

46A-6F-209

46A-1-102

March 22, 1999

Dear Ms.:

I write in response to your letter of March 12, 1999 regarding your client's eligibility for an exemption from the telemarketing act as a "supervised financial organization" under WV Code 46A-6F-209. Your client is a Company that originates residential mortgage loans from a location outside of West Virginia. The Company is qualified to do business in West Virginia and has a West Virginia business license from the Department of Tax and Revenue.

As you know, in order to qualify for the telemarketing act exemption as a supervised financial organization a company must meet the definition found at WV Code 46A-1-102(48):

...any organization, corporation or person, other than an insurance company ... required under state law to register or obtain a license from the commissioner of banking before conducting business in this state; or which is authorized under federal law to make consumer loans without a license from the state commissioner of banking, **provided** such loans are subject to supervision **and** examination by an official or agency of the United States. (emphasis added)

Your letter states that you have been informed that the Company "is supervised **and** examined by the FNMA, an agency of the federal government." You ask whether the Division of Banking would agree that the Company is therefore exempt from the telemarketing act because it is a "supervised financial organization" pursuant to WV Code 46A-6F-209.

The Division would certainly have no objection to the Company's exemption from the telemarketing act if it is indeed supervised and examined by an agency of the federal government. However, we understand that since 1968 Fannie Mae has been a privately owned company. I enclose a copy of a page I obtained from the Ginnie Mae website describing its status as an agency of the federal government and Fannie Mae's

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status as a private company. An examination of Fannie Mae's website did not reveal any information to support the conclusion that it is a governmental agency.

Consequently we are unable to find that your client meets the definition of a "supervised financial organization" and is therefore exempt from the provisions of the telemarketing act WV Code 46A-6F-101, *et seq.* If you have any evidence that Fannie Mae is an agency of the federal government, or that either the VA or HUD supervises and examines your client, we would be happy to reconsider this determination.

I hope this letter answers your inquiry. If you need further information, please feel free to contact me.

Sincerely,

Robert J. Lamont  
General Counsel

Enclosure