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ARKANSAS SECURITIES DEPARTMENT

August 4, 2004

Mr. Patrick A. Burrow
Quattlebaum, Grooms, Tull & Burrow
111 Center Street, Suite 1900
Little Rock, AR 72201

RE: Wal-Mart Stores, Inc. Employee Benefit Program
No Action No. 14639-CS (Supplemental)

Dear Mr. Burrows:

We are in receipt of your letter dated July 14, 2004, referencing No Action No. 14639-CS, in which you request that the staff of the Arkansas Securities Department recommend to the Commissioner that no enforcement action be taken against your client, Wal-Mart Stores, Inc., if it engages in the activities described in your letter without registration under the Arkansas Fair Mortgage Lending Act, Ark. Code Ann. § 23-39-501, *et seq.* (the "Act"). This letter will be treated as a supplement to the above referenced "no action" position previously expressed. A copy of your letter reciting the pertinent facts is attached hereto for reference.

It is the staff's position that the factual changes in the proposed program that are described in your letter do not necessitate any additional action on the part of your client, and that based upon the representations set forth in your letter, the staff will recommend to the Commissioner that no enforcement action be taken against Wal-Mart if it engages in the described activities without registration under the Act. Our position is once again based primarily upon the fact that Wal-Mart will receive no compensation or pecuniary gain from the loans written in connection with the program.

However, the staff of the Department has a different opinion regarding the position expressed in your letter with respect to your analysis of the distinction between "advertising" and "solicitation". On page 3 of your letter, you state that you do not believe the Fair Mortgage Lending Act should require registration of your client because "(t)he term 'solicitation', which is generally understood to mean a personal request addressed to a particular individual to do a particular thing, is distinguishable from 'advertising', which implies a more general distribution of information for the purpose of advising recipients of the availability of a product." Although for many purposes, your statement may be accurate, the staff is not prepared to agree to the distinction expressed in your general statement for purposes of application of the registration provisions of the FMLA. Although the staff agrees that the activities described in your letter do

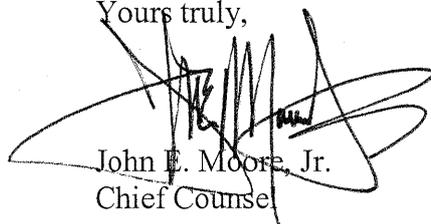
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not constitute the type of "solicitation" contemplated under the FMLA, it is merely because your client is serving in the capacity of a "medium" of advertisement, as opposed to soliciting loans for its own benefit. The staff believes that "advertisement" conducted by a person in which such person proposes that he (or his principal) will make available loans or the opportunity to seek loans, whether in general or individual terms, would more likely constitute a "solicitation" under the FMLA requiring registration of the persons offering the loans. The fact that your client will receive no pecuniary benefit from the making of the loans or the advertising conducted through its network of contacts is persuasive that your client is not seeking to "solicit" customers, and rather, that Nationwide, a licensed broker, is the entity actually engaged in the solicitation, albeit over the Wal-Mart network and infrastructure. In the instant situation, it appears that Wal-Mart stands more in the position of a television station or internet service provider than in the position of the entity actually soliciting loans. Our position would differ, however, if Wal-Mart actually derived a benefit from the advertising, other than that of the general goodwill of its employees and customers, or if Wal-Mart received payment regarding loans made or applied for.

Please note that the position expressed herein pertains only to the facts and circumstances described in your letter. Different facts might well result in a different response. This letter is not to be construed or relied upon as legal advice, nor does it purport to address the possible application of any other laws that may relate to the actions described in your letter.

Should you have any questions, please contact me.

Yours truly,



John E. Moore, Jr.
Chief Counsel

Quattlebaum, Grooms, Tull & Burrow

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Arkansas Securities Department
Attention: John Moore
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201 East Markham Street
Little Rock, Arkansas 72201

Re: Interpretive Letter concerning the Fair Mortgage Lending Act

Dear Sir or Madam:

This request is in reference to our prior request for an interpretive letter on behalf of Wal-Mart Stores, Inc. ("Wal-Mart"), which was submitted to you on December 29, 2003. We appreciated your January 16, 2004 no-action letter stating that you would not take enforcement action against Wal-Mart under the Fair Mortgage Lending Act, Ark. Code Ann. § 23-39-501 *et seq.* (the "Statute"), if it engages in the activities described in that inquiry without registration under the Statute. Due to some factual changes in Wal-Mart's proposed program since our prior correspondence, we are submitting this inquiry to see if the additional facts explained below change the opinion expressed in your January 16 letter.

Wal-Mart wishes to enter into an agreement (the "Agreement") with Nationwide Advantage Mortgage Company ("Nationwide"), which is currently licensed as a mortgage broker in Arkansas, under which Wal-Mart would provide certain advertising services (the "Advertising Services") to Nationwide for the purpose of promoting a mortgage loan program (the "Program") to be offered by Nationwide. The Agreement would require Nationwide to provide favorable interest rates to employees and customers of Wal-Mart, and would also include a discount on closing costs for employees of Wal-Mart only.

The Advertising Services to be provided by Wal-Mart under the Agreement may include, among other promotions, the design and distribution of brochures, posters, table tents and other signage to be displayed or distributed at Wal-Mart's retail locations; videotaped advertisements to be shown over Wal-Mart's in-store television system; print advertisements to be included in Wal-Mart's employee benefit handbook, employee magazine or employee pay check materials; and internet advertisements to appear on Wal-Mart's intranet or public website. Advertisements promoting the Program will sometimes include Wal-Mart's name, but all advertising which includes Wal-Mart's name will also include a disclaimer explaining that the mortgage loans are

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offered by Nationwide, and not by or through Wal-Mart. Wal-Mart would also offer employees and customers, free of charge, general educational materials (the "Educational Materials") explaining in general terms how to obtain a mortgage loan, and the importance of maintaining a good credit rating. These materials would reference a service offered on Wal-Mart's website (from which Wal-Mart profits) for the purchase of credit information (a FICO score) from a third party provider.

Wal-Mart's involvement in the Program would be limited to the provision of the Advertising Services and the distribution of the Educational Materials discussed above, and would not include accepting applications, negotiating loans, or advising employees or customers about specific loans. Applications for loans under the Program would be submitted directly by participating employees or customers to Nationwide, and all negotiations of the terms of specific loans would take place exclusively between participating employees or customers and Nationwide. Wal-Mart would not accept mortgage loan applications, participate in the negotiation of the terms of mortgage loans, or provide specific information about interest rates or fees. Although Wal-Mart would dedicate the time of some employees to the performance of the Advertising Services, such employees, as well as other employees to whom questions about the Program may be directed (such as employees in managerial positions), would be instructed not to provide information (other than through the Advertising Services) or advice about the Program to other employees or customers of Wal-Mart. Rather, such employees would be instructed to direct any inquiries about the Program to Nationwide.

Wal-Mart would not be compensated for the Advertising Services, although it would be reimbursed by Nationwide for certain out-of-pocket costs. Wal-Mart would not be compensated by participating employees or customers for its activities. Nationwide would not compensate Wal-Mart based on any particular mortgage loan transaction, or pay any other fees, commissions or other direct compensation to Wal-Mart in connection with the Program, but would reimburse Wal-Mart for certain out-of-pocket costs incurred in connection with the Program. These costs would include the out-of-pocket costs of providing the Advertising Services, and may also include other out-of-pocket costs incurred by Wal-Mart in connection with the Program, such as legal fees and travel expenses incurred in the negotiation of the Agreement and the structuring of the Program.

The Statute provides that a license is required for any person located in Arkansas to act as a mortgage broker. Ark. Code Ann. § 23-39-503. The term "mortgage broker" means "a person who for compensation or other gain or in expectation of compensation or other gain and, regardless of whether the acts are done directly or indirectly, through contact by telephone, by electronic means, by mail, or in person with the borrowers or potential borrowers: (A) Accepts or offers to accept a mortgage loan; (B) Solicits or offers to solicit a mortgage loan; (C) negotiates the terms or conditions of a mortgage loan; or (D) Issues mortgage loan commitments or interest rate guarantee agreements to borrowers." Ark. Code Ann. § 23-39-502(12). We

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believe that Wal-Mart should be outside of the scope of the Statute under these facts for several reasons.

First, Wal-Mart will not accept mortgage loans or issue mortgage loan commitments or interest rate guarantee agreements in connection with the Program. Accordingly, the Statute will apply to Wal-Mart only if Wal-Mart solicits mortgage loans or negotiates the terms or conditions of mortgage loans in connection with the Program. We believe that the Advertising Services to be performed by Wal-Mart should not be considered "solicitation". The term "solicitation", which is generally understood to mean a personal request addressed to a particular individual to do a particular thing, is distinguishable from "advertising", which implies a more general distribution of information for the purpose of advising recipients of the availability of a product. The Program advertisements would be addressed at employees and customers generally, and Wal-Mart would instruct employees not to engage in discussions with individual employees and customers about a specific loan, but rather to direct all such inquiries to Nationwide. The Educational Materials would be limited to providing general information to customers and employees about how to obtain a mortgage loan, and would not include individualized advice to any customer or employee. Similarly, we do not believe that Wal-Mart will "negotiate" mortgage loans in connection with the Program because Wal-Mart will have no involvement with individual mortgage loans in connection with the Program.

Second, the Statute would require Wal-Mart to be licensed in connection with the Program only if Wal-Mart performs the Advertising Services in exchange for "compensation or other gain". This language appears to apply to entities that are in the business of providing mortgage brokerage services for a profit. Wal-Mart would not receive fees, commissions or other direct compensation in connection with the Program. Although Wal-Mart would be reimbursed by Nationwide for its out-of-pocket costs, and would arguably generate some goodwill of employees or customers, such reimbursement and goodwill are not the kind of compensation or gain contemplated by the Statute.

Finally, the Statute requires mortgage brokers to comply with detailed requirements designed to ensure that mortgage brokers are financially responsible and knowledgeable in their field, including financial reporting and continuing education requirements. These requirements appear to be irrelevant to Wal-Mart's performance of the Advertising Services and offering of the Educational Materials, which would not involve accepting applications, handling money or advising employees or customers about their individual loans. Accordingly, these requirements suggest that the Statute is not intended to apply to Wal-Mart, which would merely advertise mortgage loans to be offered by Nationwide. Moreover, Nationwide will be licensed under state law to make mortgage loans, and presumably subject to similar regulatory requirements, which will satisfy the statutory purpose of protecting borrowers.

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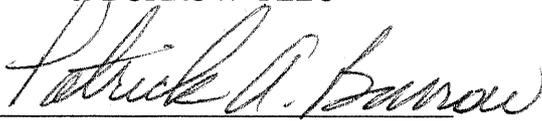
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For the reasons discussed above, we request that you confirm that Wal-Mart would not be required to be licensed as a mortgage broker under the facts set forth in this inquiry. Thank you for your consideration of this inquiry. Please feel free to contact me if you have any questions or are in need of further information. I look forward to your reply.

Very truly yours,

QUATTLEBAUM, GROOMS, TULL
& BURROW PLLC

A handwritten signature in cursive script, reading "Patrick A. Burrow", is written over a horizontal line.

Patrick A. Burrow