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August 30, 2016

Ms. Marlene Dortch, Secretary
FEDERAL COMMUNICATIONS COMMISSION
445 12th Street SW
Washington, DC 20554

RE: Mortgage Bankers Association Petition for TCPA Exemption
CG Docket No. 02-278

Dear Ms. Dortch:

I am consumer protection lawyer located in Hollywood, Florida, whose primary focus is representing consumers whose rights have been violated by many of the very same entities the Mortgage Bankers Association ("MBA") seeks to protect. Banks and mortgage servicers have historically been some of the most egregious violators of TCPA; they simply cannot be allowed a "free pass" to continue, and no doubt escalate their already unconscionable collection practices.

As evidenced by its latest assault on "the most comprehensive of rights and the right most valued by civilized men ... the right to be let alone,"[1] the MBA believes that "the benefits of mortgage servicing calls outweigh privacy interests."[2] This statement alone should be sufficient to warrant denial of the MBA's petition. No industry that so boldly proclaims its disdain for the fundamental right to privacy should be given, in essence, the keys to the front door of millions of American citizens.

Under the guise of required compliance with multiple unnamed federal and state laws, the MBA cites the need to make "outbound calls to borrowers as frequently as twice per week to preserve home ownership."[3] Twice per week, however, is light-years from the real-world call volume being generated by banks and mortgage servicers. *See, e.g., Williamson v. Ocwen Loan Servicing, LLC*, No. 3: 09-0514 (M.D. Tenn. Dec. 23, 2009) (Defendant made hundreds of harassing telephone calls each month.); *Davis v. Nationstar Mortgage, LLC*, No. 15-CV-4944 (E.D. Pa. Jan. 4, 2016) (On the mistaken belief that Plaintiff had missed a mortgage payment, Defendants began robocalling Plaintiff's cell phone as often as three times per day (and over 300 times in total) in an attempt to collect.); *Lee v. Wells Fargo Home Mortgage*, No. 3: 13-cv-00034 (W.D. Va. Dec. 13, 2013) (Defendant made a total of 130 calls to Plaintiff's residence over the course of a few months.); *Hartley-Culp v. Green Tree Servicing, LLC*, 52 F. Supp. 3d 700

[1] *Olmstead v. United States*, 277 U. S. 438, 478 (1928) (Brandeis, J., dissenting).
[2] Petition for Exemption, p. 12
[3] Federal Housing Administration ("FHA") Single Family Housing Policy Handbook, 4000.1(III)(A)(2)(h).

(M.D. Pa. 2014) (Repeated autodialed calls to wrong person.); *Conklin v. Wells Fargo Bank, NA*, No. 6: 13-cv-1246-Orl-37KRS (M.D. Fla. Dec. 8, 2013) (Repeated autodialed calls after being advised homeowner was represented by counsel.); *Thompson v. Wells Fargo Bank, NA*, No. H-15-598 (S.D. Tex. Jan. 14, 2016) (Defendant called the Thompsons' cell phone five to eight times per day.). The foregoing examples are barely the tip-of-the-tip of the iceberg. Truly, if the mortgage banking and service industry possessed the self-discipline to regulate themselves to two calls per week, there would be no need for an exemption. But, they cannot and they will not.

With all due respect, do not be fooled by the MBA's petition. Despite being cloaked in consumer friendly language, the petition's ultimate goal is to expand the banking system's already bloated bottom line at the expense of consumers who have no power to protect themselves from the scourge of robocalls. The TCPA is truly the only protection consumers have against being bombarded with robocalls all hours of the day, regardless of where they are or what they are doing. I respectfully request that the MBA's petition for exemption from the TCPA be denied.

Respectfully,

SCOTT D. OWENS, ESQ.