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National Legal and Policy Center Mounts Question for MBA President David H. Stevens

By Myriam Denis, J.D. Candidate 2016 | March 4, 2016

On February 29, 2016, a nonprofit ethics watchdog, National Legal and Policy Center (NLPC), launched a call to the U.S. Attorney for District of Columbia and the Inspector General of the Department of Housing and Urban Development for an in-depth investigation of David H. Stevens, President and CEO of the Mortgage Bankers Association (MBA). The NLPC argues that Stevens might have violated ethics laws when he was acting as commissioner of the Federal Housing Administration (FHA) for the U.S. Department of Housing & Urban Development (HUD). In December 2015, Campaign for Accountability made a similar request to the Justice Department. These groups want government officials to investigate whether Stevens lobbied on some of the same issues he worked on when he was a FHA commissioner.

The NLPC says it identified over 25 potential ethics violations by Stevens. In 2011, Stevens left the HUD to work in the private sector for the MBA, a powerful DC-based lobby association. The crux of the NLPC's inquiry seeks to determine whether Stevens violated the statutory one-year ban on having contact with his former agency as well as the lifetime ban on having contact with officials on matters he worked on while in government. The NLPC also asked government officials to look if Stevens had violated the law by trying to influence matters of interest to the mortgage bankers for the brief period when he was still in government but had already accepted the MBA lobbying job.

This controversy started a few months ago, when the New York Times published a lengthy and detailed investigation on the revolving door between DC and Wall Street's housing finance sector. The article detailed how several key policy officials, including but not limited to Stevens, switched positions between DC and housing finance. The New York Times piece reports that between February 2012 and April 2015, while sitting at his current position for the MBA, Stevens met 13 times with White House officials working on Fannie Mae and Freddie Mac policy. The NLCP alleges that these contacts violate the two bans on contacts with government officials mentioned above.

18 U.S.C. § 207(c) is one of several ethics laws the NLPC argues Stevens violated. § 207(c)'s provisions prohibit former federal government senior employees from "knowingly making, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person [...] in connection with any matter on which such person seeks official action by any officer or employee of such department or agency." The Office of Government Ethics provides guidance on laws regarding ethics, and recently emphasized that § 207(c) prohibits "any communication, *on any matter*, whether they ever worked on it, [or] was ever pending in the agency…"

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The New York Times's analysis of lobbying records, legal filings, internal emails and memorandums demonstrates how large Wall Street banks seek to unseat Fannie Mae and Freddie Mac, the government-sponsored mortgage finance enterprises, and capture their multi-trillion dollar home loan portfolios. Stevens, as current President and CEO of MBA, would favor this policy change. Fannie's and Freddie's dubious mortgage lending practices, coupled with a lack of supervision from the government, played a large role in the 2008 economic collapse. The two companies have since been under government conservatorship. Some experts thus believe that their role in housing finance would be better taken care of by private interests. However, other analysts believe that such a switch could increase costs for borrowers, reduce participation from small lenders, and put taxpayers at risk of greater potential bailouts of the financial industry.

Stevens declined to comment on this issue. John T. Mechem, a spokesman for the MBA, issued a press release pertaining to the matter: "Dave Stevens and the Mortgage Bankers Association are scrupulous about our legal and ethics compliance obligations [...]". The MBA went beyond simply refuting the alleged ethics violations, arguing that the allegations by the NLPC are part of a "concerted campaign by a group who apparently have a financial incentive to discredit Dave and MBA's efforts to advocate on behalf of our members for secondary mortgage market reform."