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**ARIZONA ATTORNEY GENERAL**

January 19, 1961

Mr. E. T. Williams, Chairman  
Arizona Corporation Commission  
State Capitol Building  
Phoenix, Arizona

Re: Bankers Mortgage Company and  
Bankers Mortgage Corporation, Inc.  
(a Kansas corporation)  
Docket #7951 Inc. #51385 and F-8286.

Dear Mr. Williams:

On Monday, January 16, 1961, at 10:00 o'clock a.m. a hearing was held in the above matter in the hearing room of the Arizona Corporation Commission, Capitol Annex, Phoenix, Arizona.

Representatives from both of the above-named companies were present, a hearing was conducted and both parties either introduced evidence or made statements for the record.

The Commission took this matter under advisement pending advice from the Attorney General as to the law governing this case.

In carrying out A.R.S. §10-485, the Corporation Commission requires that a foreign corporation not licensed to do business in this state, in order to "advance and lend money in the state, and take and hold notes" etc., must (1) file in the office of the Corporation Commission a statement in writing by a general officer of the corporation that it constitutes and appoints each member of the corporation commission its agent upon whom all notices, pleadings, and process may be served, and that when the commission is so served it shall constitute lawful' personal service on such corporation; (2) pay to the Corporation Commission a filing fee of \$5.00 for filing the appointment of a statutory agent; (3) receive a permit from the corporation Commission allowing that foreign corporation to "advance and lend money in the state, and take and hold notes \*\*\* etc."

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"A.R.S. §10-485. Power to lend money; collection procedure

"A. A foreign corporation may, without being licensed to do business in this state, advance and lend money in the state, and take and hold notes, bonds, mortgages or trust deeds given to represent or secure money so lent or advanced or for other lawful consideration, and to enforce collection thereof, and such notes, bonds, mortgages or trust deeds shall be as valid and enforceable as though owned by an individual.

"B. Prior to advancing or lending money as provided in subsection A such foreign corporation shall file in the office of the corporation commission a statement in writing by a general officer of the corporation that it constitutes and appoints each member of the corporation commission its agent upon whom all notices, pleadings, and process may be served, and that when the commission is so served it shall constitute lawful personal service on such corporation.

\* \* \* \* \*

The Arizona Constitution, Article 14, §5, states:

"§5. No corporation organized outside of the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law for similar corporations organized under the laws of this State; \* \* \*"

A.R.S. §10-122 reads in part, as follows:

"The articles of incorporation shall contain:

"1. The name of the corporation indicating therein the character of the business to be carried on by the corporation and no corporation shall take a name which is the same as, or deceptively similar to, the name of another existing corporation of this state or of any foreign corporation licensed to do business in this state, unless, at the time of filing its articles of incorporation with the corporation commission as required by this section, the incorporators file with the corporation commission a consent to the use of such name, such consent to be in the form of a duly authenticated copy of a resolution specifically authorizing the use of its name by the board

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of directors of any existing corporation of this state or of any foreign corporation licensed to do business in this state which has a name which is the same or deceptively similar to the name which the corporation applying for license seeks to use as its own."

A.R.S. §10-481 reads in part, as follows:

"B. No license to do business in this state shall be issued by the corporation commission to any foreign corporation whose name is the same as, or deceptively similar to, the name of any existing corporation of this state or of any other foreign corporation licensed to do business in this state, unless, at the time of applying for the license and filing its articles of incorporation with the corporation commission as provided in this section, such foreign corporation files with the corporation commission a consent to the use of such name, the consent to be in the form of a duly authenticated copy of a resolution specifically authorizing the use of its name by the board of directors of any existing corporation of this state or of any foreign corporation licensed to do business in this state which has a name which is the same or deceptively similar to the name which the corporation applying for license seeks to use as its own."

Thus, since domestic corporations and foreign corporations licensed to transact business in Arizona are prohibited from taking or using a name the same as or similar to the name of any other corporation then doing business in Arizona, and foreign corporations are prohibited from doing business under more favorable conditions than domestic corporations, we are of the opinion that the Arizona Corporation Commission has the power to revoke the permit issued to the respondent, if there is a finding that the names are deceptively similar.

Very truly yours,

ROBERT W. PICKRELL  
The Attorney General

MORRIS ROZAR  
Assistant Attorney General

MR:lmh

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