

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of )  
)  
**JULIO CALIL** )  
)  
**A Former Officer** )  
**of** )  
)  
**Gibraltar Bank, FSB** )  
**Coral Gables, Florida** )  
**(OTS No. 08007)** )  
\_\_\_\_\_ )

Order Nos. ATL 04-21  
ATL 04-22

Dated: July 19, 2004

**STIPULATION AND CONSENT TO ISSUANCE**  
**OF AN ORDER OF PROHIBITION AND**  
**AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Julio Calil ("CALIL"), former Vice-President of Gibraltar Bank, FSB, Coral Gables, Florida, (hereinafter collectively "GIBRALTAR" or the "INSTITUTION") that the OTS is of the opinion that grounds exist to initiate an administrative removal and prohibition and cease and desist proceedings against CALIL pursuant to 12 U.S.C. §§ 1818(e) and (i),<sup>1</sup> and

WHEREAS, CALIL desires to cooperate with the OTS to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees

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<sup>1</sup> All references in this Stipulation and Consent to Issuance of an Order of Prohibition and An Order of Assessment of Civil Money Penalties ("Stipulation") and the related Orders are to the United States Code as amended.

to the following terms:

**1. Jurisdiction.**

(a) **GIBRALTAR**, at all times relevant hereto, was a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, **GIBRALTAR** was an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) **CALIL**, as an Officer of **GIBRALTAR** at all times relevant hereto, is an "institution-affiliated party" as that term is defined in 12 U.S.C. § 1813(u).

(c) Pursuant to 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against savings associations' institution-affiliated parties. Therefore, **CALIL** is subject to the authority of the OTS to initiate and maintain administrative removal and prohibition and cease and desist proceedings against him pursuant to 12 U.S.C. §§ 1818(b) and (e).

**2. OTS Findings of Fact.**

The OTS finds that, from September 1998 to December 2002, **CALIL** was employed by the **GIBRALTAR** as its Vice President/Construction Loan Manager. In this capacity, **CALIL** supervised and administered **GIBRALTAR**'s construction loans made for residential projects, including certifying and documenting that construction work was being performed according to schedule before releasing additional loan funds for further construction work.

Between 2001 and 2002, **CALIL** engaged in unsafe and unsound practices, conflicts of interest, and violations of law and regulation by (i) granting disbursements to borrowers on loans for which he had primary administrative and oversight responsibility in non-compliance with law, regulation and the **GIBRALTAR**'s own lending policies; (ii) failing to perform property inspections to ensure that loan disbursements were supported by construction progress on the underlying collateral properties; and (iii) accepting compensation, payment, services and other value from borrowers on loans for which **CALIL** had primary loan administration and oversight responsibilities. By his conduct, **CALIL** demonstrated a continuing disregard for the safety and soundness of **GIBRALTAR** and caused **GIBRALTAR** to suffer substantial losses.

### **3. Consent.**

CALIL consents to the issuance by the OTS of the accompanying Order of Prohibition ("R&P Order") and the accompanying Order of Assessment of Civil Money Penalties ("CMP Order") (both Orders sometimes collectively referred to as "the Orders"). CALIL further agrees to comply with their terms upon issuance and stipulates that the Orders comply with all requirements of law.

### **4. Finality.**

The Orders are issued by the OTS under the authority of 12 U.S.C. §§ 1818(e) and (i), respectively. Upon their issuance by the Regional Director or designee for the Southeast Region, OTS, each shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

### **5. Waivers.**

CALIL waives the following:

- (a) the right to be served with a written notice of the OTS's charges against him;
- (b) the right to an administrative hearing of the OTS's charges against him; and
- (c) the right to seek judicial review of either the R&P Order or the CMP Order or both, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Orders.

### **6. Indemnification.**

CALIL shall neither cause nor permit GIBRALTAR (or any successor institution, holding company, subsidiary, or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional expenses incurred relative to the negotiation and issuance of the Orders. Nor shall CALIL obtain any indemnification (or other reimbursement) from the INSTITUTION (or any successor institution, holding company, subsidiary, or service corporation thereof) with respect to such amounts. Any such payments received by or on behalf of CALIL in connection with this action shall be returned to GIBRALTAR (or the successor institution, holding company, subsidiary, or service corporation thereof).

**7. Other Government Actions Not Affected.**

CALIL acknowledges and agrees that the consent to the issuance of the Orders is for the purpose of resolving any and all actions or causes of action that the OTS has or may have against CALIL as of the effective date of the Orders and any and all actions CALIL has against the OTS or its Director, as of the effective date of the Orders, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of CALIL that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS.

**8. Miscellaneous**

(a) The construction and validity of this Stipulation and the Orders shall be governed by the laws of the United States of America;

(b) All references to the OTS in this Stipulation and the Orders shall also mean any of the OTS's predecessors, successors, and assigns;

(c) The section and paragraph headings in this Stipulation and Orders are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Orders;

(d) The terms of this Stipulation and Orders represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters; and

(e) This Stipulation and Orders shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

**WHEREFORE, CALIL executes this Stipulation and Consent to Issuance of an Order**

of Prohibition and an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

By:

  
\_\_\_\_\_  
Julio Calil

Accepted by:  
Office of Thrift Supervision

  
\_\_\_\_\_  
John E. Ryan  
Southeast Regional Director

Dated: 7/14/04

Dated: 7/19/04

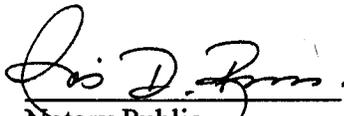
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**ACKNOWLEDGMENT**

State of FLORIDA

County of MIAMI-DADE

On this 14<sup>TH</sup> day of JULY, 2004, before me, the undersigned notary public, personally appeared Julio Calil and acknowledged his execution of the foregoing Stipulation and Consent to Issuance of an Order of Prohibition and an Order of Assessment of Civil Money Penalties.

  
\_\_\_\_\_  
Notary Public

My Commission expires:



**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

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**JULIO CALIL** )  
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A Former Officer )  
of )  
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**GIBRALTAR BANK, FSB** )  
Coral Gables, Florida )  
(OTS No. 08007) )  
\_\_\_\_\_

Order No. **ATL-2004-21**

Dated: **July 19, 2004**

**ORDER OF PROHIBITION**

WHEREAS, **JULIO CALIL** (“**CALIL**”) has executed a Stipulation and Consent to the Issuance of an Order of Prohibition and an Order of Assessment of Civil Money Penalties (“Stipulation”); and

WHEREAS, **CALIL**, by his execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition (“Order”) by the Office of Thrift Supervision (“OTS”), pursuant to 12 U.S.C. § 1818 (e).

NOW THEREFORE, IT IS ORDERED that:

1. **CALIL**, except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other “appropriate

Federal financial institutions regulatory agency," for purposes of 12 U.S.C. §

1818(e)(7)(B)(ii), shall not:

(a) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or agency specified in 12 U.S.C. § 1818(e)(7)(A), including, but not limited to:

- (i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, trust companies, and other banking institutions;
- (ii) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3) and 1818(b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9), e.g., subsidiaries and holding companies of banks or savings associations;
- (iii) any insured credit union under the Federal Credit Union Act [12 U.S.C. § 1781 et seq.];
- (iv) any institution chartered under the Farm Credit Act of 1971 [12 U.S.C. § 2001 et seq.];
- (v) any appropriate Federal depository institution regulatory agency, within the meaning of 12 U.S.C. § 1818(e)(7)(A)(v); and
- (vi) the Federal Housing Finance Board and any Federal Home Loan Bank.

(b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in 12 U.S.C. § 1818(e)(7)(A);

(c) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of 12 U.S.C. § 1813(q); or

(d) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

2. This Order is subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. § 1818(j).

3. The Stipulation is made a part hereof and is incorporated herein by this reference.

4. CALIL shall promptly respond to any request from the OTS for documents and/or information that the OTS reasonably requests to demonstrate compliance with this Order.

5. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended, in writing by the OTS, acting through its Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By:

  
John E. Ryan  
Southeast Regional Director