

UNITED STATES OF AMERICA
 Before The
 OFFICE OF THRIFT SUPERVISION
 DEPARTMENT OF THE TREASURY

 In the Matter of)
)
 TEXASBANC SAVINGS, F.S.B.,)
 Conroe, Texas)
 _____)

Re: Enforcement Review
 Committee Resolution
 No. 90-31

Dated: February 12, 1990

TEMPORARY ORDER TO CEASE AND DESIST

WHEREAS, in accordance with Section 5(d)(1)(A) of the Home Owners' Loan Act ("HOLA"), as amended by Title III of 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. § 1464(d)(1)(A)), and Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by Title IX of the FIRREA (to be codified at 12 U.S.C. § 1818(b)), the Office of Thrift Supervision ("OTS"), being of the opinion that TexasBanc Savings, F.S.B., Conroe, Texas ("TexasBanc"), has violated regulations and a written agreement and has engaged in unsafe and unsound practices, has issued a Notice of Charges and Hearing ("Notice") against TexasBanc, incorporated by reference herein; and

WHEREAS, such Notice, on the basis of particular facts and circumstances contained therein, specifies that TexasBanc's books and records are so incomplete or inaccurate that the OTS is unable, through the normal supervisory process, to determine the

details or purpose of transactions that may have a material effect on the financial condition of TexasBanc; and

WHEREAS, the OTS has determined that the violations or threatened violations or the unsafe or unsound practices specified in the Notice, or continuation thereof, is likely to cause insolvency or significant dissipation of assets or earnings of TexasBanc, or is likely to weaken the condition of TexasBanc or otherwise prejudice the interests of its depositors prior to the completion of proceedings initiated by such Notice;

NOW THEREFORE, in accordance with Sections 8(c)(1) and 8(c)(3) of the FDIA, as amended by Title IX of the FIRREA (to be codified at 12 U.S.C. §§ 1818(c)(1) and 1818(c)(3)), the OTS hereby issues this Temporary Order to Cease and Desist.

Accordingly,

IT IS HEREBY ORDERED That:

(BOOKS AND RECORDS)

1. TexasBanc shall immediately make available for inspection by the District Director of the Dallas District of the OTS or his designee ("District Director") all books and records (a) relating to the affairs and ownership of TexasBanc, and (b) relating to the affairs and ownership of each and every subsidiary and service corporation of TexasBanc.

2. TexasBanc shall maintain its books and records in compliance with the requirements of Regulation § 563.170 Examinations and audits; appraisals; establishment and maintenance of record, 54 Fed. Reg. 49584 (1989) (to be codified at 12 C.F.R.

§ 563.170).

3. TexasBanc shall immediately implement all measures and procedures necessary to secure the immediate return of any of its books and records or other property that are being held or retained at or in any personal residence of any director, officer, employee, or any institution-affiliated party, or are otherwise outside TexasBanc's premises and within the possession, custody, or control of any director, officer, employee, or any institution-affiliated party.

4. Within ten days after service of this Order upon TexasBanc, TexasBanc's Internal Audit Committee shall establish policies and procedures to ensure, and providing that examiners of the OTS and the Federal Deposit Insurance Corporation ("FDIC") are provided immediate and complete access to any books, records, TexasBanc personnel, and any other information or source of information that such examiners or the FDIC may request. TexasBanc shall adopt and adhere to such policies and procedures no later than the expiration of this ten day period.

(SERVICES TO THIRD PARTIES BY TEXASBANC EMPLOYEES)

5. Within twenty days after service of this Order upon TexasBanc, TexasBanc shall identify all deposit accounts maintained at TexasBanc for a company, joint venture, partnership, or any other similar entity, for which accounts one or more current employees of TexasBanc has signatory authority, and shall compile a list of all such accounts. TexasBanc shall review all pertinent books and records, including but not limited to all

signature cards, to ensure compliance with this provision.

6. Within five days after service of this Order upon TexasBanc, TexasBanc shall develop policies and procedures and implement and comply with such to ensure that no employee of TexasBanc has signatory authority on any deposit account maintained at TexasBanc of a company, joint venture, partnership, or any other similar entity, without the express written permission of the District Director or his designee.

7. TexasBanc shall not permit any of its employees to perform services for, at the direction of, or for the benefit of any entity or any individual other than TexasBanc outside of the normal course of the business of a savings association while such employee is working on the premises of TexasBanc, unless TexasBanc has first obtained the written approval of the District Director.

(EXPENSES)

8. TexasBanc shall immediately cease and desist from the payment without immediate reimbursement of any personal expenses and any non-TexasBanc business expenses of any institution-affiliated party. Within ten days after service of this Order upon TexasBanc, TexasBanc shall implement all measures and procedures necessary to secure the immediate reimbursement of such expenses of any current or former institution-affiliated party paid by TexasBanc.

9. Within ten days after service of this Order upon TexasBanc, TexasBanc shall submit to the District Director policies and procedures outlining how business-related expenses

are to be itemized, documented, and approved. Such policies and procedures shall, at a minimum:

(a) include guidelines for the reimbursement of only prudent, appropriate, reasonable, and necessary hotel, meal, entertainment, and transportation costs;

(b) provide that TexasBanc shall not reimburse business-related expenses until such time as they are submitted to TexasBanc's internal audit department with copies of receipts and invoices;

(c) require that TexasBanc's internal audit department shall maintain a separate, true and correct log book reflecting the type and amount of each expense, showing when and to whom reimbursement was made, and including copies of receipts and invoices received;

(d) require that no expense shall be reimbursed without receipt of the appropriate documentation and prior to a determination by the internal audit department that the reimbursement is appropriate in accordance with all other provisions in the policies and procedures; and

(e) require that the log book immediately be made available to the District Director upon his request.

Upon approval by the District Director of the policies and procedures provided in this paragraph, TexasBanc shall implement and comply fully with them. Should the District Director modify or change any part of such policies and procedures, TexasBanc shall immediately adopt such modification or change and comply fully therewith.

(CORPORATE CREDIT CARDS, DEPOSIT ACCOUNTS)

10. Within ten days after service of this Order upon TexasBanc, TexasBanc shall review all checking and other deposit, accounts, wire transfer procedures and instructions, and corporate credit cards of TexasBanc to ensure, and shall ensure, that:

- (a) there are proper controls by appropriate TexasBanc personnel on disbursements;
- (b) no individual who is no longer employed by TexasBanc or who is no longer a member of the board of directors retains signature authority or has the use of corporate credit cards belonging to TexasBanc; and
- (c) no individual has improperly charged expenses or used funds of TexasBanc for personal expenses.

11. Within fifteen days after service of this Order upon TexasBanc, TexasBanc shall submit to the District Director a report regarding all improper or questionable disbursements found pursuant to the review required by paragraph 10 of this Order.

12. Within twenty days after service of this Order upon TexasBanc, TexasBanc shall submit to the District Director:

- (a) a list of all accounts of TexasBanc at other financial institutions and all corporate credit cards of TexasBanc including names, location, and account numbers;
- (b) the names of all individuals with signature authority for the accounts specified in subparagraph 12(a) above, who have authorization to use TexasBanc corporate credit cards or make wire transfers; and
- (c) a written justification for the authorization provided to the individuals specified in subparagraph 12(b) above.

13. TexasBanc shall immediately cease and desist from allowing or permitting any customer or any person who has not been duly authorized by the board of directors to use any TexasBanc corporate credit card.

(TRANSACTIONS WITH INSIDERS)

14. Without the prior written approval of the District Director or his designee, TexasBanc shall not:

(a) make or commit to make any disbursement or transfer of any its assets (i) to any affiliate or any affiliated party, or (ii) for the benefit of any affiliate or affiliated party;

(b) enter into, renew, or revise any contractual arrangement (i) with any officer, director, asset manager, attorney, controlling person, affiliate, affiliated person, former director, former officer, or former employee of TexasBanc or any of its subsidiaries, or (ii) with any company, joint venture, or partnership in which any such individual or entity specified in this subparagraph 14(b) holds any ownership interest or of which such individual is a management official; and

(c) make, invest in, purchase, sell, refinance, extend or otherwise modify, or commit to make, invest in, purchase, sell, refinance, extend, or otherwise modify any secured or unsecured loan to any affiliated party.

(DISCLOSURE OF INFORMATION)

15. TexasBanc shall not disclose or provide any information, whether written in the form of books and records or

otherwise, or oral, regarding its affairs or activities to any person who is not an officer, director, or employee of TexasBanc, except as otherwise provided for by 12 C.F.R. § 552.11, TexasBanc's charter and bylaws, or other law or regulation.

(DIVIDENDS)

16. TexasBanc shall not declare or pay any dividends on its common stock or otherwise engage in a capital distribution, until such time that it complies with its fully phased-in capital requirements pursuant to Section 5(t)(6) of the Home Owners' Loan Act ("HOLA"), as amended by Title III of the FIRREA (to be codified at 12 U.S.C. § 1464(t)(6)), and the Capital Regulations, Part 567-Capital, 54 Fed. Reg. 49649 (1989) (to be codified at 12 C.F.R. pt. 567), and shall not pay interest on subordinated debt, unless in either case TexasBanc has first obtained the written approval of the District Director.

(COMPLIANCE WITH SUPERVISORY AGREEMENT;
CHANGES IN MANAGEMENT)

17. TexasBanc shall cease and desist from violating, in any manner, the Supervisory Agreement entered into between TexasBanc and the OTS on September 26, 1989. Furthermore, TexasBanc shall make no change in senior management, including but not limited to any change in duties, unless TexasBanc has provided at least ten days prior written notice to the District Director or his designee. Such notice shall include the basis for the action and address the manner in which TexasBanc will provide for the

continuity of management.

(DEFINITIONS)

18. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided by the provisions of this Order, shall, insofar as applicable, have meaning as defined in the Code of Federal Regulations, Title 12, Chapter V, or as defined in FIRREA, the FDIA, or the HOLA, and any such words or terms undefined in the foregoing shall have meanings that accord with the best custom and usage in the savings association industry.

(EFFECTIVENESS)

19. This Order shall be and is effective upon service upon TexasBanc, and shall remain effective and enforceable until the completion of the administrative proceeding initiated by the Notice of Charges and Hearing, incorporated by reference herein, served upon TexasBanc and until such time as the OTS shall dismiss the charges specified in such Notice, or if a cease and desist order is issued against TexasBanc, until the effective date of such order.

Enforcement Review Committee

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Rosemary Stewart
Director of Enforcement and
Secretary, Enforcement Review
Committee

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)	
)	Re: Enforcement Review
)	Committee Resolution
)	No. 90-31
TEXASBANC SAVINGS, F.S.B.,)	
Conroe, Texas)	Dated: February 12, 1990

NOTICE OF CHARGES AND HEARING

In accordance with Section 5(d)(1)(A) of the Home Owners' Loan Act of 1933 ("HOLA"), as amended by Title III of 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. §1464(d)(1)(A)), and Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by Title IX of the FIRREA (to be codified at 12 U.S.C. § 1818(b)), the Office of Thrift Supervision ("OTS"), being of the opinion that TexasBanc Savings, F.S.B., Conroe, Texas has violated regulations and a written agreement, and has engaged, and is about to engage in unsafe or unsound practices, hereby issues this Notice of Charges and Hearing ("Notice of Charges") against TexasBanc Savings, F.S.B., Conroe, Texas.

I. JURISDICTION

1. TexasBanc Savings, F.S.B., Conroe, Texas ("TexasBanc"), is a federally-insured federal stock savings association and maintains its principal place of business in Conroe, Texas.

2. TexasBanc is a "savings association" as defined by Section 2(4) of the HOLA, as amended by Section 301 of the FIRREA (to be codified at 12 U.S.C. §1462(4)), and Section 3(b) of the FDIA as amended by Section 204(b) of the FIRREA (to be codified at 12 U.S.C. § 1813(b)), and is an "insured depository institution" as defined by Section 3(c) of the FDIA, as amended by Section 204 of the FIRREA (to be codified at 12 U.S.C. § 1813(c)).

3. The Director of the OTS is the "appropriate federal banking agency" as defined in Section 3(q) of the FDIA, as amended by Section 204 of the FIRREA (to be codified at 12 U.S.C. § 1813(q)).

4. The Director of the OTS has the authority to bring this administrative cease and desist proceeding against TexasBanc pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Title III of the FIRREA (to be codified at 12 U.S.C. § 1464(d)(1)(A)), and Section 8(b) of the FDIA, as amended by Title IX of the FIRREA (to be codified at 12 U.S.C. § 1818(b)).

II. FACTS

5. As of October 24, 1988 OTS examined TexasBanc and assigned it a MACRO rating of a "4" due largely to increasing nonperforming assets, a high concentration in risky lending, and

failure to obtain acquisition appraisals in accordance with 12 C.F.R § 563.17-2 as then in effect.

6. On September 26, 1989 TexasBanc entered into a comprehensive Supervisory Agreement with OTS that addressed several supervisory concerns relating to, among other things, affiliated person transactions, internal accounting systems, and books and record-keeping procedures. A copy of the Supervisory Agreement is attached hereto as Exhibit 1 and made a part of this Notice of Charges.

7. Gary L. Akin ("Akin") has been associated with TexasBanc since 1983 as sole stockholder and has been on the Board of Directors since 1983. Until June of 1989, Akin served as the president and chairman of the board of directors of TexasBanc. Upon the request of OTS, Akin resigned as president in June of 1989, but remained on the board as a director. On December 21, 1989, the Dallas District Director of OTS requested that Akin resign from his position as director at TexasBanc and its subsidiaries in view of his lack of fiduciary oversight over TexasBanc's affairs. Akin resigned on December 23, 1989 but continues to be the sole shareholder of TexasBanc.

8. On January 8, 1990 a full scope examination of TexasBanc was commenced by the Dallas District of the OTS. This examination has revealed inadequate books and records, improper disbursements from TexasBanc, misuse of TexasBanc personnel, and improper transactions with insiders.

(BOOKS AND RECORDS)

9. TexasBanc has failed to maintain documentation

regarding the creation, existence, activities and \$2.8 million sale of its subsidiary TexasBanc Financial Services, Inc. ("TFS"). TexasBanc has been unable to produce Articles of Incorporation, bylaws, minutes of the Board, financial records, or state registration documents for TFS.

10. TFS was sold by TexasBanc in the fall of 1989. TexasBanc has been unable to produce any documents revealing the nature of this transaction except three promissory notes from the buyer. TexasBanc has been unable to produce the original source journal vouchers which would indicate the method and date of funding for the three promissory notes. TexasBanc has also been unable to produce any underwriting documents for this transaction such as the loan application, financial statements and credit history of the buyer.

11. TexasBanc has failed to maintain books and records regarding a \$7 million account used as a suspense account for the temporary entry of charges or credits pending clearance deposition. The \$7 million is an unreconciled balance that was charged off by TexasBanc as of December 31, 1989.

12. TexasBanc has failed to maintain documentation relating to a \$3 million construction loan. The loan was secured by an office building which has subsequently been sold. The security for the original construction loan was released upon the sale of the building. The proceeds of the sale were to be applied to the principal balance of the loan. However, the loan indicates a current unsecured principal balance of \$1.34 million. Documentation relating to the sale of the building is missing.

13. TexasBanc has failed to maintain documentation regarding an Employee Stock Ownership Plan ("ESOP") approved by the Board in December of 1985. The ESOP was to be funded by a \$1,250,000 loan from San Jacinto Savings Association, Bellaire, Texas. The proceeds of the loan were to be used to purchase 10% of TexasBanc's outstanding stock from Akin. Although the loan was funded, the stock has never been acquired from Akin. The ESOP currently has no assets and the loan remains outstanding. TexasBanc has been unable to provide an executed copy of the ESOP, any resolutions, minutes or exhibits regarding the establishment of the ESOP by the Board.

14. TexasBanc has failed to maintain books and records regarding the sale of a call option on \$47 million of mortgage-backed securities by Tejas Financial Corporation ("Tejas"), a TexasBanc subsidiary. TexasBanc lacks documentation to substantiate the board of directors' participation in the approval of the sale. TexasBanc has also been unable to produce records evidencing the association's maximum sustainable exposure, limits and interest rate risk strategy.

15. TexasBanc and its subsidiary Tejas lack documentation regarding the financial activities of four recreational subdivisions involving approximately \$74 million in outstanding loans. The developments' operating records, including checkbooks, bank statements and cash receipts ledgers, are all missing.

(SERVICES TO THIRD PARTIES BY TEXASBANC EMPLOYEES)

16. At the direction of Akin, salaried TexasBanc employees

have spent significant amounts of time while working on the premises of TexasBanc performing clerical and administrative functions for entities other than TexasBanc. Certain TexasBanc employees have signatory authority on the accounts of some of these entities including, for example, a partnership known as Texas Tower Investment Company ("Texas Tower"), which maintains a checking account at TexasBanc. In addition, TexasBanc employees while working at TexasBanc have performed recordkeeping functions for Texas Tower. There is no record of any compensation received by TexasBanc from Texas Tower for these services.

(EXPENSES)

17. During the period of January through December 1989, TexasBanc allowed Akin to charge to TexasBanc's corporate credit card personal expenses exceeding \$23,000. These expenses included, but were not limited to, airline tickets, hotel accommodations, shoes, and housewares for Akin and his family members. These expenses were not related to any legitimate TexasBanc business activity and were not approved by the board of directors.

(CORPORATE CREDIT CARDS, DEPOSIT ACCOUNTS)

18. For the past seven years TexasBanc has permitted certain of its customers to use the TexasBanc corporate credit card for their personal expenses. TexasBanc has been reimbursed for these charges by the customers' personal checks. There is no written agreement or authorization on file formalizing this arrangement.

19. TexasBanc employees have been responsible for paying

certain customers' personal bills and debiting their accounts for these payments. There is no written agreement or authorization on file formalizing this arrangement.

(TRANSACTIONS WITH INSIDERS)

20. Akin and Jeanette Allen ("Allen"), a former Vice-President of TexasBanc both had signatory authority on the checking account of Texas Tower Humble Joint Venture ("Texas Tower"). During the course of their employment as officers of TexasBanc Akin and Allen signed checks and performed other administrative functions for Texas Tower. TexasBanc made a \$500,000 loan to Texas Tower which was subsequently charged off as a loss.

(DISCLOSURE OF INFORMATION)

21. On two occasions TexasBanc allowed Akin, while not an officer or director or serving in any official capacity for TexasBanc, and another former officer and director to remove official books, records and documentation regarding specific transactions from the premises of TexasBanc.

(CHANGES IN MANAGEMENT)

22. Current senior management at TexasBanc is composed of President William O. Ferrell ("Ferrell"), Controller William Sturhan ("Sturhan"), and Senior Vice President Bob Mauldin ("Mauldin"). Ferrell began his employment with TexasBanc in December, 1989. Sturhan and Mauldin have been with TexasBanc since 1986. Any change in current senior management would be potentially disruptive of the continuity and stability of TexasBanc at this time.

(SUPERVISORY AGREEMENT)

23. Paragraph 14 of the Supervisory Agreement requires TexasBanc to develop and maintain such accounting systems, records, and controls as required to provide a complete record of all business transactions involving TexasBanc in order to accurately reflect its past and current financial condition. TexasBanc has failed to develop and maintain such records and controls.

24. Paragraph 16 of the Supervisory Agreement requires TexasBanc to comply with the provisions of 12 C.F.R. § 563.17-1(c), now 12 C.F.R. § 563.170(c), to provide a complete and accurate record of all business transactions involving TexasBanc and its subsidiaries. TexasBanc has failed to do so.

25. Paragraph 18 of the Supervisory Agreement requires TexasBanc to immediately establish and maintain sufficient records for each transaction involving lot paper including, but not limited to, development loans, purchases, and sales by TexasBanc of its subsidiaries to disclose the true nature of the transactions. TexasBanc has failed to establish and maintain sufficient records for each transaction involving lot paper.

26. Paragraph 12 of the Supervisory Agreement requires TexasBanc to take appropriate steps to ensure full compliance with the provisions of 12 C.F.R. §§ 563.41 and 563.43 regarding transactions with affiliated persons. TexasBanc has failed to take steps to ensure compliance with these regulatory provisions.

III. CHARGES

27. Paragraphs 1 through 26 are realleged and incorporated herein by reference.

28. The September, 26, 1989 Supervisory Agreement is a "written agreement entered into with the agency," as that phrase is used in Section 8(b)(1) of the FDIA, as amended by the FIRREA (to be codified at 12 U.S.C. § 1818(b)(1)). TexasBanc has violated such written agreement on numerous occasions.

29. TexasBanc has failed to maintain proper books and record-keeping procedures. The absence of adequate books and records to document TexasBanc transactions has made it impossible for OTS examiners to analyze, review or understand the details or purpose of transactions that may have a material effect on the financial condition of TexasBanc. TexasBanc's failure to establish and maintain accurate and complete records of all business it transacts is a violation of 12 C.F.R. § 563.170(c), paragraphs 14, 16, and 18 of the Supervisory Agreement and is an unsafe and unsound practice.

30. TexasBanc has violated 12 C.F.R. § 563.33(c) by allowing salaried employees to work during the hours of their employment by TexasBanc for affiliated persons without compensation. This misuse of TexasBanc personnel also constitutes an unsafe and unsound practice in that such employees have not been able to devote their full attention to TexasBanc's affairs.

31. TexasBanc has engaged in an unsafe and unsound practice by allowing Akin to use TexasBanc's corporate credit card to

charge over \$23,000 of personal expenses, which were paid by TexasBanc.

32. TexasBanc has violated the provisions of 12 C.F.R. § 563.43 in connection with a loan to Texas Tower, which resulted in a loss of \$500,000 to TexasBanc. Akin and Allen exercised their signatory authority over the accounts of Texas Tower to perform functions similar to those of a chief financial officer thereby making Texas Tower an affiliated person under 12 C.F.R. § 561.29. This transaction further constituted an unsafe and unsound practice and is in violation of paragraph 12 of the Supervisory Agreement.

33. TexasBanc has violated the provisions of 12 C.F.R. § 552.11(d) by allowing Akin to inspect and remove TexasBanc books and records from which a list of depositors, borrowers, deposit, and loan balances could be constructed. The release of such books and records also constitutes an unsafe and unsound practice.

IV. NOTICE OF HEARING

Notice is hereby given that an administrative hearing will be held pursuant to Section 8(b) of the FDIA as amended by Title IX of the FIRREA (to be codified at 12 U.S.C. § 1818(b)) and in accordance with the Rules of Practice and Procedure of the Office of Thrift Supervision, 12 C.F.R. Part 509 ("Procedural Rules"), to determine whether an Order to Cease and Desist should be issued against TexasBanc for violation of regulations and a written agreement and for engaging in unsafe and unsound

practices. The hearing will be held in Houston, Texas, 60 days from the date of issuance of this Notice of Charges before a presiding officer to be designated by the Office of Thrift Supervision, or at such other time, date or location as the presiding officer or the OTS may designate.

TexasBanc is directed to file an Answer to the allegations contained herein within twenty (20) days from the date of service hereof, as provided by Section 509.14 of the Procedural Rules. The requirements of the Answer, as well as the consequence of failure to file an Answer, are set forth in Section 509.14 of the Procedural Rules. TexasBanc is directed to present, at the time its Answer is filed, its written view on whether the scheduled hearing should be public or private. TexasBanc is also directed to have its representatives, if any, file a Notice of Appearance as set forth in Section 509.5 of the Procedural Rules.

By the Enforcement Review
Committee

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Rosemary Stewart
Secretary, Enforcement
Review Committee
Director of Enforcement