

INTERPRETIVE LETTER 93-010 (JULY 6, 1993)

Bank may not share customers' financial records with an affiliate.

This Agency received a letter of complaint concerning the relationship between * ("Bank") and * Insurance ("* Insurance"). The Bank and * Insurance are both subsidiaries of * [BHC]. The complaint, registered by an insurance agent in your area, alleged that * Insurance had received a copy of a Bank customer's home and automobile insurance policies, presumably from the Bank's loan file regarding this customer. The insurance agent's complaint is that the Bank improperly shared confidential information, thereby giving * Insurance a competitive advantage over other insurance agents who are not affiliated with the Bank and who do not have access to the Bank's customer files.

Section 48.1 of the Illinois Banking Act ("Act"), 205 ILCS 5/48.1 (1992) [Ill Rev. Stat. ch. 17, par. 360], provides that a bank "may not disclose to any person, except to the customer or his duly authorized agent, any financial records relating to that customer" unless one of the exceptions specified in Section 48.1 is applicable. If a bank officer or employee discloses confidential financial records of a customer under circumstances where disclosure is not authorized by Section 48.1, that officer or employee would be responsible for a violation of the Act. According to Section 48.1(e), that officer or employee could be found guilty of a business offense punishable by a fine of up to

\$1,000.00. Furthermore, Section 48.1(f) provides that "any person who knowingly and willfully induces or attempts to induce any officer or employee of a bank to disclose financial records in violation of this Section" could also be convicted of a business offense and fined up to \$1,000.00.

While this Agency has permitted state-chartered banks to share customer lists with outside parties, those customer lists must be limited to information that is not uniquely identifiable with the customer's bank account activity and status. The sharing of information about a bank customer's loan, or insurance coverage that pertains to that loan, would not be permissible unless it was specifically authorized by an exception found in Section 48.1.

Given the serious nature of the allegations made in the insurance agent's letter of complaint and the serious consequences for bank personnel who violate Section 48.1 or for others who induce such a violation, this Agency urges the Bank to examine its practices and relationships with respect to * Insurance. The Bank should determine whether it should alter any existing practices or implement additional procedures and controls to ensure that confidential financial records of customers are not being shared in violation of Section 48.1.