<u>INTERPRETIVE LETTER 91-8 (APRIL 11, 1991)</u>

Universal life insurance policy that lists chairman of board as owner and chairman's sons as beneficiaries is not a permissible investment.

This letter is intended to clarify the position of the Commissioner of Banks and Trust Companies ("Commissioner's Office") with respect to an insurance policy currently carried on the books of your client, the Bank.

The facts as I understand them are as follows. In the past year, the Commissioner's Office conducted two examinations of the Bank. During the course of both examinations, the Commissioner's noticed that the Bank carried a certain universal life insurance policy ("Policy") issued by the * Insurance Company, on its balance sheet as an "other asset." The face amount of the policy is $1,000,000.00. The Bank paid $100,000.00 for the policy, which included an initial premium of approximately $72,000.00. It is expected that the Bank will earn some return on the $100,000.00. According to Policy Section 7.1, the Policy belongs to the owner who "is the Insured unless otherwise stated in the application or unless changed under the Transfer of Ownership provision." *, Chairman, is listed as the insured on the Policy. According to the Policy Beneficiary and Settlement Amendment, the primary beneficiaries are three sons of the Chairman, one of whom is a director, vice president, cashier and trust officer at the Bank.

The Commissioner's Office takes the position that an Illinois state bank may only purchase insurance on the life of a bank director, officer or employee if it meets legitimate insurance needs of the Bank. The Bank must be able to justify that the insurance coverage is needed to provide the Bank with sufficient protection against financial hardship which the bank would experience due to the death of the director, officer or employee. Illinois state banks are not authorized, under Section 33 of the Illinois Banking Act ("Act") (Ill. Rev. Stat. 1989, ch. 17, par. 341), to invest in insurance products as they are not the type of marketable investment securities detailed in that Section.

The Policy's initial premium was paid by the Bank, yet the Owner of the Policy is the Chairman. The bank will not receive the benefit of any insurance proceeds from the Policy because they are expected to be distributed to the Chairman's sons as beneficiaries. Rather, the Bank is expected to merely recover its premium payments and a modest return. It simply is not possible to consider the Policy as providing the Bank with any degree of protection against financial hardship resulting from the death of a Bank director, officer or employee. Therefore, the position of the Commissioner's Office is that the Bank's payment of the $100,000.00 represents an investment which is not authorized under Section 33 of the Act.

[Note: The Agency has issued Examination Guidelines for the purchase of life insurance policies for noninvestment purposes by state banks.]