

STATE OF ILLINOIS

OFFICE OF BANKS AND REAL ESTATE

BUREAU OF BANKS AND TRUST COMPANIES

IN THE MATTER OF:)
The Bank of Commerce)
Downers Grove, Illinois)
)
An Illinois state-chartered bank)
_____)

No. 2004-BBTC-08

ORDER ASSESSING CIVIL MONETARY PENALTY

The COMMISSIONER OF BANKS AND REAL ESTATE, (the “Commissioner”), having conducted an examination of facts related to The Bank of Commerce (the “Bank”) 2001 Butterfield Road, Suite 105, Downers Grove, Illinois 60515 and having found that the Bank has violated the provisions of Section 17 of the Illinois Banking Act [205 ILCS 5/1 et. seq.] (the “Act”) hereby issues this ORDER pursuant to the authority provided under Section 48 (8) of the Act. Specifically, the Commissioner makes the following:

FINDINGS

1. That at all times relevant hereto, the Bank was a state-chartered bank pursuant to the Illinois Banking Act, [205 ILCS 5/1] and subject to regulation by the Commissioner of Banks and Real Estate;
2. That Section 17(b)(4)) of the Act, provides that a certificate of charter amendment shall be immediately filed in the Office of the Commissioner and the amendment so approved by the Commissioner shall be accomplished in accordance with a vote of the stockholders;
3. That on or about February 9, 2000, the Bank, by a vote of its shareholders, initiated and consummated a charter amendment to eliminate cumulative voting (the “2000 Charter Amendment”);
4. That in conjunction with the 2000 Charter Amendment, the Bank failed to immediately file that amendment in the Office of the Commissioner and

did not receive the Commissioner's approval to eliminate cumulative voting as required pursuant to Section 17 of the Act;

5. That by virtue of the failure to obtain the Commissioner's approval prior to effectuating the 2000 Charter Amendment, the Bank has violated the provisions of Section 17 of the Act; and
6. That Section 48(8) of the Act provides the Commissioner the authority to assess a civil monetary penalty in an amount up to \$10,000 for each violation of any provision of the Act, any rule promulgated in accordance with the Act or any order of the Commissioner.

CONCLUSIONS

1. This Order is authorized and appropriate under the provisions of Section 48(8) of the Act.

ORDER

NOW THEREFORE IT IS HEREBY ORDERED:

1. The Bank of Commerce shall be and hereby is assessed a civil monetary penalty in the amount of \$1,000.00;
2. The civil monetary penalty in the amount of \$1,000.00 shall be paid no later than sixty (60) days after service of this Order upon the Bank; and
3. The civil monetary penalty in the amount of \$1,000.00 shall be paid by means of a certified check or money order made payable to the Office of Banks and Real Estate.

ORDERED THIS 26th DAY OF JANUARY 2004.

Scott D. Clarke
Assistant Commissioner
State of Illinois
Office of Banks and Real Estate

You are hereby notified that this Order is an administrative decision. Pursuant to 38 Ill. Adm. Code, Section 392, any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. A hearing shall be held within thirty (30) days after the receipt by the Commissioner of Banks and Real Estate of a request for a hearing. Absent a request for hearing, this Order shall constitute a final administrative Order subject to the Administrative Review Law, [735 ILCS 5/3-101].