

2. Jurisdiction.

(a) The Institution 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 (to be codified at 12 U.S.C. § 1813(c)).

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, the Institution 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 (to be codified at 12 U.S.C. § 1818(b)).

3. Consent. The Institution consents to the issuance by the OTS of the 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 Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director, it shall be a final Order, effective and fully enforceable by the OTS under the provisions of Section 8(1) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)).

5. Waivers. The Institution waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as

amended by FIRREA (to be codified at 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, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order.

6. Acknowledgments.

(a) It is acknowledged by the OTS and the Institution that, in executing this Stipulation and Consent to Issuance of Order to Cease and Desist, directors of the Institution have indicated a desire to cooperate with the OTS and to avoid the time and expense of administrative litigation and that, in so executing this document, such directors neither admit nor deny that grounds exist for the issuance of the Order.

(b) It is acknowledged by the OTS that directors of the Institution have expressed concern that compliance with the Order will reduce the Institution's operating income by an amount in excess of \$150,000 annually.

(c) It is acknowledged by the OTS that directors of the Institution believe that the former dispute between OTS and the Institution regarding generally accepted accounting principles has been resolved, believe that the OTS was in error in expressing its position in that dispute, and believe that Paragraph 3 of the Order is unnecessary.

(d) It is acknowledged by the OTS that, based upon information known by its caseload manager currently assigned to the Institution, it believes

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

)
In the Matter of)
)
TEXAS HERITAGE SAVINGS)
ASSOCIATION/BANC)
Rowlett, Texas)
_____)

Re: Resolution No.: DAL-91-06

Date: February 14, 1991

ORDER TO CEASE AND DESIST

WHEREAS, Texas Heritage Savings Association/Banc, Rowlett, Texas ("Institution"), through its directors, has executed a Stipulation and Consent to Issuance of Order to Cease and Desist, 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 Midwest Regional Office ("Regional Office") or his successor or designee ("Regional Director"); and

WHEREAS, the Institution, in the Stipulation, has, without admitting or denying that grounds exist, consented and agreed to the issuance of this Order to Cease and Desist ("Order") 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") (to be codified at 12 U.S.C. § 1818(b));

NOW THEREFORE, IT IS ORDERED that the Institution and its directors, officers, employees, agents and service corporations shall cease and desist from any violation of, or the aiding and abetting of any violation of:

(a) Section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b, as made

applicable to the Institution by Section 11(b)(1) of the Home Owners' Loan Act, 12 U.S.C. 1468(b)(1); and

(b) Sections 563.43, 563.160, 563.172(a), 563.176, 563.233, and 571.19 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. §§ 563.43, 563.160, 563.172(a), 563.176, 563.233, and 571.19.

IT IS FURTHER ORDERED that:

1. The Institution shall not, without the prior written approval of the Regional Director, knowingly release any borrower or guarantor from any liability to the Institution.
2. Without the prior written approval of the Regional Director, the Institution shall make no construction loan that, if aggregated with all outstanding construction loans of the Institution, would cause the aggregate amount of construction loans of the Institution to exceed twenty-five percent (25%) of the Institution's total assets. For purposes of this paragraph, construction loans shall include all loans that, after being funded, would be listed on line items SC 230, SC 235, and SC 240 of a Thrift Financial Report ("TFR") if such TFR were completed properly.
3. The Institution shall prepare and submit financial statements and other reports for the Institution in accordance with the OTS's regulations, policies, and directives, and with generally accepted accounting principles where there are not specific OTS guidelines to the contrary. The Institution shall comply with the requirements of Accounting Principles Board Opinion No. 21 ("APB 21") and Statement of Financial Accounting Standards No. 66 ("SFAS 66").

4. (a) Within thirty (30) days of the date of this Order, the Institution shall adopt, implement, and submit to the Regional Director a written plan designed to eliminate the basis for assets classified either internally by the Institution or in the most recent OTS Report of Examination. This plan, which shall be amended as directed in writing by the Regional Director and shall not be amended by the Institution without written notification to the Regional Director, must include the following:

- (i) an identification of the expected source of repayment;
- (ii) the appraised value of supporting collateral and the position of the Institution's lien on such collateral, where applicable;
- (iii) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (iv) the proposed action to eliminate the basis for classification and the time frame for its accomplishment.

(b) The board of directors of the Institution, or a duly authorized committee thereof, shall conduct a review, on at least a quarterly basis, to determine:

- (i) the status of each classified asset or classified portion thereof which exceeds \$75,000; and
- (ii) the need to revise the plan or take alternative action.

5. Within thirty (30) days of the date of this Order, the Institution shall submit to the Regional Director a written investment policy which complies with, and requires the Institution to comply with, Section

571.19 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 571.19, and Thrift Bulletin 41. The Institution shall amend this written investment policy as directed in writing by the Regional Director and shall not amend this written investment policy without written notification to the Regional Director.

6. Within thirty (30) days of the date of this Order, the Institution shall submit to the Regional Director a written interest rate risk policy that complies with, and requires the Institution to comply with, Section 563.176 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 563.176, and Thrift Bulletin 13. The Institution shall amend this written interest rate risk policy as directed in writing by the Regional Director, and shall not amend the written interest rate risk policy without written notification to the Regional Director.
7. (a) The Institution shall require of each of its senior officers and request of each of its directors that he/she, within ten (10) days of the date of this Order, submit to it (i) a detailed "summary", as such term is described in subparagraph (b) hereof, of all indebtedness in amounts in excess of \$25,000 incurred since January 1, 1985, regardless of whether still outstanding, by such person and all entities in which such person is a general partner or has an equity interest of no less than ten percent (10%), (ii) copies of all "significant loan documents" associated with each such indebtedness, as that term is defined in subparagraph (b) hereof, (iii) a certification, in a form acceptable to

the Regional Director, signed by such senior officer or director, certifying that all "significant loan documents", as that term is defined in subparagraph (b) hereof, associated with each such indebtedness have been submitted to the Institution and that the submitted "summary" accurately describes in detail the general terms of each such indebtedness and its current status, and (iv) a copy of his/her federal income tax returns filed with the Internal Revenue Service covering each period that ended after 1984. All information required or requested pursuant to this subparagraph (a) and received by the Institution shall be submitted to the Regional Director by no later than fourteen (14) days after the date of this Order.

(b) (i) For purposes of this paragraph 7, a person shall be deemed to have an indebtedness if such person is the principal debtor, cosigner, or guarantor on the indebtedness.

(ii) For purposes of this paragraph 7, each "summary", at a minimum, shall state the names of the creditor(s), cosigner(s), and guarantor(s), if any, the amount of initial indebtedness, a description of the collateral (if any), the interest rate, the date of the indebtedness, the date of maturity, a description of the schedule of payment(s), the current amount outstanding, the status of the indebtedness including amounts and durations of deficiencies and defaults, and other substantial information as would be needed in order for a reasonable person to have a general understanding of the terms, history, and current status of the indebtedness.

(iii) For purposes of this paragraph 7, "significant loan documents" associated with an indebtedness shall include loan agreements, promissory notes, closing statements, modification documents, and all other documents which a reasonable person would deem to be of significance in order to have a general understanding of the terms, history, and current status of such indebtedness.

(c) The Institution, through its board of directors, shall terminate the employment of senior officers, and request the resignation of directors, who do not provide in a timely manner the information and documents required or requested pursuant to this paragraph 7 or who are deemed by the Regional Director not to have provided in a timely and accurate manner such information and documents or who are deemed by the Regional Director to have acted in a manner inconsistent with the guidelines of 12 C.F.R. § 571.7.

(d) The ten-day and fourteen-day periods referenced in subparagraph (a) hereof may each be extended for a period not to exceed ten days at the sole discretion of the Regional Director.

8. The Institution and its board of directors shall regularly make best efforts to monitor compliance by the Institution, its directors and its officers with the guidelines described in Sections 571.7 and 571.9 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. §§ 571.7 and 571.9, and the Institution's "Plan for Avoidance of Conflicts of Interest" (aggregately, the "Ethics Guidelines"). Each

