

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of: )  
 )  
JOLLY W. MATTHEWS, III )  
 )  
Attorney who represented and )  
provided advice and counsel )  
to: )  
 )  
First Guaranty Bank for )  
Savings, )  
Hattiesburg, Mississippi )  
 )

Re: Resolution No. OTS-AP 91-29

Dated: June 17, 1991

STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND  
DESIST FOR REIMBURSEMENT AND OTHER AFFIRMATIVE RELIEF,  
AND ORDER OF REVOCATION OF THE PRIVILEGE TO PRACTICE  
BEFORE THE OFFICE OF THRIFT SUPERVISION

The Office of Thrift Supervision ("OTS"), by and through its Director, and Jolly W. Matthews, III ("Matthews"), attorney who represented and provided advice and counsel to First Guaranty Bank for Savings, Hattiesburg, Mississippi (the "Institution"), hereby 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 Matthews, pursuant to Section 407(g) of the National Housing Act of 1934 ("HOLA"), 12 U.S.C. § 1730(e), and Section 8 of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1818 (1988 and Supp. I 1989). The OTS is of the further opinion

that grounds exist to initiate an administrative proceeding to revoke the privilege of Matthews to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq. Matthews desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting, and specifically disputing the statements, conclusions or terms herein, Matthews hereby stipulates and agrees to the following terms in consideration of: (1) the forbearance by the OTS from initiating such administrative cease and desist or revocation litigation; and (2) the agreement by the OTS to refrain from seeking the issuance of additional enforcement orders for reimbursement or revocation against Matthews with respect to any matters (a) reported or otherwise addressed in the OTS Report of Examination of the Institution for the examination performed as of June 19, 1989, or (b) discovered by the OTS as a result of its investigative proceeding, commenced pursuant to Federal Home Loan Bank Board Resolution No. ERC-90-24, dated January 31, 1990. Matthews, without trial, presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of the Stipulation for the sole purpose of resolving the issues in this proceeding without significant legal cost and expense. The OTS has determined that it is appropriate, and in the best interest of the public to execute the Stipulation and the

attached Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Revocation of the Privilege to Practice Before The Office of Thrift Supervision ("Order"). This Stipulation and the attached Order are issued solely to settle this proceeding, and are not the result of factual findings.

2. Jurisdiction. The OTS is of the opinion that:

(a) The Institution at all times relevant to the allegations set forth herein, was 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 of 1933, as amended by Section 301 of FIRREA, 12 U.S.C. § 1462(4). Accordingly, it was 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) Until August 9, 1989, the accounts of the Institution were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") pursuant to Section 403(b) of the NHA, 12 U.S.C. § 1726(b), by reason of which it was an "insured institution" within the meaning of the NHA.

(c) As of August 9, 1989, pursuant to the provisions of FIRREA, the insurance of the accounts of the Institution was transferred to the Federal Deposit Insurance Corporation.

(d) Until August 9, 1989, the Federal Home Loan Bank Board ("FHLBB"), as operating head of the FSLIC, was the regulatory

agency with jurisdiction over the Institution and persons participating in the conduct of its affairs, including Matthews, pursuant to Sections 403 and 407 of the NHA, 12 U.S.C. §§ 1726 and 1730.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of FIRREA, 12 U.S.C. § 1813(q), the OTS succeeded to the interests of the FHLBB with respect to the supervision and regulation of all savings associations, and thus became the "appropriate Federal banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(f) The Director of the OTS has the authority to bring administrative cease and desist proceedings directing reimbursement against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties, pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA, 12 U.S.C. § 1464(d)(1)(A), and Section 8 of the FDIA, as amended by the FIRREA, 12 U.S.C. § 1818.

(g) The Director of the OTS further has the authority to bring an administrative proceeding to suspend or permanently revoke the privilege of any person or entity to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq.

(h) Matthews was at all times relevant hereto an attorney and name partner of the law firm, Ingram, Matthews & Stroud, Professional Association, of Hattiesburg, Mississippi ("IMS"), a professional association of attorneys operating pursuant to Mississippi state statutes. Matthews attended meetings of the Institution's board of directors and the Executive Committee thereof on a regular basis, and provided advice and counsel to the Institution relating to various aspects of its operations.

(i) As of March 31, 1989, and at all times thereafter, the Institution failed to meet the minimum regulatory capital requirements set forth in 12 C.F.R. § 563.13.

(j) At all times relevant hereto, 12 C.F.R. § 563.9-8 provided that an institution that was failing to meet the minimum regulatory capital requirements set forth in 12 C.F.R. § 563.13 was required to obtain the prior written approval of the OTS before engaging in any equity risk investment.

(k) Partners and employees of IMS provided legal advice and counsel to the Institution regarding various aspects of the Institution's indirect investment through its wholly-owned service corporation, Guaranty Service Corporation, in Unemployment Compensation Control Systems, Inc. ("UCCS"), including the issuance of an opinion by IMS, signed by a partner of IMS, dated May 17, 1989, which stated, inter alia, that, "Investor has the legal power

and authority to execute and deliver the Acquisition Documents and to perform its obligations thereunder." Matthews did not advise the Institution that prior written approval of the OTS was required before engaging in the UCCS investment.

(l) On May 17, 1989, the Institution had neither obtained prior regulatory approval, nor filed an application with the OTS as required by 12 C.F.R. § 563.9-8. Matthews was present at meetings of the Institution's board of directors and Executive Committee, where the UCCS investment was discussed, reviewed, considered and approved.

(m) On September 6, 1989, a partner of IMS recommended that the Board and management take immediate steps to move the \$2 million on deposit at the Institution in a UCCS account to another depository institution. On the date, the Executive Committee approved the transfer of the funds under joint control of both parties. Matthews, a partner of IMS, was present at this meeting. On September 7, 1989, partners and employees of IMS represented the Institution in transactions that resulted in the transfer of the \$2 million into a UCCS account that required the signatures of two directors of UCCS, including Sherwin Easterling, who also had been appointed Interim Chief Operating Officer of the Institution on May 8, 1989.

(n) On September 11, 1989, a partner of IMS reported to the Executive Committee of the board of directors of the Institution that the \$2 million had been transferred to Deposit Guaranty National Bank under the joint control of the Institution and UCCS. Matthews was present at this meeting.

(o) On September 19, 1989, upon the advice of a partner of IMS, Easterling resigned from the board of directors of UCCS. UCCS thereafter withdrew the \$2 million, resulting in loss to the Institution of that amount.

(p) Matthews is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1813(u), and as such, is subject to the authority of the OTS to maintain cease and desist proceedings pursuant to Section 8 of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818. Matthews is further subject to censure by the OTS pursuant to 12 C.F.R. § 513.4(a).

3. Consent. Without admitting, and specifically disputing the need or basis therefor, Matthews consents to the issuance by the OTS of the Order, a copy of which is attached hereto and incorporated as Exhibit A. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of 12 U.S.C. § 1818 and Section 407(e) of the NHA, 12 U.S.C. § 1730(e), and 12 C.F.R. Part 513.

4. Finality. The Order is issued under Section 8 of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818, and Part 513 of the Rules and Regulations of the OTS. Upon its issuance, it shall be a final order, effective and fully enforceable by the OTS under the Section 8(i) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(i).

5. Waivers. Matthews waives his 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 12 C.F.R. § 513.4(a), 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, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Director and Jolly W. Matthews, III execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

By: \_\_\_\_\_  
Timothy Ryan  
Director

/S/  
Jolly W. Matthews, III

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of: )  
 )  
JOLLY W. MATTHEWS, III )  
 )  
Attorney who represented and )  
provided advice and counsel )  
to: )  
 )  
First Guaranty Bank for )  
Savings, )  
Hattiesburg, Mississippi )  
 )

Re: Resolution No. OTS AP 91-29

Dated: June 17, 1991

ORDER TO CEASE AND DESIST FOR REIMBURSEMENT  
AND OTHER AFFIRMATIVE RELIEF, AND  
ORDER OF REVOCATION OF THE PRIVILEGE  
TO PRACTICE BEFORE THE OFFICE OF THRIFT SUPERVISION

WHEREAS, Jolly W. Matthews, III ("Matthews") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Revocation of the Privilege to Practice Before The Office of Thrift Supervision ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Director; and

WHEREAS, without admitting, and specifically disputing that the grounds exist therefor, Matthews has consented and agreed in the Stipulation to the issuance of this Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Revocation of the Privilege to Practice Before The Office of Thrift Supervision ("Order");

NOW THEREFORE, the Director of the OTS, pursuant to Section 8 of the Federal Deposit Insurance Act, ("FDIA") as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, ("FIRREA"), 12 U.S.C. § 1818 (1988 and Supp. I 1989), and 12 C.F.R. Part 513, HEREBY ORDERS as follows:

1. (a) Except as otherwise provided by this Order or Section 8 of the FDIA, Matthews shall not hold any office at, or otherwise participate in any manner in the conduct of the affairs of, the following institutions (the "Covered Institutions"): First Guaranty Bank for Savings, Hattiesburg, Mississippi (the "Institution"); any other insured depository institution within the meaning of Section 3(c)(2) of the FDIA, as amended; any institution treated as an insured bank under Section 8 (b)(3) or (b)(4) of FDIA, or as a savings association under Section (b)(8) of FDIA; any insured credit union under the Federal Credit Union Act; any institution chartered under the Farm Credit Act of 1971; any appropriate Federal depository institution regulatory agency, within the meaning of Section 3 (q) of the FDIA; the Federal Housing Finance Board and any Federal home loan bank; and/or the Resolution Trust Corporation. This Paragraph is issued by the Director pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Conduct subject to the limitations of this Order includes, inter alia, the solicitation, transfer, or exercise of any voting rights

with respect to any securities issued by any Covered Institution, See 12 U.S.C.A. § 1818(e)(6), and specifically including any such voting rights that Matthews may hold with respect to Walthall Capital Group, Ltd., parent holding company of Walthall Citizens State Bank, Tylertown, Mississippi.

(b) Notwithstanding the foregoing limitations, this Order shall not have the effect of prohibiting Matthews from:

- (1) being a customer, as a depositor or borrower, of a Covered Institution;
- (2) owning stock in a Covered Institution;
- (3) providing routine foreclosure, bankruptcy or collection proceedings for a Covered Institution, solely as an independent contractor on an arms' length, case-by-case basis;
- (4) acting as a trustee in a deed of trust; or
- (5) representing independent third parties with respect to loan transactions between said independent third parties and a Covered Institution.

Provided however, that activities outlined in Paragraph 1(b) above may not be performed in a manner that would make Matthews an "institution-affiliated party" as that term is defined at Section 3(u) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1813(u).

2. Matthews shall make reimbursement to the Institution in the amount of \$10,864.00 on or before July 1, 1991. This sum represents the amount of fees paid to Matthews by the Institution for his attendance at meetings of the Institution's board of directors and the Executive Committee thereof, from the period March 31, 1989 through December 31, 1989.

3. Matthews' privilege to practice before the OTS, as defined at 12 C.F.R. § 513.2(e), is hereby revoked for a period of ten years from and after the date of this Order, during which period Matthews shall not, directly or indirectly, engage in the following activities:

(a) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the OTS, or a presiding officer or staff of the OTS, including inter alia, those proceedings covered in 12 C.F.R. Parts 508, 509, 510 and 512;

(b) The preparation of any statement, opinion, report or other document that will be filed with or submitted to the OTS with the knowledge or consent of Matthews in connection with any application or filing with the OTS;

(c) The presentation to the OTS or a presiding officer or staff of the OTS at a conference or meeting relating to an entity's or other person's rights, privileges or liabilities under the laws administered by the OTS and the rules and regulations promulgated thereunder;

(d) Any business correspondence or communication with the OTS or a presiding officer or staff of the OTS; and

(e) The transaction of any other formal business with the OTS on behalf of another, in the capacity of an attorney.

4. Matthews shall comply with Paragraph 2 of this Order by sending a certified check to the Regional Director of the Midwest Regional Office, in the amount of \$10,864.00, payable to First Guaranty Bank for Savings, Hattiesburg, Mississippi, on or before July 1, 1991.

5. Nothing contained in this Order shall be interpreted to prohibit Matthews from responding in any manner to any charges, inquiries or other contacts initiated by the OTS and/or by any other regulatory agency concerning Matthews.

6. As long as Matthews has maintained full compliance with this Order, Paragraph 3 of this Order shall terminate ten (10) years from the date of its issuance without the requirement of any further Order by the OTS or any other applicable regulatory agency; provided, however, that five years from the date of this Order, Matthews may apply to the OTS for reinstatement of the privilege to practice before the OTS, as provided in 12 C.F.R. § 513.5, and termination of this Order.

7. 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. This Order applies only to Matthews as an individual, and does not apply to any corporation, firm or other business with which Matthews may be or may become affiliated.

OFFICE OF TRUST SUPERVISION

/s/

By:

Timothy Ryan  
Director