

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)	Re: Order No. NE 00-10
DAVID J. TURNER, JR.)	Dated: May 18, 2000
a former attorney for)	
Equity One, a Subsidiary of)	
Banco Popular)	
Newark, New Jersey)	

**STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed David J. Turner, Jr. ("Turner"), who at all relevant times was a former attorney for of Equity One, a wholly-owned subsidiary of Banco Popular, Newark, New Jersey ("Equity One"), that grounds exist to initiate administrative cease-and-desist proceedings against him pursuant to 12 U.S.C. § 1818(b);¹ and

WHEREAS, Turner desires to cooperate with the OTS and to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, and without admitting or denying the Findings of Fact, opinions and conclusions of the OTS, except as to

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

Jurisdiction, Paragraph 1, below, which is admitted, and without any adjudication on the merits, hereby stipulates and agrees to the following:

1. Jurisdiction.

(a) Banco Popular is a "savings association" within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Equity One is a wholly-owned subsidiary of Banco Popular, and is subject to OTS enforcement authority pursuant to 12 U.S.C. § 1818(b)(8).

(c) Turner, as a former attorney of Equity One, is deemed to be an "institution-affiliated party" as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of the date hereof. *See* 12 U.S.C. § 1818(i)(3).

(d) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" to maintain administrative proceedings against such a savings association or its institution-affiliated parties. Therefore, Turner is subject to the jurisdiction of the OTS to initiate and maintain administrative proceedings against him pursuant to 12 U.S.C. § 1818. The Director of the OTS has delegated to the Regional Director of the Northeast Region of the OTS or his designee ("Regional Director") the authority to issue orders where the individual subject to the order has consented to its issuance.

2. OTS Findings of Fact. The OTS finds that:

Between the end of 1994 and the beginning of 1996, Turner represented Equity One in a number of real estate closings in which Equity One was the lender. Repeatedly in connection with that representation, Turner recklessly executed and submitted to Equity One and other parties to the

transactions certifications that contained false and misleading information that was important to Equity One's decisions to make the loans. Turner's actions contributed to large losses Equity One suffered in connection with that loan portfolio.

3. Consent. Turner consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief ("Order"). Turner further agrees to comply with the terms of the Order upon issuance, and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued pursuant to 12 U.S.C. § 1818(b). Upon its issuance by the OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. Waivers. Turner waives the following:

- (i) the right to be served with a written notice of the OTS's charges against him as provided by 12 U.S.C. § 1818;
- (ii) the right to an administrative hearing of the OTS's charges against him as provided by 12 U.S.C. § 1818;
- (iii) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;
- (iv) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412.

6. Indemnification Limitations. Turner represents that he has not received, directly or indirectly, any sums from Equity One for the purpose of indemnifying or reimbursing him for any expenses incurred by him relating to the issuance of the Order. Turner shall neither cause nor permit Equity One (or any successor institution, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional services rendered to Turner relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from Equity One (or any successor institution, subsidiary or service corporation thereof) with respect to such expenses. In the event that any such payments are received by or on behalf of Turner in connection with this action, Turner agrees promptly to notify the OTS of the receipt of such payments and to return such payments without delay to Equity One (or any successor institution, subsidiary or service corporation thereof).

7. Scope of Release; Other Governmental Actions Not Affected.

(a) Upon the OTS's issuance of the accompanying Order, following the OTS's acceptance of this Stipulation executed by Turner, the OTS does hereby forever release and discharge Turner from all potential claims and charges that have been or might have been asserted by the OTS based on the alleged violations and unsafe or unsound practices summarized in the Findings of Fact set forth at paragraph 2 of this Stipulation and as described below. Turner understands that the release provided by this paragraph is limited *solely* to administrative actions the OTS could take based on the above-alleged violations summarized in the above OTS Findings of Fact, or in any findings or conclusions contained in any Report of Examination of Equity One, conducted by the OTS prior to the effective date of this Order. This release shall not preclude or effect any right of the

OTS to determine and ensure compliance with the terms and provisions of the Order and this Stipulation.

(b) Turner acknowledges and agrees that his consent to the issuance of the Order is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided by paragraph 7(a) above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Turner that arise pursuant to this action or otherwise and that may be or have been brought by another governmental entity.

8. Miscellaneous.

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

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

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

(d) The terms of this Stipulation and the Order 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 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.

WHEREFORE, on this ___ day of April 2000, TURNER executes this Stipulation, intending to be legally bound hereby.

Accepted on the date of the Order by:
OFFICE OF THRIFT SUPERVISION



DAVID J. TURNER, Jr.

By: 

Robert C. Albanese
Regional Director, Northeast Region

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)
)
DAVID J. TURNER, Jr.)
)
a former attorney for)
Equity One, a Subsidiary of)
BANCO POPULAR,)
Newark, New Jersey)

Re: OTS Order. No. NE-00-10

Date: May 18, 2000

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, DAVID J. TURNER, Jr. ("Turner"), a former attorney representing Equity One, a wholly-owned subsidiary of Banco Popular, has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist For Affirmative Relief ("Stipulation"); and

WHEREAS, Turner, by his execution of the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist for Affirmative Relief ("Order") pursuant to 12 U.S.C. § 1818(b);¹

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue an Order to Cease and Desist for Affirmative

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

Relief on behalf of the OTS where the institution-affiliated party who is the subject of the Order has consented to the issuance of the Orders.

NOW, THEREFORE, IT IS ORDERED, pursuant to 12 U.S.C. § 1818(b), that:

1. In connection with any legal representation of an insured financial institution undertaken by Turner, including but not limited to real estate closings,

(a) Turner shall not prepare or submit, or allow to be prepared or submitted on his behalf, any document to an insured financial institution or to any third party involved in the transaction for which Turner is providing legal representation, that he knows, or, in the exercise of reasonable care expected of an attorney under the same or similar circumstances should know, contains false or misleading information;

(b) each time such legal representation requires or contemplates that Turner shall certify, verify or attest to the accuracy of information contained in a document, Turner shall review the information completely before executing the verification or certification;

(c) Turner shall not submit to an insured financial institution or to any third party involved in the transaction for which Turner is providing legal representation, any document executed by the borrower(s) or others that he knows, or in the exercise of reasonable care expected of an attorney under the same or similar circumstances should know, contains false or misleading information; and

(d) Turner shall include as part of the documentation in connection with a legal representation, a statement to the effect that he has carefully reviewed all documents that he has submitted to the financial institution and that none of the documents contains any information that he knows, or in the exercise of reasonable care expected of an attorney under the same or similar circumstances should know, contains false or misleading information;

2. Within 60 (sixty) days from the issuance of this Order, Turner shall prepare in writing, submit to the OTS, and implement an adequate plan for the training and supervision of all paralegals, clerks, secretaries, and other support staff in his employ to ensure that each such employee knows i) the legal requirements of the tasks they have been assigned; ii) the proper steps necessary to prepare documents for the review and signature of Turner, other lawyers in his firm or clients; iii) how, and from whom, to seek guidance on matters which may arise beyond their training or experience; and iv) the applicable code of ethical conduct or professional responsibility for Georgia or any other state in which he practices law insofar as such code affects the employee's work assignments.

3. In addition to the foregoing, in connection with any representation of an insured financial institution undertaken by Turner, Turner shall not violate any law or regulation, engage in any unsafe or unsound practice, or breach his fiduciary duties in carrying out his responsibilities for the insured financial institution.

4. For purposes of this Order, "insured financial institution" is defined as set forth in 12 U.S.C. §1813 and includes all subsidiaries and affiliates of any such institution.

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

6. Turner shall provide truthful information to the OTS concerning his representation of Equity One and his knowledge of the actions and words of others in the transactions which were related to his representation. Further, Turner shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

7. 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: Robert C. Albanese
Robert C. Albanese
Regional Director, Northeast Region