

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
EASTERN DISTRICT OF SOUTH CAROLINA

AT LAW.

Thos. A. Early, as Receiver of the Farmers
and Merchants National Bank of Lake
City, S. C., a national banking associa-
tion, Plaintiff,

vs.

Order of
Judgment .

The Federal Reserve Bank of Richmond, a
banking corporation duly organized under
the Federal Reserve Act, Defendant.

This action was tried under an agreement waiving jury,
upon a stipulation of facts. Certain exhibits are attached
to, or referred to, in the stipulation. The matters set
forth in paragraphs one to sixteen in the stipulation and
agreed statement of facts are found to be true and are
hereby adopted as the special findings of the court and
made a part of this judgment.

Two causes of action are set out in the complaint:

- (1) For the recovery of the deposit account of \$22,-
088.48 standing on the books of the Federal Reserve Bank
of Richmond when the Farmers and Merchants National Bank
of Lake City closed its doors;

(2) For the surrender value of 78 shares of stock in the Reserve Bank, amounting, on May 20, 1927, to \$4115.15.

The Reserve Bank, "as trustee for various of its depositors", has filed a claim against the insolvent bank for \$12,982.85. The amount of this claim is made a counter-claim in the answer of defendant.

From the examination of pertinent authorities submitted to me, and considering the facts and circumstances appearing in the stipulation of facts, together with the statutes, regulations and circulars governing the banking and clearing house operations of the Reserve Bank, I find that when the Farmers and Merchants National Bank of Lake City closed its doors on October 9th, 1926, the said bank then had a credit on the books of the Reserve Bank, after making all proper allowances and de-

(14) ductions, in the amount of \$22,038.48. The charges made on account of the outstanding cash letters against the insolvent bank, I do not regard as proper allowances or deductions. The right of the Reserve Bank to make the charges terminated with the insolvency of the member bank. Demand for \$7187.86 was made on the Reserve Bank by the Receiver on February 19th, 1927. Demand for \$14,900.62 was made on May 11, 1927. These demands were refused. Interest therefore becomes calculable at the legal rate prevailing in Virginia, - 6% per annum, - on \$7187.86 from February 19, 1927 and on

\$14,900.62 from May 11, 1927. The surrender value of the stock in the Reserve Bank as of date May 20th, 1927, was \$4115.15.

The counter-claim of defendant is based on items in transit that were being handled by the Reserve Bank for collection. They were received for deferred credit, under regulations and check collection circulars which provide that the Reserve Bank will act only as agent for the bank from which it receives such checks. The items cannot be regarded as the property of the Reserve Bank. The circumstances shown in respect to the counter-claim make it clearly apparent that the claims upon which the suit is brought, and the claim set out by defendant in its counter-claim, do not arise between the parties in the same capacity. The Reserve Bank has the right to file a general claim, as agent of the owners of the collection items in such amount as it may be advised; and it will be entitled, as such agent, to dividends on the claim established, in the same manner as dividends may be paid by the receiver on other claims filed against the insolvent bank.

It is therefore

ORDERED AND ADJUDGED, That defendant's counter-claim be dismissed, and that plaintiff have judgment against and do recover from the defendant: (1) On the first cause

of action; The sum of \$22,088.48, with interest \$1417.38,
aggregating in amount \$23,505.86; (2) (15) On the second
cause of action; The sum of \$4115.15, with interest \$239.34,
aggregating in amount \$4354.49.

ERNEST F. COCHRAN,

U. S. District Judge.

Charleston, S. C.

May 9th, 1928.