

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of
Fidelity Federal Savings Bank
Dalton, Georgia

Re: Resolution No. ATL-91-40

Dated: August 6, 1991

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("the OTS"), by and through its Regional Director for the Southeast Regional Office, OTS, and Fidelity Federal Savings Bank, Dalton, Georgia ("Fidelity" or "Institution") hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information derived from the exercise of its supervisory and regulatory powers, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against Fidelity 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, ("FIRREA"), 12 U.S.C. Sc 1818(b) (1988 and Supp. I 1989). Such grounds include unsafe and unsound practices in conducting the business of the Institution, as follows:

a. Fidelity repeatedly violated regulations regarding loans made to affiliated persons, including 12 C.F.R. Part 215 and Sc 563.43.

b. Fidelity failed to document lending transactions in accordance with 12 C.F.R. Sc 563.170.

c. Fidelity failed to establish prudent lending policies and procedures and, further, failed to adhere to those policies and procedures it had previously promulgated.

d. Fidelity failed to set up adequate General Valuation Allowances (GVAs) and maintains inadequate GVA policies in violation of 12 C.F.R. Sc 563.160.

e. Fidelity follows insufficient internal audit policies and procedures.

Fidelity 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, hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease and desist proceeding against Fidelity with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) Fidelity is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. Sc 1813(b) and Section 2(4) of the Home Owners' Loan Act, as amended by FIRREA, 12 U.S.C. Sc 1462(4). 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. Sc 1813(c).

(b) Pursuant to Section 3(q) of the FDIA, as amended by FIRREA, 12 U.S.C. Sc 1813(q), the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Fidelity is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against them pursuant to Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. Sc 1818(b).

3. Consent. Fidelity consents to the issuance by the OTS of the Order. Fidelity 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, 12 U.S.C. Sc 1818(b). Upon its issuance by the Regional Director for the Southeast Regional Office, 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. Sc 1818(i).

5. Waivers. Fidelity 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. Sc 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, 12 U.S.C. Sc 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the Southeast Regional Office, OTS, and Fidelity, through its directors, execute this Stipulation and Consent to Issuance of an Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

By /S/

John E. Ryan
Regional Director
Southeast Regional Office

FIDELITY FEDERAL SAVINGS BANK

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

 /S/

DIRECTOR

DIRECTOR

1. Within thirty (30) days of the effective date of this Order, the board shall compile and continuously maintain

for examiners a list of all Fidelity's affiliated persons, as defined at 12 C.F.R. Sc 561.5.

2. Within sixty (60) days of the effective date of this Order, the board shall review all loans made by Fidelity to its affiliated persons to determine whether such loans violate applicable regulations. The board shall identify those loans found to be in violation of the regulations and within 60 days from the effective date of this Order, develop a written plan to correct the violations. The plan should detail efforts to be taken by the Institution to restructure the term loans or single pay notes into amortizing loans and obtain security for unsecured loans or single pay loans. Thereafter, the board shall undertake a similar review at least quarterly and initiate immediate corrective action for any loans found to be in violation of the regulations.

3. Fidelity shall not originate, extend, modify or refinance unsecured or term loans to any of its affiliated persons except in accordance with the Institution's policies and procedures. Such policies and procedures shall be no less stringent than applicable regulations and the requirements of this Order.

4. The board shall, within sixty (60) days of the effective date of this Order, revise Fidelity's loan and/or conflict of interest policies to require, at a minimum, that all loans to affiliated persons, including modifications, refinancings and extensions, comply with regulatory requirements and Fidelity's loan policies. Loan files shall document that such compliance has been reviewed and confirmed by the board.

5. Fidelity, shall, within ninety (90) days of the effective date of this Order, seek to obtain reimbursement from affiliated persons for loans (including modifications, refinancings, extensions and loans that have been repaid) received by them that contained prohibited preferential terms. The reimbursement amounts shall be the difference between the preferential terms actually provided and the then applicable market terms, including, but not limited to, such factors as interest rates and fees.

6. Within sixty (60) days of the effective date of this Order, the board shall adopt policies and insure the implementation of procedures regarding affiliated person overdrafts. Such policies and procedures shall be consistent with Regulation O, 12 C.F.R. Part 215.

7. Within (60) days of the effective date of this Order, the board shall complete a review and documentation of all post-FIRREA overdrafts involving affiliated persons of Fidelity. Fidelity shall require the payment of unpaid fees for such overdrafts within ninety (90) days of the effective date of this Order.

Bonus Plan

8. Immediately, upon the effective date of this Order, the board shall terminate the Institution's current bonus plan. In the event the board decides to adopt a substitute bonus plan, the plan must be submitted to OTS for review and notice of no objection before any bonuses are paid under the plan. In addition, such a plan shall provide that: a) bonuses be based upon individual performance; and b) all bonus recommendations and supporting documentation be reviewed by the board of directors prior to any payment of bonuses under the plan; and c) all subsequent modifications to the plan must be submitted to OTS for review and notice of no objection before any further bonuses are paid under the plan.

Board Packages

9. Within ninety (90) days of the effective date of this Order, the board shall establish a procedure requiring comprehensive information packages ("board packages") to be submitted to each of the directors at least 24 hours prior to regularly scheduled monthly board meetings. The board packages shall, at a minimum consist of information and reports prescribed by the OTS Director Information Guidelines.

Internal Audit

10. Within ninety (90) days of the effective date of this Order, Fidelity shall retain qualified internal audit staff or make provision for performance of the internal audit function by qualified outside entities in accordance with Fidelity's internal audit plan.

11. Within ninety (90) days of the effective date of this Order, Fidelity shall develop an internal audit plan, which, at a minimum, identifies Institution areas and functions to be audited, the frequency with which the audits should be performed and the scope of the audits. The board also shall require the staff or entity performing the internal audits to report directly to a committee of the board composed of outside (non-management) directors.

12. The internal audit committee shall review findings, including suggested corrective actions, contained in the audits at least quarterly and report its findings to the full board. The internal audit committee shall review the internal audit plan and programs at least annually.

Lending Policies and Procedures

13. Within forty-five (45) days of the effective date of this Order, the Institution shall establish, adopt and submit to the OTS loan underwriting policies and procedures, sufficient to fulfill the requirements of 12 C.F.R. Sc

563.170. ~~Upon notice of no objection from the OTS,~~ ^{The} Institution shall adhere to such policies and procedures ^{unless or until} The policies shall include minimum documentation requirements ^{is notified} for each type of loan offered by Fidelity. ^{by OTS that}

14. Within sixty (60) days of the date of this Order, Fidelity shall revise and implement written policies and procedures for the review and classification of problem assets in accordance with the requirements of 12 C.F.R. Sc 563.160 and the guidelines set forth at 12 C.F.R. Sc 571.26. The revisions also shall specifically address the deficiencies noted in the OTS Report of Examination dated March 11, 1991 ("1991 Examination"), and the applicable sections of the Thrift Activity Handbook. The board shall review and approve asset classifications at least quarterly. ^{the policies a}
^{procedures c}
^{unacceptab}

15. Within forty-five (45) days of the effective date of this Order, Fidelity shall develop, adopt and implement a written plan to reduce the risk of loss from each classified secured loan or asset with a book value in excess of \$250,000 and each classified unsecured loan or asset with a book value in excess of \$100,000. The plan also shall include separate action plans for each asset that describe the steps to be taken to dispose of the asset, to restore it to earning status, and/or to otherwise eliminate the basis for criticism of the asset. The board shall review management's progress in meeting the targets of the plan at least quarterly.

16. Within 180 days of the effective date of this Order, Fidelity shall complete and document a review of all short term non-amortizing loans for compliance with Fidelity's policies and procedures, regulatory requirements and enforcement documents. Fidelity shall develop a plan and timetable in which to implement corrective action for any noncompliant short term non-amortizing loans.

General Valuation Allowances

17. Within ten (10) days of the effective date of this Order, Fidelity shall establish and not thereafter reduce the level of general valuation allowances ("GVA") recommended in the 1991 Examination, until after receipt of the Institution's next regular examination report or prior written approval of the Regional Director.

18. Within sixty (60) days of the effective date of this Order, Fidelity shall revise its GVA policy to: a) address the concerns noted in the 1991 Examination; b) comply with 12 C.F.R. Sc 563.160; and c) incorporate the considerations set forth in Section 261 of the Thrift Activities Handbook. The revised GVA policy shall be applied by the Institution on a quarterly basis. As a result of said review and application, Fidelity also shall make any necessary additions to its GVAs prior to filing its quarterly Thrift Financial Reports.

Real Estate Owned

19. Fidelity shall revise its policies and procedures for treatment of Real Estate Owned ("REO") to account for REO in accordance with Generally Accepted Accounting Principles ("GAAP").

Appraisal Policy

20. Within sixty (60) days of the effective date of this Order, Fidelity shall revise and thereafter adhere to appraisal policies and procedures sufficient to fulfill the requirements of 12 C.F.R. Part 564 and to address the concerns noted in the 1991 Examination. The revised policies and procedures also shall include the guidance provided in the Thrift Activities Handbook and 12 C.F.R. Sc 571.1.

Interest Rate Risk

21. Fidelity shall, within sixty (60) days of the effective date of this Order, revise and thereafter adhere to its policy for the reduction of interest rate risk. Such policy shall be consistent with the guidance provided in Thrift Bulletins 13, 13-1 and 13-2. The policy also shall include specific targets for the reduction of interest rate risk. The board shall document its review of the Institution's progress in reducing its interest rate risk at least quarterly.

Wire Transfers

22. Within sixty (60) days of the effective date of this Order, Fidelity shall develop, adopt, implement and thereafter adhere to policies, procedures and controls with respects to its wire transfers. The wire transfer policies and procedures shall, at a minimum, address concerns contained in the 1991 Examination. The policies and procedures also shall specifically address segregation of duties, the approval process, transfer authorization limits, reconciliation and balancing procedures, confirmation procedures, physical security and timely completion of all documentation.

EDP Policies

23. Within sixty (60) days of the effective date of this Order, Fidelity shall implement corrective actions to address the deficiencies found in the Electronic Data Processing Audit Report. Fidelity also shall, within this same time period, revise its microcomputer policy to adequately address guidelines set forth in Thrift Bulletin 29 and concerns noted in the 1991 Examination.

Compliance

24. Within thirty (30) days after the effective date of this Order, the board of directors shall appoint a Compliance Committee of at least three (3) directors, the majority of whom are not officers of the Institution. The Compliance Committee shall be responsible for monitoring and coordinating the Institution's adherence to the provisions of this Order. Within 30 days after appointment of the Compliance Committee and quarterly thereafter, the Compliance Committee shall submit a written progress report to the full board setting forth in detail: a) actions taken to comply with each provision of this Order; and b) the results of those actions. The board shall forward to the Regional Director a copy of the Compliance Committee's report, with any additional comments by the board.

All technical words or terms used in this Order 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. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings and loan industry. For purposes of this Order, references to regulations, bulletins, memoranda and publications shall include any successor provisions mandated by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

THE OFFICE OF THRIFT SUPERVISION

/S/

By:

John E. Ryan
Regional Director
Southeast Region