

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

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In the Matter of )

OTS Order No. SF-93-023A

GATEWAY BANK, F.S.B. )  
San Francisco, California )

Date: July 21, 1994

AMENDMENT TO  
ORDER TO CEASE AND DESIST  
(Compliance)

WHEREAS, Gateway Bank, F.S.B., San Francisco, California ("Gateway" or "Institution"), through its Board of Directors ("Board"), has executed a Stipulation and Consent to Issuance of to Order of Cease and Desist on July 30, 1993, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the West Region; and

WHEREAS, Gateway, through the Board, has executed a Stipulation and Consent to Issuance of Amendment to Order of Cease and Desist, which is incorporated herein by reference ("Amendment Stipulation") and is accepted and approved by the OTS, acting through its Regional Director for the West Region; and

WHEREAS, Gateway, in the Amendment Stipulation, has consented and agreed to the issuance of this Amendment to Order to Cease and Desist ("Amendment") pursuant to Section 8(b) of the Federal Deposit Insurance Act, as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. Section 1818(b)),

NOW THEREFORE, IT IS ORDERED that the following paragraphs shall replace Numbered Paragraphs 1 through 4 of the Order, and that all other provisions of the Order shall remain in full force and effect:

1. Within 30 days of the effective date of this Amendment, Gateway shall establish a fund to be allocated for the implementation and maintenance of fully effective compliance and CRA programs incorporating the provisions of Attachment 1 to the Order, and include the actions as required by Paragraph 2 of this Amendment. Prior to establishing the fund, Gateway shall submit to the OTS for review and prior written approval the dollar amount and a detailed proposal for implementation and maintenance of these programs. The proposal for these programs shall include, but not be limited to, the designation of responsibility and authority for implementing and maintaining the programs, the allocation of resources (both human and monetary) within the programs, time frames, a method for monitoring the effectiveness and incorporating those findings into the programs and a summary of operational planning.

2. Gateway shall implement all corrective actions as noted in the Compliance Report of Examination dated April 18, 1994 ("ROE"), within the time frames set out in the ROE from the effective date of this Amendment. These corrective actions are summarized in Attachment AMD-1 to this Amendment.

3. This Amendment shall be effective as of the date it is issued by the OTS.

OFFICE OF THRIFT SUPERVISION

By: 

John F. Robinson  
Regional Director, West Region  
Office of Thrift Supervision

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ATTACHMENT AMD-1

This Attachment AMD-1 to the Amendment to Order to Cease and Desist issued against Gateway Bank, F.S.B. summarizes the corrective actions required by the Compliance Report of Examination dated April 18, 1994, and does not represent the only actions needed to be taken by Gateway Bank regarding compliance issues. This Attachment AMD-1 is merely meant to be a guide to assist Gateway Bank in addressing the compliance issues facing Gateway Bank. In all instances, Gateway Bank shall maintain documentation for review by OTS of the steps it takes to analyze, correct, implement and monitor compliance with all its corrective actions.

1. Within 30 days of the effective date of the Amendment, Gateway shall:
  - a. Conduct a comprehensive review of forms, disclosures, agreements, etc. to ensure compliance with pertinent laws or regulations.
  - b. Implement a remedial training program, with testing, for all staff, within 90 days of the effective date of the Amendment, in applicable compliance requirements, including, but not limited to, specific requests regarding nondiscrimination and fair lending issues, loan servicing, flood zone determinations and insurance.
  - c. Train management in compliance requirements.
  - d. Submit to the OTS for review and comment a plan for Board training by a qualified outside entity; the training plan shall include the qualifications of the trainer and training syllabus.
  - e. Retain legal counsel for handling compliance related matters.
  - f. Submit to the OTS the name and qualifications of any outside entity retained to assist in completion of corrective actions.
  - g. Revise the equal opportunity lending statement and publicly available underwriting standards.
  - h. Submit to the OTS revised and nondiscriminatory loan underwriting standards, with evidence of Board adoption; the standards should address, but not be limited to, specific deficiencies regarding:
    - i. race-specific program
    - ii. co-borrower income standards
    - iii. public assistance income standards
    - iv. retention of prohibited information
    - v. gift letter restrictions
    - vi. ratio and credit standards and compensating factors
    - vii. standards for specific loan programs
  - i. Revise its adverse action notice form and establish controls for handling incomplete applications and conditional withdrawals.
  - j. Establish training and controls addressing pre-screening issues and appropriate handling of credit inquiries.
  - k. Implement written policies and procedures for a senior management level review of denied and withdrawn applications.

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- l. Incorporate nondiscrimination and fair housing issues into its appraisal review process.
- m. Establish controls to ensure consistent provision of Fair Credit Reporting Act ("FCRA") disclosures.

- n. Confirm that nonconforming credit card documents have been disposed of and submit to OTS revised documents with opinion of counsel regarding compliance.
  - o. Revise its periodic statement disclosure conforming with Truth In Lending Act ("TILA") and Electronic Fund Transfer Act ("EFTA") requirements.
  - p. Establish controls to ensure timely provision of preliminary TILA, Real Estate Settlement Procedures Act ("RESPA"), and OTS Mortgage Regulation disclosures.
  - q. Update policies, procedures, and forms to conform with current (and to implement upcoming) RESPA disclosure requirements.
  - r. Submit to the OTS copies of initial and annual escrow account disclosures, transfer of servicing letters, and Good Faith Estimate forms that comply with applicable RESPA requirements.
  - s. Confirm that review of ARM loan reimbursements for appropriate calculations will be conducted within 60 days of the effective date of this Amendment.
  - t. Establish steps taken to document ongoing review of ARM loan adjustment accuracy and to improve management accountability.
  - u. Confirm that HUD homeownership counseling requirements are being adhered to and submit to the OTS copies of information to be provided.
  - v. Submit to the OTS a Board-adopted, comprehensive Bank Secrecy Act ("BSA") policy and related procedures.
  - w. Conduct a review of all formally and informally BSA-exempted accounts, including: identification of accounts, review of transaction histories, contact Internal Revenue Service for guidance on retroactive reporting, and filing of criminal referrals for any suspicious or structured transactions.
  - x. Establish steps taken to ensure provision of deposit hold notices and proper record retention.
  - y. Confirm that deposit literature and forms will be revised and that outdated account forms have been disposed.
  - z. Identify and renegotiate inappropriately established corporate NOW accounts.
  - aa. Establish steps to improve senior management oversight and review of equal employment practices.
  - ab. Submit to the OTS a Board-adopted branch closing policy.
  - ac. Submit to the OTS a corrected CRA Notice.
2. With 60 days of the effective date of the Amendment, Gateway shall:
- a. Complete a zero based review of all areas of operations; submit to the OTS the interim corrective actions to be taken, with timetable for completion, including, but not limited to:
    - i. credit card servicing

- ii. mortgage loan servicing, including but not limited to RESPA escrow requirements, ARM loan adjustments, and HUD homeownership counseling requirements
  - iii. deposit hold issues under Expedited Funds Availability Act ("EFAA")
  - iv. ADA facilities access and employment reviews
- b. Establish internal control mechanisms, such as compliance checklists and desk procedures.
  - c. Submit to the OTS an action plan and timetable for developing, within 120 days of the effective date of the Amendment, comprehensive policies and procedures in all areas of operations, including but not limited to specific requests regarding:
    - i. appraisal policy
    - ii. equal employment policy
  - d. Submit to the OTS an articulated plan with clearly defined actions and accountabilities to address existing disparities in the racial and ethnic distribution of the institution's credit activity.
  - e. Submit to the OTS comprehensive loan servicing policies and procedures.
  - f. Confirm that staff and middle management in loan servicing have received remedial training.
  - g. Prepare a report of ARM loan reimbursements showing calculation methodology and itemizing customer reimbursements.
  - h. Submit to the OTS a revised EFAA disclosure.
  - i. Submit to the OTS revised disclosures and forms of account, with an opinion of counsel, conforming with TISA and OTS Advertising and Interest on Deposits Regulations.
3. Within 90 days of the effective of the Amendment, Gateway shall:
- a. Submit to the OTS a revised compliance program, incorporating the results of the interim review and examination findings.
  - b. Submit to the OTS a revised CRA program, incorporating the results of the interim review and examination findings.
  - b. Submit to the OTS a revised security policy, with evidence of Board adoption.
4. From the effective date of the Amendment, Gateway shall submit to the OTS for review and comment pertinent compliance materials prior to entering into any new line of business.

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In the Matter of )  
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GATEWAY BANK, a F.S.B., )  
San Francisco, California )

OTS Order No. SF-93-023A

Date: July 21, 1994

STIPULATION AND CONSENT TO ISSUANCE  
OF AMENDMENT TO ORDER TO CEASE AND DESIST  
(Compliance)

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the West Region, OTS, and Gateway Bank, a F.S.B., ("Gateway"), San Francisco, California, stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against Gateway pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. § 1818(b)). Gateway desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist litigation against Gateway with respect to the matters covered in the accompanying Amendment to Order to Cease and Desist ("Amendment").

2. Jurisdiction.

(a) Gateway is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act, as amended by FIRREA. Accordingly, it is an "insured depository institution" as that term is

defined in Section 3(c) of the FDIA, as amended by FIRREA (12 U.S.C. § 1813(c)).

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Gateway is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against it pursuant to Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)).

3. Consent. Gateway consents to the issuance by the OTS of the Amendment. It further agrees to comply with the terms of the Amendment upon issuance and stipulates that the Amendment complies with all requirements of law.

4. Finality. The Amendment is issued under Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director for the West Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(i)).

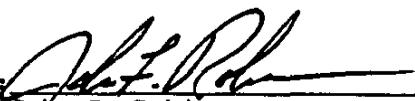
5. Waivers. Gateway waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)), and further waives any right to seek judicial review of the Amendment, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the amendment.

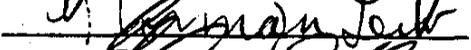
WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the West Region, OTS, and Gateway, by a majority of its

directors, execute this Stipulation and Consent to Issuance of Amendment to Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

GATEWAY BANK, a F.S.B.,  
by a majority of its directors

By:   
John F. Robinson  
Regional Director  
West Region

  
  
  
  
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