



## COMMONWEALTH OF MASSACHUSETTS

Office of Consumer Affairs and Business Regulation

### DIVISION OF BANKS

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**MARY L. GALLAGHER**  
COMMISSIONER

November 8, 2019

Daniel S. Saevitz, Esq.  
67 Holmes Street  
Needham, MA 02492

Dear Mr. Saevitz:

The Division of Banks (“Division”) is in receipt of your correspondence dated September 27, 2019 in which you request an opinion as to whether you are required to be licensed by the Division as a mortgage broker pursuant to Massachusetts General Laws chapter 255E, section 2.

As noted in your correspondence, you are an attorney licensed in the Commonwealth who practices in the area of real estate conveyancing. It is your intention to join a Massachusetts law firm and continue this practice, representing both borrowers and lenders. In connection with your real estate work, you also plan to offer your borrower clients the added service of providing information about current interest rates, loan products, and lenders and assist these individuals in finding loans. As described in your correspondence, if one of your borrower clients expressed an interest in connecting with one or more lenders, you would provide the client with the name and contact information of an experienced and reputable loan originator at each lender so that the client and originator may contact each other directly. Your correspondence states clearly that this service will be provided free of charge, and you will not receive any compensation from any source for providing this information and assistance. You also note that because you will be providing this additional service to clients who have already engaged your services as an attorney for a real estate transaction, you will receive compensation solely for your provision of legal services. Further, you note that the cost of the legal services you provide for a real estate transaction will be exactly the same for a client who is provided with your mortgage locating services as it is for those clients who do not receive your assistance with finding a mortgage.

Massachusetts General Laws chapter 255E requires that any person who for compensation or gain or in the expectation of compensation or gain, directly or indirectly, places, assists in placement or finds or offers to place, assist in placement or find loans or residential property for others obtain a mortgage broker’s license from the Division. Based upon the representations in your letter, and specifically, your express assurance that the mortgage locating services described herein will be provided free of charge to clients who have separately engaged your attorney services as part of a real estate transaction, it is the position of the Division that a mortgage broker license is not required. This conclusion is based solely on the express representations in your correspondence. The Division cautions, however, that compensation or gain—in any form or from any source—found to be tied to the provision of the above-described mortgage loan locating services would result in a different opinion by the Division. Further, the Division advises you to stay abreast of any applicable RESPA requirements as they pertain to your business model.

Daniel S. Saevitz, Esq.  
November 8, 2019  
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The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,

A handwritten signature in black ink that reads "Merrily S. Gerrish". The signature is written in a cursive, slightly slanted style.

Merrily S. Gerrish  
Deputy Commissioner of Banks  
and General Counsel

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