

INTERPRETIVE LETTER 92-7 (JUNE 22, 1992)

Examination report that includes bank customers' names or loan accounts is not a financial record of such customers, and bank is not authorized to notify specific customers of subpoena for examination report.

This is in response to your recent inquiry concerning the disclosure of certain examination reports by * [Bank] ("Bank") pursuant to a court order. You inquired whether the Bank is obligated or authorized by Section 48.1(d) of the Illinois Banking Act ("Act"), Ill. Rev. Stat. ch. 17, par. 360 (1991), to inform specific customers that their names or loan accounts are mentioned in the examination reports produced in compliance with the court order.

Section 48.1(d) requires state banks to mail a copy of the relevant subpoena or court order to a customer before disclosing financial records of that customer in compliance with the subpoena or court order. Section 48.3(c) of the Act states that a bank may only disclose the Commissioner's examination report pursuant to a subpoena or court order after first providing a copy of the subpoena or court order to the Commissioner "to afford the Commissioner an opportunity to obtain a protective order in the proceedings to protect the confidentiality of the report."

Based on the language in Sections 48.1(d) and 48.3(c), this Agency concludes that the Bank is neither obligated nor authorized to notify its customers that the Bank is producing examination reports in which their names or loans are discussed. The production of examination reports pursuant to a subpoena or court order is specifically governed by Section 48.3. The requirements under Section 48.3 do not provide discretion for the Bank to notify specific customers about the upcoming production of the examination reports. Section 48.3 only contemplates notice to the Commissioner. This Agency does not consider the Commissioner's examination reports to be "financial records" of a customer under Section 48.1, even though the examination reports include references to customers' accounts.