



# Points of Interest

A Publication of the California Mortgage Association

Fall 2020



**COVID-19 and Workplace Exposure — page 6**  
**COVID-19 and Collateral Certainty — page 11**

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# From the President

By Elizabeth M. Knight • 2020-2021 CMA President

a quote by William James:

It is our attitude at the beginning of a difficult task which, more than anything else, will affect its successful outcome.

This is a quote by Williams James and I find it most appropriate on so many levels. I feel it is especially appropriate for my adventure as the incoming President of CMA. I have been a part of CMA since the very beginning when two organizations merged to be the one that you know now, the California Mortgage Association. I was one of the original directors when the two entities merged. I can assure you it was a difficult time with so many different personalities and attitudes. But, we all had the same goals: to build a successful organization that we could be proud of; that would not just last for years but would be successful because it would help create strong members through education, networking and excellent representation in the legislature through legislative review and advocacy.

To step into the Presidential position in July, in the middle of a pandemic, with values of properties staying strong but

never knowing what tomorrow would bring and a tidal wave of legislation that was, purportedly, not meant to crush our industry but assist borrowers and tenants which could have proven to be the destruction of many firms and their lenders was daunting. But, as I mentioned in my first Presidential address, I am an optimist and I know if I work hard enough and work with extremely capable people, good things, that seem unlikely to happen, do happen. We saw this happen with AB3088. Many organizations and people fought together to get other pieces of legislation killed with the only outcome so far as AB3088. This is a workable outcome where the other bills could have been devastating. We are also hopeful that legislation written by UTA but supported by CMA will pass which will save lenders thousands of dollars when publishing Notices of Trustee Sales on their foreclosures.

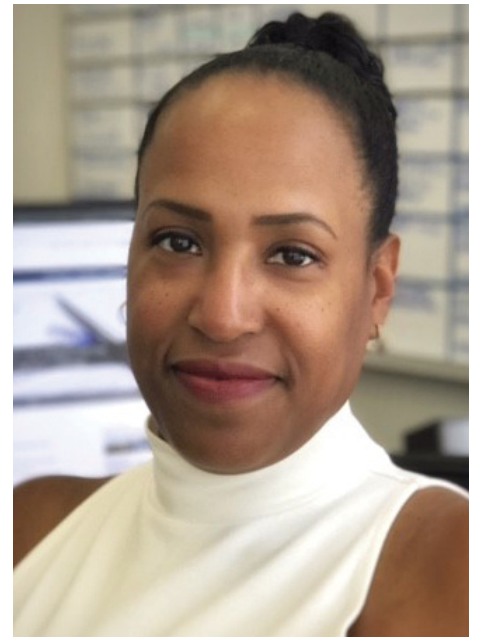
We are still waiting on the outcome of several other pieces of legislation and, as

of this writing, it appears a California CFPB may be put into place. But, because of the hundreds of hours of negotiating and work by our legislative advocates, Mike Belote and Mike Arnold, it appears there will be a carve-out for many of our members. Yay team!

We will be having a virtual conference for our fall seminar which we feel will be excellent. We learned from our summer virtual conference; we have listened to the attendees, we have done more research and have been retrospective as to what we felt, as a board, could be better. We are excited about our next conference and ask you to support CMA by attending, learning and networking. We are hoping for a live conference in the spring and look forward to seeing you all in person. In the meantime, stay safe, work hard, stay positive and know that CMA is always working for you.

Thank you. 🌐





# From the Editor

By Mayumi Bowers • Editor, *Points of Interest*

I'm not sure about anyone else, but I feel like I am very busy with extra stuff even though my volume of transactions has not increased, and I am not entirely sure why. There is always a lot to do with the day-to-day operations of a business and the industry. So, I hesitate to say that these are challenging times, because there is always change and some issue to contend with, but it certainly feels

like there is a lot more change happening at one time.

This year has really felt like there has been a considerable amount more to do and contend with than in recent years. We have had to deal with Covid-19, proposed legislation and new legislation, moratoriums, new industry procedures, an election, etc. It can all be overwhelming.

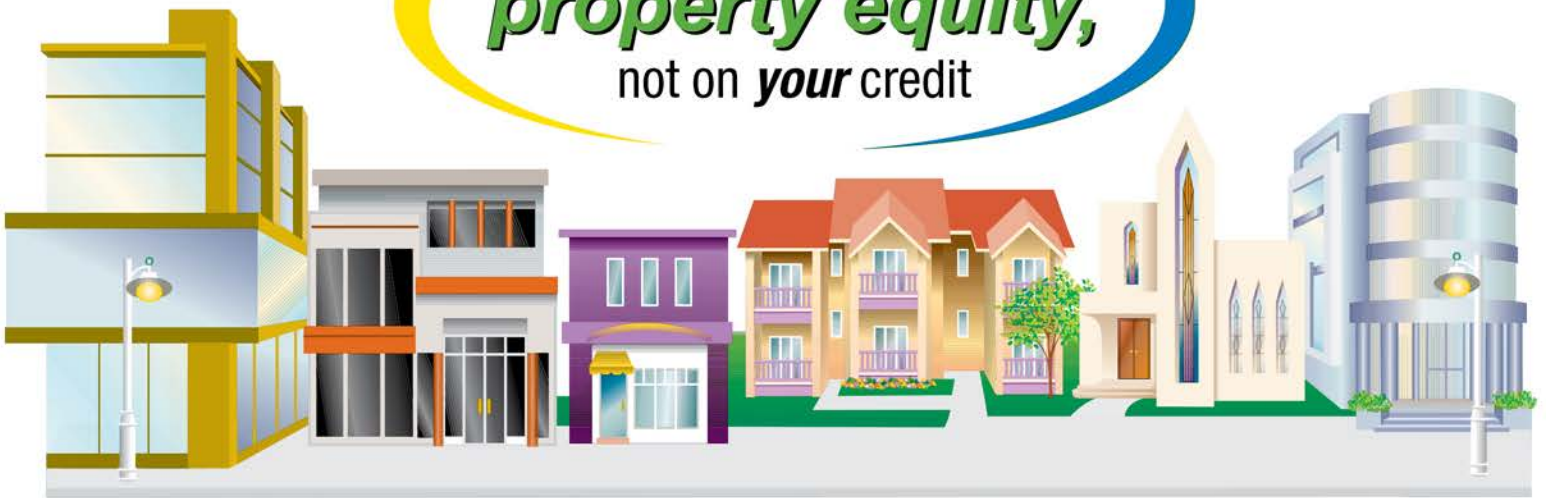
As such, the focus on this edition and with the next edition to come will hopefully help be a guide to deal with some of these new matters and to deal with those on the horizon.

I would also like to take this time to encourage you to send me any articles or topics that you may find helpful to our members. 🌐



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# SACRAMENTO SUMMARY

By Michael J. Arnold & Michael Belote, Esq.  
Legislative Advocates



## Legislative Wins (Mostly) for CMA

**O**n August 31 at midnight, the California Legislature concluded, as it must under the state constitution, the 2019-2020 two-year legislative session. And at midnight, September 30, Governor Newsom concluded, as he must, affixing his signature or veto to the more than 425 bills which reached his desk. The Governor vetoed approximately 11% of the bills sent to him, meaning that approximately 375 bills were ultimately signed and “chaptered” into the California Codes.

And so ended the weirdest, most frustrating, and probably most difficult year of modern California history.

Of course, no segment of society went unaffected by the pandemic, but the California Legislature was dramatically impacted, practically, legally and even constitutionally. On the practical side, the Assembly and Senate were forced to drastically scale back the number of bills considered, because there was simply no way to process the usual 2500 or so bills introduced in a typical year. Constitutionally, COVID forced consideration of such fundamental questions as whether operations could be moved out of the Capitol to facilitate social distancing, whether the Capitol could be closed during session and whether members would be permitted to vote remotely or by proxy. While those questions were never answered definitively, by the end of session Senators had to be permitted to vote remotely when one Senator tested positive and potentially exposed virtually the entire Senate Republican Caucus.

The Assembly and Senate were sent home for nearly half the legislative year.

This made holding the usual number of policy committee hearings impossible, with obvious impact on the ability to thoughtfully consider complicated policy questions. And for CMA and thousands of other “stakeholders,” virtually all lobbying had to be performed remotely, as there was essentially no one in the Capitol to meet with, and no ability to even enter the Capitol except to testify, alone, on individual bills. This changed lobbying strategy enormously, putting a premium on having cell phone numbers for legislators and staff.

With the legislature home and courts effectively closed, Governor Newsom was basically running the entire state. To date, he has issued over 60 executive orders, from huge issues like stay-at-home orders, to the mundane, like permitting publicly-traded companies to hold shareholder meetings online. While everyone is entitled to their opinions, and feelings run strong, the Governor has enjoyed high approval ratings for his handling of the pandemic.

Certainly one of the biggest issues considered by the Legislature throughout the pandemic was evictions and mortgages. Legislators expressed sentiments to us like “If I don’t do something about evictions, I literally can’t go back to my district.” Early on, the Legislature considered AB 2501 (Limon), which mandated forbearance on residential mortgage loans, car loans, payday loans, and PACE assessments. Residential evictions were the subject of AB 828 (Ting) and commercial tenancies were addressed in SB 939 (Wiener).

CMA participated in a very broad coalition of real estate lending organizations and others in opposition to AB 2501, which failed passage on the Assembly floor in

a stunning loss for proponents. The bill required 41 affirmative votes and obtained only 39. Unfortunately, we knew that the story would not end there, as the pandemic continued to rage. Meanwhile, AB 828 was never heard in the Senate, and SB 939 was held in the Senate Appropriations Committee.

As the session approached its conclusion in August, it became clear that some legislators favored very significant action on evictions and foreclosures, and CMA obtained drafts of language essentially identical to the mandatory forbearance element contained in AB 2501.

Again participating in a large coalition of real estate groups, and working with Governor Newsom’s office, language ultimately was included in AB 3088 (Ting) which created no foreclosure moratorium or mandatory forbearance, but did require lenders not providing forbearances to disclose the reason why. The bill also provided a short moratorium on evictions into 2021, and added small landlords to the protected class of borrowers under the Homeowner’s Bill of Rights. On the basis of this far more moderate approach, CMA and other groups all adopted neutral positions, the bill obtained large majority votes in each house, and Governor Newsom signed the bill just prior to the expiration of the state Supreme Court’s eviction moratorium.

This was an excellent result for CMA members, but not everyone in the Legislature was happy. Some Senators railed against what they perceived as an inappropriate surrender to big lenders, predicting that more significant eviction

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# **New Laws Impose Reporting and Written Notice Obligations on Employers Relating to COVID-19 Workplace Exposures**







by  
**Alison C. Gibbs, Esq.**  
*Ferruzzo*

**O**n September 17, 2020, Governor Newsom signed two new laws impacting employer obligations relating to COVID-19 workplace exposures – SB 1159 and AB 685.

#### **SB 1159 – Disputable Presumption of Workers’ Compensation Coverage is Expanded**

Senate Bill 1159 extends and expands the Governor’s prior Executive Order N-62-20 creating a COVID-19 disputable presumption (“presumption”) of eligibility for workers’ compensation benefits if specified criteria are met. The new law took effect immediately. While certain aspects of the law extended the prior Executive Order, the law also added several new provisions with which employers should become familiar.

#### **Additional Reporting Obligations**

The new law places additional reporting obligations on employers with five or more employees. For example, when the employer knows or reasonably should

know that an employee has tested positive for COVID-19, the employer must report to their claims administrator in writing via electronic mail or fax **within three business days** all of the following:

- (1) An employee has tested positive. For purposes of this reporting, the employer must not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee asserts the infection is work related or has filed a claim form.
- (2) The date that the employee tests positive, which is the date the specimen was collected for testing.

*continued on page 8*



- (3) The specific address or addresses of the employee’s specific place of employment during the 14-day period preceding the date of the employee’s positive test.
- (4) The highest number of employees who reported to work at the employee’s specific place of employment in the 45-day period preceding the last day the employee worked at each specific place of employment.

Notably, any employer who is aware of an employee testing positive **on or after July 6, 2020, and prior to the effective date of SB 1159** must report to their claims administrator, in writing via electronic mail or fax, **within 30 business days of the effective date of this new law**, all of the data required above. For the data required by paragraph (4) above, the employer must instead report the highest number of employees who reported to work at each of the employee’s specific places of employment on any given work day between July 6, 2020, and the effective date of the new law.

An employer or other person acting on behalf of an employer who intentionally submits false or misleading information or fails to submit information when reporting pursuant to the provisions above is subject to a civil penalty in the amount of up to ten thousand dollars (\$10,000) to be assessed by the Labor Commissioner.

### Presumption COVID-19 Was Contracted at Work is Expanded

The new presumption exists for employees who suffer illness or death resulting from COVID-19, subject to certain conditions, on or after July 6, 2020 through January 1, 2023. The presumption applies to employers with five or more employees whose employees test positive during an “outbreak” at the employee’s specific place of employment if all of the following occur:

- (1) The employee tests positive for COVID-19 within 14 days after a day that the employee worked at the employer’s

place of employment at the employer’s direction.

- (2) The day on which the employee performed the work was on or after July 6, 2020. The date of injury is the last date the employee performed the work prior to the positive test.
- (3) The employee’s positive test occurred during a period of an outbreak at the employee’s specific place of employment.

The law clarifies that an “employee’s specific place of employment” excludes the employee’s home or residence, “unless the employee provides home health care services to another individual at the employee’s home or residence.”

If an employee has paid sick leave benefits specifically available in response to COVID-19, those benefits must be used and exhausted before any temporary disability benefits. If an employee does not have those sick leave benefits, the employee must be provided temporary disability benefits, if applicable, from the date of disability without any waiting period.

### What is an “Outbreak”?

An outbreak exists if within 14 days one of the following occurs at a specific place of employment:

- (1) four employees test positive if the employer has 100 employees or fewer;
- (2) four percent of the number of employees who reported to the specific place of employment test positive if the employer has more than 100 employees; or
- (3) a specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection of COVID-19.

### How Can Employers Rebut the Presumption?

Employers may controvert the presumption with evidence, which may include, but is

*continued on page 9*



not limited to, evidence of measures in place to reduce potential transmission of COVID-19 in the employee's place of employment and evidence of an employee's nonoccupational risks of COVID-19 infection. However, subject to limited exceptions, if liability for a claim of a COVID-19-related illness is not rejected within 45 days after the date the claim is filed, the illness shall be presumed compensable. The criteria and time periods for investigating and disputing the presumption are different for first responders, health care workers and for injuries that occur before July 6, 2020. Employers will need to review the criteria applicable to their workforce to ensure compliance.

#### A.B. 685-Employers Must Provide Written Notice to Workers Who May Have Been Exposed to COVID-19

Assembly Bill 685 expands Cal/OSHA's authority for workplaces that pose a risk of an "imminent hazard" relating to COVID-19, and requires employers to provide written notice to employees who may have been exposed to COVID-19 and inform local public health officials. The law takes effect on January 1, 2021. This article will only address the new COVID-19 reporting aspects of the law.

#### What are the New Reporting Obligations?

If an employer or representative of the employer receives a notice of potential exposure to COVID-19 as defined in the law, the employer must take all of the following actions within one business day of the notice of potential exposure:

- (1) Provide a written notice to all employees, and the employers of subcontracted employees, who were on the premises at the same worksite as the qualifying individual within the infectious period that they may have been exposed to COVID-19 in a manner the employer normally uses to communicate employment-related information. Written notice may include, but is

not limited to, personal service, email, or text message if it can reasonably be anticipated to be received by the employee within one business day of sending and shall be in both English and the language understood by the majority of the employees.

- (2) Provide a written notice to the exclusive representative, if any, of employees under paragraph (1).
- (3) Provide all employees who may have been exposed and the exclusive representative, if any, with information regarding COVID-19-related benefits to which the employee may be entitled under applicable federal, state, or local laws, including, but not limited to, workers' compensation, and options for exposed employees, including COVID-19-related leave, company sick leave, state-mandated leave, supplemental sick leave, or negotiated leave provisions, as well as antiretaliation and anti-discrimination protections of the employee.
- (4) Notify all employees, and the employers of subcontracted employees and the exclusive representative, if any, on the disinfection and safety plan that the employer plans to implement and complete per the guidelines of the federal Centers for Disease Control.

If an employer or representative of the employer is notified of the number of cases that meet the definition of a COVID-19 outbreak, as defined by the State Department of Public Health, within 48 hours, the employer shall notify the local public health agency in the jurisdiction of the worksite of the names, number, occupation, and worksite of employees who meet the definition of a qualifying individual. An employer shall also report the business address and NAICS code of the worksite where the qualifying individuals work. An employer that has an outbreak subject to this section shall continue to give notice to the local health department of any subsequent laboratory-confirmed cases of COVID-19 at the worksite.

A "qualifying individual" means any person who has any of the following: (1) a laboratory-confirmed case of COVID-19, as defined by the State Department of Public Health; (2) a positive COVID-19 diagnosis from a licensed health care provider; (3) a COVID-19-related order to isolate provided by a public health official; or (4) died due to COVID-19, in the determination of a county public health department or per inclusion in the COVID-19 statistics of a county.

This law is a good reminder to employers to review their written COVID-19 response and mitigation plans to ensure compliance with the new law's requirements.

For further information regarding compliance with SB 1159 and AB 685, the employment attorneys at Ferruzzo & Ferruzzo, LLP are available to provide guidance.

This blog is not meant to provide specific legal advice. For advice specific to your business, please contact any of the employment attorneys in our Employment Practices Group who are ready to assist you. 📞

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Alison C. Gibbs, Esq. is a Senior Associate of the firm's Employment Practice Group. Alison represents employers in a wide-range of employment-related litigation, including wage and hour defense, and defense of discrimination, harassment and retaliation claims. Alison also regularly advises employers before litigation ever occurs, handling employment disputes and managing day-to-day employee issues, including reviewing employee handbooks policies, wage and hour compliance, leave issues, internal investigations, lay-offs, disciplinary action, terminations, severance negotiations, and other employment practices.

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# Why COVID 19 is Making Collateral Certainty a Necessity for Closing Deals in Today's Environment

by  
Anthony Romano III  
eScreenLogic



In both residential and commercial underwriting, the world has evolved well beyond the practices of the quintessential (and fictional) banker George Bailey at the Bedford Falls Building & Loan. Back then, lending decisions were heavily based on personal relationships and a banker knowing the business and character of the individual applying for the loan. And while character is still considered as one of the “**Four C’s of underwriting**,” the two C’s that garner the most attention in today’s underwriting process are Credit and Capacity especially in today’s COVID impacted market.

CRE lenders; including traditional banks, credit unions, and non-depository lenders, spend considerable time on credit and capacity, reviewing borrower financial statements and tax returns for insight into cash flow, debt-yield ratio, LTV, loan-to-cost ratio, and profit ratio. These and several other factors are assessed depending on loan type (e.g. conventional, SBA, bridge, construction, etc.).

But what about the fourth “C” in our underwriting equation? **Collateral**. With the country and the world in the throes of the COVID pandemic, how does this change the UW of different CRE asset classes given the need to be properly “collateralized.”

During my years with CoreLogic and First American, I watched banks and lenders take different positions on evaluating transaction collateral. Regardless of the institution, the universal mantra was the

same: “**Collateral is king!**” The asset secures all loan products. If the first three C’s fail, the only thing saving the lender from substantial loss is a properly collateralized loan. If proper due diligence was not completed during the underwriting phase, loss severity can be staggering.

## “Collateral Certainty” includes four primary due diligence steps:

- asset valuation
- environmental risk assessment
- property condition inspection, and
- flood zone determination

Let us focus on a couple of the more important pieces here....

**Asset Valuation.** Regardless of loan product, most commercial lending happens with loan-to-value ratios at 70% or below.



While there are several different methods and valuation solutions, two products are most common in CRE lending. The first solution is a traditional **commercial appraisal (general or MAI)**, widely considered the most comprehensive and accurate in the industry. The method requires a licensed appraiser, who may or may not be MAI, and can include both a comp-based and income-based valuation. The appraisal process can take 4-6 weeks and can cost, depending on property type, size, location, etc., over \$3,500. Valuing residential properties, particularly in homogenous neighborhoods, is typically easier as comparable sales or listings are often readily available. However, valuing commercial properties can be much more challenging and laborious. But getting this step in the **collateral certainty** process wrong, even by 10%-15%, puts the lender or investor at significant risk in the event of default.

Another, and increasingly common, valuation product is the **commercial evaluation** because it is a faster, more cost-effective, yet fully compliant commercial valuation solution. Turn times for commercial evaluations often clock in at under ten days and cost a fraction of a full appraisal. But as you would expect, rules and regulations apply to different use cases. First, commercial evaluations can only be used on loans \$500,000 and less (\*unless the lender is a credit union – then loan amount can be up to \$1 million). Complicating things

*continued on page 12*



further, 23 states do not allow anyone but a USPAP licensed appraiser to “conclude the value” for a property. As a result, costs and turn times for this alternative tend to be a bit greater in these states. Brokers may do the fieldwork and data collection, but the selection of comparables and value conclusions must be completed and signed off by a licensed appraiser.

### Now that the valuation has been done and the loan is properly “collateralized,” a lender can ride off into the sunset fully confident nothing short of a meteor can negatively impact the asset’s collateral value, right?

Wrong!

While CRE valuation is the most significant step toward **collateral certainty**; it is not enough on its own. The second critical CRE due diligence step that needs to be completed is the **environmental assessment**. Much like valuation, there are many types and scopes of environmental assessment products, but they can be sorted into two buckets.

In the first bucket are **desktop environmental assessments**, often referred to as RSRA – Record Search with Risk Assessment. Desktop reports leverage environmental regulatory database information, historical aerial photos, Sanborn/Fire Insurance maps, city directories, and information provided by stakeholders (questionnaires, prior environmental reports, etc.). Once this data is assembled, an Environmental Professional evaluates the findings, writes the narrative, and makes recommendations for further assessment if necessary. Desktop reports are excellent tools for speedy and low-cost evaluation of benign properties (i.e. low-risk assets) and smaller loan amounts. The SBA is the most prescriptive entity in the environmental due diligence space and they allow an RSRA on loans over \$150,000 if the property type is NOT one of the 53 environmentally sensitive industries listed in the NAICS codes (North American Industry Classification System).

In the second bucket are environmental assessment products that feature in-person **site reconnaissance** in addition to the historical and other resources listed above. The two that conform to ASTM standard practice are:

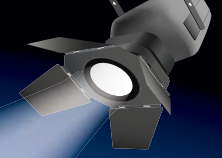
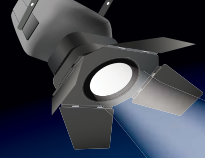
1. Transaction Screen Assessment (TSA) or Environmental Transaction Screen (ETS); and
2. The gold standard of environmental due diligence products the Phase I Environmental Site Assessment (ESA), which offers the most comprehensive historical review, of regulatory database review, owner/operator interview, government file request and review, client provided information review and a detailed visual/physical inspection of the site property and adjacent properties.

Often an ETS/TSA is called a “limited or scaled down version of the Phase I.” These reports are a little less costly and comprehensive than Phase I ESAs but are a strong alternative to the RSRA when having boots on the ground is required. The key difference between the ETS/TSA and the Phase I ESA– and it’s a crucial one – only the Phase I ESA meets the EPA’s All Appropriate Inquiry (AAI) requirement qualifying lenders and investors for

Comprehensive Environmental Response, Compensation, and Liability Act – CERCLA protection should a historical use of the asset resulted in a costly environmental investigation and/or remediation effort. So, while collateral may be king, be sure to work with a firm that provides an array of valuation and environmental assessment products because only then can all stakeholders be assured of “**Collateral Certainty.**” 🌐

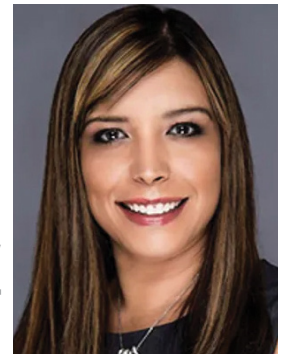
Anthony Ramano, the Chief Executive Officer (CEO), joined the eScreenLogic team in December of 2018 to lead company business strategy and execution. He spent the better part of the last 15 years in executive and leadership roles at CoreLogic (NYSE: GLGX) and First American Financial (NYSE: FAF), most recently as the Chief Revenue Officer for FAF’s Mortgage Solutions Division. Prior to that, Anthony was a co-founder of CustomerLink Systems, a vertically integrated CRM platform service eventually acquired by Demand Force. He holds a business degree in management and economics from Sacramento State University. His primary focus is standing up a multi-dimensional Go-To-Market organization (marketing, sales, account management, and business development).





# MEMBER SPOTLIGHT:

## Rory Cambra



by  
**Angelica Gardner**  
*Asher Evan Investments*

If you have been attending the CMA seminars over the last decade, there is a good chance you know Rory Cambra, Vice President of Marketing for S.B.S. Trust Deed Network and S.B.S. Lien Services. You will typically find Rory in the Exhibit Hall networking and joking around with members. But most of you may know him as the man with the coveted little blue tickets at the S.B.S. Trust Deed Network sponsored cocktail event. You know those little blue tickets, the ones that are good for a free drink. That alone should make Rory the most popular man in the room; however, his outgoing personality and friendly demeanor, is what really makes him shine. As a longtime member of the CMA, he exemplifies the Mission of the Association. To get to know more about him, we asked Rory some questions about his life, work, hobbies and more in this Member Spotlight.

**Q Tell us a little about you, your family, hobbies.**

**A** I was born and raised on the Island of Maui, Hawaii, the oldest of four children, two boys, Rory and Dale, and two girls, Vera and Liane, to an unlikely couple, Louis George Cambra and Irene Sueko Uchimura. My dad being Portuguese and Puerto Rican, called half breed in Hawaii. Half breeds of any two races turn out to be very athletic and good looking.



My mom was one of seven children, and the only child that did not marry back into the Japanese culture. He was a track and football star, and she was a cheerleader. They made some gorgeous kids, four of them to be exact. Half Asian children are known as Hapa or half. I may not look like much now, but growing up, look out! LOL. Hawaii is such a diverse melting pot with many cultures that all came there from different countries to make a better life for themselves. I give my grandparents and great grandparents so much credit for taking that risk of traveling from Portugal, Puerto Rico, and Japan to of all places, Maui, Hawaii, and paving the way for future generations to come.

I grew up in a middle-class multi-cultural household. My dad was a Police officer, and my mom worked as a dental assistant.

*continued on page 14*



My dad was the leader of the house, and he was one tough guy. He worked hard, trained hard, and there wasn't much back talk in our home. My dad taught me at a very young age what it took to become a man. A lot of it revolved around honesty and hard work. He was big on being honest, loyal, trustworthy, and keeping your word. "If you say you are going to do something, do it!" Having meaningful, trusting relationships in life is everything. "You can count your loyal and faithful friends on the one hand." "They are tough to find." He also taught me never to bow down anyone. That's it, draw a line! "You have to let people know where you stand and what they can and can't do." My dad pushed me to excel, and for that, I am thankful.



My mom is where the rubber hits the road; she worked as a dental assistant, setting appointments for the same dental office for 53 years. When she retired last year, she was working for her second dentist, setting up the office, making lunch for the team, and setting appointments. She would get on the phone to set appointments and start scolding patients for not coming in for their six-month check-ups. She arranged meetings and did everything by hand without a computer or the internet. The patients were afraid of her, hahaha, and when we would shop at the grocery store, they would hide from her. She was making sales but didn't know it. To her, it was her job, and Dr. Yogi and Dr. Tom never had an empty chair. It was back-to-back appointments. She showed me how to work hard and how to grind and make sales!

So, while my dad was teaching me how to become a man, my mom's only wish was

being humble and having humility. In life, you must be humble and have humility. Being humble and having humility is more important than any award that you can receive from anyone. It is more important than money and fame. It was a tough assignment, and I still think about it today. I believe that both influences helped me immensely and shaped me into who I am today. In case you are wondering, our family was just as dysfunctional as anyone else's family.

I am happily married to Sherie Cambra. We work hard daily on our marriage, and it's not always a comfortable journey. We met on Maui while she was on vacation visiting her friend, who just happened to be friends with my sister Vera. She saw me driving up to my mom's house and said, "hey Vera, who's that guy that went into your mom's house." Vera replied, "that's my oldest brother, Rory." Vera set up a date, and the rest is history. We celebrated our 30<sup>th</sup> anniversary just last week on September 25, 2020. That's a long time and something I don't take for granted. The good news is that we are complete opposites, and we like each other. Thank goodness because I cannot imagine being married to a jerk like me.



We have three beautiful grown children, Courtney Leilani Cambra, 30, also known as my twin, Colby Keanu Cambra, 26, also known as my favorite, and Bailey Keola Cambra, also known as the baby that gets everything. They were all born on Maui, and we gave them Hawaiian middle names for our culture unique to Hawaii and because I think it's cool. Courtney graduated from Converse College in



South Carolina and is a special education teacher in Oregon. She lives in Oregon with her husband, Zachery Frye. Colby graduated from San Jose State and is a National salesperson for Malwarebytes in San Jose, CA. Bailey just graduated from San Diego State as a Biology major and will be looking for work.



When the last child left our home for college, I could not stop crying because there went my training partners and road dogs for the previous 18 years. Now when the kids come home, I can't wait for them to leave – my how things change.

My hobbies include Golf, Tennis, Snowboarding, Brazilian Jiu-Jitsu, and I am just learning photography. I also play the Ukulele and Sing for fun. I'm the Jack of all trades and master of none. I am decent at all of them, but I'm not great at any of them.

Out of all my hobbies, I am the most competent with Brazilian Jiu-Jitsu. I started training Brazilian Jiu-Jitsu in 1998 and finally received my black belt in 2014. That was a great accomplishment for me. To create something so late in life and see it to completion is just awesome!

*continued on page 15*





I received my first-degree black belt in 2016, and I'm due for my second degree soon in a couple of years. Then, I can teach and train students and issue belts to promote students – all my promoted belts registered in Brazil under the Federacao Paulista De Jiu-Jitsu Federation. I am the 40,065<sup>th</sup> registered Brazilian Jiu-Jitsu within this Federation. I still train today, and I love it.

### Q What do you do for work? What does your typical day look like?

A I have served as the Vice President of Marketing for S.B.S. Trust Deed Network and S.B.S. Lien Services since January of 2010. My primary responsibility is to build and maintain long-lasting relationships with all clients and strategic partners. For the last ten years, I have created and maintained long-lasting relationships with my customers. Reaching out to customers and proactively addressing their needs and concerns is my greatest asset. I am confident that moving forward, I will treat a new client with the same enthusiasm and professionalism that I have for the last ten years. It is always an honor to serve as a client's partner and account representative.

When I am out on the road, I do client visits, attend luncheons, and travel for

tradeshows and various industry events. CEO and Owner of S.B.S. Trust Deed Network, Mitch Willet, is a big believer in physical in-person marketing. He took me to all the industry events and explained why we attended different events. I remember Mitch telling me, go to the bar, order some drinks, and meet people, that's your job. I remember it well, and it is precisely the way I market myself today. It's a very organic relationship-driven approach. If I am golfing with a potential client, I typically don't like to talk about business. I'm there to golf, talk about life, family, reflect, and have a good time. We all know why we are golfing. I enjoy hanging out and getting to know people on a personal level. When it comes to living life, we are all in the same boat. We work, we play, and we experience.

I typically travel and fly 50 times a year to various tradeshows and events. It is where I meet most of my valued relationships. Then comes the follow-up. If you do not consistently follow up and maintain a database management system with people you meet at these trade shows and conferences, you will not be successful. Marketing may look like fun, but the numbers must work to keep the doors open and to stay employed. It's all about the numbers, and with that comes daily pressure that we put on ourselves.

When I'm not traveling, I typically go to the gym in the morning and do an hour spin class, then hit the weights, grab some coffee, then train Jiu-Jitsu for an hour and a



half, then I head home to do client follow up, database management, prospecting and work on my schedule for future events. It takes balance to be at this at a high level for a long time, and I need the physical outlet.

### Q How did you find yourself working in this industry? Was it love at first sight or a longer path?

A I was a schoolteacher on Maui, just out of college; then, I changed career paths. I worked part-time during the Summers at the Kealani Hotel as a Bellman. I met a hotel guest, and we immediately hit it off, so I took him golfing at the various courses on Maui. He ended offering me a job in the mortgage industry. I told my wife, who is from Los Angeles that I was going to check it out, and I would either call her to let her know I was coming back home or get packed, were moving to San Diego. When I got to San Diego, the new mortgage company gave me the smallest office without windows in the building, and rightfully so, I was horrible at selling. Three years later, by the time I left, I was the sales manager and with the largest corner office with windows in the building.

Repetition is the mother of skill, and I just outworked everyone. I was the first in and the last one out and worked on Saturdays and Sundays. Leads would call in, and I would be the only one there to help them. I went on the start my own mortgage company with 15 loan officers, which I trained. I had two other partners, and we made an excellent living for five years. Altogether I was a loan officer from 1998 to 2010. I did very well up to 2010 when the mortgage industry crashed.

I was one paycheck from living under a bridge, so love at first sight.

I became a crossing guard at my children's school when a parent asked me if I was interested in a Marketing position for a friend of his. He happened to be college

*continued on page 16*

classmates with Mitchell Willet, President and Owner of S.B.S. Trust Deed Network. I met with Mitch for lunch, and he hired me on the spot. It was Mitchell Willet, who introduced me to the private lending profession and the industry as a whole.

I remember my first CMA seminar; it was in Huntington Beach, California. I did not know anyone, including Mitch, and it was the cocktail hour. I dove into an empty seminar room and started hyperventilating. Then I went back into the cocktail hour and blended in. I was so scared, and I can't explain why. Today, it's an old hat!

## Q Who is your ideal/target customer?

A My ideal target customer is the smaller private money lenders, Attorneys, Commercial Banks, ones that I can spend time with and get to know to earn their friendship and business. Sometimes, it's hard to achieve that with the larger companies.



## Q What sets your company apart from others?

A It starts at the top with our Leadership. Our President, Mitchell Willett sets the vision for the

Company. Then, our Executive Vice President, Jennifer Kennick, executes the policies and/or procedures to implement our core competencies. Every successful company must have a clear vision and someone that can execute the plan. Our team from Top to Bottom stands ready to provide the Comprehensive, Personalized Service, Attention to Detail & Technical Expertise you would expect. Thus, the acronym S.B.S. Simply Better Service. We will exceed expectations in that area, and that comes straight from the top.

## Q How long have you been a member of the CMA? Why did you join the CMA?

A It has been ten years now, and our President, Mitch Willet, looks at CMA as a priority event. This segment of the market that we remain passionate and committed to. I joined CMA because of Mitch Willet.

## Q Knowing that you have attended many CMA seminars, what is one thing you look forward to the most at each event?

A Without question, it has to be the S.B.S. Trust Deed Network sponsored cocktail event. We all look forward to it after a long day, and it's a time when we can relax, talk story, and enjoy the many friendships that we have. For me, it's a definite highlight because I have the extra drink tickets.

## Q Since the COVID-19 stay-at-home order implemented in March, how has the shutdown/economy impacted your work?

A For me, it has shut down the way I market. I can only do so many zoom meetings, staring at my face, and realizing my head is always tilting to the right. Then when I try to correct it, I do it going the wrong way. On the other hand,

the downtime has allowed me to update my home office and computer system with efficiencies that help productivity. It has been tough being in front of a computer all day. I work better by focusing on a 3-4 hour window.

As far as foreclosures, I believe we will see more activity because of COVID-19, and it's too early to tell just how much. The market always finds a way to correct itself. NINA, SISA, NODOC, Sub Prime, Hard Money, Institutional and Non-Institutional Money, and my new favorite Non-QM, LOL... Bridge Loans programs became very prevalent in the commercial lending space and stopped what we thought was going to be a title wave of foreclosures.

## Q Describe your idea of a perfect day. Where would you be? Whom would you be with? What would you be doing?

A I would get up and go to the gym in the morning and do an hour spin class, then hit the weights, grab some coffee, then train Jiu-Jitsu for an hour and a half, and then I head home and grab a light lunch. Then I would do my client follow-ups, database management, prospecting, and work on my schedule for future events.

During that time, I get calls and commitments from three new clients resulting in three massive foreclosures for the day. Then I make some dinner for my wife, Sherie, relax with a little wine, hit the rack, and repeat.



## Q What is the last app you downloaded on your phone, and why did you download it?

A I just downloaded Grammarly Premium. It is the best application to help correct your lousy writing skills. 🗣️

# November 4-5, 2020 Virtual Vegas Lights



## WEDNESDAY, NOVEMBER 4, 2020

### 8:30 am - 10:00 am Pool Manager's Focus Group

Moderated by Glenn Goldan, Founder & CEO, ReProp Financial;  
Shafiq Taymuree, Executive Vice President, Stonecrest;  
and Brad Rogerson, Esq., Partner, Hanson Bridgett LLP

Calling all fund managers! CMA's PMG is back in a whole new format. Catch up on the world of fund managers, all from the comfort of your home or office. Topics covered will be the annual State of the Industry reporting on the fund profiles, including 2020 YTD results; updates on the Accredited Investor Rule; and a look at how COVID is affecting both markets and funds throughout California. Like a typical PMG focus group, you'll hear from you – our members, and many of our industry leaders, including practitioners, attorneys and accountants, all with the aim of sharing the most up to date info with the group. Everyone benefits when everyone shares. Come see why.

**Attendance limited to Pool Managers Focus Group members who qualify and pre-register. Contact Teresa Excinia, [teresa@caladmanagement.com](mailto:teresa@caladmanagement.com), if this will be your first time attending the Pool Manager's group meeting.**

### 10:15 am - 11:45 am Construction Lending Focus Group

Laura Blair, Esq., Chief Operating Officer & General Counsel, Buildzig;  
Brad Rogerson, Esq., Partner, Hanson Bridgett;  
Moderated by Dave Herzer, President, Herzer Financial Services

The Construction Lending Focus Group is back in business! In this program we'll take a look at financing ADU construction, both for owner/consumer and business purpose loans. How do state laws affect the permitting process? When does an ADU construction loan qualify as a business purpose loan? How do today's foreclosure laws affect ADU lending? What are your options under CA's two licensing structures? All this and more will be covered by this top team of legal and business experts. All attendees are welcome.

## THURSDAY, NOVEMBER 5, 2020

8:00 am **Site Opens**  
**Networking Lounges Open**  
**Exhibitor Hall Open**

8:30 am **Welcome Message**  
CMA Board of Directors

### 8:45 am - 9:45 am CMA Town Hall Meeting & Sacramento Report

Noah Furie, Executive Vice President and COO, Budget Mortgage Corp.;  
Mike Belote, CMA Legislative Advocate;

Moderated by Robert Finlay, Esq., CMA General Counsel

Legislative changes in CA this year really have been the 'talk of the town.' And not in the best sense. Join CMA General Counsel, Robert Finlay, as he moderates a discussion on new regulatory and legal changes with CMA's legislative advocate, Mike Belote, and industry leader, Noah Furie of Budget Finance. They'll look into the complicated post-foreclosure requirements of SB 1079, California's new Dept. of Financial Protection and Innovation (mini-CFPB), Covid impacts on loan originations, default and foreclosure challenges in the current environment, and recent developments within the private lending industry. It's been a tough year. Our expert team will help you sort it all out.

### 10:00 am - 10:45 am CONCURRENT BREAKOUT SESSIONS:

#### SESSION 1 Social Media Marketing for Private Lending

Ruby Keys, Vice President, Geraci Media;  
Brad Laddusaw, CFO and CIO, S&L Capital Group;  
Moderated by Rocky Butani, CEO, Private Lender Link

Every business should use social media, correct? But why? Let our team of marketing gurus explain why social media is a crucial element of your marketing campaign, and how you can best navigate it. Which platforms should lenders use? Are Instagram and Facebook worth the effort? How to stay consistent with your postings. You'll get answers to these and more in this informative program especially curated for the private lender.

#### SESSION 2 Is a Bankruptcy Tsunami Coming?

Ben Levinson, Esq., Law Office of Benjamin R. Levinson, APC;  
Evan Frank, COO, United Security Investors;  
and Michelle Rodriguez, Esq., Corporate Counsel and Chief Compliance Officer, Woodland Hills Mortgage Corp.

Is there a bankruptcy tsunami coming? Given the COVID-induced recession, it's entirely possible. Arm yourself with information and get ahead of any problems that may arise. This program will cover many issues lenders are currently facing in the bankruptcy world, from basic to high-level. Ben Levinson will share with you the most recent bankruptcy filing games that debtors are playing, and provide you with strategies to combat them. Let Ben and our team of practitioners guide you through the information you need to know now to prepare for what's next.

### 11:00 am - 11:30 am Speed Networking

One half hour devoted expressly to meeting as many people as possible in 4-minute increments! Speed networking is a fast-paced adventure, and one of our members' most enjoyed programs. Lenders, vendors, brokers and affiliates, all are welcome to meet and greet virtually. Polish off your elevator pitch and join in the fun!



# November 4-5, 2020 Virtual Vegas Lights



12:00 noon

**President's Message**  
**Member Compilation Video**  
**Acknowledgment of Sponsors**  
**PAC Raffle**

12:30 pm - 1:30 pm **The CMA Knowledge Bank: Broker Round Tables**

*Moderated by Sandy MacDougall, President, Mortgage Vintage and CrowdTrustDeed*  
A rewarding experience for attendees, the Broker Round Table sessions are a must-do at our conferences. Held in video lounges so you can easily interact with your colleagues, each room will have a practitioner moderator to foster the discussion, and an attorney to address the legal issues that arise. Engage in lively discussion, share ideas and solutions, and get to know your fellow members at a deeper level. All with the goal of improving your business operations and results. It's a win-win plan!

1:45 pm - 2:30 pm **CONCURRENT BREAKOUT SESSIONS:**

**SESSION 3** **Out of State Lending:  
A Deep Look at WA, CO and OR**

*Nema Daghbandan, Esq., Partner, Geraci Law*  
Continuing our series on lending outside of California's borders, we'll take a deeper look at operating in three Western Regional states: Washington, Colorado and Oregon. Join Nema Daghbandan as he shares the tools of the trade in licensing, origination, servicing and foreclosure requirements for these states. Which states are the most similar to California, and which aren't? What are the securities implications? What types of loan documentation should you use? These questions and more will be answered by Nema in this fast-paced need-to-know presentation.

**SESSION 4** **Revisiting AB 3088: Mortgage Forbearance  
and Rental Payment Default Requirements**

*Michelle Rodriguez, Esq., Corporate Counsel and Chief Compliance Officer,  
Woodland Hills Mortgage;*  
*Elizabeth Knight, CMA President;*  
*and Robert Finlay, Esq., CMA General Counsel*

Are you up to speed on AB 3088? You should be. Recently passed and **already effective**, this new law will change the way you service your loan portfolio – and not just the consumer loans. In addition to expanding the Homeowner's Bill of Rights to SFR 1-4 non-owner occupied properties, it also mandates specific requirements for handling borrower forbearance requests, and it limits the circumstances where tenants can be evicted for non-payment of rent. Michelle, Liz, and Robert will cover the particulars of this new law in September, giving you practical advice on how to manage these new requirements. This program is a second chance to catch what you might have missed.

2:30 pm - 3:30 pm **Networking Lounges Open**

3:30 pm **Seminar Concludes**

## PRICING and REGISTRATION

	Registration received on or before October 29, 2020	Registration received from October 30, 2020 to date of seminar
CMA Member	\$100	\$150
Additional Attendee Same Company	\$100	\$150
Non-Member	\$150	\$200
Registration Total	\$ _____	\$ _____
PAC Raffle Tickets (voluntary; \$20 or more)	\$ _____	\$ _____
<b>TOTAL ENCLOSED</b>	<b>\$ _____</b>	<b>\$ _____</b>

Please [click here](#) to register online.



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- **AirPods:**  
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*David Herzer*



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**\$75,000**  
**Goal**

**\$17,931**  
**raised so far since July 1, 2020**



# CMA Persuades Court to Publish Major Opinion on Forged Property Transfers

by  
**T. Robert  
Finlay, Esq.  
Wright,  
Finlay &  
Zak, LLP**



**T**he CMA is pleased to announce that it was able to persuade the California Court of Appeals to publish its recent opinion in *WFG National Title Ins. Co. v. Wells Fargo Bank, N.A.*, Second Appellate District Case No. B294249 [ordered published July 7, 2020].

The *WFG National Title Insurance Co.* opinion addresses a significant and, unfortunately, all too often occurring problem affecting the rights and interests of secured collateral lenders, servicers, title insurers, foreclosure trustees and – perhaps most significantly, consumer borrowers. Specifically, the case puts a neat pin into arguments regarding the effect of fraudulent transfers of real property interests on the rights of the parties affected by those transactions, deflating the efforts to essentially steal the property from those with legitimate right, title and interest in the property.

In this case, some of the defendants had set up a sham transaction by which a seller purported to sell a property to a buyer who obtained a mortgage loan from a third party lender to fund the purchase.

As it turned out, the seller did not own the property because the recorded trustee's deed upon sale that appeared to convey title from the original lender to the seller was forged. When the buyer subsequently defaulted on the mortgage loan, the third party lender discovered that its deed of trust, purportedly secured by the property, was based on a forged trustee's deed upon sale and, hence, worthless.

The third party lender then sued the persons involved in the fraudulent scheme but also sued the original lender and its loan servicer, arguing that they had a duty to have discovered and prevented the forgery before the third party lender could get defrauded. The third party lender claimed that, as a result of the breach of that duty, the original lender's deed should be deemed to be junior to the third party lender's deed as a matter of equity.

The court disagreed, holding that the original lender and its servicer had no ongoing duty to monitor public records in order to detect, and correct, a fraudulent or erroneous recording to protect third parties who might rely on those fraudulent

or erroneous recordings. Unfortunately, the original decision was not published.

Why does publication of this decision matter? As an unpublished decision, this case would not have been able to be cited as authority in any future case raising similar issues. The last published opinion clearly reaching the same conclusion was issued in 1871. The recording of forged deeds and reconveyances in an attempt to steal property or thwart a foreclosure is nothing new but there has been an uptick in such cases in recent years (including more by strangers to the loan looking to take advantage, sometimes even without the borrowers' knowledge) and we anticipate even more such attempts once the moratorium on foreclosures ends and borrowers scramble for forbearances and refinances in the wake of the pandemic. This will set up future disputes between the legitimate original lienholder and subsequent third parties who were defrauded into making loans on the same property under the belief they would be in senior position. Publication of this opinion will help stem the flow of such cases or, at least, expedite their resolution. 🌐





# Changes to Partnership Reporting



by  
**Derrick Foote**  
*Duner and Foote*

**T**he IRS has had its sites set on how partnerships report information to their partners. On each partner's K-1 at the bottom left corner there is a capital account reconciliation. The capital account reconciliation keeps track of the partners beginning capital, contributions, income or losses and distributions, so that the reader understands the partner's investment in the partnership. This gives the partner a snapshot of their interest in the partnership. In previous years and up until 2019, the partner capital account could be reported under four different accounting methods. The four methods were: Tax Basis, GAAP, Section 704(b), and the nebulous "Other" box, as noted below in an example of a 2018 K-1 capital account disclosure.

**L Partner's capital account analysis:**

Beginning capital account . . . . . \$ \_\_\_\_\_

Capital contributed during the year . . \$ \_\_\_\_\_

Current year increase (decrease) . . . \$ \_\_\_\_\_

Withdrawals & distributions . . . . . \$ ( \_\_\_\_\_ )

Ending capital account . . . . . \$ \_\_\_\_\_

Tax basis     GAAP     Section 704(b) book

Other (explain)

**M Did the partner contribute property with a built-in gain or loss?**

Yes     No

If "Yes," attach statement (see instructions)

capital on their K-1s. When the 2019 forms were issued in draft form, practitioners discovered that the only accounting method that could be used to report partner capital was the tax method. Partnerships were no longer allowed to report capital using another accounting method based on the 2019 draft forms. The IRS received feedback from the accounting community (specifically the Big 4 accounting firms) and recognized that many taxpayers and practitioners would struggle to adopt the new rules on such short notice. Under the regulations, it was the partner's responsibility to track their tax capital, so some partnerships didn't have each partner's tax capital readily available. A partnership that reported capital under GAAP for instance, that had been in existence for a long period or had a significant number of partners, was faced with a challenging reporting burden. The IRS subsequently released Notice 2019-66, which provided relief and postponed the implementation of tax capital reporting until 2020 (taxable years that end on or after December 31, 2020).

For the 2020 reporting year partners' capital will have to be stated on a K-1 using the tax capital method of accounting. The IRS recently confirmed the use of tax capital and the methodologies that can be used in determining partners' tax capital under Notice 2020-43.

Notice 2020-43 provides guidance on the methodologies that can be used to report tax capital for each partner while soliciting feedback from the public regarding the implementation of reporting partner capital under the tax method. Currently there are two methodologies that are listed within Notice 2020-43:

## Modified Outside Basis

Under this method a partner's tax capital is determined under the usual manner of increasing their capital by profits, contributions

Oftentimes a partnership would choose to report each partner's capital account reconciliation using Generally Accepted Accounting Principles ("GAAP"). This made a lot of sense since the financial statements are oftentimes reported under GAAP due to a requirement from a lender, language within an operating agreement or a regulatory requirement. Using the GAAP method gave the partner an understanding of their portion of the equity reported on the financial statements.

The IRS has been warning taxpayers the last couple of years that they were going to make changes to the reporting of partner's

*continued on page 24*



and their share of recourse liabilities and subtracting losses and distributions. This sounds straightforward, but if the partnership has not been maintaining tax capital what is the best way to obtain it? One option is to request the tax capital from each partner as it was previously their responsibility to maintain it. How many partners will respond to this request? I am guessing not too many.

One other option is that the manager or the practitioner can create a tax basis schedule model in lieu of requesting information from the partner. This may not be practical if the partnership has been in existence for several years and has a significant number of partners.

### Modified Previously Taxed Capital

A partnership that cannot satisfy the Modified Outside Basis method can use the Modified Previously Taxed Capital method.

This method is somewhat subjective in that you are determining the partner's tax capital using the following steps:

- a. The amount of cash that the partner would receive upon a liquidation of a partnership under a hypothetical transaction, increased by,
- b. The amount of tax loss that would be allocated to the partner under the hypothetical transactions, and less
- c. The amount of tax gain that would be allocated.

The Modified Previously Taxed Capital Method requires a statement to be attached to each partner's K-1 stating that this method is being used and describing the method in determining the value of the partnership.

Notice 2020-43 is requesting comments from the community regarding the

proposed methods described above. I would suspect there will be changes to the methodologies listed above and there could be additional methodologies available. The one certainty is that tax capital will be required to be reported on each partner's K-1 for 2020 filings. The only question is how we arrive at the tax capital number for each partner.

If you have a fund with a significant number of partners or has been in existence for a number of years it is best to discuss with your practitioner which approach is best for you to meet the tax capital reporting requirement. January will be here before we know it. 🌐



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# STRICKTLY STRICKLAND



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**MORTGAGE INDUSTRY  
INFORMATION, OPINIONS & TIPS**

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## DRE Audits and You: Part 3 — Trust Accounts

**R**emember the old days when licensees received the DRE Real Estate Bulletin in the mail every quarter and we quickly opened to the middle of the publication to read the list of brokers who were suspended, restricted or revoked? Remember how many of those suspensions, restrictions or revocations were caused by trust account violations? Even though we don't get to rush and open the mail to look, we can now see the list on the internet every month or even receive e-mail notifications of disciplinary actions right to our inboxes. And, guess what? The majority of those actions are still due to trust account violations.

The DRE has a zero tolerance policy for violations of the rules and regulations regarding the handling of trust funds. In order to understand the requirements of recordkeeping, it is extremely important for anyone dealing with the broker's trust account to thoroughly read and understand Chapter 21 of the Real Estate Reference Book. This is available online at the DRE's website ([www.dre.ca.gov](http://www.dre.ca.gov)) under PUBLICATIONS.

In an investigation by a DRE Special Investigator or during an audit conducted by a DRE Auditor, the following trust account documentation is requested from the broker for review:

### **A Certified Copy of the Bank Signature Card for All Trust Accounts**

The Department is checking to make sure that the account is set up in the name of the broker, corporation or dba, that the account is designated as a Trust Account, that the broker is a signer on the account and is identified as "Broker, as Trustee" on the account, that any additional signers are licensed to the broker and have a written agreement with the broker specifically authorizing the ability to sign on the trust account (separate from the Broker-Licensee Contract/Commission Agreement) OR that any additional non-licensed signers are W-2 employees of the broker, with a written agreement authorizing the ability to sign, and that the broker has obtained an acceptable fidelity bond naming such employee(s) that is insuring an amount that equals or exceeds the maximum amount of funds

that ever hit the trust account, that the account is held in a California chartered bank and that the broker receives no interest or benefits from the account. If the account is an analysis account, that fact must be disclosed to the investor or borrower.

### **Bank Statements and Monthly Reconciliation Records**

The auditor could ask for up to three (3) complete years' worth of records, but will generally choose a cut-off date for their audit and will review three (3) months' to one years' worth of recent records.

### **Copies of Cancelled Checks (Back and Front)**

Many banks do not provide originals or copies of checks, but this is a DRE requirement. Check with your bank to see how far you can go back online (remember, retention period is three (3) years!) or talk to your bank about your options. Some offer CD's of check copies with the bank statements (for a fee, of course).

*continued on page 26*



### Record of all Receipts/Deposits

#### Columnar Record of Trust Funds Received and Paid Out (Control Record)

In plain English, this is the daily running balance of the account (like a checkbook register).

### Separate Beneficiary Records

#### Invoices Related to Trust Account Disbursements

In their letter of request, the DRE Special Investigator will often provide the following expanded request:

Columnar and control records showing all funds received and disbursed described in Regulation 2831, Title 10, Chapter 6 of the California Code of Regulations for the past three (3) years;

Separate records for monies received and disbursed in the separate transactions as described in Regulation 2831.1, Title 10, Chapter 6 of the California Code of Regulations for the past three (3) years;



All monthly reconciliations of the columnar and separate records as described in Regulation 2831.2, Title 10, Chapter 6 of the California Code of Regulations for the past three (3) years.

Now, once you provide the DRE employee with the above, the digging begins. It can take them days or weeks to go through every deposit, every credit, every debit, every beneficiary statement, each reconciliation and bank statement, well, everything. They may request more information, additional explanations, etc.

Ask yourself one simple question: Am I prepared to face a DRE trust account audit if the DRE walked into my office today? 🕒

Pam Strickland is a compliance consultant who helps DRE brokers prepare for and survive DRE audits and office surveys. She can be reached at [pam@pamstrickland.com](mailto:pam@pamstrickland.com).

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DUNER AND FOOTE



# Power of Membership

### Mission Statement

The California Mortgage Association is committed to providing legislative advocacy, legal resources and education programs for our members to enhance their professionalism. We believe that the public good is served when professionals serve the public.

### Regular Member

Any reputable individual, sole proprietorship, corporation, limited liability company, or partnership primarily engaged in the Mortgage Business in the state of California.

### Affiliate Member

Any reputable individual, sole proprietorship, corporation, limited liability company or partnership who regularly provides services or products to persons engaged in the Mortgage Business.

### Educational Member

Any reputable individual, sole proprietorship, corporation, limited liability company or partnership engaged in the Mortgage Business who is not subject to the provisions of Business & Professions Code § 10232(a)-(b) ("threshold broker"), or under any successor statute.

# MEMBERSHIP APPLICATION

Name: \_\_\_\_\_

Company: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip +4: \_\_\_\_\_

Day Phone: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Annual Gross Closings: \$ \_\_\_\_\_ Referred by: \_\_\_\_\_

### PLEASE LIST ALL LICENSES HELD:

License No.	Regulator/Issuer (i.e., DRE, NMLS, etc.)
_____	_____
_____	_____
_____	_____
_____	_____

Has your license or that of an affiliated company ever been suspended or revoked or have there been any complaints within the last ten years? If yes, please provide details:

\_\_\_\_\_  
\_\_\_\_\_

Tell us about your professional work history:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tell us about your current company history and business focus, branches, employees, and other pertinent details:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

How did you become aware of CMA?

\_\_\_\_\_  
\_\_\_\_\_

Do you know other CMA members? If yes, who?

\_\_\_\_\_  
\_\_\_\_\_

### PROFESSIONAL REFERENCES

Name _____	License Number (if a licensee) _____
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Relationship _____	
Phone _____	E-mail _____

Name _____	License Number (if a licensee) _____
Firm Name _____	
Relationship _____	
Phone _____	E-mail _____

Name _____	License Number (if a licensee) _____
Firm Name _____	
Relationship _____	
Phone _____	E-mail _____

**In which CMA Committee or Committees are you interested?**

- Membership  Dodd-Frank  Points of Interest Magazine  Advertising/Vendor  Education  
 Continuing Education  Legislative  Other

**I would be interested in participating in the following focus group:**

- Commercial:** For those members whose interest is commercial finance. While we meet as a whole, we have organized into two chapters – Northern and Southern California. Select the location where you do the most lending.  
 Northern CA  Southern CA
- Securities:** For those members who are using "non-DRE" methods of raising capital for your loan investments or would like to learn more about securities like pools and permits.
- Consumer:** For those members who are arranging owner-occupied 1-4 unit loans, want to stay up-to-date on the laws and invent new possibilities in this lending arena.

I hereby make application for membership in the California Mortgage Association and pledge myself, if accepted, to abide by the requirements of their By-Laws and Code of Ethics as they are now and as they may be amended. Applicant acknowledges that the use of the Association logo is exclusive to members only, and applicant agrees to cease utilizing the logo upon termination of membership. By becoming a member, applicant authorizes CMA to send information on products and services by phone, fax or e-mail under U.S.C. 47 sec. 227. Applicant certifies that the foregoing information and annual gross closings are correct.

Signature (required) \_\_\_\_\_

**DUES PAYMENT OPTIONS: Dues are based on your annual gross closings. Please select one:**

- Regular Member** — (\$1 million and above per year): \$125/month  
 **Affiliate Member** — Billed Annually (No voting privileges): \$500/year  
 **Educational Member** — (Open to non-threshold and sales individuals. No voting privileges): \$75/month

**Mail Application with Payment to:**

2520 Venture Oaks Way, Suite 150 • Sacramento, CA 95833

If paying by credit card, you may fax to: (916) 924-7323 • Questions? Call (916) 239-4080 or visit [www.californiamortgageassociation.com](http://www.californiamortgageassociation.com)

**Contributions or gifts (including membership dues) to CMA are not tax deductible as charitable contributions. Pursuant to the Federal Reconciliation Act of 1993, association members may not deduct as ordinary and necessary business expenses, that portion of association dues dedicated to direct lobbying activities. Based upon the calculation required by law, 18% of the dues payment only should be treated as non-deductible by CMA members. Check with your tax advisor for tax credit/deduction information.**

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CMA offers a convenient automatic payment plan for your membership. Dues will be charged to your credit card on the 1<sup>st</sup> of each month. The first month's payment or annual dues payment is required to activate your CMA Membership. By signing below you authorize the California Mortgage Association to initiate credit card charge(s) to remain in full effect until written notification from you is received by CMA, in accordance with the terms and conditions contained herein.

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# WELCOME NEW MEMBERS



The California Mortgage Association welcomes the following members who are new to the association:

**John Campagna**  
**Capital Equity Funding, Inc.**  
P.O. Box 30213  
Walnut Creek, CA 94598  
(925) 935-3200  
[jcampcrs@aol.com](mailto:jcampcrs@aol.com)  
Regular Member

**Grif Hiatt**  
**Bench Equity, LLC**  
1223 S. Clearview Avenue, Suite 103  
Mesa, AZ 85209  
(480) 222-5852  
[ghiatt@cb-ch.com](mailto:ghiatt@cb-ch.com)  
Regular Member

**Brian Gallian**  
**NDetail Capital LLC**  
819 W. 16<sup>th</sup> Street  
Newport Beach, CA 92663  
(480) 250-5243  
[ndetailinv@gmail.com](mailto:ndetailinv@gmail.com)  
Educational Member

**David Murphy**  
**Agricultural Finance**  
31878 Del Obispo, Suite 118-244  
San Juan Capistrano, CA 92675  
(650) 209-4831  
[dmurphy@agricultural-finance.com](mailto:dmurphy@agricultural-finance.com)  
Educational Member

## BENEFITS OF MEMBERSHIP

**CMA** is one of the fastest growing statewide associations and we thank all our members for their support! You are encouraged to share with your nonmember colleagues all of the membership benefits and reasons you belong to the association. Encourage them to join – applications can be found on the CMA Web site – [www.californiamortgageassociation.com](http://www.californiamortgageassociation.com), or by calling the headquarters office at (916) 239-4080.

Please remember to share information about the Focus Groups that are provided to members only. Additional information can be found on the CMA website. There are many exciting educational programs being planned.

Thank you again for all of your support and contributions to CMA and the private loan industry!

## Sacramento Summary – continued from page 5

and foreclosure relief will be necessary next year. The issue is not over!

Perhaps the second most significant bill for CMA in 2020 was SB 1079 (Skinner). Designed to address what the author perceives as a problem of large investors scooping up foreclosed houses, leading to “corporate rental” neighborhoods, SB 1079 proposes a complicated scheme creating a 45-day period after trustee’s sales, during which certain entitled parties can obtain properties by “overbidding” the last and highest bid at the foreclosure sale.

CMA and our other real estate partners argued that this approach could well discourage bidding at sales, to the detriment of owners losing their properties, and contribute to blight, since no party will be incentivized to maintain properties during this 45-day period. While we were unsuccessful in defeating the bill, which was ultimately signed by Governor Newsom, we did obtain a series of amendments to improve the bill. Be sure to attend the CMA Fall Seminar for more details on this very significant bill.

The upshot? Given the pandemic, the year could have been a lot worse. But also given the pandemic, legislative attention to evictions and foreclosures could well continue into 2021. Stay tuned! 🗣️





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