

[[2-29-96 p.C-4149]]

[[11,259] In the Matter of First Bank of Coastal Georgia, Pembroke, Ga., Docket No. FDIC-95-182b (12-15-95)

Bank ordered to cease and desist from such unsafe or unsound practices as failing to provide adequate supervision and direction over compliance with applicable laws and regulations; violating regulations; operating without adopting and implementing a comprehensive written compliance program designed to assure and monitor compliance with all applicable consumer and civil rights laws and regulations; operating without a qualified compliance officer; and failing to provide necessary training to all personnel who are assigned and/or perform duties and responsibilities regarding compliance with all applicable consumer and civil rights laws and regulations.

- [.1] Violations of Laws—Eliminate/Correct**
- [.2] Consumer and Civil Rights Laws—Compliance Officer Required**
- [.3] Compliance Program—Minimum Requirements**
- [.4] Shareholders—Disclosure—Cease and Desist Order**
- [.5] Cease and Desist Orders—Compliance Reports**

In the Matter of

**FIRST BANK OF COASTAL
GEORGIA
PEMBROKE, STATE GEORGIA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST
FDIC-95-182b**

First Bank of Coastal Georgia, Pembroke, Georgia ("Bank"), having been advised of its right to receive a written Notice of Charges and of Hearing ("NOTICE") detailing unsafe or unsound banking practices and violations of applicable law and regulations alleged to have been committed by the Bank and its right to a hearing regarding such alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with a representative of the Legal Division of the Federal Deposit Insurance Corporation ("FDIC"), dated December 14, 1995, whereby solely for the purpose of this proceeding and without admitting or denying any of the alleged charges of unsafe or unsound banking practices and violations of applicable law and regulations, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Bank had engaged in unsafe or unsound banking practices and had committed violations of applicable law and regulations.

The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that the Bank, its institution-affiliated parties, as such term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and its successors and assigns cease and desist from the following unsafe or unsound banking practices and violations of law and regulations:

A. Failing to provide adequate supervision and direction over the Bank's compliance with applicable laws and regulations by the board of directors of the Bank to prevent violations of:

(i) the Truth in Lending Act, 15 U.S.C. §§ 1601–1667e ("TILA"), and the implementing regulations promulgated thereunder by the Board of Governors of the Federal Reserve System ("Federal Reserve") at 12 C.F.R. Part 226 ("Regulation Z"), made applicable to insured state nonmember banks by 15 U.S.C. § 1607(a)(1)(C);

(ii) the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. §§ 2601–2617 ("RESPA"), and the implementing regulations promulgated thereunder by the Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development ("HUD") at 24 C.F.R. Part 3500 ("Regulation X"), made applicable to insured state nonmember

banks by 24 C.F.R. § 3500.5;

(iii) the Truth in Savings Act, 12 U.S.C. §§ 4301–4313 ("TISA"), and the implementing regulations promulgated thereunder by the Federal Reserve at 12 C.F.R. Part 230 ("Regulation DD"), made applicable to insured state nonmember banks by 12 U.S.C. § 4309(a)(1)(A);

(iv) the Home Mortgage Disclosure Act of 1975, 12 U.S.C. §§2801–2810 ("HMDA"), and the implementing regulations promulgated thereunder by the Federal Reserve at 12 C.F.R. Part 203 ("Regulation C"), made applicable to state nonmember banks by 15 U.S.C. § 2804;

(v) the Electronic Fund Transfer Act, 15 U.S.C. §§ 1601–1693r ("EFTA"), and the implementing regulations promulgated thereunder by the Federal Reserve at 12 C.F.R. Part 205 ("Regulation E"), made applicable to state nonmember banks by 15 U.S.C. § 1693o;

(vi) the Fair Housing Act, 42 U.S.C. §§ 3601–3619 ("FHA"), made applicable to state nonmember banks by 42 U.S.C. § 3608 and Part 338 of the Regulations, 12 C.F.R. Part 338; and

(vii) the Flood Disaster Protection Act of 1973, 42 U.S.C. §§ 4002–4128, made applicable to state nonmember banks by 42 U.S.C. § 4012a, and Part 339 of the Regulations, 12 C.F.R. Part 339; and

(viii) Part 329 of the Regulations, 12 C.F.R. Part 329, regarding "Interest on Deposits;"

B. Engaging in violations of:

(i) section 226.17(a) of Regulation Z, 12 C.F.R. § 226.17(a);

(ii) sections 3500.7(c), 3500.8(b) and 3500.21 (b) and (d) of Regulation X, 24 C.F.R. §§ 3500.7(c), 3500.8(b) and 3500.21 (b) and (d);

(iii) section 230.6(a) of Regulation DD, 12 C.F.R. § 230.6(a);

(iv) section 203.4(a) of Regulation C, 12 C.F.R. § 203.4(a);

(v) section 205.9(b)(1) of Regulation E, 12 C.F.R. § 205.9(b)(1);

(vi) sections 338.7(a)(2)(i) and (ii) of the Regulations, 12 C.F.R. §§ 338.7(a)(2)(i) and (ii);

(vii) sections 339.5 and 339.6 of the Regulations, 12 C.F.R. §§ 339.5 and 339.6; and

(viii) section 329.2 of the Regulations, 12 C.F.R. § 329.2;

C. Operating the Bank without adopting and implementing a comprehensive written compliance program designed to assure and monitor the Bank's compliance with all applicable consumer and civil rights laws and regulations;

D. Operating the Bank without a qualified compliance officer with the requisite training and experience in administering and managing the Bank's compliance program; and

E. Failing to provide necessary training on an ongoing basis to all Bank personnel who are assigned and/or perform duties and responsibilities regarding the Bank's compliance with all applicable consumer and civil rights laws and regulations.

IT IS FURTHER ORDERED that the Bank and its successors and assigns take affirmative action as follows:

[.1] 1. Within 30 days from the effective date of this ORDER, the Bank shall take all necessary steps, consistent with sound banking practices, to eliminate and/or correct all violations of consumer and civil rights laws and regulations committed by the Bank, as described on pages 2 through 2-a-6 and of the FDIC's Compliance Report of Examination of the Bank as of April 12, 1995. In addition, the Bank shall adopt appropriate procedures to ensure its future compliance with all applicable consumer and civil rights laws and regulations.

[.2] 2. (a) While this ORDER remains in effect, the Bank shall have and/or retain a qualified senior compliance officer, who shall have the requisite training and experience to administer and manage the Bank's compliance with all applicable consumer and civil rights laws and regula- ~~2-29-96 p.C-4151~~ tions. The senior compliance officer shall be provided the necessary written authority to implement the provisions of this ORDER and to ensure the Bank's compliance with all applicable consumer and civil rights laws and regulations. The qualifications of the senior compliance officer shall be assessed on his/her ability to ensure the Bank's compliance with the requirements of this ORDER and with all applicable consumer and civil rights laws and regulations. As long as this ORDER remains in effect, the Bank shall notify the Regional Manager of the FDIC's Atlanta Regional Office of the Division of Compliance and Consumer Affairs ("Regional Manager") in writing of any termination of the service of the individual designated as the Bank's senior compliance officer, as well as any replacement individual so designated in the future. The notification of the appointment of any new senior compliance officer shall be in addition to any application and prior approval requirements established by section 32 of the Act, 12 U.S.C.

§ 1831i, and implementing regulations; and must include the name and qualifications of any individual designated as the Bank's senior compliance officer.

[.3] (b) To facilitate compliance with paragraph 2(a) of this ORDER, and to ensure the Bank's future compliance with all applicable consumer and civil rights laws and regulations, the Bank shall develop, within 60 days from the effective date of this ORDER, a comprehensive written compliance program ("compliance program"), which shall include, at a minimum:

(i) the establishment of regular, ongoing audit and review programs and procedures to ensure compliance with and the periodic review of the requirements of all applicable consumer and civil rights laws and regulations;

(ii) provisions to eliminate and prevent discriminatory treatment in the Bank's lending activities in accordance with the guidelines provided in the "Interagency Policy Statement on Discrimination in Lending," 59 Fed. Reg. 18266–18274 (April 15, 1994), a copy of which is appended hereto as Appendix A;

(iii) the identification of both the type and number of officer and staff member positions, including the position of senior compliance officer, needed to manage and supervise properly the Bank's compliance with all applicable consumer and civil rights laws and regulations;

(iv) the identification and establishment of such committees of the Bank's board of directors as are needed to provide guidance and oversight to the senior compliance officer and compliance staff;

(v) a requirement that the senior compliance officer report at least quarterly to the board of directors regarding his/ her administration of the Bank's compliance program and the Bank's compliance with all applicable consumer and civil rights laws and regulations;

(vi) an evaluation of each current Bank officer and compliance staff member to determine whether these individuals possess the ability, experience, training and other qualifications required to perform present and anticipated compliance duties, including adherence to the Bank's compliance program;

(vii) the establishment of a regular, ongoing training program for the senior compliance officer and all other Bank officers and staff members with present or anticipated compliance duties and responsibilities, to ensure that they have and maintain the knowledge and ability necessary to perform their compliance duties;

(viii) a plan of action to recruit and hire any additional or replacement personnel with the requisite experience, ability, training and other qualifications, which the board of directors determines are necessary to fill Bank officer or staff member positions consistent with the analysis, evaluation and assessment provided in paragraphs 2(b)(iii) and (vi) of this ORDER; and

(ix) provisions to establish and thereafter maintain standardized procedures to ensure compliance with the goals and objectives of the Bank's compliance program to include, at a minimum, (1) an annual review by the entire board of directors of the Bank's consumer lending and consumer credit products, (2) the establishment of comprehensive pro- [2-29-96 p.C-4152](#)cedures to process, and where practicable, resolve inquiries and complaints from the Bank's customers, (3) the establishment of procedures to be used in processing applications for consumer loans and other consumer products, and (4) the periodic review and updating of the Bank's consumer credit forms and related documents.

(c) The written compliance program and any subsequent modification thereto shall be submitted to the Regional Manager for review and comment. No more than 30 days from the receipt of any comment from the Regional Manager, and after consideration of such comment, the board of directors shall approve the written compliance program and/or any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its successors and assigns shall implement and follow the written compliance program and/or any subsequent modification thereto.

[.4] 3. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER (a) in conjunction with the Bank's next shareholder communication and also (b) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe this ORDER in all material respects. The description and any accompanying communication, statement or notice shall be sent to the FDIC, Registration and Disclosure Section, 550 17th Street, N.W., Washington, D.C. 24029, for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to

dissemination of the description, communication, notice or statement.

[.5] 4. Within 90 days from the effective date of this ORDER, and within 15 days after the end of each calendar quarter thereafter while this ORDER remains in effect, the Bank shall furnish written progress reports to the Regional Manager detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Manager has released the Bank in writing from making further reports. All progress reports and other written responses to this ORDER shall be reviewed by the board of directors of the Bank and made a part of the minutes of the appropriate board meeting.

5. The provisions of this ORDER shall become effective ten (10) days from the date of its issuance and shall be binding upon the Bank, its institution-affiliated parties, and its successors and assigns. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Dated at Atlanta, Georgia, this 15th day of December, 1995.

Pursuant to delegated authority.