

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
Gateway Bank, a F.S.B.,)
San Francisco, California)
_____)

OTS Order No. SF-93-022

Dated: July 30, 1993

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST
(Safety and Soundness)

The Office of Thrift Supervision ("OTS"), by and through its Deputy Director for Regional Operations, OTS, and Gateway Bank, a F.S.B., ("Gateway"), San Francisco, California, stipulate and agree as follows:

1. **Consideration.** The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against Gateway pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. § 1818(b)). Gateway desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist litigation against Gateway with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. **Jurisdiction.**

(a) Gateway is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act, as amended by FIRREA. Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA (12 U.S.C. § 1813(c)).

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Gateway is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against it pursuant to Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)).

3. **Consent.** Gateway consents to the issuance by the OTS of the Order. It further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. **Finality.** The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)). Upon its issuance by the Deputy Director for Regional Operations, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(i)).

5. **Waiver.** Gateway waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Deputy Director for Regional, OTS, and Gateway, by a majority of its directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

GATEWAY BANK, a F.S.B.,
by a majority of its directors

By: _____
John Downey
Deputy Director
for Regional Operations

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/S/

/S/

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	OTS Resolution No. <u>SF-93-022</u>
)	
GATEWAY BANK, F.S.B.)	Date: <u>July 30, 1993</u>
San Francisco, California)	

ORDER TO CEASE AND DESIST
(Safety and Soundness)

WHEREAS, Gateway Bank, F.S.B., San Francisco, California ("Gateway" or "Institution"), through its Board of Directors ("Board"), has executed a Stipulation and Consent to Issuance of Order to Cease and Desist, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Deputy Director for Regional Operations; and

WHEREAS, Gateway, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act, as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. Section 1818(b)).

NOW THEREFORE, IT IS ORDERED that Gateway Bank and its directors, officers, employees, and agents shall cease and desist from any violation of, or the aiding and abetting of any violation of Title 12, Sections 563.40 (Restrictions on loan procurement fees, kickbacks and unearned fees), 563.42 (Additional standards applicable to transactions with affiliates and subsidiaries), 563.93 (Lending limitations), 563.160 (Classification of certain assets), 563.161 (Management and financial policies), 563.170 (Examinations and audits; appraisals; establishment and maintenance of records), 563.176 (Interest-rate-risk-management procedures), 563.180 (Criminal referrals and other reports or statements), 568.4 (Security Procedures - Report), 571.3 (Statement of Policy - Interest-rate-risk management), 571.7 (Statement of Policy - Conflicts of Interest), 571.9 (Statement of Policy - Corporate opportunity in savings associations) of the Code of Federal Regulations, Sections 22(h) (Prohibitions respecting loans and extensions of credit to executive officers and directors of banks, etc.), and 23(a) (Banking Affiliates) of the Federal Reserve Act, and shall cease and desist from engaging, aiding or abetting in any unsafe or unsound practices.

IT IS FURTHER ORDERED THAT:

1. Immediately, except for: (1) existing legally binding commitments, (2) investments that qualify as liquid assets pursuant to Section 6 of the Home Owners Loan Act ("HOLA"), as amended by Section 301 of the FIRREA, 103 Stat. 183, 313 (12 USC § 1465), and (3) mortgage related securities with risk weightings of 50% or less pursuant to 12 CFR § 567.6(a)(1), without providing 30 days prior written notice (a time period that the Assistant Regional Director may shorten in his sole discretion) of the transaction to the Assistant Regional Director and receiving a written notice of no objection from the Assistant Regional Director, the Institution shall not:
 - a. increase its total assets beyond the level stated in its Thrift Financial Report dated June 30, 1993;
 - b. make, invest in, purchase, sell, refinance, extend, or otherwise modify, or commit to make, invest in, purchase, sell, refinance, extend, or otherwise modify any loan, except those secured by 1 to 4 single family, owner occupied dwellings, secured by real estate or any participation therein (including any acquisition, development and construction loan) or any real estate investment, commercial loans, letters of credit, or participation in any of the foregoing, or any set of such loans, investments, letters of credit, or participations;
 - c. purchase or invest in any loan servicing rights;
 - d. make, invest in, purchase, sell, refinance, extend, or otherwise modify, or commit to make, invest in, purchase, sell, refinance, extend, or otherwise modify any consumer or education loans in excess of \$5,000, except for loans fully secured by the customer's deposits;
 - e. release any borrower or guarantor from personal liability on any loan or extension of credit granted by the Institution, except when the outstanding balance of the loan and other outstanding loans to the borrower or guarantor have been paid in full; or
 - f. sell, pledge, or exchange any loan secured by real estate, or participation therein, or real estate investment, security, or other assets, or any set of such loans, participations, real estate investments, or securities, or other assets, except to the Federal Home Loan Mortgage Corporation or Federal National Mortgage Association.
2. Immediately, the Board shall not, without the prior written approval of OTS:
 - a. engage in any transactions with affiliates;

- b. engage in any transaction with the appearance of a conflict of interest, without complying with the recordkeeping requirements of 12 C.F.R. Section 563.41;
 - c. open new branches;
 - d. engage in new lines of business;
 - e. make a material change in Gateway's accounting methods;
 - f. increase the compensation paid to Gateway's senior management; or
 - g. enter into any material transaction outside the normal course of business, including, but not limited to, any investment, expansion, acquisition, sale of assets, or similar action.
3. Within 60 days of this Order, the Board shall develop and submit to the OTS for approval a business plan that describes in detail the Institution's planned operations for the next three years. Upon approval by OTS, the Board shall approve and implement the business plan and ensure that Gateway's operations do not deviate from the approved business plan in any material respect, without the prior written approval of the Board and OTS.
4. Within 60 days of this Order, the Board shall develop and implement:
- a. actions to correct the Internal Asset Review deficiencies cited in the March 23, 1993, Report of Examination, ("ROE"), including new and revised policies and procedures;
 - b. revised secondary marketing policies and procedures to correct the deficiencies cited in the ROE;
 - c. policies and procedures for complete and full documentation of its Board meetings, including, but not limited to, greater detail of the Board's discussions taken and prepared by Gateway's Corporate Secretary (who shall not be a management officer), and incorporation of reports and materials the Board reviews;
 - d. policies and procedures for safe and sound lending, lending operations, loan processing, and loan record maintenance in accordance with 12 CFR 563.170, including, revised internal controls;
 - e. a comprehensive internal control and audit program to correct the deficiencies cited in the ROE, including enhancement of the internal audit function;
 - f. revised policies and procedures for monitoring Gateway's interest rate risk, including, but not limited to, review by the Board at each Board meeting of Gateway's IRR, with documentation of the Board's discussions and what documents the board reviewed; and

g. an asset quality review of its commercial loan portfolio.

All corrections and revisions required by this paragraph are subject to review by the OTS, at its discretion, and may require further corrections or revisions after any such review.

5. By the tenth day following each regularly scheduled monthly board meeting the Board shall prepare a report detailing the progress, status and/or adherence to each of Paragraphs 1 through 4 of this Order. Included in such monthly report shall be sufficient detail of the evidence the Board reviewed to establish the progress, status and/or adherence to each of Paragraphs 1 through 4.
6. For good cause shown, the Assistant Regional Director may extend the time to complete any act that this Order requires.
7. If the Assistant Regional Director disapproves any policy, plan, or act submitted for approval under the terms of this Order, the Board will revise and resubmit the policy, plan, or act, to the Assistant Regional Director within 15 days after it receives written notice of disapproval.
8. No policy, plan, or act, approved by the Assistant Regional Director may be amended, suspended, or revoked without the prior written approval of the Assistant Regional Director. However, if Gateway has been in substantial compliance with any requirement imposed by this Order for a reasonable period of time, the Assistant Regional Director may terminate such requirement upon written request.
9. As used in this Order, the term "federal savings association" shall have the same meaning as set forth in Section 2(4) of the HOLA, as amended by Section 301 of FIRREA, Pub. L. No. 101-73, Section 301 (1989).
10. References in this Order to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the effective date of this Agreement pursuant to Section 401(h) of FIRREA, Pub. L. No. 101-73, Section 401(h) (1989), and references to successor provisions as they become applicable.
11. All technical words or terms used in this Order, for which meanings are not defined or otherwise provided by the provisions of this Order, shall, insofar as applicable, have the meaning set forth in Chapter V of Title 12 of the Code of Federal Regulations and any such technical words or terms used in this Order and undefined in the Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings industry.
12. This Order shall remain in effect until terminated by the OTS. All requests for termination of the order shall be submitted to the Assistant Regional Director. Upon review of any such request, the Assistant Regional Director shall make a recommendation to the Regional Director for denial or approval of the request. The Regional Director may grant a written request for termination or modification of the Order if, in his opinion, Gateway has satisfactorily complied with the terms of this Order

4. **Finality.** The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)). Upon its issuance by the Deputy Director for Regional Operations, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(i)).

5. **Waiver.** Gateway waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Deputy Director for Regional, OTS, and Gateway, by a majority of its directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

GATEWAY BANK, a F.S.B.,
by a majority of its directors

By: _____
John Downey
Deputy Director
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