



"Laham, Carol" <claham@wrf.com> on 06/28/2002 11:30:41 AM

To: Jonathan Levin/FEC/US@FEC
cc: "Baran, Jan" <jbaran@wrf.com>
Subject: RE: Follow Up to June 5 Letter

AOR 2002-11

Dear Mr. Levin:

This will respond to your inquiry of June 6, 2002 to the extent possible. First, you ask, "what percentage of a State association's revenues the Campus MBA program brought in." As indicated in our previous letters to you, the Mortgage Bankers Association of America ("MBAA") is not affiliated with any of the state mortgage bankers associations and thus it has no immediate access to any financial information from any of the state associations. In order to respond to your inquiry, the MBAA has asked the Texas Mortgage Bankers Association ("TMBA") to provide us any responsive financial information that it can. TMBA has advised the MBAA that it has no specific line item in it's budget for the Campus MBA program. TMBA apparently treats income from this program as miscellaneous income. Based on the TMBA's budget, the income from the Campus MBA will account for approximately 2 1/2 to 3 % of its annual income. (Please note that Texas entered into this agreement with the MBAA in August of 2001 for the first time. Prior to that time the TMBA received no income from the Campus MBA program). In addition, there is no line item in the TMBA budget for expenses associated with the TMBA program nor is the MBAA in possession of any information which indicates how much the TMBA spends on the Campus MBA program. However, given that the Campus MBA is designed to be a profit making opportunity, the MBAA assumes that the TMBA must spend less than 2 1/2 to 3 % of its annual expenses on this program. We anticipate that these percentages are similar to those for other associations, however, as indicated above, our client has no specific information in this regard.

As for your inquiries regarding the Mortgage Bankers Association, we have been informed that the entire education department, which includes the Campus MBA program is budgeted for approximately 9% of the MBAA's income and approximately 8% of its expenses. However, only one-third of the income of the education department relates to the Campus MBA agreements with the state associations, and, as indicated in previous correspondence, only 10% of that income is shared with the states that participate in the program. Thus, approximately 3% of MBAA's entire budget relates to the Campus MBA program with the state associations, with only 10% of the 3% being distributed to the states (or .3% of the overall budget of the MBAA). Finally, the amount distributed to the states is treated as an expense of the Campus MBA program for budgetary purposes and also is less than 1% of the overall budget of the MBAA.

We trust that this gives you the information you need. We respectfully request that the FEC issue an advisory opinion in response to the MBAA's request.

Jan Baran

Carol Laham

-----Original Message-----

From: Jonathan Levin [mailto:jlevin@fec.gov]

Sent: Thursday, June 06, 2002 7:50 PM
To: Laham, Carol
Cc: Rosie Smith
Subject: Follow Up to June 5 Letter

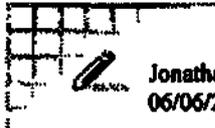
This is a reminder as to our conversation this afternoon with respect to the Mortgage Bankers Association of America ("MBAA") and the Texas Mortgage Bankers Association ("TMBA"). In your June 5 response to OGC's May 13 question on revenue sharing and other arrangements between MBAA and the State associations, you describe the Campus MBA Affiliate Program, wherein State MBAs promote Campus MBA in exchange for a percentage of the profits generated from Campus MBA sales in the state. One third of the State associations, including TMBA, are involved in this program. I asked a question as to what percentage of a State association's revenues this program brought in. Specifically, what is the range among the participating State MBAs and what is the percentage for the TMBA? In addition, I am asking the same question with respect to the costs to the State MBAs. Moreover,, what percentage of MBAA's costs and revenues are associated with this program? These questions pertain to 11 CFR 110.3(a)(3)(ii)(G) and (H).

If you find that you can get this information to me quickly, this office will process your request as an AOR now. If the information gathering will take a little while, we will wait for your response before making the request an AOR.

This request does not preclude our asking follow-up questions after the your request becomes an AOR.



.att1.htm



Jonathan Levin
06/06/2002 07:49 PM

To: claham@wrf.com
cc: Rosie Smith/FEC/US@FEC

Subject: Follow Up to June 5 Letter

This is a reminder as to our conversation this afternoon with respect to the Mortgage Bankers Association of America ("MBAA") and the Texas Mortgage Bankers Association ("TMBA"). In your June 5 response to OGC's May 13 question on revenue sharing and other arrangements between MBAA and the State associations, you describe the Campus MBA Affiliate Program, wherein State MBAs promote Campus MBA in exchange for a percentage of the profits generated from Campus MBA sales in the State. One third of the State associations, including TMBA, are involved in this program. I asked a question as to what percentage of a State association's revenues this program brought in. Specifically, what is the range among the participating State MBAs and what is the percentage for the TMBA? In addition, I am asking the same question with respect to the costs to the State MBAs. Moreover,, what percentage of MBAA's costs and revenues are associated with this program? These questions pertain to 11 CFR 110.3(a)(3)(ii)(G) and (H).

If you find that you can get this information to me quickly, this office will process your request as an AOR now. If the information gathering will take a little while, we will wait for your response before making the request an AOR.

This request does not preclude our asking follow-up questions after the your request becomes an AOR.

Wiley Rein & Fielding LLP

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
SUITE 6200
McLEAN, VA 22102
PHONE 703.905.2000
FAX 703.905.2020

www.wrf.com

June 5, 2002

Jonathan Levin, Esq.
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

JUN 5 4 41 PM '02

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

Re: Mortgage Bankers Association Advisory Opinion Request

Dear Mr. Levin:

On May 9, 2002, the Mortgage Bankers Association of American and the Mortgage Bankers Association PAC submitted an Advisory Opinion Request to the Federal Election Commission. In response to that request, your office sought additional information and clarification before the Office of the General Counsel would consider the May 9 submission an Advisory Opinion Request. This letter will reply to each of your requests in turn.

1) You have asked for copies of the Articles of Incorporation of the MBAA (Mortgage Bankers Association of America) and the TMBA (Texas Mortgage Bankers Association).

Enclosed please find the Corporate Charter of the Mortgage Bankers Association of America, as well as a microfiche copy of The Texas Land Mortgage Bankers Association Charter, now the Texas Mortgage Bankers Association. This is the best copy of this document that we could obtain.

2) You have asked for official MBAA documents referring to "affiliate organizations" or "affiliate members" of referring to relationship of MBAA to such organizations. Specifically, you state that these documents should include, but not be limited to, instructions to State Affiliates as to the organization, policies or operations of those affiliates.

The MBAA previously provided its Bylaws which address affiliate membership. The MBAA does not provide instructions to the Affiliate Members as to organizations, policies, or operations of those state associations. Rather, the state associations are freestanding associations that are eligible for membership in the MBAA based on the fact that they are already in existence as a state association.

You also ask for official TMBA documents referring to its relationship with the MBAA. The MBAA is not aware of any such documents.

Jonathan Levin, Esq.
June 5, 2002
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3) You ask whether the MBAA represents, or coordinates with state or local mortgage bankers associations in their federal and non-federal lobbying efforts and further ask for a description of such representation or coordination. You also ask for a description of such activities if they involve the TMBA.

The MBAA does not represent state and local mortgage banker associations with respect to federal or state lobbying. The MBAA is a national association that represents the interest of all of its members when lobbying at the federal level. The MBAA does not lobby at the state or local level nor does it represent any state association should that association choose to lobby at the federal level. Further, the MBAA has no authority to dictate to the state associations what their positions should be with respect to particular state legislation.

4) You ask for a description of the operations referred to on the MBAA website under the heading of State Affiliate Accomplishments. Specifically:

(a) Describe the revenue sharing and recruitment partnering activities or arrangements between MBAA and state associations which is referred to on the MBAA website. If such activities involved TMBA, describe those activities or arrangements.

At present the only revenue sharing activities between the MBAA and approximately 1/3rd of the state associations is an educational program known as the Campus MBA Affiliate Program wherein member state MBA's promote Campus MBA in exchange for a percentage of the profits generated from CampusMBA sales in that state. A copy of the contract for this program is attached. Texas is currently engaged in this Program.

(b) Describe what is entailed in the regional meetings, which involve the participation of the State Affiliate members.

Regional meetings are held periodically, in person or via conference call, to allow state and local associations an opportunity to participate in a dialog with the regional representatives of the State and Local Advisory Council. These meetings enable these members to provide input to the national association as well as to share information with each other. At bottom, this is an informational exchange call. Regional representatives plan the agenda and moderate meetings. These regional meetings are akin to the quarterly meeting of other members of the MBAA such as

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the Residential Single Family members as well as the Commercial Real Estate/Multifamily Finance members.

(c) State whether the MBAA provides instructions to the State Affiliates, as to their organization, policies or operations, in such publications as MBA Hotwire, Statehouse/City Hall Roundup, and MBARound America. Describe such instructions, including any instructions made to TMBA.

No, the MBAA does not provide instructions to State Affiliates as to their organization, policies or operations.

(5) You ask for a description of the significance to a state MBA of withdrawal of recognition of an organization as an Affiliate Organization by the MBAA Board of Directors.

If the MBAA were to withdraw the recognition of an organization as an affiliate organization, the state association would no longer be a member of the MBAA and would receive no benefits of membership.¹

(6) State whether the State and Local Advisory Council of the MBAA establishes or has established any rules or policies for the organizations, policies or operations of the State Affiliates. State what those rules and policies are.

The State and Local Advisory Council has not established any rules or policies for the organizations, policies or operations of the State Affiliates and has no authority to do so. The MBAA has no control over state associations.

¹ Note that the MBAA has proposed a bylaw amendment which would change the name of the state association members from "Affiliate Member" to "State Association member" in order to eliminate any confusion regarding the term "affiliate." This will clarify that the state associations are simply members of the MBAA just as any other member is a "member" of the MBAA.

Jonathan Levin, Esq.

June 5, 2002

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The above answers to your questions have been provided, read and approved by our client. We trust that this is the information you need. Thus, we once again respectfully request an advisory opinion that the MBAA PAC is not affiliated with the TMBA PAC.

Sincerely,



Jan Witold Baran
Carol A. Laham

THE CORPORATE CHARTER
Mortgage Bankers Association of America
As Amended Through October 15, 2001

1.00 Name.

1.01 The name of such Corporation is Mortgage Bankers Association of America.

2.00 Duration.

2.01 The duration of life of this Corporation shall be perpetual.

3.00 Address.

3.01 The address of the registered office of the Corporation shall be 208 South LaSalle Street, Chicago, Illinois 60604, and the name of the registered agent shall be CT Corporation System.

4.00 Purpose.

4.01 The purpose for which this corporation is organized is to be a trade association, as provided in Section 103.5 (a)(19) of the General Not For Profit Corporation Act of 1986 As Amended.

5.00 Membership.

5.01 The membership of the Corporation shall consist of regular and associate members.

5.10 Regular Members.

5.11 Business organizations and financial institutions that are regularly in the business of originating, servicing, or investing in mortgage loans or other types of real estate finance.

5.20 Associate Members.

5.21 Business organizations, financial institutions, and individuals that regularly provide services or products for business organizations or financial institutions eligible to be regular members.

5.30 Honorary Members.

5.31 Individuals who have served all or part of two terms as a member of one of the Boards of Governors described in the Bylaws, or the predecessor Board of Governors, or who have served as elected officers, for two years, and who have retired from active business.

6.00 Membership--Effect of Charter Changes.

6.01 No member in any class of membership shall become ineligible for continued membership in such class by reason of any change made in the Charter after election to membership.

7.00 Liability of Members.

7.01 No members shall be liable, either jointly or severally, for the debts of the Corporation in excess of unpaid current membership dues.

8.00 Application for Membership.

8.01 All applicants for membership shall indicate by appropriate means that they are in accord with and conduct their business in conformity with the purposes of the Canons of Ethics and Standards of Practice.

9.00 Officers.

9.01 There shall be elected officers and appointed officers.

9.02 Elected officers include the Chairman (or Chairwoman), Chairman- (or Chairwoman) Elect and Vice Chairman (or Chairwoman).

9.03 Appointed officers include the President, Secretary, and such other officers as the Board of Directors may create.

9.04 Eligibility to hold elected office is restricted to officers of business organizations or financial institutions that are regular members.

9.05 All elected officers shall be elected by vote of the regular membership at the Annual Meeting of the Association. All appointed officers shall be appointed annually at the first regular meeting of the Board of Directors. In both cases, unexpired terms shall be filled in accordance with procedures prescribed in the Bylaws.

10.00 Board of Directors.

10.01 The affairs of the Corporation shall be managed by a Board of Directors.

10.02 The membership of the Board of Directors shall be selected in such manner and shall have such qualifications as the Bylaws prescribe.

10.03 The Board of Directors by resolution, may designate one or more boards, councils or committees, which, to the extent provided in said resolution or in the Bylaws, shall have and exercise the authority of the Board of Directors in the management of the Corporation.

10.04 Such Board of Directors shall consist of the Chairman (or Chairwoman), Chairman- (or Chairwoman-) Elect, and Vice Chairman (or Vice Chairwoman), and seventeen (17) Directors, unless otherwise set forth in the Bylaws. In addition, the President shall serve *ex officio* as a non-voting member.

11.00 Fiscal Year.

11.01 The fiscal year of the Corporation shall commence on October first and end on September thirtieth.

12.00 Annual Meeting.

12.01 The Corporation shall hold an annual meeting of its members within 90 days after the close of the fiscal year and at such place, either within or outside the State of Illinois, as shall be selected by resolution of the Board of Directors.

13.00 Voting.

13.01 The right to vote is limited to designated officers of business organizations and financial institutions as provided in the Bylaws.

14.00 Indemnification of Directors, Officers, and Employees.

14.01 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a Director, Officer, or Employee of the Corporation against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or upon plea of *nolo contendere* or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner that he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

14.02 The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in favor by reason of the fact that he or she is or was a Director, Officer, or Employee of the Corporation against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses that such court shall deem proper.

14.03 To the extent that a Director, Officer, or Employee of the Corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 14.01 and 14.02, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

14.04 Any indemnification under Section 14.01 and 14.02 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, Officer, or Employee is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Section 14.01 and 14.02. Such determination shall be made by (1) the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding, or (2) if such quorum is not obtainable, or even if obtainable, if a quorum of disinterested directors so directs, by independent legal counsel in a written opinion .

14.05 Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized in the manner provided in Section 14.04 upon receipt of an undertaking by or on behalf of the Director, Officer, or Employee to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the Corporation as authorized herein.

14.06 The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled as a matter of law, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, Officer, or Employee and shall inure to the benefit of the heirs, executors, and administrators of such a person.

14.07 The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, Officer, or Employee of the Corporation against any liability asserted against him or her and incurred by him or her in any such capacity of arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions hereof.

APPROVED AND FILED IN THE OFFICE OF THE
SECRETARY OF STATE

THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION

THIS 19 DAY OF May 1950

AMENDMENT TO CHARTER

W. Lee Scott
SECRETARY OF STATE

THE STATE OF TEXAS
COUNTY OF BEXAR

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, at the regular 1950 annual meeting of the members of The Texas Land Mortgage Bankers Association on the 14th day of April, 1950 in conformity with the By-Laws thereof, the members of said corporation unanimously voted to amend the charter of the corporation in the respects hereinafter set out; and

WHEREAS, on the 15th day of April, 1950, the Board of Trustees of the corporation unanimously voted to amend the charter of said corporation in the respects as hereinafter set out, which are the same respects as set out in said resolution aforesaid.

NOW, THEREFORE, We, the undersigned, who are trustees of said corporation, constituting a majority of the trustees of said corporation, in compliance with the action of the members of the corporation as set out in said resolution aforesaid, and in compliance with the action aforesaid of the Board of Trustees of said corporation, do hereby amend the original charter of said corporation in the following respects:

(1) Article I of said Charter is amended so as to change the name of said corporation to Texas Mortgage Bankers Association, and said Article I shall hereafter read as follows:

ARTICLE I.

The name of this corporation shall be:

TEXAS MORTGAGE BANKERS ASSOCIATION

(2) Article III of said charter is amended so as to change the principal place of business of the corporation to Dallas, Dallas County, Texas, and said Article III shall hereafter read as follows:

ARTICLE III.

The principal place of business of the corporation shall be at Dallas, Dallas County, Texas, and the address

(3) Article V of said charter is amended so as to change the name of the governing officers of the corporation to "directors" and provide the manner of choosing directors, and said Article V shall hereafter read as follows:

ARTICLE V

The affairs of the corporation shall be managed by a Board of Directors, the number of directors, and the manner of their selection to be as follows:

(a) The President, three Vice-presidents, and the Secretary-Treasurer, who shall be elected at each annual meeting of the corporation shall be directors of the corporation.

(b) There shall also be fifteen other directors who shall be elected at the annual meeting to serve for such terms as may be provided by the By-Laws. The Directors elected at the 1950 annual meeting shall serve for the terms for which they were elected.

(c) All past presidents who are still members of the corporation in good standing since April 14, 1950, shall be directors of the corporation unless they file a certificate with the President that they do not desire to serve.

(4) Said charter is amended by adding thereto a new article pertaining to membership in the corporation and to be a new article numbered VII to read as follows:

ARTICLE VII.

The membership of the corporation shall consist of such persons and classes of members as may be provided by the By-Laws of the corporation.

The State of Texas
Secretary of State

I, LOUIS SCOTT WILKERSON, Assistant, Secretary of State, of the State of Texas, do hereby certify that the foregoing is a true and correct copy of an amendment to the charter of

THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION

with the endorsement thereon, as the same now appears of record in the Department.

Dated, signed, and sealed at Austin, Texas, this

19th day of May, A. D. 1950.



Louis Scott Wilkerson
Assistant Secretary of State

THE TEXAS LAND MORTGAGE
BANKERS ASSOCIATION.

ARTICLES OF INCORPORATION

No. <u>3084</u>
CHARTER OF
<u>The Texas Land Mortgage</u>
<u>Bankers Association</u>
<u>M.C.A. Texas</u>

Cap. Stock \$ <u> </u>
Filing Fee \$ <u>10.</u>
Franchise \$ <u> </u>
Remarks <u>50 years</u>

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

THIS DAY 26 OF Feb 1917

Ed D. ...
SECRETARY OF STATE

8-20-17

7-17

C. J. KLINE and W. G. BROWN

of Tarrant County, and

County, and W. G. BROWN

Bexar County, hereby associate themselves

provisions of the Revised Statutes of the State

a body corporate in manner and form as follows:

I.

The name of this corporation shall be
"THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION".

II.

The purpose for which this corporation is formed
is the educational advancement of persons engaged in the
land mortgage business in the State of Texas by the holding
of frequent meetings of such persons at stated times and
their association at such meetings and the discussion by them
at such meetings of subjects relating to the land mortgage
business, and the circulation of literature relating to such
business among such persons, and by other like means.

III.

The domicile and chief place of business of the cor-
poration shall be Waco, in McLennan County, Texas, where its
chief business shall be transacted.

IV.

The corporation shall exist for a period of
fifty (50) years.

V.

The affairs of the corporation shall be directed
by seven (7) trustees, and the trustees for the first year
shall be the incorporators hereof, to wit:

... and ... who reside in the City of
... Dallas County, Texas;
... who reside in the City of Fort Worth,
... Tarrant County, Texas;

GEO. V. ROTAN, who resides in the City of Waco, in
McLennan County, Texas;

J. W. McFARLAND, who resides in the City of Waco,
McLennan County, Texas;

R. L. SLAUGHTER, who resides in the City of Austin, Travis
County, Texas; and

E. D. HENRY, who resides in the City of San Antonio, in
Bexar County, Texas.

VI.

The purposes of this corporation are such that
it requires no capital stock, and it shall have no capital
stock.

IN TESTIMONY WHEREOF, we the said incorporators
hereby subscribe this charter, this the 5th day of February,
A. D. 1917.

R. L. Slaughter
E. D. Henry
J. W. McFarland
G. V. Rotan
J. W. McFarland
W. G. Brey
Arthur L. Kritz



THE STATE OF TEXAS, :
COUNTY OF DALLAS, : Before me, the undersigned authority, on this day personally appeared C.D. KRIPS and W.L.C. BRIG, known to me to be the persons whose names are subscribed to the foregoing instrument, and each acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 14th day of February, A.D. 1917.

[Signature]
Notary Public, Dallas County, Texas.

THE STATE OF TEXAS, :
COUNTY OF TARRANT, : Before me, the undersigned authority, on this day personally appeared C.W. OLARKSON, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 17 day of February, A.D. 1917.

[Signature]
Notary Public, Tarrant County, Texas.

THE STATE OF TEXAS, :
COUNTY OF McLENNAN, : Before me, the undersigned authority, on this day personally appeared GEO. V. ROTAN, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 24th day of February, A.D. 1917.

[Signature]
Notary Public, McLennan County, Texas.

THE STATE OF TEXAS, :
COUNTY OF McLENNAN, : Before me, the undersigned authority, on this day personally appeared J.M. McFARLAND, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 13th day of February, A.D. 1917.

[Signature]
Notary Public, McLennan County, Texas.



THE STATE OF TEXAS, :
COUNTY OF TRAVIS. : Before me, the undersigned authority,
on this day personally appeared R. L. SLAUGHTER, known to me
to be the person whose name is subscribed to the foregoing in-
strument, and acknowledged to me that he executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office this 26th day
of February, A.D.1917.



R. L. Brewer
Notary Public, Travis County, Texas.

THE STATE OF TEXAS, :
COUNTY OF ~~Travis~~ Bexar Before me, the undersigned authority,
on this day personally appeared E.D. HENRY, known to me to be
the person whose name is subscribed to the foregoing instru-
ment, and acknowledged to me that he executed the same for the
purposes and consideration therein expressed.

Given under my hand and seal of office, this 20th day
February, A.D.1917.



William Barnes
Notary Public, Bexar County, Texas.

R -4-

ARTICLE VI

NO. 12-10371

THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION

1000-1000

CHARTERED UNDER THE MORTGAGE BANKERS ASSOCIATION ACT

CHANGING PLACE OF BUSINESS TO DALLAS, TEXAS

CHANGING NUMBER OF DIRECTORS

ARTICLE VII

CAPITAL STOCK _____

PAYING PER _____ 10.00

SHARES _____

PAID IN _____

FILED IN THE OFFICE OF
SECRETARY OF STATE

THIS 15th DAY OF _____, 1950

INDEX NO. _____

APPROVED AND FILED IN THE OFFICE OF THE
SECRETARY OF STATE

THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION
THIS 19 DAY OF May 1950
AMENDMENT TO CHARTER

Amey
SECRETARY OF STATE

THE STATE OF TEXAS
COUNTY OF DALLAS

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WHEREAS, on the 15th day of April, 1950, the Board of Trustees of the corporation unanimously voted to amend the charter of said corporation in the respects as hereinafter set out, which are the same respects as set out in said resolution aforesaid.

NOW, THEREFORE, We, the undersigned, who are trustees of said corporation, constituting a majority of the trustees of said corporation, in compliance with the action of the members of the corporation as set out in said resolution aforesaid, and in compliance with the action aforesaid of the Board of Trustees of said corporation, do hereby amend the original charter of said corporation in the following respects:

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(a) The President, three Vice-Presidents, and the Secretary-Treasurer, who shall be elected at each annual meeting of the corporation shall be directors of the corporation.

(b) There shall also be fifteen other directors who shall be elected at the annual meeting to serve for such terms as may be provided by the By-Laws. The Directors elected at the 1950 annual meeting shall serve for the terms for which they were elected.

(c) All past presidents who are still members of the corporation in good standing since April 14, 1950, shall be directors of the corporation unless they file a certificate with the President that they do not desire to serve.

(4) Said charter is amended by adding thereto a new article pertaining to membership in the corporation and to be a new article numbered VII to read as follows:

ARTICLE VII

The membership of the corporation shall consist of such persons and classes of members as may be provided by the By-Laws of the corporation.

The State of Texas
Secretary of State

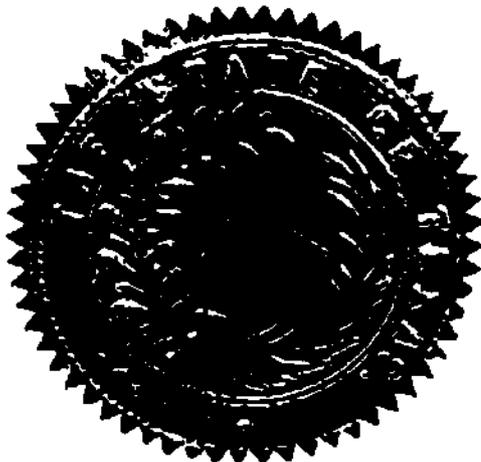
I, LOUIS SCOTT WILKERSON, Assistant, Secretary of State, of the State of Texas, do hereby certify that the foregoing is a true and correct copy of an amendment to the charter of

THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION

with the endorsement thereon, as the same now appears of record in the Department.

Dated, signed, and sealed at Austin, Texas, this

19th day of May, A. D. 1950.



Louis Scott Wilkerson
Assistant Secretary of State.

No. 36574
 CLERK OF
 THE STATE LAND OFFICE
 BANKERS ASSOCIATION
 ALBANY, N.Y.

Cap. Stock \$
 Full Paid \$ 10
 Dividends \$
 Retained \$ 0

FILED IN THE OFFICE OF THE
 SECRETARY OF STATE
 THIS DAY 26 OF 22 1947

[Signature]
 Secretary of State

NOTICE TO THE LAND OFFICE
 RE: [Illegible]

NOTICE TO THE SECRETARY OF STATE
 RE: [Illegible]

Know all men by these presents, that
C. J. KUEHL and W. G. SANDERS
of Tarrant County, and
County, and L. S. SLAUGHTER, of Bexar County,
Bexar County, hereby associate pursuant to the
provisions of the Revised Statutes of the State of Texas
a body corporate in manner and form as follows:

I.

The name of this corporation shall be
'THE TEXAS LAND MORTGAGE BANKERS ASSOCIATION'.

II.

The purpose for which this corporation is formed
is the educational advancement of persons engaged in the
land mortgage business in the State of Texas by the holding
of frequent meetings of such persons at stated times and
their association at such meetings and the discussion by them
at such meetings of subjects relating to the land mortgage
business, and the circulation of literature relating to such
business among such persons, and by other like means.

III.

The domicile and chief place of business of the cor-
poration shall be Waco, in McLennan County, Texas, where its
chief business shall be transacted.

IV.

The corporation shall exist for a period of
fifty (50) years.

V.

The affairs of the corporation shall be directed
by seven (7) trustees, and the trustees for the first year
shall be the incorporators hereof, to wit:

... and ... who reside in the City of
... Dallas County, Texas;
... who resides in the City of Fort Worth,
Tarrant County, Texas;

... who resides in the City of Waco, in
McLennan County, Texas;

... who resides in the City of Waco,
McLennan County, Texas;

... who resides in the City of Austin, Travis
County, Texas; and

... who resides in the City of San Antonio, in
Bexar County, Texas.

VI.

The purposes of this corporation are such that
it requires no capital stock, and it shall have no capital
stock.

IN TESTIMONY WHEREOF, we the said incorporators
hereby subscribe this charter, this the 6th day of February,
A. D. 1917.

R. L. Slaughter
E. D. Henry
W. G. Perry
Geo. T. Potts
J. N. McFarland
W. G. Perry
Thomas L. Kritz



THE STATE OF TEXAS, :
COUNTY OF DALLAS, : Before me, the undersigned author-
ity, on this day personally appeared G.L. SMITH and W.C. BRUCE,
known to me to be the persons whose names are subscribed to
the foregoing instrument, and each acknowledged to me that he
executed the same for the purposes and consideration therein
expressed.

Given under my hand and seal of office, this 11 day of
February, A.D. 1917.

Notary Public, Dallas County, Texas.



THE STATE OF TEXAS, :
COUNTY OF TARRANT, : Before me, the undersigned authority,
on this day personally appeared G.V. OLSON, known to me to
be the person whose name is subscribed to the foregoing instru-
ment, and acknowledged to me that he executed the same for the
purpose and consideration therein expressed.

Given under my hand and seal of office, this 11 day
of February, A.D. 1917.

J. M. Branch
Notary Public, Tarrant County, Texas.



THE STATE OF TEXAS, :
COUNTY OF McLENNAN, : Before me, the undersigned authority,
on this day personally appeared Geo. W. Reed, known to me to
be the person whose name is subscribed to the foregoing in-
strument, and acknowledged to me that he executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office, this 11 day
of February, A.D. 1917.

C. R. ...
Notary Public, McLennan County, Texas.

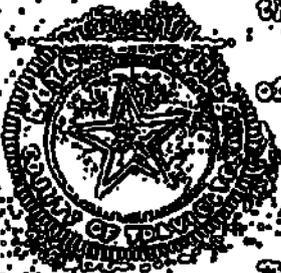
THE STATE OF TEXAS, :
COUNTY OF McLENNAN, : Before me, the undersigned authority,
on this day personally appeared J. M. ... known to me
to be the person whose name is subscribed to the foregoing in-
strument, and acknowledged to me that he executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office this 12 day
of February, A.D. 1917.

J. M. ...
Notary Public, McLennan County, Texas.

THE STATE OF TEXAS, :
COUNTY OF TRAVIS, : Before me, the undersigned authority,
on this day personally appeared H. L. SLAUGHTER, known to me
to be the person whose name is subscribed to the foregoing in-
strument, and acknowledged to me that he executed the same for
the purposes and consideration therein expressed.

Given under my hand and seal of office this 24th day
of February, A.D. 1979.



H. L. Slaughter
Notary Public, Travis County, Texas.

THE STATE OF TEXAS, :
COUNTY OF ~~TRAVIS~~, : Before me, the undersigned authority,
on this day personally appeared E. J. ~~HEIN~~, known to me to be
the person whose name is subscribed to the foregoing instru-
ment, and acknowledged to me that he executed the same for the
purposes and consideration therein expressed.

Given under my hand and seal of office, this 20 day
February, A.D. 1979.



William B. ...
Notary Public, Travis County, Texas.

The Learning Center for Real Estate Finance

1919 Pennsylvania Avenue, NW
Washington, DC 20008-3438
(800) 793-8222
<http://www.campusmba.org>



For: _____
Name of State/Local Association

CampusMBA State Affiliate Agreement

This agreement sets forth responsibilities by both CampusMBA and state MBA organizations pertaining to affiliating for the purpose of revenue sharing on educational programs.

CampusMBA agrees to the following points:

1. The CampusMBA/State affiliation program offers CampusMBA's portal/community to state association members at no charge. CampusMBA's portal is a powerful online education web community that empowers its users with cutting-edge information technology and links to a universe of learning resources.
2. CampusMBA offers the state association a 10% royalty on qualified sales generated in the state. The royalty is based on all sales occurring in the state as evidenced by the "ship to" address of the purchaser. The purchaser is not required to be a member of either MBAA or the state affiliate in order for the state to earn the royalty. The royalty is paid on a quarterly basis.
3. The State affiliate receives revenue sharing on the following qualifying educational programs:
 - All Web-based courses (including certification courses)
 - All Print-based correspondence courses
 - All Video-based courses (currently 3 titles - from the School of Mortgage Banking)
 - All tests from the newly launched "Test and Assessment Center" - This offers tests to companies for new hires. It assists in placements, hiring decisions, mentoring career paths, and correct placement in training programs.
4. CampusMBA will provide the State affiliate with a user-id and password for its membership.
5. CampusMBA will co-brand the educational site by placing a "co-branded" logo on the linked site.
6. Periodically CampusMBA will provide State affiliates with information to include in either their newsletters, or on their web sites. This information outlines new features of CampusMBA, or new products and services of interest to their members.
7. CampusMBA will include state event notices in its weekly "Industry Campus" e-newsletter. Placements of information and advertising are at the sole discretion of CampusMBA and are based on space available.
8. CampusMBA marketing staff will provide templates of advertising.

State Affiliate agrees to the following points:

1. The State affiliate provides CampusMBA with an Excel spreadsheet containing member information. Name, company name, address, phone numbers, e-mail. This information is imported into MBA's database. Pursuant to the affiliation, MBA may market its educational offerings to the individuals identified in the membership list.
2. The state affiliate makes a link from its web site to www.campusmba.org. The link should state "Distance Education".
3. The state affiliate will market, at no cost to CampusMBA, CampusMBA program information at least 10 times in a 12 month year. Marketing can include but is not limited to the following:
 - Newsletter coverage
 - Advertisements
 - Inclusion in the state membership directory
 - Reviews in e-mail blasts
 - Handouts at state conferences or other meetings (ie. Catalogs, brochures or flyers)
 - Booth space at state conventions or meetings
 - Product announcements or reviews at local membership meetings

Each marketing piece should be sent to: CampusMBA, ATTN: State Affiliation Agreements, 1919 Pennsylvania Avenue, NW, Washington, DC 20006

4. The state affiliate recognizes marketing of CampusMBA programs increases its potential revenue as well as creates and enhances benefits of membership in the state association.

Modification and/or Cancellation Agreement

This agreement will remain in effect unless either party notifies the other in writing of intent to cancel. Cancellation can also occur due to the failure of either party to abide by the terms of the agreement.

In agreement:

Agreed:

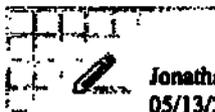
_____ agrees to affiliate with CampusMBA.
(State Association Name)

State Association Signature:
Title:

Date:

CampusMBA Signature:
Title:

Date:



Jonathan Levin
05/13/2002 04:02 PM

To: claham@wrf.com
cc: Rosie Smith/FEC/US@FEC

Subject: Follow-up Requests for Information on MBAA

To Carol Laham:

This message pertains to your letter on behalf of the Mortgage Bankers Association of America ("MBAA") requesting an advisory opinion as to whether its SSF is affiliated with the recently founded SSF of the Texas Mortgage Bankers Association ("TMBA"). You maintain that MBAA is not a federation of trade associations, that TMBA is not affiliated with MBAA, and thus their SSFs are not affiliated with each other. To support your conclusion, you have provided information about the relationship of the two associations, as well as the by-laws of both associations and of the State/Local Advisory Council. A review of this information and of the associations' websites indicates a need for some more information and clarification before this office considers your submission as an advisory opinion request. See 11 CFR 112.1(e) and (d). Therefore, this office makes the following requests:

- (1) Provide copies of the Articles of Incorporation of TMBA and MBAA.
- (2) Please provide other official MBAA documents referring to "affiliate organizations" or "affiliate members" or referring to relationships of MBAA to such organizations. These documents should include, but not be limited to, instructions to the State affiliates as to the organization, policies or operations of those affiliates. Provide other official TMBA documents referring to its relationship to MBAA. Please state if there are no documents fitting these descriptions.
- (3) State whether the MBAA represents, or coordinates with, State or local mortgage bankers associations in their Federal and non-Federal lobbying efforts. Describe the nature of such representation and coordination. If such activities involved TMBA, describe those activities.
- (4) Describe the operations referred to on the MBAA website under the heading of "State Affiliate Accomplishments." Specifically:
 - (a) Describe the revenue sharing and recruitment partnering activities or arrangements between MBAA and State associations which is referred to on the MBAA website. If such activities involved TMBA, describe those activities or arrangements.
 - (b) Describe what is entailed in the regional meetings, which involve the participation of the State Affiliate members.
 - (c) State whether the MBAA provides instructions to the State Affiliates, as to their organization, policies or operations, in such publications as MBA Hotwire, Statehouse/City Hall Roundup, and MBARound America. Describe such instructions, including any instructions made to TMBA.
- (5) The MBAA by-laws state that recognition of an organization as an Affiliate Organization may be withdrawn at any time by the MBAA Board of Directors. Please describe the significance to a State MBA of the withdrawal of recognition.

(6) State whether the State and Local Advisory Council of the MBAA establishes or has established any rules or policies for the organizations, policies or operations of the State affiliates. State what those rules and policies are.

Upon receipt of your responses, this office will consider your submissions as an advisory opinion request. If you have any questions about this letter, please contact me at 694-1542.

Wiley Rein & Fielding LLP

1776 K STREET NW
WASHINGTON, DC 20006
PHONE 202.719.7000
FAX 202.719.7049

7925 JONES BRANCH DRIVE
SUITE 6200
MCLEAN, VA 22102
PHONE 703.905.2900
FAX 703.905.2820

www.wrf.com

May 9, 2002

Federal Election Commission
Office of the General Counsel
999 E Street, N.W.
Washington, D.C. 20463

Re: Advisory Opinion Request

Dear Sirs:

On behalf of the Mortgage Bankers Association of America ("MBAA") and the Mortgage Bankers Association of America Political Action Committee ("MBAA PAC" also known as "MORPAC"), we respectfully request an advisory opinion from the Federal Election Commission pursuant to 2 U.S.C. § 437f of the Federal Election Campaign Act of 1971, as amended. ("FECA" or "Act").

FACTS

1. The MBAA

The MBAA is a national not-for-profit incorporated trade association representing the real estate finance industry. The MBAA was founded in 1914 and is recognized as an organization exempt from federal income tax under §501(c)(6) of the Internal Revenue Code. The MBAA's Bylaws are attached at Exhibit 1.

The MBAA's membership is composed primarily of "[b]usiness organizations and financial institutions that are regularly in the business of originating, servicing, or investing in mortgage loans or other types of real estate finance." MBAA Bylaws, Article III, §3.12, definition of "Regular Member." Specifically, the MBAA currently has 1431 Regular Members. The MBAA also has 743 Associate Members. Associate Members are defined as "[b]usiness organizations, financial institutions and individuals that regularly provide service or products for business organizations or financial institutions eligible to be regular members." *Id.* at § 3.13. State Associations do not qualify as Regular Members or Associate Members. However, State Associations are eligible for membership in the MBAA pursuant to Article X of the Bylaws. Section 10.10(a) states that "[a]n organization, not eligible for membership, whose interest are similar to those of the Association and who otherwise meets the requirements set from time to time by the Board of Directors, may be recognized as an Affiliated Organization." Among the Affiliate Members are 46 state mortgage banking associations ("State

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Associations"). These Affiliate Members are accorded the same rights as Regular Members. At present, there are also another 274 Members of the MBAA that hold other membership status (such as honorary or special membership) within the Association.¹

The MBAA is not a federation of trade associations. Rather, any state and local association wishing to become attached to the MBAA may apply to become an "Affiliate Member" of the MBAA. As an Affiliate Member, a state mortgage bankers association must pay annual dues to the MBAA. Regular Members of the MBAA are not members of state and local trade associations simply by virtue of their membership, and members of the state and local trade associations are not automatically members of the MBAA. Rather, membership in the MBAA is independent of membership in any state and local association. In addition, there are no formal contractual agreements between the MBAA and the state associations. Further, the state associations are under no obligation to adopt the MBAA bylaws, nor has the MBAA provided a prototype to the state associations for their own bylaws.

The MBAA Bylaws provide for a Board of Directors of 20 voting members. The Board is broken down as follows: One Director shall be the immediate former Chairperson of the MBAA; six directors shall be Regular Members engaged in the residential single family finance business; three directors shall be Regular Members in the commercial real estate or multifamily finance business; one director shall be an employee of an Associate Member; one director shall be a current or former elected or staff officer of a state or local mortgage bankers association; five directors shall be at-large Regular Members; and three directors shall be the elected officers of the organization. At present, only one individual on the Board of Directors has a direct relationship to a state or local mortgage bankers association.² The MBAA also has two Boards of Governors: a Commercial Real

¹ For instance, §10.10(b) of the Bylaws also permits "International Members" which also are deemed to be "Affiliated Organizations." That provision states that "[a]n organization, eligible for membership, who is located outside of the United States, virtually none of whose operations relate to mortgage loans or other types of real estate finance inside the United States, and who otherwise meets the requirements set from time to time by the Board of Directors, may be recognized as an Affiliate Organization."

² This individual is the Executive Director of the Mortgage Bankers Association of New Jersey.

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Estate/Multifamily Finance Board and a Residential/Single Family Board. MBAA Bylaws, Article VI, §6.10. The MBAA Bylaws do not identify any relationship between the state MBA's and these two Boards of Governors. See, *id.*, Article VI. The Chairperson of the MBAA may also designate standing committees of the MBAA on an annual basis. Members of the standing committees must come only from the membership of the association. *Id.* §8.10. Finally, the MBAA Bylaws call for a State and Local Advisory Council. This provision states that "[i]n addition to individuals from the membership, executive officers of state and local mortgage bankers associations shall be eligible to serve as members of the State and Local MBA Advisory Council." Bylaws § 8.60.

The MBAA has a longstanding separate segregated fund, The Mortgage Bankers Association of America Political Action Committee.

2. The TMBA

The Texas Mortgage Bankers Association ("TMBA") is an Affiliate Member of the MBAA. The bylaws of the TMBA are attached. These Bylaws do not identify any relationship between the TMBA and the MBAA and make no reference to the MBAA. The TMBA Bylaws indicate that

The purpose for which this Association is formed is to promote the proper, professional, educational, political, and ethical conduct of persons engaged in the mortgage banking and real estate finance business in the State of Texas by the holding of frequent meetings of such persons at stated times and their association at such meetings and the discussion by them at such meeting of subjects related to the mortgage banking and real estate finance business, and the circulation of literature to such business among such persons, and by other like means.

TMBA Bylaws, Article II. (TMBA Bylaws attached at Exhibit 2.) The TMBA was founded in 1917.

The TMBA has a total of 92 Regular members and 67 Associate Members. Thirty-three of these members (22 Regular and 11 Associate) are members of the MBAA, constituting an approximate 21% overlap in Membership. However, these

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same 33 members constitute just over 1% of the MBAA's total membership. Moreover, there are approximately 197 members of the MBAA with Texas addresses. Thus, the 33 overlapping members constitute only 17% of the MBAA's Texas membership. The MBAA believes these percentages typically reflect the level of overlapping membership between each state mortgage bankers association and the MBAA.

The TMBA is the only state mortgage bankers association to create its own separated segregated fund, the Texas Mortgage Bankers Association PAC. The TMBA PAC registered as a separate segregated fund on August 17, 2001, connected only to the Texas Mortgage Bankers Association, and not affiliated with any other committee. The MBAA and the MBAA PAC had no role in the formation of the TMBA PAC.

3. The State/Local Advisory Council

The Bylaws³ of the Advisory Council state that:

The mission of the State/Local Advisory Council shall be:

(a) To facilitate and promote grass roots participation in the relationship between federal, state and local governments and the real estate finance industry;

(b) To facilitate the delivery by MBAA of member services to state and local mortgage bankers associations and mortgage lenders associations;

(c) To make policy recommendations to the Board of Directors of MBAA affecting association-related state and local issues.

³ The Bylaws refer to the Advisory Council as an organization under the authority of the MBAA. The Council has not been separately incorporated.

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State/Local Advisory Council Bylaws, Article II (attached at Exhibit 3). In addition, the Bylaws call for a nine member council, including two representatives from each of the four operating Regions identified by the United States Department of Housing and Urban Development. Of these two representatives from each region, one is a volunteer member of a state association within the region, and one is a paid executive of a state or local association within the region. The state and local associations within the region are entitled to nominate the two members to the Council. Moreover, each state mortgage bankers association is permitted to vote for the region's volunteer and paid representatives. The final member of the Council shall be the State/Local representative on the MBAA Board of Directors. State/Local Advisory Council Bylaws, Article III, §§ 3.10 and 3.40. The Council is to meet four times per year, twice in person, and twice by electronic means if desired.

QUESTION PRESENTED

Whether the MBAA PAC is affiliated with the Texas Mortgage Bankers Association PAC?

DISCUSSION

Based upon Commission precedent, the MBAA PAC and the TMBA PAC are not affiliated because the MBAA is not a federation of trade associations and the two PACs do not meet the indicia of affiliation established by the Commission.

The Commission regulations state that “[a] federation of trade associations is an organization representing trade associations involved in the same or allied line of commerce.” 11 C.F.R. § 114.9(g). “Traditionally, such federations have had a component or affiliated state organizations that are officially recognized as such.” Advisory Opinion 1995-12, Fed. Election Camp. Fin Guide (CCH) ¶ 6151 (1995). Despite the coincidental usage of the term “Affiliated Organizations” this is not the MBAA model, and the PACs are not “affiliated” as the term is used in the Federal Election Campaign Act or its regulations. The MBAA does not represent any other trade association, and it does not recognize the State Associations as components of the MBAA. Rather, the state mortgage bankers association must apply for

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membership in the MBAA and pay dues to the MBAA as does any other corporate member of the MBAA.⁴

As has always been true, PACs of member organizations of a trade association are not per se affiliated with the trade association PAC. See 11 C.F.R. §100.5(g). Thus, the issue in this case is whether the TMBA PAC is affiliated with the MBAA PAC when examined under the Commission's affiliation criteria found at 11 C.F.R. §100.5(g)(4). It is not. While there are ten such criteria, in the context of trade associations, the Commission has identified five indicia of affiliation that are particularly relevant.

(B) the authority or ability of one sponsoring organization to direct or participate in the governance of another sponsoring organization through the provisions of constitutions, bylaws, contracts, or other rules, or through formal or informal procedures; (C) the authority or ability to hire, appoint, demote or otherwise control the officers or other decision making employees or members of another sponsoring organization; (D) common or overlapping membership between sponsoring organizations indicating a formal or overlapping relationship between the sponsoring organizations; and (E) common or overlapping officers or employers, indicating a formal or ongoing relationship between the sponsoring organizations . . . (I) an active or significant role by one sponsoring organization in the formation of another.

11 C.F.R. 100.5(g)(4)(ii)⁵. See Advisory Opinion 1995-12, Fed. Election Camp. Fin Guide (CCH) ¶ 6151 (1995); Advisory Opinion 1994-19, Fed. Election Camp. Fin Guide (CCH) ¶ 6120 (1994).

⁴ Further, as noted above, the membership of the two organizations do not overlap in any significant manner.

⁵ The other criteria include whether a sponsoring organization owns a controlling interest in the voting stock of the sponsoring organization or committee, which is not applicable to a non-stock organization such as a trade association. Another indicia is whether a sponsoring organization has

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These five indicia of affiliation are absent, which suggests that the MBAA PAC is not affiliated with the TMBA PAC. First, the bylaws of the two organizations do not indicate an ability to participate in the other's governance. While the MBAA permits a single director to be from the state associations, and has provided for an advisory council, the board presence of a state member constitutes only 5% of the total board membership. This is not significant.⁶ Moreover, there is no inverse relationship with the state boards – that is the state association bylaws indicate no relationship with the national association board. Further, there are no other organizational documents, or contracts, or other like documents indicating a formal relationship between the organizations. In addition, there does not appear to be a significant degree of overlap in the membership of the MBAA and the TMBA. The TMBA members who also are MBAA members represent a tiny fraction of all of the MBAA members (1%), and only 17% of all MBAA members that come from Texas⁷. Conversely, fewer than 25% of all TMBA members are MBAA members. As discussed further below, these numbers do not approximate the overlap identified in prior advisory opinions where affiliation has been found.

As for the other indicia identified by the Commission as relevant, the MBAA has no “authority or ability to hire, appoint, demote or otherwise control the officers or other decision making employees or members of” the TMBA or vice-versa. Further, there are no common or overlapping officers or employers,

any members, officers or employees of another sponsoring organization which indicates a formal or ongoing relationship, or which indicates the creation of a successor entity. This criteria is applied to spin-off entities and again is not relevant to this issue. The third and fourth criteria not applicable in this case relate to the provisions of funds or goods to another sponsoring organization, but again, there is no such provision of goods or services from the MBAA to the TMBA or vice versa. Finally, the Commission can also look at whether the organizations have similar patterns of contributions or contributors. This criteria is inapplicable because the TMBA PAC is newly established and there will be no coordination, direction, or control between the PACs with respect to the raising or spending of funds. See 11 C.F.R. §100.5(g)(4)(ii)(A), (F), (G), (H), (I).

⁶ Indeed, in a variety of opinions relating to spin-off companies, the Commission has permitted an overlap in Board memberships without finding affiliation. See Advisory Opinion 1995-36, Fed. Election Camp. Fin. Guide (CCH) ¶6172 (1995), Advisory Opinion 1996-23, Fed. Election Camp. Fin. Guide (CCH) ¶6206 (1996).

⁷ This figure is derived by calculating only Regular Membership. If the MBAA's Associate Membership is included, the number drops below 10%.

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indicating a formal or ongoing relationship between the sponsoring organizations, nor did the MBAA play any role in the formation of the TMBA or the TMBA PAC. Thus, the weight of these criteria argues strongly against affiliation.

This conclusion is consistent with the Commission's opinion in Advisory Opinion 1995-12, Fed. Election Camp. Fin. Guide (CCH) ¶ 6151 (1995). In that opinion the factual circumstances caused the Commission to determine that the Independent Bankers Association PAC was affiliated with the PACs of its affiliated state associations. However, unlike MBAA, the IBAA was a federation of trade associations, the bylaws of the organizations cross referenced each other, there were contractual arrangements between the organizations, there was a significant overlap in the membership of the organizations, and the boards of the organizations were interconnected. These factors represent a material difference that should lead the Commission to the opposite conclusion here, i.e., that the MBAA PAC and the TMBA PAC are not affiliated.

CONCLUSION

The MBAA and the MBAA PAC respectfully request an advisory opinion that the MBAA PAC is not affiliated with the TMBA PAC.

Sincerely,



Jan Witold Baran
Carol A. Laham

BYLAWS
Mortgage Bankers Association of America
August 9, 2001

ARTICLE I. ADMISSION TO MEMBERSHIP

1.10 Application Form. Application for membership in the Association shall be in writing on the form provided for such use, which form shall include a statement of the Canons of Ethics and Standards of Practice of the Association and a space for the signature of the applicant pledging support. The application shall be supported by written recommendations of two individuals employed by different members of the Association, at least one of whom shall be an officer, partner or principal of a regular member firm.

1.20 Acceptance of Application. On receipt, the President shall review the application. Unless the President determines that the application indicates that the applicant does not meet the membership eligibility requirements the application shall be accepted. The President shall return unacceptable applications, or shall invite the submission of additional information to make the application acceptable.

1.30 Applicant Status. An applicant whose application has been accepted, but which has not yet been admitted to membership, shall have all the privileges and duties afforded associate members by these Bylaws and by custom. It shall not be a member and shall have no right to vote, hold office, or hold itself out as a member. This status may continue for two years only, unless affirmatively extended by the Membership Committee in particular cases.

1.40 Election of Applicant. The accepted application for membership shall be submitted to the Board of Directors for approval. To be counted, votes of approval or disapproval shall be returned within 15 days from date the submission was sent. The approval process shall be conducted by the President in entire secrecy, and no record shall be kept by name of the negative votes but only the fact of election or not.

1.41 Reconsideration. If a member of the Board of Directors votes against election, or otherwise notifies the President in writing 15 days from the date the application is submitted for approval, that the member believes there are facts adverse to the election of the applicant that the Membership Committee should consider, the President shall defer recording the votes for the applicant. The Membership Committee shall investigate the adverse facts and shall instruct the President either to record the vote or to re-submit the application to the Board of Directors with such recommendations as the Committee may make. Negative votes by more than 15 percent of the entire membership of the Board of Directors shall operate as a rejection of the applicant. No applicant, failing in election, may be reconsidered for membership within one year of rejection of the application.

ARTICLE II. VOTING BY MEMBERSHIP

2.10 Voting Delegates. Each regular member of the Association shall be entitled to one voting delegate at each membership meeting subject to provisions specified elsewhere in these Bylaws. All voting delegates shall furnish proper credentials if so requested by the President.

2.20 Manner of Voting. Voting at membership meetings shall be viva voce unless otherwise ordered by the Chair. Any voting delegate may demand a division of the house.

ARTICLE III. CLASSES OF MEMBERSHIP AND DUES

3.10 Classes of Membership.

3.11 There shall be three classes of membership with rights and responsibilities as determined from time to time by the Board of Directors. The Board of Directors may set subclasses of members with differing rights and responsibilities.

3.12 Regular Members. Business organizations and financial institutions that are regularly in the business of originating, servicing, or investing in mortgage loans or other types of real estate finance shall be considered Regular Members.

3.13 Associate Members. Business organizations, financial institutions and individuals that regularly provide service or products for business organizations or financial institutions eligible to be regular members shall be considered Associate Members.

3.14 Honorary Members. Individuals who have served all or part of two terms as a member of one of the Boards of Governors, or who have served as an officer for two years, and who have retired from active business shall be considered Honorary Members.

3.15 Special Members. Under certain circumstances, business organizations and financial institutions which would otherwise be regular members may elect special membership, on an annual basis.

- (a) Origination of single family mortgage loans for others and the member may not be an approved Federal Housing Administration Mortgagee, or an approved Seller/Service for either the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. In order to elect special membership, the primary business of the member must be.
- (b) Members with special membership shall have no right to vote or to hold office.

- (c) Members with special membership shall be entitled only to the products and services of the Association as the Association shall from time to time determine.
- (d) Members with special membership shall be entitled only to the products and services of the Association as the Association shall from time to time determine.

3.16 Small Mortgage Broker Members. Under certain circumstances, small mortgage brokers applying for membership in the Association, which would otherwise be eligible for regular or special membership, may elect small mortgage broker membership, on an interim basis of up to two years.

- (a) Total originations for small mortgage brokers may not exceed \$25 million annually. If this occurs, the membership will be transferred to special membership.
- (b) In order to elect small mortgage broker membership, the primary business of the member must be the origination of single family mortgage loans for others and the member may be an FHA approved loan correspondent, but not an approved FHA Direct Endorsement Mortgagee, or an approved Seller/Servicer for either Fannie Mae or Freddie Mac.
- (c) Members with small mortgage broker membership shall have no right to vote or hold office.
- (d) Members with small mortgage broker membership shall be entitled only to the products and services of the Association as the Association shall from time to time determine.
- (e) After a period not exceeding two years, members under this category would be transferred to Special membership

3.20 Dues.

3.21 Responsibility for Establishing Dues. The Board of Directors shall establish the dues for membership in the Association.

3.22 Dues Classes. The Board of Directors may establish a separate dues structure for each class of member that is currently established or that may be created in the future and establish subclasses of members with separate dues structures.

3.23 Procedures. The Board of Directors shall establish procedures for calculating dues obligations and for collecting dues payments, including procedures for dealing with non-payment of dues.

ARTICLE IV. BOARD OF DIRECTORS

4.10 Number. The Board of Directors shall consist of twenty (20) voting members. There shall be seventeen (17) Directors in addition to the three (3) elected Officers. The President shall serve *ex officio* as a non-voting member of the Board of Directors.

4.11 When Terms Begin. Terms for the members of the Board of Directors shall begin and end at the Annual Membership Meeting.

4.12 Length of Terms. The terms of each member of the Board of Directors shall be for one year, unless otherwise provided.

4.13 Selection of Board of Directors. The seventeen (17) Directors shall be selected as follows:

- (a) One (1) of the Directors shall be the immediate former Chairman (or Chairwoman).
- (b) Six (6) of the Directors shall be officers of regular members principally engaged in the residential single family finance business. The Residential Single Family Board of Governors shall select these Directors.
- (c) Three (3) of the Directors shall be officers of regular members principally engaged in the commercial real estate or multifamily finance business. The Commercial Real Estate/Multifamily Finance Board of Governors shall select these Directors.
- (d) One (1) of the Directors shall be an employee of an associate member. This Director shall serve a one-year term and shall be selected by the Nominating Committee. The Director shall serve a maximum of two consecutive terms.
- (e) One (1) of the Directors shall be a current or former elected or staff officer of a state or local mortgage bankers association. This Director shall serve a one-year term and shall be selected by the Nominating Committee. The Director shall serve a maximum of two consecutive terms.
- (f) Five (5) of the Directors shall be officers of regular members serving at-large. These Directors shall be selected by the Nominating Committee in conjunction with the Chairman- (or Chairwoman-) Elect.
- (g) If the immediate former Chairman (or Chairwoman) is unable or unwilling to serve on the Board of Directors, or if the Nominating Committee fails to select its full compliment, or if a Board of Governors fails to select any of its Directors, the Chairman (or Chairwoman) shall designate an individual to serve in the position that otherwise would go vacant. By Chairman (or Chairwoman) is meant the individual who will serve or who is serving as Chairman (or Chairwoman) during the otherwise vacant Directorship.

4.14 Meetings of the Board of Directors. The Board of Directors shall hold four regular meetings each year, one of which shall be held in connection with the Annual Meeting of the Association. The Board of Directors may also hold one or more special meetings at any time during the year. The time and place of its meetings and the notice thereof shall be determined by the Chairman (or Chairwoman).

4.15 Method. Meetings of the Board of Directors may be held in person or, to the extent permitted by law, by telephone conference call.

4.16 Quorum. At any meeting of the Board of Directors a majority of its members shall constitute a quorum.

4.17 Annual Budget. The Board of Directors shall annually approve and, at its discretion, revise a budget providing appropriations, within the amount of the Association funds then in hand, for the carrying on of the work of the Association through its boards, councils, committees, officers, employees, and otherwise.

ARTICLE V. OFFICERS

5.10 Elected Officers.

5.11 The Chairman (or Chairwoman) is the chief executive officer and shall preside at the Annual Meeting of the Association and all meetings of the Board of Directors. He or she shall represent the Association and act in its name in carrying out its declared policies.

5.12 The Chairman- (or Chairwoman-) Elect shall perform such duties as may be assigned him or her by the Chairman (or Chairwoman), and in the absence or incapacity of the Chairman (or Chairwoman), shall perform the duties of the Chairman (or Chairwoman).

5.13 In the absence or incapacity of both the Chairman (or Chairwoman) and the Chairman- (or Chairwoman-) Elect, the Vice Chairman (or Chairwoman) shall perform the duties of the Chairman (or Chairwoman).

5.20 Appointed Officers.

5.21 The Board of Directors shall annually appoint a President, a Secretary, and such other appointive officers as it may consider necessary.

5.22 The President is the chief operating officer of the Association and shall devote his or her time and effort to conducting the business of the Association in accordance with its policies and objectives. He or she shall:

- (a) perform such duties and exercise such powers as may from time to time be delegated by the Chairman (or Chairwoman) or the Board of Directors;

- (b) supervise, and have authority to employ and remove any and all staff officers and employees of the Association;
- (c) subject to the approval of the Board of Directors, fix and adjust the salaries or compensation of all staff officers and employees within the budget allocations;
- (d) have charge of the membership list;
- (e) issue a notice of election to members;
- (f) serve on the Board of Directors as a non-voting member *ex officio* and keep a record of all its meetings;
- (g) have general charge of the financial affairs of the Association; supervise the receipt and disbursement of all monies; and submit regularly such reports as will enable the Board of Directors to evaluate the financial position of the Association;
- (h) prior to each fiscal year, prepare a budget for submission to the Board of Directors; and
- (i) give a bond to the Association in such sum as the Board of Directors may require.

5.23 The Secretary of the Association shall make annual reports to the Secretary of the State of Illinois and perform such other duties as may be prescribed by Statute.

ARTICLE VI. BOARDS OF GOVERNORS

6.10 **Number of Boards of Governors.** There shall be two Boards of Governors: a Commercial Real Estate/Multifamily Finance Board and a Residential/Single Family Board.

6.11 **Composition of the Boards of Governors.** The Boards of Governors initially shall be composed of members of the Board of Governors as of October 1998 having terms scheduled to end in 1999 and later, assuming the then current Board of Governors had continued to exist.

- (a) Each such Governor whose principal business is commercial real estate or multifamily finance shall serve out his or her term as a member of the Commercial Real Estate/Multifamily Finance Board of Governors.
- (b) Each such Governor whose principal business is residential single family finance shall serve out his or her term as a member of the Residential Single Family Board of Governors.

6.12 Future Organization and Operation of the Board of Governors. The number of Governors, terms of office, manner of election, number of meetings, committees, bylaws and other such matters, shall be determined by each of the Board of Governors for itself, subject to these Bylaws and to approval by the Board of Directors.

6.13 Authority and Duties of the Boards of Governors. Each of the Boards of Governors shall have such authority and duties as the Board of Directors delegates. The delegation of authority and duties may be exercised from time to time and may be withdrawn by the Board of Directors at any time.

ARTICLE VII. TERMINATIONS AND VACANCIES

7.10 Terminations. If a member of the Board of Directors, including an officer, terminates his or her principal business employment with a member of the Association, the tenure of that Board member shall not continue beyond the end of the day of the next Annual Meeting or the end of the last day of the sixth calendar month next following the termination of employment, whichever day occurs later, unless the Board member undertakes principal business employment with a member of the Association prior to such time.

7.20 Vacancies--Officers.

7.21 In the event of the absence, disability, resignation, termination, or death of the Chairman (or Chairwoman), the Chairman- (or Chairwoman-) Elect shall act as Chairman (or Chairwoman) of the Association.

7.22 In the event of the disability, resignation, termination, or death of the Chairman (or Chairwoman) and the Chairman- (or Chairwoman-) Elect, the Vice Chairman (or Chairwoman) shall become acting Chairman (or Chairwoman), and in the event of his or her inability to serve for any reason whatsoever, the Board of Directors shall appoint an acting Chairman (or Chairwoman) from among the former Chairmen (or Chairwomen) of the Association for the preceding five years.

7.30 Vacancies--Board of Directors. In the event of the resignation, termination, or death of a Director serving pursuant to Section 4.13 (d) (associate members), (e) (state or local MBA) or (f) (at-large), the Chairman (or Chairwoman), subject to approval by the Board of Directors, may appoint a Director to fill the vacancy, which Director shall have the eligibility requirements prescribed under Article IV. The Directors so appointed and approved shall hold office for the remainder of the unexpired term. The Bylaws of the Boards of Governors shall control the filling of vacant positions allocated to each Board of Governors.

ARTICLE VIII. COMMITTEES

8.10 Standing Committees. The Chairman (or Chairwoman) annually shall designate standing committees to report to the Board of Directors and shall appoint the Chairman, Vice Chairman (or Chairwoman) and membership of each committee from the membership of the Association. From time to time, the Chairman (or Chairwoman) shall review and determine the objectives and purposes of each committee.

8.20 Special Committees. The Chairman (or Chairwoman) may appoint such special committees as are necessary. Such special committees shall be considered at the first meeting of the Board following their appointment, and, if acceptable, shall be approved.

8.40 Ethics and Standards of Practice Committee

8.41 The Ethics and Standards of Practice Committee shall consist of the immediate former Chairman (or Chairwoman), who shall serve as Chair, and up to twelve (12) members of the Board of Directors, appointed by the Chairman (or Chairwoman). In the event of vacancy, the Chairman (or Chairwoman) shall appoint a member of the Board to serve the remaining portion of the term.

8.42 The Committee shall make recommendations for amendments to the Canons of Ethics and Standards of Practice when the same may appear to be advisable; make such investigations of professional conduct as it may determine or as may be directed by the Board of Directors; be authorized to express its opinion concerning professional conduct and the applicability of the Canons of Ethics and Standards of Practice; and be authorized to recommend that the membership of a member be terminated because the professional conduct of the member is inconsistent with the Canons of Ethics and Standards of Practice, or suspended pending investigation.

8.43 It shall not be the function of the Committee to consider activities of non-members of the Association; comment upon alleged operational deficiencies of members; or resolve business disputes.

8.44 The Committee shall adhere to the following procedure:

- (a)** The Committee may recommend suspension or termination of a membership only upon allegations reduced to written form.
- (b)** Upon receipt of allegations that a member's professional conduct is inconsistent with the Canons of Ethics and Standards of Practice, the Committee shall cause a copy or a summary of the allegations to be furnished to the member, unless a particular case merits more expeditious treatment.

- (c) The Committee or a subcommittee thereof, shall communicate with the member in writing regarding the allegations, setting forth the alleged facts in sufficient detail to give the member a fair opportunity to deny, disprove or explain them. The communication shall specify which of the Canons of Ethics and Standards of Practice appear inconsistent with the alleged facts.
- (d) In case the Committee decides to recommend to the Board of Directors that the membership of the member be suspended or terminated, a copy of the proposed recommendation shall be mailed to the member ten (10) days prior to its transmittal to the Board of Directors. The failure to provide such notice shall not prohibit the recommendation from being acted upon.

8.50 Nominating Committee.

8.51 The Nominating Committee for the Board of Directors shall consist of nine (9) members, selected as follows:

- (1) One member shall be the Chairman (or Chairwoman) of the Association.
- (2) One member shall be the Chairman- (or Chairwoman-) Elect of the Association.
- (3) One member shall be the immediate former Chairman (or Chairwoman) of the Association.
- (4) One member shall be the former Chairman (or Chairwoman) of the Association, once removed, that is, the Chairman (or Chairwoman) who served two years earlier, who shall serve as Chair of the Nominating Committee.
- (5) One member shall be a former Chairman (or Chairwoman) of the Association chosen by the former Chairmen and Chairwomen of the Association who are actively in business.
- (6-7) Two members shall be selected by the Commercial Real Estate/Multifamily Finance Board of Governors.
- (8-9) Two members shall be selected by the Residential/Single Family Board of Governors.

8.52 The Nominating Committee shall submit, at least sixty (60) days prior to the Annual Meeting, to the Board of Directors the names of nominees for the offices to be voted on at the next Annual Meeting and the names of the Directors.

8.53 Notice of the nominations shall be given to each regular member of the Association at least twenty (20) days prior to such election.

8.54 In selecting the candidates to serve as officers, the Committee shall take into consideration the following:

- (a) As to the Chairman (or Chairwoman), Chairman- (or Chairwoman-) Elect, and Vice Chairman (or Chairwoman), the location of the business of the candidate so that the different areas of the country shall be from time to time represented in the leadership of the Association and, if practical, so that the office of the Chairman (or Chairwoman) and Chairman- (or Chairwoman-) Elect not be at the same time located in the same area.
- (b) That the candidate for such office shall be an officer of a regular member qualified under Section 5.10 of the Charter.

8.55 In selecting the individuals to serve as members of the Board of Directors, the Committee shall take into consideration the following:

- (a) The Board of Directors should be broadly representative of all segments of the regular membership, taking into consideration the variety of sizes, ownership types, business types, and locations of member firms and assuring representation of minorities and women, and
- (b) The Board of Directors should include individuals based on their service to the industry and the Association.

8.56 The only nominations that may be voted on are:

- (a) a candidate recommended by the Nominating Committee, or
- (b) a candidate for office recommended by the Chairman (or Chairwoman) as a substitute for a candidate, recommended by the Nominating Committee, who withdraws from the election or is ineligible for the office, or
- (c) a candidate for a specific office whose name was submitted in writing signed by at least 50 of the regular members of the Association and filed in the Office of the President at least 15 days prior to such annual election.

8.60 State and Local MBA Advisory Council. In addition to individuals from the membership, executive officers of state and local mortgage bankers associations shall be eligible to serve as members of the State and Local MBA Advisory Council.

8.70 Audit Committee

8.71 The Audit Committee shall consist of no fewer than four (4) members. The Chairman (or Chairwoman) shall appoint all the members and shall designate one as chair.

8.72 The Committee shall:

- (a) oversee internal accounting controls of the Association and the Association's Pension Plan, Political Action Committee, and Research and Educational Trust Fund;
- (b) review the internal audit activities of the Association and the Association's Pension Plan, Political Action Committee and Research and Educational Trust Fund;
- (c) review the annual independent audits of the Association and the Association's Pension Plan, Political Action Committee and Research and Educational Trust Fund;
- (d) review the annual reports and the results of the independent audits;
- (e) perform other such reviews as may be directed from time to time by the Board of Directors;
- (f) report its findings to the Board of Directors.

8.80 Compensation Committee

8.81 The Compensation Committee shall consist of five (5) members. For each of the two years following his or her service chairing the Association, each former Chairman (or Chairwoman) shall serve as a member of the Committee. Each former Chairman (or Chairwoman) of the Association shall serve as Chair of the Committee during his or her first year. The current Chairman (or Chairwoman) of the Association, Chairman- (or Chairwoman-) Elect of the Association, and Vice Chairman (or Chairwoman) shall serve as a members of the Committee.

8.82 The Committee shall develop, maintain, evaluate, revise and implement an employee compensation system for the Association.

8.90 Investment Management Committee

8.91 The Investment Management Committee shall consist of seven (7) members. The members shall be appointed by the Chairman (or Chairwoman) of the Association. The term of the members shall be three (3) years, with two members being appointed each year. A member must be a member of one of the Boards of Governors when he or she begins service on the Committee, but can complete his or her term even if no longer a member of the Board of Governors. Each year, the Chairman (or Chairwoman) of the Association shall designate as Chair one of the members of the Committee that has served on the Committee at least one year.

8.92 The Committee shall:

- (a) review the holdings on the investment accounts of the Association, the Association's Retirement Plans, and the Research and Educational Trust Fund;
- (b) Recommend to the Board of Directors, and ensure adherence to, investment guidelines that will improve the safety, return, reporting or management of the investment accounts;
- (c) Review and recommend asset allocation strategies for each fund as appropriate for the various operating needs of the plans, funds or accounts, as applicable;
- (d) Make recommendations to the Board of Directors for the engagement of investment managers;
- (e) Recommend to the Board of Directors appropriate benchmarks for investment performance;
- (f) Evaluate the performance of the investment managers and consultants;
- (g) Recommend to the Board of Directors steps that will improve the safety, return, reporting or management of the investment accounts.

ARTICLE IX. RESOLUTIONS-PENDING LEGISLATION

9.10 Approval By Board. No resolution, expressing approval or disapproval of any pending legislation, shall be submitted to vote at any Membership Meeting unless it first shall have been approved by the Board of Directors.

ARTICLE X. AFFILIATED ORGANIZATIONS

10.10 Eligibility.

- (a) An organization, not eligible for membership, whose interests are similar to those of the Association and who otherwise meets the requirements set from time to time by the Board of Directors, may be recognized as an Affiliated Organization.
- (b) An organization, eligible for membership, who is located outside of the United States, virtually none of whose operations relate to mortgage loans or other types of real estate finance inside the United States, and who otherwise

meets the requirements set from time to time by the Board of Directors, may be recognized as an Affiliated Organization.

10.20 Application. Application for recognition as an Affiliated Organization shall be submitted in writing by the organization to the President and shall include such information as the President shall request.

10.30 Recommendation of Applicant. Completed applications shall be transmitted by the President to the Board of Directors, which shall have final approval authority.

10.40 Withdrawal of Recognition. Recognition of an organization as an Affiliated Organization may be withdrawn at any time by the Board of Directors, without notice.

10.50 Fees. Affiliated Organizations shall pay a fee as established from time to time by the Board of Directors.

ARTICLE XI. AMENDMENTS

11.10 Bylaw Amendments. These Bylaws may be amended or repealed at any regular or special meeting of the Board of Directors by a vote of a majority of the members present and voting at such meeting, provided that notice of such proposal to amend or repeal has been sent by the Association to each member of the Board of Directors at least ten days before said meeting. Any proposal to amend or repeal may itself be amended at any regular or special meeting of the Board of Directors by a majority vote of the members voting.

ARTICLE XII. NOTICE AND APPROVALS

12.10 Form of Notices, Submissions and Approvals. Notices of meetings of the Board of Directors or of committees; notice of proposals to amend or repeal the Bylaws; submissions for Board approval of applications for membership, nominations or appointments; and Board approval of such applications for membership, nominations or appointments may be in the form of Post Office or courier service mail, e-mail or fax, to the extent that the use of these forms is permitted by law for the purpose.

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TEXAS MORTGAGE BANKERS ASSOCIATION

BYLAWS

(Revisions through January 17, 2000)

ARTICLE I

The name of the Association is: **TEXAS MORTGAGE BANKERS ASSOCIATION**, a non-profit corporation, incorporated under the laws of the State of Texas, herein referred to as the Association.

ARTICLE II

PURPOSE

The purpose of the Association is as follows:

"The purpose for which this Association is formed is to promote the proper professional, educational, political, and ethical conduct of persons engaged in the mortgage banking and real estate finance business in the State of Texas by the holding of frequent meetings of such persons at stated times and their association at such meetings and the discussion by them at such meetings of subjects related to the mortgage banking and real estate finance business, and the circulation of literature relating to such business among such persons, and by other like means."

In furtherance of the purpose set out in the Charter, the Association shall promote certain aims, objectives and standards as follows:

Encourage and promote ethical business practices and procedures in the making, marketing and servicing of real estate mortgage loans.

Advocate and support sound, fair, and just legislation, judicial decisions and administrative regulations affecting real estate mortgage lending and Mortgage Bankers.

Inform members of the Association of changes and potential changes of laws and regulations relative to mortgage lending and real estate finance.

Preserve, promote and improve the mortgage banking correspondent system and encourage its use in making and servicing of real estate mortgage loans and real estate equity investments.

Cooperate with public agencies and private entities in the establishment and application of sound real estate appraisal practices.

Sponsor meetings and seminars for discussion of issues related to the purpose for which the Association was founded.

Work with other public and private agencies, associations and entities to encourage and promote the economic development of the State of Texas and all of its resources.

Establish and maintain communication with colleges and universities in the State of Texas in order to encourage and assist them in developing their curriculum and their faculty for both the advancement and enhancement of

education in the field of mortgage banking and real estate finance.
Sustain a public relations effort to inform the general public of the important role played by Mortgage Bankers in making funds available for financing or investing in real estate within the State of Texas.

ARTICLE III

OFFICES

Section 1:

The Principal Office of the Association shall be located at such a place as is designated from time to time by the Board of Directors.

Section 2:

The Association shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office shall ordinarily be identical with the principal office in the State of Texas, and the registered agent shall ordinarily be the Executive Vice President of the Association.

ARTICLE IV

MEMBERSHIP

Section 1: Classes of Membership.

The Association shall have four classes of members. The designation of such classes and qualifications and rights of members of such classes shall be as follows:

a) **Regular Members.** This category of membership will encompass both residential and commercial mortgage bankers and be comprised of financial institutions that originate or service loans and that meet one of the following criteria:

- 1) Approved as a Fannie Mae or Freddie Mac servicer;
- 2) Approved as a HUD Non-Supervised Mortgage; or Maintains warehouse lines and closes loans in their own name or representatives/correspondents of investors.

To be eligible for this category of membership, a qualified mortgage banker must have had a continuing business for at least two years prior to the date of application for membership; provided, however, that this requirement for a two year continuing existence may be waived at the discretion of the Board of Directors if the applicant, or principals thereof, has shown to have otherwise had adequate mortgage banking experience.

b) **Associate Members.** This category of membership will be comprised of all mortgage banking service providers including mortgage brokers, title companies, mortgage insurance companies, law firms, insurance companies, or any other provider that services the mortgage industry.

c) **Affiliate Members.** This category of membership is available for out-of-state companies with limited operations within the state that do not wish to become either a Regular Member or an Associate Member. If the company's corporate offices are domiciled within the state, the company will be required to participate either as a Regular Member or an Associate Member.

d) **Honorary Life Members.** This category of membership will be selected by the Board of Directors, from time to time, from among the following candidates: past or present members of TMBA who have not served as President of the Association or persons associated with our industry who have in a special or exemplary manner promoted the aims, objectives, and standards of the Texas Mortgage Bankers Association. Honorary Life Members who are retired from their company or employment shall not be required to pay dues.

e) **Representatives.** Based on company size and dues paid, the Board of Directors by policy shall determine the number of representatives each Regular Member and each Associate Member shall have.

Section 2: Election of Members.

Application for membership in this Association shall be made in writing on forms prescribed, from time to time, by the Board of Directors in the following manner:

a) Applicants for Regular, Associate and Affiliate membership shall be recommended by any designated TMBA member in good standing. Written recommendations must be mailed to the Association's Office.

1) The completed application form must be sent to the Association Office for recording and processing.

2) The Association Office will, after the application and accompanying information have been received, immediately forward the information to the Chair of the Admissions Committee.

3) The Chair of the Committee shall see that proper investigation of the applicant's qualifications is made; shall in turn bring the application before the Admissions Committee; and upon action of the Admissions Committee report the same to the next meeting of the Board of Directors for final action. If, in the judgment of the Admissions Committee, a more timely approval is warranted, final action may be achieved by a written ballot mailed to all Directors.

4) A majority of Directors present at the Board of Directors meeting must vote to approve election of a new member.

5) Honorary Life Members must be proposed in writing to the President by a representative of a Regular Member and at least two Past Presidents of the Association. The proposal shall be submitted at least 60 days prior to consideration by the Board of Directors. Such proposals shall be without the knowledge of the candidate and submitted for action directly

to the of Directors by the President. The candidate thus proposed shall be submitted to a majority vote of the members present at a meeting of the Board of Directors either at one of its regular meetings or otherwise by approval in writing by a majority of the Board.

Section 3: Voting Rights.

Each representative of a Regular Member, each Past President, and each representative of an Associate Member who is also a Director shall be entitled to one vote at the annual business meeting or any special meeting of the Association. Representatives of Associate Members (other than Directors) and Affiliate Members and Honorary Life Members may not exercise the right to vote. Each Director, Officer, and Past President shall be entitled to one vote at each regular or special called meeting of the Board of Directors.

Section 4: Termination of Membership.

The Board of Directors, by affirmative vote of two-thirds of all the members of the Board of Directors present and voting, after appropriate notice and hearing, may suspend or expel any member for cause.

Section 5: Resignation.

Any individual member may resign by filing a written resignation with the Secretary-Treasurer of the Association with a copy directed to the principal office of the Association.

Section 6: Transfer of Membership.

Membership in this Association is not transferable or assignable except that Regular or Associate Members may change the individual(s) designated as their representative(s).

Section 7: Reinstatement.

Any member who has forfeited their membership for non-payment of dues or other indebtedness to this Association may, upon written application, be considered for reinstatement upon such terms and conditions as the Board of Directors shall require.

ARTICLE V

MEETINGS OF MEMBERS

Section 1: Annual Meeting.

An annual meeting of the members of the Association shall be held at the date, time and place, within the State of Texas, designated by the Board of Directors. The annual meeting ordinarily will be held concurrently with an annual convention.

Section 2: Special Meetings.

Special meetings of the members may be called by the Board of Directors. Any call for a Special Meeting of the members shall state the purpose, time and place of the meeting and notice shall be sent by regular mail at least fifteen

days prior to the meetings; provided and except, however, any Special Meeting called for the purpose of amending these Bylaws shall be issued in accordance with Article XV hereof.

Section 3: Quorum.

Thirty percent of the voting members shall constitute a quorum at all meetings of members.

ARTICLE VI

BOARD OF DIRECTORS

Section 1: General Powers.

The governance of the Association and the management of its affairs shall be vested in the Board of Directors and the Officers. Subject only to the Articles in the Incorporation and Bylaws of the Association, the Board of Directors shall have the duty and power to control and manage all of the affairs of the Association including the power to determine the policies of the Association and take any steps necessary to carry out the objectives and purposes of the Association or to transact its business. Actions of the Board of Directors shall be final and shall not require the approval of members to be valid. The Board shall ordinarily carry on the affairs of the Association through the duly elected Officers of the Association. Specific responsibility of the Board of Directors shall include but not be limited to:

- a) Authority to set the dues and/or special assessments of members and to collect such dues, assessments, or fees through the Executive Vice President.
- b) Manage and direct the funds and properties of the Association and invest the funds in such a manner as the Directors deem prudent. All contracts or other instruments obligating or binding the Association in any manner should be signed by at least two Officers. No Director or Officer shall have the authority to make contracts or other obligations, oral or written, except upon the express authorization of the Board of Directors or the Executive Committee acting for the Board of Directors between meetings. The Board may, however, authorize the Officers to make and pay obligations of the Association necessary to carry on its day to day affairs. The Board or the Executive Committee also may delegate to the Executive Vice President the authority to sign contracts when appropriate.
- c) Employment of an Executive Vice President who shall have such duties and powers as the Board of Directors may define. The Directors may retain Legal Counsel and may employ such other persons as are necessary to assure the proper conduct of the business of the Association.
- d) Fill any vacancy among the Officers or on the Board between annual meetings.

Section 2: Number, Tenure and Qualifications.

- a) Directors. There shall be thirty Directors of the Association elected from representatives of Regular Members or Associate Members. They shall serve for a term of three years. The terms of office shall be staggered and

arranged so that ten Directors are elected each year. New Directors shall be selected by the Nominating Committee, recommended by the Board of Directors, and elected by the members at the annual meeting. Their term of office shall commence at the end of the annual meeting. At least twenty-one Directors shall be representatives of Regular Members. Any vacancy on the Board of Directors shall be filled by a majority vote of the remaining Board members attending at a regularly scheduled Board Meeting voting on candidates nominated by the President to serve the remaining outstanding term.

b) **Officers of the Association.** The President, the Vice President, and the Secretary-Treasurer of the Association shall be Directors by virtue of their office.

c) **Past Presidents of the Association.** Each President of the Association upon expiration of his/her term of office shall continue as an ex officio member of the Board of Directors with the privilege of voting. Past presidents shall not be required to pay dues if they are retired from their company or employment. Such Past President(s) may resign their ex officio membership by filing with the Association a statement that they do not desire to serve.

Section 3: Chair.

The President of the Association shall preside over all meetings of the Board of Directors. In the President's absence, the Vice President shall preside.

Section 4: Meetings.

The Board of Directors shall meet at the time and place designated by the President. There shall be at least three regular meetings of the Board of Directors each year with one of the meetings being held at the time of the annual meeting of members. At least two of the meetings shall be held in the State of Texas. The President may also call special meetings of the Board of Directors.

Meetings of the Board of Directors may also be called at the request of any six members of the Board of Directors giving notice to the President. Upon receipt of such a request, the President shall notify each Director of the time and place of the special meeting which time shall be not less than five nor more than thirty days from the date of the notice. If the President fails to call the meeting when requested by six members of the Board, the Vice President shall do so.

Section 5: Quorum.

Ten members of the Board of Directors (excluding Past Presidents but including the current officers) shall constitute a quorum for the transaction of business at any meeting of the Board, but if less than a quorum of the Directors are present at said meeting, a majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 6: Telephone Meetings.

Subject to the requirements of these Bylaws for notice of meetings, members of the Board of Directors or members of any committees designated by such Board of Directors may participate in and hold a meeting of such Board of Directors

by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other and participation in a meeting pursuant to this Section 6 shall constitute presence in person at such meeting.

Section 7: Manner of Acting.

The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is specifically required by these Bylaws.

Section 8: Vacancies.

Any Director failing to attend any two consecutive regular meetings of the Board of Directors shall be subject to automatic suspension which may be waived only by a majority vote of those attending a Board of Directors meeting.

Section 9: Two Term Limitation.

No member of the Board of Directors shall be eligible for election to more than two consecutive full three year terms as an Elected Director. After an absence of one year the person may again be elected to serve as a Director.

ARTICLE VII

OFFICERS

Section 1: Association Officers.

The officers of the Association shall be a President, Vice President, Secretary-Treasurer and an Executive Vice President.

Section 2: Election and Term of Office.

The officers of the Association, with the exception of the Executive Vice President, shall be elected annually at the Annual Meeting. Terms of all officers shall be for one year commencing at the end of the Annual Meeting. No elected officer shall be eligible for election to more than one full term in the same office.

Section 3: Removal.

Any elected officer may be removed by a vote of three-fourths of the membership of the Board of Directors whenever in its judgment the best interests of the Association would be served thereby.

Section 4: Vacancies.

When a vacancy exists or is created in the elected offices of the Association (other than President), the President shall have the power to make a temporary interim appointment to fill such vacancy. The Nominating Committee shall make a recommendation to fill such vacancy which must be approved by the Board of Directors.

Section 5: President.

The President shall be the principal officer of the Association and shall in general supervise all of the business and affairs of the Association with the aid and assistance of the Executive Vice President. The President shall preside at all meetings of the members and of the Board of Directors. The President may sign, with the Secretary-Treasurer or other proper officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or by statute to some other officer or agent of the Association; and in general the President shall perform all duties incident to the office of the President and such other duties as may be prescribed by the Board of Directors from time to time. No person shall be qualified to serve as President of the Association unless and until that person shall have been a member of the Association for four consecutive years and served as a Director of the Association for one term.

Section 6: Vice President.

Vice President, who shall, when necessary perform the duties of the President, and who shall succeed to the presidency in the event of death, disability, removal from office, or resignation of the President. No person shall be qualified to serve as Vice President of the Association unless and until that person shall have been a member of the Association for three consecutive years, and served as a Director of the Association for one term.

Section 7: Secretary-Treasurer.

The Secretary-Treasurer shall have charge and custody of and be responsible for the books, records and all funds and securities of the Association; receive and give receipts for or cause the same to be done for monies due and payable to the Association from any source whatsoever and deposit or cause to be deposited all such monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article X of these Bylaws; and in general perform all the duties incident to the office of the Secretary-Treasurer and such other duties as from time to time may be assigned to that office by the President or by the Board of Directors; provided, that the Executive Vice President of the Association may be authorized by the Secretary-Treasurer with the consent of the Board of Directors to assume responsibility for day to day handling of the funds of the Association. No person shall be qualified to serve as Secretary-Treasurer of the Association unless and until that person shall have been a member of the Association for three consecutive years and served as Director of the Association for one term.

Section 8: Executive Vice President.

The general administrative officer of the Association shall be an Executive Vice President selected and retained by the Board of Directors. Such Executive Vice President shall be in charge of the Association's headquarters and registered office and shall be responsible to and under the direct control of the President and Board of Directors. The duties, responsibilities and compensation and



benefits of the Executive Vice President shall be determined from time to time by the Board of Directors.

Section 9: Fidelity Bonds.

The President, Secretary-Treasurer, Executive Vice President and other agents and employees whose duties require their handling any funds of the Association shall give such bond for the faithful performance of their duties as may be prescribed by the Board of Directors, the premiums on said bonds to be paid by the Association.

ARTICLE VIII

COMMITTEES

Section 1:

There shall be such Committees of the Association as shall be designated and created from time to time by the President, with the approval of the Board of Directors. In appointing each Committee, the President will charge it with its responsibility and duty. The President shall appoint the members of all of the Committees (except as designated members of the Executive Committee and Nominating Committee) from members of all classes. The President shall also have the authority to remove from membership on any Committee any member(s) not performing their duties.

In addition to whatever other Committees shall be designated and created by the President, the following shall be standing Committees of the Association:

a) Executive Committee of the Board of Directors.

There shall be an Executive Committee of the Board of Directors consisting of the President, Vice President, Secretary-Treasurer, the two immediate Past Presidents of the Association, and one Associate Member recommended by the Nominating Committee and approved by the Board of Directors. The President shall act as Chair of the Executive Committee. The Executive Committee shall have authority to act for the Board of Directors when the Board is not in session on any matter necessary to carry on the affairs of the Association and which cannot reasonably be held for action at the next meeting of the Board of Directors. Actions by the Executive Committee shall be reported to the Board at its next meeting and spread on the minutes of such meeting. The Executive Committee shall meet at the call of the President and the President shall give due notice of the time and place of such meeting. Three members shall constitute a quorum of the Executive Committee.

b) Nominating Committee.

The Nominating Committee shall consist of five members: the three immediate Past Presidents of the Association and two Directors selected by vote of the Directors at the summer meeting of the Board. No Director may serve on the Committee more than once in a three year period. The most recent Past President shall serve as Chair. The Committee shall solicit recommendations for Officer and Director positions from the other Directors. Then the Committee shall make its recommendation to the Board at the regular meeting of the Board that precedes the annual meeting. If the report is approved by

the Board, a list of the nominees shall be mailed to the membership within ten days advising that the nominations will be closed unless other nominations are filed with the Executive Vice President at the Association's registered office thirty days prior to the annual meeting and signed by fifteen Regular Members of the Association in good standing. The nominees will be voted on by the members of the Association at the annual meeting.

c) Budget Committee.

The Budget Committee shall consist of eight members. The Executive Vice President and the Secretary-Treasurer shall serve as permanent members. The remaining six members shall be appointed by the President. This committee has as its principal duty the preparation of the annual budget of the Association which shall be presented for approval by the Directors. The Committee shall be charged with the responsibility of projecting the anticipated income and expense of the Association to provide not only a sound financial picture at all times but a progressive program of activities. It shall continually review and observe the financial affairs of the Association and be responsible for the annual audit of the Association's books of record.

Section 2: Meetings.

Each Committee shall meet at the time and place designated by its Chair (who shall be designated by the President) and shall adopt rules for its own governance not inconsistent with these Bylaws or with rules adopted by the Board of Directors. Any action by a Committee shall be subject to approval by the Board of Directors.

Section 3: Reports.

All Committees shall make written reports at each meeting of the Board of Directors and an annual written report shall be filed with the Executive Vice President by each Committee Chairman at the annual meeting of the Board of Directors.

Attendance at Board Meetings.

Chair and Vice Chairs of Committees shall ordinarily attend regular meetings of the Board of Directors but will not have the privilege of voting.

ARTICLE IX

REPRESENTATION OF THE ASSOCIATION

Section 1:

No Committee or member thereof shall assume to represent the Association or Committee before any legislative, administrative or judicial body, in any court or before any other tribunal, unless authorized to do so by the Board of Directors or the Executive Committee acting on behalf of the Board of Directors.

Section 2:

No report, recommendation or other action of any Committee of the Association shall be considered as the action of the Association unless and until it shall have been approved or authorized by the Board of Directors or the Executive Committee acting on behalf of the Board of Directors.

ARTICLE X

CONTRACTS, CHECKS, DEPOSITS AND FUNDS



Section 1: Contracts.

The Board of Directors may authorize any officer or officers to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

Section 2: Checks, Drafts, Etc.

All checks, drafts, or orders for the payment of money, or other evidence of indebtedness, issued in the name of the Association, shall be signed by such officers of the Association, and in such manner as shall from time to time be determined by Resolution of the Board of Directors, such instruments shall be signed by the President, the Secretary-Treasurer, or the Executive Vice President.

Section 3: Deposits.

All funds of the Association shall be deposited as soon as practicable after receipt thereof to the credit of the Association in such banks, or other depositories approved in advance by the Board of Directors but selected, from time to time, by the Executive Vice President with approval by the Secretary-Treasurer.

ARTICLE XI

ETHICS AND STANDARDS OF PRACTICE

Section 1: Authority to Establish.

The Board of Directors shall by Resolution establish Rules of Procedure for receiving, docketing, investigating, hearing and determining all matters pertaining to the administration and enforcement of the Canons of Ethics and Standards of Practice of the Texas Mortgage Bankers Association, the disciplining of members by censure, suspension or revocation of membership; provided, however, that such Rules of Procedure shall provide for appropriate notice and hearing of all parties concerned.

Section 2: Committees.

The President is authorized to appoint an Ethics and Standards of Practice Committee for the purpose of receiving, investigating, docketing, hearing and determining all matters referred to in Section 1; provided, however, that any decision of the Committee pertaining to Ethics shall be subject to approval by the Board of Directors.

Section 3: Duties.

It shall be the duty of the Ethics and Standards of Practice Committee to continue to study the question of ethics and fair practices in general and make recommendations for amendments to the Canons of Ethics and Standards of Practice as may appear to be advisable from time to time to the Board of Directors for its approval.

Section 4: Ethics.

Any violation of the Canon of Ethics and Standards of Practice or the provisions of the Bylaws of the Texas Mortgage Bankers Association shall be considered to be unethical conduct. Actions of false or malicious injury to the business reputation of a member, or any conduct which publicly discredits the Texas Mortgage Bankers Association are also deemed to be unethical conduct. Matters involving a charge of unethical conduct and proceedings and deliberations of the Ethics and Standards of Practice Committee shall be confidential and shall be conducted in executive session. Such matter shall be initiated by the filing of verified written charges by an individual, an officer, or a Committee of the Board of Directors of Texas Mortgage Bankers Association, or an officer or members of the Ethics and Standards of Practice Committee delivered to the Executive Officer of the Association in a sealed envelope directed to the attention of the Ethics and Standards of Practice Committee. This communication shall be deemed a privileged communication and shall not subject any person to be liable therefor. The Executive Officer shall upon delivery of the envelope to him, dispatch to the parties concerned all information to be returned to the Committee before any examination of the charges shall be made. The information shall be filed and returned to the Executive Officer of the Association who shall then forward it to the Chair of the Ethics and Standards of Practice Committee. The Chair shall determine from the alleged charges whether a full Committee hearing shall be heard by the Committee and shall notify the accused member of the time that the hearings will be held by the Committee. No hearing shall be heard by less than six members of the full Committee. The normal meeting times shall be during the three annual meetings of the Board of Directors. No more than one continuance shall be granted to any of the persons charged by this procedure.

Section 5: Hearing.

In conducting the hearing, the parties may introduce such documentary evidence and present such testimony of witnesses sworn by the Chair as the Committee shall reasonably deem relevant to the issue. Both sides of the controversy shall be accorded the full opportunity to be heard. Both sides may be accompanied by a counsel but counsel may not argue the case for either member, but may advise member of their rights on any matter. At the conclusion of the hearing, the Committee, as soon as it is practical and possible but not later than thirty days thereafter, shall after considering the evidence render a written opinion and decision to the Board of Directors of the Association and specify the reasons for its decision. In its opinion and decision the Committee may find the charges unfounded or recommend reprimand, fines, probation, suspension, or expulsion as provided in the Bylaws of the Texas Mortgage Bankers Association. The parties to the proceedings shall be given a copy of the opinion and decision. Any party adversely affected by an opinion or decision of the Committee may within ten days after receipt of a copy thereof, apply for a rehearing upon showing of new discovered evidence relevant to the issue which could not have been discovered by diligent search prior to or during the hearing. The Committee shall act upon an application for rehearing within thirty days after its receipt, setting a new hearing date at one of the three annual meetings of the Board of Directors of the Association.

Section 6: Appeal.

Any party adversely affected by an opinion or decision of the Committee, within thirty days after it has become final, appeal to the Board of Directors of the Texas Mortgage Bankers Association.



ARTICLE XII

ANNUAL DUES

Annual Dues. The annual dues for each class of Association membership shall be fixed by the Board of Directors, and will determine and prescribe the manner and time of payment. Any member failing to pay membership dues within sixty days from their due date may be dropped from the membership by the Board of Directors for cause.

ARTICLE XIII

PARLIAMENTARY AUTHORITY

Roberts Rules shall be the Association's final authority on all questions of procedure and parliamentary law to the extent such Rules are not inconsistent with these Bylaws.

ARTICLE XIV

The fiscal year of the Association shall commence on January 1 of each year.

ARTICLE XV

AMENDMENT TO THE BYLAWS

These Bylaws may be altered, amended, or repealed at any regular meeting of the Board of Directors with prior notice, unless otherwise waived, or at any special meeting of the Board of Directors if notice of such alteration, amendment or repeal be contained in the notice of such special meeting. Any action by the Board of Directors altering, amending or repealing any provision of the Bylaws is subject to repeal or change by the membership at any annual meeting or special meeting of Members. Any alteration, amendment, repeal or new Bylaw proposed to be acted upon at a meeting of Members must either be recommended by the Board of Directors or submitted in writing signed by at least five percent (5%) of the Regular Members and delivered to the Secretary/Treasurer not less than forty (40) days before an annual meeting or special meeting of the membership. A notice of said amendment to be acted upon by the Members shall be delivered to each Member at least thirty (30) days prior to the meeting at which such vote is taken. Provided that a quorum is present at an annual or special meeting, the proposed Bylaw change must be approved by a two-thirds vote of all delegates present and voting.

**BYLAWS
STATE/LOCAL ADVISORY COUNCIL
Mortgage Bankers Association of America**

Revised October 28, 2000

ARTICLE I. NAME

- 1.10** Under the authority of the Board of Directors of the Mortgage Bankers Association of America (MBAA), there shall exist an organization known as the State/Local Advisory Council (Council).

ARTICLE II. MISSION

- 2.10** The mission of the State/Local Advisory Council shall be:

- (a) To facilitate and promote grass roots participation in the relationship between federal, state and local governments and the real estate finance industry;
- (b) To facilitate the delivery by MBAA of member services to state and local mortgage bankers associations and mortgage lenders associations;
- (c) To make policy recommendations to the Board of Directors of MBAA affecting association-related state and local issues.

ARTICLE III. MEMBERSHIP

- 3.10 Composition.** The Council shall consist of nine (9) members.

- (a) There shall be two (2) representatives from each of the four (4) operating Regions of the United States Department of Housing and Urban Development.
- (b) One (1) of the representatives from each of the Regions shall be a volunteer member of a state or local association which is in that Region, and one (1) of the representatives shall be a paid executive of a state or local association which is in that Region.
- (c) The ninth member shall be the State/Local Representative on the Board of Directors of MBAA.

- 3.20 Terms.** The terms of the eight (8) Representatives of the Regions shall be two-year terms. In 2000, all eight (8) Representatives shall be elected, those from even numbered Regions for two-years and those from odd numbered Regions for one-year. An individual who has served a full two-year term is not eligible for re-election for two years, even if that individual changes Regions.

- 3.30 When Terms Begin.** Terms for the members of the Council shall begin at the beginning of the Council meeting during the Annual Convention of the Association and shall end immediately prior to such meeting.
- 3.40 Selection.** The members of the Council shall be elected as described in this Section or shall be appointed as described in Section 3.60.
- (a) Representatives from odd numbered Regions shall be elected in odd numbered years and Representatives from even numbered Regions shall be elected in even numbered years (Beginning in 2001).
 - (b) Elections shall be conducted by MBAA under the direction of the State/Local Representative on the Board of Directors of MBAA.
 - (c) The state and local associations in a Region shall be entitled to nominate candidates to represent that Region. Each association may nominate one (1) volunteer and one (1) paid executive from any state or local association in the Region. However, the volunteer and paid executive may not serve concurrent terms if they are from the same state. In the event multiple nominees are from the same state, a runoff nomination selection process may be required to determine the final election ballot. MBA shall compile the final nominations and advise the voting associations of the names of the individuals eligible for election and the name of the association(s) who nominated the individual.
 - (d) Each state association shall be entitled to one (1) vote for the Region's volunteer Representative and one (1) vote for the Region's paid executive Representative. Voting is by state for practical reasons, and it is anticipated that state associations will consult with and respect the preferences of the local associations in the state when the state association votes.
- 3.50 Terminations.** If the association membership of a volunteer Representative or if the employment of a paid executive Representative is terminated, the tenure of that Representative shall end immediately after the next meeting of the Council.
- 3.60 Vacancies.** Vacancies shall be filled by the State/Local Representative on the Board of Directors of the MBAA.

ARTICLE IV. MEETINGS

- 4.10 Frequency.** The Council shall hold at least four regular meetings each year. One meeting shall be held in connection with the Annual Convention of the MBAA and one shall be held in conjunction with the Washington Leadership Conference of the MBAA. The other two may be held by electronic means. The time and place of the Council's meetings and the notice thereof shall be determined by the Chair.
- 4.20 Quorum.** At any meeting of the Council a majority of its members shall constitute quorum.

ARTICLE V. OFFICERS

- 5.10 Chair.** The Council shall have a Chair. It shall not have a Vice Chair, but the Chair may designate a member of the Council to conduct a meeting in place of the Chair.
- 5.20 Selection and Term.** The State/Local Representative on the Board of Directors of MBAA shall serve as the Chair of the Council. If that office is vacant or that individual cannot or will not serve, the Council may elect a Chair to serve until that office is filled with an individual who serves as Chair.
- 5.30 Recommendation to the Nominating Committee of the Board of Directors of MBAA.** Each year that the Nominating Committee of the Board of Directors of MBAA will be selecting a new State/Local Representative to serve on the Board of Directors, the Council shall recommend to that Nominating Committee a list of individuals for selection.

ARTICLE VI. COMMITTEES

- 6.10 Standing Committees.** The Council shall establish such standing committees, as it shall determine at any regular or special meeting. The duties of the standing committees shall be as adopted by the Council. The chair and vice chair of standing committees shall be appointed by the Chair, subject to the approval of the Council. Standing committee membership is open only to members of the Council.

6.20 Task Forces. The Chair may appoint such task forces as desired. Such task forces shall expire at the end of the Council meeting held in conjunction with the Annual Convention of the Association.

ARTICLE VII. AMENDMENTS

7.10 Bylaw Amendments. These Bylaws may be amended or repealed at any regular or special meeting of the Council by a vote of two thirds (2/3) of the Council members eligible to vote, provided that notice of such proposal to amend or repeal has been mailed to each member of the Council at least ten (10) days before said meeting. Any proposal to amend or repeal may itself be amended at any regular or special meeting of the Council by a vote of two thirds (2/3) of the Council members eligible to vote.