

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

OTS DOCKET # 4834

In the Matter of:)
)
)

GARY COOPER)

No. MWR-00-16

Former Director and Officer of)
Gilmer Savings Bank, FSB,)
Gilmer, Texas)
_____)

Date: October 6, 2000

**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN ORDER TO CEASE AND DESIST**

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion and has informed Gary Cooper (Cooper), former director and officer of Gilmer Savings Bank, FSB, Gilmer, Texas (OTS Docket No. 04834) (Gilmer or Association) that grounds exist to initiate an administrative cease and desist proceeding against him pursuant to Section 8(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(b).¹

WHEREAS, Cooper desires to cooperate with OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist except those as to jurisdiction (as set forth in Paragraph 1, below) which are admitted, hereby stipulates and agrees to the following terms:

1. **Jurisdiction.**

- (a) The Association is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).
- (b) Cooper, a former officer and director of the Association, is an "institution-affiliated party" as that term is defined in 12 U.S.C. Section 1813(u).
- (c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of OTS is the "appropriate Federal banking agency" to maintain an administrative enforcement proceeding against a savings association or its institution-affiliated parties. Therefore, Cooper is subject to the jurisdiction of OTS to initiate and maintain a cease and desist proceeding against him pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

¹ All references to the United States Code (U.S.C.) are as amended.

2. OTS Findings of Fact.

OTS finds that:

As further discussed in the Report of Examination for the examination of the Association commenced on December 30, 1999 (ROE), Cooper was at all relevant times an officer and director of the Association who caused, brought about, and participated in violations of laws and OTS regulations, specifically:

- A. Section 560.101 of the OTS Regulations, 12 C.F.R. § 560.101 regarding real estate lending standards;
- B. Part 570 of the OTS Regulations, 12 C.F.R. Part 570, regarding safety and soundness guidelines;
- C. Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c), regarding the maintenance of adequate records;
- D. Section 563.180 of the OTS Regulations, 12 C.F.R. § 563.180, regarding filing of suspicious activity reports.

3. Consent.

Cooper consents to the issuance by OTS of the accompanying Order to Cease and Desist (Order). He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality.

The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director or designee for the Midwest Region, OTS, it shall be a final order, effective and fully enforceable by OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers.

- (a) Cooper waives his right to a written notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.
- (b) Cooper acknowledges and agrees that his consent to the entry of the Order is for the purpose of resolving this OTS enforcement matter only, (solely with regard to deficiencies referenced in Paragraph 2 hereof to the extent known by OTS at the time the Order is issued), and does not resolve, affect, or preclude any other civil or criminal proceeding which may be or has been brought by OTS or another governmental entity;

- (c) 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 Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. Section 504 or 28 U.S.C. Section 2412; and
- (d) the right to assert this proceeding, his consent to issuance of the Order, the issuance of the Order, the payment of any monies or the provision of any other financial relief as contemplated by the Order as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. **Miscellaneous**

- (a) The terms of this Stipulation and the Order represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.
- (b) The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.
- (c) All references to the OTS in this Stipulation and the Order shall also mean any of the OTS' predecessors, successors, and assigns.

WHEREFORE on this 28th day of September, 2000, Cooper executes this Stipulation and Consent to the Entry of an Order to Cease and Desist, intending to be legally bound hereby.

GARY COOPER

/S/

**ACCEPTED BY THE OFFICE OF THRIFT SUPERVISION
ON THE DATE OF THE ORDER**

/S/

Frederick R. Casteel
Midwest Regional Director

Date: 10-6-00

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

OTS DOCKET # **4834**

)
In the Matter of:)

Gary Cooper,)

Former Director and Officer of)
Gilmer Savings Bank, FSB,)
Gilmer, Texas)

No.: **MWR-00-16**

Date: **October 6, 2000**

ORDER TO CEASE AND DESIST

WHEREAS, Gary Cooper (Cooper), former director and officer of Gilmer Savings Bank, FSB, Gilmer, Texas has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

WHEREAS, Cooper, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist (Order) pursuant to Section 8(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(b)¹; and

WHEREAS, the Director of the Office of Thrift Supervision (OTS) has delegated to the Regional Directors of OTS the authority to issue Orders to Cease and Desist on behalf of OTS where the respondent has consented to the issuance of the Order.

NOW THEREFORE, IT IS ORDERED THAT:

CORRECTIVE PROVISIONS

1. Cooper shall cease and desist from any action (either alone or with another or others) that has the effect of causing, bringing about, participating in, counseling, or aiding and abetting, any unsafe and unsound practice, conflict of interest, violation of any written agreement with OTS, or violation of any laws or OTS regulations, including but not limited to:
 - A. Section 560.101 of the OTS Regulations, 12 C.F.R. § 560.101 regarding real estate lending standards;
 - B. Part 570 of the OTS Regulations, 12 C.F.R. Part 570, regarding safety and soundness guidelines;

¹ All references to the United States Code (U.S.C.) are as amended.

- C. Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c), regarding the maintenance of adequate records;
 - D. Section 563.180 of the OTS Regulations, 12 C.F.R. § 563.180, regarding filing of suspicious activity reports.
- 2. Cooper shall give notification to OTS before serving as an officer or a director of any savings and loan holding company or bank holding company, insured depository institution, or any subsidiary of an insured depository institution, or serving in a lending or compliance officer capacity, at any insured depository institution or subsidiary thereof.
 - 3. Cooper shall disclose the existence of this Order to any savings and loan holding company or bank holding company, insured depository institution or its subsidiary before accepting: (a) appointment as a director or employment as an officer of a savings and loan holding company or bank holding company, insured depository institution or its subsidiary or (b) employment in the lending or compliance department of an insured depository institution or subsidiary thereof.
 - 4. Cooper shall obtain training regarding applicable statutes, regulations, and internal controls before serving as a director or officer of a savings and loan holding company or bank holding company or any subsidiary thereof, or as an officer or employee in the lending or compliance department of an insured depository institution or subsidiary thereof.
 - 5. Once employed as a lending officer of an insured depository institution or subsidiary thereof, Cooper shall obtain review of all loans made in that capacity by a supervisor or a person independent of the lending function.

MISCELLANEOUS

6. Definitions.

- A. All technical words or terms used in this Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, HOLA, FDIA or OTS Publications. Any such technical words or terms used in this Order and the Stipulation and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Publications shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.
- B. For purposes of this Order, the phrase “insured depository institution” shall mean any savings and loan association, savings bank, commercial bank, credit union, or any other depository institution that holds federally insured deposits, any non-diversified holding company of such institution, and a diversified holding company of such institution to the extent that the services provided directly relate to a subsidiary federally insured institution.

7. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Order and the Stipulation to provisions of statutes, regulations, and OTS Publications shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date of this Order, and references to successor provisions as they become applicable.

8. Notices.

- A. Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with:
- (i) OTS, by Cooper, 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, Office of Thrift Supervision, Department of the Treasury, 122 West Carpenter Freeway, Suite 600, Irving, Texas 75039 or telecopy to 972-281-2001 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.
 - (ii) Cooper by 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 Cooper at 18780 Vista Oak Drive, Flint, Texas 75762, 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 Order, then, in the event such notice was sent by the United States mail, 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.

9. Duration, Termination or Suspension of Order.

- A. This Order shall become effective upon its execution by OTS, through its authorized representative whose signature appears below. This Order and the Stipulation shall remain in effect until terminated, modified, or suspended in writing by OTS, acting through its Director or the Regional Director (including any authorized designee thereof).
- B. The Regional Director, in his or her sole discretion, may, by written notice, suspend, modify, or terminate any or all provisions of this Order.

10. Time Limits.

Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted.

11. Effect of Headings.

The Section headings herein are for convenience only and shall not affect the construction hereof.

12. Separability Clause.

In case any provision in this 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.

13. No Violations of Law, Rule, Regulation or Policy Statement Authorized; OTS Not Restricted; Relation To State Law.

Nothing in this Order shall be construed as: (i) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject; or (ii) restricting or estopping OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

14. Successors in Interest/Benefit.

The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Order, express or implied, shall give to any person or entity, other than the parties hereto and the FDIC and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Order.

15. Incorporation.

The Stipulation is made a part hereof and is incorporated herein by this reference.

THE OFFICE OF THRIFT SUPERVISION

By: /S/
Frederick R. Casteel
Midwest Regional Director

Date: 10-6-00