

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of)	
)	
FREEDOM BANK OF AMERICA)	
SAINT PETERSBURG, FLORIDA)	NOTICE OF CHARGES
)	AND OF HEARING
)	FDIC-11-072b
)	
(Insured State Nonmember Bank))	
_____)	

The Federal Deposit Insurance Corporation (“FDIC”), being of the opinion that Freedom Bank of America, Saint Petersburg, Florida (“Bank”), has engaged in unsafe or unsound banking practices and violation of laws or regulations, 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 Saint Petersburg, 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), and an insured depository institution within the meaning of section 3(c)(2) of the Act, 12 U.S.C. § 1823(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 (the “Rules”),

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 November 29, 2010 (“Examination”) utilizing financial information as of September 30, 2010, and it was determined:

- (a) The Bank’s total deposits equaled \$88,411,000;
- (b) The Bank’s total loans and leases equaled \$73,380,000;
- (c) The Bank’s total assets, as defined in section 325.2(x) of the Rules, equaled \$104,070,000;
- (d) The Bank’s adjusted Tier 1 capital equaled \$6,634,000; and
- (e) The Bank’s allowance for loan and lease losses (“ALLL”), as defined in section 325.2(a) of the Rules, equaled \$1,530,000.

3. The Bank has engaged in unsafe or unsound banking practices in that the Bank 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”) without adequate capital.

(i) The Bank failed to adequately monitor the growth of CRE lending and its impact on, among other matters, the Bank’s earnings and capital. As a result, the Bank has an excessive concentration of commercial real estate (“CRE”) loans in relation to the Bank’s total capital. As of the Examination, CRE loans were in the amount of \$54,208,000, which represented 708 percent of adjusted total capital. In

addition, when owner-occupied properties are excluded CRE loans represented 441 percent of adjusted total capital; and

(ii) The Bank has 2 large affiliated borrowers with loans aggregating \$5,435,000, including unfunded commitments, representing 82 percent of Tier 1 capital, which have significant deficiencies in credit underwriting and administration practices. One relationship in the amount of \$2,735,000, including unfunded commitments, is adversely classified and has resulted in a loss of \$1,478,000. As of the Examination, the other relationship in the amount of \$2,700,000 is listed for special mention due to a misrepresentation of the sources and uses of funds, inappropriate diversion of funds, a misdirected and untimely appraisal engagement, and inadequate monitoring of repayment prospects.

(b) The Bank has operated without adequate policies, procedures, programs or systems for underwriting and credit administration as evidenced by the following weaknesses in the Bank's commercial loan portfolio:

- (i) extended interest-only periods without amortization;
- (ii) lack of corporate or individual guarantees for large loans to commercial customers;
- (iii) questionable collateral protection;
- (iv) deficient real estate appraisal practices;
- (v) incomplete loan presentation memoranda;
- (vi) inadequate internal controls over construction projects;
- (vii) inadequate monitoring of the use of business lines of credit;
- (viii) insufficient documentation of material events; and

(ix) failure to document cost/benefit analysis for actions taken when foreclosure is likely.

4. As a result of the 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 \$11,386,000 and comprised 122 percent of Tier 1 capital plus the Bank's ALLL. Adversely classified assets include ORE of \$2,567,000;

(a) In particular, the classified assets were as follows:

Substandard	\$9,399,000
Doubtful	\$328,000
Loss	\$1,659,000
TOTAL	\$11,386,000

(b) In addition, as of the Examination, the Bank identified on its internal "watchlist" several large loan relationships rated "5" or "deteriorating" because the loans had weaknesses that required increased monitoring by the Bank. These "5" rated loan relationships aggregated \$16,600,000 in funded balances, which represented 200 percent of adjusted Tier 1 capital plus the Bank's ALLL. While these loans were not adversely classified, as of the Examination, the potential for further additional deterioration was significant.

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 follows:

(a) As of September 30, 2010, the Bank's Tier 1 leverage ratio and total risk-based capital ratios were 7.55 percent and 10.68 percent, respectively. As alleged below, as of the Examination, these ratios were overstated; and

(b) As a result, as of the Examination, the Bank's adjusted Tier 1 leverage ratio and adjusted total risk-based capital ratio were to 6.48 percent and 9.36 percent, respectively, as a result of adjustments to the Bank's ALLL and ORE write downs.

6. The Bank has engaged in unsafe or unsound banking practices in that the Bank has been operated with an inadequate ALLL. As of the Examination, the Bank's ALLL was \$1,530,000. As a result, as of the Examination, the ALLL required an additional \$1,091,000 provision to adequately reserve for the overall risk in the Bank's loan portfolio.

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. In the September 30, 2010 Call Report, the Bank reported a net loss of \$549,000, which represented a negative 0.71 percent return on average assets ("ROAA"). The Bank's poor earnings continued due to losses caused by deteriorating asset quality and the higher level of non-interest expenses. The Bank's actual ROAA for the year ended December 31, 2010 declined to a negative 3.67 percent.

8. The Bank has engaged in unsafe or unsound banking practices by operating with management and a Board of Directors ("Board") whose policies and practices are detrimental to the Bank and jeopardize the safety of the Bank's deposits as evidenced by its failure to provide for the following:

- (a) effective assessment of the risk profile of the Bank;
- (b) timely and accurate financial, operational, and regulatory reports;
- (c) adequate procedures to safeguard and manage assets;
- (d) compliance with applicable laws and regulations;
- (e) credit underwriting and loan administration procedures that take adequate account of concentrations of credit risk;
- (f) internal routines and controls that establish appropriate and timely corrective actions to resolve problem assets;
- (g) adequate policies and risk management practices that address elevated borrower concentrations of credit risk;
- (h) a system to evaluate and monitor earnings and ensure that earnings are sufficient to maintain adequate capital and reserves; and
- (i) a measurement system of its current and potential interest rate risk exposure.

9. By reason of the foregoing, the Bank's management and the Board have engaged in unsafe or unsound banking practices in that they have failed to provide adequate supervision over and direction of the Bank to prevent the practices described above.

10. 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.

11. 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.

12. 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.

13. 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 6th day of June, 2011.

/s/
Thomas J. Dujenski
Regional Director