

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )  
 )  
CHARTER FEDERAL SAVINGS AND )  
LOAN ASSOCIATION )  
 )  
WEST POINT, GEORGIA )

Re: Resolution No. ATL-91-39

Date: August 6, 1991

STIPULATION AND CONSENT TO ISSUANCE  
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("the OTS"), by and through its Regional Director for the Southeast Region, and Charter Federal Savings and Loan Association, West Point, Georgia ("Charter Federal" or "Institution") stipulate and agree as follows:

1. Consideration

The OTS, based upon information derived from the exercise of its supervisory and regulatory powers, is of the opinion that grounds exist to initiate administrative cease and desist proceedings against Charter Federal pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b). Such grounds include unsafe and unsound practices in conducting the business of the Institution, as follows:

- a. Charter Federal failed to substantiate in its records total compensation paid to its officers and directors in violation of the provisions of 12 C.F.R. § 563.161(b).
- b. During two examination cycles, the Institution has engaged in violations of regulations applicable to loans to affiliated parties, specifically 12 C.F.R. § 563.43.
- c. The Institution has engaged in violations of other laws applicable to loans to directors and officers, specifically Section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b.

- d. Charter Federal has failed to adequately document lending decisions, in violation of 12 C.F.R. § 170(c)(1) and (2).
- e. The Institution has violated 12 C.F.R. § 563.93 by granting a loan in excess of its legal lending limitations. A portion of the loan has been sold to bring it into compliance with the regulation and the loan is not delinquent.
- f. During the last two examination cycles, the Institution has violated Section 103 of the Bank Secrecy Act, 31 C.F.R. Part 103, by failing to provide all information required on Currency Transaction Reports (Internal Revenue Service Form 4789).
- g. Charter Federal has a high concentration of assets in an investment that has wide fluctuations in market price. Specifically, as of March 31, 1991, the Institution had invested over fourteen percent of its total assets, or 163 percent of its total capital, in FHLMC preferred stock.
- h. Charter Federal is totally dependent upon its ability to sell Federal Home Loan Mortgage Corporation ("FHLMC") preferred stock at a market price that will provide sufficient gains to offset losses resulting from core operations. The Institution has relied on income from the disposition/liquidation of FHLMC stock to overcome losses suffered from core operations.

Charter Federal desires to cooperate with the OTS and to avoid the time and expense of such administrative cease and desist proceedings and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms.

The OTS is willing to forbear from the initiation of administrative cease and desist proceedings against Charter Federal to require the actions referred to in the accompanying Order to Cease and Desist ("Order") for so long as the Institution is in compliance with the provisions of the Order.

## 2. Jurisdiction

(a) Charter Federal is a "savings association" within the meaning of Section 3(b)(1) of the FDIA, 12 U.S.C. § 1813(b)(1). The Institution is an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, 12 U.S.C. § 1813(c)(2).

(b) Pursuant to Section 8(b)(1) of the FDIA, 12 U.S.C. § 1818(b)(1), the appropriate Federal banking agency may issue a cease and desist order against any insured depository institution which engages in unsafe and unsound practices in conducting its business and/or violates a rule or regulation.

(c) Pursuant to Section 3(q)(4) of the FDIA, 12 U.S.C. § 1813(q)(4), the Director of the OTS is the "appropriate Federal banking agency" in the case of any savings association. Therefore, Charter Federal 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.

## 3. Consent

Charter Federal consents to the issuance by the OTS of the accompanying Order. The Institution 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 Southeast Region of 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. § 1818(i).

## 5. Waivers

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



UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )

CHARTER FEDERAL SAVINGS AND )  
LOAN ASSOCIATION )

WEST POINT, GEORGIA )

Re: Resolution No. ATL-91-39

Date: August 6, 1991

ORDER TO CEASE AND DESIST

WHEREAS, Charter Federal Savings and Loan Association, West Point, Georgia ("Charter Federal" or "Institution"), through its directors, has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist ("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 Southeast Region ("Regional Director"); and

WHEREAS, Charter Federal, 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 Charter Federal and its directors, officers, employees, agents and service corporations shall cease and desist from any unsafe or unsound practices in conducting the business of the Institution and further, shall cease and desist from any violation of, or the aiding and abetting of any violation of, and from any noncompliance with, or the aiding and abetting of any noncompliance with:

1. Section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b;
2. 12 C.F.R. § 563.43;
3. 12 C.F.R. § 563.170(c)(1) and (2);
4. 12 C.F.R. § 563.161;
5. 12 C.F.R. § 563.93; and
6. 31 C.F.R. Part 103.

IT IS FURTHER ORDERED that:

LOANS TO DIRECTORS, OFFICERS, AND EMPLOYEES

1. The Institution shall comply with the provisions of 12 C.F.R. § 563.43 and Section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b.
2. The Institution shall comply with the provisions of 12 C.F.R. § 563.170(c)(1) and (2).
3. Charter shall not extend any credit to directors and executive officers, as those persons are defined in 12 C.F.R. § 215.2(c) and (d), or any related interest of such persons, as defined in 12 C.F.R. § 215.2(k), or any affiliated person of Charter, as defined in 12 C.F.R. § 561.5, unless such extension has been approved by the entire board of directors of the Institution with the interested party abstaining from participating directly or indirectly in the voting.
4. Within 60 days of the effective date of this Order, the board of directors shall develop, adopt and implement written policies and procedures governing loans to employees. Such policies shall ensure that loans to employees do not involve more than the normal risk of collectibility, comply with 12 C.F.R. § 563.170(c)(1) and (2), and do not exceed the loan amount available to members of the general public of similar credit status.
5. Within 60 days of the effective date of this Order, the board of directors shall review all loans to directors, officers, other affiliated parties, and employees that were criticized in the Report of Examination of July 2, 1990, and shall take action to correct the examiners' criticisms. Such review and action shall be documented in the minutes of the board meeting(s) at which the loans are considered.

COMPENSATION

6. Within 60 days of the effective date of this Order, the board of directors shall establish written descriptions of the duties, responsibilities and authority of the Institution's Chairman, President, and any other executive officers as defined at 12 C.F.R. § 215.2(d).

7. Within 60 days of the effective date of this Order, the board of directors shall develop, adopt, implement, ~~and thereafter fully comply with~~ written policies and procedures governing compensation of executive officers, directors and employees. These policies and procedures shall:

- comply with the provisions of 12 C.F.R. § 563.161(b),

- incorporate, at a minimum, the factors outlined in Section 140 of the OTS Regulatory Handbook on Thrift Activities,

- require that compensation for all executive officers be approved in writing in advance by a majority of the entire board of directors, with any interested party, including but not limited to directors who are executive officers or who are related by blood or marriage to executive officers, abstaining from participating in any way, including taking part in discussion of or otherwise attempting to influence the board's decision, and

- permit bonus compensation to executive officers only in reasonable amounts and only for fiscal years when the Institution has met its fully phased in capital requirements. Charter shall not pay bonuses exceeding \$180,000.00 in the aggregate to executive officers for the first year covered by the business plan required in this Order. Thereafter bonuses shall be paid only pursuant to the written compensation policies required by this Order.

During the term of this Order, any changes in the Institution's policies and procedures governing compensation shall be submitted to the Regional Director within 30 days after adoption by the board of directors.

8. Within 60 days of the effective date of this Order the board of directors shall submit to the Regional Director:

- copies of the written descriptions required by Paragraph 6 of this Order,

- copies of the policies and procedures for compensation required by Paragraph 7 of this Order,

- a schedule of the amounts of compensation for each director and executive officer, and the term of such compensation, and

-a written statement of the factors considered by the board, pursuant to the compensation policies and procedures required by Paragraph 7 of this Order, to justify the compensation levels of each director and executive officer.

The board of directors shall review and update the information required by this paragraph 8 at least annually, and shall make such information available to the OTS examiners upon request.

#### ASSET QUALITY

9. Within 60 days of the effective date of this Order, the board of directors shall amend the Institution's asset classification policy to ensure compliance with the provisions of 12 C.F.R. § 563.160 and the Statement of Policy at 12 C.F.R. § 571.26. The Institution's policy shall incorporate factors and considerations set forth in Section 260 of the OTS Regulatory Handbook on Thrift Activities. Furthermore, the board shall implement procedures to ensure compliance with such policy.

10. Within 60 days of the effective date of this Order, the board of directors shall review all asset classification deficiencies disclosed in the Report of Examination of July 2, 1990, and shall take action to correct the deficiencies. Such review and action shall be documented in the minutes of the board meeting(s) at which the classification deficiencies are considered.

11. The Institution shall revise its asset classification policy to ensure that each parcel of real estate owned and in-substance foreclosure is accounted for in accordance with Generally Accepted Accounting Principles set forth in Statements of Financial Accounting Standards Numbers 5 and 15, and in accordance with the provisions of 12 C.F.R. §§ 563.172 and 571.18.

12. The Institution shall comply with the lending limitations of 12 C.F.R. § 563.93.

#### OPERATING RESULTS

13. Within 12 months following the effective date of this Order, the Institution shall reduce its ownership of Federal Home Loan Mortgage Corporation ("FHLMC") stock, from the level owned as of July 16, 1991, by at least 100,000 shares.

14. (a) Within 60 days of the effective date of this Order, the board of directors shall develop, adopt, and submit to the OTS for approval a one year business plan designed to cause Charter to generate operating income on a consistent basis, without continued reliance on the sale of FHLMC stock. The board of directors shall implement such plan within 30 days of approval by the OTS, and thereafter fully comply with the terms of the approved plan. The plan shall reflect the reduction of ownership in FHLMC stock required by Paragraph 13 of this Order and shall describe in detail the Institution's planned use of the proceeds from the sale of the stock, as well as the methods to be employed to manage and limit Charter's exposure to interest rate risk. The plan also shall address control and limitation of expenses, particularly general and administrative expenses, including salaries, and, if appropriate, may include a request for relief from Regulatory Bulletin 3a-1.

(b) At least 30 days prior to the end of the year covered by the initial one year business plan required by subsection (a) above, the board of directors shall submit another one year business plan to the Regional Director for his approval. This second plan shall be consistent with the goals and objectives of this Order, including expense control, continued core operating earnings and capital requirement compliance.

(c) At least 30 days prior to the end of the year covered by the second year business plan required by subsection (b) above, the board of directors shall submit another one year business plan to the Regional Director for his approval. This third plan shall be consistent with the goals and objectives of this Order, including expense control, continued core operating earnings and capital requirement compliance.

(d) The board of directors shall review and document compliance with the appropriate business plan at least once each calendar quarter. Within 30 days of the end of each calendar quarter, the board shall submit a report to the Regional Director documenting the Institution's compliance or noncompliance with the provisions of the approved business plan and describing any material variances from the plan. Such report shall describe the modifications and actions to be taken by the board of directors to ensure that the actual results of operation are consistent with the goals and objectives set forth in this Order.

BANK SECRECY ACT

15. The Institution shall comply with the provisions of Section 103 of the Bank Secrecy Act and the regulations promulgated thereunder at 31 C.F.R. Part 103. Within 60 days of the effective date of this Order, the board of directors shall implement procedures to ensure compliance with the Act and the regulations and such procedures shall include adequate training for officers and staff involved in the completion and processing of Currency Transaction Reports.

THE OFFICE OF THRIFT SUPERVISION

ISI

By: \_\_\_\_\_

~~John E. Ryan~~  
Regional Director  
Southeast Region  
Office of Thrift Supervision