

MARKS & WEINBERG, P.C.

**Liquidation of United American Bank of Knoxville
v. Federal Deposit Insurance Corporation
2000 WL 145078 (Tenn. Ct. App. 2000)**

Plaintiff leased equipment to the defendant who was a bank. The defendant was subsequently declared insolvent by the Tennessee Commissioner of Banking. Thereafter, the FDIC informed the plaintiff that it was terminating the lease and that the plaintiff would be entitled to rent due and payable up to 60 days following such notice. Plaintiff filed suit for acceleration of the full lease amount. The FDIC filed a motion for summary judgment which was granted by the court. Pursuant to the statute authorizing the FDIC's action, the plaintiff was entitled to challenge the constitutionality of the statute. Such was the matter under consideration on appeal.

Plaintiff alleges that the statute denies it equal protection under the law and deprives it of property absent due process of law. Considering the equal protection claim, the court applied the rational basis test. In other words, the court considered whether any set of facts could reasonably be conceived to justify the difference in treatment between the plaintiff and other creditors. The purpose behind the statute authorizing FDIC's action cites conservation of consumer assets as the underlying rationale for the statutory framework. Thus, the court held that the treatment of lessors different from other creditors accomplishes a legitimate state goal, by conserving bank assets, maximizing the value from the disposition of the asset and providing for the disposition of assets of



Tennessee banks consistent with the disposition of both state and national banks as prescribed in federal legislation governing the powers of the FDIC.

The court next considered the appellant's claim regarding a violation of substantive due process. The court quickly dismissed this allegation stating that such a claim applies only to "egregious abuses of governmental power," or to conduct that "shocks the conscience." In other words, substantive due process does not "protect run-of-the-mill contractually based property interests." Thus, the decision of the lower court was affirmed.

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