

December 8, 1999

Don E. Secunda, Esq.  
MEISTER, SEELIG & FEIN, LLP  
708 Third Avenue, 24<sup>th</sup> Floor  
New York, NY 10017

RE: Arkansas Mortgage Loan Broker Licensing Requirements  
Opinion No. 99-015

Dear Mr. Secunda:

Your letter of November 19, 1999 addressed to William McCraw has been forwarded to me for response. Your query involves whether a Delaware limited liability company (the "Company") proposing to establish a web site under the following circumstances is required to register under the Arkansas Mortgage Loan Company and Loan Broker Act (the "Act") as a mortgage loan broker. The pertinent facts as recited in your letter are:

The Company proposes to establish a web site that will serve as a chat room or bulletin board for mortgage loan brokers and those banks or other lenders wishing to lend money. Licensed brokers will have free access to the site and will receive fees from the borrowers only upon the finding of a suitable loan. Although not explicitly stated in your letter, it appears implicit that the web site will be restricted by password or some other method since you recite that borrowers will not have access to the site. Lenders will have access to the site, but will pay a fee to the Company if and when a loan for a property listed on the site closes.

The Company neither lends money nor has contact with any borrower. The only fees paid to the Company are from lenders for access to the site, and only when a loan closes. Neither the borrowers nor the lenders are natural persons, and all properties to be listed on the web site are nonresidential, commercial properties.

Ark. Code Ann. § 23-39-102(6) defines a "Loan broker" as any person who acts as a go-between, finder, or agent of a lender or borrower of money for the purpose of procuring a mortgage loan. Under the circumstances outlined above, it does not appear that the Company will be functioning in any of these capacities. Therefore, provided that the Company functions only as described, registration under the Act does not seem necessary.

As to your follow up question pertaining to commercial mortgage brokers and the necessity of their registration, please be advised that the Act does not distinguish between residential, commercial or noncommercial loan brokers. It would therefore appear that those brokers posting on or using the web site would need to register under the Act if the loan that they are attempting to procure on behalf of their clients will be secured by real property located in Arkansas. Accordingly, a copy of the Act and application for registration is included as per your request.

In the event you have further questions, please feel free to contact me at (501) 324-8686 or [john.moore@mail.state.ar.us](mailto:john.moore@mail.state.ar.us).

Yours truly,

John E. Moore, Jr.  
Staff Attorney