

Press Releases

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OTS 99-62 - OTS Levies Civil Money Penalty for Violation of Business Plan

Office of Thrift Supervision

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OTS Levies Civil Money Penalty for Violation of Business Plan

WASHINGTON, D.C., Sept. 13, 1999 - Commerce Bank, a year-old federal thrift institution in Atlanta, has consented to pay a \$100,000 civil money penalty because it materially deviated from its business plan without obtaining approval from the Office of Thrift Supervision (OTS). Commerce Bank neither admitted nor denied wrongdoing.

The thrift began full service operations in August 1998, and in its approved business plan said it would engage in mortgage, consumer and small business lending through an office in Atlanta. One of the conditions in the May 1998 OTS order granting a thrift charter to Commerce and its holding company, Southeastern Commerce Holding Company, requires advance notice to OTS before any material change is made in its business operations. The condition is standard in OTS approval of new charters.

On June 14, 1999, the corporation publicly announced a plan to undertake a radically different business strategy focused on providing service nationwide over the Internet, using Commerce Bank's charter. The plan contemplated opening loan production offices in 24 cities across the U.S. to make small business loans, OTS said. It also adopted a new name, Ebank.com, Corp., and began referring to the entire organization as Ebank.com, obscuring the Commerce Bank name in its dealings with the public. The thrift began to lease space, hire customer service personnel and a public relations firm and advertise for personnel without seeking and obtaining OTS approval, the agency said.

"A well thought out and detailed business plan is a critical element in an application because it is key to assessing the risk profile of the institution, how an applicant plans to utilize the charter and how it will serve the communities where it will do business," said John E. Ryan, OTS southeast regional director, whose office supervises Commerce Bank.

"In this case," he added, "the changes initiated by the institution are unquestionably material deviations from the approved business plan, and Commerce Bank failed to take the required step of getting OTS approval before beginning to implement the new business direction."

[Attachment Commerce Bank Civil Money Penalty Order](#)

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The Office of Thrift Supervision (OTS), a bureau of the U.S. Treasury, regulates and supervises the nation's thrift industry. OTS' mission is to ensure the safety and soundness of thrift institutions and to support their role as home mortgage lenders and providers of other community credit and financial services. For copies of news releases or other documents visit the OTS web page at www.ots.treas.gov.