

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of )  
THE MARBLE COMPANY )

Appearances:

For Appellant: Edward Landels, Attorney at Law  
For Respondent: Burl D. Lack, Chief Counsel;  
Crawford H. Thomas, Associate Tax Counsel

O P I N I O N

This appeal is made pursuant to section 26077 of the Revenue and Taxation Code from the action of the Franchise Tax Board in denying the claim of The Marble Company for refund of franchise tax and interest in the total amounts of \$5,429.56, \$4,177.26 and \$4,110.64 for the income years ended September 30, 1955, 1956 and 1957, respectively.

Appellant is a California corporation which for many years has been engaged in the business of acting as a "loan correspondent" for insurance companies and other institutional investors in the manner hereinafter described.

During the years on appeal, appellant made loans which were secured by first mortgages or first deeds of trust on real estate. The loans made by appellant may be classified as government insured "FHA" or "VA" loans, conventional or uninsured loans and construction loans. A substantial number of such loans weresimilar to real estate loans made by national banks,

Usually within six months from the time they were originally made, the loans were sold to life insurance companies and other institutional investors without recourse. Charges to the purchasers in excess of the amounts of the loans are characterized by appellant as "commissions." After the loans were sold, appellant serviced them by collecting installments and providing other services, such as making certain that the underlying properties were kept insured and that taxes upon them were paid.

As a general rule, appellant made no loan without prior approval by the particular insurance company or until the latter had

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committed itself to purchase the loan or, in the case of construction loans, had agreed to make a "take-out" loan at the completion of construction. Appellant then made the loan in its own name, using its own capital or funds borrowed from banks. Between the time that a loan was closed and the time when it was assigned to one of the life insurance companies, the loan papers were usually pledged with a local bank to secure funds which appellant employed to close other loans upon which it had received commitments from insurance companies. The latter always accepted the loans at the same interest rate previously negotiated with the borrowers. Appellant serviced only those loans originally made by it,

During the income years involved, appellant had the following capital available for loans:

1955	\$298,632.43
1946	333,769.98
1957	375,500.66

During the years involved appellant made the following loans:

<u>Year ending</u>	<u>Type</u>	<u>Number</u>	<u>Amount</u>
9/30/55	Conventional	377	\$10,933,021.02
	FHA	92	1,232,323.49
	VA	63	834,678.98
		<u>532</u>	<u>\$13,000,023.49</u>
9/30/56		405	
	Conventional	53	\$ 9,654,813.13
	FHA		617,856.17
	VA	327	4,181,039.82
	<u>785</u>	<u>\$14,453,709.12</u>	
9/30/57	Conventional	379	\$10,730,489.73
	FHA	118	1,788,188.00
	VA	145	2,398,398.00
		<u>642</u>	<u>\$14,917,075.73</u>

Appellant's returns reported the following gross income:

	<u>9/30/55</u>	<u>%</u>	<u>9/30/56</u>	<u>%</u>	<u>9/30/57</u>	<u>%</u>
Interest	\$		\$ 59,471	12.19	\$ 76,432	14.54
Capital Gain	72,353	17.22	5,298	01.09		
Other Income	380,948	82.55	422,831	86.72	499,105	85.44
Dividends					112	00.02
	<u>\$463,225</u>	<u>100%</u>	<u>\$487,600</u>	<u>100%</u>	<u>\$525,649</u>	<u>100%</u>

The principal items of "Other Income" consisted of "commissions" on the sales of loans and servicing fees received on loans serviced by appellant after they were sold.

