

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of)	
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CENTRAL BANK OF GEORGIA)	
ELLAVILLE, GEORGIA)	NOTICE OF CHARGES
)	AND OF HEARING
)	FDIC-09-128c & b
)	
(INSURED STATE NONMEMBER BANK))	
_____)	

The Federal Deposit Insurance Corporation (“FDIC”), having reasonable cause to believe that Central Bank of Georgia, Ellaville, Georgia (“Bank”), has engaged in unsafe or unsound banking practices and violations of law and/or regulation, unless restrained, will continue to engage in such practices and/or violations in conducting the business of the Bank, hereby institutes this proceeding for the purpose of determining whether an appropriate order should be issued against the Bank under the provisions of section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1). The FDIC hereby issues this NOTICE OF CHARGES AND OF HEARING ("NOTICE") pursuant to the provisions of the Act and the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308, and alleges as follows:

Jurisdiction and Definitions

1. The Bank is a corporation existing and doing business under the laws of the State of Georgia and has its principal place of business at Ellaville, Georgia. At all times pertinent to this proceeding, the Bank is and has been a State nonmember bank within the meaning of section 3(e)(2) of the Act, 12 U.S.C. § 1813(e)(2), an insured depository institution within the meaning

of section 3(c)(2) of the Act, 12 U.S.C. § 1813(c)(2), and subject to the Act, 12 U.S.C. §§ 1811-1831aa, the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III ("Rules"), and the laws of the State of Georgia. The FDIC has jurisdiction over the Bank and the subject matter of this proceeding.

2. The Bank was examined by the FDIC and the Georgia Department of Banking and Finance ("DBF") commencing February 9, 2009 ("Examination") utilizing financial information as of December 31, 2008, resulting in the joint Report of Examination as of December 31, 2008 ("ROE"). As stated in the ROE, as of December 31, 2008:

- (a) the Bank's total deposits equaled \$300,031,000;
- (b) the Bank's total loans and leases equaled \$279,917,000;
- (c) the Bank's "total assets", as defined in section 325.2(x) of the Rules ("total assets"), equaled \$349,009,000;
- (d) the Bank's "Tier 1 or Core Capital", as defined in section 325.2(v) of the Rules ("Tier 1 capital"), equaled \$20,731,000; and
- (e) the Bank's "allowance for loans and lease losses" ("ALLL"), as defined in section 325.2(a) of the Rules, equaled \$3,270,000.

3. As of March 31, 2009 :

- (a) the Bank's reported total deposits equaled \$357,783,000;
- (b) the Bank's reported total loans and leases equaled \$276,959,000;
- (c) the Bank's reported total assets equaled \$405,374,000;
- (d) the Bank's reported Tier 1 capital equaled \$23,479,000; and
- (e) the Bank's reported ALLL equaled \$4,204,000.

Unsafe or Unsound Practices

4. The Bank's board of directors ("Board") has engaged in unsafe or unsound banking practices in that it has failed to maintain five directors on its Board as required by the Bank's bylaws and by Ga. Code Ann. § 7-1-482 (2008).

5. The Bank's Board has engaged in unsafe or unsound banking practices in that it has failed to provide adequate supervision over and direction to the active officers of the Bank to prevent the practices and/or violations of law and/or regulation described below.

6. The Bank has engaged in unsafe or unsound banking practices in that it has manipulated and misstated its quarter-end capital accounts as evidenced by the following:

(a) On June 30, 2008, the Bank's holding company, Middle Georgia Corporation ("MGC"), borrowed \$500,000 from director William S. Perry, Jr. ("Perry") and injected this money into the Bank's surplus capital account. The following day, on July 1, 2008, the Bank paid a dividend to MGC, which in turn repaid the loan from Perry. This practice inflated the Bank's capital at quarter-end and misstated the true condition of the Bank. As a result, the Bank filed a false and/or and misleading Call Report for June 30, 2008.

(b) On September 30, 2008, the Bank's holding company, MGC, borrowed \$500,000 from Perry and injected this money into the Bank's surplus capital account. Three days later, on October 3, 2008, the Bank paid a dividend to MGC, which in turn repaid the loan from Perry. This practice inflated the Bank's capital at quarter-end and misstated the true condition of the Bank. As a result, the Bank filed a false and/or and misleading Call Report for September 30, 2008.

(b) On December 31, 2008, the Bank loaned \$500,150.00 to Abaco Investments, Ltd. ("Abaco"), a Nevada corporation which was formed on December 31, 2008 and registered with the Nevada Secretary of State on January 2, 2009, which is owned by

executive officer Richard Frith (“Frith”). The proceeds of the loan were in turn loaned by Abaco to MGC, which injected the money into the Bank as surplus capital on December 31, 2008. The funds were not properly includable in capital since the Bank, in effect, loaned itself money through the use of a nominee. This transaction inflated the Bank’s capital at quarter-end and misstated the true condition of the Bank. As a result, the Bank filed a false and/or misleading Call Report for December 31, 2008. The Abaco transaction was not reversed until March 26, 2009.

7. The Bank has engaged in unsafe or unsound banking practices in that it accepted significant brokered deposits after notification that it was “adequately capitalized” without first obtaining a waiver from the FDIC and it has operated with inadequate liquidity and funds management as evidenced by the following:

(a) As set forth in the ROE, as of February 23, 2009, the Bank held \$63,728,000 in brokered deposits that were to mature within 90 days. An adjusted cash flow projection performed during the Examination resulted in the projection of a substantial cash shortfall.

(b) On March 5, 2009, the FDIC notified the Bank that it was considered adequately capitalized, as a result of the ROE, and therefore required a waiver from the FDIC under section 29 of the Act, 12 U.S.C. § 1831f, to accept, rollover or renew brokered deposits. On March 11, 2009, the Bank accepted \$20,297,000 in brokered deposits without seeking a waiver.

(c) During the Examination, from February 13, 2009, through March 11, 2009, the Bank accepted \$106,569,000 in additional brokered deposits, including the deposits purchased after being notified of its adequately capitalized status.

(d) The Bank has relied on volatile funding sources to fund growth. As of December 31, 2008, the ratio of net loans to core deposits was 113 percent or 180 percent if brokered deposits are excluded.

(e) Brokered deposits increased 30 percent from March 30, 2008, through December 31, 2008.

(f) As of January 31, 2009, the static liquidity ratio was calculated at 6.95 percent.

(g) The Bank violated its agreement with Silverton Bank, National Association, a correspondent bank now in receivership, which facilitated the Bank's acquisition of brokered deposits, by failing to notify Silverton that the Bank had received an adequately capitalized determination.

(h) As of the ROE, the Bank was operating without a comprehensive liquidity contingency plan.

8. The Bank has engaged in unsafe or unsound banking practices in that the Bank has failed to maintain books and records, which would enable the FDIC and the Commissioner for the State of Georgia, DBF (collectively, "Supervisory Authorities"), through the normal supervisory process, to determine the financial condition of the Bank and to determine the details or purposes of numerous transactions that have, or are likely to have, a material effect on the condition of the Bank as evidenced by the following:

(a) The loan to Abaco, set forth above, was secured by a note, the stated purpose of which was the assignment of a real estate loan. The assigned note is secured by 80.804 acres in an industrial park located in Belton, Texas. The Bank failed to provide an independent appraisal of the real estate, documents relating to the lien on the real estate, and

documents relating to Frith's companies, despite numerous requests by the Supervisory Authorities. Moreover, the proceeds of the loan were used for a purpose contrary to the stated purpose of the loan.

(b) The Bank notified the Supervisory Authorities of a proposed stock purchase agreement at the Examination exit meeting on March 5, 2009. The agreement, dated March 30, 2009, required MGC to sell to Perry its ownership interest in CBA Bankshares, Inc., a bank holding company located in Americus, Georgia, for \$7,250,000. As part of the agreement, Perry was to sell his shares in MGC to the P.L. Gill Estate. The stock purchase agreement also provided for MGC's repurchase of a loan participation from Perry. The Bank failed to provide documents regarding the loan participation despite numerous requests. Moreover, despite numerous requests, the Bank provided no additional information regarding the proposed stock purchase, which would enable the FDIC to determine the details or purposes of the transaction that appeared likely to have a material effect on the condition of the Bank, until the FDIC conducted a visitation of the Bank on July 10, 2009.

(d) The Bank has failed to provide sufficient information regarding the status of MGC's \$4,760,000 loan with Compass Bank, which is secured by 100 percent of the Bank's stock. In October 2008, MGC modified its March 2008 note with Compass Bank to obtain additional funds, increasing the amount due from \$2,100,000 to \$4,760,000. Part of the increased amount was to repay Perry for certain loans he made to MGC. As collateral for this note, MGC pledged a 100 percent security interest in the stock of the Bank. Covenants in the loan agreement require Bank assets, the ALLL, and total loan losses to be maintained at certain levels. Based on the restatement of the December 31, 2008 Call Report, Compass had the right to call the loan. Despite numerous requests, the Bank failed to provide information regarding the

negotiations with Compass to the Supervisory Authorities to enable them to determine the details or purposes of the transactions that appear to have a material effect on the condition of the Bank until the FDIC conducted a visitation of the Bank on July 10, 2009.

9. The Board has failed to oversee the implementation of sound credit policies and procedures for the Bank. The Bank has engaged in lax loan underwriting and administration as follows:

- (a) The Bank has extended loans with inadequate credit information.
- (b) The Bank has utilized an inadequate loan grading and review system.
- (c) The Bank has capitalized interest upon loan renewal and extended loan payment and/or maturity in violation of the Bank's loan policy.

10. As a direct consequence of the lax loan administration and underwriting practices, the Bank has operated with an excessive volume of poor quality loans and other assets in relation to its total assets and in relation to its Tier 1 capital and ALLL, as evidenced by the following:

(a) The Bank has an excessive volume of adversely classified loans. As of the ROE, adversely classified loans totaling \$33,722,000 were 11.01 percent of total loans and 139.66 percent of Tier 1 capital plus the Bank's ALLL. In particular, the classified loans and leases were as follows:

"Substandard"	\$30,555,000
"Loss"	\$ 2,756,000
"Doubtful"	\$ 411,000
TOTAL	\$33,722,000

(b) In addition to the classified loans, as of the ROE, other adversely classified assets include other real estate totaling \$4,279,000 "Substandard" and \$227,000 "Loss," a total of \$4,506,000. Additionally, other assets of \$196,000 were classified loss.

(c) The Bank has operated with excessive concentrations of commercial real estate ("CRE") loans in relation to the Bank's Tier 1 capital and earnings. As of the ROE, total CRE loans equaled 547 percent of Tier 1 capital.

(d) The Bank has engaged in unsafe and unsound banking practices by renewing loans without the full payment of accrued interest, payment extensions, capitalization of interest, and note modifications. As of December 31, 2008, loans exhibiting this practice total \$6,314,000.

(e) As of the ROE, the Bank's past due ratio of 6.03 percent was understated due to note modifications and capitalization of interest.

11. The Bank has engaged in unsafe and unsound banking practices in that the Bank has been operated with insufficient capital in relation to the kind and quality of assets it held as follows:

(a) As of the ROE, the Bank's adjusted Tier 1 Leverage Capital Ratio equaled 6.05; Tier 1 Risk-Based Capital Ratio equaled 7.93; and Total Risk-Based Capital Ratio equaled 9.18.

(b) Adversely classified loans totaled \$30,555,000 Substandard and \$2,756,000 Loss. Additionally, adversely classified other real estate owned totaled \$4,506,000.

12. The Bank has engaged in unsafe or unsound banking practices in that the Bank has been operating with an inadequate ALLL. Prior to the Examination, the Bank's ALLL was \$3,270,000. The ALLL required an additional \$3,088,000 provision to adequately reserve for

the overall risk in the Bank's loan portfolio. In addition, the Bank's methodology for determining the ALLL is inadequate as more fully described in paragraph 16(b).

13. The Bank has engaged in unsafe or unsound banking practices in that the Bank has operated with inadequate earnings to fund its overhead expenses and adequately fund its ALLL. As of ROE, the Bank's ALLL was under funded by \$3,088,000, resulting in an estimated return on assets for 2008 of 0.09 percent.

14. The Bank has engaged in unsafe or unsound banking practices in that the Board has not effectively monitored or managed the Bank's interest rate risk in that the Bank has failed to implement a comprehensive system of policies and procedures which enhance the Bank's ability to respond effectively to unanticipated fluctuations in interest rates.

15. The Bank has engaged in unsafe or unsound banking practices in that it has operated in violation of the law and regulations as evidenced by the following:

(a) As set forth above, by a note dated December 31, 2008, the Bank made a \$500,150 loan to Abaco. The Bank violated section 337.3(c)(2) of the FDIC Rules and Regulations, 12 C.F.R. § 337.3(c)(2) in that the loan was for the tangible economic benefit of an executive officer, exceeded \$100,000 and was for a purpose not specified in sections 215.5(c)(1) and (2) of Regulation O of the Board of Governors of the Federal Reserve System ("Regulation O"), 12 C.F.R. § 215.5(c)(1) and (2). Furthermore, the loan violated section 215.4(a) of Regulation O, 12 C.F.R. § 215.4(a), in that it was not made on the same terms (including interest rate and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transaction with other persons that are not covered by this part and who are not employed by the Bank.

(b) The loan to Abaco described in Paragraph 15(a) is also considered an extension of credit, to and for the benefit of MGC, the parent holding company of the Bank. Because the extension of credit to MGC, an affiliate of the Bank, is not on terms or circumstances, including credit standards, that are substantially the same or at least as favorable as those prevailing at the time for nonaffiliated companies, the Bank violated section 23B of the Federal Reserve Act, 12 U.S.C. § 371c-1, made applicable to state nonmember banks by section 18(j)(1), 12 U.S.C. § 1828(j)(1), of the Act.

(c) As described above, the Bank purchased \$20,297,000 in brokered deposits on March 11, 2009, without obtaining a waiver from the FDIC, despite receiving written notification on March 5, 2009 that the FDIC had determined the Bank was adequately capitalized, as a result, the Bank violated section 29 of the Act, 12 U.S.C. § 1831f and 12 C.F.R. Part 337.6.

(d) The Bank filed false or misleading Call Reports for the quarters ending June 30, 2008, and September 30, 2008, as a result of transactions with then-director Perry and filed a false or misleading Call Report for the quarter ending December 31, 2008, as a result of the transaction with Abaco. Consequently, the Bank violated section 7(a)(1) of the Act, 12 U.S.C. § 1817(a)(1).

(e) As of the ROE, the Bank held two notes with a total outstanding balance of \$1,400,878, to Triad Partners, Inc., originated in October 2006. The Bank renewed these loans in late 2008. Collateral for this debt is a subdivision in Cullowhee, North Carolina. The Bank failed to obtain an updated appraisal of this property, despite the fact that market conditions since 2006 have declined significantly, and, as a result, the Bank violated 12 C.F.R. Part 323.3(a)(7).

(f) During 2008, the Bank paid dividends in excess of 50 percent of its net income for the previous calendar year, less taxes, but before dividends, without obtaining the prior written approval of the DBF. As a result, the Bank violated section 7-1-460(a)(3) of the Official Code of Georgia Annotated, Ga. Code Ann. § 7-1-460(a)(3) and Ga. Comp. R. & Regs. r. 80-1-12-.01(1)(b).

16. The Bank has engaged in unsafe or unsound banking practices in that it has operated in contravention of regulatory guidance as evidenced by the following:

(a) As of the ROE, two real estate loans in the amount of \$236,202 and \$246,925, exceeded supervisory loan-to-value limits prescribed by the Interagency Guidelines for Real Estate Policies, Appendix A to Part 365 of the Rules.

(b) As of the Examination, the Bank failed to maintain the ALLL at an appropriate level and document its analysis quarterly, which is in contravention of the Interagency Policy Statement on the ALLL, FDIC FIL-105-2006 (December 13, 2006).

Proceeding

17. Notice is hereby given that a hearing will be held in Atlanta, Georgia, commencing 60 days from the date of service of this NOTICE on the Bank, for the purpose of taking evidence on the charges herein before specified in order to determine: Whether an appropriate Order should be issued under the Act requiring the Bank: (1) to cease and desist from unsafe or unsound banking practices and violations of law and/or regulation herein specified; and/or (2) to take affirmative action, including restitution, to correct the conditions resulting from such violations and practices.

18. The hearing will be held before an Administrative Law Judge to be assigned by

