

[{{4-30-93 p.C-2218}}](#) [¶10,524] **In the Matter of Bank of Altenburg, Altenburg, Missouri, Docket No. FDIC-92-117b (4-27-92).**

Bank to cease and desist from such unsafe or unsound practices as violating applicable consumer laws and regulations; and failing to provide adequate supervision over the Bank's compliance programs. (*This order was terminated by order of the FDIC dated 2-26-93; see ¶ 15,618.*)

- [\[.1\]](#) **Consumer Laws—Compliance Officer Required**
- [\[.2\]](#) **Violations of Law—Eliminate/Correct**
- [\[.3\]](#) **Consumer Laws—Compliance Program—Minimum Requirements**
- [{{6-30-92 p.C-2219}}](#)
- [\[.4\]](#) **Advertising—Compliance**
- [\[.5\]](#) **Community Reinvestment Act—Disclosure**
- [\[.6\]](#) **Loans—Consumer Loans—Review Required**
- [\[.7\]](#) **Consumer Laws—Credit Insurance Reimbursements**
- [\[.8\]](#) **Shareholders—Disclosure—Cease and Desist Order**
- [\[.9\]](#) **Compliance Reports—Frequency**

In the Matter of

**BANK OF ALTENBURG
ALTENBURG, MISSOURI
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST
FDIC-92-117b**

Bank of Altenburg, Altenburg, Missouri ("Bank"), having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Bank and of its right to a hearing on such alleged charges under section 8(b) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(b), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated April 9, 1992, whereby solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices or violations of law and/or 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 violated laws and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

DEFINITIONS

1. "Compliance program" means the same as the definition contained in the FDIC Manual for Compliance Examinations, including a consciously planned and organized effort to meet the Bank's compliance with consumer laws in a comprehensive manner on an ongoing basis.
2. "Consumer laws" means those laws and regulations referenced in the FDIC Manual for Compliance Examinations, including the laws and regulations referred to in the FDIC's Compliance Report of the Bank as of March 18, 1991.

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that the Bank, its institution-affiliated parties, as that 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 and unsound banking practices and violations of law and/or regulations:

- A. engaging in violations of applicable consumer laws and regulations; and
- B. failing to provide adequate supervision and direction over the Bank's compliance program to prevent violations of consumer laws and/or regulations.

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

[.1] 1. (a)(i) No more than 60 days from the effective date of this ORDER, the Bank shall have and thereafter retain a qualified compliance officer who shall be given stated written authority by the Bank's board of directors to implement and supervise the Bank's compliance program, including but not limited to, providing training of the Bank's employees in all consumer laws and regulations, establishing internal controls and procedures reasonably designed to prevent violations of consumer laws, and performing or supervising periodic internal audits to ascertain compliance with consumer laws and/or the Bank's compliance program. The compliance officer shall report directly to the board of directors.

(ii) The Bank shall promptly notify the Regional Director of the FDIC's Kansas City Regional Office ("Regional Director") of the identity of said compliance officer. If the compliance officer is to be added as a director of the Bank or employed as a senior executive officer, the Bank shall comply with the requirements of section 32 of the Act, 12 U.S.C. § 1831i, and section 303.14 of the FDIC Rules and Regulations, 12 C.F.R. § 303.14, prior to the addition of the compliance officer to such position.

(c) The assessment of whether the Bank has a qualified compliance officer shall be based upon the officer's conduct with respect to the Bank in: (A) complying with the requirements of this ORDER; and (B) complying with applicable consumer laws.

[.2] 2. No more than 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of laws and regulations committed by the Bank as described on pages 2 through 2-a-2 of the FDIC's Compliance Report of the Bank as of March 18, 1991.

[.3] 3. (a) No more than 60 days from the effective date of this ORDER, the Bank shall develop and implement a written compliance program which, at a minimum, shall expressly provide for:

(i) adequate training in consumer laws conducted at least once every 12 calendar months for all Bank employees involved in lending, and for any others whose duties and responsibilities include the need to comply with consumer laws;

(ii) adequate procedures for monitoring the Bank's compliance with consumer laws, including an internal audit of the Bank's compliance program to be performed or supervised by the compliance officer each calendar quarter. The compliance officer shall report the results of said audit to the Bank's board of directors, and the Bank's board of directors shall record the results of said audit and any recommendation by the compliance officer and/or the board in the board's minutes;

(iii) procedures for requesting and retaining the data on home loan applicants required by 12 C.F.R. § 338.7;

(iv) procedures to ensure that the Bank provides to credit applicants the notification required by 12 C.F.R. § 202.9(a) (2) when adverse action is taken;

(v) procedures to ensure that the Bank complies with the requirements set forth in 12 C.F.R. § 202.7 concerning extensions of credit;

(vi) procedures to ensure that, for all extensions of credit secured by improved real estate or a mobile home, the Bank maintains sufficient records to indicate the method used by the Bank to determine whether the extensions of credit fall within the provisions of 12 C.F.R. § 339.3 or § 339.4, including, at a minimum, the date and complete panel number of the Federal Emergency Management Agency map used and the date flood maps were reviewed;

(vii) procedures for notifying eligible home owners with delinquent mortgage loans of the availability of home ownership counseling as required by section 106(c)(5) of the Housing and Urban Development Act, 12 U.S.C. § 1701x(c)(5);

(viii) procedures to monitor compliance with the Right to Financial Privacy Act, 12 U.S.C. §§ 3401-3422;

(ix) independent testing for compliance with the Bank Secrecy Act to be conducted by bank personnel or by an outside party as required by 12 C.F.R. § 326.8(c)(2);

(x) training for appropriate personnel as required by 12 C.F.R. § 326.8(c)(4); and

(xi) procedures for recording each exemption granted under Treasury Department regulation 31 C.F.R. § 103.22, including but not limited to 31 C.F.R. § 103.22(b), and the reason therefor in a centralized list as required by 31 C.F.R. § 103.22(f).

(b) 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 institution-affiliated parties shall follow the written compliance program and/or any subsequent modification thereto.

[.4] 4. All Bank advertising shall comply with all consumer laws, including but not limited to, the FDIC's

"Interest on Deposits" regulation, 12 C.F.R. Part 329, and "Fair Housing" regulation 12 C.F.R. Part 328. To ensure compliance, all Bank advertising [{{6-30-92 p.C-2221}}](#) shall be reviewed by the Bank's compliance officer prior to publication.

[.5] 5. No more than 60 days from the effective date of this ORDER, the Bank shall:

- (a) revise the Community Reinvestment Act ("CRA") lobby poster to conform the language with 12 C.F.R. § 345.6;
- (b) maintain a copy of the CRA notice provided for in 12 C.F.R. § 345.6 in the Bank's CRA Statement; and
- (c) maintain within the Bank's public file any CRA statements in effect during the past two years as required by 12 C.F.R. § 345.5.

[.6] 6. (a) Effective the date of this ORDER, except as provided in 12 C.F.R. § 202.7(d) and/or in the case of a joint applicant, the Bank shall not require the signature of a credit applicant's spouse or other person on any credit instrument if the applicant qualifies under the Bank's standards of creditworthiness for the amount and terms of the credit requested.

(b) Within 60 days of the effective date of this ORDER, the Bank shall:

- (i) identify all loans made, increased, extended or renewed since February 26, 1990, which are secured by real estate and which a husband and wife are obligated to repay, and record a list of such loans and the subject borrowers in the minutes of the meeting of the Bank's board of directors;
- (ii) not less than fifteen (15) days prior to making the requests for information required by paragraph 6(b)(iii), submit to the Regional Director a copy of the form of the letter to be sent to affected borrowers for review, and incorporate changes to the transmittal letter indicated by the FDIC prior to transmission by the Bank to the affected borrower;
- (iii) immediately upon completion of steps (i) and (ii) of this paragraph, transmit a written request to each identified borrower to provide the Bank with a written statement specifying whether one spouse applied for the loan, and if so, whether that spouse applied for a loan individually or on behalf of both spouses;
- (iv) except as provided in 12 C.F.R. § 202.7(d), with respect to any subject borrower who qualified under the Bank's standards of creditworthiness for the amount and terms of the credit requested and who applied for the loan individually, offer to release the spouse of such borrowers from any repayment obligation on such loan; and
- (v) retain in the credit file for each affected borrower all requests, statements, and correspondence sent and received as required by this paragraph 6.

[.7] 7. No more than 60 days from the effective date of this ORDER, the Bank shall make appropriate reimbursement to, and maintain credit insurance on, all customers identified as a result of the file search undertaken following the FDIC's February 26, 1990, compliance examination of the Bank who did not separately sign an affirmative written indication that they desired credit insurance. The Bank shall send a list of all affected customers, together with a certification by the president of the Bank that the required reimbursements were made, to the Regional Director.

[.8] 8. Following the effective date of this ORDER, the Bank shall send to its shareholders 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 the 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.

[.9] 9. The Bank shall furnish written progress reports to the Regional Director and the Missouri Commissioner of Finance ("Commissioner") detailing the form and manner of any action taken to secure compliance with this ORDER and the results thereof every 90 days, beginning 90 days from the effective date of this ORDER. In addition, the Bank shall furnish such reports on request of either the Regional Director or the Commissioner. All progress reports and other written responses to this ORDER shall be reviewed by the board of directors of the [{{6-30-92 p.C-2222}}](#) Bank and made a part of the minutes of the board meeting.

This ORDER shall become effective 10 days from the date of its issuance.

The provisions of this ORDER shall be binding upon the Bank and its institution-affiliated parties,

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.

Dates this 27th day of April, 1992.

Pursuant to delegated authority.

Last Updated 6/6/2003

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