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Southeast Bank failure: Who's really to blame?

By **ROBERT TRIGAUX**

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Southeast Bank survived the Depression. But it couldn't survive 1991.

Struggling against heavy losses and runs by depositors, Miami-based Southeast was seized by federal regulators on Sept. 19, 1991. The bank, once Florida's largest institution and a lender to many blue-chip corporations, was sold immediately to North Carolina's First Union Corp.

On the surface, it was a textbook bank failure.

Since Southeast's demise, however, finger-pointing and allegations of a fixed deal seem more like something from a John Grisham novel.

"What happened here was a vast and unfortunate betrayal of the public interest," charges Bill Brandt, a bankruptcy trustee for Southeast Banking Corp., the parent of Southeast Bank.

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In a lawsuit, federal regulators now stand accused by Brandt of seizing the bank too early. The feds deny it. But the Federal Deposit Insurance Corp. admits it has made tens of millions of dollars in profit from the seizure of Southeast Bank.

First Union has not escaped Brandt's attention, either. The bank faces a $500-million lawsuit, claiming that it unscrupulously manipulated Southeast, with the help of the feds, right into its back pocket. First Union denies any wrongdoing.

"The story behind the fall of Southeast is about the unbridled discretion of bank regulators," said Ken Thomas, a Miami-based bank analyst who was one of Southeast's biggest critics.

At the time it was seized, Southeast had $10-billion in assets and was one of Florida's biggest employers. It was the biggest bank in the South ever to fail.

When Southeast fell, 4,000 employees _ including hundreds in the Tampa Bay area _ lost their jobs and the bank's shareholders were wiped out. And one of the few big banks that still had headquarters in Florida was gobbled up by another out-of-state banking company.

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But this case is different and may prompt congressional hearings this fall. Southeast's seizure is raising questions about the accountability of federal bank regulators and the sweetheart deals the feds may extend to one bank but not others.

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For Brandt, the man behind the lawsuits, his job as court-appointed trustee is to recoup as much money as possible for the creditors of Southeast Banking Corp. His pit-bull style at Southeast has earned him more labels than a steamer trunk.

Don Quixote for trying to subdue big federal agencies. Mercenary for relentlessly pursuing his foes. Blowhard for serving up flip phrases that often end up in print and tend to infuriate his adversaries. Other Brandt labels can't be repeated in this newspaper.

But it's Brandt's professional ability to extract money from unwilling parties that may prove most telling in the Southeast Bank story. He's after hundreds of millions of dollars from the FDIC, First Union and Southeast's former officers and directors.

If the banking company's creditors can be paid, Brandt suggests that Southeast Bank might rise again.

But even if that never happens, Brandt claims he's out to hold the FDIC and First Union accountable for sinking Southeast.

"This is how 4,000 Southeast workers can be put out of work by the stroke of a bureaucratic pen, without any explanation," he said.

Brandt insists he won't let go until somebody pays.

"The FDIC is like an ostrich with its head in the sand," Brandt said. "If it's just going to show me its rear end, I'll have to conduct the most thorough proctological exam ever conducted on a government agency."

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A rude wake-up call

Southeast's saga reads like a bad soap opera.

The bank was an elitist and stuffy lender to big business for decades under chief executive Charles Zwick. Zwick had wowed Miami's business circles with his credentials as a Harvard economist and his position as President Lyndon Johnson's budget chief.

crumbling. Southeast's executives also had made some ill-advised acquisitions in Central Florida.

With bad loans rising, Southeast executives knew they had to fix the bank. Culturally, though, the conservative institution was stuck in first gear.

At Southeast, as the bank's former boss Mac Wolff once said, making changes was like turning an ocean liner.

By 1990, Southeast was racking up big losses. Zwick, whose ivory-tower personality had become a liability, left the bank in January 1991. Newcomer Doug Ebert was left in command to salvage Southeast.

By then, federal regulators were crawling all over the bank.

When Ebert faced his first annual meeting in April 1991, hundreds of angry shareholders shouted that Southeast officials were fiddling while their beloved bank burned.

One stockholder, who had watched the value of his 23,000 shares wither away, summed up the mood of many that day. Arthur Jurkowitz had moved to Florida in 1962 and in the intervening 29 years, he said, "Southeast Bank has gone from a giant to a peanut."

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As Ebert hunted for a buyer or new investors, Southeast tried to cut costs and sell some assets. It was too little, too late. That summer, Southeast still operated its private dining room for executives.

Regulators insisted that Southeast set aside cash reserves for more and more loans. And depositors, worried about growing publicity of Southeast's plight, pulled their money out of the bank faster than ever.

By the summer of '91, Southeast was losing more than $1-million a day.

Blaming First Union

In June 1991, First Union chief Ed Crutchfield signed a confidentiality agreement with Southeast Bank and sent 200 bankers to Miami to look over Southeast's books. Ebert hoped First Union would like what it saw and buy Southeast.

Instead, according to Brandt's lawsuit, First Union loaded up on inside information about Southeast, then pressured federal regulators to seize the bank. That way, Brandt said, First Union knew exactly what Southeast was really worth, but could buy it at a greatly reduced price direct from the FDIC.

In legal papers, First Union denies that its conversations with the FDIC were wrong. How could First Union tell the FDIC something about Southeast the

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Still, when the FDIC did seize Southeast, the bidding wasn't even close.

First Union offered the feds $81-million in cash for the giant Miami bank. Bidders Barnett and SunTrust Banks also offered to take over Southeast _ but only if the feds paid them $91-million and $134-million, respectively.

The deal gave First Union a lock on the No. 2 position in the vast Florida banking market, and the bank's profits since making the deal have been higher than expected.

The discrepancy in the bids bothers analyst Thomas, a lecturer at the University of Pennsylvania's Wharton School of Business.

"Why did two banks offer "negative' bids that meant the feds should pay them to take Southeast, while First Union offered to pay $81-million?" Thomas asked. "Either one of the banks was smart and the other two were not. Or maybe one of the banks just had better information."

First Union insists it is the victim of a "clever, unorthodox, thoroughly dishonest" propaganda campaign engineered by Brandt.

The bank, in a motion, has asked Brandt to halt "the improper process of poisoning" the legal waters. In Miami, that motion is known as the "shut up, Brandt memos."

For First Union, the nation's ninth-largest bank, the stakes are high. If the suit goes to a jury trial, the bank could pay up to $500-million in damages and suffer a big blow to its reputation.

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The FDIC also has a lot to lose if the courts side with Brandt.

When the FDIC seized Southeast, it estimated that the bank's failure would cost the government $350-million. But earlier this summer, the agency paid trustee Brandt $152-million and acknowledged it still will make at least a $28-million profit on the takeover.

Brandt swears there's closer to $250-million at the FDIC that belongs to Southeast's creditors.

L. William Seidman, former FDIC chairman, defended the FDIC's seizure of Southeast Bank as a "business" decision to close Southeast: "We acted to minimize losses to the FDIC's insurance fund and ultimately the taxpayer."

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never given its rightful chance to recover in 1991.

Brandt also contends that the FDIC gave First Union a sweetheart deal. When the FDIC sold Southeast to First Union, the agency said it would cover 85 percent of any losses suffered by First Union due to Southeast loans.

Even more unusual, Brandt said, was the FDIC's decision to buy $150-million of special preferred stock in First Union as part of the Southeast sale. In effect, he said, the government gave First Union a cheap $150-million loan at the same time First Union was paying the FDIC $81-million to buy Southeast.

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Both the FDIC and First Union have filed motions to dismiss Brandt's lawsuits. The matters are pending.

A colorful pit bull

It might be easy to dismiss Brandt as a loudmouth, more eager to embarrass giants like First Union and the federal bureaucracy than to take them head-on in court.

In interviews, he likes to refer to Sister Mary Formaldehyde, a figment of Brandt's Catholic upbringing and his reminder of what is right and what is wrong.

And he's always quick with a one-liner. "I'm being daily crucified by a lot of people," he told one Florida reporter earlier this month. "I carry my own nails now."

Brandt got into bankruptcy work almost by mistake nearly 20 years ago. He took a break from his doctoral studies in sociology at the University of Chicago to help a friend reopen a troubled Kentucky coal mine.

He formed a Chicago firm, Development Specialists Inc., in 1977 and opened a Miami office in 1986.

The trustee, who charges $255 an hour, is no lightweight. His company has a successful record of maximizing returns to creditors of bankrupt companies across the country.

In the Tampa Bay area, he is bringing Tampa's DataCare Inc., which supplies computer services to hospitals, out of bankruptcy. He revived the bankrupt Mid-Florida Yogurt Inc., the nation's largest TCBY Yogurt franchisee, and sold the Winter Haven-based outfit as an operating company.

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Park Banks Inc., the bankrupt parent of the failed Park Bank in St. Petersburg.

Now Brandt has put the screws to First Union and the FDIC.

"They can tell me to go anywhere they want _ as long as they write my name correctly on a check," Brandt taunts. "And they will be writing a check."

At Southeast Bank, a controversial demise

The big, troubled Florida bank had few boosters in the summer of 1991. Three years later, its seizure by the feds and sale to First Union are raising some sticky questions. Here's wh at happened.

1. Miami-based Southeast Banking Corp., once Florida's biggest bank and premier business lender, runs into trouble in the late 1980s as the state's commercial real estate market falters. By 1989, the institution has slipped but is still the state's second-largest bank, with more than $15-billion in assets and 230 offices.

After making a $76-million profit in 1989, Southeast loses $203-million in 1990. Chairman Charles Zwick overpays for some acquisitions and waffles on whether the bank should cater to corporations or individuals.

More Southeast customers start withdrawing deposits, setting the bank up for a government seizure.

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2. Federal regulators, scorned in the late 1980s for mishandling the S&L crisis, are swearing they will get tougher. As Southeast Bank weakens, FDIC Chairman L. William Seidman promotes an "early intervention" policy that lets the feds seize troubled banks before they become penniless.

In 1991, Southeast starts borrowing money from the Federal Reserve to meet depositor withdrawals. Though Southeast still has capital left, the Fed stops lending money to the bank.

3. As its problems mount, Southeast looks for a buyer, and signs a confidentiality agreement to allow First Union to examine its books.

First Union, a big buyer of failed banks and S&Ls from the government, tells the FDIC it wants to bid for Southeast Bank _ if it fails.

The FDIC seizes Southeast on Sept. 19, 1991, in the state's biggest bank failure and sells it to First Union. When the deal is announced, the feds claim it will cost the government $350-million.

First Union wins Southeast with an offer of $81-million, outbidding Barnett Banks and SunTrust Banks.

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Union acknowledges that profits from the Southeast deal are much higher.

Boosting First Union's success is an FDIC guarantee. The regulator promises to absorb up to 85 percent of the losses on any Southeast loan that First Union does not want.

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The Southeast deal increases First Union's deposits in Florida by $8-billion and makes the bank the second-largest operating in Florida, behind Barnett.

5. Earlier this year, the FDIC concedes that rather than losing $350-million from the Southeast deal, the government will reap more than $28-million in profits. Bill Brandt, Southeast's bankruptcy trustee, suggests the FDIC will reap far more in profits.

That gain raises questions about whether the FDIC took over Southeast prematurely when the bank may have had the resources to recover on its own.

Brandt also sues First Union for $500-million, claiming it conspired with the FDIC to profit from Southeast's failure. First Union denies wrongdoing.

Brandt even claims he may be able to get Southeast back in business. "I think many of you thought I was crazy," Brandt tells the press in July. "I'm just not as crazy as I once was."

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