

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	Order No. NE-03-08
ABACUS FEDERAL SAVINGS BANK,	)	Dated: October 23, 2003
New York, New York	)	
OTS No. 08059	)	

**ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, ABACUS FEDERAL SAVINGS BANK ("ABACUS") has executed a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST AND FOR AFFIRMATIVE RELIEF AND AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES ("Stipulation"); and

WHEREAS, ABACUS, by its execution of the Stipulation has consented and agreed to the issuance of this ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to 12 U.S.C. § 1818(i).

**NOW THEREFORE, IT IS ORDERED that:**

1. **Assessment of Civil Money Penalties.** Within ten (10) calendar days of the date of this Order, ABACUS shall pay to the OTS the sum of One Hundred and Seventy-five Thousand Dollars (\$175,000), by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States.

2. **Procedure for Payment.** The check or bank draft used by ABACUS to satisfy the obligations imposed by Order shall be delivered under cover of a transmittal letter referring to this Order (by Order number) and indicating that the payment relates to the civil money penalties referred to in this Order to the following address: Howard Verp, Operating Accountant, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552. On the same date that ABACUS makes payment of its obligations under this Order, a copy of the check/bank draft and the cover letter shall be sent by U.S. Mail to: Martin J. Lavelle, Office of Thrift Supervision, 10 Exchange Place, 18<sup>th</sup> Floor, Jersey City, New Jersey, 07302.

3. **Stipulation Incorporated.** The Stipulation is made a part hereof and is incorporated herein by this reference.

4. **Effectiveness of Order.** This Order is and shall become effective on the date it is issued (the "Effective Date"), as is shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

**OFFICE OF THRIFT SUPERVISION**

By:   
Robert C. Albanese  
Regional Director, Northeast Region

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	Re: Order Nos. NE-03-07
	)	and
ABACUS FEDERAL SAVINGS BANK,	)	NE-03-08
New York, New York	)	
OTS No. 08059	)	Dated: October 23, 2003

**STIPULATION AND CONSENT TO ISSUANCE OF  
AN ORDER TO CEASE AND DESIST AND FOR AFFIRMATIVE RELIEF  
AND AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed ABACUS FEDERAL SAVINGS BANK ("ABACUS") that the OTS is of the opinion that grounds exist to initiate administrative proceedings against ABACUS pursuant to 12 U.S.C. § 1818,<sup>1</sup> and

WHEREAS, ABACUS, desiring to cooperate with the OTS to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraph 1 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

**1. Jurisdiction.**

(a) ABACUS is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, ABACUS is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Pursuant to 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain administrative enforcement proceedings against savings associations. Therefore, ABACUS is subject to the authority of the OTS to initiate and maintain administrative cease-and-desist and civil-money-penalty proceedings against it pursuant to 12 U.S.C. §§ 1818(b) and (i).

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<sup>1</sup> All references in this Stipulation and Consent to Issuance of an Order of Prohibition and An Order of Assessment of Civil Money Penalties ("Stipulation") and the related Orders are to the United States Code as amended.

## **2. OTS Findings of Fact.**

The OTS finds that ABACUS had implemented a number of ineffective programs and otherwise seriously mismanaged a number of aspects of its operations, as noted in more detail in the most recent Report of Examination issued by the OTS concerning ABACUS. In particular, ABACUS failed to develop an effective anti-money laundering program and to ensure compliance with regulations governing the Bank Secrecy Act, and the filing of Suspicious Activities Reports. In addition, ABACUS violated the OTS's regulations codified at 12 C.F.R. §§ 563.41, 563.42 and 563.43. Further, ABACUS suffers from serious deficiencies in internal controls and inadequate oversight by senior management and the Board of Directors.

## **3. Consent.**

(a) ABACUS hereby consents to the issuance by the OTS of the following accompanying orders: (i) Order To Cease and Desist and for Affirmative Relief ("C&D Order"), and (ii) Order of Assessment of Civil Money Penalties ("CMP Order", and collectively with the C&D Order sometimes referred to herein as the "Orders").

(b) ABACUS further agrees to comply with the terms of the Orders upon their issuance. ABACUS further stipulates and agrees that the C&D Order and the CMP Order comply with all requirements of law, as applicable.

## **4. Finality.**

The C&D Order and the CMP Order are issued by the OTS under the authority of 12 U.S.C. §§ 1818(b) and 1818(i), respectively. Upon their issuance by the OTS, acting by and through its Northeast Regional Director (or his designee), each of the Orders shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

## **5. Waivers.**

ABACUS hereby waives the following:

- (i) The right to be served with a written notice of the OTS's charges;
- (ii) The right to an administrative hearing of the OTS's charges;
- (iii) The right to seek judicial review of either the C&D Order or the CMP Order or both, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Orders; and
- (iv) The right to assert as the basis for a claim of double jeopardy, in any pending or future proceedings brought by the United States Department of Justice or any other governmental

entity, any of the following: the OTS's issuance of the Orders; ABACUS's consent to the issuance of the Orders; the payment of any monies or the provision of any other financial relief as contemplated by the Orders; any governmental proceedings relating to such Orders; and/or any other OTS actions relating to such Orders.

**6. Other Government Actions Not Affected.**

ABACUS acknowledges and agrees that its consent to the issuance of the Orders does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of ABACUS that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS.

**7. Miscellaneous.**

(a) The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Orders.

(b) All references to the OTS in this Stipulation and the Orders shall also mean any of the OTS's predecessors, successors, and assigns.

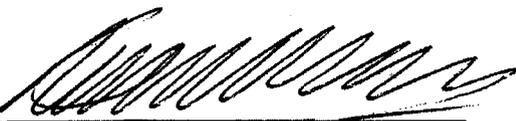
(c) The section and paragraph headings in this Stipulation and Orders are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Orders.

(d) The terms of this Stipulation and of the Orders 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) This Stipulation and the Orders shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

**WHEREFORE, ABACUS** executes this Stipulation and Consent to Issuance of a Cease and Desist Order for Affirmative Relief and an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

**ABACUS FEDERAL SAVINGS BANK**

By: 

Thomas Sung  
President and Chairman of the Board

Date: October 21, 2003

Accepted by:  
**OFFICE OF THRIFT SUPERVISION**

By: 

Robert C. Albanese  
Regional Director

Date: See the date in the caption hereof

