

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

_____	)	
In the Matter of	)	ORDER OF PROHIBITION FROM
	)	FURTHER PARTICIPATION
THOMAS J. MARTIN	)	AND
individually, and as an	)	ORDER TO PAY A CIVIL
institution-affiliated party of	)	MONEY PENALTY
	)	
GWINNETT COMMUNITY BANK	)	FDIC-15-0297e
Duluth, Georgia	)	FDIC-15-0296k
	)	
(insured State Nonmember Bank)	)	
_____	)	

THOMAS J. MARTIN (“Respondent”) has been advised of the right to receive a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION, NOTICE OF ASSESSMENT OF A CIVIL MONEY PENALTY, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, AND NOTICE OF HEARING issued by the Federal Deposit Insurance Corporation (“FDIC”) detailing the violations of law or regulation, unsafe or unsound banking practices, and breaches of fiduciary duty for which an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION AND ORDER TO PAY A CIVIL MONEY PENALTY (the “ORDER”) may issue, and has been further advised of the right to a hearing on the alleged charges under sections 8(e) and 8(i) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. §§ 1818(e) and 1818(i), and the FDIC’s Rules of Practice and Procedure, 12 C.F.R. Part 308. Having waived those rights, Respondent entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION AND AN ORDER TO PAY A CIVIL MONEY PENALTY (“CONSENT AGREEMENT”) with a representative of the Legal Division of the FDIC, whereby solely for the purpose of this proceeding and without admitting or denying any violations of law or regulation,

unsafe or unsound banking practices, or breaches of fiduciary duty, Respondent consented to the issuance of the ORDER by the FDIC.

The FDIC considered the matter and determined it has reason to believe that:

(a) while an institution-affiliated party of GWINNETT COMMUNITY BANK (“Bank”), Respondent engaged or participated in violations of law or regulation and recklessly engaged or participated in unsafe or unsound banking practices and breaches of fiduciary duty;

(b) the Bank has suffered more than a minimal financial loss, has suffered other damage, and the interests of the Bank’s depositors have been or could be prejudiced;

(c) such violations of law or regulation, unsafe or unsound banking practices, and breaches of fiduciary duty involved personal dishonesty on the part of the Respondent, demonstrated Respondent’s willful and continuing disregard for the safety or soundness of the Bank, and were part of a pattern of misconduct.

The FDIC further determined that such violations of law or regulation, unsafe or unsound banking practices, and breaches of fiduciary duty demonstrate Respondent's unfitness to serve as a director, officer, person participating in the conduct of the affairs or an institution-affiliated party of the Bank, any other insured depository institution, or any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A). After taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of Respondent, the gravity of the violation by Respondent, the history of previous violations by Respondent, and such other matters as justice may require, the FDIC accepts the CONSENT AGREEMENT and issues the following:

ORDER OF PROHIBITION FROM FURTHER PARTICIPATION

AND ORDER TO PAY A CIVIL MONEY PENALTY

1. Respondent, without the prior written approval of the FDIC and the appropriate Federal financial institution's regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D), is hereby prohibited from:

(a) participating in any manner in the conduct of the affairs of any financial institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(b) soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent or authorization with respect to any voting rights in any financial institution enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(c) violating any voting agreement previously approved by the appropriate Federal banking agency; or

(d) voting for a director, or serving or acting as an institution-affiliated party with respect to any financial institution enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A).

2. It is hereby ordered that, by reason of the misconduct set forth in paragraph 3 of the CONSENT AGREEMENT, a penalty of one hundred twenty-five thousand dollars (\$125,000) be, and hereby is, assessed against Respondent, to be paid according to the following payment schedule:

(a) A first payment of forty thousand dollars (\$40,000), which was tendered contemporaneously with the Consent Agreement;

(b) A second payment of twenty-one thousand two hundred fifty dollars (\$21,250) on or before six (6) months following the date of this ORDER, but in no event later than April 20, 2017;

(c) A third payment of twenty-one thousand two hundred fifty dollars (\$21,250) on or before twelve (12) months following the date of this ORDER, but in no event later than October 20, 2017;

(d) A fourth payment of twenty-one thousand two hundred fifty dollars (\$21,250) on or before eighteen (18) months following the date of this ORDER, but in no event later than April 20, 2018; and

(e) A fifth and final payment of twenty-one thousand two hundred fifty dollars (\$21,250) on or before twenty-four (24) months following the date of this ORDER, but in no event later than October 20, 2018.

Respondent shall make the payments according to the payment schedule outlined above, by certified check or money order made payable to the Treasurer of the United States, and shall deliver each payment to the Federal Deposit Insurance Corporation, Ten 10th Street NW, Suite 800, Atlanta, Georgia 30309. The docket number of this matter (FDIC-15-0296k) shall be entered on all checks.

3. In the event that Respondent fails to make any payment as required pursuant to paragraph 2 of this ORDER, then the entire balance of the civil money penalty set forth herein shall immediately become due and payable.

4. This ORDER shall be fully enforceable pursuant to the provisions of section 8(i) of the Act, 12 U.S.C. § 1818(i).

5. Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

(a) If Respondent files for bankruptcy protection prior to the payment in full of the civil money penalty assessment set forth within this ORDER, Respondent shall notify the FDIC within ten (10) days of the filing and provide a copy of such filing.

(b) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligations to pay the civil money penalty set forth within this ORDER is subject to discharge, Respondent will in no manner contest the assertion of the FDIC or any agent, officer, or representative of the United States, pursuant to 11 U.S.C. § 523(a) or otherwise, that the civil money penalty assessment in this ORDER arises out of acts which result in claims not dischargeable in bankruptcy.

6. This ORDER will become effective upon its issuance by the FDIC. The provisions of this ORDER will remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated this 15th day of November, 2016.

\_\_\_\_\_/s/\_\_\_\_\_  
Patricia A. Colohan  
Associate Director  
Division of Risk Management Supervision