

## OFFICE OF THRIFT SUPERVISION

### Receivership Of A State-Chartered Savings Association

**Date:** August 14, 2009  
**Order No.:** 2009-42  
**OTS No.:** 07178

The Acting Director of the Office of Thrift Supervision (OTS), or his designee, in cooperation with the Federal Deposit Insurance Corporation (FDIC), has determined to appoint the FDIC as receiver of Dwelling House Savings and Loan Association, Pittsburgh, Pennsylvania (Savings Association).

#### **GROUND FOR APPOINTMENT OF FDIC AS RECEIVER FOR THE SAVINGS ASSOCIATION**

The Acting Director, or his designee, based upon the administrative record finds and determines the following:

- (i) The Savings Association's assets are less than its obligations to its creditors and others, including members of the institution;
- (ii) The Savings Association is in an unsafe and unsound condition to transact business;
- (iii) The Savings Association has consented to the appointment of a receiver;
- (iv) The Savings Association is critically undercapitalized as defined in section 38(b) of the Federal Deposit Insurance Act (FDIA); and
- (v) The Savings Association has substantially insufficient capital.

The Savings Association is a Pennsylvania-chartered savings and loan association, the accounts of which are insured by the Deposit Insurance Fund. The Savings Association has its only office in Pittsburgh, Pennsylvania. The Savings Association recently suffered approximately \$3.2 million in losses as the result of fraudulent activity. As of June 30, 2009, the Savings Association reported total assets of \$12.947 million and total liabilities of \$13.349 million. The Savings Association is currently insolvent and has negative tangible, core and risk-based capital. The Savings Association's earnings are insufficient to recapitalize the institution within the foreseeable future.

**DISCUSSION OF GROUNDS FOR APPOINTMENT  
OF A RECEIVER FOR THE SAVINGS ASSOCIATION**

Section 5(d)(2)(A) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1464(d)(2)(A), provides that OTS may appoint a receiver for any insured savings association if OTS determines that one or more grounds specified in section 11(c)(5) of the FDIA, 12 U.S.C. § 1821(c)(5), exist. Section 11(c)(9) of the FDIA, 12 U.S.C. § 1821(c)(9), provides for consultation with the appropriate state supervisor before OTS acts to appoint the FDIC as receiver of a state-chartered savings association on the basis of subsections (K) or (L) of section 11(c)(5), and requires that OTS conclude that the appointment is necessary to carry out the purpose of the Prompt Corrective Action (PCA) provisions of the FDIA. OTS has consulted with the appropriate state supervisor.

Under section 11(c)(5)(A) of the FDIA, OTS may appoint a receiver if a savings association's assets are less than the institution's obligations to its creditors and others, including members of the institution. The Acting Director, or his designee, finds that the Savings Association has experienced losses that have reduced the amount of its total assets below the amount of its total liabilities, rendering the Savings Association insolvent. Therefore, the Acting Director, or his designee, finds that the Savings Association's assets are less than its obligations to its creditors and others, including its members.

Under section 11(c)(5)(C) of the FDIA, OTS may appoint a receiver if a savings association is in an unsafe and unsound condition to transact business. The Acting Director, or his designee, finds that the Savings Association is in an unsafe and unsound condition due to its insolvency, weak earnings and operational deficiencies. Therefore, the Acting Director, or his designee, concludes that the Savings Association is in an unsafe and unsound condition to transact business.

Under section 11(c)(5)(I) of the FDIA, OTS may appoint a receiver if the institution, by resolution of its board of directors, consents to the appointment. The Acting Director, or his designee, finds that the board of directors of the Savings Association, by resolution dated May 4, 2009, consented to the appointment of a conservator or receiver by OTS and, on May 5, 2009, the Savings Association entered into a Stipulation and Consent agreement with OTS for such an appointment.

Under section 11(c)(5)(L)(i) of the FDIA, OTS may appoint a receiver if a savings association is critically undercapitalized as defined in 12 U.S.C. § 1831o(b). Under OTS regulations implementing section 1831o an institution is critically undercapitalized if it has a ratio of tangible equity to total assets that is equal to or less than two percent. See 12 C.F.R. § 565.4(b)(5). The Acting Director, or his designee, concludes that as of June 30, 2009, the Savings Association had a ratio of equity capital to total assets that was less than two percent.

Under § 11(c)(5)(L)(ii) of the FDIA, OTS may appoint a receiver if a savings association has substantially insufficient capital. Pursuant to the authority granted in sections 5(t)(1)(A)(i) and 5(t)(2)(A) of the HOLA, OTS has promulgated 12 C.F.R. Part 567. OTS has previously concluded that failure to maintain at least two thirds of any capital required by 12 C.F.R. Part 567 constitutes a substantial capital insufficiency within the meaning of the FDIA.<sup>1</sup>

The Savings Association is not “1” rated and has reported a leverage capital ratio of negative 3.10 percent, less than two thirds of the required 4 percent, as of June 30, 2009. Therefore, the Acting Director, or his designee, concludes that the Savings Association has substantially insufficient capital.

In addition, OTS has prescribed that the minimum risk-based capital amount must be 8 percent of the institution’s risk-based assets, as defined. The Savings Association reported to OTS a risk-based capital ratio of negative 5.52 percent as of June 30, 2009. Thus, the Acting Director, or his designee, concludes that the Savings Association has substantially insufficient capital.

The Acting Director, or his designee, therefore, has determined that the grounds for the appointment for a receiver for the Savings Association exist under section 5(d)(2) of the HOLA, and sections 11(c)(5)(A), (C), (I), (L)(i) and (L)(ii) of the FDIA, 12 U.S.C. §§ 1821(c)(5)(A), (C), (I), (L)(i) and (L)(ii). The Acting Director has also determined, in accordance with 12 U.S.C. § 1821(c)(9), that the appointment of a receiver is necessary to carry out the purposes of PCA.

## **ACTIONS ORDERED OR APPROVED**

### **Appointment of a Receiver**

The Acting Director, or his designee, hereby appoints the FDIC as receiver for the Savings Association, for the purpose of liquidation or winding up the affairs of the Savings Association, pursuant to section 5(d)(2) of the HOLA, and section 11(c)(6)(B) of the FDIA, 12 U.S.C. §§ 1464(d)(2) and 1821(c)(6)(B).

### **Delegation of Authority to Act for OTS**

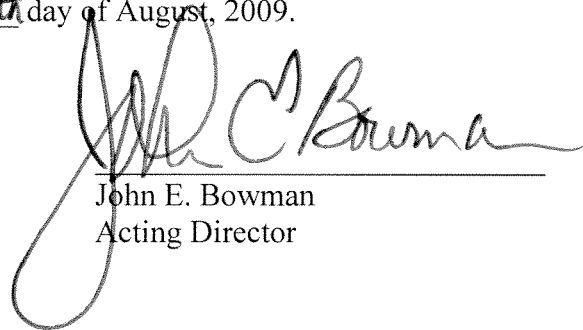
The Acting Director, or his designee, hereby authorizes the OTS Northeast Regional Director, or his designee, and the Deputy Chief Counsel for the Business Transactions Division of the Chief Counsel’s office, or his designee, to: (i) certify orders; (ii) sign, execute, attest, or certify other documents of OTS issued or authorized by this Order; (iii) designate the persons or entity that will give notice of the appointment of a receiver for the Savings Association and serve the Savings Association with a copy of this Order pursuant to 12 C.F.R. § 558.2; and (iv) perform such other functions of OTS

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<sup>1</sup> See e.g., OTS Order 2007-43 (September 27, 2007) and OTS Order 2009-21 (April 17, 2009).

necessary or appropriate for implementation of this Order. All documents to be issued under the authority of this Order must be first approved, in form and content, by the Chief Counsel's Office. In addition, the Acting Director, or his designee, hereby authorizes the Deputy Chief Counsel for the Business Transactions Division of the Chief Counsel's office, or his designee, to make any subsequent technical corrections, that might be necessary, to this Order, or any documents issued under the authority of this Order.

By Order of the Acting Director of OTS, effective immediately upon service of this Order on the Savings Association this 14<sup>th</sup> day of August, 2009.



John E. Bowman  
Acting Director