

# EXHIBIT E

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

\_\_\_\_\_  
In re:

CORUS BANKSHARES, INC.<sup>1</sup>

Debtor.  
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) Chapter 11

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) Case No. 10-26881 (PSH)

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**ORDER APPROVING A STIPULATION BETWEEN THE DEBTOR AND THE  
FEDERAL DEPOSIT INSURANCE CORPORATION, AS RECEIVER (I)  
ESTABLISHING A RESERVE ACCOUNT TO HOLD TAX REFUNDS PENDING  
FINAL ADJUDICATION OF OWNERSHIP, AND (II) MODIFYING THE  
AUTOMATIC STAY TO ALLOW THE FEDERAL DEPOSIT INSURANCE  
CORPORATION TO FILE TAX RETURNS**

Upon the motion, dated September 9, 2010 (the "Motion"),<sup>2</sup> of Corus Bankshares, Inc., as debtor and debtor in possession (the "Debtor"), for the entry of an order (the "Order") Approving a Stipulation Between the Debtor and the FDIC, as Receiver (I) Establishing a Reserve Account to Hold Tax Refunds Pending Final Adjudication of Ownership, and (II) Modifying the Automatic Stay to Allow the Federal Deposit Insurance Corporation to File Tax Returns; and the Court having found that the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that the relief requested in the Motion is in the best interests of the Debtor's estate, its creditors and other

<sup>1</sup> The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Corus Bankshares, Inc. (3592). The location of the Debtor's corporate headquarters and the service address for the Debtor is: 10 S. Riverside Plaza, Suite 1800, Chicago, IL 60606.

<sup>2</sup> All capitalized terms used but otherwise not defined herein shall have the meaning set forth in the Motion.

parties in interest; and the Debtor having provided appropriate notice under the circumstances of the Motion and the opportunity for a hearing on the Motion, and that no other or further notice is required; and the Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before the Court (the "Hearing"); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is IHEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.
2. The Debtor and the FDIC are hereby authorized to enter into the Stipulation attached hereto as Attachment I.
3. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Court's local rules are satisfied by such notice.
4. The Debtor is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.
5. All time periods set forth in this Order shall be calculated in accordance with Bankruptcy Rule 9006(a).
6. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

7. Notwithstanding the possible applicability of Bankruptcy Rules 6004(h), 7062, 9014 or otherwise, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

Dated: **SEP 23 2010**, 2010  
Chicago, Illinois

  
United States Bankruptcy Judge

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Case 10-26881 Doc 146-1 Filed 09/09/10 Entered 09/09/10 16:58:07 Desc Exhibit

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ATTACHMENT 1

Stipulation

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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In re:

CORUS BANKSHARES, INC.<sup>1</sup>

Debtor.

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**STIPULATION BETWEEN THE DEBTOR AND THE FEDERAL DEPOSIT  
INSURANCE CORPORATION WITH RESPECT TO (I) THE  
ESTABLISHMENT OF AN ESCROW ACCOUNT AND (II) THE FILING OF A 2009  
TAX RETURN ON BEHALF OF CORUS BANK, N.A.**

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WHEREAS, on June 15, 2010 (the "Petition Date"), Corus Bankshares, Inc. ("Corus" or the "Debtor") filed a voluntary petition under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Illinois (the "Bankruptcy Court"); and

WHEREAS, on September 11, 2009, the Office of the Comptroller of Currency closed Corus Bank, N.A., ("Corus Bank") and appointed the Federal Deposit Insurance Corporation ("FDIC") as Receiver; and

WHEREAS, the Debtor was, during the 2008 and 2009 tax years applicable to this Stipulation, the holding company and corporate parent of Corus Bank; and

WHEREAS, on April 23, 2007, the Debtor and Corus Bank entered into a certain Intra-Company Payment Policy, pursuant to which the Debtor and Corus Bank agreed to a certain process for computation and allocation of their current and deferred income tax assets and liabilities, and payment of, and reimbursements for, taxes and refunds; and

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<sup>1</sup> The Debtor in this chapter 11 case, along with the last four digits of the Debtor's federal tax identification number, is: Corus Bankshares, Inc. (3592). The location of the Debtor's corporate headquarters and the service address for the Debtor is: 10 S. Riverside Plaza, Suite 1800, Chicago, IL 60606.

WHEREAS, the Debtor has filed consolidated tax returns that included the tax results of Corus Bank and other subsidiaries of the Debtor for tax years 2009 and earlier, and the consolidated tax return for the 2009 year only included the results for Corus Bank through the date upon which the FDIC was appointed as Corus Bank's receiver; and

WHEREAS, the Debtor's consolidated tax return for the 2009 year (as well as the consolidated tax return for the 2008 year) reported substantial tax losses. As a result of these losses, the 2009 and 2008 tax returns included claims for refunds for taxes paid for earlier years; and

WHEREAS, the Debtor has requested refunds in the amount of \$109.4 million for 2008 and \$147.8 for 2009, which funds are being held by the Internal Revenue Service ("IRS"); and

WHEREAS, it is anticipated by the Debtor and the FDIC that there may be other refunds issued by the United States Treasury (together with the 2008 and 2009 refunds, the "Tax Refunds"), and other funds that the Debtor and the FDIC (either directly or through counsel) agree in writing shall be subject to this Stipulation ("Other Amounts"); and

WHEREAS, the FDIC believes that all, or substantially all, of the Tax Refunds belong to Corus Bank and, thus, are property of the FDIC as Receiver; and

WHEREAS, the Debtor believes that all, or substantially all, of the Tax Refunds belong to the Debtor and, thus, are property of the bankruptcy estate of the Debtor; and

WHEREAS, in the event the IRS releases the Tax Refunds to either the FDIC or the Debtor, the Debtor and the FDIC believe that it is in their best interests to place such funds in an appropriate segregated bank account, without prejudice to either party's position; and

WHEREAS, neither the Debtor nor the FDIC intend to waive any of their respective arguments and, as such, understand that neither is admitting or recognizing that all or any part of the Tax Refunds are property of the other merely by entering into this Stipulation; and

WHEREAS, the Debtor and the FDIC wish to enter into this Stipulation regarding the deposit of the Tax Refunds into an escrow arrangement pursuant to which either the Debtor or the FDIC shall deposit the Tax Refunds in a separate and segregated account at Deutsche Bank ("Deutsche Bank"), and which will permit funds to be held therein without any admission or presumption being raised as to whether such funds are property of the bankruptcy estate of the Debtor or the FDIC as Receiver, pending resolution by the parties or a judicial determination; and

WHEREAS, the FDIC has expressed its desire to file its own version of a tax return or returns on behalf of Corus Bank for the 2009 tax year, now therefore,

IT IS HEREBY STIPULATED AND AGREED THAT:

1. The Debtor shall establish an interest-bearing account at Deutsche Bank which shall be and remain separate from any other accounts established by the Debtor (the "Escrow Account"). The Debtor and the FDIC agree that any Tax Refunds received by either party will be deposited promptly into the Escrow Account upon receipt and shall be subject to this Stipulation. Any interest earned on the Escrow Account will be distributed to the party that ultimately receives the Tax Refunds. When monies are released from the Escrow Account and distributed, a pro-rata share of the accrued interest thereon shall be distributed therewith.

2. The Debtor and the FDIC agree that no funds shall be distributed or released from the Escrow Account by Deutsche Bank except upon (a) an agreement between the Debtor and the FDIC to release such funds, or (b) an order or judgment of the Bankruptcy Court, or other

court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or has otherwise been dismissed with prejudice ("Final Order"), approving the distribution and release of such funds.

3. The Debtor and the FDIC further agree that no presumption or adverse inference shall arise that the Tax Refunds, in whole or in part, belong to and are the property of the FDIC as Receiver or the bankruptcy estate of the Debtor merely because of this Stipulation or the involvement of the Debtor in holding, negotiating or depositing the funds.

4. Deutsche Bank shall release the funds held in the Escrow Account, including interest earned thereon, upon entry of a Final Order directing the same, without offset, defense, deduction, chargeback or counterclaim of any kinds, nature or description, other than for usual and customary bank fees of Deutsche Bank, as provided in paragraph 8 herein, including any wire transfer fees (the "Deutsche Bank Fees").

5. The Debtor and the FDIC further agree that the FDIC shall not be required to make a motion to lift or modify the automatic stay in order to file its own version of tax returns on behalf of Corus Bank for the 2009 tax year, to the extent permitted by Treas. Reg. § 301.6402-7(e) (the "FDIC 2009 Return") or to respond to inquiries by the IRS. Copies of written materials that are provided to the IRS in response to such inquiries shall also be provided to the Debtor. If the Debtor responds to inquiries by the IRS regarding their filed tax returns copies of written materials that are provided to the IRS in response to such inquiries shall also be provided

to the FDIC. The Debtor does not acquiesce in the filing of the FDIC 2009 Return, and does not concur or agree with any of the content or positions taken in or with respect to such return, and nothing herein shall be deemed as an agreement with respect to the content of such return. The Debtor shall have no liability solely by virtue of the filing of the FDIC 2009 Return. The Debtor retains and reserves any and all rights in connection to the FDIC 2009 Return.

6. For the purposes of this Stipulation, notice is proper if given in writing by email and overnight delivery to:

1. **The Debtor:**

Kirkland & Ellis LLP  
Attn: Jeffrey Gettleman  
300 North LaSalle Street  
Chicago, IL 60654  
jeffrey.gettleman@kirkland.com

2. **The FDIC:**

DLA Piper LLP  
Attn: Alan P. Solow  
203 North LaSalle Street  
Chicago, IL 60601  
alan.solow@dlapiper.com

3. **The Official Committee of Unsecured Creditors (the "Committee"):**

Kilpatrick Stockton LLP  
Attn: Todd Meyers  
1100 Peachtree Street, Suite 2800  
Atlanta, GA 30309-4528  
TMeyers@KilpatrickStockton.com

7. Deutsche Bank shall send monthly statements with respect to the Escrow Account to the Debtor, the FDIC, and the Committee by regular mail as provided in Paragraph 6.

8. When funds are released from the Escrow Account and distributed, any Deutsche Bank Fees shall first be deducted therefrom.

9. Nothing herein shall prejudice, waive or impair the right of either the FDIC as Receiver, or the Debtor, to take, commence, continue the prosecution of, or defend any action or proceeding, including, but not limited to, *Corus Bankshares, Inc. v. Federal Deposit Insurance Corporation*, Case No. 10-01362 in the United States Bankruptcy Court for the Northern District of Illinois seeking a declaration that the Tax Refunds belong to it and are its property pursuant to any statutory, regulatory or judicial authority, and *Corus Bankshares, Inc. v. Federal Deposit Insurance Corporation, as Receiver*, Case No. 10-01653 in the United States Bankruptcy Court for the Northern District of Illinois.

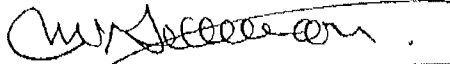
10. The Parties agree to cooperate to obtain Bankruptcy Court approval of this Stipulation. Pending such approval by the Bankruptcy Court, this Stipulation shall govern the establishment of the Escrow Account, and the deposit and maintenance of the Tax Refunds.

11. The Bankruptcy Court shall have continuing jurisdiction to resolve any dispute among the Debtor and the FDIC with respect to this Stipulation.<sup>2</sup>

<sup>2</sup> This Stipulation does not constitute a submission by the FDIC to the jurisdiction or authority of the Bankruptcy Court for the resolution of any regulatory matter involving the Debtor or the FDIC. Nor is this Stipulation an admission that the Bankruptcy Court is the appropriate forum for disputes between the FDIC and the Debtor other than with respect to this Stipulation. The filing of this Stipulation shall not constitute a waiver or consent by the FDIC of any right to assert Sovereign Immunity whether the FDIC is acting in its capacity as Receiver or otherwise. The filing of this Stipulation shall not constitute a waiver or consent by the FDIC of any (a) right to seek any and all final orders in any and all non-core matters to be entered only after de novo review by the United States District Court; (b) right to seek trial by jury in any proceedings as to any and all matters so triable therein, whether or not the same be designated legal or private rights, or in any case, controversy or proceeding related thereto, whether or not the same be designated legal or private rights, or in any case, controversy or proceeding related thereto, whether or not such jury trial right is pursuant to statute or the United States Constitution; (c) right to seek to have the reference of this matter withdrawn by the United States District Court in any matter or proceeding subject to mandatory or discretionary withdrawal; or (d) other rights, claims, actions, defenses, setoffs, recoupments or other matters to which the FDIC is entitled under any agreements or at law or in equity or under the United States Constitution. Except with respect to the specific statements in this Stipulation, all of the foregoing rights are expressly reserved and preserved without exception and with no purpose of conceding jurisdiction in any way by participating in this Stipulation. The FDIC expressly reserves all rights at law and equity to assert the preemption of the Bankruptcy Court's jurisdiction and the exclusive jurisdiction provided under Title 12 as applicable with respect to the FDIC. The Debtor expressly reserves all defenses and arguments in opposition to any of the above.

Stipulated and Agreed as of August 31, 2010.

**KIRKLAND & ELLIS LLP**



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