



The Commonwealth of Massachusetts

Office of the Commissioner of Banks

One South Station

Boston, Massachusetts 02110

JANE SWIFT
GOVERNOR

THOMAS J. CURRY
COMMISSIONER

September 26, 2001

Susan Curtin, Esq.
Kirkpatrick & Lockhart, LLP
1800 Massachusetts Avenue NW
Washington, DC 20036

Dear Ms. Curtin:

This letter is in response to your correspondence dated August 10, 2001 to the Division of Banks (the "Division") in which you request an opinion relative to whether certain activities conducted by account executives of a licensed mortgage lender at their personal residence would be considered a branch office for licensing purposes in the Commonwealth.

In your letter you state that your office represents a number of mortgage companies that are authorized to conduct a residential mortgage loan business on a nationwide basis. Some of these companies are considering the possibility of having account executives operate out of home offices separate from its licensed location in this state. These account executives would contact licensed mortgage brokers, and distribute rate sheets and loan product information, accept completed loan packages from mortgage brokers by facsimile or mail, review loan packages for completeness and forward the loan packages to the licensed company for underwriting, processing and decision. The account executives would not have direct borrower contact in any way, would not hold out their residence as branch office of the company, would not complete a loan application or perform any loan processing functions, would not negotiate rates and terms of mortgage loans or include his/her address on any advertising material. Based on the activities performed by the account executives, you ask if the his/her residence would be considered a branch office in the Commonwealth.

Massachusetts General Laws chapter 255E, section 5 states that each license for a mortgage lender or mortgage broker shall state the address at which the business is to be conducted and the name of the licensee. If the licensee intends to carry on business other than the address on the license, it shall notify the Division in writing at least 30 days prior to doing so. A copy of the license must be posted in each place of business of the licensee.

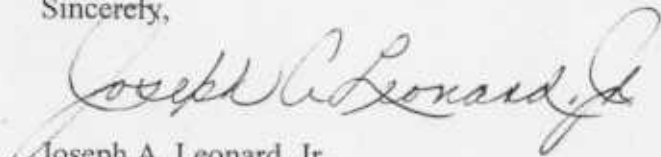


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Page Two
September 26, 2001

Based on the information provided and consideration of the specified and limited activities cited in your letter, it is the position of the Division that the activities to be conducted at the residence of the account executives as described would not be deemed a branch office of the licensed mortgage lender and would not be regulated by the Division as a branch office under said section 5 of chapter 255E.

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 cursive script, reading "Joseph A. Leonard, Jr.", written in dark ink.

Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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