



NEWS RELEASE

Comptroller of the Currency
Administrator of National Banks

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Peoples National Bank to Pay \$175,000 Civil Money Penalty And End Payday Lending Relationship with Advance America

WASHINGTON -- The Office of the Comptroller of the Currency announced today that Advance America, Cash Advance Centers, Inc. and Peoples National Bank, Paris, Texas, have agreed to end their payday lending arrangement and that the bank has agreed to pay \$175,000 in civil money penalties.

The consent orders mark the fourth such set of enforcement actions the OCC has taken since January 2002, involving national banks that have entered into arrangements with payday lenders. With these actions, no payday lenders are any longer carrying on business through a relationship with a national bank.

“We have been greatly concerned with arrangements in which national banks essentially rent out their charters to third parties who want to evade state and local consumer protection laws,” said Comptroller of the Currency John D. Hawke, Jr. “The preemption privileges of national banks derive from the Constitution and are not a commodity that can be transferred for a fee to nonbank lenders.”

“In many of these cases, we have also found that the bank failed to properly manage its relationships with the payday lenders, leading to significant safety and soundness problems and violations of federal laws and regulations,” he added. “The OCC expects national banks to comply with federal consumer protection laws, and we will take appropriate enforcement actions if they do not.”

Under the consent order, Advance America agreed it would not enter into any contract to become either an agent or bank service provider for a national bank without first applying to the OCC. In signing the consent order, Advance America agreed to end its payday lending relationship with Peoples by February 28th for business conducted in North Carolina and by March 31st for Pennsylvania activities.

In taking the enforcement action against the bank, the OCC was prepared to allege that Peoples failed to ensure that its payday lender, which held itself out as agent for the bank, complied with federal consumer protection laws and regulations. In particular, the bank, through the payday lender, routinely failed to make disclosures required under the Truth-in-Lending Act (TILA), and repeatedly violated the disclosure and record-keeping requirements of the Equal Credit Opportunity Act (ECOA).

TILA requires that, when lenders respond to inquiries about the cost of closed-end credit, they must provide the annual percentage rate, or APR, a measure of the cost of credit, expressed as an annual rate. The bank's payday lender was not providing the APR to potential customers who asked about the cost of the loan.

ECOA requires that creditors notify applicants of the action taken on their application within 30 days following receipt of the application. When an adverse action is taken, including a decision not to extend credit, Regulation B requires the creditor to provide the applicant with a written statement of the action taken. Regulation B also requires the lender to maintain records for 25 months after an adverse action is taken.

The OCC also cited a number of safety and soundness problems in Peoples' payday lending arrangement. Among other shortcomings, the bank did not have adequate controls over the payday lender, and it lacked an audit system appropriate for an institution of its size and the nature and scope of its activities. The bank also lacked a strategic plan for the payday lending business.

Payday lending involves short-term loans that are usually repaid within one or two weeks, often with a post-dated check that is deposited after the borrower receives his or her paycheck. Payday loans originated by Advance America in Peoples' name had terms varying from five to 14 days, and a corresponding annual percentage rate of more than 400 percent. The bank allowed customers to roll over their loans for significant periods of time.

From the time Peoples entered into the payday lending arrangement with Advance America in February 2001, its loan volume grew very rapidly. After three months, payday loans amounted to 120 percent of the bank's capital. In the next six months, the bank doubled its payday loan volume, to 240 percent of capital. Since January 2002, the bank's volume of payday loans consistently exceeded 100 percent of capital

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The OCC charters, regulates and examines approximately 2,100 national banks and 52 federal branches of foreign banks in the U.S., accounting for more than 55 percent of the nation's banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.

Related Links: [Consent Order - Peoples National Bank](#), [Consent Order - Advance America](#)