X-4375

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June 12, 1925.

Federal Reserve Bank,
Atlanta, Georgia.

Dear Sirs:

The Comptroller of the Currency upon my request has given me his position in regard to the respective rights, title and authority of the Comptroller of the Currency and of the Federal Reserve Bank of Atlanta, concerning the Bills Payable which the Georgia National Bank of Athens, rediscounted with the Federal Reserve Bank, and the Bills Payable which it hypothecated with the Federal Reserve Bank, and the disposition of the collateral that was pledged to secure both the bills receivable upon these two accounts.

The Comptroller of the Currency holds that the Georgia National Bank has a contingent interest in both classes of Bills Payable which the Receiver must protect, and that the collateral pledged to secure the Bills Receivable upon both accounts cannot be disposed of without the consent of the Comptroller of the Currency and an order of the United States District Judge for this district.

The Comptroller is further of the opinion that none of the rediscounted notes, or those hypothecated to the Federal Reserve Bank can be compounded without the consent of the Comptroller and the Court as above stated.

Thus, that in no case of sale of collateral pledged to secure notes rediscounted to you or hypothecated to you, can the collateral be disposed of without the consent of the Comptroller and the Court.

The opinion of the Comptroller of the Currency in this matter was brought about by my assenting to the sale by you of the 75 bales of cotton held to secure notes of the Georgia Farms, and the 43 bales of cotton held to secure the notes of Mr. S. C. Branch, which had been transferred to you by the Georgia National Bank of Athens.

I understood from Mr. Tutwiler of the Federal Reserve Bank, that your position was that the rediscounted notes belonged to you absolutely, and you could do as you pleased with them without consulting the Comptroller, and that you also had a right to collect the notes hypothecated to secure the indebtedness of the Georgia National Bank to you, and for this purpose you had the right to sell the collateral pledged to both these lines of notes.

There seems to be a conflict of opinion as to the rights of the Comptroller and of the rights of the Federal Reserve Bank in this matter which may produce delays and confusion in the future.

I would like to know whether you concur with the Comptroller of the Currency, and if you do not, I suggest that it will be best for the controversy to be settled one way or the other to prevent any embarrassment in the collection of the debts and the disposition of the collateral.

I will of course insist upon the views of the Comptroller of the Currency in regard to these matters until I am instructed otherwise.

Respectfully,

(Sgd) Jno. K. Shields,
Receiver.

JKS:W

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June 29, 1925.

To The Honorable
The Comptroller of the Currency of the United States,
Washington, D. C.

Dear Sir:

The Receiver of the Georgia National Bank of Athens, Georgia, recently transmitted to the Federal Reserve Bank of Atlanta (of which we are general counsel) the opinion of your office with respect to the right of the Federal Reserve Bank of Atlanta to deal with (a) collaterals securing payment of bills and notes rediscounted by the National Bank with the Reserve Bank, and (b) collaterals securing the payment of bills and notes hypothecated with the Reserve Bank to secure both the direct obligations and the rediscounts of the National Bank.

As we understand the letter of the Receiver, the position taken by your office is that the Reserve Bank cannot take any action with respect to any such collateral (except to collect the same) unless thereunto authorized both by the Comptroller of the Currency and the United States Court for this District.

If the purport of the ruling of your office be as stated, the Federal Reserve Bank of Atlanta respectfully dissents therefrom. In order that the situation may be cleared up if possible, we are taking the liberty of transmitting, at the request and on behalf of the Federal Reserve Bank of Atlanta, our opinion, as its counsel, as to the law on these questions with particular reference to the dealings between the Reserve Bank and the Georgia National Bank,

It is our information that the National Bank was indebted to the Reserve Bank at the time of its suspension on both rediscounts and direct notes. To secure both classes of paper there had been deposited collateral; the usual form of collateral note having been used in connection with the deposit of collateral to secure the direct obligations, and a specific contract covering the pledge of additional collateral having been employed in connection with the deposit of collaterals to secure the payment of rediscounts. Some of the rediscounted items were also secured by collateral, and some of the notes pledged as collateral for both classes of obligations of the National Bank were also secured by collateral.

It is with respect to the collaterals securing the discounts and the hypothecated notes and bills that the instant questions have arisen.

We understand that the opinion which was transmitted to the Reserve Bank by the Receiver as above stated was given as the result of the sale by the Reserve Bank, with the assent of the Receiver, of certain cotton which had been pledged as security for the payment of a note which had been rediscounted with the Reserve Bank by the National Bank.

We recognize that it is true generally that collateral securities in which the Georgia National Bank has an interest, legal or equitable, should not be compounded or compromised without the approval of your office. This is true for the reason that the trust of the Receiver has an interest in all such collaterals. We respectfully submit, however, that it does not follow that the Reserve Bank, as the complete legal owner of the rediscounts and as the holder of the pledged notes, could not exercise rights arising respectively thereunder, including the orderly sale of the securities made pursuant to law or under the terms and provisions of particular notes. In other words, if, for example, the Reserve Bank should hold a note secured by cotton, either as a rediscount or as collateral, it could, in our opinion, as the owner or holder of such note, sell the cotton just as readily as could the Georgia National Bank, its immediate endorser. This right, we think, would certainly obtain with respect to the rediscounts, and we see no reason why it should not apply with respect to notes pledged or hypothecated with the Reserve Bank. The sale of such commodities by the Reserve Bank as the owner or holder of the secured note, would be different from the compounding, compromise or settlement of the note at less than face value.

With regard to rediscounts, whether secured or unsecured, we are of the opinion that ordinarily the Reserve Bank could compound, compromise or settle the same as between itself and the respective makers of the notes, without first obtaining the approval of your office. Any such compromise or settlement would, however, release the endorsing bank from any liability on its endorsement, and it follows that the Reserve Bank could not make a settlement with the maker of a rediscount and thereafter hold the National Bank for any deficit, or satisfy any such deficit out of the "additional collateral."

To sum up our opinion: In the case of rediscounts the Reserve Bank would seem to be the absolute owner of the paper, with the right to sell the collateral and to enforce the liability of any party liable on the paper. Even an accounting for any excess in collateral securing the rediscounted item would properly be between the Reserve Bank, the owner of the note, and the maker of the same. Of course a settlement or compounding of the rediscounted item would absolve the endorsing bank and its assets from any further liability arising from its endorsement. With respect to secured notes which are hypothecated (as contradistinguished from discounted) we think that the Reserve Bank, as the holder thereof, would have the right to sell collaterals securing the same by virtue of its rights as holder thereof, but that it could not compromise or compound any of such hypothecated notes without the approval of the Comptroller of the Currency and an authorization by order of Court.

Inasmuch as cases involving questions similar to those arising in connection with the specific matter mentioned above will doubtless occur in the future, we are asked by the Federal Reserve Bank to transmit to you its position in the premises, so that if possible an understanding may be had as to the respective rights of the Receiver and the Reserve Bank in such cases.

Mr. J. L. Campbell, Deputy Governor of the Federal Reserve Bank, and the writer, will be in Washington July 13th, and for several days thereafter, and would appreciate the opportunity of discussing the questions herein presented.

Very respectfully yours,

RSP-G

Mr. J. L. Campbell, Deputy Governor,
Federal Reserve Bank of Atlanta,
Atlanta, Georgia.