

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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In the Matter of	)	
	)	
MARINE BANK & TRUST COMPANY	)	
VERO BEACH, FLORIDA	)	NOTICE OF CHARGES
	)	AND OF HEARING
	)	FDIC-10-825b
	)	
(INSURED STATE NONMEMBER BANK)	)	
_____	)	

The Federal Deposit Insurance Corporation (“FDIC”), being of the opinion that Marine Bank & Trust Company, Vero Beach, Florida (“Bank”), has engaged in unsafe or unsound banking practices and institutes this proceeding to determine 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”) under the provisions of the Act, 12 U.S.C. §§ 1811-1831aa, and the FDIC Rules of Practice and Procedures, 12 C.F.R. Part 308, and alleges as follows:

1. The Bank is a corporation existing and doing business under the laws of the State of Florida and has its principal place of business at Vero Beach, Florida. At all times pertinent to the charges herein, the Bank is and has been an insured 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). The Bank is subject to the Act, 12 U.S.C. §§ 1811-1831aa, the FDIC Rules and Regulations, 12 C.F.R. Chapter III

("Regulations"), and the laws of the State of Florida. The FDIC has jurisdiction over the Bank and the subject matter of this proceeding.

2. The Bank was examined by the FDIC commencing August 23, 2010 ("Examination") utilizing financial information as of June 30, 2010, and it was determined:

(a) The Bank's total deposits equaled \$136,060,000;

(b) The Bank's total loans and leases equaled \$122,670,000;

(c) The Bank's total assets, as defined in section 325.2(x) of the Regulations, equaled \$153,688,000;

(d) The Bank's Tier 1 capital, as defined in section 325.2(v) of the Regulations, equaled \$9,707,000; and

(e) The Bank's allowance for loan and lease losses ("ALLL"), as defined in section 325.2(a) of the Regulations, equaled \$2,739,000.

3. The Bank has engaged in unsafe or unsound banking practices in that it has engaged in lax loan administration and underwriting. Without limiting the generality of the foregoing allegations, it is further alleged:

(a) The Bank made an excessive amount of loans to borrowers with common risk characteristics or sensitivities to economic, financial, or business developments ("concentrations"). Specifically, the Bank has an excessive concentration of commercial real estate ("CRE"), particularly speculative construction and development loans, which has elevated risk to an unacceptable level. As of the Examination, total CRE loans (excluding owner-occupied and unfunded commitments) were in the amount of \$37,501,000, which represented 331 percent of the Bank's Total Risk-Based Capital;

(b) The Bank operated with an excessive concentration of CRE loans without adequate supervision and controls and extended credit without adequate diversification of risk.

(c) The Bank has failed to estimate the inherent losses in problem assets and establish reserves that are sufficient to absorb estimated losses.

(d) The Bank has engaged in insufficient loan collection practices. As of the Examination, the volume of past due and nonaccrual loans was high at 7.22 percent of total loans.

4. As a result of lax loan administration, underwriting practices, and inadequate controls, the Bank has 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, resulting in an excessive volume of adversely classified assets. The Bank's adversely classified assets are concentrated in both its loan portfolio and owned real estate ("ORE"). As of the Examination, adversely classified assets totaled \$20,301,000 and comprised 149.92 percent of Tier 1 capital plus the Bank's ALLL. Of this amount, adversely classified ORE totaled \$2,736,000;

In particular, the classified assets were as follows:

Substandard	\$ 19,006,000
Loss	\$ 1,295,000
TOTAL	\$ 20,301,000

5. The Bank has engaged in unsafe or unsound banking practices in that the Bank has been operated with insufficient capital in relation to the kind and quality of assets held by the Bank. As of June 30, 2010, the Bank's Leverage and Total Risk-Based Capital Ratios, as defined in 12 C.F.R. Part 325, were 7.41 percent and 11.18 percent, respectively. However, as of the Examination, these ratios were overstated due to the following:

- (a) The Bank's ALLL was deficient in the amount of \$1,095,000;
- (b) The Bank's maintained a deferred tax asset of \$1,281,000, which should be excluded from regulatory capital; and
- (c) The Bank understated its risk-weighted assets by \$4,571,000.

As a result, as of the Examination, the Bank's adjusted Leverage Ratio and adjusted Total Risk-Based Capital Ratio were 6.29 percent and 9.25 percent, respectively.

6. The Bank has engaged in unsafe or unsound banking practices in that it has operated with an inadequate ALLL. As of the Examination, the Bank's methodology for determining the ALLL and complying with FAS 114, currently codified as ASC 310-10-35, Receivable – Overall – Subsequent Measurement General, and FAS 5, currently codified as ASC 450, Contingencies was inadequate. As a result, as of the Examination, the ALLL was deficient by approximately \$1,095,000.

7. The Bank has engaged in unsafe or unsound banking practices in that the Bank has operated with inadequate earnings to fund its operations and augment capital. For the six months ending June 30, 2010, the Bank reported a net loss of \$1,286,000 which represented a negative 1.62% return on average assets. In addition, the Bank's poor earnings are expected to continue due to losses caused by deteriorating asset quality.

8. The Bank has engaged in unsafe or unsound practices in that the Bank has operated with inadequate liquidity and funds management as evidenced by the following:

- (a) The Bank has relied on volatile funding sources to fund growth. As of June 30, 2010, the Bank had brokered deposits of \$17,141,000, which represented 12.60 percent of its total deposits, and Federal Home Loan Bank borrowings of \$5,000,000, representing 3.54 percent of its total liabilities;

(b) As of the Examination, the Bank's liquidity policy was deficient in that the Bank's net-non-core dependency ratio tolerance was 75 percent; and

(c) As of the Examination, the Bank's contingency funding plan was deficient in that it did not identify the types of stress events that the Bank may face, including deterioration in asset quality and operating losses.

9. The Bank has engaged in unsafe or unsound banking practices in that the Bank has not effectively managed the Bank's interest rate risk ("IRR") as follows:

(a) The Bank failed to implement an adequate management reporting system for the Board and senior management; and

(b) The Bank's asset liability policy did not correspond with the limits identified in the Bank's IRR model.

10. By reason of the practices set forth above, the Bank management, including the senior officers and the Board:

(a) operated with policies and practices detrimental to the Bank, which jeopardized the safety of the Bank's deposits; and

(b) engaged in unsafe and unsound banking practices.

11. By reason of the foregoing, the Board has engaged in unsafe or unsound banking practices in that it has failed to provide adequate supervision over and direction of the active officers of the Bank to prevent the practices described above.

12. Notice is hereby given that a hearing will be held in Miami, Florida, within 60 days from the date of service on the Bank of this NOTICE, or on such date as may be set by the Administrative Law Judge appointed to hear this matter, for the purpose of taking evidence on the above-mentioned charges in order to determine whether an Order should be issued under the

Act requiring the Bank: (1) to cease and desist from the unsafe or unsound banking practices herein specified; and/or (2) to take affirmative action to correct the conditions resulting from such practices.

13. The hearing will be held before an Administrative Law Judge to be assigned by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The hearing will be open to the public and in all respects will be conducted in compliance with the provisions of the Act and the FDIC Rules of Practice and Procedures.

14. The Bank is hereby directed to file an answer to this NOTICE within 20 days as provided by section 308.19 of the FDIC Rules of Practice and Procedures, 12 C.F.R. § 308.19. All papers filed or served in this proceeding shall be filed upon the Office of Financial Institution Adjudication, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, Virginia 22226-3500, pursuant to section 308.10 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.10. The Bank is encouraged to file any answer electronically with the Office of Financial Institution Adjudication at [ofia@fdic.gov](mailto:ofia@fdic.gov).

15. In addition, copies of all papers filed in this proceeding shall be served upon the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429-9990, A. T. Dill, III, Assistant General Counsel, Legal Division, Enforcement Unit, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429-9990 and upon Andrea Fulton Toliver, Regional Counsel (Supervision), Federal Deposit Insurance Corporation, Atlanta Regional Office, 10 Tenth Street, N.E. Suite 800, Atlanta, Georgia 30309-3906.

Pursuant to delegated authority.

Dated at Atlanta, Georgia this 20th day of May, 2011.

/s/

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Thomas J. Dujenski  
Regional Director