking Department ("Department") from August 6, 2004 to  
 21 December 10, 2010 when it surrendered its license. Respondent People's  
 22 Choice is still licensed in Connecticut as a Mortgage Correspondent Lender,  
 23 in Massachusetts as a Mortgage Broker and Mortgage Lender and in Rhode  
 24 Island as a Loan Broker.

25 4. David M. Fasano ("Respondent Fasano") is the 100% owner and President,

1 of Respondent People's Choice. Respondent Fasano's New Hampshire Mortgage  
2 Loan Originator license was issued by the Department on April 1, 2009.  
3 Respondent Fasano's New Hampshire Mortgage Loan Originator license expired  
4 on January 1, 2010 and has not been renewed. Respondent Fasano is still  
5 licensed by Massachusetts as a Mortgage Loan Originator.

6 5. Respondent People's Choice and Respondent Fasano are hereby  
7 collectively known as "Respondents".

8 **LEGAL AUTHORITY AND JURISDICTION**

9 6. "Control" means the power, directly or indirectly, to direct the  
10 management or policies of a company, whether through ownership of  
11 securities, by contract, or otherwise. Any person who is a director, general  
12 partner, or executive officer is presumed to control a company. RSA 397-  
13 A:1,V-a.

14 7. "Person" is defined as an individual, corporation, business trust,  
15 estate, trust, partnership, association, 2 or more persons having a joint or  
16 common interest, or any other legal or commercial entity however organized.  
17 RSA 397-A:1,XVIII.

18 8. The Commissioner has the authority to issue an order to show cause to  
19 any person under the Commissioner's jurisdiction why Respondent's licenses  
20 should not be revoked or suspended and penalties for violations of RSA  
21 Chapter 397-A or any rule or order thereunder should not be imposed. RSA  
22 397-A:17,I.

23 9. The Commissioner may by order, upon due notice and opportunity for  
24 hearing, assess penalties, deny, suspend, decline to renew or revoke a  
25 license if it is in the public interest and the respondent, any partner,

1 officer, member, or director, any person occupying a similar status or  
2 performing similar functions, or any person directly or indirectly  
3 controlling the respondent has violated any provision of RSA Chapter 397-A  
4 or rules or orders thereunder. RSA 397-A:17,I.

5 10. The Commissioner may impose administrative fines of up to \$2,500.00  
6 for each violation. RSA 397-A:21.

7 11. The Commissioner may issue, amend, or rescind such orders as are  
8 reasonably necessary to comply with the provisions of RSA Chapter 397-A. RSA  
9 397-A:20,IV.

10 **RIGHT TO REQUEST A HEARING**

11 12. Respondents have a right to request a hearing on this Order. A hearing  
12 shall be scheduled not later than ten (10) days after the Commissioner  
13 receives the Respondent's written request for a hearing. Respondents may  
14 request a hearing and waive the ten (10) day hearing requirement. The  
15 hearing shall comply with RSA Chapter 541-A, RSA 397-A:17,I and RSA 397-  
16 A:18,I.

17 13. If any person fails to request a hearing within thirty (30) days of  
18 receiving this Order, then such person shall be deemed in default, and the  
19 Order shall, on the thirty-first (31<sup>st</sup>) day, become permanent, all  
20 allegations may be deemed true, and shall remain in full force and effect  
21 until modified or vacated by the Commissioner for good cause shown. RSA 397-  
22 A:17.

23 14. A default may result in administrative fines as described in Paragraph  
24 10 above.

STATEMENT OF ALLEGATIONS

15. Respondents owe the following to the Department:

a. \$2,043.57 for an examination conducted on April 20, 2009 and billed on January 28, 2010;

b. \$175.00 for the 2009 late filed annual report billed on April 9, 2010; and

c. \$25.00 for the 2009 late filed financial statement billed on April 1, 2010, for a total of \$2,243.57.

16. On December 10, 2010, Respondents surrendered their New Hampshire Mortgage Banker license. No payments were received at that time.

17. To date, no payments have been received. To date, the Department has been unable to successfully communicate with Respondent Fasano regarding payment.

19. Contrary to RSA 397-A:12,V and as described in Paragraphs 15 to 17, Respondents failed to pay the examination fee.

20. Contrary to RSA 397-A:13,VI and as described in Paragraphs 15 to 17, Respondent Fasano, as owner and officer of Respondent People's Choice, has failed to respond to Department inquiries.

21. Contrary to RSA 397-A:5,IV-c(5) and RSA 397-A:IV-d(a)(1) and due to Respondents' administrative suspension with the New Hampshire Secretary of State and non-payment of monies owed to the Department, Respondent Fasano as a mortgage loan originator, an owner and a control person of Respondent People's Choice, has not continued to demonstrate financial responsibility such as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently within



1 administrative fine of \$2,500.00 per violation should not be imposed as  
2 follows:

3 a. Respondent People's Choice:

4 Violation #1: Failure to pay the examination fee;

5 b. Respondent Fasano:

6 Violation #1: As control person, failure to pay the examination fee;

7 Violation #2: Failure of officer and owner to respond to Department  
8 inquiries; and

9 Violation #3: Failure to maintain financial responsibility;

10 29. **It is hereby further ORDERED** that Respondents shall show cause why the  
11 \$2,043.57 examination fee should not be imposed;

12 30. **It is hereby further ORDERED** that Respondents shall show cause why the  
13 \$175.00 annual report fine should not be imposed;

14 31. **It is hereby further ORDERED** that Respondents shall show cause why the  
15 \$25.00 financial statement fine should not be imposed;

16 32. **It is hereby further ORDERED** that nothing in this Order:

17 a. shall prevent the Department from taking any further administrative and  
18 legal action as necessary under New Hampshire law; and

19 b. shall prevent the New Hampshire Office of the Attorney General from  
20 bringing an action against the above named Respondents in any New Hampshire  
21 superior court, with or without prior administrative action by the  
22 Commissioner.

23 **SO ORDERED.**

24 \_\_\_\_\_  
25 /s/  
Robert A. Fleury,  
Deputy Bank Commissioner

Dated: 12/23/10