

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of:)	
)	
ERNST & YOUNG LLP)	OTS Order No. 2004-60
)	
Former Outside Auditor of)	Date: December 24, 2004
Superior Bank, FSB)	
Oakbrook Terrace, Illinois)	
)	
OTS No. 08566)	
_____)	

STIPULATION AND CONSENT TO
ISSUANCE OF CONSENT ORDER

WHEREAS, the Office of Thrift Supervision (“OTS”), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate administrative proceedings against Ernst & Young LLP (“Ernst & Young”) with respect to work performed for Superior Bank, FSB, Oakbrook Terrace, Illinois (“Superior”),¹ and

WHEREAS, Ernst & Young, desiring to cooperate with the OTS and to avoid the time and expense of such administrative proceedings, and without admitting or denying (1) that such grounds exist; (2) the statements contained in paragraph 2 below; or (3) that any of its conduct with respect to Superior did not comply with professional standards, but admitting the conclusions in paragraph 1 below pertaining to the jurisdiction of the OTS, hereby stipulates and agrees to the following terms:

¹ All references in this Stipulation and Consent to Issuance of Consent Order (“Stipulation”) and in the Consent Order (“Order”) are to the United States Code, as amended.

1. Jurisdiction.

(a) Superior, at all times relevant hereto, was a “savings association” within the meaning of 12 U.S.C. 1813(b) and 12 U.S.C. 1462(4). Accordingly, Superior was an “insured depository institution” as that term is defined in 12 U.S.C. 1813(c).

(b) During the period 1999 to 2000, Ernst & Young provided auditing and accounting services to Superior. Ernst & Young served as Superior’s independent auditor and conducted the annual audits of Superior’s financial statements for the years ending 1999 and 2000. As an independent contractor providing auditing and other services to Superior, Ernst & Young is subject to the OTS’s jurisdiction.

(c) Pursuant to 12 U.S.C. 1813(q), the OTS is the “appropriate Federal banking agency” with jurisdiction to take action with respect to Ernst & Young.

2. Background.

As a result of its audits of Superior’s financial statements for Superior’s fiscal years ended 1999 and 2000, Ernst & Young reported upon Superior’s financial statements. In those reports, Ernst & Young did not take exception to Superior’s improper valuation of residual interests held by Superior and reflected on those financial statements as a result of Superior’s securitizations of subprime mortgages. During this period, Ernst & Young issued unqualified audit reports on Superior’s financial statements. Superior was later declared insolvent and was placed into receivership by the OTS in July 2001.

3. Consent.

Ernst & Young consents to the issuance by the OTS of the accompanying Consent Order. Ernst & Young further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality.

Upon its issuance by the Director or his designee, the Order shall be a final order, effective and fully enforceable by the OTS.

5. Waivers.

Ernst & Young waives the following:

- (a) the right to be served with a written notice of any charges;
- (b) the right to an administrative hearing; and
- (c) the right to seek judicial review of the Order or otherwise to challenge the validity of the Order.

6. Other Actions.

Ernst & Young acknowledges and agrees that except as set forth in the Order its consent to the issuance of the Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Ernst & Young.

7. Miscellaneous.

- (a) The laws of the United States of America shall govern the construction and validity of the Stipulation and of the Order.
- (b) All references to the OTS in this Stipulation and the Order shall also mean any of OTS's predecessors, successors, and assigns.

(c) The section and paragraph headings in this Stipulation and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Order.

(d) The terms of this Stipulation and of the Order represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

(e) Except as otherwise provided in the Order, this Stipulation and the Order shall remain in effect for five (5) years following the date of issuance, unless earlier suspended or terminated in writing by the OTS, acting through its authorized representatives.

WHEREFORE, Ernst & Young executes this Stipulation and Consent to Issuance of Consent Order, intending to be legally bound thereby.

By:

Ernst & Young LLP

_____/s/_____
Kathryn A. Oberly
Vice Chair and General Counsel

Date: Dec. 24, 2004

Accepted by:

Office of Thrift Supervision

_____/s/_____
James E. Gilleran
Director

Date: Dec. 24, 2004