

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

IN THE MATTER OF)
CONSOLIDATED BANK, N.A.)
HIALEAH, FLORIDA)

Docket No.
AA-EC-94-21

DECISION AND ORDER

I. The Comptroller's Decision

On August 7, 1997, a unanimous panel of the United States Court of Appeals for the Eleventh Circuit vacated the Comptroller's Decision and Order dated June 8, 1995, and remanded this matter for action consistent with the panel's opinion. Consolidated Bank, N.A., v. Department of the Treasury, No. 95-4831, 1997 U.S. App. LEXIS 20991 (11th Cir., 8/7/97). Pursuant to the Comptroller's June 8, 1995 Decision and Order, Consolidated Bank, N.A., Hialeah, Florida, now known as NationsBank of Florida, N.A. ("Bank"), was ordered to pay reimbursement in the amount of \$143,517.21 for admitted violations of the Truth in Lending Act, as amended by the Truth in Lending Simplification and Reform Act of 1980 (15 U.S.C. § 1607(e)(4)(A)) ("TILA"). The sole issue was the proper interpretation of the phrase "immediately preceding examination" in the TILA for purposes of determining the relevant period for which reimbursement must be made. The Comptroller, interpreting the phrase as referring to the immediately preceding examination at which compliance with TILA was reviewed, concluded that reimbursement would have to cover violations dating back to September 4, 1991, the closing date for the last consumer compliance examination performed on the Bank before OCC discovered the TILA violations during a 1993 examination. The

Bank disagreed, interpreting "immediately preceding examination" as referring to the immediately preceding examination of any kind. Accordingly, the Bank reimbursed borrowers for TILA violations dating back to September 30, 1992, the closing date for an examination of the Bank addressing only safety and soundness issues. The Bank, however, refused to make reimbursements for TILA violations from loans originated between September 4, 1991 and September 30, 1992. The amount in dispute was \$143,517.21 on 63 loans.

In accordance with the Eleventh Circuit's decision, the Comptroller hereby rescinds his Decision and Order of June 8, 1995 that the Bank pay reimbursement in the amount of \$143,517.21.

II. Order

As explained in the accompanying Decision, the Comptroller hereby rescinds his Decision and Order of June 8, 1995. Therefore, the Bank is not required to pay any reimbursement for violations of the Truth in Lending Act arising from loans it originated between September 4, 1991 and September 30, 1992.

IT IS SO ORDERED this 4th day of September, 1997.

EUGENE A. LUDWIG
Comptroller of the Currency