Avoiding Self Serving Practices and Liability

FEDERAL DEPOSIT INSURANCE CORPORATION
INSURING AMERICA'S FUTURE

Avoiding Self-Serving Practices

- Never use influence for personal advantage or gain
- Never misuse customers' confidential information
- Place performance of duties above personal objectives

Personal Interest Adverse of the Bank

- Exercise the utmost fairness
- Act in good faith
- Guard the interests of the bank
- Fully disclose interests
- Recuse from discussion and voting

Why Avoid Self-Serving Practices?

Personal Liability

Actions That May Create Personal Liability

- Negligence is the cause of loss
- Breach of trust
- Fraud
- Misappropriation or conversion of assets

Liability For Negligent Acts

- Failure to exercise the degree of care with statutory law, either or both of which cause loss or injury

Examples

1. Attitude of indifference to the affairs of the bank
   - Failure to hold meetings
   - Failure to obtain a financial condition statement
   - Failure to arrange examinations and audits
   - Failure to heed warnings and take appropriate action
   - Failure to adopt practices and follow procedures

Examples Continued

2. Relinquish control to officers and employees
3. Assenting to loans in excess of applicable statutory limitations
4. Breach of internal policies
5. Misrepresenting assets

Liability

- “Not by the event, but by the circumstance under which they acted.”

  (Briggs v. Spaulding, 141 U.S. 132, 155 (1890), 35L. Ed. 662, 672)