

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of)	Docket No. 03-030-B-FB
)	03-030-CMP-FB
)	
WestLB AG)	
Dusseldorf, Germany)	Order to Cease and Desist and
)	Order of Assessment of a Civil Money
WestLB AG)	Penalty Issued Upon Consent
New York Branch)	

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”) is the host country supervisor of the activities in the United States of WestLB AG, a foreign banking organization headquartered in Dusseldorf, Germany, including the activities of its branch in New York, New York (the “New York Branch”). Based on the allegations recited below, the Board of Governors issues this combined Order to Cease and Desist and Order of Assessment of a Civil Money Penalty Issued Upon Consent (the “Consent Order”);

WHEREAS, the Board of Governors issues this Consent Order pursuant to sections 8(b) and 8(i) of the Federal Deposit Insurance Act, as amended, 12 U.S.C. §§ 1818(b) and (i) (the “FDI Act”), and section 106 of the Bank Holding Company Act Amendments of 1970, 12 U.S.C. § 1972 (“section 106”);

WHEREAS, this Consent Order resolves allegations that WestLB:

- a. violated section 106(1)(A), 12 U.S.C. § 1972(1)(A), in that, in a series of transactions from early March 2001 through late May 2001, the Global Structured

Finance (“GSF”) Division of the New York Branch in offering to extend credit to certain corporate customers imposed the condition that the customers appoint WestLB as a co-manager of syndicates underwriting future issues of debt securities by the customers or affiliates of the customers, including conditions communicated by means of oral statements to customers, written and email correspondence with customers, and draft and executed agreements and side letters with customers;

- b. violated section 106(1)(A), 12 U.S.C. § 1972(1)(A), in that in March 2001, the GSF Division of the New York Branch varied the consideration for credit offered to a customer depending on whether the customer appointed WestLB as a co-manager of a syndicate underwriting a future debt securities offering by the customer, by imposing a written condition in a written proposal for a bridge loan facility that an additional fee would be payable if the loan were repaid from any source other than by the proceeds of a debt securities offering underwritten in part by WestLB; and
- c. engaged in unsafe and unsound banking practices by:
 - i. failing to have adequate supervision and controls to prevent a group in the GSF Division of the New York Branch from having a practice of “demanding” securities underwriting assignments in connection with offering extensions of credit to corporate customers;
 - ii. failing to exercise adequate supervision over the solicitation and failing to follow internal procedures for the carrying out of securities underwriting assignments by United States issuers; and

- iii. failing to have in place a program to sufficiently train employees regarding compliance with the anti-tying restrictions in section 106; and

WHEREAS, on August 26, 2003, the board of managing directors of WestLB adopted a resolution:

- a. authorizing and directing Moses Dodo, Managing Director and General Manager, WestLB AG, New York Branch, and Frederic M. Mauhs, Esq., Managing Director and General Counsel for North America, WestLB AG, New York Branch, to enter into this Consent Order on behalf of WestLB AG and consenting to compliance by WestLB AG and its institution-affiliated parties, as defined in sections 3(u) and 8(b)(4) of the FDI Act (12 U.S.C. §§ 1813(u) and 1818(b)(4)), with each and every provision of this Consent Order; and
- b. waiving any and all rights that WestLB may have pursuant to 12 U.S.C. §§ 1818 and 1972 or 12 C.F.R. Part 263, or otherwise:
 - (i) to the issuance of a notice of charges and of hearing and a notice of assessment of civil money penalty on any matter set forth in this Consent Order;
 - (ii) to a hearing for the purpose of taking evidence of any matters set forth in this Consent Order;
 - (iii) to judicial review of this Consent Order; and
 - (iv) to challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of this Consent Order or any provision hereof.

NOW, THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and without this Consent Order constituting an admission or denial of any allegation made or implied by the Board of Governors in connection with this matter, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony and pursuant to the aforesaid resolution:

IT IS HEREBY ORDERED, pursuant to section 106(2)(F) of the Bank Holding Company Act Amendments of 1970, 12 U.S.C. § 1972(2)(F) and sections 8(b) and 8(i)(2) of the FDI Act, 12 U.S.C. §§ 1818 (b) and (i)(2), that:

CIVIL MONEY PENALTY

1. WestLB is assessed and shall pay to the Board of Governors a civil money penalty in the amount of \$3,000,000;
2. Payment of the penalty shall be made at the time of execution of this Consent Order by a Fedwire transfer to the Federal Reserve Bank of Richmond, ABA No. 05 1000033, to the order of the Board General Fund, FRBR General Ledger Account number 220 400 010, which penalty the Board of Governors, or the Federal Reserve Bank of Richmond on its behalf, shall remit to the United States Treasury as required by statute.

CEASE AND DESIST ACTION

3. WestLB and its subsidiaries and institution-affiliated parties shall cease and desist and shall take affirmative action as follows:

Prohibition of Future Violations

- (a) WestLB, and any subsidiary and institution-affiliated party thereof, shall not directly or indirectly violate section 106, or any rules or regulations issued pursuant thereto;

Policies and Procedures With Respect to Compliance and Training

- (b) Within 30 days of this Consent Order, WestLB shall submit to the Board of Governors an acceptable program for the ongoing training of its employees located in the United States regarding compliance with section 106 and related rules, regulations, and guidelines, and thereafter adhere to the program as approved;
- (c) Within 30 days of this Consent Order, WestLB shall submit to the Board of Governors an acceptable program to ensure ongoing compliance with section 106 and related rules, regulations, and guidelines, and thereafter adhere to the program as approved. Such program shall include, at a minimum:
- i. policies and procedures governing the review by WestLB's legal or compliance officers of term sheets, commitment letters, and other offers of extensions of credit to ensure that the offered terms do not violate section 106;
 - ii. policies and procedures governing "relationship banking," including the conduct of discussions and negotiations, both written and oral, concerning "cross-selling" of WestLB products and services, to ensure that such discussions do not violate or lead to violations of section 106;

- iii. review of employee compensation programs to ensure such programs do not provide employees with inappropriate incentives to tie products and services in ways that may violate or lead to violations of section 106;
 - iv. policies and procedures regarding the review of marketing materials by WestLB's legal or compliance officers to ensure that these materials do not violate or lead to violations of section 106; and
 - v. incorporation into the WestLB internal audit function of reviews of WestLB's section 106 compliance policies, procedures and systems, including periodic transaction testing;
- (d) Within 30 days of this Consent Order, WestLB shall submit to the Board of Governors an acceptable program of internal controls for ensuring ongoing compliance with the limitations on WestLB's activities relating to underwriting and dealing securities with respect to the United States, including activities of its home office, branches outside the United States, and of its affiliates; and

Remedial Action

- (e) Within 30 days of this Consent Order, WestLB shall notify in writing any customer who agreed, in connection with WestLB's offer of an extension of credit, to name WestLB as an underwriter of a future securities offering that has not yet occurred, that WestLB will not enforce that portion of any condition that the customer appoint WestLB as an underwriter, and WestLB shall provide a copy of each such notification to the Board of Governors at the time the customer is notified.

Miscellaneous

4. The provisions of this Consent Order shall not bar, estop or otherwise prevent the Board of Governors or any other U.S. federal or state agency or department from taking any other action affecting WestLB or any of its current subsidiaries, or affiliates, or institution-affiliated parties.
5. Each provision of this Consent Order shall remain effective and enforceable until stayed, modified, terminated or suspended by the Board of Governors. WestLB may apply to the Board of Governors to have this Consent Order terminated, modified or amended.
6. No amendment to the provisions of this Consent Order shall be effective unless made in writing by the Board of Governors and by WestLB.
7. The provisions of this Consent Order shall be binding on WestLB and its successors and assigns.
8. No representations, either oral or written, except those provisions as set forth herein, were made to induce any of the parties to agree to the provisions as set forth herein.
9. Notwithstanding any provision of this Consent Order, the Federal Reserve Bank of New York may, in its discretion, grant written extensions of time to WestLB to comply with any provision of this Consent Order.
10. All communications regarding this Consent Order shall be addressed to:
 - (a) J. Virgil Mattingly, Jr., Esq.
General Counsel
Board of Governors of the
Federal Reserve System
20th & C Streets, NW
Washington, DC 20551

- (b) Mr. Robert A. O'Sullivan
Senior Vice President
Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
- (c) Dr. Michael Berghaus
Managing Director and General Counsel
WestLB AG
Herzogstgrasse 15
Dusseldorf 40217 Germany
- (d) Frederic M. Mauhs, Esq.
Managing Director and General Counsel
for North America
WestLB AG, New York Branch
1211 Avenue of the Americas
New York, New York 10036

with a copy to:

Danforth Newcomb
Shearman & Sterling LLP
599 Lexington Ave.
New York, New York 10022

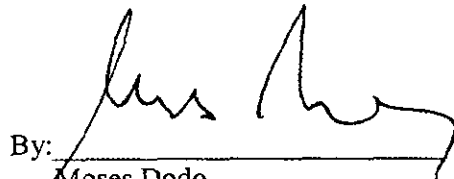
JD


27th
26th day of *August*

By order of the Board of Governors of the Federal Reserve System, effective this

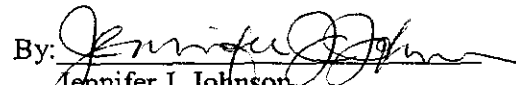
2003.

WestLB AG

By: 
Moses Dodo
Managing Director and General
Manager, WestLB AG, New York
Branch

By: 
Frederic M. Mauhs, Esq.
Managing Director and General Counsel
for North America

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

By: 
Jennifer J. Johnson
Secretary of the Board