

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	Order Nos.: <u>SF-04-005 & SF-04-006</u>
VERNON H. ROY)	Date: <u>June 9, 2004</u>
A Former Employee of)	
Washington Mutual Bank, F.A.)	
Stockton, California.)	
OTS No. 08551)	
_____)	

STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION AND 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 Vernon H. Roy (ROY), a former employee of Washington Mutual Bank, F.A., Stockton, California, OTS Docket No: 08551 (Washington Mutual), that grounds exist to initiate administrative prohibition and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(e) and (i);¹

WHEREAS, ROY desires to cooperate with the OTS and to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of the OTS, except as to Jurisdiction, Paragraph 1, below, which is admitted, hereby stipulates and agrees to the following:

¹ All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.

1. **Jurisdiction.**

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

(b) **ROY** was an employee of Washington Mutual until September 29, 2001, and is an “institution-affiliated party” as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within 6 years of the date hereof (see 12 U.S.C. § 1818(i)(3)); and

(c) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” to maintain administrative prohibition and civil money penalty proceedings against such institution-affiliated parties of a savings association. Therefore, **ROY** is subject to the jurisdiction of the OTS to initiate and maintain administrative proceedings against him pursuant to 12 U.S.C. § 1818(e) and (i). The Director of the OTS has delegated to the Regional Director of the West Region of the OTS or his designee (Regional Director) the authority to issue prohibition orders and orders of assessment of civil money penalties where the individual has consented to the issuance of the order.

2. **OTS Findings of Fact.**

The OTS finds that, on at least twelve (12) occasions, beginning in January 2001 and continuing through September 2001, **ROY**, while employed as a credit representative at the Horizon Marketplace branch of Washington Mutual, sold and released confidential customer/borrower credit and financial information to third parties, in violation of the privacy provisions of the Gramm-Leach-Bliley Act (GLBA) and the anti-kickback provisions of the Real Estate Settlement Procedures Act (RESPA). As a result of his actions, **ROY**: (1) engaged in a violation of law or regulation, unsafe or unsound practice, or breach of his fiduciary duty; and

(2) such violation, practice or breach resulted in financial gain to **ROY** or other damage to Washington Mutual; and (3) the conduct involved personal dishonesty, or willful or continuing disregard for the safety and soundness of the institution.

3. **Consent.** **ROY** consents to the issuance by the OTS of the accompanying Consent Order of Prohibition and Consent Order of Assessment of Civil Money Penalties (Orders). **ROY** further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all requirements of law.

4. **Finality.** The Orders are issued under 12 U.S.C. §§ 1818(e) and (i). Upon their issuance by the OTS, they shall be final orders, effective and fully enforceable by the OTS or any other appropriate Federal banking agency under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers.** **ROY** waives the following:

(a) The right to be served with a written notice of the OTS's charges against him, as provided by 12 U.S.C. § 1818(e);

(b) The right to be served with a written notice of assessment of civil money penalties against him as provided by 12 U.S.C. § 1818(i);

(c) The right to an administrative hearing of the OTS's charges against him, as provided by 12 U.S.C. §§ 1818(e) and (i);

(d) The right to seek judicial review of the Orders, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Orders;

(d) Any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Orders, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

(e) The right to assert this proceeding, his consent to issuance of the Orders, the issuance of the Orders, or the payment of any monies as contemplated by the Orders as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. **Other Governmental Actions Not Affected.** ROY acknowledges and agrees that the consent to the issuance of the Orders is for the purpose of resolving this OTS enforcement matter only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any other actions, charges against, or liability of ROY that arise pursuant to this action or otherwise and that may be or have been brought any other governmental entity.

7. **Agreement for Continuing Cooperation.** ROY agrees that he will continue to provide discovery and testify truthfully at any deposition and at any judicial, administrative, or investigative proceeding related to any investigation, litigation, or other proceeding maintained by the OTS relating to Washington Mutual, its holding company, service corporations, subsidiaries, or institution-affiliated parties at the OTS's written request, on reasonable notice and without service of a subpoena.

8. **Acknowledgment of Criminal Sanctions.** ROY acknowledges that the Stipulation and Orders are subject to the provisions of 12 U.S.C. § 1818(j).

9. **Miscellaneous.**

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

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

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

(d) The terms of the Stipulation and Orders represent the final 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; and

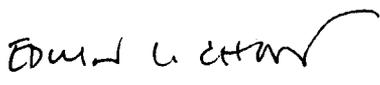
(e) The Stipulation and Orders shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

WHEREFORE, ROY executes this Stipulation and Consent to the Issuance of an Order of Prohibition and Order of Assessment of Civil Money Penalties intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION

By: 
VERNON H. ROY

By: 
Edwin L. Chow
Acting Regional Director
West Region

Dated: 6/8/04

Dated: 6/9/04

(Roy Proh CMP Stip2 c:\sf-03-002)

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
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VERNON H. ROY)
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A Former Employee of)
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Washington Mutual Bank, F.A.,)
Stockton, California.)
OTS No. 08551)
_____)

Order No.: SF-04-006

Date: June 9, 2004

CONSENT ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, Vernon H. Roy (**ROY**) has executed a Stipulation and Consent to the Issuance of an Order of Prohibition and Order of Assessment of Civil Money Penalties (Stipulation); and

WHEREAS, **ROY**, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order of Assessment of Civil Money Penalties (Order) by the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1818(i).¹

NOW THEREFORE, IT IS ORDERED that:

1. Within thirty (30) calendar days of the date of this Order, **ROY** shall pay a civil money penalty in the sum of \$5,000 by certified check or money order made payable to the order

¹ All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.

of the Treasurer of the United States. Failure to make the payment on the date due shall constitute a violation of this Order. The check or bank draft and a copy of the Order shall be delivered, together with a cover letter stating the name of the association, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552. A copy of the check or bank draft and the cover letter shall be provided by U.S. Mail to James A. Hendriksen, Regional Enforcement Counsel, Post Office Box 7165, San Francisco, California, 94120-7165.

2. The Stipulation is made a part hereof and is incorporated by this reference.

3. This Order is and shall become effective on the date it is issued, as 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: Edwin L. Chow
Edwin L. Chow
Acting Regional Director
West Region

(Roy CMP Order c:\sf-03-002)