

In Re: Brookhaven Bank
Atlanta, DeKalb County, Georgia
Applications for Federal Deposit Insurance (Bank Insurance Fund) and to
Establish a Branch

ORDER

The undersigned, acting on behalf of the Board of Directors of the FDIC, pursuant to delegated authority, has fully considered all available facts and information relevant to the factors of Section 6 of the Federal Deposit Insurance Act and relating to the application for Federal deposit insurance for Brookhaven Bank, a proposed new State nonmember bank to be located at 2987 Clairmont Road, NE, Suite 130, Atlanta, DeKalb County, Georgia, with a branch office to be located at 2163 Johnson Ferry Road, Atlanta, DeKalb County, Georgia, and has concluded that the application should be approved.

Accordingly, it is hereby ORDERED that the application submitted by Brookhaven Bank for Federal deposit insurance be and is approved subject to the following conditions:

- (1) That beginning paid-in capital funds of not less than \$20,500,000 be provided, of which not less than \$10,250,000 shall be allocated to common capital and not less than \$10,250,000 to surplus;
- (2) That the Tier 1 capital to assets leverage ratio (as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator) will be maintained at not less than eight percent throughout the first three years of operation and that an adequate allowance for loan and lease losses will be provided;
- (3) That any changes in proposed management or proposed ownership (10% or more of stock), including new acquisitions of or subscriptions to 10% or more of the stock, shall be approved by the FDIC prior to opening of the bank;
- (4) That prior to opening, the bank shall add at least one qualified outside director who has previous experience as a statutory bank director;
- (5) That within six months of bank operations and subject to FDIC and Georgia Department of Banking and Finance prior approval, the bank shall add at least one qualified outside director who resides and/or works in the bank's primary service area as stated in the Application;

- (6) That during the pre-opening stage and the first three years after the bank has opened, if any of the outside directors with previous experience as a statutory bank director were no longer to serve as a bank director for whatever reason, a replacement director with prior statutory bank director experience and satisfactory to the Georgia Department of Banking and Finance and the FDIC shall be added within 45 days of the former director's last day as a director;
- (7) That during the pre-opening stage and the first three years after the bank has opened, if any of the outside directors who reside and/or work in the bank's Primary Service Area were no longer to serve as a director for whatever reason, a replacement director within the bank's Primary Service Area and satisfactory to the Georgia Department of Banking and Finance and the FDIC shall be added within 45 days of the former director's last day as a director;
- (8) That any persons added as Senior Executive Officers or to the bank's Board of Directors, prior to the bank's opening and during the first three years of operation, receive prior approval by the FDIC Regional Director;
- (9) That the person selected to serve as the chief financial officer shall be acceptable to the Regional Director;
- (10) That an accrual accounting system be adopted for maintaining the bank's books;
- (11) That sufficient fidelity coverage on the bank's active officers and employees to conform with generally accepted banking practices be obtained prior to opening for business;
- (12) That the bank obtain an audit of its financial statements by an independent public accountant annually for at least the first three years after deposit insurance coverage is effective and submit to the Atlanta Regional Office (i) a copy of the audited financial statements and the independent public auditor's report thereon within 90 days after the end of the bank's fiscal year, (ii) a copy of any other reports by the independent auditor (including any management letters) within 15 days of receipt, and (iii) written notification within 15 days when a change in its independent auditor occurs;

- (13) That the bank shall operate within the parameters of the business plan submitted to the FDIC, and, furthermore, during the first three years of operations, the bank shall notify the Regional Director of the FDIC of any proposed major deviation or material change from the submitted plan 60 days before consummation of the change;
- (14) That Federal deposit insurance shall not become effective unless and until the applicant has been granted a charter as a depository institution, that it has authority to conduct a banking business, and that its establishment and operation as a bank have been fully approved by the Georgia Department of Banking and Finance;
- (15) That until the bank is established, the Corporation shall have the right to alter, suspend, or withdraw the said commitment should any interim development be deemed to warrant such action; and,
- (16) That if deposit insurance has not become effective within twelve months from the date of this ORDER, or unless, in the meantime, a request for an extension of time has been approved by the Corporation, the consent granted shall expire at the end of the said twelve-month period.

Dated at Atlanta, Georgia, this 26th day of February, 2007.

FEDERAL DEPOSIT INSURANCE CORPORATION

By: _____ /s/
Mark S. Schmidt
Regional Director
Atlanta Region