

[[5-31-04 p.TC-452]]

[[16,372] In the Matter of Cross Country Bank, Wilmington, Delaware, Docket No. 02-035b (3-5-04).

**In the Matter of
CROSS COUNTRY BANK
WILMINGTON, DELAWARE
(Insured State Nonmember Bank)
MODIFIED ORDER TO CEASE AND DESIST**

FDIC-02-035b

By Consent of the parties, this Order modifies the existing Order issued and effective on May 15, 2002 by removing all operative provisions of the May 2002 Order except for paragraph 6 which is retained and amended as set forth below. Cross Country Bank, Wilmington, Delaware ("Insured Institution"), having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Insured Institution and of its right to a hearing on the alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated March 5, 2004, whereby, solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and violations of law and/or regulations, the Insured Institution consented to the issuance of a MODIFIED ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Insured Institution had engaged in unsafe or unsound banking practices, and had committed violations of law and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following.

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED that the Insured Institution, its successors, assigns, directors, officers, employees, agents, and other "institution-affiliated parties," as defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), CEASE AND DESIST from the following unsafe or unsound banking practices and violations as follows:

- (a) Engaging in high-risk lending without adequate capital.

IT IS FURTHER ORDERED that the Insured Institution, its institution-affiliated parties, and its successors and assigns take affirmative action as follows:

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1. The Insured Institution shall maintain a sufficient level of capital to provide for a Total Risk-Based Capital Ratio of ten (10) percent, a Tier 1 risk based capital ratio of six (6) percent and a leverage ratio of five (5) percent. In determining the Insured Institution's adherence to these minimum requirements, the Insured Institution's subprime loans shall be risk-weighted at 300 percent. As used in this ORDER, the term "subprime" loans are those extended to borrowers who exhibit characteristics indicating a significantly higher risk of default than traditional bank lending customers, as defined in the March 1, 1999 Interagency Guidance on Subprime Lending and the January 31, 2001 Interagency Expanded Guidance for Subprime Lending Programs.

2. All correspondence related to this ORDER, and any information, reports or documentation required herein shall be sent to: Christopher J. Spoth, Regional Director, Federal Deposit Insurance Corporation, 20 Exchange Place, New York, New York 10005. A complete copy of any submission should be sent to: Federal Deposit Insurance Corporation, Risk Management and Applications Section, Room 5092, 550

17th Street, N.W., Washington, D.C. 20429.

3. All members of the Insured Institution's board of directors shall ensure adherence to, and compliance with, each and every obligation contained in this ORDER. This responsibility shall include, but not be limited to:

(a) authorizing and adopting, on behalf of the Insured Institution, such actions as may be necessary for the Insured Institution to accomplish all obligations and/or undertakings required by the terms of this ORDER;

(b) requiring timely reporting by Insured Institution management of all action taken, pursuant to board direction, to assure compliance with the terms of this ORDER;

(c) timely monitoring for any non-compliance; and

(d) requiring corrective action when any non-compliance occurs.

4. This ORDER shall be effective immediately upon issuance and shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the Regional Director. The provisions of this ORDER shall be binding upon the Insured Institution, its successors, assigns, directors, officers, employees, agents, and other institution-affiliated parties.

Pursuant to delegated authority.

Dated this 5th day of March, 2004.