

UNITED STATES OF AMERICA  
Before the  
OFFICE OF THRIFT SUPERVISION  
DEPARTMENT OF THE TREASURY

\_\_\_\_\_  
In the Matter of )  
 )  
RICHARD A. HARPER, )  
a former President and Director )  
 )  
of )  
 )  
GATEWAY BANK, A FEDERAL SAVINGS )  
BANK, )  
San Francisco, California. )  
\_\_\_\_\_ )

Re: Order No. SF-94-006

Dated: March 17, 1994

ORDER TO CEASE AND DESIST

WHEREAS, Richard A. Harper ("HARPER") has executed a Stipulation and Consent to the Entry of an Order to Cease and Desist ("Stipulation"); and

WHEREAS, HARPER, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)<sup>1</sup>.

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue Orders of Cease and Desist on behalf of the OTS where HARPER has consented to the issuance of the Order.

<sup>1</sup>All references are to the U.S.C., as amended.



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STIPULATION AND CONSENT TO THE ENTRY OF AN  
ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Richard A. Harper ("HARPER"), a former President and Director of Gateway Bank, a Federal Savings Bank, San Francisco, California ("GATEWAY" or the "Institution"), that the OTS is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against HARPER pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)<sup>1</sup>; and

WHEREAS, HARPER desires to cooperate with the OTS to avoid the time and expense of such administrative proceeding, hereby stipulates and agrees to the following terms:

<sup>1</sup>All references are to the U.S.C., as amended.

1. Jurisdiction.

(a) GATEWAY is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b) and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) HARPER was the President and a Director of the Institution and is an "institution-affiliated party" of the Institution as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), and has served in such capacity within six years of the date here (see 12 U.S.C. § 1818(i)(3)).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against a savings association and/or its institution-affiliated parties. Therefore, HARPER is subject to the jurisdiction of the OTS to initiate and maintain a cease and desist proceeding against him pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

2. OTS Findings of Fact.

The OTS finds that HARPER engaged in unsafe and unsound practices and/or violated laws and regulations (including but not limited to violations of 12 C.F.R. § 563.93, 12 C.F.R. § 563.161, and 12 C.F.R. § 563.170(c)) by failing to take adequate safeguards in selling loans, on behalf of GATEWAY, to private purchasers in the secondary market.

3. Consent.

HARPER consents to the issuance by the OTS of the accompanying Order to Cease and Desist ("Order"). HARPER further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of the law.

4. Finality.

The Order is issued by the OTS under the authority of Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director or designee for the West Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers.

HARPER waives his right to a notice of charges and administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIC, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and

6. Other Governmental Actions Not Affected

HARPER acknowledges and agrees that the consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only, which relates to his transactions, on behalf of GATEWAY, with Echelon Mortgage Corporation ("EMC") and Echelon Mortgage Acceptance Corporation ("EMAC"), and does not release, discharge, compromise, settle, dismiss, resolve, or in any way

affect or preclude any other civil or criminal proceeding which may be or has been brought by the OTS or another governmental entity.

OTS acknowledges and agrees that based upon facts as presently understood by it, and subject to change should the OTS identify additional relevant information or gain a different understanding of facts as presently understood, no additional enforcement action will be brought by the OTS against HARPER in connection with his transactions, on behalf of Gateway, with EMC and EMAC.

7. Indemnification.

HARPER shall neither cause or permit GATEWAY (or any subsidiary thereof) to incur, directly or indirectly, any legal expense (or other professional expenses) incurred relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from GATEWAY (or any subsidiary thereof) with respect to such amounts. Any payments received by or on behalf of HARPER in connection with this action shall be returned to GATEWAY.

WHEREFORE, HARPER executes this Stipulation and Consent to the Entry of an Order to Cease and Desist, intending to be legally bound hereby.

By:

Accepted by:

OFFICE OF THRIFT SUPERVISION

/s/

Richard A. Harper

/s/

John F. Robinson  
Regional Director  
West Region

(harpc&d.stp 22/8)