

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	Order No.: SE-11-019
)	
)	
RELIANCE BANK, FSB)	Effective Date: June 8, 2011
)	
Fort Myers, Florida)	
OTS Docket No. 18003)	
_____)	

ORDER TO CEASE AND DESIST

WHEREAS, Reliance Bank, FSB, Fort Myers, Florida, OTS Docket No. 18003 (Association), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the 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, its institution-affiliated parties,¹ and its successors and assigns, shall cease and desist from any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or the aiding and abetting the unsafe or unsound banking practices that resulted in:

- (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 with inadequate earnings to augment capital and fund reserves;
- (c) operating the Association with an excessive level of adversely classified loans or assets; and
- (d) operating the Association with an excessive concentration of loans related to nonresidential real estate and land.

Capital.

2. By September 30, 2011, the Association shall have and maintain a Tier 1 (Core) Capital Ratio equal to or greater than seven percent (7%) and a Total Risk-Based Capital Ratio equal to or greater than thirteen percent (13%).²

3. By July 31, 2011, the Association shall submit a revised written plan to achieve and maintain the Association's capital at the levels prescribed in Paragraph 2 (Capital Plan) that is acceptable to the Regional Director. At a minimum, the Capital Plan shall:

¹ The term "institution-affiliated party" is defined at 12 U.S.C. § 1813(u).

² The requirement in Paragraph 2 to have and maintain a specific capital level means that the Association may not be deemed to be "well-capitalized" for purposes of 12 U.S.C. §1831o and 12 C.F.R. Part 565, pursuant to 12 C.F.R. §565.4(b)(1)(iv).

- (a) identify the specific sources of additional capital, and the timeframes and methods by which additional capital will be raised, including specific target dates and corresponding capital levels;
- (b) detail the Association's capital preservation and enhancement strategies with specific narrative goals;
- (c) address the requirements and restrictions imposed by this Order relating to capital;
- (d) include detailed quarterly financial projections, including Tier 1 (Core) and Total Risk-Based Capital Ratios;
- (e) address the Association's level of classified assets, Allowance for Loan and Lease Losses (ALLL), earnings, asset concentrations, liquidity needs, and trends in the foregoing areas; and
- (f) address current and projected trends in real estate market conditions.

4. Upon receipt of written notification from the Regional Director that the Capital Plan is acceptable, the Association shall implement and adhere to the Capital Plan. A copy of the Capital 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.

5. On a quarterly basis, beginning the month following the Board's 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;³ and
- (c) a discussion of specific corrective actions or measures that have been or will be implemented to address each material deviation.

6. Within fifteen (15) days after: (a) the Association fails to meet the capital requirements prescribed in Paragraph 2; (b) the Association fails to comply with the Capital Plan prescribed in Paragraph 3; or (c) any written request from the Regional Director, the Association shall submit a written Contingency Plan that is acceptable to the Regional Director.

7. 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 dissolution by filing an appropriate application with the OTS in conformity with applicable laws, regulations, and regulatory guidance.

8. Upon receipt of written notification from the Regional Director, the Association shall implement and adhere to the Contingency Plan immediately. The Association shall provide the Regional Director with written status reports detailing the Association's progress in implementing the Contingency Plan by no later than the fifteenth (15th) of each month following implementation of the Contingency Plan.

Business Plan.

9. By July 31, 2011, the Association shall submit a new business plan for the second half of calendar year 2011 (Business Plan) that is acceptable to the Regional Director. Thereafter, the

³ A deviation shall be considered material under this Paragraph of the Order where the Association determines that it needs to adjust its identified sources of additional capital, timeframes, methods, or target dates by which it will raise capital.

Association shall submit a new one (1) year Business Plan at least sixty (60) 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, improve the Association's earnings, control expenses, and achieve positive core income;
- (b) strategies for ensuring that the Association has the financial and personnel resources necessary to implement and adhere to the Business Plan;
- (c) quarterly pro forma financial projections (balance sheet, capital forecasts, and income statement); and
- (d) identification of all relevant assumptions made in formulating the Business Plan and retention of documentation supporting such assumptions.

10. Upon receipt of written notification from the Regional Director that the Business Plan is acceptable, the Board shall adopt and ensure that the Association implements and adheres to 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.

11. Any material modifications⁴ to the Business Plan must receive the prior written non-objection of the Regional Director. The Association shall submit proposed modifications to the Regional Director at least forty-five (45) days prior to the proposed date of implementation of the proposed modifications.

⁴ 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 modification of more than twenty-five percent (25%) shall be deemed to be a material modification.

12. Within thirty (30) days after the close of each calendar quarter, beginning with the calendar quarter ending September 30, 2011, the Board shall review quarterly variance reports on the Association's compliance with the Business Plan (Quarterly Business Plan Variance Reports). The Quarterly Business Plan Variance Reports shall:

- (a) identify material variances⁵ 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.

13. The Board's review of the Quarterly Business Plan Variance Reports, including any corrective actions adopted by the Board, shall be fully documented in the Board meeting minutes. A copy of the Quarterly Business Plan Variance Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

Problem Assets.

14. Within sixty (60) days, the Association shall prepare and adopt a detailed, written plan with specific strategies, targets and timeframes to reduce⁶ the Association's level of criticized assets⁷ (Problem Asset Plan). At a minimum, the Problem Asset Plan shall require Management to prepare and submit for Board review individual written asset resolution plans for each criticized asset and/or delinquent loan or group of loans to the same borrower of Five Hundred

⁵ A variance shall be considered material under this section of the Order if the Association: (a) engaged in any activity that was inconsistent with the Business Plan; or (b) exceeded the level of any activity contemplated in the Business Plan or failed to meet target amounts established in the Business Plan by more than ten percent (10%), unless the activity involved 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 variance.

⁶ 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.

⁷ The term "criticized assets" shall include all classified assets, assets designated special mention or watch, all nonperforming assets, and all delinquent loans.

Thousand Dollars (\$500,000.00) or greater (Asset Resolution Plans).

15. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending September 30, 2011, the Board shall review a quarterly written asset status report (Quarterly Asset Report). The Quarterly Asset Report shall include, at a minimum:

- (a) the current status of all Asset Resolution 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.

16. The Board's review of the Quarterly Asset Reports, and any corrective actions adopted by the Board, shall be fully documented in the appropriate Board meeting minutes. A copy of the Quarterly Asset Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

Restrictions on Lending.

17. Effective immediately, the Association shall not originate, purchase, or commit to originate or purchase any new land development and construction loans, raw land loans, multifamily loans, nonfarm nonresidential property loans, Real Estate Investment Trust (REIT)

loans, and/or unsecured developer loans (collectively, CRE loans) without the prior written non-objection of the Regional Director. Any such request for non-objection shall: (a) be submitted to the Regional Director at least twenty (20) days prior to the date of the proposed action; and (b) include a certification by the Board that the proposed action: (i) fully comports with the Association's underwriting standards; and (ii) was considered and approved by the Board, subject to receipt of non-objection by OTS.

18. Notwithstanding the restrictions set forth in Paragraph 17 above, the Association may engage in the following lending activities:

- (a) the origination of loans to facilitate the sale of nonperforming assets, or classified or criticized assets, provided that such financing complies with the Association's existing loan underwriting guidelines and all applicable laws, regulations, and regulatory guidance, and does not constitute a high loan-to-value loan as defined at 12 C.F.R. § 560.101, Appendix A;
- (b) the renewal, extension, or modification of existing CRE loans in accordance with all applicable laws, regulations, and regulatory guidance, provided that such renewals, extensions, and modifications also comply with the Association's existing policies and do not include any disbursement of funds or commitment of new funds and does not release the collateral;
- (c) the funding of legally binding commitments (Commitments) or loans-in-process (LIP) entered into prior to February 18, 2011 provided that the Association: (i) affirmatively determines that all conditions precedent to any disbursement have been satisfied; (ii) will not violate any law or regulation by honoring such Commitment or LIP; and (iii) with respect to LIP, confirms, through inspection independent of the

borrower(s), that required work or stages of the project have been completed satisfactorily in accordance with the Commitment or LIP and Association policy; and

(d) the making of protective advances (such as the payment of taxes and insurance to maintain a perfected security interest in collateral) on existing loans.

Growth.

19. 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.

Directorate and Management Changes.

20. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers⁸ set forth in 12 C.F.R. Part 563, Subpart H.

Dividends and Other Capital Distributions.

21. 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 in accordance with applicable regulations and regulatory guidance. The Association's written request for approval shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of the proposed declaration, dividend payment or distribution of capital.

Employment Contracts and Compensation Arrangements.

22. Effective immediately, the Association shall not enter into, renew, extend, or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer or

⁸ The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

director of the Association, unless it first provides the Regional Director with not less than thirty (30) days prior written notice of the proposed transaction. The notice to the Regional Director 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 Regional Director 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.

Golden Parachute and Indemnification Payments.

23. Effective immediately, the Association shall not make any golden parachute payment⁹ or prohibited indemnification payment¹⁰ unless, with respect to such 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.

Third Party Contracts.

24. 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 Association¹¹ or outside the Association’s normal course of business unless, with respect to each such contract, the Association has: (a) provided the Regional Director with a minimum of thirty (30) days prior written notice of such arrangement or contract and a written determination that the arrangement or contract complies with the standards and guidelines set

⁹ The term “golden parachute payment” is defined at 12 C.F.R. § 359.1(f).

¹⁰ The term “prohibited indemnification payment” is defined at 12 C.F.R. § 359.1(l).

¹¹ 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, where there is a foreign service provider, or where it involves information technology that is critical to the Association’s daily operations without regard to the contract amount.

forth in Thrift Bulletin 82a (TB 82a); and (b) received written notice of non-objection from the Regional Director.

Brokered Deposits.

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

26. Within forty-five (45) days after the end of each calendar quarter, beginning with the calendar quarter ending September 30, 2011, the Association shall submit to the Board for review a written report detailing the level of brokered deposits for each month within the quarter (Brokered Deposit Report), which the Board shall review to ensure the Bank's compliance with paragraph 25. A copy of the Board meeting minutes detailing the Board's review, including any corrective actions, and a copy of the Brokered Deposit Report shall be provided to the Regional Director within ten (10) days after the Board meeting.

Transactions with Affiliates.

27. Effective immediately, the Association shall not engage in any new 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).

28. Within sixty (60) days, the Association shall revise its transaction with affiliates policies to ensure that all transactions with an affiliate comply with all applicable laws, regulations, and regulatory guidance, including the requirements of 12 C.F.R. § 563.41 and Regulation W, 12 C.F.R. Part 223.

Board Oversight of Compliance with Order.

29. Effective immediately, the Board shall monitor and coordinate the Association's compliance with the provisions of this Order and the completion of all corrective actions required in the 2011 ROE. The Board shall review and adopt all policies and procedures required by this Order prior to submission to the OTS.

30. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending September 30, 2011, the Association shall prepare a quarterly written progress report (Compliance Tracking Report) for the Board that: (a) separately lists each provision of this Order and corrective action in the 2011 ROE; (b) identifies the required or anticipated completion date of each provision and corrective action; (c) details the status of the Association's compliance with each provision of this Order and corrective action required in the 2011 ROE; and (d) discusses in detail the additional corrective actions or steps required by the Board to address each instance of noncompliance.

31. Within forty-five (45) days after the end of each calendar quarter, beginning with the quarter ending September 30, 2011, the Board shall review the Compliance Tracking Report and submit to the Regional Director a copy of the Compliance Tracking Report and the Board meeting minutes detailing the Board's review thereof. 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.

32. 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.

Duration.

33. 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.

34. 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.

35. 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.

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

37. 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 OTS¹²:
Regional Director
Office of Thrift Supervision
1475 Peachtree Street, N.E.
Atlanta, Georgia 30309
404.897.1861 (Facsimile)

¹² Following the Transfer Date, all submissions, requests, communications, consents, or other documents relating to this Order made by the Association shall be directed to the Comptroller of the Currency, or to the individual, division, or office designated by the Comptroller of the Currency. See Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. Law N. 111-203, § 311, 124 Stat. 1520-21 (2010).

- (b) To the Association:
Daniel W. Jasper, President and CEO
Reliance Bank, FSB
14241 Metro Parkway
Fort Myers, Florida 33912
239.768.4501 (Facsimile).

No Violations Authorized.

38. 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-11-019
)	
)	
RELIANCE BANK, FSB)	Effective Date: June 8, 2011
)	
Fort Myers, Florida)	
OTS Docket No. 18003)	
_____)	

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 Reliance Bank, FSB, Fort Myers, Florida, OTS Docket No.18003 (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 January 3, 2011 examination of the Association as described in the Report of Examination (2011 ROE), the OTS finds that the Association has engaged in unsafe or unsound banking practices including:

- (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 with inadequate earnings to augment capital and fund reserves;
- (c) operating the Association with an excessive level of adversely classified loans or assets; and
- (d) operating the Association with an excessive concentration of loans related to nonresidential real estate and land.

Consent.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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 7 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.

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

10. 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.

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

12. 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.

13. 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.

14. 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.

15. 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. This Stipulation may be executed in counterparts by the directors after approval of execution of the Stipulation at a duly called board meeting.

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