

Greg Veal Successfully Defends Two Financial Institution Bond Claims

By April 8, 2009

Greg Veal successfully defended St. Paul Travelers against a financial institution bond claim seeking accrued interest on fraudulent promissory notes in *Citizens Bank & Trust v. St. Paul Mercury* (U.S.D.C., S.D. Ga. 2007). The bank sought to recover over \$568,000 in "interest" carried on its books as having accrued on completely fictitious "loans" made up by a dishonest officer to cover his embezzlements. (The insurer had paid the principal amounts embezzled.) The district judge agreed with St. Paul Travelers that the cash-out-the-door loss, not the bank's bookkeeping entries, established the loss covered under the policy. The court actually awarded the insurer a refund of over \$89,000 overpaid on the principal loss due to unaccounted recoveries by the insured bank. This decision helps to resolve the issue of claimed accrued interest on fraudulent rollover notes, on which only a handful of courts had ruled with mixed results.

Greg also obtained summary judgment in favor of Federal Insurance Company on claims for loan losses based on forged faxes and fraudulently obtained replacement vehicle titles in *Alliance National Bank v. Federal Insurance Co.* (U.S.D.C., N.D. Ga. 2008). Before motions, the insured bank was persuaded to drop its bad-faith, D&O, and certain other claims. Left for summary judgment were just two claims. The bank's loss based on loans supported only by faxed manufacturer's statements of origin bearing forged signatures was not covered because the bond required originals. Loans supported by original vehicle titles were not covered even though the borrower sold the collateral using replacement titles fraudulently induced from the state; no documents were forged. The court ruled in favor of the insurer just seven hours after submission of the summary judgment motion. This case reaffirms the scope of the financial institution bond where faxes (not originals) and fraud (but not forgery) are involved.