

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of
DOLLAR SAVINGS BANK,
Newark, NJ,
OTS No. 06755
and

OTS Order No. AP 04-01
Dated: February 13, 2004

ROBERT DeMANE, former President
of DOLLAR SAVINGS BANK,

and

LARRY MARRO, former
Institution Affiliated Party
of DOLLAR SAVINGS BANK,

Respondents.

NOTICE OF CHARGES AND NOTICE OF HEARING
FOR CEASE AND DESIST ORDER TO
DIRECT RESTITUTION AND OTHER
AFFIRMATIVE RELIEF AND NOTICE
OF ASSESSMENT OF CIVIL MONEY PENALTIES

I. INTRODUCTION

1. In accordance with 12 U.S.C. § 1464(d)(1)(A) and 12 U.S.C. §§ 1818(b) and (i), the Director of the Office of Thrift Supervision (“OTS”) issues this Notice of Charges and Hearing (“Notice”) against Dollar Savings Bank (“Dollar”), Newark, New Jersey, its former President and member of the board of directors, Robert DeMane (“DeMane”), and Larry Marro (“Marro”) a former Institution-Affiliated Party of Dollar (jointly referred to as “Respondents”).

2. The OTS, upon consideration of information made available to it, charges that Respondents have engaged in or are about to engage in violations of laws and regulations,

breaches of fiduciary duty, and unsafe or unsound practices in conducting the business of Dollar. Such conduct is likely to cause a significant dissipation of assets or earnings of Dollar, or is likely to weaken the condition of Dollar or otherwise prejudice the interests of its depositors. OTS asserts that such conduct satisfies the requirements of 12 U.S.C. §§ 1818(b), (c) and (i), and that based thereon grounds exist to initiate administrative cease and desist and civil money penalty (“CMP”) proceedings.

3. The OTS also charges that Respondents’ violations and practices involve a reckless disregard for the law and applicable regulations, and that Respondents have been unjustly enriched in connection with such violations and practices. 12 U.S.C. § 1818(b)(6).

II. JURISDICTION

4. The OTS is the regulatory agency charged with the supervision and regulation of savings associations, savings and loan holding companies, and their “institution-affiliated parties,” pursuant to 12 U.S.C. §§ 1463, 1464 and 1818.

5. At all relevant times, Dollar was a savings association as defined by 12 U.S.C. §§ 1462(4), 1467a(a)(1)(D), and 1813(b), and an insured depository institution as defined by 12 U.S.C. § 1813(c)(1), subject to supervision and regulation by the OTS.

6. At all times material hereto, Dollar maintained its principal place of business in Newark, New Jersey.

7. The OTS is the “appropriate Federal banking agency” to initiate a cease and desist proceeding for affirmative relief, and to assess civil money penalties, against institution-affiliated parties of savings associations, pursuant to 12 U.S.C. § 1813(q)(4) and § 1818(b) and (i).

8. Until on or about February 13, 2004, DeMane was president and a director of Dollar. DeMane is also President, Chief Executive Officer, and a director of Dollar Bancorp,

Inc., Dollar's holding company. At all times material hereto, DeMane was, therefore, an "institution-affiliated party" as defined in 12 U.S.C. § 1813(u).

9. Until on or about February 13, 2004, Marro was an employee, agent, or independent contractor of Dollar. At all times material hereto, Marro was, therefore, an "institution-affiliated party" as defined in 12 U.S.C. § 1813(u).

10. The Director of OTS has the authority to bring this administrative cease and desist proceeding against Respondents pursuant to 12 U.S.C. § 1464(d)(1)(A) and 12 U.S.C. § 1818(b). Further, the Director of OTS has the authority to seek affirmative relief, and to assess civil money penalties, pursuant to 12 U.S.C. § 1464(d)(1)(A) and 12 U.S.C. §§ 1818(b) and (i).

III. FACTS

Dollar

11. As of December 31, 2003, Dollar's total deposits were \$10,859,000.

12. As of December 31, 2003, Dollar's total assets were only \$13,408,000. That total includes \$3,563,000 in cash, deposits and investment securities.

13. As of December 31, 2003, Dollar's total core capital was only \$2,133,000.

The Satellite Operations

14. In or about November 2003, OTS learned that Dollar was conducting mortgage operations in Vicksburg, Mississippi, a location outside Dollar's geographic lending area. OTS had not received notification from Dollar that it intended to conduct mortgage operations in Vicksburg, Mississippi.

15. Based on this information, OTS commenced an examination to determine whether Dollar was conducting operations contrary to law.

16. OTS subsequently learned that in addition to Vicksburg, Mississippi, Dollar had loan officers and/or agents in Somerset, and Lincoln Park, New Jersey, and Tampa, and Miami, Florida (the "Satellite Operations").

17. OTS's examination revealed that Dollar's outside directors were unaware of the extent to which Dollar was conducting mortgage operations outside of Newark, New Jersey, and that the two individuals responsible for establishing and running those operations were Robert DeMane and Larry Marro.

18. Upon information and belief, Larry Marro is the contact person for the Satellite Operations and is compensated from fees generated by loans originated and processed at Dollar's main office and the Satellite Operations offices.

The Private Placement

19. On December 8, 2003, Dollar Bancorp Inc., issued a Private Placement Memorandum ("PPM") soliciting capital contributions to raise between \$3 million and \$4 million.

20. Among other things, the PPM describes the nature of Dollar's business operations, specifying that Dollar operates in and around its Newark, New Jersey location:

- "Dollar Savings is a federally chartered, community oriented savings institution located in Newark, New Jersey. Dollar Savings is primarily engaged in the business of attracting deposits from the general public in the surrounding communities, and investing those funds primarily in first mortgage loans on one-to four-family residential real estate, and commercial real estate loans, and to a lesser extent, multi-family real estate loans." See PPM at p.1.

- “Through its office in Newark, Dollar Savings Bank serves communities located in Essex County, New Jersey. The principal business of Dollar Savings Bank has historically consisted of attracting retail deposits from the general public and investing those funds primarily in first mortgage loans on one- to four-family residential real estate, and commercial real estate loans, and to a lesser extent multi-family real estate.” See PPM at p.15.
- “The Company conducts its business through its main office, located at 893 Franklin Avenue, Newark, New Jersey.” See PPM at p.29.

21. The PPM contains material misrepresentations to investors by failing to disclose significant information regarding Dollar’s business operations. Significantly, the PPM fails to disclose that Dollar was involved in mortgage broker operations outside its Newark location, and that Dollar was conducting loan operations outside of New Jersey. Such material misrepresentations constitute violations of 15 U.S.C. § 78j(b), and Securities and Exchange Commission Rule 10b-5, 17 C.F.R. § 240.10b-5.

22. As President, CEO and a director of Dollar Bancorp, DeMane is responsible for ensuring the accuracy of the PPM.

23. As of January 12, 2004, the PPM resulted in raising capital of \$1,803,866.58, which amounts could be required to be returned to investors due to the material misrepresentations contained in the PPM, or for any other reason. At the time of the capital contribution these funds were to be held in a segregated account at Dollar.

DeMane Withdrawals

24. As a part of OTS's examination, OTS examiners appeared at the Dollar offices in Newark, New Jersey, and Vicksburg, Mississippi on February 3, 2004, to conduct an extensive review of Dollar's operations and to pose questions to DeMane and Marro.

25. Commencing on February 3, 2004, the same day that OTS examiners began to investigate Dollar's Satellite Operations, DeMane began withdrawing funds and closing accounts at Dollar over which he had signatory authority. Between February 3, 2004 and February 11, 2004, DeMane caused Dollar to issue Official checks to himself and various other persons and entities totaling \$4,025,696.86. That amount exceeds the value of Dollar's entire cash holdings as of December 31, 2003, and represents nearly double the value of Dollar's total capital as of the same date.

26. The withdrawal of over \$4 million over seven business days by DeMane constitutes a breach of fiduciary duty and an unsafe and unsound practice because it substantially weakens the financial condition of Dollar and prejudices the interests of its depositors.

Marro's Involvement

27. Marro, while employed by and/or acting as agent for Dollar, conducted Dollar's Satellite Operations and other loan origination operations through at least two entities created by Marro and DeMane. The entities, operated under the name Dollar Savings LLC, listed DeMane as President and Marro as Vice-President. Neither the establishment nor the operation of Dollar Savings LLC was authorized or approved by Dollar's board of directors.

28. At no time did Marro hold the position of Vice-President of Dollar. Notwithstanding the fact that Marro was not a Vice-President of Dollar, Marro signed documents sent to third parties in which he represented himself to be a Vice-President of Dollar.

29. Further, Marro brokered loans and received fees for at least fifty loans handled through the Satellite Operations. Dollar should have, but did not, receive these fees in connection with those loans.

IV. VIOLATIONS AND UNSAFE AND UNSOUND OPERATIONS

30. The OTS hereby incorporates and realleges all of the foregoing allegations of this Notice.

31. The representations in the PPM fail to provide material information regarding the true operations of Dollar and, as such, constitute a material misstatement in violation of 15 U.S.C. § 78j(b).

32. DeMane’s withdrawals as described in ¶¶ 24-26 above constitute a breach of fiduciary duty owed to Dollar and its depositors, violations of law or regulations, and constitutes unsafe or unsound practices in violation of 12 U.S.C. §§ 1818(b) and (i).

33. DeMane’s and Marros’s actions as set out in ¶¶ 27-29 above constitute breaches of fiduciary duty owed to Dollar, violations of law or regulations, and unsafe or unsound practices in violation of 12 U.S.C. §§ 1818(b) and (i).

V. RELIEF REQUESTED

A. Claim for Affirmative Relief (12 U.S.C. § 1818(b)(1), (6))

34. The OTS hereby incorporates and realleges all of the foregoing allegations of this Notice.

35. Respondents’ conduct is in reckless disregard for the law or applicable regulations. Respondents also were unjustly enriched in connection with the violations and practices set forth above.

36. A final order should issue pursuant to 12 U.S.C. § 1818(b)(6) requiring Respondents to take affirmative action to correct and remedy the conditions resulting from the violations, unsafe and unsound practices and misconduct alleged herein, including but not limited to:

(a) providing restitution, reimbursement, indemnification, or guarantee against loss in an amount to be determined at the hearing in this matter; and

(b) cease and desist from future violations of law and regulation, breaches of fiduciary duty, and unsafe or unsound practices;

(c) taking such other action (including, but not limited to, specific performance) as the Director of the OTS determines to be appropriate; and

(d) requiring DeMane and Marro to reimburse the OTS for all costs and expenses associated with the investigation and prosecution of this administrative enforcement action.

B. Claim for Civil Money Penalties (12 U.S.C. § 1818(i)(2))

37. The OTS hereby incorporates and realleges all of the foregoing allegations of this Notice.

38. Respondents knowingly and recklessly (a) committed violations of law and regulations, (b) engaged in unsafe or unsound practices, and (c) breached their fiduciary duties to Dollar and its shareholders, as set forth in this Notice.

39. The violations, practices and breaches set forth in this Notice were part of a pattern of misconduct by DeMane and Marro that caused more than minimal loss to Dollar, and that resulted in pecuniary gain or other benefit to DeMane and Marro.

40. DeMane and Marro knowingly or recklessly caused a substantial loss to Dollar and its shareholders by reason of the violations, practices, and breaches set forth in this Notice.

41. DeMane and Marro knowingly or recklessly caused themselves to receive a substantial pecuniary gain or other benefit by reason of the violations, practices, and breaches set forth in this Notice.

42. A final order should issue pursuant to 12 U.S.C. § 1818(i)(2) requiring DeMane to pay civil money penalties in an amount of not less than \$250,000.

43. A final order should issue pursuant to 12 U.S.C. § 1818(i)(2) requiring Marro to pay civil money penalties in an amount of not less than \$50,000.

44. An order requiring such other relief as is determined to be just and proper.

VI. NOTICE OF HEARING

45. Notice of Hearing -- Cease and Desist. Notice is given that an administrative hearing will be held pursuant to 12 U.S.C. § 1818(b), and in accordance with the Rules of Practice and Procedure in Administrative Proceedings of the OTS, 12 C.F.R. Part 509, to determine whether the Director of the OTS should issue to Dollar and DeMane a final cease and desist order for restitution and/or other affirmative relief.

46. Location and Date. The hearing will be held within the federal judicial district for the Northern District of New Jersey, except as may otherwise be provided under 12 U.S.C. § 1818(h). The hearing will be held before an Administrative Law Judge ("ALJ"), under the direction of the Office of Financial Institution Adjudication, who shall be appointed to preside at the hearing. Unless otherwise set by the ALJ or by agreement of the parties, the hearing will commence on or before the sixtieth day following service of this Notice of Charges. The exact time of day and location will be announced at a later time by the ALJ. The hearing will be conducted before the ALJ in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C.A. §§ 554-557, as made applicable by 12 U.S.C. § 1818(h) and 12 C.F.R. Part 509.

47. **Answer Required.** Respondents DeMane and Marro are each directed to file an Answer in response to the charges set forth in the Notice of Charges within twenty days of service. The requirements of the Answer and the consequences of failing to file an Answer are set forth at 12 C.F.R. § 509.19.

48. **Filing of Papers.** The filing of papers is governed by 12 C.F.R. § 509.10, and except as otherwise provided by that rule, any papers required to be filed shall be filed with Office of Financial Institution Adjudication, 1700 G Street, N.W., Washington, D.C. 20552. Until an OTS attorney files a notice of appearance in this proceeding, Respondents shall serve a copy of any filing on the Enforcement Counsel of record in these proceedings:

Richard C. Stearns
Enforcement Deputy Director
Office of Thrift Supervision
1700 G. Street, N.W.
Washington, D.C. 20552

49. **Public or Private Hearing.** Respondents may, within twenty days after service of the Notice of Charges, file a written request for a private hearing, as provided by 12 C.F.R. § 509.23. Such request and any replies thereto are governed by 12 C.F.R. § 509.23. The hearing will be open to the public, unless the Director of the OTS, in his sole discretion, determines that an open hearing will be contrary to the public interest. 12 U.S.C. § 1818(u)(2). The Director will rule on any request filed under Section 509.23(a), and copies of any such request should be sent to the Director at:

Ms. Sandra E. Evans
Acting Secretary for Adjudicatory Proceedings
Office of Thrift Supervision
1700 G Street, N.W.
Washington, DC 20552

NOTICE OF OPPORTUNITY FOR HEARING ON CMP ASSESSMENT

50. Notice is given, pursuant to 12 U.S.C. 1818(i)(2), that Respondents DeMane and Marro are afforded an opportunity for a formal hearing, if requested, concerning the assessment of civil money penalties, which are set forth above. A hearing will be held with respect to the assessment against each Respondent, provided that within twenty (20) days after issuance and service of the Notice of Assessment, Respondent files a written request for a hearing to the assessment. 12 U.S.C. § 1818(h) shall apply to any proceeding request.

51. Any hearing held on the CMP assessment, as described above, shall be combined with the hearing of the other matters set forth in the foregoing Notice, including those concerning the issuance of an order to cease and desist.

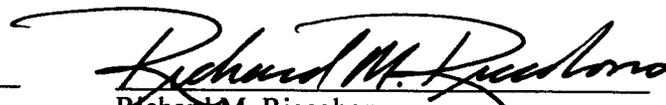
52. If a Respondent fails to file a request for a hearing within the aforementioned twenty-day (20-day) period, that assessment shall constitute a final and unappealable assessment order of the OTS against that Respondent as provided by 12 U.S.C. § 1818(i)(2)(E). See also 12 C.F.R § 509.19(c)(2). Any final and unappealable assessment order may be referred to the United States Department of Justice for collection against the subject of the assessment order.

53. Until an OTS attorney files a notice of appearance in this proceeding, Respondents shall serve a copy of each and every filing on counsel of record for the OTS, as follows:

Richard Stearns
Enforcement Deputy Counsel
Office of Thrift Supervision
1700 G Street, N.W.
Washington, DC 20552

FOR THE DIRECTOR OF THE
OFFICE OF THRIFT SUPERVISION

Dated: FEB. 13, 2004


Richard M. Riccobono
Deputy Director