

# The Burger Court Opinion Writing Database

*Transamerica Mortgage Advisors, Inc. v.  
Lewis*

444 U.S. 11 (1979)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

March 26, 1979

MEMORANDUM TO THE CONFERENCE:

Re: 77-1645 - Transamerica Mortgage Advisors,  
Inc. v. Lewis

My earlier memo of this morning was erroneously entitled 78-479, Edmonds v. Campagnie Generale Transatlantique. It should have been for 77-1645, Transamerica Mortgage Advisors, Inc. v. Lewis.

My vote is only tentative for 77-1645 and I will come to rest next week.

Regards,



Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
THE CHIEF JUSTICE

March 31, 1979

Re: 77-1645 - Transamerica Mortgage Advisors, Inc.  
v. Lewis

MEMORANDUM TO THE CONFERENCE:

I conclude to reverse in this case.

I will also be willing to vote for  
reargument with a full Court.

Regards,

LSB

Supreme Court of the United States  
Washington D. C. 20543

CHAMBERS OF  
JUSTICE POTTER STEWART

October 26, 1978

Re: Nos. 77-1645 and 77-1717, Transamerica  
Mortgage Advisors (TAMA) v. Lewis; and  
First Houston Invetment Corp. v. Wilson

Dear Lewis,

Please add my name to your dissenting  
opinion.

Sincerely yours,

Mr. Justice Powell

Copies to the Conference

To: The Chief Justice  
 Mr. Justice Brennan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Marshall  
 Mr. Justice Blackmun  
 Mr. Justice Rehnquist  
 Mr. Justice Stevens

From: Mr. Justice Powell

1st DRAFT

Circulated: 12 OCT 1978

**SUPREME COURT OF THE UNITED STATES**

~~Circulated: 12 OCT 1978~~

TRANSAMERICA MORTGAGE ADVISORS, INC.  
 (TAMA) ET AL. v. HARRY LEWIS

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES  
 COURT OF APPEALS FOR THE NINTH CIRCUIT

FIRST HOUSTON INVESTMENT CORP. ET AL. v.  
 JOHN M. WILSON

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES  
 COURT OF APPEALS FOR THE FIFTH CIRCUIT

Nos. 77-1645 and 77-1717. Decided October —, 1978

MR. JUSTICE POWELL, dissenting.

These cases present the question whether § 206 of the Investment Advisers Act of 1940 (the Act), 15 U. S. C. § 80b-6, gives customers asserting fraud a private cause of action against an investment company and its adviser. As it did last Term in *Fleschner v. Abrahamson*, — U. S. —, 46 U. S. L. W. 3710 (May 15, 1978), the Court today declines an opportunity to decide this question. The Act contains no provision authorizing private suits, and whether authority to sue may be inferred has caused sharp disagreement within the courts of appeals.

The respondent in No. 77-1645 is a shareholder of the Mortgage Trust of America (MTA), a real estate investment trust under I. R. C. §§ 856-858. He brought suit against MTA and various companies and individuals associated with MTA (the petitioners), alleging that the petitioners had participated in a fraudulent scheme under which MTA was organized and operated to the advantage of its adviser and parent and to the detriment of MTA's investors. Each of the complaint's six causes of action purported to be based on § 206 of the Act, which makes it illegal for an investment adviser covered by the Act to "engage in any transaction, practice, or course of business which operates as a fraud or deceit upon

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Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

October 12, 1978

Re: Nos. 77-1645 and 77-1717 Transamerica Mortgage  
Advisors (TAMA) v. Lewis; and First Houston  
Investment Corp. v. Wilson

Dear Lewis:

Please join me in your dissent in this case.

Sincerely,



Mr. Justice Powell

Copies to the Conference