

UNITED STATES OF AMERICA

Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
Guaranty Federal Savings Bank) Re: Resolution No.: IND-92-9
Clarksville, Tennessee) Dated: November 25, 1992
_____)

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Central Region, OTS, and Guaranty Federal Savings Bank ("Guaranty") stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate administrative cease and desist proceedings against Guaranty pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b). Guaranty 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 proceedings against Guaranty with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

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

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of the OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Guaranty 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, 12 U.S.C. § 1818(b).

3. Consent. Guaranty 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, 12 U.S.C. § 1818(b). Upon its 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 Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers. Guaranty waives its right to a notice of charges and the

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ORDER TO CEASE AND DESIST

WHEREAS, Guaranty Federal Savings Bank, Clarksville, Tennessee (the "Savings Association" or "Guaranty"), 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 Regional Director for the Central Region ("Regional Director"); and

WHEREAS, the OTS, based upon information reported to it, is of the opinion that grounds exist to initiate administrative cease and desist proceedings against Guaranty pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"). 12 U.S.C. § 1818(b); and

WHEREAS, Guaranty 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, agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist proceedings against Guaranty with respect to the matters covered in this Order to Cease and Desist ("Order"); and

WHEREAS, the Savings Association, 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, 12 U.S.C. § 1818(b).

NOW, THEREFORE, IT IS ORDERED THAT the Savings Association and its Directors, officers, employees, agents, and service corporations shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any violation of:

- (a) 12 C.F.R. 563.160 concerning classification of assets and the establishment of valuation allowances;

- (b) Section 22(h) of the Federal Reserve Act concerning transactions with insiders;
- (c) 12 C.F.R. 563.233 concerning the maintenance of books and records;
- (d) 12 C.F.R. 563.176 concerning interest rate risk management;
- (e) 12 C.F.R. 563.170 concerning loan documentation; or
- (f) 12 C.F.R. 563.43 concerning loans to executive officers, directors, and principal shareholders.

IT IS FURTHER ORDERED THAT:

Lending

1. The Savings Association shall, within 30 days of the date of this Order, evaluate and enhance, where appropriate, specific policies and procedures governing loan underwriting. Said policies and procedures shall be submitted for written approval to the Deputy Regional Director, or her designee prior to their implementation. The existing policies shall be expanded to include, at a minimum, the following:

- (a) maximum debt-to-income ratio for the various types of credit offered (i.e. consumer-secured, consumer-unsecured, single family, commercial, etc.);
- (b) that exceptions to loan policy must be approved by the Board of Directors;
- (c) that loans will be priced according to the loan rates established by the Asset/Liability Committee ("ALCO") for various types of credit;
- (d) maximum loan-to-value ratios for the various types of collateral; and
- (e) loan approval authorities which shall not exceed the following:
 - (i) authority to approve secured loans up to \$25,000 or up to \$10,000 for unsecured loans to the Loan Officer and the President;
 - (ii) authority to approve secured loans up to \$100,000 or up to \$30,000 for unsecured loans to the Loan Committee of the Board, a majority of whose members shall be outside Directors;
 - (iii) any secured loan in excess of \$100,000 and any unsecured loan in excess of \$30,000 shall be approved in advance by the Board of Directors and such approval shall be accurately and timely reflected in the Board minutes; and

- (iv) Vice President Gregory shall not have the authority to approve any loans under any circumstances.
- (f) Term loans (Consumer and Commercial) shall be limited to initial maturities not to exceed six months. Renewals or extensions of term loans shall require a minimum principal reduction of at least 10 percent. No more than two six-month renewals of any term loan shall be permitted unless the loan is converted to a fully amortizing loan with monthly payments of principal and interest. Term loans converted to amortizing loans shall have a maximum term of: (a) the lesser of: (i) 5 years, or (ii) the expected remaining economic life of any non-real estate collateral securing the Loan; or (b) 10 years for loans fully secured by real estate.

Guaranty shall be deemed to be in compliance with subparts (e) and (f) of this paragraph 1. upon obtaining the Deputy Regional Director's approval of the loan underwriting policies and procedures.

2. Prior to the OTS approval referred to in paragraph 1. above, the Savings Association shall not grant, renew, or extend any loans; except (i) loans fully secured by deposits, (ii) residential mortgage loans which fully comply with FNMA/FHLMC underwriting requirements, (iii) construction loans on presold single family dwellings with an executed contract to purchase the property, (iv) to extend, modify or renew Consumer or Commercial Loans to existing borrowers provided that no additional funds are committed or advanced and also provided that the loans are granted pursuant to the specific requirements of this Order and prudent lending practices, or (v) Consumer or Commercial loans may be renewed at its scheduled maturity date if: (a) the loan converts to a fully-amortizing basis with monthly payments of principal and interest, or (b) the borrower makes a 10 percent principal reduction and the loan is renewed for a term not to exceed six months. Term loans converted to amortizing loans shall have a maximum term of: (a) the lesser of: (i) 5 years, or (ii) the expected remaining economic life of any non-real estate collateral securing the Loan; or (b) 10 years for loans fully secured by real estate.

3. Notwithstanding paragraph 2. above, or the OTS approval referred to in paragraph 1. above, Guaranty shall not extend, modify, or renew any Commercial Loans or Consumer Loans, except Guaranty may renew or modify Commercial Loans or Consumer Loans to existing borrowers, provided that (i) no additional funds or monies are committed or advanced, and (ii) renewals or modifications are granted pursuant to the specific requirements of this Order and prudent lending practices. This restriction in Commercial Loans and Consumer Loans shall remain in effect until such time as the Deputy Regional Director reinstates, in writing, the full authority of Guaranty to make Commercial Loans or Consumer Loans. The Deputy Regional Director may reinstate Guaranty's full authority to make Commercial and Consumer Loans upon Guaranty employing a qualified Senior Loan Officer who will directly oversee the Commercial and Consumer Loan Function. Guaranty's employment of the Senior Loan Officer and the reinstatement of Guaranty's full authority to make, renew, extend, or modify Commercial Loans and Consumer Loans will be subject to the prior, written approval of the Deputy Regional Director.

4. Prior to granting, renewing, or extending any loan, the Savings Association shall have, and retain in the loan files, documentary evidence that every requirement of its loan underwriting policies and procedures has been complied with in all respects. Such documentary evidence shall include, but not be limited to:

- (a) for all loans, a written application signed and dated by the borrowers and guarantors stating the specific purpose of the loan;
- (b) except for loans fully secured by deposits, financial statements of borrowers and guarantors certified by such borrowers and guarantors as true and correct. Financial statements of prospective borrowers and guarantors where total loans, both outstanding and proposed, to the borrower exceed \$250,000 shall be prepared in accordance with guidelines published by the American Institute of Certified Public Accountants;
- (c) except for loans fully secured by deposits, current credit reports for all borrowers and guarantors together with a written report, signed by the responsible Guaranty employee, evaluating and justifying any outstanding negative items in any such report;
- (d) except for loans fully secured by deposits, a document signed by the responsible Guaranty employee evidencing that material items in the borrower's and guarantor's financial statements have been verified and analyzed to reasonably ensure that the borrower and guarantor has sufficient assets and income, and in the case of loans to businesses, cash flow to retire the loan under the terms of the note and guarantee. At a minimum, the borrower's and guarantor's income will be verified, and for loans exceeding \$20,000, the borrower's and guarantor's cash and employment will also be verified;
- (e) for every loan secured by real estate, regardless of the amount of the loan or institution classification as a mortgage, consumer, or commercial loan, an appraisal report which meets the requirements of 12 C.F.R. Sections 563.170(c)(1)(iv) and 564;
- (f) for loans secured by property other than real estate, in addition to documentation which meets the requirement of 12 C.F.R. Section 563.170(c)(2), an appropriate statement of value prepared by an independent party, or in the case of an automobile, a verification of the value as set forth in the NADA guide, a verification of the lien status of the security property current through the date of loan closing, and where appropriate, documentation evidencing the existence of the proposed security property and that it is owned and/or titled in the name of the proposed borrower or guarantor, or will be as of the date of loan closing;

- (g) documentation evidencing the borrower's and guarantor's investment of cash or another form of equity in the security property;
- (h) in the case of loans to corporate borrowers, personal guarantees from the principal shareholder or shareholders, or other persons or entities financially capable of repaying the loan granted to such borrower shall normally be obtained, except that the Board of Directors may waive this requirement based on considerations of a particular transaction which are fully documented by the Board and a copy of such documentation is provided to the Deputy Regional Director;
- (i) for self-employed borrowers, the Savings Association shall obtain tax returns for the most recent two years available; and
- (j) the approval document for each loan shall include the terms of the loan, signature of each person approving the loan, and the date of approval.

Overdrafts

5. The Savings Association shall, within 60 days of the date of this Order, develop a policy regarding transaction account overdrafts, which must be approved in writing by the Deputy Regional Director prior to its implementation. The overdraft policy shall include, but not be limited to the following:

- (a) any item presented for payment on an account with insufficient funds to cover the amount shall not be honored unless the accountholder has previously authorized the transfer of funds from another account to cover overdrafts;
- (b) no transaction account may remain in a negative balance status beyond 5 business days; and
- (c) any account that remains in a negative balance status for five business days or longer as of the date of this Order shall be closed and collection efforts shall be forthcoming to collect the negative balance.

Board of Directors and Management

6. The Board shall enforce its policies and procedures by evaluating in writing, on a quarterly basis, senior management's progress and performance in implementing them. Quarterly performance evaluations shall be prepared on the president, the controller, and the officer with management and oversight responsibility for the consumer and commercial lending functions. These evaluations shall be submitted to the Deputy Regional Director within 30 days of the end of each calendar quarter.

The Board shall also review monthly, and document in minutes of its meetings, the Savings Association's compliance with the provisions of this Order. Any violations or exceptions shall be noted in the minutes along with

the actions taken to correct such violations. Copies of the minutes for each month shall be provided to the Deputy Regional Director by the thirtieth (30th) day of each succeeding month.

Asset Classification

7. The Savings Association shall, within 30 days of the date of this Order, develop and submit to the Deputy Regional Director for prior written approval specific policies and procedures governing an internal loan review and asset classification system. Upon approval by the Deputy Regional Director, the Savings Association shall implement and comply with such policies and procedures. Amendments to the policies shall be submitted to the Deputy Regional Director for prior written approval. These policies and procedures shall include at a minimum that the assets of the institution will be classified and reported to the Board of Directors on at least a quarterly basis. This policy shall follow the guidelines as established in 12 C.F.R. Sections 563.160 and 571.26 and Thrift Activities Handbook sections 210 and 260. These policies and procedures shall also include, but not be limited to:

- (a) clear provisions for identification of problem or potential problem assets;
- (b) a requirement that the Savings Association hire or train an Internal Loan Review Officer;
- (c) the establishment of an independent asset review committee, a majority of whose members shall be outside Directors; and
- (d) a requirement that the asset review committee maintain adequate records and documentation of its activities (i.e. minutes, loan review worksheets and write-ups).

8. The Savings Association shall, within 30 days of the date of this Order, establish policies and procedures governing the establishment of prudent valuation allowances. Upon approval by the Deputy Regional Director, the Savings Association shall implement and comply with such policies and procedures. Amendments to the policies shall be submitted to the Deputy Regional Director for prior written approval. Said policies and procedures will, at a minimum, follow the guidance of Section 261 of the Thrift Activities Handbook and 12 C.F.R. Section 563.160(c)(2), and shall be submitted for written approval to the Deputy Regional Director. The Board of Directors shall evaluate the adequacy of the Savings Association's levels of specific and general valuation allowances at least quarterly, and document such evaluation in the Board meeting minutes. The independent loan reviews shall be considered in determining the adequacy of valuation allowances.

9. The Savings Association shall not reduce its level of general valuation allowances based on its computation of the adequacy of general valuation allowances without the prior written approval of the Deputy Regional Director. In no event shall the Savings Association reduce its level of general valuation allowances below the minimum amount recommended in the May 28, 1992, Report of Examination without the prior approval of the Deputy Regional Director.

Interest Rate Risk

10. The Savings Association shall, within 60 days of the date of this Order, submit to the Deputy Regional Director an Interest Rate Risk Policy ("IRRP") for his/her prior written approval. Upon approval by the Deputy Regional Director, the Savings Association shall implement and comply with such policies and procedures. Amendments to the IRRP shall be submitted to the Deputy Regional Director for written approval prior to implementation. The IRRP shall include the Savings Association's overall strategy and objectives for managing interest rate risk and shall comply with the provisions of TB-13.

11. The Savings Association shall, within 30 days of the date of this Order, evaluate and enhance, where appropriate, specific policies and procedures governing the Savings Association's asset/liability management including the organization of an Asset/Liability Committee ("ALCO Committee"). At a minimum, the policy shall require the ALCO Committee be responsible for:

- (a) establishing product mix goals;
- (b) establishing a uniform asset and liability pricing strategy; and
- (c) maintaining minutes which document each meeting and other documentation which is considered relevant. Such minutes shall be reviewed by the full Board of Directors at each regularly scheduled meeting.

Internal Control

12. The Savings Association shall, within 60 days of the date of this Order, establish a system of internal controls and general operating procedures for the accounting department and other operations areas. These internal controls and operating procedures shall be reduced to writing and submitted for prior written approval to the Deputy Regional Director. Said policies and procedures shall address, but not be limited to the following areas:

- (a) review and approval of all journal vouchers by a second person;
- (b) segregation of duties;
- (c) payments to officers should be approved by a second officer;
- (d) at least monthly reconciliation of all the Savings Association's transaction accounts, and general ledger accounts to subsidiary ledgers (including loans receivable to the loan trial balance); and
- (e) file maintenance activity, including a documented review of the file maintenance exception report.

13. The Savings Association shall ensure that its Thrift Financial Reports, as submitted to OTS, are accurate and filed on a timely basis. Management shall ensure that supporting detail exists at the time the reports

are submitted to OTS and that said supporting detail shall be maintained at the Savings Association in comprehensive workpaper form which will facilitate the timely reconciliation of the Thrift Financial Report to the general ledger.

Strategic Business Plan

14. The Savings Association shall, within 90 days of the date of this Order, develop a strategic business plan for the calendar year 1993. An amended business plan shall be prepared annually thereafter no later than December 31 of each year. The business plans shall be submitted for the prior written approval of the Deputy Regional Director, and the Savings Association shall not materially deviate from an approved business plan without the prior approval of the Deputy Regional Director. The Savings Association shall submit to the Deputy Regional Director within 30 days of the end of each calendar quarter a detailed variance analysis comparing actual performance with the pro forma projections of the business plan. Variances of more than 5 percent on balance sheet items and 1 percent on income and expense items shall require a written explanation. The business plans should include, but not be limited to:

- (a) targeted goals for return on assets, net interest margin, portfolio mix, total assets, liabilities, and capital;
- (b) plans which will reduce noninterest operating expenses;
- (c) method of comparing actual performance to projected performance with established acceptable variance levels;
- (d) detailed pro forma financial statements;
- (e) operating budgets;
- (f) limitations on asset growth in accordance with paragraph 15 below; and
- (g) goals and strategies for enhancing the profitability of the mortgage banking operation. A profitability analysis of the mortgage banking unit shall be prepared within 60 days of the date of this order and variance analyses which compare actual performance with with the business plan goals shall be reviewed by the Board at least quarterly.

15. So long as this Order remains in effect, the Savings Association's asset growth shall be limited to the limitation set forth in Regulatory Bulletin 3a-1. No asset growth beyond the level of total assets reported in the September 30, 1992, Thrift Financial Report shall be permitted until the business plan is approved by the Deputy Regional Director.

Capital Distribution

16. So long as this Order remains in effect, the Savings Association shall not pay dividends to its stockholders or make any other Capital Distributions except in accordance with 12 C.F.R. 563.134.

Insiders

17. The Savings Association shall not sell any assets or property, real or personal, to an employee, officer, director, or controlling shareholder of the Savings Association, except in accordance with applicable regulations and provided that all such transactions meet the fairness standard of 12 C.F.R. 563.42.

18. The Savings Association shall not extend or renew any Loans to officers, Directors, or other Affiliated Persons of the Savings Association.

Policy Adherence

19. Where this Order calls for the Savings Association to establish policies or procedures, the Savings Association shall implement and adhere to such policies or procedures after any required approvals are obtained from the Deputy Regional Director or her designee.

Miscellaneous

20. Any materials required by this Order to be submitted to the OTS shall be filed with the Office of Thrift Supervision, 8250 Woodfield Crossing Boulevard, Suite 305, Indianapolis, Indiana 46240. All reports and other documents shall be deemed filed when received by the OTS.

21. Although the Savings Association through the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Deputy Regional Director, the Board has the ultimate responsibility for proper and sound management of the Savings Association.

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

23. Any time limitations imposed by this Order shall begin to run from the effective date of this Order, unless otherwise provided for herein. Such time limitations may be extended by the Deputy Regional Director for good cause upon written application by the Board.

24. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided by the provision of this Order, insofar as applicable, have meanings as defined in the rules and regulations adopted by the OTS (including, without limitation, 12 C.F.R. § 500.1 et seq., § 541.1 et seq., and § 561.1 et seq. (1991)). 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.

25. The provisions of this Order are effective upon issuance of this Order by the OTS, through its authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated by the OTS.

26. 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.

27. 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 Savings Association.

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

29. 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.

30. As used in this Order, the term "Affiliated Person" shall have the meaning set forth in 12 C.F.R. 561.5.

31. As used in this Order, the term "Capital Distribution" shall have the meaning set forth in 12 C.F.R. 563.134(a)(1).

32. As used in this Order, the term "Board of Directors" or the "Board" shall mean the Board of Directors of Guaranty Federal Savings Bank, Clarksville, Tennessee.

33. As used in this Order, the term "Savings Association" shall have the meaning as set forth in Section 2(4) of the Home Owners' Loan Act, as amended ("HOLA").

34. As used in this Order, the term "Deputy Regional Director" shall mean the Deputy Regional Director of the Indianapolis Office of the Central Region of OTS or any other official designated to perform the same or a similar function by the Regional Director of the OTS, or by the Director of the OTS or any successor to the OTS.

35. As used in this Order, the term "Loan" or "Loans" shall mean an obligation, or the extension or advances of credit, including the making or renewal of a loan, the granting of a line of credit or the extending of credit in any manner whatsoever as is set forth in 12 C.F.R. 215.3(a).

36. As used in this Order, the term "Commercial Loan" shall mean a loan which is subject to the limitations of 12 C.F.R. 545.46.

37. As used in this Order, the term "Consumer Loan" shall mean a loan as defined in 12 C.F.R. 561.12.

38. Reference in this Order to provisions of statutes, regulations, and OTS memoranda shall be deemed to include references to successor provisions, as applicable.

39. Any amendments to any written Policies or Procedures required by this Order shall be subject to the Deputy Regional Director's written approval prior to implementation by the Savings Association.

40. This Order shall remain in effect until terminated, modified by mutual agreement, or suspended by the OTS, acting through the Regional Director, or his or her designee.

IT IS SO ORDERED, this 25th day of November, 1992.

THE OFFICE OF THRIFT SUPERVISION

/s/

Ronald N. Karr
Central Regional Director