

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

In the Matter of:)	
)	
)	
COLOMBO BANK)	No.: AP 10-07
)	
Rockville, Maryland)	Effective Date: November 23, 2010
OTS Docket No. 08575)	
)	

**NOTICE OF CHARGES AND HEARING FOR
CEASE AND DESIST ORDER FOR AFFIRMATIVE RELIEF**

I. PRELIMINARY STATEMENT.

1. The Director of the Office of Thrift Supervision (OTS), pursuant to Section 8(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(b), issues this Notice of Charges and Hearing for Cease and Desist Order for Affirmative Relief (Notice). By issuing this Notice, the OTS commences administrative adjudicatory proceedings against Colombo Bank (Colombo or Association), Rockville, Maryland, OTS Docket No. 08575.

2. The OTS charges that Colombo has engaged in unsafe or unsound practices, including, but not limited to:

- (a) operating the Association with an insufficient level of capital protection for the volume, type, and quality of assets held by the Association;

- (b) creating and maintaining excessive and unsafe and unsound concentrations of credit;
- (c) engaging in unsafe and unsound loan underwriting and monitoring practices;
- (d) operating the Association without adequate liquidity or proper regard for funds management in light of the Association's asset and liability mix; and
- (e) operating the Association with inadequate Information Technology (IT) policies and procedures.

3. The OTS charges that Colombo has engaged in violations of law or regulation including, but not limited to:

- (a) 12 C.F.R. § 563.180 (pertaining to the preparation and filing of suspicious activity reports (SARs));
- (b) 24 C.F.R. Section 3500.17(f)(2)(i) (pertaining to timely refund of surplus); and
- (c) 24 C.F.R. Section 3500.17(i) (pertaining to timely annual escrow analysis).

4. The OTS charges that grounds exist to require Colombo to cease and desist from unsafe or unsound practices and/or violations of law and regulations, and to take other affirmative correction action pursuant to 12 U.S.C. § 1818(b).

II. JURISDICTION.

5. Colombo is, and at relevant times, has been, a stock form federal savings association with a charter issued under the Home Owners' Loan Act (HOLA), 12 U.S.C. §§ 1461

et. seq. Colombo maintains its home office in Rockville, Maryland. Among other banking services, Colombo accepts deposits, and such deposits are insured by the Federal Deposit Insurance Corporation (FDIC). *See* 12 U.S.C. §§ 1811 *et seq.* Colombo is, and at all relevant times, has been, a “savings association” (as defined by 12 U.S.C. §§ 1462(4) and 1813 (b)) and an “insured depository institution” (as defined by 12 U.S.C. §§ 1813(c)(1)).

6. Pursuant to Sections 4 and 5 of the HOLA, 12 U.S.C. §§ 1463 and 1464, Colombo is, and has been, subject to examination, supervision and regulation by the OTS.

7. The OTS is the “appropriate federal banking agency” to initiate cease and desist proceedings against Colombo pursuant to 12 U.S.C. §1818(b). *See* 12 U.S.C. §§ 1813(q)(4) and 1464(d)(1)(A).

III. FACTUAL ALLEGATIONS AND CHARGES.

A. Background.

8. The OTS commenced a comprehensive risk-focused safety and soundness, and compliance examination of Colombo on March 29, 2010, which was completed on June 11, 2010 (2010 Examination). The 2010 Examination included a review and evaluation of capital adequacy, asset quality, management effectiveness, earnings performance, liquidity, asset/liability management, sensitivity to market risk and compliance with law and regulation.

9. The previous comprehensive examination of Colombo commenced on March 23, 2009 and concluded on May 11, 2009 (2009 Examination). After the conclusion of the 2009 Examination, Colombo agreed to the issuance of a Cease and Desist Order, SE 09-50, effective October 28, 2009 (Order).

B. Colombo's Unsafe or Unsound Practices.

1. Unsafe and Unsound Capital Levels.

10. As of March 31, 2010, Colombo reported Tier 1 (core) and total risk-based regulatory capital ratios of 5.59 percent and 9.46 percent, respectively.

11. The OTS has concluded that Colombo should have regulatory capital ratios of 8 percent for Tier 1 (core) capital and 12 percent for total risk based capital in order to operate in a safe and sound manner.

12. During the review period of the 2010 Examination, Colombo's balance of adversely classified assets increased \$10.7 million, or 160.6 percent.

13. At December 31, 2008, total adversely classified assets equaled \$6.63 million, or 50 percent of Tier 1 capital plus Allowance for Loan and Lease Losses (ALLL). At March 31, 2010, total adversely classified assets were \$17.34 million, or 149.49 percent of Tier 1 capital plus ALLL.

14. Total delinquent loans and repossessed assets were \$11.16 million as of December 31, 2008, and increased to \$24.31 million as of March 31, 2010. Delinquent loans and repossessed assets increased from 83.84 percent of Tier1 Capital (core) plus ALLL at December 31, 2008 to 209.46 percent at March 31, 2010.

15. The OTS determined that the Association's capital position is deficient considering the Association's ongoing core operating losses, high loan loss provisions, and the Association's exposure to problem and higher risk loans.

16. The OTS has determined that Colombo engaged in an unsafe or unsound practice by failing to sufficiently increase the Association's capital levels.

2. Concentrations of Credit.

17. The Association's concentration policy covers only loan concentrations and does not set appropriate limits for all types of concentration risk exposures, including concentrations of assets other than loans and concentrations of liabilities.

18. During the review period of the 2010 Examination, the OTS found that Colombo held a significant concentration in mortgage derivative products, at 256 percent of total capital.

19. The OTS also found that Colombo held an excessive concentration of commercial real estate (CRE) loans.

20. The OTS has determined that Colombo engaged in unsafe and unsound practices with respect to its failure to establish concentration risk exposures for all types of concentrations risk.

3. Loan Underwriting and Monitoring Practices.

21. During the review period of the 2010 Examination, the OTS found that six of the nine new credits reviewed (out of a total of 39 new loans originated as of the 2010 Examination) included extended interest-only payment periods.

22. In addition, the OTS found that Colombo originated at least two non-traditional mortgages totaling \$2.6 million that were inadequately underwritten, including one loan granted to a borrower with a potential conflict of interest given his affiliation with the Association.

23. With respect to the \$1.78 million mortgage granted to the borrower with a potential conflict of interest, the OTS found that Colombo did not follow the Nontraditional Mortgage Guidance, nor did it comply with the loans-to-one-borrower (LTOB) documentation requirements contained in 12 C.F.R. § 560.93.

24. The OTS has determined that Colombo has not established specific debt service to income ratios for loan types, nor income documentation requirements for all borrowers that demonstrate the borrowers' ability to meet all contractual debt service obligations from current, verified net income and cash flow.

25. The OTS has concluded that the Association has engaged in unsafe or unsound practices by failing to ensure satisfactory underwriting of large, high-risk, non-traditional loans.

4. Inadequate Liquidity.

26. As of March 31, 2010, Colombo held liquid assets that were less than the board established minimum liquidity threshold of 10 percent, in violation of board policy.

27. The OTS also found that Colombo is relying on only four depositors to provide a substantial component (38 percent) of the Association's deposit base.

28. The OTS determined that Colombo is also relying on volatile funding sources that represent a substantial liquidity risk to the Association and that its total sources of liquidity have declined dramatically.

29. The OTS determined that Colombo is operating with a critically deficient level of liquidity in relation to its risk profile, which is threatening the viability of the Association.

30. The OTS has concluded that the Association has engaged in unsafe or unsound practices with respect to its level of liquidity.

5. Inadequate IT policies.

31. The findings of a recent third-party IT audit, dated February 8, 2010, revealed considerable weaknesses in the Association's IT management and policies and contained 55 recommendations, including five priority items, regarding IT issues requiring correction.

32. The OTS also found that the Association's director of IT had informed the Association that he was concerned about Colombo's antiquated hardware and software, which put the Association at risk for business continuity purposes and possible network crash.

33. The OTS has determined that the recommended upgrades have not been performed.

34. The OTS has determined that the Association should implement the recommended changes to its IT policy and address all items of concern in IT audits.

35. The OTS has also determined that the Association should address the recommendations regarding upgrades to matters essential to its critical IT system.

36. The OTS has concluded that the Association has engaged in unsafe or unsound practices with respect to its failure to address the IT security risks present at the Association.

C. Violations of Law.

37. The 2010 Examination cited Colombo for its failure to comply with several laws and regulations.

38. In the 2010 Examination, the OTS found numerous reporting errors with respect to the filing of suspicious activity reports, in violation of 12 C.F.R. § 563.180.

39. In the 2010 Examination, the OTS found that Colombo failed to conduct timely annual escrow analysis and refund surplus, in violation of 24 C.F.R. § 3500.17.

IV. STATUTORY CHARGES UNDER 12 U.S.C. § 1818(b).

40. As alleged above, Colombo has engaged in unsafe or unsound practices, and violated laws and regulations.

41. The OTS charges that grounds exist for the issuance to Colombo of a cease and desist order with affirmative corrective action provisions and provisions imposing limitations on activities, pursuant to 12 U.S.C. § 1818(b) (including paragraphs (b)(6) and (b)(7)).

V. REQUESTED RELIEF AND NOTICE OF HEARING.

42. Notice is hereby given that a hearing will be held in or near Greenbelt, Maryland, for the purpose of taking evidence on the charges specified above in order to determine whether an appropriate order to cease and desist should be issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), to require Colombo to cease and desist from the violations of law and regulation and unsafe or unsafe practices charged above in this Notice and whether such an order should include:

- (a) affirmative corrective action provisions under 12 U.S.C. § 1818(b)(6); and
- (b) the imposition of limitations on the activities or functions of Colombo, pursuant to 12 U.S.C. § 1818(b)(7).

VI. PROCEDURES GENERALLY.

43. The OTS hereby appoints Administrative Law Judge C. Richard Miserendino (the ALJ) of the Office of Financial Institution Adjudication (OFIA) to preside over the hearing for the cease and desist order referred to above (in Part V) of this Notice. Unless otherwise set by the ALJ, or by agreement of the parties, the hearing should commence on or before the sixtieth day following service of this Notice. The exact time of day and any change in location will be announced at a later time by the ALJ. The hearing will be conducted before the ALJ in

accordance with the provisions of the Administrative Procedure Act, 5 U.S. C. §§ 554-557, as made applicable by 12 U.S.C. § 1818(h) and 12 C.F.R. Part 509.

44. Colombo is directed to file an Answer to this Notice within twenty (20) days of service. The requirements of the Answer and the consequences of failing to file an Answer are set forth at 12 C.F.R. § 509.19.

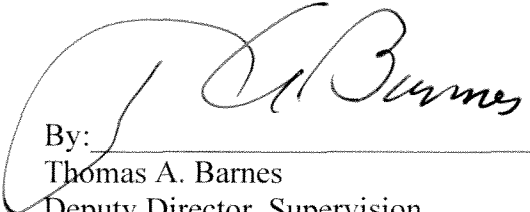
45. Section 509.10 of the OTS Rules, 12 C.F.R. § 509.10, governs the filing of papers in this proceeding. Except as otherwise provided by that rule, any papers required to be filed shall be filed with OFIA, Attn: Honorable C. Richard Miserendino, ALJ, 3501 North Fairfax Drive, Suite D8116, Arlington, Virginia 22226.

46. Colombo also shall serve a copy of each and every of its filings on: Susan L. Chomicz, Deputy Chief Counsel, Enforcement, Office of Thrift Supervision, 1700 G. Street, N.W., Washington, DC 20552, susan.chomicz@ots.treas.gov; Noelle M. Kurtin, Senior Attorney, Enforcement Division, Office of Thrift Supervision, 1700 G. Street, N.W., Washington, DC 20552, noelle.kurtin@ots.treas.gov; and Alan Faircloth, Regional Enforcement Counsel, Southeast Region, Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, Georgia 30309, alan.faircloth@ots.treas.gov.

47. Within twenty (20) days after service of this Notice, Colombo may file a written request for a private hearing. Section 509.23 of the OTS rules, 12 C.F.R. § 509.23, sets out the requirements for any such request and any replies thereto. The evidentiary hearing of this matter before the presiding Administrative Law Judge will be open to the public, unless the Acting Director of OTS, in his sole discretion, determines that an open hearing will be contrary to the public interest. *See* 12 U.S.C. § 1818(u)(2). The Director (or a duly authorized representative) will rule on any request filed under Section 509.23(a), and copies of any such request should be sent to the Director of the OTS, c/o Ms. Sandra Evans, Secretary for Adjudicatory Proceedings, Office of Thrift Supervision, 1700 G. Street, N.W., Fifth Floor, M2, Washington, DC 20552.

The Office of Thrift Supervision, by its Acting Director (or his duly authorized designee), issues this Notice on this 23 day of November 2010.

OFFICE OF THRIFT SUPERVISION


By: _____
Thomas A. Barnes
Deputy Director, Supervision,
Examinations and Consumer Protection