

COPY

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

)
In the Matter of)
)
)
GREATER SOUTH TEXAS BANK, FSB)
Falfurrias, Texas)
OTS Docket No. 07433)
_____)

Order No. MWR-01-6
Date: November 20, 2001

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

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against **GREATER SOUTH TEXAS BANK, FSB, Falfurrias, Texas** (the Association or Greater South Texas) OTS Docket No. 07433, pursuant to 12 U.S.C. § 1818(b)¹, and

WHEREAS, the Association desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of the OTS, except as to Jurisdiction, Paragraph 1, below, which is admitted, hereby stipulates and agrees to the following:

1. **Jurisdiction**

- (a) The Association is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).
- (b) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" to maintain an administrative cease and desist proceeding against such a savings association. Therefore, the Association is subject to the jurisdiction of the OTS to initiate and maintain a cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b). The Deputy Director of the OTS, pursuant to delegated authority from the Director of OTS, has delegated to the OTS Midwest Regional Director or his/her designee (Regional Director) the authority to issue cease and desist orders where the institution has consented to the issuance of the orders.

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

2. **OTS Findings of Fact**

- (a) Based on its April 2, 2001 Report of Examination (ROE), OTS finds that the Association violated:
- (i) Section 560.160 of the OTS Regulations, 12 C.F.R. § 560.160 (regarding asset classification);
 - (ii) Section 560.170 of the OTS Regulations, 12 C.F.R. § 560.170 (regarding records for lending transactions);
 - (iii) Section 562.1 of the OTS Regulations, 12 C.F.R. § 562.1 (regarding regulatory reporting requirements);
 - (iv) Section 563.143 of the OTS Regulations, 12 C.F.R. § 563.143 (regarding filing with the OTS for capital distributions);
 - (v) Section 563.161 of the OTS Regulations, 12 C.F.R. § 563.161 (regarding management and financial policies and compensation); and
 - (vi) The guidelines set forth in the Interagency Guidelines Establishing Standards for Safety and Soundness, set forth as Appendix A to Part 570 of the OTS Regulations, 12 C.F.R. Part 570 (regarding safety and soundness).
- (b) OTS finds that the Association violated the following provisions of the Supervisory Agreement, dated July 3, 2001, entered into with the OTS, by failing to timely undertake the required review or to timely make the required submission to OTS:
- (i) Paragraph 8 – Review of Management Performance;
 - (ii) Paragraph 9 – Submission of Business Plan;
 - (iii) Paragraph 11 – Comprehensive Lending Policy; and
 - (iv) Paragraph 16 – Recapitalization.
-
- (c) Based on its September 10, 2001 Compliance Report of Examination (CROE), OTS finds that the Association violated:
- (i) Section 560.210 of the OTS Regulations, 12 C.F.R. § 560.210 (regarding disclosure for variable rate transactions);

- (ii) Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c) (regarding establishment and maintenance of records);
 - (iii) Section 563.177 of the OTS Regulations, 12 C.F.R. § 563.177 (regarding monitoring Bank Secrecy Act compliance);
 - (iv) Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601-2617, and Department of Housing and Urban Development's Regulation X, 24 C.F.R. Part 3500 (regarding real estate settlement process);
 - (v) Truth in Lending Act, 15 U.S.C. §§ 1601-1666j, and Regulation Z of the Board of Governors of the Federal Reserve System (FRB), 12 C.F.R. Part 226 (regarding disclosure of credit terms).
 - (vi) Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, and Regulation B of the FRB, 12 C.F.R. Part 202 (regarding prohibition of discrimination in lending);
 - (vii) Bank Secrecy Act, 31 U.S.C. §§ 5311-5330, and Treasury Department Regulation 31 C.F.R. Part 103 (regarding compliance with financial recordkeeping and currency requirements); and
 - (viii) Flood Disaster Protection Act, 42 U.S.C. §§ 4001-4129, and Part 572 of the OTS Regulations, 12 C.F.R. Part 572 (regarding flood insurance requirements).
- (d) Based on the October 18, 2001 OTS safety and soundness field visit, OTS finds that the Association violated Part 568.5 of the OTS Regulations, 12 C.F.R. § 568.5, and the guidelines set forth in Interagency Guidelines Establishing Standards for Safeguarding Customer Information, set forth as Appendix B to Part 570 of the OTS Regulations, 12 C.F.R. Part 570 (regarding safeguarding customer information);

3. **Consent**

The Association consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief (Order). It 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 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director, it shall be a final order, effective and fully enforceable by OTS under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers**

The Association waives the following:

- (a) the right to be served with a written notice of OTS's charges against it as provided by 12 U.S.C. § 1818(b);
- (b) the right to an administrative hearing of OTS's charges against it as provided by 12 U.S.C. § 1818(b);
- (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;
- (d) any and all claims against 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, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and
- (e) the right to assert this proceeding, its consent to the 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. **Other Governmental Actions Not Affected**

The Association acknowledges and agrees that its consent to the issuance of the Order is for the purpose of resolving this OTS enforcement matter only, as set forth in Paragraph 2, OTS Findings of Fact, hereof. The Association acknowledges and agrees that its consent to the issuance of the Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by OTS or another governmental entity. Further, the issuance of this Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by OTS or any other governmental entity against any institution-affiliated party of the Association.

7. **Miscellaneous**

- (a) The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.
- (b) In case any provision of the Stipulation or 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.

- (c) All references to the OTS or the Association in this Stipulation and the Order shall also mean any of the OTS's or Association's predecessors, successors, and assigns.
- (d) The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the construction hereof.
- (e) 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.
- (f) This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional Director or other authorized representative.

8. **Signature of Directors**

Each Director of the Association's Board of Directors signing this Stipulation attests that he/she voted in favor of a resolution authorizing the execution of the Stipulation. A copy of the resolution of the Board of Directors of Greater South Texas authorizing execution of this Stipulation shall be delivered to OTS, along with the executed original of this Stipulation.

WHEREFORE, Greater South Texas Bank, FSB, Falfurrias, Texas, by a majority of its directors, execute this Stipulation and Consent to the issuance of an Order to Cease and Desist for Affirmative Relief, intending to be legally bound hereby.

Accepted by:
OFFICE OF THRIFT SUPERVISION

By:

/S/

for Frederick R. Casteel
Midwest Regional Director

Effective Date: NOVEMBER 20, 2001

**GREATER SOUTH TEXAS BANK, FSB
FALFURRIAS, TEXAS**

Accepted by a majority of its directors:

By:

/S/

Luis Cortinas, *President*
Chief Executive Officer

/S/

Oscar Galindo, Director

/S/

C. T. Hornsby, Director

/S/

J. R. Holbein, Director

/S/

Roy Ibanez, Director

/S/

Bill E. Talley, Director

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GREATER SOUTH TEXAS BANK, FSB)
Falfurrias, Texas)
OTS Docket No. 07433)
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Order No. MWR-01-6

Date: November 20, 2001

**CONSENT ORDER TO
CEASE AND DESIST FOR AFFIRMATIVE RELIEF**

WHEREAS, Greater South Texas Bank, FSB, Falfurrias, Texas (the Association) (OTS Docket 07433), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief (Stipulation); and

WHEREAS, the Association, by execution of this Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist for Affirmative Relief (Order) by the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1818(b).¹

WHEREAS, the Deputy Director of the OTS has delegated to the Regional Directors of OTS the authority to issue Orders to Cease and Desist on behalf of OTS where the Association has consented to the issuance of the Order.

NOW THEREFORE, IT IS ORDERED THAT the Association, 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, aiding or abetting of any unsafe or unsound practice or any violation of:

- (a) Section 560.160 of the OTS Regulations, 12 C.F.R. § 560.160 (regarding asset classification);
- (b) Section 560.170 of the OTS Regulations, 12 C.F.R. § 560.170 (regarding records for lending transactions);

- (c) Section 560.210 of the OTS Regulations, 12 C.F.R. § 560.210 (regarding disclosure for variable rate transactions);
- (d) Section 562.1 of the OTS Regulations, 12 C.F.R. § 562.1 (regarding regulatory reporting requirements);
- (e) Section 563.143 of the OTS Regulations, 12 C.F.R. § 563.143 (regarding filing with the OTS for capital distributions);
- (f) Section 563.161 of the OTS Regulations, 12 C.F.R. § 563.161 (regarding management and financial policies and compensation);
- (g) Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c) (regarding establishment and maintenance of records);
- (h) Section 563.177 of the OTS Regulations, 12 C.F.R. § 563.177 (regarding monitoring Bank Secrecy Act compliance);
- (i) Part 568.5 of the OTS Regulations, 12 C.F.R. § 568.5, and the guidelines set forth in Interagency Guidelines Establishing Standards for Safeguarding Customer Information, set forth as Appendix B to Part 570 of the OTS Regulations, 12 C.F.R. Part 570 (regarding safeguarding customer information);
- (j) The guidelines set forth in the Interagency Guidelines Establishing Standards for Safety and Soundness, set forth as Appendix A to Part 570 of the OTS Regulations, 12 C.F.R. Part 570 (regarding safety and soundness);
- (k) Real Estate Settlement Procedures Act, 12 U.S.C. §§ 2601-2617, and Department of Housing and Urban Development's Regulation X, 24 C.F.R. Part 3500 (regarding real estate settlement process);
- (l) Truth in Lending Act, 15 U.S.C. §§ 1601-1666j, and Regulation Z of the Board of Governors of the Federal Reserve System (FRB), 12 C.F.R. Part 226 (regarding disclosure of credit terms);
- (m) Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, and Regulation B of the FRB, 12 C.F.R. Part 202 (regarding prohibition of discrimination in lending);
- (n) Bank Secrecy Act, 31 U.S.C. §§ 5311-5330, and Treasury Department Regulation 31 C.F.R. Part 103 (regarding compliance with financial recordkeeping and currency requirements); and
- (o) Flood Disaster Protection Act, 42 U.S.C. §§ 4001-4129, and Part 572 of the OTS Regulations, 12 C.F.R. Part 572 (regarding flood insurance requirements).

IT IS FURTHER ORDERED THAT:

CORRECTIVE PROVISIONS

1. Restrictions on Asset Growth

The Association shall not increase its assets in any calendar quarter in excess of the amount of the net interest credited on its deposit liabilities during that calendar quarter.

2. Restrictions on Golden Parachute Payments

The Association shall not make any "golden parachute payments" (as that term is defined in 12 U.S.C. § 1828(k) and 12 C.F.R. Part 359), except as permitted under the applicable statute and regulation.

3. Regulatory Review of Certain Third-Party Contracts

The Association shall not enter into any third-party contracts outside of the normal course of business unless it (i) provides to the OTS Midwest Regional Director or his designee (Regional Director) a minimum of 10 calendar days advance, written notice of the proposed transaction and (ii) receives a written notice of non-objection from the Regional Director.

4. Restrictions on Adding or Replacing a Board Member, Employing a Senior Executive Officer, or Changing the Responsibilities of a Senior Executive Officer

The Association shall not add or replace any member of its Board of Directors (Board), employ any new senior executive officer or change the responsibilities of any senior executive officer, except in accordance with 12 C.F.R. §§ 563.550 through 563.590, and Section 32 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1831i.

5. Restrictions on Compensation

(a) The Association shall not enter into, renew, extend or revise any contractual arrangement related to compensation or benefits with any director or senior executive officer of the Association unless it first (i) provides to the Regional Director a minimum of 30 calendar days advance, written notice of the proposed transaction and (ii) receives a written notice of non-objection from the Regional Director.

(b) The Association shall further not grant to any senior executive officer or any director any bonus or increase in salary or other compensation without the written approval of the Regional Director.

6. **Resolution Plan**

- (a) By no later than 30 calendar days after the Effective Date, the Board shall adopt and submit to the Regional Director for written non-objection a Resolution Plan that provides for:
 - (i) entering into a binding agreement, by no later than December 31, 2001, for an acquisition by, or merger with, another depository institution, a depository institution holding company, or a qualified entity, or the sale of all of the Association's assets and liabilities to another depository institution, a depository institution holding company, or a qualified entity;
 - (ii) filing a voluntary liquidation plan pursuant to 12 C.F.R. Section 546.4 by no later than December 31, 2001; or
 - (iii) obtaining prompt capital infusions into the Association sufficient to obtain and maintain the capital requirements set forth in Paragraph 6(b). Any proposal for the Association to remain an ongoing entity must provide for the Association to meet the capital requirements set forth in Paragraph 6(b) hereof and must incorporate the Strategic Plan as required in Paragraph 7 hereof.
- (b) The Association must obtain and maintain sufficient capital to (i) become well-capitalized with at least 5% core capital and 10 % risk-based capital as defined in 12 C.F.R. Section 567.5(a) by no later than March 31, 2002 and (ii) meet the additional risk-based capital requirements set forth in Paragraphs 6(d) and 6(e) hereof.
- (c) Effective December 31, 2001, and thereafter, all purchased Subprime Loans designated pursuant to Paragraphs 9(b) and 18(e) of this Order (purchased Subprime Loans) shall be placed in the 100 percent risk weight category only for purposes of this Order.
- (d) Effective December 31, 2001, the Association shall maintain additional risk-based capital in the amount of 4 percent of its purchased Subprime Loans risk weighted in accordance with Paragraph 6(c) hereof. The Association shall report this increase in its risk-based capital requirement on line CCR80 of its December 31, 2001 Thrift Financial Report.
- (e) Effective March 31, 2002, the Association shall maintain additional risk-based capital in the amount of 8 percent of its purchased Subprime Loans risk weighted in accordance with Paragraph 6(c) hereof. The Association shall report this increase in its risk-based capital requirement on line CCR80 of its Thrift Financial Report, beginning with the calendar quarter ending on March 31, 2002.
- (f) The Board shall promptly amend this Resolution Plan as directed in writing by the Regional Director.

- (g) The Association, including its Board and management, shall take all necessary and appropriate actions to follow the Resolution Plan in accordance with the written, non-objection of the Regional Director.
- (h) By no later than the 15th calendar day after the end of each calendar month and beginning with the month of November 2001, the Association shall submit monthly reports to the Regional Director and to the Federal Deposit Insurance Corporation (FDIC) Regional Director for the Dallas District Office outlining its compliance with (i) Paragraph 6(a) and its Resolution Plan adopted pursuant to Paragraph 6(a) hereof and (ii) the capital requirements of Paragraph 6(b) hereof. This report shall document the manner in which the Association calculates its risk-based requirement in accordance with Paragraphs 6(d) and (e) hereof, as applicable.

7. **Strategic Plan**

- (a) Within 30 days after a written directive from the Regional Director or as otherwise provided for in Paragraph 6(a)(iii) hereof, the Board shall adopt and submit to the Regional Director for written non-objection a written Strategic Plan.
- (b) The Strategic Plan mandated by Subsection 7(a) hereof shall outline a plan designed to:
 - (i) address and rectify all matters addressed in this Order including, but not limited to, all statutory and regulatory requirements set forth in this Order; and
 - (ii) address whether the Association has long-term viability.
- (c) In adopting the Strategic Plan, the Board shall consider the lack of depth and expertise of Association's management, Association's limited franchise value, the economic condition of the markets serviced, and sources of capital to maintain well-capitalized status.
- (d) The Board shall amend the Strategic Plan as directed by the Regional Director (if so directed). The Association and its Board and management shall comply with the Strategic Plan, as amended in accordance with the Regional Director's directive (if such directive is issued) or in accordance with the written non-objection of the Regional Director.

8. **Training Program**

- (a) By no later than 45 calendar days after the Effective Date, the Board shall submit to the Regional Director a written report of its assessment of the training needs of all employees, taking into consideration (i) the proposed Resolution Plan and

Strategic Plan required pursuant to Paragraphs 6 and 7 hereof, and (ii) the operational deficiencies and violations set forth or identified in the April 2, 2001 safety and soundness report of examination, the September 10, 2001 compliance report of examination, and the October 18, 2001 safety and soundness field visit.

- (b) By no later than February 11, 2002, the Board shall adopt and submit to the Regional Director a written training plan that incorporates its training assessment and the comments of the Regional Director. The Board shall amend this Training Plan as directed by the Regional Director and shall implement the Training Plan as so amended.

9. **Lending**

- (a) The Association shall not fund, make or purchase, or commit to fund, make or purchase any loans other than: (i) loans which the Association is legally obligated to make, purchase, or fund as of the Effective Date; (ii) loans that are fully secured by deposits at the Association; or (iii) loans made in accordance with the written non-objection of the Regional Director.
- (b) By no later than 15 calendar days after the end of each month, the Association shall submit a list of all Subprime Loans that satisfy one of the criteria set forth in Paragraph 18(e) of this Order.

10. **Comprehensive Lending Policy**

In order to obtain the written non-objection of the Regional Director to resume lending, pursuant to Paragraph 9(a)(iii), the Board shall adopt a new written comprehensive lending policy and submit that policy to the Regional Director for written non-objection. That policy shall (i) require sound lending practices, (ii) establish lending limits for loan officers, (iii) establish and specify the structure and responsibilities of the Board's loan committee, (iv) provide for improved monitoring of purchased Subprime Loans, (v) address how loans are to be priced for each product line the Association plans to offer, (vi) require compliance with the requirements of the Flood Disaster Protection Act, 42 U.S.C. §§ 4401-4129, and 12 C.F.R. Part 572, and (vii) authorize only qualified and trained staff to perform lending and accounting functions. The Board shall amend this adoption policy as directed in writing by the Regional Director. The Association shall comply with this policy (as amended, if amended in accordance with a written directive of the Regional Director or if amended with the express, written non-objection by the Regional Director). Notwithstanding the foregoing, the adoption and submission of this policy to the Regional Director for written non-objection does not constitute written non-objection of the Regional Director for purposes of Paragraph 9(a)(iii).

11. **Asset Classification**

The Association shall amend its written Asset Classification Policy as directed in writing by the Regional Director. The Association shall comply with its Asset Classification Policy (as amended, if and only if amended in accordance with a written directive of the Regional Director or amended with the express, written non-objection of the Regional Director).

12. **Affiliate Transaction**

The Association shall comply with the requirements of 12 C.F.R. § 563.41(e)(2)(ii).

13. **Adjustable Rate Loans**

By January 7, 2002, the Board shall:

- (a) Review all adjustable rate loans that adjusted between May 30, 2000 and September 10, 2001, to determine which borrowers were overcharged due to the use of incorrect index values when the adjustments were made, applying the standards of 12 C.F.R. §§ 226.19, 226.20(c), and 560.210;
- (b) Obtain from competent legal counsel a written opinion to the Association regarding the actions, if any, the Association should take to address the overcharges identified in the review mandated by Subsection 14(a) hereof; and
- (c) Submit to the Regional Director a copy of the legal opinion required by Subsection 13(b) hereof, a written summary of the findings of the review required by Subsection 13(a) hereof, and a written plan that addresses how the Association will address any and all deficiencies identified.

14. **Bank Secrecy Act**

- (a) By no later than January 7, 2002, the management of the Association shall develop procedures to monitor large cash transactions to ensure proper aggregation of same-day transactions, in accordance with 31 C.F.R. § 103.22(c) and 12 C.F.R. § 563.177.
- (b) By no later than January 7, 2002, the Association must review all large cash transaction reports for same-day transactions for the period of June 1, 2000 to September 30, 2001, and file a currency transaction report (CTR) for each set of same-day transactions aggregating in excess of \$10,000. The Association shall provide to the Regional Director a detailed list of all filed CTRs by January 7, 2002.

15. **Flood Insurance**

- (a) By no later than December 21, 2001, the Association shall notify all borrowers with properties that were identified by American Flood Research, Inc. as being located in flood hazard areas ^{said} that the borrowers must purchase flood insurance within 15 days of such notification. *and who do not have flood insurance*
- (b) If the borrower does not obtain flood insurance within the time period set forth in Paragraph 15(a), the Association shall purchase flood insurance at the borrower's expense within 30 days of the notification required by Paragraph 15(a).
- (c) By no later than January 7, 2002, the Association shall submit to OTS a list of all properties that did not have the required flood insurance.

BOARD OF DIRECTORS

16. **Director Responsibility**

Notwithstanding the requirements of this Order that the Board submit various matters to the Regional Director or designee for the purpose of receiving approval, non-objection or notice of acceptability, such regulatory oversight does not derogate or supplant each individual member's continuing fiduciary duty. The Board shall have the ultimate responsibility for overseeing the safe and sound operation of the Association at all times, including compliance with the determinations of the Regional Director as required by this Order.

17. **Compliance with Order**

- (a) The Board and officers of the Association shall take immediate action to cause the Association to comply with the terms of this Order and shall take all actions necessary or appropriate thereafter to cause the Association to continue to carry out the provisions of this Order.
- (b) The Board shall undertake diligent inquiries on a regular basis to confirm the Association's (and its management's) compliance with this Order.
- (c) The Board, on a monthly basis, shall adopt a resolution of the Board (the "Compliance Resolution") formally resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar month, the Association has complied with each provision of this Order currently in effect,

except as otherwise stated. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist, and (ii) identify all notices of exemption issued by the Regional Director that were outstanding as of the date of its adoption.

- (d) The minutes of the meeting of the Board shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth, in reasonable detail, each such director's reasoning for opposing or abstaining.
- (e) No later than the 15th calendar day of the month following the end of a month, beginning with the end of the first full calendar month following the Effective Date, the Association shall provide to the Regional Director a certified true copy of the Compliance Resolution(s) adopted at the Board meeting during that month. The Board, by virtue of the Association's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided below. In the event that one or more directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the Board minutes of the Association.
- (f) The Board shall promptly respond to any request from OTS for documents that the OTS requests to demonstrate compliance with this Order.

MISCELLANEOUS

18. Definitions

- (a) All technical words or terms used in this Order and 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, Home Owners' Loan Act (HOLA), FDIA or OTS Publications. Any such technical words or terms used in this Order 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) The term, "Effective Date", is the date of the execution of this Order by the Regional Director, as reflected on the first page of this Order.
- (c) "Senior Executive Officer" has the definition it is given at Section 563.555 of the OTS Regulations, 12 C.F.R. § 563.555.

- (d) "Asset Classification Policy" means the policy adopted by the Board pursuant to Section 13 of the Supervisory Agreement, dated July 3, 2001, by and between the OTS and the Association.
- (e) For purposes of this Order only, a "Subprime Loan" includes any extension of credit upon which any borrower has any one or more of the following characteristics:
 - (i) a loan that has any characteristic which would, upon the application of standards prevailing in the savings association industry, suggest a higher than average risk of default; or
 - (ii) a loan that the Association or OTS designates as a Subprime Loan.
- (f) The term "qualified entity" is defined to include an individual, a group of individuals, a partnership, a corporation, or any other form of business organization that may, under applicable statutes and regulations, merge with or acquire the Association or purchase all or substantially all assets and liabilities of the Association.
- (g) The terms "depository institution" and "depository institution holding company" are defined in 12 U.S.C. § 1813(c)(1) and (w)(1), respectively.

19. **Successor Statutes, Regulations, Guidance, Amendments**

Reference in this Order to provisions of statutes, regulations, and OTS Memoranda 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.

20. **Effective Date**

This Order is and shall become effective on the Effective Date, as shown in the caption hereof.

21. **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) the OTS, by the Association, 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, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062-2327 or telecopied to (972) 277-9501 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.
- (ii) the Association, 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 the Association at 131 East Rice Street, Falfurrias, Texas 78355-3619.
- (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 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.

22. **Time Limits**

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

23. **No Violations Authorized; OTS Not Restricted**

Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping the OTS from taking any action(s), including without limitation any actions that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

24. **Enforcement Documents**

- (a) The future requirements of the Supervisory Agreement by and between OTS and the Association, dated July 3, 2001, are hereby terminated and of no further effect.
- (b) Notwithstanding the foregoing, all violations of the Supervisory Agreement by and between OTS and the Association, dated July 3, 2001, on or before the Effective Date retain their status as violations thereof and are not affected by this Order.

25. **Incorporation**

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

26. **Duration, Termination or Suspension of Order**

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

OFFICE OF THRIFT SUPERVISION

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