

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	Order No.: SE-010-016
)	
)	
TURNBERRY BANK)	Effective Date: April 8, 2010
)	
Aventura, Florida)	
OTS Docket No. 08087)	
_____)	

ORDER TO CEASE AND DESIST

WHEREAS, Turnberry Bank, Aventura, Florida, OTS Docket No. 08087 (Association), by and through its Board of Directors (Board), has executed a Stipulation and Consent to Issuance of an Order to Cease and Desist (Stipulation); and

WHEREAS, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

WHEREAS, pursuant to delegated authority, the OTS Regional Director for the Southeast Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

NOW, THEREFORE, IT IS ORDERED that:

Cease and Desist.

1. The Association and its directors, officers, employees, and agents shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about,

participating in, counseling or the aiding and abetting of any unsafe or unsound practices, and noncompliance with regulatory guidance including, but not limited to, the following:

- (a) operating the Association with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
- (b) operating the Association without an adequate business plan;
- (c) operating the Association with inadequate earnings to fund growth, support dividend payments and augment capital;
- (d) operating the Association with a organizational officer¹ structure and compensation and benefits arrangements that are not commensurate with the Association's current financial condition, size, complexity, current and projected operations and risk profile;
- (e) operating the Association with an excessive level of adversely classified loans and assets;
- (f) operating the Association with an inadequate allowance for loan and lease losses (ALLL) methodology;
- (g) operating the Association with an inadequate level of ALLL for the volume, type, and quality of loans and leases held;
- (h) failing to conduct timely impairment analysis of assets in accordance with Generally Accepted Accounting Principles (GAAP) and regulatory guidance including, but not limited to, Statement of Financial Accounting Standards (SFAS) No. 114;
- (i) operating the Association with an excessive concentration of home equity lines of credit (HELOCs), 1-4 family condominium loans, and nonresidential loans as described

¹ The term officer is defined at 12 C.F.R. § 561.35 and includes all Senior Executive Officers as that term is defined in 12 C.F.R. § 563.555.

in the November 9, 2009 Report of Examination of the Association (2009 ROE);

(j) operating the Association without adequate liquidity and funds management policies and practices in light of the Association's asset and liability mix;

(k) operating the Association with a heavy reliance on short-term potentially volatile deposits as a source for funding longer-term investments; and

(l) operating in contravention of supervisory policy statements and other regulatory guidance.

2. The Association and its directors, officers, employees, and agents shall also cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding and abetting violations of the following laws or regulations:

(a) 12 C.F.R. § 203.4 (Home Mortgage Disclosure);

(b) 12 C.F.R. Part 567 (Capital);

(c) 12 C.F.R. § 560.160(a) (Asset Classification);

(d) 12 C.F.R. § 560.160(b) (ALLL);

(e) 12 C.F.R. Part 562 (Regulatory Reporting Standards);

(f) 12 C.F.R. §563.161(a)(2) (Liquidity);

(g) 12 C.F.R. §563.180 (Suspicious Activity Reports); and

(h) 12 C.F.R. Part 570 (Safety and Soundness Standards).

Capital.

3. By June 30, 2010, the Association shall have and thereafter maintain a Tier 1 Core Capital Ratio equal to or greater than 8 percent (8%) and a Total Risk-Based Capital Ratio equal to or greater than 12 percent (12%).

4. By April 30, 2010, the Association shall submit to the Regional Director for review and comment a written plan to achieve and maintain the Association's capital at the levels prescribed in Paragraph 3 (Capital Plan). At a minimum, the Capital Plan shall:

- (a) address the requirements and restrictions imposed by this Order;
- (b) address the comments and incorporate all recommend corrective actions contained in the 2009 ROE;
- (c) address the Association's level of classified assets, ALLL, earnings, asset concentrations, liquidity needs, and trends in the foregoing areas;
- (d) address current and projected trends in real estate market conditions;
- (e) detail the Association's capital preservation and enhancement strategies with specific narrative goals; and
- (f) identify the specific sources of additional capital and the timeframes and methods by which additional capital will be raised, including specific target dates and capital levels.

5. Within fifteen (15) days after receipt of comments from the Regional Director, if any, the Association will revise the Capital Plan to incorporate any recommended changes by the Regional Director and adopt the Capital Plan as revised. Thereafter, the Association shall implement and adhere to the Capital Plan. A copy of the Capital Plan, as revised, shall be provided to the Regional Director.

6. At each regular monthly Board meeting, beginning with the month immediately

following adoption of the Capital Plan, the Board shall review the Association's compliance with the Capital Plan. At a minimum, the Board's review shall include:

- (a) a comparison of actual operating results to projected results;
- (b) detailed explanations of any material deviations;² and
- (c) a discussion of specific corrective actions or measures that have been or will be implemented to address each material deviation.

7. Within fifteen (15) days after (a) the Association fails to meet the capital requirements prescribed in Paragraph 3; (b) the Association fails to comply with the Capital Plan prescribed in Paragraph 4; or (c) request from the Regional Director, the Association shall submit a written Contingency Plan that is acceptable to the Regional Director.

8. The Contingency Plan shall detail the actions to be taken, with specific time frames, to achieve one of the following results by the later of the date of receipt of all required regulatory approvals or sixty (60) days after the implementation of the Contingency Plan: (a) merger with, or acquisition by, another federally insured depository institution or holding company thereof; or (b) voluntary liquidation by filing an appropriate application with the OTS in conformity with federal laws and regulations.

Growth.

9. Effective immediately, the Association shall not increase its total assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities during the prior quarter without the prior written notice of non-objection of the Regional Director. The growth restriction imposed by this Paragraph shall remain in effect until the Association receives the

² A deviation shall be considered material under this Paragraph of the Order when the Association: (a) engages in any activity, line of business, or operation that is inconsistent with the Capital Plan; (b) exceeds the level of any activity or growth contemplated in the Capital Plan by more than ten percent (10%); or (c) falls below or fails to meet the target amounts established in the Capital Plan by more than ten percent (10%).

Regional Director's written notice of non-objection of its Business Plan pursuant to Paragraph 10 of this Order.

Business Plan.

10. Within forty-five (45) days, the Association shall submit a new business plan for the remainder of calendar year 2010 (Business Plan) and calendar year 2011 that is acceptable to the Regional Director. Thereafter, the Association shall submit a new one (1) year Business Plan at least ninety (90) days prior to the end of each calendar year. At a minimum, the Business Plan shall include:

(a) plans and strategies to restructure the Association's operations, strengthen and improve the Association's earnings, reduce expenses, and achieve positive core income and profitability on a consistent basis;

(b) strategies for ensuring that the Association has the financial and personnel resources necessary to implement and adhere to the Business Plan, adequately support the Association's risk profile, maintain compliance with applicable regulatory capital requirements, comply with this order, and maintain appropriate levels of liquidity;

(c) quarterly pro forma financial projections (balance sheet, capital forecasts, and income statement) and a four quarter budget; and

(d) identification of all relevant assumptions made in formulating the Business Plan and retention of documentation supporting such assumptions.

11. Upon receipt of written notice of non-objection from the Regional Director, the Association shall implement the Business Plan. A copy of the Business Plan and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.

12. Any material modifications³ to the Business Plan must receive the prior written non-objection of the Regional Director. The Association shall submit proposed material modifications to the Regional Director at least forty-five (45) days prior to implementation.

13. Within thirty (30) days after the close of each calendar quarter, beginning with the first calendar quarter ending after receipt of written notice of non-objection from the Regional Director, the Board shall review quarterly variance reports on the Association's compliance with the Business Plan (Variance Reports). The Variance Reports shall:

- (a) identify material variances in the Association's actual performance during the preceding quarter as compared to the projections set forth in the Business Plan;
- (b) contain an analysis and explanation of identified variances; and
- (c) discuss the specific measures taken or to be taken to address identified variances.

14. The Board's review of the Variance Reports, assessment of the Association's compliance with the Business Plan, and any corrective actions taken by the Board shall be fully documented in the Board meeting minutes.

Lending.

15. Within sixty (60) days, the Association shall update the collateral values and credit scores on all outstanding HELOC loans and assess the inherent risk in individual HELOC loans and the HELOC portfolio. The Association shall prepare a written plan to reduce the risks presented by the HELOC portfolio, including reducing credit lines or suspending further advances in conformance with applicable law and regulation.

³ A modification shall be considered material under this Section of the Order if the Association plans to: (a) engage in any activity that is inconsistent with the Business Plan; or (b) exceed the level of any activity contemplated in the Business Plan or fail to meet target amounts established in the Business Plan by more than ten percent (10%), unless the activity involves assets risk-weighted fifty percent (50%) or less, in which case a variance of more than twenty-five percent (25%) shall be deemed to be a material modification.

16. Effective immediately, the Association may only originate or purchase, or commit to originate or purchase Qualifying Mortgage Loans as defined at 12 C.F.R. § 567.1 and Consumer Loans as defined at 12 C.F.R. § 560.3.

Financial Reporting.

17. Within thirty (30) days, the Association shall develop comprehensive policies and procedures for conducting loan impairment analysis (Impairment Analysis) that are acceptable to the Regional Director (OTTI Policy). The OTTI Policy shall, at a minimum:

- (a) comply with GAAP and applicable regulatory guidance;
- (b) require an SFAS 114 compliant Impairment Analysis to be conducted at the earlier of a loan becoming ninety (90) days past due or classification of the loan;
- (c) establish specific timeframes for periodically updating Impairment Analysis; and
- (d) require a written quarterly report to the Board detailing the results of all Impairment Analysis (OTTI Report).

Problem Assets.

18. Within thirty (30) days, the Association shall submit a detailed, written plan with specific strategies, targets and timeframes to reduce⁴ the Association's level of criticized assets⁵ that is acceptable to the Regional Director (Problem Asset Plan). At a minimum, the Problem Asset Plan shall include the preparation of individual written specific workout plans for each criticized asset and delinquent loan or group of loans to any one borrower or loan relationship of Seven Hundred Fifty Thousand Dollars (\$750,000.00) or greater (Asset Workout Plans).

⁴ For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification.

⁵ The term "criticized assets" shall include all classified assets, assets designated special mention, all nonperforming assets and all delinquent loans.

19. Upon receipt of written notification from the Regional Director that the Problem Asset Plan is acceptable, the Association shall implement and adhere to the Problem Asset Plan.

20. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending after receipt of written notice of non-objection from the Regional Director, Management shall prepare a quarterly written asset status report (Asset Report). The Asset Report shall include, at a minimum:

- (a) the current status of all Asset Workout Plans;
- (b) a detailed analysis of the calculation and adequacy of the Association's ALLL levels and comparison of ALLL levels to the total level of classified assets;
- (c) a comparison of classified assets to core and risk based capital;
- (d) a comparison of classified assets at the current quarter end with the preceding quarter;
- (e) a breakdown of classified assets by type (residential, acquisition and development, construction, land loans, etc.);
- (f) an assessment of the Association's compliance with the Problem Asset Plan; and
- (g) a discussion of the actions taken during the preceding quarter to reduce the Association's level of criticized assets and delinquent loans.

Loan Modifications.

21. Within thirty (30) days, the Association shall develop, implement and adhere to a written Troubled Debt Restructuring (TDR) and Loan Modification Policy (Modification Policy). At a minimum, the Modification Policy shall:

- (a) identify acceptable modification terms (*e.g.*, a lower or no interest rate, a reduction in principal, a short sale of the underlying collateral property, a lengthier term to maturity, a

transfer of assets from the borrower, the substitution or addition of a new borrower, or some combination of these terms) and guidelines and restrictions on such modifications;

(b) identify Association personnel authorized to approve loan modifications and the procedures to be incorporated to monitor all approved modified loans for compliance with the Modification Policy;

(c) require all modified loans to comply with generally accepted accounting principles (GAAP) and OTS Thrift Bulletin No. 85 (August 28, 2009), be properly reported on the Thrift Financial Report (TFR), and be accurately and timely classified in accordance with the Association's asset classification policies;

(d) require that the Association's loan modification and TDR practices and program be reviewed by the Association's Internal Audit function;

(e) require a written monthly report to the Board, beginning with the May 2010 Board meeting, detailing the total number and dollar amount of loan modifications, the number and dollar amount of loans modified since the preceding monthly report, and the types of modifications made.

Concentrations of Credit.

22. Within sixty (60) days, the Association shall develop and submit to the Regional Director for review a written program for identifying, monitoring, and managing risks associated with concentrations of credit (Credit Concentration Program). At a minimum, the Credit Concentration Program shall:

(a) address all recommended corrective actions set forth in the 2009 ROE relating to concentrations of credit;

- (b) establish comprehensive and reasonable loan concentration limits expressed as a percent of total risk-based capital, and document the appropriateness of such limits;
- (c) establish stratification levels and enhanced risk analysis, monitoring, and management of the concentrations of credit;
- (d) contain specific review procedures and reporting requirements, including written reports to the Board, designed to identify, monitor, and control the risks associated with concentrations of credit; and
- (e) contain a written plan, including specific time frames and target levels, for reducing the level of concentrations and the risks associated with the Association's concentrations of credit in nonresidential real estate loans, condominium loans, and HELOCs.

23. Upon receipt of notification from the Regional Director that the concentration limits in the Credit Concentration Program are acceptable, the Association shall implement and adhere to the Credit Concentration Program.

24. Within thirty (30) days after the close of each calendar quarter, beginning with the quarter ending after receipt of written notice of non-objection from the Regional Director, the Association shall review the appropriateness of established concentration limits and the Association's compliance with the Credit Concentration Program, including the written action plan, to reduce the current level of concentrations.

Liquidity.

25. Within thirty (30) days, the Association shall submit a revised liquidity and funds management policy for the Association that is acceptable to the Regional Director (Liquidity Policy). The Liquidity Policy shall, at a minimum:

- (a) address all recommended corrective actions set forth in the 2009 ROE relating to liquidity;
- (b) conform to applicable regulatory guidance; and
- (c) require the preparation of a written plan to ensure the maintenance of adequate short-term and long-term liquidity to withstand any anticipated or extraordinary demand against its funding base (Liquidity Plan).

26. The Liquidity Plan shall, at a minimum:

- (a) include a cash flow analysis that contains reasonable assumptions, identifies anticipated funding needs under varying economic and market conditions and scenarios, discusses the funding sources to meet identified funding needs, identifies those funding sources that are subject to formal arrangements, considers the level and maturity of any brokered deposits, and addresses any contingent liabilities; and
- (b) identify alternative funding sources for meeting extraordinary demands or to provide liquidity in the event the sources identified in Subparagraph (a) above are insufficient. Such alternative funding sources must consider, at a minimum, the selling of assets, obtaining lines of credit from correspondent banks, recovering charged-off assets, and injecting additional equity capital.

27. Upon receipt of written non-objection from the Regional Director, the Association shall adopt the Liquidity Policy.

28. Thereafter, Management shall prepare a written monthly assessment of the Association's current liquidity position (Liquidity Report). The Liquidity Report shall include an assessment of the Association's compliance with the Liquidity Policy and the Liquidity Plan. At a minimum, the Liquidity Report shall consider:

- (a) a maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) the volatility of demand deposits including escrow deposits;
- (c) the amount and type of loan commitments and standby letters of credit;
- (d) an analysis of the continuing availability and volatility of present funding sources;
- (e) an analysis of the impact of decreased cash flow from the Association's loan portfolio resulting from delinquent and non-performing loans; and
- (f) an analysis of the impact of decreased cash flow from the sale of loans or loan participations.

Management.

29. Within thirty (30) days, the Association's independent board members shall engage a qualified third party consultant to prepare a written report analyzing the Association's current officer organizational structure and compensation and benefit arrangements and assessing and determining whether such structure and arrangements are commensurate with the Association's size, financial condition, complexity, current and projected operations and risk profile (Management Review). At a minimum, the Management Review shall:

- (a) be completed within sixty (60) days after the Effective Date of this Order;
- (b) consider the requirements of this Order and any other requirements or restrictions imposed upon the Association by law, regulation or the OTS;
- (c) comply with OTS regulations and regulatory guidance;

- (d) identify the positions needed to effectively manage and supervise the affairs of the Association and include detailed job descriptions, duties and responsibilities, and qualifications for each position;
- (e) ensure that each position is adequately staffed by qualified, experienced, and trained personnel;
- (f) include an organizational chart depicting the management structure and reporting relationships;
- (g) establish benefit and compensation ranges, including performance evaluation review timeframes and requirements, that are reasonable and commensurate for each position; and
- (h) include any specific corrective actions or recommendations.

30. Within ten (10) days after completion, a copy of the Management Review shall be provided to the Regional Director. Upon receipt of written notification from the Regional Director that the Management Review is acceptable, the Association's independent board members shall implement any corrective actions and recommendations contained in the Management Review.

Dividends.

31. Effective immediately, the Association shall not declare or pay dividends or make any other capital distributions, as that term is defined in 12 C.F.R. § 563.141, without receiving the prior written approval of the Regional Director. The Association's written request for approval should be submitted to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed declaration, dividend payment or distribution of capital.

Transactions with Affiliates.

32. Effective immediately, the Association shall not engage in any transaction with an affiliate unless, with respect to each such transaction, the Association has complied with the notice requirements set forth in 12 C.F.R. § 563.41(c)(4), which shall include the information set forth in 12 C.F.R. § 563.41(c)(3). The Board shall ensure that any transaction with an affiliate for which notice is submitted pursuant to this Paragraph, complies with the requirements of 12 C.F.R. § 563.41 and Regulation W, 12 C.F.R. Part 223.

Brokered Deposits.

33. Effective immediately, the Association shall comply with the requirements of 12 C.F.R. § 337.6(b).

34. Within forty-five (45) days after the close of each calendar quarter, beginning with the calendar quarter ending March 31, 2009, Management shall prepare and submit a written report to the Board detailing the level of brokered deposits for each month within the immediately preceding quarter (Brokered Deposit Report). The Board's review of the Brokered Deposit Report shall be detailed in the Board meeting minutes. A copy of the Brokered Deposit Report and the Board meeting minutes detailing the Board's review of the Brokered Deposit Report shall be provided to the Regional Director within ten (10) days after the Board meeting.

Management Changes.

35. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers⁶ set forth in 12 C.F.R. Part 563, Subpart H.

⁶ The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

Employment Contracts and Compensation Arrangements.

36. Effective immediately, the Association shall not enter into, renew, extend or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer⁷ or director of the Association, unless it first provides the OTS with not less than forty-five (45) days prior written notice of the proposed transaction. The notice to the OTS shall include a copy of the proposed employment contract or compensation arrangement or a detailed, written description of the compensation arrangement to be offered to such officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement or arrangement submitted to the OTS fully complies with the requirements of 12 C.F.R. Part 359, 12 C.F.R. §§ 563.39 and 563.161(b), and 12 C.F.R. Part 570 – Appendix A.

Severance and Indemnification Payments.

37. Effective immediately, the Association shall not make any golden parachute payment⁸ or prohibited indemnification payment⁹ unless, with respect to each such golden parachute payment, the Association has complied with the requirements of 12 C.F.R. Part 359 and, as to indemnification payments, 12 C.F.R. § 545.121.

Violations of Law.

38. Within thirty (30) days, the Board shall ensure that all violations of law, rule, and/or regulation cited in the Association's 2009 ROE are corrected. Within ninety (90) days, the Board shall prepare, adopt, and thereafter ensure that the Association adheres to specific procedures to prevent future violations.

⁷ The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

⁸ The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

⁹ The term "prohibited indemnification payment" is defined at 12 C.F.R. § 359.1(l).

39. Within thirty (30) days of receipt of any subsequent report, which cites or discusses any violations of law, rule, or regulation, the Board shall prepare, adopt, and thereafter ensure the Association adheres to specific procedures to correct such violations and prevent future violations.

Third Party Contracts.

40. Effective immediately, the Association shall not enter into any arrangement or contract with a third party service provider that is significant to the overall operation or financial condition of the Association¹⁰ or outside the Association's normal course of business unless, with respect to each such contract, Association has: (i) provided the OTS with a minimum of forty-five (45) days prior written notice of such arrangement or contract; (ii) determined that the arrangement or contract complies with the standards and guidelines set forth in Thrift Bulletin 82a (TB 82a); and (iii) received written notice of non-objection from the Regional Director.

Board Compliance Committee.

41. Within thirty (30) days, the Board shall appoint a committee to monitor and coordinate the Association's compliance with the provisions of this Order and the completion of all corrective actions required in the 2009 ROE (Regulatory Compliance Committee). The Regulatory Compliance Committee shall have three (3) or more directors, the majority of whom shall be independent¹¹ directors.

¹⁰ A contract will be considered significant to the overall operation or financial condition of the Association where the annual contract amount equals or exceeds two percent (2%) of the Association's total capital.

¹¹ For purposes of this Order, an individual who is "independent with respect to the Association" shall be any individual who:

- a. is not employed in any capacity by the Association, its subsidiaries, or its affiliates, other than as a director;
- b. does not own or control more than ten percent (10%) of the outstanding shares of the Association or its affiliates;
- c. is not related by blood or marriage to any officer or director of the Association or its affiliates, or to any shareholder owning more than ten percent (10%) of the outstanding shares of the Association or its

42. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending June 30, 2010, the Regulatory Compliance Committee shall submit a written compliance progress report to the Board (Compliance Report). The Compliance Report shall, at a minimum:

- (a) separately list each corrective action required by this Order, including the paragraph number for each corrective action in the Order, and the Matters Requiring Board Attention section of the 2009 ROE;
- (b) identify the required or anticipated completion date for each corrective action; and
- (c) discuss the current status of each corrective action, including the action(s) taken or to be taken to comply with each corrective action.

43. The Board shall review the Compliance Report and all reports required to be prepared by this Order. Following its review, the Board shall adopt a resolution: (a) certifying that each director has reviewed the Compliance Report and all required reports and (b) documenting any corrective actions adopted by the Board. A copy of the Compliance Report and the Board resolution shall be provided to the Regional Director within ten (10) days after the Board meeting. Nothing contained herein shall diminish the responsibility of the entire Board to ensure the Association's compliance with the provisions of this Order.

Effective Date, Incorporation of Stipulation.

44. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

-
- affiliates, and who does not otherwise share a common financial interest with any such officer, director or shareholder; and
- d. is not indebted, directly or indirectly, to the Association or any of its affiliates, including the indebtedness of any entity in which the individual has a substantial financial interest, in an amount exceeding ten percent (10%) of the Association's total Tier 1 capital and allowance for loan and lease losses.

Duration.

45. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives.

Time Calculations.

46. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

47. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

Submissions and Notices.

48. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

49. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

- (a) To the OTS:
Regional Director
Office of Thrift Supervision
1475 Peachtree St., N.E.
Atlanta, Georgia 30309
404.897.1861 (Fax)

(b) To the Association:
Turnberry Bank
c/o Chairman of the Board
20295 N.E. 29th Place
Aventura, FL 33180
305.931.0148 (Fax)

No Violations Authorized.

50. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

By: _____ /s/
James G. Price
Regional Director, Southeast Region

Date: See Effective Date on page 1

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)	Order No.: SE-010-016
)	
TURNBERRY BANK)	Effective Date: April 8, 2010
)	
Aventura, Florida)	
OTS Docket No. 08087)	

STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Southeast Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Turnberry Bank, Aventura, Florida, OTS Docket No. 08087 (Association), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association pursuant to 12 U.S.C. § 1818(b);

WHEREAS, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order; and

WHEREAS, the Association desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs

1 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

Jurisdiction.

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is “an insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).
2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

OTS Findings of Fact.

3. Based on its November 9, 2009 examination of the Association (2009 ROE), the OTS finds that the Association has engaged in unsafe or unsound practices and failed to comply with applicable regulatory guidance as follows:
 - (a) operating with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
 - (b) operating without an adequate business plan;
 - (c) operating with inadequate earnings to fund growth, support dividend payments and augment capital;
 - (d) operating with an organizational officer¹ structure and compensation and benefits arrangements that are not commensurate with the Association’s financial condition, size,

¹ The term officer is defined at 12 C.F.R. § 561.35 and includes all Senior Executive Officers as that term is defined in 12 C.F.R. § 563.555.

complexity, current and projected operations and risk profile;

(e) operating the Association with an excessive level of adversely classified loans and assets;

(f) operating with an inadequate allowance for loan and lease losses (ALLL) methodology;

(g) operating with an inadequate level of ALLL for the volume, type, and quality of loans and leases held;

(h) failing to conduct timely impairment analysis of assets in accordance with Generally Accepted Accounting Principles (GAAP) and regulatory guidance including, but not limited to, Statement of Financial Accounting Standards (SFAS) No. 114;

(i) operating the Association with an excessive concentration of home equity lines of credit (HELOCs), 1-4 family condominium loans, and nonresidential loans as described in the 2009 ROE;

(j) operating the Association without adequate liquidity and funds management policies and practices in light of the Association's asset and liability mix;

(k) operating the Association with a heavy reliance on short-term potentially volatile deposits as a source for funding longer-term investments; and

(l) operating in contravention of supervisory policy statements and other regulatory guidance.

4. Based on the 2009 ROE, the OTS finds that the Association also has violated the following laws or regulations:

(a) 12 C.F.R. § 203.4 (Home Mortgage Disclosure);

(b) 12 C.F.R. Part 567 (Capital);

- (c) 12 C.F.R. § 560.160(a) (Asset Classification);
- (d) 12 C.F.R. § 560.160(b) (ALLL);
- (e) 12 C.F.R. Part 562 (Regulatory Reporting Standards);
- (f) 12 C.F.R. § 563.161(a)(2) (Liquidity);
- (g) 12 C.F.R. § 563.161(b) (Compensation);
- (h) 12 C.F.R. § 563.180 (Suspicious Activity Reports); and
- (i) 12 C.F.R. Part 570 (Safety and Soundness Standards).

Consent.

5. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

Finality.

6. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

Waivers.

7. The Association waives the following:

- (a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (c) the right to seek judicial review of the Order, including, without limitation, any

such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes, or otherwise.

OTS Authority Not Affected.

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

Other Governmental Actions Not Affected.

9. The Association acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

Miscellaneous.

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

11. If any provision of this Stipulation and/or the Order 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 or her sole discretion determines otherwise.

12. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.

13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.

14. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

15. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

Signature of Directors/Board Resolution.

16. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation.

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