



Office of Thrift Supervision  
Department of the Treasury

Harris Weinstein  
Chief Counsel

1700 G Street, N.W., Washington, D.C. 20552 • (202) 906-6404

October 16, 1991

[REDACTED]

Dear [REDACTED]:

This is in response to your letter of August 5, 1991, in which you requested our opinion as to whether [REDACTED] (the "Holding Company") may guarantee and provide additional collateral for a loan from a third party lender (the "Lender") to the Employee Stock Ownership Plan (the "ESOP") established by the Holding Company's wholly owned subsidiary, [REDACTED] (the "Savings Bank"), [REDACTED]. As discussed more fully below, we have no legal objection to the Holding Company issuing a guarantee or providing additional collateral for a loan on behalf of the ESOP. We defer to the OTS supervisory staff to determine whether the proposed transaction would be permissible under safety and soundness standards.

On [REDACTED], the Holding Company applied to the OTS for authorization to acquire all of the common stock issued by the Savings Bank in connection with the Savings Bank's conversion from the mutual to the stock form of organization. The OTS approved the Holding Company's application on [REDACTED]; the offering circular for the Holding Company's offering of its stock in connection with the proposed acquisition had been declared effective on [REDACTED]. According to your letter, the ESOP will acquire approximately seven percent of the stock offered by the Holding Company and will finance the purchase with the proceeds of a loan from the Lender. Under the terms of the loan agreement, the interest rate on the loan will decrease if the Holding Company obtains OTS approval to guarantee and pledge additional collateral for the loan on behalf of the ESOP.

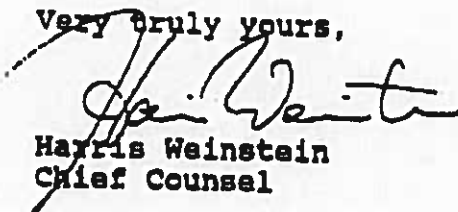
As you know, we have recently expressed the view that neither the Home Owners' Loan Act (the "HOLA") nor the regulations promulgated thereunder generally prohibit a savings and loan holding company from guaranteeing a loan to the ESOP of its savings

association subsidiary.<sup>1</sup> Thus, any potential concerns regarding such arrangements are primarily supervisory in nature and involve whether the guarantee or pledge of additional collateral would place undue pressure on the savings association subsidiary to pay excessive dividends to the holding company or otherwise constitute an unsafe and unsound practice. Accordingly, the Holding Company and the Savings Bank should consult the appropriate OTS supervisory staff to determine if the proposed transaction would comply with such standards.

In reaching the foregoing conclusions, the OTS has relied on the factual representations contained in the materials submitted to us. The position set forth herein thereby depends upon the accuracy and completeness of those representations. Any material change in circumstances from those set forth in your submissions could result in conclusions different from those expressed herein.

If you have any further questions regarding the foregoing, please do not hesitate to contact V. Gerard Comizio, Deputy Chief Counsel for Securities and Corporate Structure, at (202) 906-6411 or Leonard J. Essig, Attorney, Corporate and Securities Division, at (202) 906-6476.

Very truly yours,

  
Harris Weinstein  
Chief Counsel

cc: Regional Director  
Regional Counsel  
Central Regional Office

<sup>1</sup> See Ops. Chief Counsel August 13, 1991, July 10, 1991, and February 26, 1991. See also Ops. Chief Counsel July 18, 1988, April 14, 1987, and January 31, 1986.