

FSC B 2004-354 OFR



STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION

OFFICE OF FINANCIAL REGULATION,
DIVISION OF FINANCIAL INSTITUTIONS,

Petitioner,

DOAH Case No. 04-0203
(formerly DOAH Case No. 02-3919)
OFR No.: 4136-B-7/02

vs.

EDUARDO A. GODOY,
a/k/a **EDWARD A. GODOY,**

Respondent.

FINAL ORDER

On August 30, 2002, the Office of Financial Regulation, Division of Financial Institutions ("Office") issued and served against Eduardo A. Godoy, a/k/a Edward A. Godoy ("Respondent") an Amended Administrative Complaint for Removal and Prohibition with Notice of Rights ("Administrative Complaint"). Respondent timely requested an administrative hearing, which was referred to the Division of Administrative Hearings ("DOAH"). DOAH initially assigned Case No. 02-3919 to this matter and later re-assigned the matter as Case No. 04-0203.

Prior to any administrative hearing on the disputed facts in this matter, on August 20, 2004, the parties entered into a Stipulation and Consent Agreement ("Agreement") with respect to the matters in controversy. A copy of the Agreement is attached as Exhibit A. Per the Agreement, on August 20, 2004, an Agreed Motion to Relinquish Jurisdiction was filed with DOAH. On August 27, 2004, the assigned Administrative

Law Judge entered an Order Closing File and Relinquishing Jurisdiction ("DOAH's Order") for the Office to issue this Final Order in accordance with the Agreement. A copy of DOAH's Order is attached as Exhibit B.

Upon consideration, it is therefore ORDERED:

1. The attached Stipulation and Consent Agreement is APPROVED, ADOPTED, and INCORPORATED by reference in this Final Order.
2. The Respondent is ORDERED to observe and abide by the terms of the Stipulation and Consent Agreement under penalty of enforcement by the Office pursuant to Section 120.69, Florida Statutes (2003).

DONE AND ORDERED this 1ST day of SEPTEMBER, 2004, in Tallahassee, Leon County, Florida.



Don B. Saxon, Commissioner
Office of Financial Regulation

NOTICE OF RIGHTS TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE (1) COPY OF A NOTICE OF APPEAL WITH:

AGENCY CLERK
OFFICE OF FINANCIAL REGULATION
200 EAST GAINES STREET
FLETCHER 526
TALLAHASSEE, FLORIDA 32399-0379

AND A SECOND COPY, ACCOMPANIED BY THE FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH

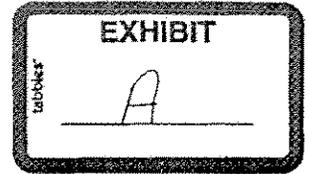
THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above FINAL ORDER has been furnished by certified U.S. Mail, return receipt requested, to Barry E. Witlin, Esq., 1200 S. Pine Island Road, Suite 230, Plantation, Florida 33324, this 2nd day of September, 2004.



Bruce Kuhse
Assistant General Counsel
Florida Bar No. 0308470
Office of Financial Regulation
The Fletcher Building, Suite 526
200 E. Gaines Street
Tallahassee, FL 32399
Tel: (850) 410-9896



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

OFFICE OF FINANCIAL REGULATION,
DIVISION OF FINANCIAL INSTITUTIONS,

Petitioner,

DOAH Case No. 04-0203
(formerly DOAH Case No. 02-3919)
OFR No.: 4136-B-7/02

vs.

EDUARDO A. GODOY,
a/k/a EDWARD A. GODOY,

Respondent.

STIPULATION AND CONSENT AGREEMENT

This Stipulation and Consent Agreement ("Agreement") is entered into by Eduardo A. Godoy, a/k/a Edward A. Godoy ("Respondent"), and the Office of Financial Regulation, Division of Financial Institutions ("Office"). The Respondent and the Office (collectively "Parties"), agree on the last date executed below:

1. The Office is the regulatory body of the State of Florida responsible for the enforcement of the laws governing financial institutions authorized or chartered by the State of Florida, and financial institution-affiliated persons associated with such institutions, including officers and employees.
§§655.001, 655.005, 655.012, 655.037, 20.121, Fla. Stat. (2003).
2. On August 30, 2002, the Office issued and served against the Respondent an Amended Administrative Complaint for Removal and Prohibition with

Notice of Rights (“Administrative Complaint”) (attached as Exhibit 1), which is hereby incorporated in its entirety.

3. At the time of Respondent’s alleged misconduct: 1) Advantage Bank was a state financial institution, as defined in section 655.005(1)(p), Florida Statutes, with its principal place of business at 741 U.S. Highway One, North Palm Beach, Florida, 33408; 2) Respondent served as an officer and employee of Advantage Bank; and 3) Respondent was a financial institution-affiliated party, as defined in section 655.005(1)(i), Florida Statutes.
4. Respondent, as a former officer and employee of Advantage Bank, a state-chartered financial institution, is subject to the Office’s authority and jurisdiction to initiate and maintain removal and prohibition proceedings against him. § 655.037, Fla. Stat.
5. Respondent denied the allegations made against him in the Administrative Complaint and requested an Administrative Hearing. DOAH initially assigned Case No. 02-3919 to this matter and has since re-assigned the matter as the current Case No. 04-0203.
6. Prior to any administrative hearing on the disputed facts in this matter, a Grand Jury for the United States District Court, Southern District of Florida, issued an indictment against the Respondent with nine felony counts alleging violations of Federal law for mail fraud (18 U.S.C. § 1341), loan fraud (18 U.S.C. § 1014), and money laundering (18 U.S.C. § 1957). The

facts alleged in the indictment for the loan fraud counts were substantially the same as those alleged in greater detail in the Administrative Complaint.

7. On April 15, 2004, Respondent entered a voluntary plea agreement in which he agreed to plead guilty to five of the nine counts in the indictment, including the two counts of loan fraud and one count of money laundering.
8. The Office is of the opinion that grounds exist to continue administrative proceedings against Respondent pursuant to section 655.037(1), Florida Statutes. Additionally, the Office believes the Administrative Complaint could be now properly amended to provide for emergency removal and prohibition per section 655.037(6), Florida Statutes. Nevertheless, it is the desire of Respondent and the Office to settle this matter in view of the Federal criminal proceedings.
9. Respondent stipulates and agrees to the terms herein in consideration of the Office's forbearance from continuing administrative action against Respondent.
10. a. The Parties agree that upon full execution of this Agreement, this Agreement shall constitute a voluntary notice of withdrawal of Respondent's petition for formal hearing in DOAH Case No. 04-0203. Furthermore, Respondent agrees to the Office's filing of an Agreed Motion To Relinquish Jurisdiction, pursuant to Rule 106.204, Florida Administrative Code, to the Office for entry of the Final Order incorporating this Agreement.

b. Within thirty (30) days after entry of an Order Relinquishing Jurisdiction by the Administrative Law Judge, the Office's Final Order adopting this Agreement, subject to the Director's final approval, will be entered.

c. The Office's Final Order shall not make any findings that Respondent committed the acts alleged in the Administrative Complaint, nor any findings that the allegations contained within the Administrative Complaint constitute fraud, dishonest dealing, or any other act of moral turpitude.

11. Respondent represents that he is not presently serving as a financial institution-affiliated party for any financial institution, service corporation, or subsidiary, as those terms are defined in section 655.005, Florida Statutes.

12. a. Respondent agrees that he will not serve as a financial institution-affiliated party for any financial institution, service corporation, or subsidiary for a period of ten (10) years commencing from the date of entry of the Office's Final Order adopting this Agreement.

b. Respondent agrees that he will not participate in the affairs of any financial institution, service corporation, or subsidiary for a period of ten (10) years commencing from the date of the Office's Final Order adopting this Agreement.

c. Respondent agrees that, after the period of ten (10) years commencing from the date of entry of the Office's Final Order adopting this Agreement has run, he will not serve as a financial institution-affiliated party or in any official position in, or participate in the affairs of, any financial institution,

service corporation, or subsidiary in this state, except with the written consent of the Office.

d. Respondent agrees that he will not petition the Office for modification or termination of the Final Order or Agreement.

13. The Parties agree that the Final Order, which will incorporate this Agreement, will be issued pursuant to section 655.037, Florida Statutes, and shall constitute final agency action by the Office, for which the Office may seek enforcement pursuant to Chapters 120, 655, and 658, Florida Statutes.

14. Respondent knowingly and voluntarily waives:

- a. Any right to receipt of Notice of Rights or any other notice required pursuant to Chapter 120, Florida Statutes;
- b. Any notice required pursuant to Chapters 655 or 658, Florida Statutes;
- c. Any right to an administrative hearing or issuance of a recommended order provided by Chapters 120, 655, or 658, Florida Statutes, or Chapter 28 of the Florida Administrative Code;
- d. Any requirement that the Office's Final Order contain stated Findings of Fact and Conclusions of Law or a Notice of Rights;
- e. Any right to contest the validity of any term, condition, obligation, or duty created hereby in any judicial or administrative forum; and
- f. Any and all objections to or challenges in any judicial proceeding or forum, including but not limited to, appeal pursuant to section 120.68, Florida Statutes, any aspect, provision, or requirement concerning the

content, issuance, procedure, or timeliness of the Final Order adopting this agreement or the final order relating to DOAH Case No. 04-0203.

15. Both Parties agree that each party herein shall be solely responsible for their own separate costs and expenses, including legal fees, incurred as a result of or relating to this matter up to and including the entry of the Final Order in this matter.
16. This Agreement shall only resolve the matters contained in the Administrative Complaint between the Respondent and the Office of Financial Regulation, Division of Financial Institutions. Nothing contained in the Agreement shall be deemed to prevent, or limit in any way, any other administrative or criminal action against Respondent regarding any other licenses the Respondent may now hold, or seek in the future, based upon the acts alleged in the Administrative Complaint, or upon the entry of this Agreement or resulting Final Order. Additionally, nothing herein shall be construed to waive or restrict the Office's right to undertake any action under any provision of the Florida Statutes arising out of any facts or circumstances not expressly set forth in the Administrative Complaint.
17. The Parties agree that if any provisions of this Agreement or Final Order, or the applicability to any person or circumstance, are held invalid, the invalidity shall not affect the remaining provisions of this Agreement and Final Order, which can be given effect without the invalid provision.
18. The Parties herein acknowledge that they have read this Agreement and that they fully understand the rights, obligations, terms, representations,

conditions, duties, and responsibilities with respect to its contents and are acting upon the advice of good and competent legal counsel.

19. Respondent agrees to comply with the terms and conditions of the Final Order upon issuance and stipulates that the Final Order, as described herein, complies with all applicable requirements of law.
20. In consideration of the foregoing, the Office and Respondent hereby acknowledge and agree to the terms and conditions of the foregoing Stipulation and Consent Agreement by written consent on the last date indicated below:

Eduardo A. Godoy, Respondent

Date

Office of Financial Regulation

By: *Linda B. Charity*
Linda B. Charity, Deputy Director

8/20/2007
Date

STATE OF FLORIDA)
COUNTY OF)

BEFORE ME, the undersigned person, Eduardo A. Godoy, personally appeared, and, being duly sworn, states that he has read, understands, and voluntarily signed the foregoing Stipulation and Consent Agreement.

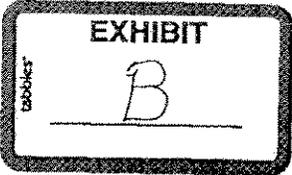
SWORN to and subscribed before me this day of _____, 2004.

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned
Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____



STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF FINANCIAL)
SERVICES, OFFICE OF FINANCIAL)
INSTITUTIONS AND SECURITIES)
REGULATIONS, DIVISION OF)
FINANCIAL INSTITUTIONS,)
)
Petitioner,)
)
vs.) Case No. 04-0203
)
EDUARDO A. GODOY,)
)
Respondent.)
_____)

ORDER CLOSING FILE

This cause having come before the undersigned on the Petitioner's Agreed Motion to Relinquish Jurisdiction, filed August 20, 2004, and the undersigned being fully advised, it is, therefore,

ORDERED that the file of the Division of Administrative Hearings in the above-captioned matter is hereby closed and jurisdiction is relinquished to the agency.

DONE AND ORDERED this 27th day of August, 2004, in Tallahassee, Leon County, Florida.

Handwritten signature of Robert E. Meale in cursive script.

ROBERT E. MEALE
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675 SUNCOM 278-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of August, 2004.

COPIES FURNISHED:

Robert Alan Fox, Esquire
Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0379

Barry E. Witlin, Esquire
Barry E. Witlin, P.A.
1200 South Pine Island Road, Suite 230
Plantation, Florida 33324