

In the Matter of )  
 )  
SOUTH BERGEN SAVINGS AND LOAN )  
ASSOCIATION, )  
Wood Ridge, New Jersey )  
 )  
and its Directors, Officers, )  
Employees, and Affiliates )  
 )

Re: Northeast Regional Director  
Resolution No. NY-91-5  
Dated: May 10, 1991

**STIPULATION**

This Stipulation is entered into by and between the Office of Thrift Supervision ("OTS"), a bureau within the United States Department of the Treasury, and South Bergen Savings And Loan Association, Wood Ridge, New Jersey ("South Bergen").

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 South Bergen pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(b). South Bergen desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. South Bergen, without admitting or denying that such grounds exist, and having considered the attached Order to Cease and Desist (the "Order"), hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist proceeding against South Bergen with respect to the matters covered in the accompanying Order.

2. Jurisdiction.

(a) South Bergen 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.A. § 1813(c).

(b) Pursuant to Section 3 of the FDIA, the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, South Bergen 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.A. § 1818(b).

3. Consent. South Bergen consents to the issuance by the OTS of the Order. South Bergen 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, and upon its issuance by the 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.A. § 1818(i).

5. Waivers. South Bergen, following consultation with its counsel, hereby waives the following legal rights:

- 1) the right to be served with a written notice of the OTS's charges against it (referred to as a Notice of Charges and Hearing)(see, e.g., Section 8(b) of the FDIA,);
- (2) the right to an administrative hearing of the OTS's charges against it (see, e.g., Section 8(b) of the FDIA,); and
- (3) the right to challenge the OTS's issuance of the Order, including any such right provided by Section 8(h) of the FDIA, or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS and South Bergen upon a resolution duly adopted by its Board of Directors (a copy thereof is attached hereto), hereby execute this Stipulation.



UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	
	)	
SOUTH BERGEN SAVINGS AND LOAN	)	Re: Northeast Regional Director
ASSOCIATION,	)	Resolution No. NY-91-5
Wood Ridge, New Jersey	)	- Dated: May 10, 1991
	)	
and its Directors, Officers,	)	
Employees, and Affiliates	)	CEASE-AND-DESIST ORDER
	)	

WHEREAS, South Bergen Savings and Loan Association, ("South Bergen" or the "Association"), Wood Ridge, New Jersey, has executed a Stipulation and Consent to Issuance of Order to Cease and Desist (the "Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), a bureau within the United States Department of the Treasury; and

WHEREAS, the Association, by execution of 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 ("FDIA"), 12 U.S.C. § 1818(b).

NOW THEREFORE, the OTS issues this Order to the Association and its directors, officers, employees, and affiliates.

COMPLIANCE WITH LAWS AND REGULATIONS

1. Compliance With Laws And Regulations

(a) The Association shall, to the extent it has not already done so, comply with or continue to comply with the following Federal laws and regulations:

(1) Section 563.160 of the OTS regulations, 12 C.F.R. § 563.160 (regarding classification of assets);

(2) Section 563.170 of the OTS Regulations, 12 C.F.R. § 563.170 (regarding Examinations and audits; appraisals; establishment and maintenance of records);

(3) Section 563.176 of the OTS regulations, 12 C.F.R. § 563.176 (regarding interest rate risk management policy requirements);

(4) Section 563.180 of the OTS regulations, 12 C.F.R. § 563.180 (regarding criminal referrals);

(5) Section 564.8 of the OTS regulations, 12 C.F.R. § 564.8 (regarding appraisal policies);

(6) Section 571.7 of the OTS Regulations, 12 C.F.R. § 571.7 (regarding conflicts of interest).

(b) The compliance requirements of subparagraph (a) hereof shall not be construed as an authorization for the Association to engage in the activities governed by the aforesaid laws, rules, and regulations. To the extent that it is lawful for South Bergen to engage in such activities, and if provisions of the Order set forth more strict restrictions, limitations and requirements than

are set forth in applicable laws and regulations, then under such circumstances the Association shall, at all times, comply with and adhere to the more strict restrictions, limitations, and requirements otherwise set forth in the Order.

2. Compliance Review

(a) Within 15 days of the date of this Order, the Board of Directors shall establish a Compliance and Management Review Committee (the "Committee"), to investigate the causes underlying the Association's failure to comply with the December 16, 1988 Supervisory Directive, as amended on December 23, 1988 (the "Directive"). A written report detailing the Committee's findings on this issue shall be submitted to the Regional Director for the Northeast Region of the Office of Thrift Supervision or his designee or successor, ("Regional Director"), within 30 days of the date of this Order.

(b) The Committee and the Board of Directors shall work diligently to ensure compliance at all times with all requirements and/or restrictions contained in the Directive.

OPERATING REQUIREMENTS AND RESTRICTIONS

3. Lending-Related Restrictions

(a) Except (i) as permitted in Paragraph 3(b) hereof, (ii) with the prior written notice of non-objection from the OTS (acting by and through the Regional Director or his designee), or (iii) for written loan commitments by the Association which were outstanding and enforceable against the Association on December 16, 1988, the Association shall not, directly or indirectly, commit to make, make, invest in, purchase, sell, refinance, extend or otherwise modify loans or loans-in-process or otherwise extend any credit or loan to any person or entity.

(b) In accordance with written policies and procedures adopted by the Board of Directors, the Association may commit to make, make, commit to purchase or purchase the following types of loans or investments:

(i) qualifying mortgage loans, within the meaning of Section 567.1(u) of the OTS Regulations, 12 C.F.R. §567.1(u);

(ii) loans fully secured by deposit accounts maintained at the Association;

(iii) investments in assets that qualify as Liquid Assets, within the meaning of Section 6 of the Home Owners Loan Act ("HOLA") and Part 566 of the OTS Regulations;

(iv) consumer credit loans, within the meaning of

Section 561.12 of the OTS Regulations, 12 C.F.R.  
§561.12; and

(v) advances of loan or investment funds necessary to honor existing legally binding commitments to fund loans or loans-in-process ("LIP"), provided, that the Association complies with the requirements of subsection (c) of this Section.

(c) The following apply to the honoring by the Association of its legally binding loan commitments or LIPs:

(1) Prior to finalizing any commitment in a loan contract or making any disbursement under a loan contract or LIP, the Association shall affirmatively determine that all conditions precedent to the commitment or disbursement have been satisfied;

(2) Within 20 days of the date of this Order, the Association shall forward to the Regional Director, a list of its LIP obligations, loan commitments and letters of credit existing as of the date of the Order that the Association seeks to fund pursuant to the exception set forth in paragraph (b)(v). This list shall include:

(i) the amount and type of commitment or LIP (including whether it is a firm commitment or a standby commitment);

(ii) the date on which the commitment was issued;

(iii) the identity of the borrower and the aggregate amount of other outstanding loans or commitments and LIPs to the borrower;

(iv) the type, location, and most recent appraised value of the security property;

(v) the schedule of anticipated funding of the commitment or the LIP;

(vi) the amount of any commitment fee received (specifically identified by its related borrower) and the date of such receipt; and

(vii) the amount and portion of interest and fees funded by loan proceeds, if any.

(3) Within 30 days of the date of the Order, for any commitment or LIP which the Association determines to honor, the Association shall submit a schedule summarizing written opinion(s) from independent legal counsel setting forth the following:

(i) a statement that counsel has reviewed the terms of each such commitment and LIP;

(ii) a statement indicating that each such commitment or LIP, in the opinion of counsel, does or does not constitute a legally binding obligation of South Bergen that could be enforced in a court of law by the party to whom the commitment or LIP is made; and

(iii) a statement opining that the honoring of such commitment and LIP will not cause South Bergen to violate any laws or regulations applicable to it.

(d) The OTS, in the exercise of its discretion, may from time to time provide the Association with a written notice of non-objection to permit extensions of credit otherwise prohibited

hereby. The Association may request of the OTS the issuance of such written notice(s) of non-objection. Such requests must be submitted in writing to the Senior Assistant Director at the OTS Northeast Regional office or his designee. The OTS will not process such requests unless they are accompanied by (i) a resolution duly adopted by the Board of Directors wherein the Board, upon due inquiry has determined the proposed lending activity to be in the best interests of the Association and has authorized the activity contingent upon OTS non-objection, and (ii) such documentation and information as the OTS may deem appropriate.

4. Internal Loan Review

(a) Within 60 days of the date of the Order, the Association shall adopt and implement a comprehensive Internal Loan Review Policy (the "ILR Policy") that ensures: (i) the appropriate classification of assets, (ii) the proper reporting of the level of asset classifications, and (iii) that the Association will provide adequate valuation allowances.

(b) Within 60 days of the date of this Order, the Association will (1) name a management official responsible for carrying out the ILR Policy that: (i) is independent of the lending function, and (ii) reports directly to the Board of Directors, or (2) select a qualified independent auditor or consultant responsible for carrying out the ILR Policy that reports directly to the Board of Directors. The auditor shall complete the loan review process to

facilitate the timely identification of negative trends or developments regarding the Association's loans and investments in order to initiate corrective action.

(c) Within 60 days of the date of this Order and within 30 days after the end of each calendar quarter, the Board of Directors shall provide OTS with a corporate resolution certifying that the Board has reviewed and determined that, following a diligent inquiry of relevant information, to the best of its knowledge, the level of general valuation allowances ("GVAs") and specific valuation allowances ("SVAs") reported on Schedule VA of the quarterly Thrift Financial Report ("TFR") appropriately reflect the level of current and anticipated credit exposure in the Association's portfolio. The Board shall consider and attach to the corporate resolution:

(i) a listing of all assets classified in the most recent OTS Report of Examination and/or identified internally as a "classified asset" as reported on Schedule TA of the TFR, including for each asset: (a) the loan or other identification number, (b) the borrower or title of the asset, (c) the Association's recorded investment (i.e. principal balance, plus accrued interest, plus or minus related discounts or premiums), (d) the amount classified as special mention, substandard, doubtful or loss, (e) specific valuation allowances established against the asset and (f) the carrying amount of the asset (recorded investment minus

loss allowances); and

(ii) an analysis of the adequacy of the Association's GVAs prepared by the Association's management.

5. Loan Underwriting Policy

(a) Within 60 days of the date of this Order, the Association shall adopt and implement an amended loan underwriting policy.

(b) The loan underwriting policy shall, at a minimum, include the following items:

(i) a definition of the Association's market area (and appropriate action required to make a loan outside of its market area);

(ii) a discussion of the types of loans offered and the types of loans prohibited;

(iii) the maximum amounts and maximum maturities for each loan type;

(iv) loan pricing;

(v) financial, credit analysis and underwriting guidelines as detailed in subsection (c) of this Section;

(vi) limitations on aggregate outstanding balances;

(vii) limits and guidelines for purchasing loans;

(viii) concentrations of credit risk;

(ix) loan to value ratios for each type of loan and collateral;

(x) lending authority;

(xi) collection and charge-off procedures;

- (xii) Board of Director's objectives;
- (xiii) a statement regarding exceptions to the underwriting policy and the authority to approve exceptions;
- (xiv) a statement of the Association's position with respect to violations of loan underwriting policy; and
- (xv) a periodic review of the loan policy.

(c) The financial, credit analysis and underwriting guideline, referred to in subsection (b)(v) of this Section, shall include at a minimum the following:

- (i) complete credit information requirements for the borrowers to be periodically updated to determine debt serviceability;
- (ii) financial statement requirements for borrowers (i.e. audited, unaudited, operating, cash flow);
- (iii) minimum debt to income ratios for borrowers;
- (iv) with regard to loans secured by real estate, a requirement that loan approval will not be based solely on the appraised value of the property;
- (v) documentation requirements to verify income;
- (vi) documentation requirements to assure a well defined primary source of repayment; and
- (vii) documentation requirements to verify that all loan documentation and information has been properly reviewed and analyzed.

6. Interest Rate Risk

- (a) Within 60 days of the date of this Order, the Association shall adopt and implement an interest rate risk policy consistent with 12 C.F.R. 563.176 and Thrift Bulletins 13, 13-1 and 13-2.
- (b) The policy shall also include the following items:
- (i) a requirement that a strategy and plan which serves to reduce South Bergen's exposure to interest rate risk be developed, approved by the Board of Directors, implemented and submitted to the Regional Director for review;
  - (ii) explicit limits on the Association's exposure to interest rate risk;
  - (iii) a limit on the maximum potential reduction in earnings and capital as a result of possible changes in market interest rates;
  - (iv) specific targeted gap ratios;
  - (v) authorized and unauthorized investment vehicles for the management of interest rate risk; and
  - (vi) specific procedures to ensure compliance with such policy including the establishment of an interest rate risk management plan.
- (c) The interest rate risk management plan referred to in subsection (b)(vi) of this Section 5 shall require that the board review the Association's exposure to interest rate risk on at least a quarterly basis.

7. Payroll

Within 60 days of the date of this Order, the Association shall adopt and implement an internal controls policy related to the payroll and bonus functions to ensure respective separation of duties and limitations of authority. The policy will clearly define when exceptions to the policy shall be permitted and will outline procedures to be followed when a permissible exception arises. This policy shall be presented to and reviewed by all employees with duties and responsibilities in this area.

8. Board of Directors Fees

(a) The Association shall not, directly or indirectly, pay director's fees (including committee fees or other similar compensation) to directors in amount exceeding an aggregate of \$12,000 per year per director beginning with calendar year 1991.

(b) As of the date of this Order, the Association shall not, directly or indirectly, pay director emeritus' fees in an amount exceeding \$200 per board meeting attended, per director emeritus beginning with calendar year 1991. In no event shall total board fees in the aggregate paid to each director emeritus exceed \$5,000 per year.

9. Employee Expenses

(a) Within 60 days of the date of this Order, the Association shall adopt and implement an internal controls policy related to employee expenses and the payment of these expenses. The policy

will address, at a minimum, the following items:

- (i) a provision for the clear separation of duties for expense approval authority and expense payment authority;
- (ii) a list of the employees with employee expense approval or payment authority (to be periodically updated by the board);
- (iii) clearly defined guidelines regarding acceptable and unacceptable employee expenses;
- (iv) employee expense documentation requirements; and
- (v) a review procedure to ensure compliance with this policy.

10. Bonuses

- (a) Within 60 days of the date of this Order, the Association shall adopt and implement a written bonus policy.
- (b) The policy will address, at a minimum, the following items:
  - (i) the basis for the bonus in terms of performance, salary level and longevity;
  - (ii) the parameters for the amount of bonus paid; and
  - (iii) the conditions under which a bonus will be paid in relation to the profitability/unprofitability of the Association.

11. Appraisals

Within 60 days of the date of this Order, the Association shall adopt and implement an amended appraisal policy consistent with

Part 564 of the OTS Regulations, 12 C.F.R. § 564. The Association shall consider as a reference in establishing its appraisal policy, the "Appraisal Policy and Procedures Guide" dated November 1990 and written by Gregg A. Hoefer, MAI, Department of the Treasury, Office of Thrift Supervision, Seattle, Washington.

12. Restitution

The Association, through its Board of Directors, shall seek to obtain full restitution from former employees Douglas Pridgen and Herbert C. Hermann of the Association's assets and monies relating to the issues which resulted in the issuance by the OTS of a Supervisory Directive dated September 20, 1990. Full restitution shall include principal, interest, penalties, legal fees, court costs and any other expenses incurred while seeking recovery.

13. Code of Ethics

(a) Within 60 days of the date of this Order, the Board of Directors shall adopt and implement a code of ethics/transactions with affiliates policy. The policy shall be designed to address and prevent conflicts of interest and ensure compliance with applicable statutes and regulations concerning conflicts of interest and transactions with affiliates and affiliated persons.

(b) The Code of Ethics policy shall also be designed to address and prevent insider abuse and shall include a discussion of the following items:

- (i) activities which are characteristic of insider abuse;

- (ii) procedures to follow when insider abuse is suspected;
- and
- (iii) actions to be taken by the Association to prevent insider abuse.

14. Business Plan

(a) Within 60 days of the date of this Order, the Board of Directors shall adopt, implement and forward to the Regional Director a detailed Board approved one (1) and three (3) year business plan, which includes annual operating budgets. The Association's Board of Directors, along with Senior Management, shall formulate the business plan which shall specifically address the following:

- (i) the Association's objectives, operating strategy and business philosophy during the next one (1) and three (3) year period;
- (ii) projection of major balance sheet and income statement components, specifically identifying and highlighting each (any) significant new activity or any activity criticized in the most recent OTS Report of Examination; and
- (iii) the Associations procedures for monitoring the actual results against the projections in the budget, which procedures shall include, inter alia, the preparation of variance reports at least once per fiscal quarter and to provide for appropriate adjustments to the budget. Such variance reports and adjustments to the budget shall be

submitted to the Regional Director at least quarterly.

(b) The business plan shall also incorporate and address the following: The Association's,

- (i) present financial condition;
- (ii) credit exposure;
- (iii) regulatory capital position;
- (iv) profit composition;
- (v) market penetration;
- (vi) an orderly plan for future growth;
- (vii) mortgage banking activity;
- (viii) proposed investments; and
- (ix) new business initiatives.

(c) A written review and approval of the business plan shall be performed by the Board of Directors on a quarterly basis.

## BOARD OF DIRECTORS' RESPONSIBILITIES

### 15. Fiduciary Duty to the Association

Each member of the Board of Directors owes fiduciary duties to the Association and depositors. Notwithstanding that certain provisions of this Order require the Board of Directors to submit various matters to the Regional Director for the purpose of receiving approval, notice of acceptability or non-objection, such regulatory oversight does not derogate or supplant the fiduciary duties owed by the members of the Board of Directors of the Association. The Board of Directors, at all times, shall have the ultimate responsibility for overseeing the safe and sound operation of the Association, except to the extent that any action or inaction by the Board is imposed upon the Board by the OTS over the objection of the Board. In the opinion of the OTS, no member of the Board of Directors of the Association shall be deemed to have breached such director's fiduciary duties by complying with the terms of this Order in good faith.

### 16. Board Review of Compliance With This Order

- (a) The Board of Directors of the Association shall take prompt action to cause the Association to fully comply with this Order.
- (b) Each month, the Board of Directors shall adopt a formal resolution (the "Compliance Resolution") resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar month, the Association has complied

with each provision of this Order currently in effect, except as otherwise stated. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist; and (ii) identify all notices of exemption or other exceptions issued by the Regional Director that were outstanding as of the date of the Compliance Resolution.

(c) No later than five business days after each monthly meeting of the Board of Directors of the Association, the Association shall provide to the Regional Director a certified true copy of the entire minutes of each meeting of its Board of Directors (including any committees thereof) which were approved at such monthly meeting. The Compliance Resolution shall be included with the minutes provided to the Regional Director. The minutes of the meeting of the Board of Directors shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; (ii) the identity of each director voting in opposition to its adoption; and (iii) the identity of each director abstaining from voting thereon. The Board of Directors of the Association, by virtue of the Association's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the best of their knowledge as to the accuracy of the statements set forth in each Compliance Resolution. In the event that one or more

directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the meeting.

MISCELLANEOUS PROVISIONS

17. The Stipulation is made a part hereof and is incorporated herein by this reference.
  
18. All technical words or terms used in the Order, for which meanings are not specified or otherwise provided by the provisions of this Order, shall, insofar as applicable, have meanings as defined in the regulations, policy statements, or bulletins issued by the OTS (many of which are codified at 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 said regulations, policy statements, or bulletins shall have meanings that accord with the best custom and usage in the savings and loan or banking industries, as applicable. For purposes of this Order, references to regulations, policy statements, bulletins, memoranda and publications shall include any successor regulations, policy statements, bulletins, memoranda and publications.
  
19. Upon a written request by the Association which demonstrates just cause, the time frames for the submission of policies and procedures and other required documents, as prescribed within this Order may be extended by the written approval of the Regional Director or his designee.

20. The Order is effective and enforceable immediately upon the date of its issuance by the OTS, which date is set forth below.

IT IS SO ORDERED on this 10th day of May, 1991.

THE OFFICE OF THRIFT SUPERVISION  
By:

/S/

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Angelo A. Vigna,  
Regional Director, Northeast Region