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Texas Department of Banking

OPINION COMMITTEE

*Randall S. James
Banking Commissioner*

September 18, 2006

Certified Mail, Return Receipt No.
7005 1160 0000 4258 2801

The Honorable Gregg Abbott
Attorney General of Texas
c/o Nancy Fuller
Chair, Opinion Committee
P.O. Box 12548
Capitol Station
Austin, Texas 7871102548

FILE # ML-45003-06

I.D. # 45003

RQ-0534-GA

Re: Request for Attorney General Opinion: Whether § 12.107 of the Texas Finance Code prohibits the Texas Banking Commissioner from serving on the board of directors of a non-profit foundation established to promote financial literacy.

Dear General Abbott:

Pursuant to § 12.107 of the Texas Finance Code, an employee of the Texas Department of Banking (Department) may not serve as an officer of a Texas trade association in an industry regulated by the Department. As authorized by § 402.042 of the Texas Government Code, I write to request an Attorney General Opinion on the question of whether § 12.107 prohibits the Texas Banking Commissioner from serving on the board of directors of Main Street Foundation d/b/a IBAT Education Foundation (Main Street), a corporation established to promote financial literacy at the local level. The Texas Department of Banking (Department) is actively involved in the promotion of financial education and has recently established the FTE position of Financial Education Coordinator. I believe that active participation with and membership on the Main Street board of directors is consistent with and complements the Department's activities and objectives related to financial literacy. However, I want to make certain that my service would not constitute a prohibited conflict of interest. I therefore ask your opinion regarding the following:

- (1) Is Main Street a "Texas trade association" as that term is defined in § 12.107?
- (2) If the answer to the first question is "yes," is the Texas Banking Commissioner an association "officer" for purposes of the § 12.107 prohibition if he serves as a member of the Main Street board of directors?

(3) If the answer to the second question is "yes," may the Texas Banking Commissioner meet with and participate in the deliberations of the Main Street board of directors in an advisory capacity and not as a voting member of the board?

As reflected in the enclosed Main Street by-laws and IBAT Foundation information materials, Main Street was formed in 2002 by the Independent Bankers of Texas (IBAT), a banking trade association comprised primarily of community bankers. Main Street, a Texas non-profit § 501(c)(3) corporation whose mission includes promoting consumer financial education, operates independently of IBAT under the direction of a board of directors. Most of the board members are associated with either state or national banks or are representatives of IBAT. The directors serve without compensation, although they may be reimbursed for or advanced the costs they incur to attend meetings. According to the by-laws, Main Street has no members. The corporation is supported through contributions, grants and active fundraising, and provides resources to teach financial education and banking awareness to local bankers, civic organizations, and middle and high school students. Main Street's past activities include sponsoring a financial literacy summit attended by community bankers, bank regulators and educators to compare local literacy best practices and commissioning a research study with Texas Applesseed to measure banking products provided to and efforts made to reach the Hispanic community.

Section 12.107, entitled "Conflict of Interest," applies to the Department and provides in pertinent part as follows:

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state that:

(1) is primarily designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest; and

(2) includes business and professional competitors located in this state among its members.

(b) A person may not be a department employee if:

(1) the person is an officer ... of a Texas trade association in an industry regulated by the department

An argument may be made that Main Street is a "Texas trade association" within the meaning of § 12.107(a). The foundation may be considered to be a "cooperative and voluntarily joined association" among "business or professional competitors in this state" because most of the members of its board of directors are bankers. Additionally, financial illiteracy is a mutual business problem

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and enhancing financial literacy assists and promotes the common interest of many of Main Street's directors and the banking industry. However, Main Street has no "members" per se. Individuals and entities do not join Main Street and pay membership dues. Because § 12.107(a) defines "Texas trade association" in terms of having "members," the absence of members arguably removes Main Street from the scope of the definition.

If Main Street is determined to be a "Texas trade association," a member of the Main Street board of directors is likely to be an "officer" for purposes of § 12.107(b). MW-173 (1980) and JM-607(1986) held that a member of a trade association's board of directors is an officer within the meaning of the prohibition. Letter Opinion No. 98-054 (1998) held that a trade association committee chair or member of a trade association's nominating committee is not such an officer, but reaffirmed that the term "officer" includes members of a trade association's board of directors as well as the officers specifically named in the association's organizational charter or by-laws.

The importance of teaching Texans the basics of money and the problems associated with financial illiteracy has been well-documented. During the last regular legislative session, the 79th Texas Legislature passed several bills relating to financial literacy. As I explained previously, the Department is actively involved in the promotion of financial education in this state and shares many of the goals of Main Street. If you conclude that § 12.107 prohibits me from serving as a voting member of the foundation board of directors, please advise me whether, and subject to what restrictions, I may meet with and participate in the deliberations of the Main Street board of directors in an advisory capacity.

If you have any questions or would like the Department to provide additional information or briefing on any issue related to this request, please contact Sarah Shirley, General Counsel, at 475-1327.

Sincerely,



Randall S. James
Banking Commissioner

Enclosures

Who We Are / What We Do

Foundation History

The IBAT Education Foundation was formed in 2002 as the IBAT Main Street Foundation to provide Texas community bankers with practical resources to teach financial education and banking awareness on a local level to 5th grade, 7th grade and high school levels, civic organizations, and bankers.

The Foundation Board set out a three year plan to create a \$1 Million dollar corpus to act as the seed pod for development. While the core "banker educational needs" of IBAT members are met through an allocation of dues and tuition, the additional financial education outreach that can be accomplished via the Foundation resources is possible only with contributions, grants and active fundraising support that go above and beyond what is needed in a member driven trade association.

Mission Statement

IBAT Education Foundation: Building Financially Literate Communities.

Non-Profit Status

The Foundation is a 501 c-3 nonprofit, tax exempt organization operating independently under a board of trustees serving without compensation. The Board of Trustees represents a cross section of the community banks in Texas who have a sincere interest in our students and their success.

Investment Options

Your contribution is one of the best investments you will make, as it is an investment in the future. No matter how large or small your donation, it will be gratefully received and carefully appropriated to provide educational opportunities for the citizens of Texas. Support may be tax-deductible contributions in cash, annual or multi-year pledges, memorial and tribute gifts, real estate, stock, planned giving, matched giving, or in-kind gifts.

Donations are Tax-Deductible

Tax-deductible donations may be made to the IBAT Education Foundation, 1700 Rio Grande St. Austin, Texas 78701. For more information, contact Mary Lange, President, 800/749-4228; email mlange@ibat.org; or visit the IBAT Education Foundation Website at www.ibat.org/foundation

IBAT Education Foundation 2002-2005 At-A-Glance

Board of Trustees

- 20 members -two staff (one full-time director and one part-time assistant)
- 4 board meetings - (quorum present at all)
- 100% participation in donations
- Strategic Plan in place with quarterly measurement

Report Card of Events

- Financial Literacy Summit - 30 community bankers met with regulators and educators to compare best practices in local financial literacy efforts.
- Commissioned research study of IBAT members surveying banks who offer local high school scholarship. This study was done to see if there would be overlapping efforts between the Foundation and local bank initiatives.
- Commissioned Research Study with Texas Applesed to measure what banking products and what efforts are being currently used to to reach the Hispanic community.
- Awarded \$25,000 gift to the Cox School of Business on the campus of Southern Methodist University where it houses two of its bank education schools.
- Pre-convention Workshop offered to 2005 IBAT Convention attendees titled "Establishing A Successful Hispanic Banking Program In A Community Bank - or "What Your MOM Never Told You About Hispanic Banking".
- Entrepreneurs Dinner and Tour of Young Americans Center for Financial Education. 6 Board Members traveled to Denver on September 15 to see first hand the High School Mentor Program/Gala for 700 guests/Tour.
- 1st Annual IBAT Foundation Gala 2002. 273 Attendees.
- 2nd Annual IBAT Foundation Gala 2003. 283 Attendees.
- 3rd Annual IBAT Foundation Gala 2004. 324 Attendees
- 4th Annual IBAT Foundation Gala 2005. 350**Attendees

IBAT Education Foundation
Board of Trustees 2005-2006

Chairman

Cynthia L. Blankenship
Bank of the West, Irving

President

Mary E. Lange, CAE
IBAT, Austin

Members

Darrell Brown
Town & Country Bank, Stephenville

J. Pat Hickman
Happy State Bank, Amarillo

James T. Chambers
Town & Country Bank, Stephenville

Robert A. Hulseay
American National Bank of Texas, Terrell

B. A. Donelson
First State Bank, Stratford

Al Jones
American Bank, Corpus Christi

Charles T. Doyle
Texas First Bank-Texas City

Gil Leal
Texas State Bank, Harlingen

Gary D. Edmiston
Security State Bank, Odessa

Byron L. LeFlore
Jefferson State Bank, San Antonio

Charles Greef
Jenkins & Gilchrist, P.C., Dallas

Michaux Nash, Jr.
Dallas National Bank

D. Kenneth Greer
First National Bank of Mount Vernon

David R. Seim
Plains Capital Corporation, Dallas

Ex Officio Members

Mary E. Lange, CAE
IBAT, Austin

Ursula Jimenez, CAE
IBAT, Austin

Christopher L. Williston, CAE
IBAT, Austin

MAIN STREET FOUNDATION

BYLAWS

Underlined text reflects recently adopted revisions
to the By-Laws.

Date: December 4, 2003

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MAIN STREET FOUNDATION BYLAWS

ARTICLE I. OFFICES

Section 1.01 Principal Office

The principal office of the Corporation in the State of Texas shall be located in Austin, Texas. The Corporation may have such other offices, either within or without the State of Texas, as the Board of Directors may determine or as the affairs of the Corporation may require from time to time.

Section 1.02 Registered Office and Registered Agent

The Corporation shall have and continuously maintain in the State of Texas a registered office, and a registered agent whose office is identical with such registered office, as required by the Texas Non-Profit Corporation Act. The registered office may be, but need not be, identical with the principal office of the Corporation in the State of Texas, and the address of the registered office may be changed from time to time by the Board of Directors.

ARTICLE II. PURPOSE AND MISSION

Section 2.01 Purpose and Mission of the Corporation

The Corporation shall have its purpose and mission the education and training of community bankers. In furtherance of its purpose and mission the Corporation may:

1. Periodically engage in activities in order to raise funds from contributors;
2. Employ staff and obtain other resources in support of its educational objectives;
3. Conduct educational programs for community bankers and their staff;
4. Engage in activities designed to ensure the continued development of qualified community bankers;
5. Offer scholarships to its educational programs; provided, however, no contributor, relative of a contributor or employee of a contributor shall be eligible for a scholarship based on the funds received from such contributor;
6. Promote consumer financial literacy;
7. Offer scholarships in keeping with the Foundation's goals and objectives: provided, however, no contributor, relative of the contributor, or employer of the contributor shall be eligible for a scholarship based on the funds received from such contributor.

8. Provide recognition of bankers and banking industry vendors for their efforts in enhancing banking, promoting their local communities, and such other noteworthy activities as the Board may identify.

Notwithstanding anything herein to the contrary, the purpose for which the Corporation is organized is solely to perform educational and charitable activities within the meaning of Section 501 (c)(3) of the Internal Revenue Code.

Section 2.02 Prohibitions

The Corporation shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Section 501 (c)(3) of the Internal Revenue Code and related regulations, rulings, and procedures. The Corporation shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible contributions under Section 170 (c)(2) of the Internal Revenue Code and related regulations, rulings and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Corporation shall have no power to:

(a) Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.

(b) Serve a private interest other than one that is clearly incidental to an overriding public interest.

(c) Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.

(d) Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and other direct or indirect campaign activities.

(e) Have objectives that characterize it as a political action committee.

(f) Distribute its assets on dissolution other than for one or more exempt purposes, as outlined in Article Ten of the Articles of Incorporation of the Corporation.

(g) Permit any part of the net earnings of the Corporation to inure to the benefit of any private individual, except for recipients of scholarships.

(h) Carry on an unrelated trade or business except as a minimal secondary purpose related to the Corporation's primary, exempt purposes.

ARTICLE III. MEMBERS

Section 3.01 Non-membership Corporation

The Corporation shall have no members.

ARTICLE IV. BOARD OF DIRECTORS

Section 4.01 General Powers

The affairs of the Corporation shall be managed by its Board of Directors.

Section 4.02 Number, Tenure and Qualifications

The Board of Directors shall consist of fifteen (15) voting members including the chairman and president; and six (6) ex officio members, including the Chairman and Chairman Elect of the Independent Bankers Association of Texas, the President and President Elect of the Leadership Division, the President and CEO of the Independent Bankers Association of Texas, and the Chief Financial Officer of the Association. The voting members shall include past chairs of the Independent Bankers Association who are still active in banking and at large directors.

Board members shall serve for a term of three (3) years. After the expiration of one full term, a person may be eligible for election again as a Director of the Foundation.

The term of office of members of the Board of Directors shall commence on the day of their election at the parent Association's annual business meeting.

The Chairman of the Foundation shall have the authority to appoint one additional director to serve for a one-year term concurrent with the Chairman's term.

~~The Board of Directors shall include the five (5) most recent past chairs of the Independent Bankers Association of Texas who are still active in banking, one of whom shall serve as chairman of the Board; the president and president elect of the Leadership Division of the Independent Bankers Association of Texas, six (6) at large directors; and *ex officio* members, including the President of the Independent Bankers Association of Texas, the General Counsel of the Independent Bankers Association of Texas, the Senior Vice President for Membership of the Independent Bankers Association of Texas, and the President of IBAT Services, Inc. At large directors shall serve for a term of three (3) years and shall serve on a rotating basis with one-third of the Board to be elected or replaced each three (3) years.~~

Section 4.03 Attendance

Each director shall have the duty to attend regular and special meetings of the Corporation. In the event a director shall miss two consecutive regular meetings without a valid excuse such as illness or other excuse acceptable to the remainder of the Board, such director shall cease to qualify for office and shall be automatically terminated as director. Such vacancy as a result of disqualification shall be filled at the next meeting of directors by a majority of the remaining directors, even though less than a quorum of the Board.

Section 4.04 Vacancies

Any vacancy in the Board of Directors shall be filled by the affirmative vote of a majority of the remaining directors though less than a quorum of the Board of Directors. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 4.05 Meetings

Meetings of the Board of Directors shall be held at the principal business office of the Corporation or at any other place (within or without the State of Texas) as the Board of Directors may from time to time select.

Section 4.06 Regular Meetings

Regular meetings of the Board of Directors shall be held at such places and at such times as may be designated or determined from time to time by resolution of the Board of Directors.

Section 4.07 Special Meetings

Special meetings of the Board of Directors may be called at any time by the President or by any member of the Board. Written notice of each special meeting, setting forth the time and place of the meeting, shall be given to each director at least three (3) days before the meeting. This notice may be given either personally or by mail, e-mail, or by telegram, to the address of each director appearing on the books of the Corporation, and the purpose shall be specified.

Section 4.08 Quorum of Directors

At all meetings of the Board of Directors a majority of the directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board of Directors. If a quorum shall not be present at any meeting of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement of the meeting, until a quorum shall be present.

Section 4.09 Presumption of Assent

A director who is present at any meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to the director who voted in favor of such action.

Section 4.10 Proxies

A director may vote in person or by proxy executed in writing. No proxy shall be valid after three months from the date of its execution. Each proxy shall be revocable unless expressly provided therein to be irrevocable and otherwise irrevocable by law.

Section 4.11 Compensation

Directors as such shall not receive any stated salaries for their services, but by resolution of the Board of Directors expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board. Compensation shall not preclude any director from serving the Corporation in any other capacity and receiving compensation therefor.

ARTICLE V. OFFICERS

Section 5.01 Election, Number, Qualifications

The officers of the Corporation shall be elected by the Board of Directors and shall consist of a Chairman of the Board, a President, a Treasurer and a Secretary. In its discretion, the Board of Directors may also elect Assistant Secretaries and Assistant Treasurers and such other officers and assistant officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall have such authority and exercise such powers and perform such duties as shall be determined from time to time by the Board of Directors by resolutions not inconsistent with the Bylaws. Two or more offices may be held by the same person, except that the offices of President and Secretary may not be held by the same person. None of the officers need be directors.

Section 5.02 Terms of Offices, Removal

The officers of the Corporation shall hold office until the next annual meeting of the Board of Directors and until their successors are elected or appointed and qualify, or until their death or until their resignation or removal from office. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board whenever in its judgement the best interests of the Corporation will be served thereby. Such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create contract rights.

Section 5.03 Vacancies

Any vacancy occurring in any office of the Corporation by death, resignation, removal or otherwise shall be filled by the Board of Directors.

Section 5.04 Authority and Compensation

Officers and agents shall have such authority and perform such duties in the management of the Corporation as are provided in these Bylaws or as may be determined by the Board of Directors. The compensation of officers and agents shall be as fixed from time to time by the Board of Directors.

Section 5.05 Chairman of the Board

The Chairman of the Board, if one is elected, shall preside at all meetings of the Board of the Directors and shall have such other powers and duties as may from time to time be present by the Board of Directors upon written directions given to him pursuant to resolutions duly adopted by the Board of Directors.

Section 5.06 President

The President shall be the chief executive officer of the Corporation, shall have general and active management of the business and affairs of the Corporation, and shall see that all orders and resolutions of the Board of Directors are carried into effect. He shall preside at all meetings of the Board of Directors, unless a Chairman of the Board has been elected, in which event the President shall preside at meetings of the Board of Directors in the absence or disability of the Chairman of the Board.

Section 5.07 Vice President

~~The Vice Presidents, in the order of their seniority, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and have the authority and exercise the powers of the President. They shall perform such other duties and have such other authority and powers as the board of Directors may from time to time prescribe or as the President may from time to time delegate.~~

Section 5.08 Section 5.07 Secretary

The Secretary shall attend all meetings of the Board of Directors and record all of the proceedings of the meetings of the Board of Directors in a minute book to be kept for that purpose and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of meetings of the Board of Directors, and shall perform such other duties as may be prescribed by the Board of Directors. He shall keep in safe custody the seal, if any, of the Corporation and, when authorized by the Board of Directors, shall affix the same to any instrument requiring it and, when so affixed, it may be attested by his signature or by the signature of an Assistant Secretary or of the Treasurer.

Section 5.09 Section 5.08 Treasurer

(a) The Treasurer shall have custody of the corporate funds and securities and shall keep full and accurate accounts and records of receipts, disbursements and other transactions in books belonging to the Corporation, and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors.

(b) The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render the President and the Board of Directors, at its regular meetings, or when the President or Board of Directors so require, an account of all his transactions as Treasurer and of the financial condition of the Corporation.

(c) If required by the Board of Directors, the Treasurer shall give the Corporation a bond of such type, character and amount as the Board of Directors may require.

Section 5.10 Section 5.09 Assistant Secretary and Assistant Treasurer

In the absence of the Secretary or Treasurer, an Assistant Secretary or Assistant Treasurer, respectively, shall perform the duties of the Secretary or Treasurer. Assistant Treasurers may be required to give bond as in 5.09(c). The Assistant Secretaries and Assistant Treasurers, in general, shall have such powers and perform such duties as the Secretary or Treasurer, respectively, or the Board of Directors or President may prescribe.

ARTICLE VI. PROTECTION OF OFFICERS, DIRECTORS AND EMPLOYEES

Section 6.01 Indemnification

(a) The Corporation shall indemnify any director or officer or former director or officer of the Corporation, against expenses actually and necessarily incurred by him in connection with the

defense of any action, suit, or proceeding, whether civil or criminal, in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in performance of duty.

(b) The Corporation shall also reimburse any such director or officer or former director or officer or any such person serving or formerly serving in the capacities set forth in paragraph 6.01(a) at the request of the Corporation for the reasonable cost of settlement of any such action, suit or proceeding, if it shall be found by a majority of the directors not involved in the matter in controversy, whether or not a quorum, that it was in the best interest of the Corporation that such settlement be made, and that such director or officer or former director or officer or such person was not guilty of negligence or misconduct in performance of duty.

(c) The indemnification of past and present directors and officers is specifically subject to the conditions and limitations of the Texas Non Profit Corporation Act. Any provision herein which is ruled by a court of competent jurisdiction to be inconsistent with such section shall be null and void.

Section 6.02 Expenses Advanced

The Corporation may (but shall not be required to) pay in advance any expenses which may become subject to indemnification if the Board of Directors authorizes the specific payment, and if the person receiving the payment undertakes in writing to repay unless it is ultimately determined that he is entitled to indemnification by the Corporation.

Section 6.03 Insurance

The Corporation may (but shall not be required to) purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under these Bylaws or the laws of the State of Texas.

Section 6.04 Other Protection and Indemnification

The protection and indemnification provided hereunder shall not be deemed exclusive of any other rights to which such director or officer or former director or officer or such person may be entitled, under any agreement, insurance policy or vote of shareholders, or otherwise.

ARTICLE VII. COMMITTEES

Section 7.01 Committees of Directors

Except as may be otherwise provided by these Bylaws, the appointment of standing and special committees, their composition and functions, and the terms of the members thereof, shall be as may be determined from time to time by the Chairman of the Corporation subject to the approval of the Board of Directors. In addition thereto, the person from time to time serving as President and/or other staff members as delegated, shall be advisory members of all committees, but shall have no vote. A standing committee of the Corporation shall be the Investment Committee.

~~The Board of Directors, by resolution adopted by a majority of the Directors in office, may designate and appoint one or more committees, each of which shall consist of two or more Directors, which committees, to the extent provided in said resolution, shall have and exercise the authority of the Board of Directors in the management of the Corporation. However, no such committee shall have the authority of the Board of Directors in reference to amending, altering, or repealing the Bylaws; electing, appointing, or removing any member of any such committee or any Director or officer of the Corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange, or mortgage of all or substantially all of the property and assets of the Corporation; authorizing the voluntary dissolution of the Corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the Corporation; or amending, altering, or repealing any resolution of the Board of Directors which by its terms provides that it shall not be amended, altered, or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any individual Director, of any responsibility imposed on such committee or Director by law.~~

Section 7.02 Investment Committee

The Investment Committee shall be comprised of three to four members as the Chairman may appoint and the Board approve, plus the Corporation's Secretary/Treasurer and President and the IBAT President. This committee is charged with overseeing the implementation of the Foundation Investment Policy.

Section 7.02**Section 7.03 Other Committees**

Other committees not having and exercising the authority of the Board of Directors in the management of the Corporation may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. The President of the Corporation shall appoint the members thereof. Any members thereof may be removed by the person or persons authorized to appoint such member whenever in their judgement the best interests of the Corporation shall be served by such removal.

Section 7.03**Section 7.04 Term of Office**

Each member of a committee shall continue as such until the next annual meeting of the Board of Directors of the Corporation and until such member's successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

Section 7.04**Section 7.05 Chairman**

One member of each committee shall be appointed chairman by the person or persons authorized to appoint the members thereof.

Section 7.05**Section 7.06 Vacancies**

Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

~~Section 7.06~~ **Section 7.07 Quorum**

Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

~~Section 7.07~~ **Section 7.08 Rules**

Each committee may adopt rules for its own government not inconsistent with these Bylaws or with rules adopted by the Board of Directors.

ARTICLE VIII. CONTRACTS, CHECKS, DEPOSITS, AND FUNDS

Section 8.01 Contracts

The Board of Directors may authorize any officer or officers, agent or agents of the Corporation, in addition to the officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation. Such authority may be general or confined to specific instances.

Section 8.02 Checks and Drafts

All checks, drafts, or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or officers, agent or agents of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors, such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President of the Corporation.

Section 8.03 Deposits

All funds of the Corporation shall be deposited from time to time to the credit of the Corporation in such banks, trust companies, or other depositories as the Board of Directors may select.

Section 8.04 Gifts

The Board of Directors may accept on behalf of the Corporation any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Corporation.

ARTICLE IX. GENERAL PROVISIONS

Section 9.01 Fiscal Year

The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 9.02 Notice and Waiver of Notice

Whenever any notice is required to be given to any director, it shall be deemed to be sufficient if given by mailing, postage paid, addressed to the person or persons entitled thereto at their post office addresses appearing on the books or other records of the Corporation, and such notice shall be deemed to have been given on the date of such mailing, but said notice shall also be deemed to be sufficient and to have been given and received if given in any other manner or by any other means authorized by law or provided for elsewhere in the Bylaws. A waiver or waivers of notice, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 9.03 Actions Without a Meeting

Any action that may be taken at a meeting of directors may be taken without a meeting if a consent in writing setting forth the action shall be signed by all of the directors entitled to vote on the action and shall be filed with the Secretary of the Corporation. This consent shall have the same effect as a unanimous vote at a directors' meeting. Directors may participate in and hold a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in such meeting shall constitute presence in person at such meeting, except when a person participates for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

In addition, Directors may participate by another suitable electronic communication system, including video conferencing or the Internet if each member entitled to participate in the meeting consents to the meeting being held by means of that system and the system provides access to the meeting in a manner or using a method by which each member participating in the meeting can communicate concurrently with each other participant.

Section 9.04 Seal

This corporation is not obligated to have a seal, but one may be obtained.

Section 9.05 Amendment

These Bylaws may be altered, amended or repealed and new bylaws may be adopted by the Board of Directors at any meeting of the Board of Directors at which a quorum is present, provided notice of the proposed alteration, amendment, or repeal is contained in the notice of the meeting.

KNOW ALL MEN BY THESE PRESENTS, that I, the undersigned, being the Chairman of the Board of **Main Street Foundation**, do hereby certify that the above and foregoing Bylaws, consisting of Nine (9) Articles, were duly adopted as the Bylaws of this Corporation at a meeting of the Board of Directors, which was held on the 1st day of October, 1999, were amended at a meeting of the Board of Directors on the 4th day of December, 2003 and that the same do now constitute the Bylaws of said Corporation.

DATED this the 4th day of December 2003, 2006.

ATTEST:

SECRETARY

CHAIRMAN