

95035

OTS No. >6509

SUPERVISORY AGREEMENT

This Supervisory Agreement ("Agreement") is made and is effective this 28th day of May, 1992 (the "Effective Date"), by and between Ponce de Leon Federal Savings Bank (the "Bank"), a federally chartered mutual savings bank, having its main office located at 951 Southern Boulevard, Bronx, New York 10459 and the Office of Thrift Supervision ("OTS"), an office within the Department of the Treasury, a department in the Executive Branch of the United States Government, having its principal executive offices located at 1700 G Street, N.W., Washington, D.C.

WHEREAS, the OTS is the primary federal regulator of the Bank; and

WHEREAS, the OTS, represented by the Regional Director for the Northeast Region ("Regional Director") is of the opinion that the Bank has engaged in acts and practices in operating the business of the Bank that: (i) have resulted in violations of certain of the laws or regulations to which the Bank is subject and/or (ii) are considered to be unsafe and unsound; and

WHEREAS, the OTS is of the opinion that grounds exist for the initiation of administrative proceedings against the Bank; and

WHEREAS, the OTS is of the view that it is appropriate to take measures intended to ensure that the Bank will: (1) comply with all applicable laws and regulations; (2) engage in safe and sound practices; and (3) maintain itself in a safe and sound condition; and

WHEREAS, the Board of Directors of the Bank (the "Board") wishes to cooperate with the OTS and to demonstrate that they have the intent and ability to: (1) comply with all applicable laws and regulations; (2) engage in safe and sound practices; and (3) maintain the Bank in a safe and sound condition.

NOW THEREFORE, in consideration of the above premises, the mutual undertakings set forth herein, and other good and sufficient consideration, the parties hereto agree as follows:

**I. COMPLIANCE WITH LAWS AND REGULATIONS --
SAFETY AND SOUNDNESS**

1.1. The Bank shall comply with the following Federal laws and regulations:

(a). Sections 563.160 and 571.26 of the OTS Regulations, 12 C.F.R. §§ 563.160 and 571.26 (regarding classification of assets);

(b). Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 170(c) (regarding establishment and maintenance of records).

(c). Section 564.4 of the OTS Regulations, 12 C.F.R. § 564.4 (regarding appraisals).

1.2. The requirements set forth in Section 1.1 that the Bank conduct its business in conformity with the requirements of the Federal laws and regulations set forth therein shall not be construed as an authorization for the Bank to engage in any activity permitted by said laws and regulations. Furthermore, to the extent that it is lawful for the Bank or its affiliates to engage in such activities, they shall be subject to any stricter restrictions, limitations and requirements set forth in this Agreement.

II. CORRECTIVE PROVISIONS -- SAFETY AND SOUNDNESS

2.1. Asset Review and Classification/Valuation Allowances.

(a). Policy. Within 30 Business Days after the Effective Date of this Agreement, the Bank shall submit an asset review and classification policy to OTS, which policy shall be reviewed and approved by the Board and shall comply with the provisions of Section 563.160 of the OTS Regulations, 12 C.F.R. § 563.160, and the policy guidelines set forth in Section 571.26, 12 C.F.R. § 571.26. The Board shall designate a single officer with oversight responsibility for the self-classification program. Such officer shall incorporate the specific risk factors and the methodology used in the Bank's asset review and classification policy into the Bank's valuation allowance policy. The valuation allowance policy should satisfy the requirements and recommendations of OTS. Such officer shall have no direct operational or lending responsibilities with respect to the assets subject to the program and shall be independent from the investment or loan approval process.

(b). Quarterly Report. The officer with oversight responsibility for the self-classification program shall submit a quarterly report to the Board, which report at a minimum shall contain (i) a complete breakdown of all general and specific reserves allowances, (ii) an historical analysis of the level and trend of internally classified assets and corresponding reserve allowance levels and (iii) a description of all classified assets, including all classifications made by examiners.

(c). Board Certification. The Board shall ensure that the Bank adheres to the policies and procedures described in subsection 2.1(a) hereof. Within 30 Business Days after the Effective Date of this Agreement and within 30 Business Days after the end of each calendar quarter, the Board shall provide OTS with a corporate resolution certifying that the Board has reviewed and determined that the level of general valuation allowances and specific valuation allowances reported on Schedule VA of the quarterly Thrift Financial Report are in accordance with the policies and procedures described in subsection 2.1(a) hereof and appropriately reflect the level of current and anticipated credit exposure in the Bank's portfolio.

2.2. Asset Workout Policies/Asset Action Plan.

(a). Policy. Within 30 Business Days after the Effective Date, the Board shall adopt, implement and forward to the Regional Director a comprehensive asset workout policy. The workout policy shall provide for, at a minimum:

(i) the identification of all assets that will be referred to the workout group, which shall include, at a minimum, all assets classified in the most recent OTS Report of Examination and/or identified internally as a classified asset pursuant to the classification policy described in subsection 2.1(a) of this Agreement;

(ii) a comprehensive analysis of all loan documents and related correspondence;

(iii) a realistic analysis of the value of any collateral and the ability to enforce any guarantees;

(iv) an assessment of potential legal issues relating to the workout; and

(v) based on the above, the development of an asset action plan for the workout of each asset referred to the workout group, including a proposed timetable for each suggested action.

(b). Action Plans. Each asset action plan shall, inter alia, identify the amount (if any) of any additional disbursements planned or contemplated for each asset, and contain a description of any contemplated modifications, extensions or renewals in connection with the asset.

(c). Workout Personnel. Within 30 Business Days after the Effective Date, the Bank shall retain or designate a qualified, competent senior workout officer, acceptable to the Regional Director, whose responsibilities will include, at a minimum: (i) development of qualified personnel whose responsibilities in part are to develop and implement asset action plans with respect to each asset referred to the workout group, and (ii) reporting to the Bank's Board the status of workout efforts on a monthly basis.

(d) Criticized Loans. Within 30 Business Days of the Effective Date, the Bank shall establish written policies and procedures for modifications, extensions or renewals of criticized loans to ensure that such modifications, extensions, or renewals of, are adequately controlled and are reviewed by the Board. A criticized loan shall refer to any loan that the Bank or the OTS classifies as either substandard, doubtful or loss or that the Bank or the OTS designates for "special mention," in accordance with Section 563.160 of the OTS Regulations.

2.3. Lending Policies.

(a). Loan Policy. Within 30 Business Days after the Effective Date of this Agreement, the Bank shall revise its written loan policy to include, at a minimum: (1) the individual lending authority of each loan officer; (2) the lending authority of a loan or executive committee, if any; (3) the responsibility of the Board in reviewing, ratifying and approving loans, extensions or modifications; (4) the maintenance and review of complete and current credit files on each borrower and property, including without limitation loan documentation relating to title insurance, construction inspections, construction timetable budgets as well as current financial statements; (5) procedures for designating non-accrual loans; (6) procedures for identifying, supervising and collecting problem loans; and (7) guidelines that incorporate Part 564 of the OTS Regulations, 12 C.F.R. § 564.1-564.8, in connection with obtaining appraisals.

(b). Appraisals. The Board shall ensure that the Bank orders new appraisals for all appraisals identified as deficient by the OTS or the Bank. In addition, the Bank shall ensure that the collateral that is subject to such new appraisals is revalued in accordance with such appraisals.

(c). High-Risk Lending. The Bank shall not Make any High-Risk Loans or modify any existing High-Risk Loans without the prior written nonobjection of the OTS. In order to obtain the nonobjection of the OTS to resume the Making of High-Risk Loans, the Bank must establish that (1) classified assets are at a safe and sound level, (2) appropriate underwriting standards, monitoring systems and internal controls are devised and implemented and (3) personnel responsible for making High-Risk Loans are properly qualified and trained for their responsibilities. Therefore, on a case-by-case basis, the Bank may make certain High-Risk Loans with the prior written nonobjection of the OTS, as provided above.

2.4. Asset Growth. Without the prior written approval of the Regional Director, the Bank shall not increase its Total Assets in excess of an amount equal to interest credited to deposit accounts during any quarter. For purposes of this Section 2.4, Total Assets shall be measured at the end of each calendar quarter by comparing Total Assets at the end of the most recent calendar quarter against the Total Assets as of the end of the calendar quarter immediately preceding the most recent calendar quarter.

2.5. Directors and Officers.

(a). TB 45. The Board shall ensure that the Bank satisfies the requirements set forth in Section 32 of the FDIA, 12 U.S.C. § 1831i, and the OTS' Thrift Bulletin 45 with respect to the proposed addition or replacement of any director or the proposed hiring of a Senior Executive Officer (as defined therein), including in connection with the "change of responsibilities" of any individual resulting in his or her assumption of a Senior Executive Officer position, including a promotion or a lateral transfer from one Senior Executive Officer position to another. For purposes of Thrift Bulletin 45, the Bank is deemed to be in "troubled condition."

(b). RB 27. The Board shall ensure that the Bank complies with Section 563.39 and subsection 563.161(b) of the OTS Regulations with respect to compensation of its employees and follows the policy guidelines set forth in Regulatory Bulletin 27 in connection therewith.

2.6. Business Plan. Within 60 Business Days after the Effective Date, the Bank shall submit to the OTS a completely revised, detailed written business plan that is acceptable to the OTS and incorporates considerations relating to the current financial condition of the Bank and the current economic and business environment in which the Bank is operating. In particular, the business plan shall address the need for internal controls and operating procedures.

III. COMPLIANCE WITH LAWS AND REGULATIONS -- COMPLIANCE

3.1. The Bank shall comply with the following Federal laws and regulations:

(a). Section 103.27(a) and (d) of the U.S. Treasury Department Regulations, 12 C.F.R. § 103.27(a) & (d) (regarding currency transaction reports);

(b). Section 528.4 of the OTS Regulations, 12 C.F.R. § 528.4 (regarding nondiscriminatory advertising);

(c). Subsection 528.6(a) of the OTS Regulations, 12 C.F.R. § 528.6(a) (regarding loan information to be requested);

(d). Subsections 528.6(d)(2)(i) and (iii) of the OTS Regulations, 12 C.F.R. §§ 528.6(d)(2)(i) & (iii) (regarding loan application register); and

(e). Subsections 202.9(a)(1)(iii) and (2) of Regulation B, 12 C.F.R. §§ 202.9(a)(1)(iii) & (2) (regarding adverse action notices).

IV. CORRECTIVE PROVISIONS -- COMPLIANCE

4.1. Bank Secrecy Act Compliance Program. Within 60 Business Days of the Effective Date, the Board must develop, approve and implement a comprehensive program in accordance with Section 563.177 of the OTS Regulations to ensure that the Bank fully complies with the recordkeeping and reporting of currency transactions pursuant to the Bank Secrecy Act, Pub. L. 97-258 (Subchapter II of Chapter 53 of Title 31), and its implementing regulations, 31 C.F.R. § 103.11 et seq.

4.2. Restitution for Excessive Interest. Within 60 Business Days of the Effective Date, the Bank shall (i) review all refinance and home improvement loans consummated by the Bank between May 23, 1989 and October 7, 1991, (ii) calculate any restitution the Bank must pay in connection with such loans based on the difference between the interest rate the Bank disclosed on each such loan pursuant to subsection 226.20(a) of Regulation Z and the interest rate that the Bank did charge and (iii) submit to the OTS a report detailing the results of such review and calculations.

4.3. Compliance Policy. Within 90 Business Days of the Effective Date, the Board shall develop, approve and implement a comprehensive written compliance policy that establishes (i) a methodology to ensure that any personnel responsible for the Bank's compliance with the laws and regulations subject to compliance examination by the OTS receives the necessary training and education to accomplish such compliance, (2) periodic, scheduled tests to measure such compliance by the Bank and documentation of the results of such tests and (3) quarterly reports to the Board by management that permit the Board to monitor compliance by the Bank with all applicable laws and regulations.

4.4. CRA Action Plan. Within 60 Business Days of the Effective Date, the Board shall prepare a written report and plan (the "Action Plan") that includes without limitation (i) a redelineation of the communities that comprise entire community of the Bank in accordance with the Community Reinvestment Act of 1977, 12 U.S.C. § 2901 et seq. (the "CRA") and Section 563e of the OTS Regulations and documents the rationale for the redelineation, (ii) an analysis of the credit needs of each community redelineated by the Bank and the manner by which the credit products and investment activities of the Bank can help meet such credit needs, including the credit needs of nonhispanic persons and businesses and (iii) a description of a marketing program designed to reach all segments of its delineated community, including the nonhispanic segments. The Board shall approve the Action Plan and any revisions thereto and, upon approval, shall submit the Action Plan to the OTS. In addition, the Board shall become more actively involved in the Bank's CRA efforts and in monitoring the Bank's CRA-related performance.

V. BOARD OF DIRECTORS

5.1. Compliance with Agreement.

(a). The Board and the executive officers of the Bank shall take immediate action to cause the Bank to comply with the terms of this Agreement and shall take all actions necessary or appropriate thereafter to cause the Bank to continue to carry out the provisions of this Agreement.

(b). The Board, on a monthly basis, shall adopt a Board Resolution (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 Bank has complied with each provision of this Agreement 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.

(c). 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 each such Director's reasoning for opposing or abstaining.

(d). No later than the 25th Business Day of the month following the end of a calendar quarter, beginning with the end of the first calendar quarter following the Effective Date, the Bank shall provide to the Regional Director a certified true copy of the Compliance Resolutions adopted at the Board meeting of each month in such calendar quarter. The Board, by virtue of the Bank'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 minutes of the Bank.

5.2. Director Responsibility.

Notwithstanding the requirements of this Agreement that the Board submit various matters to the Regional Director for the purpose of receiving his approval, nonobjection 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 Bank at all times.

5.3. Duty of Care.

Each member of the Board, as part of the performance of his or her duty of care, shall become familiar with the contents of the Director Information Guidelines, published by OTS in December 1989 and shall obtain and consider the kinds of information set forth therein which is applicable to the performance of his or her duties as a Director of the Bank.

VI. MISCELLANEOUS

6.1. Definitions

For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires: (a) the terms used in this Agreement have the meanings assigned to them in this Section 6.1 and include the plural as well as the singular; (b) all accounting terms not otherwise defined have the meanings assigned to them in accordance with generally accepted accounting principles in the United States, except that if such terms are defined in the Rules and Regulations of the OTS, such regulatory definitions shall be controlling; (c) all terms not otherwise defined herein that are defined in the HOLA, the FDIA, FIRREA, the Rules and Regulations of the OTS or its publicly available Bulletins and Advisory Memoranda shall have the meanings assigned to them in such statutes, Rules and Regulations, Bulletins, and Advisory Memoranda; and (d) all technical words or terms not subject to a definition in this Agreement shall have the meanings that accord with the best custom and usage in the thrift and banking industries.

"Advisory Memoranda" refers to inter alia, R Memoranda and T Memoranda issued by the staff (or agents) of the OTS (or its predecessors in interest).

"Board Resolution" means a resolution duly adopted by the Board of Directors at a duly called and held meeting of the Board (or a Committee thereof) at which a quorum was present.

"Bulletins" refers to, inter alia, Regulatory Bulletins, Thrift Bulletins, and PA Bulletins, issued by the staff (or agents) of the OTS (or its predecessors in interest).

"Business Day" means any weekday excluding Federal holidays.

"Consummate" means, with respect to loans, the time that a consumer becomes contractually obligated on a loan.

"FDIA" means the Federal Deposit Insurance Act, as amended.

"FIRREA" means the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183.

"High-Risk Loans" means construction, multi-family, land and nonresidential mortgage loans, as well as secured and unsecured

commercial loans.

"HOLA" means the Home Owners' Loan Act, as amended, 12 U.S.C. §§ 1461 et seq.

"Make" means (i) in the context of making a loan, to enter into a binding obligation (whether or not memorialized in writing) to provide loan funds; and (ii) in the context of a pre-existing debt, to obtain a lender's interest whether through a purchase, swap, or otherwise.

"OTS" refers to the Office of Thrift Supervision, United States Department of the Treasury, or its successor.

"Regional Director" or his successor is the "senior supervisory official" within the meaning of Section 723(d) of the FIRREA, and refers to the Regional Director of the Northeast region of OTS. All references to the Regional Director shall include the Regional Director and/or his designee(s).

"Savings Bank" shall have the meaning set forth in Section 2(4) of the HOLA, 12 U.S.C. § 1462(4).

"Total Assets" shall have the meaning set forth in Section 567.1(ff) of OTS Regulations, 12 C.F.R. § 567.1(ff).

6.2. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Agreement 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 and references to successor provisions as they become applicable.

6.3. Notices.

(a). Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Agreement to be made upon, given or furnished to, delivered to, or filed with:

(1) the OTS by the Bank, 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, 10 Exchange Place, Jersey City NJ 07302 or telecopied to 201-413-7543 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(2) the Bank 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 Bank at 951 Southern Boulevard, Bronx NY 10459 or telecopied to _____ and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(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 Agreement, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received two Business Business Days after the date of the postmark on the envelope in which the notice was enclosed.

6.4. Duration, Termination or Suspension of Agreement.

(a). This Agreement shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof).

(b). The Regional Director or his designee, in his or her sole discretion, may, by written notice, suspend any or all provisions of this Agreement.

6.5. Effect of Headings.

The Section headings herein are for convenience only and shall not affect the construction hereof.

6.6. Separability Clause.

In case any provision in this Agreement 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.

6.7. No Violations of Law, Rule, Regulation or Policy Statement Authorized.

Nothing in this Agreement shall be construed as allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject.

6.8. Successors in Interest/Benefit.

The terms and provisions of this Agreement shall be binding upon and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Agreement, express or implied, shall give to any person or entity, other than the parties hereto, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation and there successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Agreement.

6.10. Enforceability of Agreement.

IN WITNESS WHEREOF, the OTS, acting by and through the Regional Director and the Bank, in accordance with a duly adopted resolution of its Board (copy attached hereto), hereby execute this Agreement as of the Effective Date.

THE BANK

Dee -

Name: Chief Executive Officer

DIRECTORS OF THE BANK

~~Director~~

Director

Director

Director