

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

_____)
in the Matter of)
)
The Caldwell Savings and Loan)
Company)
Caldwell, Ohio)
OTS NO. 00646)
_____)

Resolution No.: CIN 92-20
Dated: August 31, 1992

STIPULATION AND CONSENT TO THE ENTRY OF A
CEASE AND DESIST ORDER

The Office of Thrift Supervision ("OTS") by and through its Regional Director for the Central Region of OTS and The Caldwell Savings and Loan Company, Caldwell, Ohio ("Caldwell"), 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 Caldwell pursuant to § 8(b) of the the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b) (Supp. I 1989). Caldwell 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 Caldwell with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) Caldwell is a "savings association" within the meaning of § 3 of the FDIA and § 2 of the Home Owners' Loan Act. Accordingly, it is an

" insured depository institution" as that term is defined in § 3(c) of the FDIA, 12 U.S.C. § 1813(c) (Supp. I 1989).

(b) Pursuant to § 3 of the FDIA, 12 U.S.C. § 1813 (Supp. I 1989), the OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Caldwell is subject to the authority of OTS to initiate and maintain a cease and desist proceeding against it pursuant to § 8(b) of the FDIA, 12 U.S.C. § 1818(b) (Supp. I 1989).

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

4. Finality. The Order is issued under § 8(b) of the FDIA, 12 U.S.C. § 1818(b) (Supp. I 1989). Upon issuance by the Regional Director for the Central Region, OTS, it shall be a final Order, effective and fully enforceable by the OTS under the provisions of § 8(i) of the FDIA, 12 U.S.C. § 1818(i) (Supp. I 1989).

5. Waivers. Caldwell waives its right to a notice of charges and the administrative hearing provided by § 8(b) of the FDIA, 12 U.S.C. § 1818(b) (Supp. I 1989), and further waives any right to seek judicial review of the Order, including any such right provided § 8(h) of the FDIA, 12 U.S.C. § 1818(h), (Supp. I 1989), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the Central Regional Office, OTS, and Caldwell by a

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ORDER TO CEASE AND DESIST

WHEREAS, The Caldwell Savings and Loan Company, Caldwell, Ohio ("Caldwell" or "Institution") through its board of directors "(Board)", has executed a Stipulation and Consent to Entry of a Cease and Desist Order ("Stipulation") which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Regional Director for the Central Region; and

WHEREAS, Caldwell in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to § 8(b) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(b) (Supp. I 1989).

NOW, THEREFORE, IT IS ORDERED that Caldwell and its directors, officers, employees, agents, and service corporations shall cease and desist from any action (alone or with another or others) or participation in, counseling or the aiding and abetting of any violation of:

1. (a) 12 C.F.R. § 545.36, pertaining to the repayment terms of land loans;
(b) 12 C.F.R. § 563.50, pertaining to the calculation of qualified thrift lender status;

(c) 12 C.F.R. § 563.172 and Part 564, pertaining to appraisals;

(d) 12 C.F.R. § 563.170, which requires inspection reports and that documentation is provided for mortgage releases and the current status of taxes and insurance;

(e) 12 C.F.R. § 563.93, pertaining to limitations on loans to one borrower;

(f) 12 C.F.R. § 563.233, which requires the use of generally accepted accounting principles;

(g) 12 C.F.R. § 563.173, which requires certain documentation for purchase of forward commitments; and

(h) 12 C.F.R. § 566.4, pertaining to documentation requirements relating to liquidity.

IT IS FURTHER ORDERED THAT:

THE BOARD OF DIRECTORS AND MANAGEMENT

2. Within 60 days from the date of issuance of this Order, Caldwell shall develop and adopt a written policy that addresses the minimum oversight activities and duties of the Board. The policy shall address the level and timing of Board direction to management through the development and implementation of comprehensive policies and procedures and the level of board oversight of management to ensure that the strategies, goals and objectives contained in the Board-adopted policies and procedures can be achieved satisfactorily. Such a policy shall be in a form acceptable to the Assistant Director, OTS-Cincinnati ("Assistant Director"). The Board's deliberations of the policy contents shall include, at a minimum, consideration

of the OTS publication entitled "Director Information Guidelines" which was distributed to the thrift industry in December 1989.

3. Within 60 days from the date of issuance of this Order, the Board shall consider whether any new directors with any particular area of expertise would be advantageous to Caldwell. The Board shall seek any new director(s) with such expertise. Until notified otherwise, the Board shall submit monthly progress reports which detail the Board's efforts to strengthen its membership, to the Assistant Director.

4. The Board shall use its best efforts to employ a new managing officer within 60 days from the date of issuance of this Order, and, until notified otherwise, shall submit monthly progress reports on that search to the Assistant Director. The new managing officer and the Board shall prepare a revised management structure with assigned responsibilities and a plan for increased education and training of management. This management structure and plan shall be submitted to the Assistant Director.

5. Within 90 days from the date of issuance of this Order, Caldwell shall revise its lending policies and procedures to include at a minimum:

(a) Mortgage loan underwriting and documentation requirements to be no less stringent than FNMA/FHLMC criteria;

(b) Prohibit all loans secured by savings accounts in which the loan amount exceeds 90 percent of the account balance;

(c) An environmental risks policy that establishes guidelines commensurate with the environmental risks in the lending area, and is prepared

in accordance with the requirements in OTS Thrift Bulletin 16, "Environmental Risk and Liability: Guidelines on Development of Protective Policies and Reporting," issued February 6, 1989.

(d) Establish written training and/or experience requirements for each officer authorized to underwrite loans. Training shall include the areas of credit analysis and appraisal review. In addition, a written record of the dates that all such training occurred shall be maintained.

The lending policies and procedures should govern all types of lending and loan administration conducted by Caldwell. Caldwell shall not make any mortgage loans other than permanent financing on one- to four-family residences until its revised policies and procedures are in place and new managing officer employed.

APPRAISAL PRACTICES

6. Within 60 days from the date of issuance of this Order, Caldwell shall revise and adopt an Appraisal Policy that establishes review procedures. In addition, the revised policy shall require that each loan file contains documentation that establishes the identity of the individual reviewing an appraisal report and documents if it conforms to the OTS appraisal requirements contained in 12 C.F.R. Part 564.

7. Within 60 days from the date of issuance of this Order, the Board shall approve procedures for hiring fee appraisers. At a minimum, these procedures shall delineate required appraiser qualifications, and shall provide for the review and evaluation of the appraiser's work.

8. Within 60 days from the date of issuance of this Order, the Board shall approve individuals it deems qualified to review appraisal reports. All such authorized individuals shall receive training deemed adequate by the Board. The results of the training shall be retained and reviewed by the Board.

LOAN ADMINISTRATION

9. Within 90 days from the date of issuance of this Order, Caldwell shall adopt written loan administration procedures that govern management and oversight of all outstanding loans. Particular attention shall be given to the deficiencies discussed in the March 10, 1992 OTS Report of Examination, including inadequate mortgage release procedures for land loans and the failure to document the current status of taxes and insurance.

LOANS-TO-ONE BORROWER LIMITATION

10. Within 45 days from the date of issuance of this Order, Caldwell shall review and determine the accuracy of multiple borrower records, and shall establish written procedures for preserving the accuracy of all future multiple borrower reports. Caldwell shall not approve any loans or extensions of credit where the total amount of outstanding credits exceeds the lending limitations of 12 C.F.R. Section 563.93. Multiple borrower documentation shall be reviewed and approved by the Board on at least a quarterly basis. Management shall submit written documentation to the Board indicating efforts taken to bring Caldwell into compliance with its lending limitation.

RECORDKEEPING

11. Within 120 days from the effective date of issuance of this Order, Caldwell shall review all mortgage loan files and obtain sufficient documentation to demonstrate the accuracy of the stated loan purpose and property type codes. For any loan secured by a mobile home and reported as a home loan, Caldwell shall obtain sufficient documentation to ensure that the property meets the Department of Housing and Urban Development's definition of "Manufactured Home". The results of this review shall be reported to the Board.

Caldwell shall implement written procedures addressing the accuracy of stated loan purpose and property type codes within 90 days from the date of issuance of this Order.

12. Caldwell shall obtain an analysis of all direct incremental loan origination costs. The Board shall determine whether the current pricing structure is adequate given the results of this analysis and competitive conditions. The findings and the Board's price structure recommendations shall be submitted to the Assistant Director within 30 days from the date of issuance of this Order.

13. Within 90 days from the date of issuance of this Order, Caldwell shall adopt written procedures for determining Fair Value, and Net Realizable Value when appropriate. These procedures shall also require that appraisal reports are obtained in a timely manner that is in accordance with 12 C.F.R. Section 563.171(a).

14. Within 90 days from the date of issuance of this Order, Caldwell shall adopt written procedures governing the preparation and accuracy of Caldwell's Thrift Financial Reports. At a minimum, these procedures shall include:

(a) A method for reconciling differences between Caldwell's book balance for the reserve for uncollected interest and the balance listed on the monthly loan accrual reports;

(b) Minimum training and education requirements, to provide that the Thrift Financial Report can be accurately prepared by either one of two individuals so authorized by the Board;

(c) Verification that an individual other than the preparer review the accuracy of the Thrift Financial Report. This reviewer shall be required to document any errors in writing; and

(d) Verification that an individual other than the preparer review the accuracy of the liquidity and qualified thrift lender status reports. This reviewer shall be required to document the results and note any errors. In addition, liquidity and qualified thrift lender status shall be calculated in accordance with applicable laws and regulations.

CLASSIFIED ASSETS AND GENERAL VALUATION ALLOWANCES

15. Within 60 days from the date of issuance of this Order, Caldwell shall:

(a) Adopt a revised asset classification policy to enhance asset review and classification practices;

(b) Approve a revised general valuation allowance policy that provides for a 3 percent valuation allowance for land loans; and

(c) On at least a quarterly basis, the Board shall review the adequacy of Caldwell's general valuation allowances and record the results of this review in the minutes of the appropriate Board meeting.

RESTRUCTURED AND MODIFIED LOANS

16. Within 30 days from the date of issuance of this Order, Caldwell shall review the delinquency status of all previously modified or restructured loans to determine the adequacy of the interest accruals for repeat delinquent accounts. The results of this review and any modifications to the accrual policy shall be included in the minutes of the appropriate Board meeting.

INTERNAL CONTROL PROCEDURES

17. Caldwell shall conduct a review to determine the adequacy of all internal control policies and procedures. At a minimum, this review shall address the internal control weaknesses discussed in the March 10, 1992 OTS Report of Examination. This review shall be presented to the Board and all

Board actions taken in response to this review shall be recorded in the minutes of the appropriate Board meeting. The results of this review, along with Board-approved responses shall be sent to the Assistant Director within 90 days from the date of issuance of this Order.

18. Within 60 days from the date of this Agreement, the Board shall engage a new independent accounting firm to perform the annual audit of Caldwell for the year ended June 30, 1992. Caldwell is hereby granted an extension of up to 90 days from August 31, 1992, to submit its audit for the year ended June 30, 1992.

BUSINESS PLAN

19. Within 90 days from the date of issuance of this Order, the Board shall adopt and submit a revised Business Plan to the Assistant Director. The Business Plan shall be prepared in accordance with OTS Business Plan Guidelines contained in OTS-Cincinnati Bulletin 89-62. In addition, the Business Plan shall include the 3-year period ending September 30, 1995.

20. Caldwell shall not implement strategies that will result in material changes from the Business Plan without written approval of the Assistant Director.

21. On a quarterly basis, the Board shall review actual operating results in relation to Business Plan projections, and prepare a report explaining the variance. The Board shall submit a copy of this written variance report to the Assistant Director within 30 days after the end of each fiscal quarter.

INVESTMENTS

22. Within 30 days from the date of issuance of this Order, Caldwell shall revise and approve an investment policy that specifically provides the types of investment securities that it may invest in and the levels of investment authorized for each type of investment. In addition, this revised policy shall specify safekeeping procedures for all securities, including mortgage-backed securities.

LIQUIDITY AND INTEREST RATE RISK

23. Within 90 days from the date of issuance of this Order, Caldwell shall implement a cash budgeting procedure that will assure monitoring of liquidity levels in relation to deposit flows and loan fundings. These budget projections, along with reported liquidity levels, shall be reviewed by the Board on a monthly basis.

24. Within 30 days from the date of issuance of this Order, the Board shall review the Interest-Rate-Risk Policy limits and the current interest rate risk profile to determine whether policy limits need to be revised. If the policy limits are determined to be adequate, written rationale for this conclusion shall be incorporated in the minutes of the appropriate Board meeting.

CLOSINGS

25. (a) Any policies and procedures required by this Order shall be implemented by Caldwell, its directors, officers, employees, agents and service corporations.

(b) Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Regional Deputy Director or his/her designee, the Board has the ultimate responsibility for proper and sound management of the Institution. In exercising and fulfilling its fiduciary duties, the Board may consider the reports of management, counsel, and other agents and consultants of the Board. Nothing contained herein shall require the Board or any member or agent thereof to take any action or omit to take any action inconsistent with his or her fiduciary duties.

(c) It is expressly and clearly understood that if, at any time, the OTS deems it appropriate in fulfilling the lawful responsibilities placed upon it by the several laws of the United States of America to undertake any lawful action affecting the Institution, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the OTS from doing so.

(d) Any time limitations imposed by this Order shall begin to run from the date of issuance of this Order. Such time limitations may be extended by the Regional Deputy Director or his/her designee for good cause upon written application by the Board.

(e) All technical words or terms used in this Order, for which meanings are not specified or otherwise provided by the provision of this Order, shall, insofar as applicable, have meanings as defined in the rules and regulations adopted by the OTS (including, without limitation, Chapter V of Title 12 Code of Federal Regulation). Any such technical words or terms used in this Order and undefined in said rules and regulations shall have meanings that accord with the best custom and usage in the thrift industry.

(f) The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest.

(g) It is understood that the execution of this Order shall not be construed as an approval of any application or notices that are contemplated by the Institution.

(h) Any report or other document required by this Order to be submitted to the OTS shall be filed with the Office of Thrift Supervision, 525 Vine Street, Suite 700, Cincinnati, Ohio 45202, Attn: Assistant Director. All reports and other documents shall be deemed filed when received by the OTS.

(i) In the event any provision of this Order shall be declared invalid, illegal, or unenforceable; the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(j) The section headings used in this Order are for convenience of reference only and are not to affect the construction of or be taken into consideration in the interpretation of this Order.

(k) This Order shall remain in effect until terminated, modified, or suspended by the OTS, acting through the Regional Director or his designee.

IT IS SO ORDERED, this 31st day of August 1992.

THE OFFICE OF THRIFT SUPERVISION

/S/

Ronald N. Karr
Regional Director
Central Region