

SUPERVISORY AGREEMENT

This Supervisory Agreement ("Agreement") is made and is effective this 23rd day of August, 1995 (the "Effective Date"), between Dr. Herbert A. Wertheim ("Wertheim") and the Office of Thrift Supervision ("OTS"), an office within the United States Department of the Treasury, acting through its Regional Director for the Southeast Region or his designee ("Regional Director").

WHEREAS, based upon information available to it in its capacity as the primary Federal regulator of BankAtlantic, A Federal Savings Bank, Fort Lauderdale, Florida, OTS Docket No. 5551 ("BankAtlantic" or the "Institution"), the OTS is of the opinion that Wertheim has, without filing and receiving prior OTS approval of a rebuttal of control submission, acquired rebuttable control, as set forth in 12 C.F.R. § 574.4(b), of BFC Financial Corporation, Coral Gables, Florida, OTS Docket No. H-0677 ("BFC"), a savings and loan holding company by reason of its ownership of 48.2 percent of the stock of BankAtlantic Bancorp, Inc., the immediate holding company of the Institution; and

WHEREAS, the OTS is of the opinion that Wertheim's acquisition of stock is in violation of the rules and regulations governing the acquisition of control of savings associations; and

WHEREAS, on the basis of the violations, the OTS is of the opinion that grounds exist for the initiation of administrative proceedings against Wertheim pursuant to 12 U.S.C. § 1817(j); and

WHEREAS, Wertheim is seeking to file with the OTS a rebuttal of control submission that cannot be processed until the subject violations have been formally addressed and rectified; and

WHEREAS, Wertheim, without admitting or denying any violations of laws or regulations, is willing to enter into this Agreement in order to cooperate with the OTS and to evidence his intent to comply with all applicable laws and regulations.

NOW THEREFORE, in consideration of the premises stated above, the parties hereto agree as follows:

1. Wertheim shall comply with the provisions of the Savings and Loan Holding Company Act ("Holding Company Act"), 12 U.S.C. § 1467a, the Change in Control Act ("Control Act"), 12 U.S.C. § 1817(j), and the OTS regulations governing acquisition of control of savings associations ("Control Regulations"), 12 C.F.R. Part 574 (1994).

1. All references to the U.S.C. are as amended.

2. Wertheim shall not, as of the Effective Date of this Agreement, increase his ownership of any class of voting securities of BFC, except upon receipt from the OTS of (i) ~~prior written notice of the acceptance of a rebuttal of control submission filed pursuant to 12 C.F.R. § 574.4(e) or~~ (ii) prior written approval of an appropriate change in control application filed under the Holding Company Act or clearance of a notice filed under the Control Act. Any increase in Wertheim's ownership of the stock of BFC undertaken upon receipt of the OTS' written notice of acceptance of a rebuttal of control, approval of an application or clearance of a notice, shall be consistent with any and all conditions or requirements contained therein.
3. If the OTS determines that the rebuttal of control submission to be filed with this office is unacceptable, that a properly filed change in control application must be disapproved or that a properly filed notice cannot be cleared, Wertheim shall, within 60 days after receiving written notice of such determination, transfer all shares of BFC stock in excess of 9.99 percent (the "Excess Shares") to a trust, properly endorsed for transfer or accompanied by fully endorsed stock powers for divestiture. The trust terms and the trustee ("Trustee") must be approved in advance by the Regional Director. Such approval shall be made in the sole discretion of the Regional Director.
4. All Excess Shares held by the trust shall be divested within one year after being transferred to the trust. During the ~~period the Trustee has possession of the Excess Shares,~~ Wertheim shall not, except as specifically directed by the terms of this Agreement or in writing by the Regional Director, exercise any control, directly or indirectly, over the Excess Shares and shall not exercise any control, ~~directly or indirectly, over said trust or Trustee.~~
5. The Trustee shall vote the Excess Shares on a pro-rata basis in accordance with the votes of BFC's other common stockholders. To effect this requirement, the Trustee shall provide written instructions to BFC's Secretary that the Excess Shares shall be voted on this basis and shall furnish a copy of such instructions to the Regional Director. Wertheim shall promptly take all steps necessary to enable the Trustee to take such actions.
6. The Trustee shall not exercise or attempt to exercise, directly or indirectly, control or a controlling influence over the management or policies of BFC or the Institution. While the Trustee has possession of the Excess Shares, he shall not directly or indirectly:
 - a. Seek or accept any representation on the board of directors of the Institution;

- b. ~~Have or seek to have a representative serve on an executive or similar committee of the board of directors of the Institution;~~
- c. Engage in any transactions with the Institution;
- d. Influence or attempt to influence in any respect the lending or credit decisions or policies of the Institution;
- e. Influence or attempt to influence the dividend policies and practices of the Institution or any decision or policies of the Institution as to the offering or exchange of any shares of stock;
- f. Have or seek to have any representative serve as an officer, agent, or employee of the Institution;
- g. Propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or board of directors of the Institution;
- h. Solicit proxies or participate in any solicitation of proxies with respect to any matter presented to the stockholders of the Institution; or
- i. Seek to amend, or otherwise take action to change, the bylaws, articles of incorporation, or charter of the Institution.

7. ~~For so long as any Excess Shares remain with the Trustee, Wertheim shall not engage in any of the prohibited activities listed above at Paragraph 6(a) through (i).~~

SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS

8. Reference in this Agreement to provisions of statutes, regulations, and OTS memoranda, bulletins and publications shall include references to all amendments to such provisions as have been made as of the Effective Date of this Agreement and references to successor provisions as they become applicable.

NOTICES

9. (a) Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Agreement to be made upon, given or furnished to, delivered to, or filed with:
- (i) the OTS by Wertheim, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid or sent via overnight

delivery service or physically delivered, in each case addressed to the Regional Director for the Southeast Region, Office of Thrift Supervision, Department of the Treasury, 1475 Peachtree Street, N.E., Atlanta, Georgia 30309 or telecopied to (404) 888-5634 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(ii) Wertheim by the OTS, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, or sent via overnight delivery service or physically delivered, in each case addressed to Wertheim at P.O. Box 554592
Miami, FL 33255-8592 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(b) Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service or telecopy, and upon delivery if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this Agreement, there shall be a presumption that the notice was received two Business Days after the date of the postmark on the envelope in which the notice was enclosed.

DURATION, TERMINATION OR SUSPENSION OF AGREEMENT

10. The provisions of this Agreement shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through the Regional Director. The Regional Director in his sole discretion may, by written notice, terminate and/or suspend any or all provisions of this Agreement.

EFFECT OF HEADINGS

11. The section headings used in this Agreement are for convenience of reference only and are not to affect the construction of or be taken into consideration in the interpretation of this Agreement.

SEPARABILITY CLAUSE

12. In the event that any provision of this Agreement is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his sole discretion determines otherwise.

**NO VIOLATIONS OF LAW, RULE, REGULATION OR
POLICY STATEMENT AUTHORIZED; OTS NOT RESTRICTED**

13. Nothing in this Agreement shall be construed as:
- (a) allowing Wertheim to violate any law, rule, regulation, or policy statement to which Wertheim is subject, or
 - (b) restricting, in any way, the OTS from taking any action that it believes is appropriate in fulfilling the responsibilities placed upon it by law.

SUCCESSORS IN INTEREST/BENEFIT

14. The terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Agreement, express or implied, shall give to any person or entity, other than the parties hereto, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Agreement.

TIME LIMITS

15. Any time limitations imposed by this Agreement shall begin to run from the Effective Date of the Agreement, unless otherwise provided for in the Agreement. Such time limitations may be extended by the Regional Director in his sole discretion upon written application by Wertheim.

DEFINITIONS

16. All technical words or terms used in this Agreement for which meanings are not specified or otherwise provided by the provisions of the Agreement shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations. Any such technical words or terms used in this Agreement and undefined in said Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings and loan industry.

INTEGRATION CLAUSE; MODIFICATION

17. This Agreement represents the final written agreement of the parties with respect to the subject matter hereof and constitutes the sole agreement of the parties, as of the Effective Date, with respect to such subject matter. This Agreement may not be amended except by a written modification agreement duly executed by the parties hereto.

Dr. Herbert A. Wertheim
BankAtlantic, A Federal Savings Bank
Fort Lauderdale, Florida (OTS No. 5551)
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WRITTEN AGREEMENT WITH THE AGENCY

18. This Agreement has been duly authorized, executed and delivered, and constitutes, in accordance with its terms, a valid and binding obligation of Wertheim. It is understood and agreed that this Agreement is a "written agreement entered into with the agency" as that phrase is used in Section 8(b) of the FDIA, 12 U.S.C. §1818(b).

IN WITNESS WHEREOF, the OTS, acting through the Regional Director, and Wertheim hereby execute this Agreement as of the Effective Date hereof.

OFFICE OF THRIFT SUPERVISION

By:

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Richard M. Riccobono
Acting Regional Director

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Herbert A. Wertheim