



REPRESENTING  
**ALEX SINK**  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

**FILED**

MAR 5 2009

Docketed by: ELL

IN THE MATTER OF:

PEOPLE'S TRUST MGA, LLC  
\_\_\_\_\_ /

CASE NO: 100568-09-AG

ORDER TO SHOW CAUSE

TO: PEOPLE'S TRUST MGA, LLC  
6001 Broken Sound Parkway, Suite 510  
Boca Raton, Florida 33487

YOU ARE HEREBY NOTIFIED that pursuant to the provisions of section 624.307(3), 624.317, and 626.601, Florida Statutes, as Chief Financial Officer of the State of Florida, I have caused an investigation to be made of your activities as a licensed managing general agent in this State and as a result allege:

GENERAL ALLEGATIONS

1. The Chief Financial Officer, as head of the Florida Department of Financial Services (hereinafter referred to as the "Department"), has jurisdiction over insurance transactions in Florida pursuant to the Florida Insurance Code and, in particular, Chapter 626, Florida Statutes.

2. At all times pertinent to this Order to Show Cause, PEOPLE'S TRUST MGA, LLC (hereinafter referred to as "PEOPLE'S TRUST MGA") was a licensed managing general agent (0-60) authorized to engage in the business of insurance in the State of Florida under license number P132870.

3. At all times pertinent to this Order to Show Cause, PEOPLE'S TRUST MGA was a Florida limited liability company having a current principal address at 6001 Broken Sound Parkway, Suite 510, Boca Raton, Florida 33487.

4. Since its inception, PEOPLE'S TRUST MGA, on behalf of People's Trust Insurance Company, marketed homeowner's property and casualty insurance through various forms of advertising and by means of a website and telecommunications facility and employed individuals to transact insurance over the telephone.

5. Section 624.10 defines "transacting insurance" as follows:

"Transact" with respect to insurance includes any of the following, in addition to other applicable provisions of this code:

- (1) Solicitation or inducement.
- (2) Preliminary negotiations.
- (3) Effectuation of a contract of insurance.
- (4) Transaction of matters subsequent to effectuation of a contract of insurance and arising out of it.

6. No person shall transact insurance in this State, or relative to a subject of insurance resident, located, or to be performed in this state, without complying with the applicable provisions of this code. [Section 624.11(1), Florida Statutes]

7. Section 626.025, Florida Statutes provides as follows:

**Consumer protections.** - To transact insurance, agents shall comply with consumer protection laws, including the following, as applicable:

- (1) Continuing education requirements for resident and nonresident agents, as required in s. 626.2815.

- (2) Fingerprinting requirements for resident and nonresident agents, as required under s. 626.171 or s. 626.202.
- (3) Fingerprinting following a department investigation under s. 626.601.
- (4) The submission of credit and character reports, as required by s. 626.171 or 626.521.
- (5) Qualifications for licensure as an agent in s. 626.731, s.626.741, s. 626.785, s. 626.792, s.626.831, or 626. 835.
- (6) Examination requirements in s. 626.221, s. 626.741, 626.792, s. 626.835.

\* \* \*

COUNT I

8. The General Allegations set forth above in paragraphs one through seven are hereby re-alleged and incorporated herein by reference.
9. For the period of time beginning in approximately March of 2008 up to and including the present, PEOPLE'S TRUST MGA improperly permitted its employees under PEOPLE'S TRUST MGA's direct supervision and control, to transact insurance through direct contact with Florida consumers.
10. Many of those employees transacting insurance on behalf of PEOPLE'S TRUST MGA were not and are not presently licensed by the Department.
11. Accordingly, PEOPLE'S TRUST MGA employees have illegally transacted insurance without first obtaining licensure from the Department.
12. Because PEOPLE'S TRUST MGA has permitted individuals who lack the requisite training and licensure to engage in the transaction of insurance, Florida consumers are at risk of harm, in violation of Section 626.025, Florida Statutes.

IT IS THEREFORE CHARGED that you, PEOPLE'S TRUST MGA, have violated or are accountable under the following provisions of the Florida Insurance Code and Rules of the Florida Department of Financial Services which constitute grounds for the suspension or revocation of your license and eligibility for licensure as a managing general agent:

(a) No agent or customer representative shall solicit or otherwise transact as agent or customer representative, or represent or hold himself or herself out to be an agent or customer representative as to, any kind or kinds of insurance as to which he or she is not then licensed and appointed. [Section 626.112(1)(a), Florida Statutes];

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a license as an insurance agent, service representative, customer representative, or limited customer representative is required in order to engage in the solicitation of insurance. For purposes of this requirement, as applicable to any of the license types described in this section, the solicitation of insurance is the attempt to persuade any person to purchase an insurance product by:

1. Describing the benefits or terms of insurance coverage, including premiums of rates of return;
2. Distributing an invitation to contract to prospective purchasers;
3. Making general or specific recommendations as to insurance products;
4. Completing orders or applications for insurance products;
5. Comparing insurance products, advising as to insurance matters, or interpreting policies or coverages; or

6. Offering or attempting to negotiate on behalf of another person a viatical settlement contract as defined in s. 626.9911.

\* \* \*

[Section 626.112(1)(b)];

(c) No agent or customer representative shall solicit or otherwise transact as agent or customer representative, or represent or hold himself or herself out to be an agent or customer representative as to, any kind or kinds of insurance as to which he or she is not then licensed and appointed. [Section 626.112(2), Florida Statutes];

(d) No employee of an agent or agency may bind insurance coverage unless licensed and appointed as a general lines agent or customer representative. No employee of an agent or agency may initiate contact with any person for the purpose of soliciting insurance unless licensed and appointed as a general lines agent or customer representative. [Section 626.0428, Florida Statutes];

(e) The following actions are never allowable by unlicensed personnel:

1. Comparing insurance products; advising as to insurance needs or insurance matters; or interpreting policies or coverages;
2. Binding new, additional, or replacement coverage for new or existing customers; or binding coverage on or recording additional property under existing policies.
3. Soliciting the sale of insurance by telephone, in person, or by other communication. However, the unlicensed person may telephone persons to set appointments for licensed and appointed agents, customer representatives, or solicitors, or to obtain basic policy information as to existing insurance coverage. The unlicensed person may not engage in a substantive discussion of insurance products. [Rule 69B-222.060, Florida Administrative Code];

(f) With respect to any line of authority as defined in s. 626.015(5), no individual shall, unless licensed as a general lines agent:

(1) Solicit insurance or procure applications therefor;

(2) In this state, receive or issue a receipt for any money on account of or for any insurer, or receive or issue a receipt for money from other persons to be transmitted to any insurer for a policy, contract, or certificate of insurance or any renewal thereof, even though the policy, certificate, or contract is not signed by him or her as agent or representative of the insurer, except as provided in s. 626.0428(1);

(3) Directly or indirectly represent himself or herself to be an agent of any insurer or as an agent, to collect or forward any insurance premium, or to solicit, negotiate, effect, procure, receive, deliver, or forward, directly or indirectly, any insurance contract or renewal thereof or any endorsement relating to an insurance contract, or attempt to effect the same, of property or insurable business activities or interests, located in this state;

(4) In this state, engage or hold himself or herself out as engaging in the business of analyzing or abstracting insurance policies or of counseling or advising or giving opinions, other than as a licensed attorney at law, relative to insurance or insurance contracts, for fee, commission, or other compensation, other than as a salaried bona fide full-time employee so counseling and advising his or her employer relative to the insurance interests of the employer and of the subsidiaries or business affiliates of the employer;

(5) In any way, directly or indirectly, make or cause to be made, or attempt to make or cause to be made, any contract of insurance for or on account of any insurer;

(6) Solicit, negotiate, or in any way, directly or indirectly, effect insurance contracts, if a

member of a partnership or association, or a stockholder, officer, or agent of a corporation which holds an agency appointment from any insurer; or

(7) Receive or transmit applications for suretyship, or receive for delivery bonds founded on applications forwarded from this state, or otherwise procure suretyship to be effected by a surety insurer upon the bonds of persons in this state or upon bonds given to persons in this state. [Section 626.7315, Florida Statutes];

(g) Demonstrated lack of fitness or trustworthiness to engage in the business of insurance. [Section 626.611(7), Florida Statutes];

(h) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment. [Section 626.611(8)];

(i) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of this code. [Section 626.611(13), Florida Statutes];

(j) Violation of any provision of this code or of any other law applicable to the business of insurance in the course of dealing under the license or permit. [Section 626.621(2), Florida Statutes];

(k) Violation of any lawful order or rule of the department, commission, or office. [Section 626.621(3), Florida Statutes];

(l) Knowingly aiding, assisting, procuring, advising, or abetting any person in the violation of or to violate a provision of the insurance code or any order or rule of the department, commission, or office. [626.621(12), Florida Statutes].

WHEREFORE, you, PEOPLE'S TRUST MGA, are hereby notified that the Chief Financial Officer intends to enter an Order suspending or revoking your licenses and eligibility for licensure as a managing general agent, requiring you to cease and desist from transacting insurance through unlicensed employee practices, or to impose such penalties as may be provided under the provisions of Sections 626.611, 626.621, 626.681, 626.691, 626.692, and 626.9521, Florida Statutes, and under the other referenced Sections of the Florida Statutes as set out in this Order to Show Cause.

#### NOTICE OF RIGHTS

You have the right to request a proceeding to contest this action by the Department pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 28-106, Florida Administrative Code. The proceeding request must be in writing, signed by you, and must be filed with the Department within twenty-one (21) days of your receipt of this notice. Completion of the attached Election of Proceeding form and/or a petition for administrative hearing will suffice as a written request. The request must be filed with the General Counsel acting as Agency Clerk, at the Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. Your written response must be received by the Department no later than 5:00 p.m. on the twenty-first day after your receipt of this notice. Mailing the response on the twenty-first day will not preserve your right to a hearing.

**YOUR FAILURE TO RESPOND IN WRITING WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THIS NOTICE WILL CONSTITUTE A WAIVER OF YOUR RIGHT TO REQUEST A PROCEEDING ON THE MATTERS ALLEGED HEREIN AND AN ORDER OF SUSPENSION OR REVOCATION AND/OR AN ORDER TO CEASE AND DESIST WILL BE ENTERED AGAINST YOU.**

If you request a proceeding, you must provide information that complies with the requirements of Rule 28-106.2015, Florida Administrative Code. As noted above, completion of



the attached Election of Proceeding form conforms to these requirements. Specifically, your response must contain:

(a) The name, address, and telephone number, and facsimile number (if any) of the respondent (for the purpose of requesting a hearing in this matter, you are the "respondent").

(b) The name, address, telephone number, facsimile number of the attorney or qualified representative of the respondent (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received notice of the Order to Show Cause.

(e) A statement including the file number to the Order to Show Cause.

If a hearing of any type is requested, you have the right to be represented by counsel or other qualified representative at your expense, to present evidence and argument, to call and cross-examine witnesses, and to compel the attendance of witnesses and the production of documents by subpoena.

If a proceeding is requested and there is no dispute of material fact, the provisions of Section 120.57(2), Florida Statutes, apply. In this regard, you may submit oral or written evidence in opposition to the action taken by the Department or a written statement challenging the grounds upon which the Department has relied. While a hearing is normally not required in the absence of a dispute of fact, if you feel that a hearing is necessary, one will be conducted in Tallahassee, Florida, or by telephonic conference call upon your request.

However, if you dispute material facts which are the basis for the Department's action, you must request an adversarial proceeding pursuant to Sections 120.569 and 120.57(1), Florida Statutes. These proceedings are held before a State Administrative Law Judge of the Division of Administrative Hearings. Unless the majority of witnesses are located elsewhere, the Department will request that the hearing be conducted in Tallahassee, Florida.

Failure to follow the procedure outlined with regard to your response to this notice may

result in the request being denied. All prior oral communication or correspondence in this matter shall be considered freeform agency action, and no such oral communication or correspondence shall operate as a valid request for an administrative proceeding. Any request for an administrative proceeding received prior to the date of this notice shall be deemed abandoned unless timely renewed in compliance with the guidelines as set out above.

Mediation of this matter pursuant to Section 120.573, Florida Statutes, is not available. No Department attorney will discuss this matter with you until the response has been received by the Department.

DATED and SIGNED this 5 day of March, 2009.



Tammy Teston  
TAMMY TESTON  
Deputy Chief Financial Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Order to Show Cause has been furnished by U.S. Mail to: David Yon, Radey Thomas, Yon & Clark, P.A., 301 S. Bronough Street, Ste. 200, Tallahassee, FL 32301-1722 this 5 day of March, 2009.

David J. Busch  
David J. Busch, Esquire  
Division of Legal Services  
612 Larson Building  
Tallahassee, Florida 32399-0333  
(850) 413-4146

STATE OF FLORIDA  
DEPARTMENT OF FINANCIAL SERVICES  
DIVISION OF LEGAL SERVICES

IN THE MATTER OF:

PEOPLE'S TRUST MGA, LLC

CASE NO.: 100568-09-AG

ELECTION OF PROCEEDING

I have received and have read the Order to Show Cause filed by the Florida Department of Financial Services ("Department") against me, including the Notice of Rights contained therein, and I understand my options. I am requesting disposition of this matter as indicated below. **(CHOOSE ONE)**

1.  I do not dispute any of the Department's factual allegations and I do not desire a hearing. I understand that by waiving my right to a hearing, the Department may enter a final order that adopts the Order to Show Cause and imposes the sanctions sought, including suspending or revoking my licenses and appointments as may be appropriate.
  
2. I do not dispute any of the Department's factual allegations and I hereby elect a proceeding to be conducted in accordance with Section 120.57(2), Florida Statutes. In this regard, I desire to **(CHOOSE ONE)**:
  - Submit a written statement and documentary evidence in lieu of a hearing; or
  - Personally attend a hearing conducted by a department hearing officer in Tallahassee; or
  - Attend that same hearing by way of a telephone conference call.
  
3.  I do dispute one or more of the Department's factual allegations. I hereby request a hearing pursuant to Section 120.57(1), Florida Statutes, to be held before the Division of Administrative Hearings. I have attached to this election form the information required by Rule 28-106.2015, Florida Administrative Code, as specified in subparagraph (c) of the Notice of Rights. Specifically, I have identified the disputed issues of material fact.

**TO PRESERVE YOUR RIGHT TO A HEARING, YOU MUST FILE YOUR RESPONSE WITH THE DEPARTMENT OF FINANCIAL SERVICES WITHIN TWENTY-ONE (21) DAYS OF YOUR RECEIPT OF THE ORDER TO SHOW CAUSE. THE RESPONSE MUST BE RECEIVED BY THE DEPARTMENT NO LATER THAN 5:00 P.M. ON THE TWENTY-FIRST DAY AFTER YOUR RECEIPT OF THE ORDER TO SHOW CAUSE.**

The address for filing is: General Counsel acting as Agency Clerk, Florida Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333.

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

Date Administrative

Complaint Received: \_\_\_\_\_

If you are represented by an attorney or qualified representative, please attach to this election form his or her name, address, telephone and fax numbers

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_