

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of
MERCANTILE SAVINGS BANK
SOUTHAVEN, MISSISSIPPI

Re: Resolution No. DAL-91-02

Dated: January 28, 1991

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its District Director for the Dallas District Office, OTS, and Mercantile Savings Bank, Southaven, Mississippi ("Institution"), 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 the Institution 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") (to be codified at 12 U.S.C. § 1818(b)). The Institution 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 the Institution with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").
2. Jurisdiction.
 - (a) The Institution 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 (to be codified at 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, the Institution 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 (to be codified at 12 U.S.C. § 1818(b)).

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ORDER TO CEASE AND DESIST

WHEREAS, Mercantile Savings Bank, Southaven, Mississippi ("the Institution"), through its Board of Directors, 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 District Director for the Dallas District Office, or his successor or designee ("District Director"); and

WHEREAS, the Institution, 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") (to be codified at 12 U.S.C. § 1818(b)).

NOW THEREFORE, IT IS ORDERED that the Institution and its directors, officers, employees, agents and service corporations shall cease and desist from any violation of, or the aiding and abetting of any violation of: 12 C.F.R. §§ 563.43, 563.131, 563.160, 563.170, 566.2, and 566.4; and Section 22(h) of the Federal Reserve Act.

IT IS FURTHER ORDERED that:

LIQUIDITY

1. (a) The Institution shall maintain a balance of liquid assets sufficient to meet the requirements of 12 C.F.R. § 566.2 and maintain accurate records regarding liquidity in accordance with 12 C.F.R. § 566.4.
- (b) The Institution shall hereafter comply in all respects with the requirements of 12 C.F.R. § 566.3, regarding calculation of liquidity deficiency and the payment of resultant penalties. Any outstanding liquidity penalties currently due and payable by the Institution shall be paid in full within 10 days of the effective date of this Order unless the Institution files an application for waiver of the payment of such penalties in accordance with the requirements of 12 C.F.R. § 566.3. In the event that such application is denied, the Institution shall pay the liquidity penalties within 10 days of the denial.

- (c) The Institution shall submit to the District Director on a monthly basis a resolution, signed by the Board of Directors, stating that the Institution is in compliance with 12 C.F.R. §§ 566.2, 566.3, and 566.4.

POLICIES AND PROCEDURES

2. (a) The Board of Directors shall immediately appoint a committee (the "Committee") to develop within 45 days of the effective date of this Order, written policies and procedures addressing the following areas of concern:
- (i) Internal loan review and asset classification system, in accordance with 12 C.F.R. §§ 561.13, 561.47, 561.48, 563.160, and 571.26;
 - (ii) Appraisal policies, in accordance with 12 C.F.R. §§ 563.170 and 563.171, to ensure that appraisals reflect values upon which the Institution may rely in making lending decisions;
 - (iii) Compliance with the Community Reinvestment Act; and
 - (iv) Mortgage banking policies providing for the establishment of acceptable limits on the net aggregate long or short positions and reports to the Board of Directors identifying the rationale for material variances in excess of these limits;
- (b) Within 45 days after the effective date of this Order, the Committee shall submit a report of its recommendations for modification and adoption of policies and procedures to the Board of Directors.
- (c) Upon adoption by the Board of Directors, the Institution shall immediately submit the policies and procedures described above in Paragraph 2(a) to the District Director for review and comment. The Institution shall make any modifications or changes to the policies and procedures as directed by the District Director, and shall establish procedures to monitor periodically compliance with such policies and procedures, as modified.
- (d) The Institution shall submit to the District Director on a quarterly basis, a report, signed by the Board of Directors, regarding management's efforts to workout problem loans identified in the implementation of the requirements of Paragraph 2(a)(i) above.

EXCESSIVE INVESTMENTS

3. (a) The Institution shall ensure that, with regard to its investments, it maintains adequate internal controls and internal audit procedures consistent with safe and sound operations of the Institution. The Institution shall comply with the requirements of 12 C.F.R. §§ 563.176, 571.3, and 571.19, as clarified in Thrift Bulletins Nos. 12 and 15.

- (b) Within 30 days after the effective date of this Order, the Institution shall submit a plan for divestiture, at no loss to the Institution, of the amount of its investment in Mercantile Mortgage Corporation which exceeds the Institution's limitation for investments in service corporations.
- (c) The Institution shall submit to the District Director by no later than the 10th day after the end of each month, a resolution, signed by the Board of Directors, stating that the Institution is taking steps to bring the Institution within its limitation for investments in service corporations, specifying the steps being taken.

SOUTHAVEN OFFICE

- 4. (a) The Southaven Office of the Institution shall operate as a full service office of the Institution.
- (b) The Board of Directors shall appoint a Chief Executive Officer to work out of the Southaven Office of the Institution who shall be vested with the usual responsibilities of such an Officer.

EXPENSE POLICIES AND PROCEDURES

- 5. (a) Within 45 days of the effective date of this Order, the Board of Directors shall develop written policies and procedures concerning the payment and reimbursement of expenses to employees, officers, and members of the Board of Directors.
- (b) Any policies and procedures developed pursuant to Paragraph 5(a) above shall include, but not be limited to, the following requirements:
 - (i) All expenses incurred must be normal and reasonable and directly associated with the official duties of the employee, officer, or director; and
 - (ii) All expenses shall be paid only upon the submission of an itemized account of expenditures and supported by validated receipts.
- (c) The policies and procedures described in Paragraph 5(a) above shall be forwarded upon completion to the District Director for review and no supervisory objection.
- (d) The Board of Directors shall make all modifications as directed by the District Director and shall adopt and implement said policies and procedures.

CONFLICTS OF INTEREST AND AFFILIATED PERSONS TRANSACTIONS

- 6. (a) The Board of Directors shall review and familiarize themselves with the following regulatory and statutory provisions: 12 C.F.R. §§ 563.40, 563.41, 563.43, and 563.45; OTS Statements of Policy set forth at 12 C.F.R. §§ 571.7 and 571.9; Section 22(h) of the Federal Reserve Act ("FRA"), 12 U.S.C. § 375b, and its

implementing regulations, 12 C.F.R. §§ 215.4 and 215.7; and Sections 23A and 23B of the FRA; as well as the Institution's Standards of Responsibility and Conduct.

- (b) Within 45 days of the effective date of this Order, the Institution and the Board of Directors shall submit to the District Director for review guidelines for directors' responsibilities, business ethics, and conflicts of interest for the Institution which are in accordance with the above regulations, statutes, and policies referenced in Paragraph 6(a) above ("Conflicts Policy"). Such guidelines shall include, among other provisions, the requirement that all monies owed to the Institution from Affiliated Persons and Affiliates be documented in the form of a note, or some other legally binding agreement.
- (c) Within 45 days of the effective date of this Order, the Board of Directors shall develop and implement a system to monitor compliance with the Conflicts Policy on a continuing basis. Such system shall provide for the Institution to submit a report to the Board of Directors and to the District Director no later than the last day of every month, listing all over-drafts of Affiliated Persons and all loans to Affiliated Persons and Affiliates, noting the name of the borrower, the loan number, the loan date, renewal date if applicable, original balance, current balance, interest rate, current status, a description of the collateral, summary of the terms of the loan, and in the case of transactions other than loans, all information significant to the transaction.
- (d) The Institution shall submit to the District Director for prior review and approval a written plan for correcting any outstanding violations identified in the system. Upon approval by the District Director, the Institution shall implement the system. The Institution shall comply with the system as approved and shall make and comply with any modifications to the system as directed by the District Director.
- (e) All financial transactions and obligations between the Institution and any officer, director, employee, or shareholder of the Institution must be in writing and with terms commensurate to those granted to other customers of the Institution.

BOOKS AND RECORDS

- 7. (a) The Institution shall maintain such accounting systems, records, documents, files, minutes of the Board of Directors' meetings and Directors' committee meetings, and controls, (collectively referred to as "records") and shall provide an accurate and complete record of all business transactions and disclosures, as well as its past and present financial condition. The Institution's records shall be developed and prepared in accordance with generally accepted accounting principles, except

