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{{6-30-92 p.C-2200}}

[¶10,520**] In the Matter of Anderson Brothers Bank, Mullins, South Carolina, Docket No. FDIC-91-344b (4-24-92).**

Bank to cease and desist from such unsafe or unsound practices as failing to provide adequate supervision over the Bank's affairs; operating with management {{1-31-95 p.C-2201}} whose policies are detrimental to the Bank; operating with excessive volumes of adversely classified assets; following hazardous lending and lax collection practices; engaging in practices which produce inadequate operating income; operating with inadequate allowance for loan and lease losses; and operating in violation of applicable laws or regulations. *(This order was terminated by order of the FDIC dated 11-4-94; see ¶ 15,930.)*

[.1] Board of Directors—Election—Outside Directors Added
[.2] Management—Qualifications—Review
[.3] Compensation—Officers and Directors—Review Required
[.4] Capital—Tier 1 Capital—Increase/Maintain—Methods
[.5] Allowance for Loan and Lease Losses—Establish/Maintain
[.6] Assets—Adversely Classified—Eliminate/Reduce
[.7] Loans—Extensions of Credit—Existing Borrowers—Curtail
[.8] Loan Policy—Written Revision—Minimum Requirements
[.9] Loans—Overdue—Accrual of Interest
[.10] Budget and Earnings Forecast—Preparation Required
[.11] Loans—Special Mention—Correct Deficiencies
[.12] Technical Exceptions—Eliminate/Correct
[.13] Dividends—Restricted
[.14] Violations of Law—Eliminate/Correct
[.15] Liquidity—Written Plan Required
[.16] Shareholders—Disclosure—Cease and Desist Order
[.17] Compliance Reports—Frequency

In the Matter of

ANDERSON BROTHERS BANK
MULLINS, SOUTH CAROLINA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST
FDIC-91-344b

Anderson Brothers Bank, Mullins, South Carolina ("Bank"), having received a written Notice of Charges and of Hearing detailing unsafe or unsound banking practices and violations of applicable laws and regulations alleged to have been committed by the Bank and of 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 April 24, 1992, 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 laws 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 laws 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 laws and regulations:

A. Failing to provide adequate supervision and direction over the affairs of the Bank by {{1-31-95 p.C-2202}} the board of directors of the Bank to prevent unsafe or unsound practices and violations of laws and regulations;

B. Operating the Bank with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;

C. Operating the Bank with an excessive volume of adversely classified assets and past due loans;

D. Engaging in hazardous lending and ineffective and lax collection practices, including but not limited to (i) failing to provide an adequate loan policy for the Bank, (ii) failing to establish and/or enforce loan repayment programs, and (iii) extending credit which has inadequate or deficient supporting loan documentation, including current financial statements and cash flow and/or operating information;

E. Engaging in practices which produce inadequate operating income and excessive loan losses;

F. Failing to provide and maintain an adequate allowance for loan and lease losses for the volume, kind and quality of loans held by the Bank; and

G. Engaging in violations of applicable Federal and state laws and regulations, as more fully described on pages 6-a and 6-a-1 of the FDIC's Report of Examination of the Bank as of November 13, 1990.

IT IS FURTHER ORDERED that the Bank, its institution-affiliated parties and its successors and assigns take affirmative action as follows:

[.1**]** 1. (a) Within 90 days from the effective date of this ORDER, the Bank's board of directors shall be reconstituted so that a majority of its members shall be "outside directors" as that term is defined herein.

(b) For the purposes of this ORDER, an "outside director" shall be an individual:

> (i) Who shall not be employed, in any capacity, by the Bank or its affiliates other than as a director of the Bank or an affiliate;
>
> (ii) Who shall not own or control, directly or indirectly, more than 5 percent of the voting stock of the Bank;
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> (iii) Who shall not be indebted, directly or indirectly, to the Bank or any of its affiliates in an amount greater than 10 percent of the Bank's or the affiliate's equity capital and reserves;
>
> (iv) Who shall not be related, by blood or marriage, to any director or principal shareholder of the Bank or any director or principal shareholder of any affiliate of the Bank; and

(v) Who shall reside in, or engage in business in, the Bank's trade area.

[.2**]** 2. (a) Within 90 days from the effective date of this ORDER, the Bank shall have and retain qualified management. At a minimum, such management shall include a new chief executive officer with proven ability in managing a bank of comparable size and a qualified senior loan officer having an appropriate level of lending, collection and loan supervision experience necessary to supervise the upgrading of a low quality loan portfolio. Such persons shall be provided the necessary written authority to implement the provisions of this ORDER. The qualifications of management shall be assessed on its ability to (i) comply with the requirements of this ORDER, (ii) operate the Bank in a safe and sound manner, (iii) comply with applicable laws and regulations, and (iv) restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, and management effectiveness. As long as this ORDER remains in effect, the Bank shall notify the Regional Director of the FDIC's Atlanta Regional Office ("Regional Director") and the South Carolina Commissioner of Banking ("Commissioner") in writing of any proposed changes in management. Such notification shall include the names and qualifications of any replacement personnel and shall be provided to the Regional Director and the Commissioner at least 30 days prior to the individual assuming the new position. Such notification 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 FDIC regulations.

(b) To ensure both compliance with the provisions of this ORDER and the retention of qualified management for the Bank, the board of directors shall, within 60 days from the effective date of this ORDER, develop a written analysis and assessment of the Bank's management and staffing requirements ("Management Policy") which shall, at a minimum, contain (i) the number and type of positions needed to properly manage the Bank, (ii) a clear and concise description of the required experience and level of compensation for each {{6-30-92 p.C-2203}} such position, (iii) an evaluation of the Bank's present management, (iv) a plan to recruit and hire any replacement personnel with the requisite ability and experience necessary to fill management positions at the Bank, (v) a periodic evaluation of each Bank employee's job performance, and (vi) procedures to periodically review and update the Management Policy. The Management Policy and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days from receipt of any comment from the Regional Director or the Commissioner, the board of directors shall approve the Management Policy and/or any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall implement and follow the Management Policy and/or any subsequent modification thereto.

[.3**]** 3. (a) Within 60 days from the effective date of this ORDER, the Bank's board of directors shall review all salaries, bonuses, stipends, fees or other means of compensation paid directly or indirectly to and/or for the benefit of any director, officer, other institution-affiliated party, as such term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), or affiliate, to ensure that such payments constitute reasonable compensation for services performed, or to be performed, for and/or on behalf of the Bank. A written report of the board of directors' findings, including a plan to correct and/or adjust any insupportable type or amount of compensation, shall be sent to the Regional Director and the Commissioner for review and comment. Within 30 days after the receipt of any comment from the Regional Director or the Commissioner, the board of directors shall approve the written report and/or any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall implement and follow the written report and/or any subsequent modification thereto.

(b) As long as this ORDER remains in effect, any salary, bonus, stipend, fee or other means of compensation paid to and/or for the benefit of any executive officer, director or other institution-affiliated party of the Bank shall not be increased by the Bank without the prior written approval of the Regional Director and the Commissioner.

[.4**]** 4. (a) Within 30 days from the effective date of this ORDER and within 30 days after each December 31 and June 30 thereafter while this ORDER remains in effect, the Bank's board of directors shall calculate the Bank's Tier 1 capital as a percentage of its total assets ("capital ratio") as of the nearest preceding December 31 or June 30 date. If such capital ratio is less than 6.0 percent, the Bank shall, within 90 days from the date of such calculation, increase its Tier 1 capital by an amount sufficient to raise its capital ratio to not less than 6.0 percent as of the nearest preceding June 30 or December 31 date. Any such increase in Tier 1 capital required by this paragraph 4(a) of the ORDER may be accomplished by any one or more of the following:

(i) The sale of new securities in the form of common stock or noncumulative perpetual preferred stock;

(ii) The collection in cash of all or part of the assets classified "Loss" or "Doubtful" as of November 13, 1990, and charged off in accordance with paragraph 6 of this ORDER;

(iii) The direct contribution of cash by the directors and/or shareholders of the Bank;

(iv) The collection in cash of assets previously charged off; or

(v) Any other means acceptable to the Regional Director and the Commissioner.

(b) (1) If all or part of the increase in the Bank's Tier 1 capital required under paragraph 4(a) of this ORDER involves a public distribution of the Bank's securities (including a distribution limited to the Bank's existing shareholders), the Bank shall prepare detailed offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and of this ORDER as well as the circumstances giving rise to the offering, and any other material disclosures necessary to comply with applicable Federal secu- rities laws. Prior to the sale of such securities, and, in any event, not less than 20 days prior to the dissemination of such materials, the materials used in the sale of the securities shall be submitted to the FDIC, Registration and Disclosure Unit, Washington, D.C. 24029, and to the Commissioner for review. Any changes in such offering materials requested by the FDIC or the Commissioner shall be made prior to their dissemination.

(2) In complying with the provisions of paragraph 4(b)(1) of this ORDER, the Bank shall provide to any subscriber and/or purchaser of Bank securities, written notice of any planned or existing development or other change which is materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph 4(b)(2) of the ORDER shall be furnished within 10 calendar days from the date that such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber of Bank securities who received or was tendered the information contained in the Bank's original offering materials.

(c) As used in this paragraph 4 of the ORDER, the terms "Tier 1 capital" and "total assets" shall have the meanings ascribed to them in sections 325.2(m) and 325.2(n), respectively, of the FDIC's Rules and Regulations, 56 Fed. Reg. 10161 (March 11, 1991) (to be codified at 12 C.F.R. §§ 325.2(m) and 325.2(n)), effective April 10, 1991.

[.5] 5. (a) Within 30 days from the effective date of this ORDER, concurrently with the requirements of paragraph 6 of this ORDER, the Bank shall establish and thereafter continually maintain an adequate allowance for loan and lease losses in accordance with the prevailing requirements of the Instructions for the Preparation of Reports of Condition and Income by charges against current operating income. In complying with the requirements of this paragraph 5(a) of the ORDER, the Bank's board of directors shall, at a minimum, review the adequacy of the Bank's allowance for loan and lease losses prior to the end of each calendar quarter. The minutes of the meeting of the board of directors at which such review is undertaken shall indicate the results of the review, the amount of any recommended increases in the allowance, and the basis for determining the amount of allowance provided.

(b) Reports of Condition and Income required to be filed by the Bank prior to the effective date of this ORDER and subsequent to November 13, 1990, shall reflect a provision for the allowance for loan and lease losses necessary to comply with paragraph 5(a) of this ORDER. If necessary to comply with this paragraph 5(b) of the ORDER, the Bank shall file amended Reports of Condition and Income within 30 days from the effective date of this ORDER.

[.6] 6. Within 30 days from the effective date of this ORDER, the Bank shall eliminate from its books, by collection, charge off or other proper entries, all assets or portions of assets classified "Loss" and one-half of all assets or portions of assets classified "Doubtful" by the FDIC as a result of the FDIC's Report of Examination of the Bank as of November 13, 1990, which have not been previously collected or charged off, unless otherwise approved in writing by the Regional Director and the Commissioner. Reduction of these assets through use of proceeds of loans made by the Bank does not constitute collection for the purposes of this paragraph 6 of the ORDER.

7. (a) Within 180 days from the effective date of this ORDER, the Bank shall reduce the aggregate dollar volume of all remaining assets classified "Substandard" and "Doubtful" in the FDIC's Report of Examination of the Bank as of November 13, 1990, to not more than $4,750,000; within 360 days from the effective date of this ORDER, the Bank shall reduce such aggregate total to not more than $3,500,000; and within 540 days from the effective date of this ORDER, the Bank shall reduce such aggregate total to not more than $2,250,000. The requirements of this paragraph 7(a) of the ORDER shall not be construed to establish a standard for future operations of the Bank.

(b) Within 90 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the Commissioner a written plan of action to reduce each asset which was adversely classified by the FDIC as of November 13, 1990, and which aggregated $100,000 or {{6-30-92 p.C-2205}} more as of that date. Such plan of action shall thereafter be implemented and monitored by the Bank and progress reports thereon shall be submitted by the Bank to the Regional Director and the Commissioner at 90-day intervals concurrently with the other reporting requirements set forth in paragraph 18 of this ORDER.

(c) As used in this paragraph 7 of the ORDER, "reduce" means to (i) collect, (ii) charge off, or (iii) improve the quality of such assets sufficiently to warrant removal of any adverse classification by the FDIC.

[.7] 8. (a) Effective the date of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit with the Bank that has been charged off or classified, in whole or in part, "Loss" or "Doubtful" and it uncollected.

(b) Effective the date of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit with the Bank that has been classified, in whole or in part, "Substandard" and is uncollected, unless, prior to the extension of credit, a majority of the Bank's board of directors (i) determines that such advance is in the best interest of the Bank, (ii) determines that the Bank has satisfied the requirements set out in paragraph 7(b) of this ORDER as to such borrower, (iii) determines that the extension of credit is in full compliance with the Bank's loan policy, (iv) determines that all necessary loan documentation is on file, including but not limited to, current financial and cash flow information and satisfactory appraisal, title and lien documents, and (v) approves such advance. A written record of the board of directors' determination and approval of any advance under this paragraph 8(b) of the ORDER shall be maintained in the credit file(s) of the affected borrower(s) as well as in the minutes of the board of directors.

(c) The requirements of this paragraph 8 of the ORDER shall not prohibit the Bank from renewing or extending the maturity of any credit already extended to the borrower, provided such action is in accordance with both Federal and state laws, rules and regulations, and further provided all interest due at the time of such renewal or extension is collected in cash from the borrower.

[.8] 9. (a) Within 60 days from the effective date of this ORDER, the Bank shall review and revise its written loan policy to provide for the safe and sound administration of all aspects of the Bank's lending functions. The Bank's loan policy shall, at a minimum, be revised to address the deficiencies in the policy described on pages 1 and 6-1 of the FDIC's Report of Examination of the Bank as of November 13, 1990, and shall include a requirement that any extension of credit to any borrower whose aggregate indebtedness to the Bank exceeds or will after such extension exceed $100,000 be approved in advance by a majority of the board of directors.

(b) The revised written loan policy and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director and the Commissioner, the board of directors shall approve the written loan policy and/or any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall implement and follow the written loan policy and/or any subsequent modification thereto.

[.9**]** 10. (a) Within 30 days from the effective date of this ORDER, and in accordance with the Instructions for the Preparation of Reports of Condition and Income, the Bank shall reverse on its books all accrued and unpaid interest on any loan which is 90 days or more delinquent in principal or interest payments and which is not both well secured and in the process of collection.

(b) Effective the date of this ORDER, the Bank shall not (i) accrue interest on any loan that is, or becomes, 90 days or more delinquent in principal or interest payments unless the loan is both well secured and in the process of collection, (ii) add uncollected interest to the unpaid principal balance of any loan on which interest is due unless such addition is supported by additional tangible collateral which adequately and completely secures {{6-30-92 p.C-2206}} the loan, (iii) extend credit by means of a new note for uncollected interest due on any loan unless such new extension of credit is supported by additional tangible collateral which adequately and completely secures the loan, or (iv) book uncollected interest by any other means in contravention of the Instructions for the Preparation of Reports of Condition and Income.

(c) For purposes of this paragraph 10 of the ORDER, "well secured" and "in the process of collection" shall have the same meaning as those terms have in the prevailing Instructions for the Preparation of Reports of Condition and Income.

[.10**]** 11. (a) Within 30 days from the effective date of this ORDER, the Bank shall prepare a realistic and comprehensive budget and earnings forecast for the remaining portion of calendar year 1992 and shall submit this budget and earnings forecast to the Regional Director and the Commissioner for review and comment.

(b) As long as this ORDER remains in effect, the Bank shall prepare realistic and comprehensive calendar year budget and earnings forecasts on a consolidated basis as of January 1 of each year subsequent to 1992 and shall submit them to the Regional Director and the Commissioner for review and comment no later than January 31 of the budget year.

(c) In preparing the budget and earnings forecasts required by this paragraph 11 of the ORDER, the Bank shall, at a minimum, (i) identify the major areas in and means by which the board of directors will seek to improve the Bank's operating performance, and (ii) describe the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(d) Progress reports comparing the Bank's actual income and expense performance with budgetary projections shall be submitted to the Regional Director and the Commissioner concurrently with the other reporting requirements set forth in paragraph 18 of this ORDER. The Bank's board of directors shall review such progress reports, which review shall be recorded in the minutes of the board of directors.

[.11**]** 12. Within 90 days from the effective date of this ORDER, the Bank shall take all necessary steps, consistent with safe and sound banking practices, to eliminate and/or correct the deficiencies cited in the assets listed for "Special Mention" on page 2-b of the FDIC's Report of Examination of the Bank as of November 13, 1990. Thereafter, the Bank shall service these loans in accordance with its written loan policy and in accordance with safe and sound banking practices.

[.12**]** 13. Within 90 days from the effective date of this ORDER, the Bank shall take all necessary steps, consistent with safe and sound banking practices, to eliminate and/or correct the deficiencies cited in the assets listed for "Technical Exception" on pages 2-d and 2-d-1 of the FDIC's Report of Examination of the Bank as of November 13, 1990. Thereafter, the Bank shall service these loans in accordance with its written loan policy and in accordance with safe and sound banking practices.

[.13**]** 14. Effective the date of this ORDER, the Bank shall not pay any cash or property dividends without the prior written consent of the Regional Director and the Commissioner.

[.14**]** 15. Within 30 days from the effective date of this ORDER, the Bank shall take all necessary steps, consistent with safe and sound banking practices, to eliminate and/or correct all violations of law and regulations committed by the Bank, as described on pages 6-a and 6-a-1 of the FDIC's Report of Examination of the Bank as of November 13, 1990. In addition, the Bank shall adopt appropriate procedures to ensure its future compliance with all applicable laws and regulations.

[.15**]** 16. Within 90 days from the effective date of this ORDER, the Bank shall submit to the Regional Director and the Commissioner a written plan to improve the Bank's liquidity position and the imbalance in the Bank's interest rate sensitivity position described on pages 4-b and 5 of the FDIC's Report of Examination of the Bank as of November 13, 1990.

[.16**]** 17. Effective the date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER (i) in conjunction with the Bank's next shareholder communication and (ii) 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 com- {{4-30-93 p.C-2207}}munication, statement or notice shall be sent to the FDIC, Registration and Disclosure Unit, Washington, D.C. 20429 and to the Commissioner for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC or the Commissioner shall be made prior to dissemination of the description, communication, notice or statement.

[.17**]** 18. Within 90 days from the effective date of this ORDER, and every 90 days thereafter, unless and until each and every corrective action required by this ORDER has been accomplished, the Bank shall furnish written progress reports to the Regional Director and the Commissioner 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 Director and the Commissioner have 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.

19. 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. Furthermore, 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 24th day of April, 1992.

Pursuant to delegated authority.