

**STATE OF ILLINOIS**

**OFFICE OF BANKS AND REAL ESTATE**

**BUREAU OF BANKS AND TRUST COMPANIES**

\_\_\_\_\_)  
IN THE MATTER OF: )  
Leahy & Walker Financial Services LTD ) No. 2003 BBTC-34(c)  
d/b/a/ meritlending.com )  
\_\_\_\_\_)

**CONSENT ORDER ASSESSING CIVIL MONETARY PENALTY**

WHEREAS, the COMMISSIONER OF BANKS AND REAL ESTATE, (the “Commissioner”), having conducted an examination of facts related to Leahy & Walker Financial Services LTD., d/b/a/ meritlending.com, 575 Anton Blvd. Suite 1050 Costa Mesa, Ca 92626 and having found that Leahy & Walker Financial Services LTD violated the provisions of Section 46(d) of the Illinois Banking Act [205 ILCS 5/1 et. seq.] (the “Act”) issued an Order on July 10<sup>th</sup>, 2003 assessing a Civil Monetary Penalty;

WHEREAS, pursuant to the Office of Banks and Real Estate Administrative Rule 392, [38 Ill. Adm. Code, Part 392] Leahy & Walker Financial Services LTD d/b/a/ meritlending.com exercised its right to demand a formal administrative hearing on this matter and such formal administrative hearing had been scheduled;

WHEREAS, prior to the commencement of the requested formal administrative hearing, the Commissioner and Leahy & Walker Financial Services LTD d/b/a/ meritlending.com have mutually agreed to resolve this matter by means of a STIPULATION and entry of this CONSENT ORDER ASSESSING CIVIL MONETARY PENALTY;

WHEREAS, Leahy & Walker Financial Services LTD d/b/a/ meritlending.com, while neither admitting nor denying the findings and conclusions contained in this CONSENT ORDER ASSESSING CIVIL MONETARY PENALTY, has voluntarily executed a STIPULATION agreeing to the entry of this ORDER and has waived its right to a formal administrative hearing and any right it may have to administrative review of this ORDER pursuant to the Administrative Review Law, [735 ILCS 5/3-101]; and

WHEREAS, the Commissioner specifically makes the following:

### **FINDINGS**

1. That on or about December 19, 2001, the Commissioner entered an Order to Cease and Desist against meritlending.com based upon findings of fact and conclusions of law that meritlending.com had violated Section 46(d) of the Act, (the “December 2001 Order”);
2. That the December 2001 Order was based in part upon a determination that meritlending.com had engaged in a marketing program designed to solicit prospective Illinois customers in a mortgage-re-financing plan. In connection with the marketing plan, meritlending.com had utilized solicitation materials that used the name of an existing state-chartered bank without consent and the solicitation materials were likely to cause a reasonable person to incorrectly believe that the solicitation originated or was endorsed by the state-chartered bank;
3. That the December 2001 Order specifically required meritlending.com to Cease and Desist from utilizing the referenced marketing materials in the state of Illinois;
4. That on or about December 27, 2001, a copy of the Cease and Desist Order was delivered and served upon meritlending.com at its last known address by means of United States Certified Mail;
5. That Section 46(d)(2) of the Act authorizes the Commissioner to impose a civil monetary penalty of up to \$10,000 for each additional violation of Section 46(d) if the Commissioner has directed a person, firm, partnership or corporation to cease and desist from using certain marketing materials;
6. That following the issuance, delivery and receipt of the December 2001 Order, meritlending.com continued the use of the referenced marketing material in the state of Illinois, including but not limited to a solicitation initiated by meritlending.com in 2003;

### **CONCLUSIONS**

BASED UPON THE ABOVE FINDINGS, THE COMMISSIONER IS OF THE OPINION AND CONCLUDES:

1. That by virtue of the continued use of the marketing materials in the state of Illinois Leahy & Walker Financial Services LTD., d/b/a/ meritlending.com has persisted in violating Section 46(d) of the Act;
2. That Section 46(d)(2) the Act provides the Commissioner the authority to assess a civil monetary penalty of up to \$10,000 for each violation; and
3. This Order is authorized and appropriate under the provisions of Section 46(d)(2) of the Act.

## **ORDER**

NOW THEREFORE IT IS HEREBY ORDERED:

1. Leahy & Walker Financial Services LTD, d/b/a/ meritlending.com shall be and hereby is assessed a civil monetary penalty in the amount of \$7500.00;
2. The civil monetary penalty in the amount of \$7500.00 shall be paid no later than sixty (60) days after service of this Order;
3. The civil monetary penalty in the amount of \$7500.00 shall be paid by means of a certified check or money order made payable to the Office of Banks and Real Estate;
4. The formal administrative hearing previously scheduled on this matter shall be and hereby is dismissed; and
5. Leahy & Walker Financial Services LTD d/b/a/ meritlending.com shall comply with all provisions of the above referenced December 2001 ORDER.

ORDERED THIS 18<sup>th</sup> DAY OF AUGUST, 2003

SCOTT D. CLARKE  
Assistant Commissioner  
State of Illinois  
Office of Banks and Real Estate