

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

\_\_\_\_\_  
In the Matter of: )  
Chicago Title Insurance Company )  
Settlement Agent for )  
Allied Houston Bank )  
Houston, Texas )  
OTS No. 08315 )  
and other savings associations. )  
\_\_\_\_\_

OTS Order Nos. MWR 05-2  
MWR 05-3

Date: February 25, 2005

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

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 an administrative cease and desist proceeding for affirmative relief, and to assess civil money penalties, against Chicago Title Insurance Company (“Chicago Title”), settlement agent and service provider to Allied Houston Bank, Houston, Texas (OTS No. 08315), Ohio Savings Bank, Cleveland, Ohio (OTS No. 04072), and Guaranty Federal Savings Bank, Dallas, Texas (OTS No. 08534), pursuant to Sections 8(b) and 8(i) of the Federal Deposit Insurance Act (“FDIA”), 12 U.S.C. 1818(b) and (i),<sup>1</sup> and

WHEREAS, Chicago Title is cooperating with the OTS and desires to avoid the time and expense of such administrative proceedings, and

<sup>1</sup> All references to the United States Code (“U.S.C.”) are as amended, unless otherwise indicated.

**WHEREAS**, Chicago Title enters into the Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and for the Assessment of Civil Money Penalties (“Stipulation”), (i) without any adjudication on the merits, (ii) without admitting or denying that grounds exist to initiate administrative proceedings, except as to Jurisdiction (Paragraph 1, below), which is admitted; (iii) without admitting or denying the Findings of Fact; and (iv) solely for the purpose of settling this matter in accordance with Rule 408 of the Federal Rules of Evidence and equivalent state provisions.

**NOW, THEREFORE**, on these premises, Chicago Title hereby stipulates and agrees as follows:

1. Jurisdiction.

- (a) Allied Houston Bank, Ohio Savings Bank, and Guaranty Federal Savings Bank are “savings associations” within the meaning of 12 U.S.C. 1813(b) and 12 U.S.C. 1462(4). Accordingly, they are “insured depository institutions” as that term is defined in 12 U.S.C. 1813(c)(2).
- (b) Chicago Title serves or served as settlement agent and service provider to insured depository institutions, including the above listed savings associations, and to other entities, through its officers, employees and agents, in connection with the settlement of federally and non-federally related mortgage transactions throughout the United States.

(c) Pursuant to 12 U.S.C. 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative cease and desist proceeding, and a civil money penalty proceeding, against Chicago Title. Therefore, Chicago Title is subject to the jurisdiction of the OTS to initiate and maintain administrative proceedings against it pursuant to 12 U.S.C. 1818(b) and (i). The Director of the OTS has delegated to the Regional Director of the Midwest Region of the OTS or to his/her designee (“Regional Director”) the authority to issue cease and desist orders and civil money penalty assessments where the parties have consented to the issuance of such orders.

2. OTS Findings of Fact.

(a) Chicago Title, through its officers or employees, provides settlement services to the above listed savings associations. In providing these services, Chicago Title engaged in a pattern of violating the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and the regulations promulgated thereunder, 24 C.F.R. Part 3500 (“RESPA”), by providing inaccurate HUD-1 Settlement Statements to the lending savings associations and borrowers that failed to reflect accurately all actual charges, adjustments and disbursements in connection with the settlement of federally related mortgage transactions. Chicago Title, through its officers or employees, additionally provided inaccurate HUD-1 Settlement Statements to federally insured depository institution lenders and borrowers that failed to reflect accurately all actual charges, adjustments and

disbursements in connection with the settlement of non-federally related mortgage transactions. These inaccuracies were due to deficiencies in Chicago Title's compliance policies, procedures, systems and controls governing settlements that it performed on behalf of insured depository lenders.

3. Consent.

Chicago Title consents to the issuance by the OTS of the accompanying Order to Cease and Desist for Affirmative Relief ("Cease and Desist Order") and Order Assessing Civil Money Penalties ("CMP Order")(together "Orders"). Chicago Title further agrees to comply with the terms of the Orders upon their issuance and stipulates that the Orders comply with all requirements of law.

4. Finality.

The Orders are issued under 12 U.S.C. 1818(b) and (i). Upon their issuance by the Regional Director, they shall be final orders, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. 1818(i).

5. Waivers.

Chicago Title waives the following:

- a. the right to be served with any written notice of the OTS's charges against it as provided by 12 U.S.C. 1818(b) and (i).
- b. the right to an administrative hearing of the OTS's charges against it as provided by 12 U.S.C. 1818(b) and 1818(i)(2)(H).
- c. the right to seek judicial review of the Orders including, without limitation, any such right provided by 12 U.S.C. 1818(h) and (i), 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 to 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, its consent to the Orders, and/or the issuance of 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.

- a. Upon the OTS's issuance of the accompanying Orders, following the OTS's acceptance of this Stipulation executed by Chicago Title, OTS does release and discharge Chicago Title from all potential claims and charges that have been or might have been asserted by the OTS, based on the violations described in the Findings of Fact set forth in Paragraph 2 of this Stipulation, to the extent known to the OTS as of the effective date of the accompanying Orders. However, the violations described in Paragraph 2 of this Stipulation may be utilized by the OTS in future enforcement actions to establish a pattern or practice of violations, or the continuation of a pattern or practice of violations. This release shall not preclude or affect any right of the OTS to determine and ensure compliance with the terms and provisions of this Stipulation and the accompanying Orders.

- b. Chicago Title is primarily regulated by state insurance authorities. Other than as set forth in this Stipulation, nothing herein shall constitute, nor shall the OTS contend that it constitutes, a waiver of any right of Chicago Title to challenge the authority or jurisdiction of the OTS with respect to the business activities of Chicago Title, except as to settlements that Chicago Title performs for or on behalf of insured depository institution lenders.
- c. Chicago Title acknowledges and agrees that its consent to the issuance of the accompanying Orders is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided in Paragraph 6(a) above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, liability, or other administrative, civil, or criminal proceedings that arise pursuant to this action or otherwise, and that may be or have been brought by another governmental entity.

7. Agreement for Continuing Cooperation.

Chicago Title agrees that, on reasonable notice and without service of a subpoena, it will promptly respond to any written request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with the Orders.

8. Miscellaneous.

- a. The construction and validity of this Stipulation and the Orders shall be governed by the laws of the United States of America.

- b. If any provision of this Stipulation or the Orders is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions thereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.
- c. All references to the OTS in this Stipulation and in the Orders shall also mean any of the OTS's predecessors, successors, and assigns.
- d. The section and paragraph headings in this Stipulation and the Orders are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Orders.
- e. The terms of this Stipulation and the 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.

**WHEREFORE**, Chicago Title executes this Stipulation, intending to be legally bound hereby.

  
Chicago Title Insurance Company

By: PETER T. SADOWSKI  
Title: Executive Vice-President  
Date: 2-23-05

Accepted by:  
Office of Thrift Supervision  
  
Frederick R. Casteel  
Midwest Regional Director

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

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**Chicago Title Insurance Company** )

**Settlement Agent for** )

**Allied Houston Bank** )  
**Houston, Texas** )  
**OTS No. 08315** )

**and other savings associations.** )  
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**OTS Order No. MWR 05- 2**

**Date: February 25, 2005**

**ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF**

**WHEREAS**, Chicago Title Insurance Company (“Chicago Title”), by and through its authorized representative, has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and for the Assessment of Civil Money Penalties (“Stipulation”); and

**WHEREAS**, by executing the Stipulation, Chicago Title has consented and agreed to the issuance of this Order to Cease and Desist for Affirmative Relief (“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>; and

**WHEREAS**, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue consent orders on behalf of the OTS pursuant to the provisions of Section 8 of the FDIA, 12 U.S.C. 1818.

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<sup>1</sup> All references to the United States Code (“U.S.C.”) are as amended, unless otherwise indicated.

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

**CEASE AND DESIST**

1. Chicago Title and its directors, officers and employees, shall not engage in any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding and abetting any violation of the Real Estate Settlement Procedures Act, 12 U.S.C. 2601 et seq., and the regulations promulgated thereto, 24 C.F.R. Part 3500 (“RESPA”), in connection with providing settlement services for or on behalf of any insured depository institution lender.

**AFFIRMATIVE REQUIREMENTS**

**POLICIES AND PROCEDURES GOVERNING REAL ESTATE SETTLEMENT**

2. Within one hundred twenty (120) days of the execution of this Order, Chicago Title shall develop, implement, and thereafter adhere to written policies, procedures, systems and/or compliance controls (“Policies and Procedures”) governing settlements it may perform for or on behalf of any insured depository institution lender. Such Policies and Procedures shall, at a minimum:

- (a) require the implementation of a consistent framework of internal controls in support of the integrity of settlement documents, fraud prevention, and compliance with all applicable laws and regulations, including Sections 4 and 8 of RESPA;
- (b) require Chicago Title’s employees and/or officers to prepare complete and accurate HUD-1 Settlement Statements, in accordance with applicable laws and regulations and in accordance with any and all instructions provided by any insured depository institution lender;

- (c) require Chicago Title's employees and/or officers to deliver any corrected, amended, or changed HUD-1 Settlement Statements to any insured depository institution lender and the borrower(s) as soon as practicable, whether the corrections, amendments, or changes occurred before or after the closing of the transaction described on the HUD-1 Settlement Statement;
- (d) address the fiduciary responsibilities of Chicago Title to the parties in a transaction, on a state-by-state basis if necessary, and shall comport with the fiduciary duties imposed by any applicable law governing the settlement; and
- (e) require that in no event may a Chicago Title employee or officer who knows or recklessly ignores information that either the seller, borrower, or any other party to a settlement is engaged in fraud, violations of law, or any other misconduct in connection with the transaction, disburse any funds of the insured depository institution lender in connection with the settlement.

3. The Board of Directors of Chicago Title (the "Board of Directors") shall review and approve any Policies and Procedures prepared or developed in accordance with paragraph 2 of this Order prior to implementation.

### **TRAINING**

4. Within one hundred twenty (120) days of the execution of this Order, Chicago Title shall establish, implement, and thereafter adhere to written Policies and

Procedures to ensure that every current and prospective employee and officer who engages in settlements for insured depository institution lenders at any branch or office owned or operated by Chicago Title receives timely and adequate training to:

- (a) perform such settlements in compliance with all applicable laws, rules and regulations (including the applicable fiduciary duties incumbent upon Chicago Title in the jurisdiction(s) where such settlements occur); and
- (b) comply with the Policies and Procedures implemented pursuant to paragraph 2 of this Order.

5. Within one hundred twenty (120) days of the execution of this Order, Chicago Title shall develop and implement a management information system to monitor its training programs. At a minimum, this system shall be capable of providing to Chicago Title:

- (a) a listing of training sessions offered;
- (b) reports of attendance at training sessions;
- (c) reports of those employees or officers requiring training in one or more subjects; and
- (d) a listing of those who have not received timely training.

#### **AUDIT**

6. Within one hundred twenty (120) days of the execution of this Order, Chicago Title shall develop, implement and thereafter adhere to Policies and Procedures to ensure that every office or branch owned or operated by Chicago Title that is engaged in settlements for insured depository institution lenders is audited, with respect to such

settlements, at least once every two (2) years. This audit program shall include policies and procedures to:

- (a) govern the scope of these audits, which shall include, at a minimum, tests to determine each office or branch's compliance with applicable laws and regulations, including RESPA, and any Policies and Procedures implemented pursuant to paragraphs 2-5 of this Order;
- (b) monitor the frequency and progress of audits and determine which audits, if any, have remained open beyond expected close dates, and which audits, if any, required or will likely require resources beyond those previously allocated;
- (c) ensure that each audit tests a sufficient and statistically significant number of records in each office or branch, given the volume, complexity, and diversity of the operations of each branch or office, and other qualitative matters, such as regulatory findings;
- (d) reconcile the magnitudes of identified issues with auditor ratings and conclusions;
- (e) require written responses from Chicago Title management detailing planned corrective actions where significant issues of noncompliance or needed corrective actions are noted in audit reports;
- (f) ensure a reporting process whereby an audit committee ("Audit Committee"), comprised of persons independent of the audit process and the Chicago Title office or branch being audited, has a direct reporting line to the Board of Directors; and

(g) ensure that audit findings or results are communicated to the Audit Committee without interference by any party who is not part of the audit process.

7. The Audit Committee shall produce quarterly written reports (the “Quarterly Reports”) to the Board of Directors wherein the Audit Committee shall summarize the results of the audits performed pursuant to this Article in the previous quarter and examine the effectiveness of the audits and whether a consistent rating system was applied to each branch or office.

8. Within one hundred twenty (120) days of the execution of this Order, Chicago Title shall develop, implement and thereafter adhere to the Policies and Procedures to:

(a) correct any and all material issues noted in the Quarterly Reports and respond to (and thereafter correct, as required) any and all material criticisms, citations, or deficiencies noted in any report of examination or the equivalent from any state or federal regulatory authority regarding settlements conducted by any office or branch controlled, owned or operated by Chicago Title; and

(b) collect and monitor complaints received, and any litigation filed, regarding the settlements conducted by any office or branch controlled, owned or operated by Chicago Title and inform the Audit Committee of all material complaints and/or litigation.

#### **BOARD OVERSIGHT AND CERTIFICATION OF COMPLIANCE**

9. The Board of Directors shall:

- (a) ensure Chicago Title's compliance with the provisions set forth in this Order;
- (b) institute an annual review of the Policies and Procedures developed and implemented pursuant to this Order to determine their adequacy and effectiveness; and
- (c) promptly distribute to the Audit Committee all reports of examination or the equivalent received by Chicago Title from any state or federal regulatory authority.

10. Within 30 days of the execution of this Order, the Board of Directors shall designate a director or officer of Chicago Title to serve as its representative (the "Representative Officer") and inform the OTS in writing of this designation.

11. Within one hundred twenty (120) days of the execution of this Order, and on every yearly anniversary of that date, until the termination of this Order, the Representative Officer shall submit to the OTS, via affidavit signed under penalty of perjury, an acknowledgement that the Policies and Procedures required by this Order are in force and effect (or with the exercise of reasonable diligence, will come into effect) and shall detail Chicago Title's compliance with such Policies and Procedures and noncompliance, if any. Such acknowledgement and detail of compliance by the Representative Officer will constitute "unpublished OTS information" pursuant to 12 C.F.R. 510.5(a)(2).

12. Any communications or documents required by this Order shall be sent to the OTS, Dallas Regional Office, P.O. Box 619027, Dallas/Ft. Worth, Texas 75261-9027, Attention: Regional Director.

13. Within one hundred twenty (120) days of the issuance of this Order, Chicago Title shall provide all current employees, officers or agents, including individuals employed in all offices and branches that are owned, operated or controlled by Chicago Title, who are engaged in the settlement of federally or non-federally related mortgage transactions, notice that Chicago Title has entered into this Order. Until this Order terminates, Chicago Title shall also provide identical notice to subsequently hired and/or retained employees, officers or agents, including individuals employed in all offices and branches that are owned, operated or controlled by Chicago Title, who are engaged in the settlement of federally or non-federally related mortgage transactions.

Definitions

14. As set forth in the Stipulation and in this Cease and Desist Order:
- (a) “HUD-1 Settlement Statement” shall mean the standard form for the settlement prescribed by the United States Department of Housing and Urban Development under 12 U.S.C. 2603 and required to be used as the standard real estate settlement form in all federally related mortgage transactions, and shall also be synonymous with “HUD-1A Settlement Statement.”
  - (b) “Settlement” shall have the meaning provided in 24 C.F.R. 3500.2(b), and shall be so defined for the purposes of this Order irrespective of whether Chicago Title performs such settlements in connection with federally related mortgage transactions or not. Pursuant to 24 C.F.R. 3500.2(b), the term “settlement” may also be called “closing” or “escrow” in certain jurisdictions.

- (c) “Insured depository institution” shall have the meaning provided in 12 U.S.C. 1813(c)(2), and shall also include credit unions as defined in 12 U.S.C. 1752(1), entities identified in 12 U.S.C. 1813(c)(3), and any subsidiaries of such institutions or entities; and shall include any savings and loan holding company as defined in 12 U.S.C. 1467a(a)(D)-(F) and any bank holding company as defined in 12 U.S.C. 1841(a).
- (d) “Insured depository institution lender” shall mean any insured depository institution that is referenced as lender on a HUD-1 or HUD-1A Settlement Statement, irrespective of whether or not the transaction involves a federally related mortgage loan.
- (e) “Chicago Title” means Chicago Title Insurance Company, all offices or branches owned or operated by Chicago Title Insurance Company, and all predecessor and successor organizations. For purposes of paragraphs 8 and 13 of this Order, “Chicago Title” additionally means Chicago Title Insurance Company, including, but not limited to offices or branches under agency or contractual agreement with Chicago Title Insurance Company to provide title insurance products to insured depository institution lenders and borrowers, in connection with the settlement of federally and non-federally related mortgage transactions, and all predecessor or successor organizations.

- (f) All other technical words or terms for which the meanings are not specified or otherwise provided by the provision of this Cease and Desist Order shall, insofar as applicable, have meanings as defined by Chapter V of Title 12 of the Code of Federal Regulations, the HOLA, the FDIA, OTS Memoranda or other published OTS guidance. Any such technical words or terms used in this Cease and Desist Order and undefined in the Code of Federal Regulations, the HOLA, the FDIA, OTS Memoranda, or other published regulatory guidance shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

Successor Statutes, Regulations, Guidance, Amendments

15. Reference in this Cease and Desist Order to provision of statutes, regulations, OTS Memoranda, and other published guidance shall be deemed to include references to all amendments to such provision as have been made as of the date of issuance of this Order, and references to successor provisions as they become applicable.

No Violation Authorized; OTS Not Restricted

16. Nothing in this Cease and Desist Order or the Stipulation shall be construed as: (a) allowing Chicago Title to violate any law, rule, regulation, or policy statement to which it is subject; or (b) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law including, without limitation, any type of supervisory, enforcement or other action that the OTS determines to be appropriate.

Time Limits; Stipulation Incorporated; Effective Date; Duration

17. Time limitations for compliance with the terms of this Order run from the date of issuance of the Order, as indicated in the caption.

18. The Stipulation is made a part hereof and is incorporated herein by reference.

19. This Order is and shall become effective on the date it is issued, as shown on the first page hereof. This Order will terminate five (5) years after the date of its issuance. This termination date may be extended for an additional two (2) years, on a year by year basis, if the Director of the OTS, or his delegate, concludes that Chicago Title has not achieved the objective of adopting and implementing the Policies and Procedures directed by this Order, and the Director or his delegate notifies Chicago Title of this conclusion. This conclusion shall be solely made in the exercise of the Director's or his delegate's discretion, and shall be final and non-challengeable by Chicago Title.

OFFICE OF THRIFT SUPERVISION



Frederick R. Casteel  
Midwest Regional Director

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

In the Matter of:	)	
Chicago Title Insurance Company	)	
Settlement Agent for	)	OTS Order No. MWR 05-3
Allied Houston Bank	)	Date: February 25, 2005
Houston, Texas	)	
OTS No. 08315	)	
and other savings associations.	)	

**CONSENT ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY**

WHEREAS, Chicago Title Insurance Company ("Chicago Title") has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and for the Assessment of Civil Money Penalty ("Stipulation"); and

WHEREAS, Chicago Title, by execution of the Stipulation, has consented and agreed, without admitting or denying the OTS Findings of Fact, to the issuance of this Consent Order of Assessment of Civil Money Penalty ("CMP Order"), pursuant to 12 U.S.C. 1818(i);

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

1. Chicago Title is assessed a civil money penalty of five million dollars (\$ 5,000,000). Chicago Title shall pay this civil money penalty by certified check, bank draft or money order, payable to the Treasurer of the United States, delivered within ten

(10) days of the issuance of this CMP Order to the Comptroller of the Currency. This civil money penalty assessment shall be concurrent with a five million dollar (\$ 5,000,000) civil money penalty assessed by the Comptroller of the Currency, and a five million dollar (\$ 5,000,000) payment required by the Secretary of Housing and Urban Development. Each of these assessments shall be satisfied by a single payment of the assessment amount to the Treasurer of the United States. A copy of the payment instrument shall be sent by U.S. Mail, first class postage prepaid, to the Controller's Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and to Mr. Gary Anderberg, Regional Enforcement Counsel, OTS, P.O. Box 619027, Dallas/Ft. Worth, TX 75261-9027.

2. This CMP Order is subject to the provisions of section 8(j) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(j).

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

4. This CMP Order is and shall be effective on the date it is issued, as shown in the caption hereof.

Office of Thrift Supervision

  
Frederick R. Casteel  
Midwest Regional Director