

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

In the Matter of)
)
BANC USA, CORPORATION)
Oak Brook, Illinois;)
BANK USA, S.A.)
Silvis, Illinois;)
and DR. MOTILAL RAICHAND)
_____)

Re: Enforcement Review
Committee Resolution
No. 90-43

Dated: May 25, 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 Banc USA, Corporation ("Banc USA Corporation"), Bank USA, S.A. ("Bank USA"), and Dr. Motilal Raichand, have engaged in unsafe and unsound practices, has issued a Notice of Charges and Hearing ("Notice") against Banc USA Corporation, Bank USA and Dr. Motilal Raichand incorporated by reference herein; and

WHEREAS, such Notice, on the basis of particular facts and circumstances contained therein, specifies unsafe and unsound practices engaged in by Banc USA Corporation, Bank USA, and Dr. Motilal Raichand; and

WHEREAS, the OTS has determined that the unsafe and unsound practices specified in the Notice, or the continuation thereof, are likely to weaken the condition of Bank USA or otherwise prejudice the interests of its depositors prior to the completion of proceedings initiated by such Notice;

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

IT IS ORDERED that Bank USA shall cease and desist from directly or indirectly transferring any funds from Bank USA to Banc USA Corporation or Dr. Raichand or any affiliate of Dr. Raichand, without the prior written approval of the Chicago District Director of the OTS or his designee.

IT IS FURTHER ORDERED that Banc USA Corporation shall cease and desist from directly or indirectly transferring any funds from Banc USA Corporation to Dr. Raichand or any affiliate of Dr. Raichand, without the prior written approval of the Chicago District Director of the OTS or his designee.

IT IS FURTHER ORDERED that Banc USA Corporation shall immediately transfer \$790,000 to Bank USA.

IT IS FURTHER ORDERED that Dr. Raichand shall immediately execute all necessary documents required to transfer \$790,000 from Banc USA Corporation to Bank USA.

IT IS FURTHER ORDERED that 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 meanings 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.

THIS ORDER shall be and is effective upon service on Banc USA Corporation, Bank USA, and Dr. Raichand, and shall remain effective and enforceable until the completion of the administrative proceeding initiated by the Notice, incorporated by reference herein, served upon Banc USA Corporation, Bank USA, and Dr. Raichand, 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 Banc USA Corporation, Bank USA, and Dr. Raichand, until the effective date of such Order.

By the
Enforcement Review Committee

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P. Stacy Powers
District Counsel of The Seventh
District
Assistant Secretary,
Enforcement Review Committee

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DEPARTMENT OF THE TREASURY

IN THE MATTER OF)
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NOTICE OF CHARGES AND HEARING

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 Banc USA, Corporation, Bank USA, S.A. and Dr. Motilal Raichand, have engaged in and are about to engage in unsafe or unsound practices, hereby issues this Notice of Charges and Hearing ("Notice of Charges") against Banc USA, Corporation ("Banc USA Corporation"), Bank USA, S.A., ("Bank USA") and Dr. Motilal Raichand.

I. JURISDICTION

1. Banc USA Corporation is a savings and loan holding company and maintains its principal place of business in Oak Brook, Illinois.

2. Banc USA Corporation is a "savings and loan holding company" as defined by Section 10(a)(1)(D) of the HOLA, as amended by Section 301 of the FIRREA (to be codified at 12 U.S.C. § 1467a(10)(a)(1)(D), and Section 3(w)(3) of the FDIA, as amended by Section 204 of FIRREA (to be codified at 12 U.S.C. § 1813(w)(3)), and is a "depository institution holding company" as defined by Section 3(w)(1) of FDIA, as amended by Section 204 of the FIRREA (to be codified at 12 U.S.C. § 1813(w)(1)).

3. Bank USA is a federally-insured, state-chartered savings association and maintains its principal place of business in Silvis, Illinois.

4. Bank USA 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 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)).

5. Dr. Motilal Raichand is Chairman of the Board of Banc USA Corporation and Bank USA.

6. Dr. Motilal Raichand is an "institution-affiliated party" as that term is defined by Section 3(u) of the FDIA, as amended by Section 204 of the FIRREA (to be codified at 12 U.S.C. § 1813(u)).

7. 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)).

8. The Director of the OTS has the authority to bring this administrative cease and desist proceeding against Banc USA Corporation, Bank USA, and Dr. Raichand pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA (to be codified at 12 U.S.C. § 1464(d)(1)(A)).

II. FACTS

9. Banc USA Corporation's major asset is Bank USA, a federally-insured, state-chartered stock savings association.

10. As of March 31, 1990, Bank USA's tangible capital represented negative 2.03% of its adjusted tangible assets or approximately negative \$442,000.

11. As of March 31, 1990, Bank USA's core capital represented negative .43% of its adjusted tangible capital or approximately negative \$99,000.

12. As of March 31, 1990, Bank USA's risk-based capital represented negative .43% of its total assets or approximately negative \$99,000.

13. Since on or before December 31, 1989, Bank USA has failed to meet all capital requirements as set forth at Section 5(t) of the HOLA as amended by Section 301 of FIRREA (to be codified at 12 U.S.C. § 1464(t) and 12 C.F.R. § 567.10(u)).

14. On or about April 5, 1990, Bank USA's funds totaling \$2,400,000 were placed into deposit or checking account #7043411 at the LaSalle National Bank, Chicago, Illinois ("LaSalle National Bank").

15. On May 23, 1990, Dr. Raichand, as Chairman of the Board of Bank USA, was directed by the OTS not to transfer any funds out of Bank USA's deposit or checking account #7043411 at LaSalle National Bank. Dr. Raichand also orally agreed on May 23, 1990 that he would not do so.

16. On May 24, 1990, Bank USA, under the direction and influence of Dr. Raichand, transferred \$790,000 out of checking or deposit account #7043411 at LaSalle National Bank to Banc USA Corporation's deposit or checking account #4100824 at the Northern Trust Bank, Chicago, Illinois.

17. This transfer, described in paragraph 16, has resulted in a significant dissipation of capital for Bank USA.

18. Bank USA's transfer of \$790,000 to Banc USA Corporation is an unsafe or unsound practice.

III. 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. Section 1818(b)), and in accordance with the Rules and Practice and Procedure of the Office of Thrift Supervision ("Procedural Rules"), 54 Fed. Reg. 49446-49456 (1989) (to be codified at 12 C.F.R. part 509), to determine whether an Order to Cease and Desist should be issued against Banc USA Corporation, Bank USA, and Dr. Raichand for engaging in unsafe or unsound practices. The hearing will be fixed for commencement 60 days from the date of service of this Notice of Charges before a presiding officer to be designated by the Office of Thrift Supervision, subject to change by order of the presiding officer or the OTS.

Banc USA Corporation, Bank USA, and Dr. Raichand are 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. Banc USA Corporation, Bank USA, and Dr. Raichand are directed to present, at the time their Answer is filed, their written views on whether the

scheduled hearing should be public or private. Banc USA Corporation, Bank USA, and Dr. Raichand are also directed to have 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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P. Stacy Powers
District Counsel of the
Seventh District
Assistant Secretary,
Enforcement Review Committee