

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
DONA ANA SAVINGS AND LOAN)
ASSOCIATION, F.A.)
LAS CRUCES, NEW MEXICO)

Resolution No. DAL-91-97

Dated: July 22, 1991

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 Midwest Region, and Dona Ana Savings and Loan Association, F.A., Las Cruces, New Mexico ("Dona Ana"), 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 Dona Ana 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)). Dona Ana 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 Dona Ana with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. JURISDICTION

(a) Dona Ana 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, Dona Ana 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)).

3. CONSENT

Dona Ana 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 (to be codified at 12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director for the Midwest Regional Office, 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 (to be codified at 12 U.S.C. § 1818(i)).

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ORDER TO CEASE AND DESIST

WHEREAS, Dona Ana Savings and Loan Association, F.A., Las Cruces, New Mexico ("Dona Ana"), through its 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 Regional Director for the Midwest Regional Office; and

WHEREAS, Dona Ana, 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 ("FDIA"), as amended by the Financial Institution's 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 Dona Ana 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. §§ 202.9(a)(1)(i), 226.17(a)(1), 226.22(a)(3), 563.48(c), 563.48(e), and 563.233 and 31 C.F.R. §§ 103.22(f) and 103.27(d).

IT IS FURTHER ORDERED that:

1. Within sixty days of the date of this Order, Dona Ana shall submit to the Regional Deputy Director for the Dallas District, OTS, or his successor or designee ("Deputy District designee") a report by its board of directors certifying that violations of 31 C.F.R. §§ 103.22(f) and 103.27(d) noted in the Examination Report for the OTS examination of August 21, 1990, have been corrected and that appropriate staff are being trained for future compliance with those provisions and shall submit to the Deputy Director designee a written policy establishing internal controls to prevent violations of 31 C.F.R §§ 103.22(f) and 103.27(d). Dona Ana shall amend that written policy as directed by the Deputy Director designee and shall comply with that written policy.
2. Dona Ana shall comply with the Truth in Lending Act, 12 U.S.C. 1601 et seq., and with Regulation Z of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 226. Within sixty days of the date of this Order, Dona Ana shall submit to the Deputy Director designee a report stating that appropriate personnel are receiving training for compliance with this paragraph.
3. Dona Ana shall comply with the Equal Credit Opportunity Act, 15 U.S.C. 1691, and with Regulation B of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 202, including, but not limited to 12 C.F.R. § 202.9(a)(1)(i).
4. Dona Ana shall maintain the records, or copies thereof, required by 12 C.F.R. §563.48(c) and (e) in loan files for all loans to which those provisions are applicable.

5. Dona Ana shall comply with the guidelines of Accounting Principles Board Opinion No. 21 and with 12 C.F.R. § 563.233.
6. Dona Ana shall not pay any of its officers fees for attending any committee meeting of any committee of Dona Ana or its board of directors.
7. Dona Ana shall, within sixty days of the date of this Order, enter into a new lease with Dona Ana Savings Office Plaza for the lease of its home office facilities on terms satisfactory to the Deputy Director designee.
8. Within sixty days of the date of this Order, Dona Ana, through its board of directors, shall develop written ethics guidelines consistent with 12 C.F.R. § 571.7. Dona Ana shall amend such guidelines as directed by the Deputy Director designee. Upon any violation of such guidelines by any officer, director, employee or agent of Dona Ana, Dona Ana, through its board of directors, shall consider remedial or disciplinary action and document such consideration in board meeting minutes.
9. Within sixty days of the date of this Order, Dona Ana shall have an independent third party review the real estate contracts granted to Michael E. Burke, Laurie Burke, Jimmy Cordova, Doris J. Cordova, and Barbara D. Blanco for the purchase of two apartment complexes previously held by Dona Ana as Real Estate Owned. This review shall determine the extent, if any, to which these individuals improperly benefited from these transactions or to which Dona Ana suffered a loss due to improper action. This review shall be summarized in a written report to Dona Ana's board of directors, to be submitted by the end of such sixty-day period. Dona Ana shall promptly take action as necessary to require all or some of its directors

or officers, individually, to reimburse and indemnify it for any loss, found by the Deputy Director designee to exist, incurred as a result of these transactions.

10. Dona Ana shall, except as otherwise authorized by the Deputy Director designee, comply with the terms of the letter of April 10, 1991, from Billy C. Wood to the board of directors of Dona Ana. For this purpose, Dona Ana may rely upon the letter of April 30, 1991, from Billy C. Wood to the board of directors of Dona Ana. Notwithstanding any other provision of this Order, Dona Ana shall not increase its adjusted assets or liabilities to an amount greater than the amounts existing as of April 10, 1991.
11. No later than the final day of each calendar month, the board of directors of Dona Ana shall adopt a resolution, certifying in writing that Dona Ana has complied with all conditions of this Order. Dona Ana shall provide such written certification to the Deputy District designee upon request.
12. 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.
13. Nothing in this Order shall be construed as allowing Dona Ana to violate any law or regulation to which it is subject.
14. This Order shall remain in effect until terminated, modified, or suspended by the OTS, acting through the Deputy District designee. The Deputy District Designee may suspend, in his or her sole discretion, any or all provisions of this Order.

15. Reference 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 Order and references to successor provisions as they become applicable.
16. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided for by the provisions of this Order, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations or as such definition is amended after the execution of this Order, and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, shall have meanings that accord with their best custom and usage in the savings and loan industry.
17. In the instance that any provisions of this Order shall be declared invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining shall not in any way be affected or impaired thereby.

OFFICE OF THRIFT SUPERVISION

By:

/s/

Billy C. Wood
Regional Director
Midwest Regional Office
Dallas, Texas