

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

**David J. Osio,
Vaduz Financial Corp.,
Ricardo A. Montero,
DataPro, Inc.,**

and

Celestino Diaz,

Shareholders of

**Dollar Bancorp, Inc.,
Newark, New Jersey
OTS No. H3489**

Holding Company for

**Dollar Savings Bank
Newark, New Jersey
OTS No. 06755**

**Re: OTS Orders Nos. NE-04-09
and
NE-04-10**

Dated: November 16, 2004

**STIPULATION AND CONSENT TO ISSUANCE OF
AN ORDER TO CEASE AND DESIST AND
AN ORDER OF ASSESSMENT OF A CIVIL MONEY PENALTY**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed David J. Osio, Vaduz Financial Corp., Ricardo A. Montero, DataPro, Inc., and Celestino Diaz, shareholders of Dollar Bancorp, Inc., Newark, New Jersey ("Bancorp" or the "Company"), holding company for Dollar Savings Bank, Newark, New Jersey ("Dollar" or the "Institution"), placed in receivership February 13, 2004 (collectively, the "Respondents") that the OTS is of the opinion that grounds exist to initiate cease and desist proceedings and to assess civil money penalties against the Respondents

pursuant to 12 U.S.C. § 1818(b) and (i),¹ and

WHEREAS, the Respondents desire to cooperate with the OTS to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, but admitting the statements and conclusions in Paragraph 1 below, and subject to Rule 408 of the Federal Rules of Evidence, hereby stipulate and agree to the following terms:

1. Jurisdiction.

(a) Dollar, at all times relevant hereto, was a "savings association" within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, Dollar was an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Bancorp, at all times relevant hereto, owned 100% of the shares of Dollar. Bancorp, at all times relevant hereto, was a "depository institution holding company" as that term is defined in 12 U.S.C. § 1813(w)(1) and a "savings and loan holding company" as that term is defined in 12 U.S.C. § 1467a(a)(1)(D) and 12 U.S.C. § 1813(w)(3). Accordingly, Bancorp was an "insured depository institution" for the purposes of 12 U.S.C. § 1817(j). *See* 12 U.S.C. § 1817(j)(18)(A).

(c) Respondents, as shareholders of Bancorp, are "institution-affiliated parties" as that term is defined in 12 U.S.C. § 1813(u).

(d) Pursuant to 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against a savings association's or savings and loan holding company's institution-affiliated parties. Therefore, the Respondents are subject to the authority of the OTS to initiate and maintain administrative proceedings against them pursuant to 12 U.S.C. § 1818(b) and (i).

2. OTS Findings of Fact.

The OTS finds that:

(a) From January 8, 2003 through February 13, 2004, Respondents engaged in a

¹ All references in this Stipulation and Consent to Issuance of an Order to Cease and Desist and an Order of Assessment of a Civil Money Penalty ("Stipulation") are to the United States Code as amended.

series of transactions by which they acquired and maintained ownership or beneficial ownership of 22.385% of the shares of Bancorp. Respondent Osio, acting through companies he controlled, solicited and facilitated the foregoing transactions. In addition, Respondent Osio solicited and facilitated transactions whereby additional investors, acting in reliance on Osio's representations of Respondents' business plans for Bancorp and Dollar, purchased 75.615% of the shares of Bancorp in blocks of less than 10% each. Respondents were in a position to influence the voting of these additional shares.

(b) By reason of pre-existing business and personal relationships between and among them, the Respondents are deemed to be "acting in concert" in their acquisition of shares of Bancorp pursuant to 12 C.F.R. §§ 574.2(c), 574.4(d). In the course of their acquisition of shares, they unlawfully acquired rebuttable control of Bancorp and Dollar as defined in 12 C.F.R. § 574.4(b) by reason of their acquisition of more than 10% of the stock of Bancorp without first filing a rebuttal of control, a change-of-control notice, or a holding company application, in violation of 12 U.S.C §§ 1467a(e)(1)(B), 1817(j)(1) and 12 C.F.R. § 574.3. *See* 12 C.F.R. § 574.4(b) (rebuttable presumptions of control). Further, their ultimate acquisition of an aggregate of 22.385% of the shares of Bancorp constituted the unrebutted acquisition of "control" of Bancorp and Dollar by virtue of their becoming one of the two largest shareholders of Bancorp, in violation of 12 U.S.C §§ 1467a(e)(1)(B), 1817(j)(1) and 12 C.F.R. § 574.3. *See* 12 U.S.C. §§ 1467a(a)(2)(B), 1817(j)(8)(B) ("control"); 12 C.F.R. § 574.4(b).

(c) On multiple occasions, as they acquired shares of Bancorp, the Respondents: (1) failed to seek and obtain prior approval of their acquisition of control of Bancorp, in violation of 12 U.S.C. § 1817(j)(1) and 12 C.F.R. § 574.3(b) and in violation of 12 U.S.C. § 1467a(e)(1)(B) and 12 C.F.R. § 574.3(a); (2) failed to file a rebuttal of their presumptive control as required by 12 C.F.R. § 574.4(e)(1); and (3) failed to file a certification of ownership as required by 12 C.F.R. § 574.5(a). In addition, Respondents Vaduz Financial Corp., and DataPro, Inc. failed to register as savings and loan holding companies as required by 12 U.S.C. § 1467a(b) and 12 C.F.R. § 584.1(a).

3. Consent.

Respondents consent to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief and the accompanying Consent Order of Assessment of a Civil Money Penalty (the "Orders"). Respondents further agree to comply with the terms of the Orders upon issuance and stipulate that the Orders comply with all requirements of law.

4. Finality.

The Orders are issued by the OTS under the authority of 12 U.S.C. §§ 1467a(g)(5), 1467a(i), 1817(j), 1818(b). Upon issuance by the Regional Director or designee for the Northeast Region, OTS, the Orders shall be final, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. §§ 1467a(i), 1818(b) and (i).

5. Waivers.

The Respondents waive the following:

- (a) The right to be served with a written notice of the OTS's charges against them;
- (b) The right to an administrative hearing of the OTS's charges against them;
- (c) The right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise, to challenge the validity of the Order; and
- (d) Any and all claims against the OTS, including its employees and agents, or any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412.

6. Other Government Actions Not Affected.

(a) The Respondents acknowledge and agree that their consent to the issuance of the Orders is for the purpose of resolving the cease-and-desist action and civil money penalty action only, and does not release, discharge, compromise, settle, dismiss, resolve, or affect any actions, charges against, or liability of the Respondents that arise pursuant to these actions or otherwise, and that may be or have been brought by any other government entity other than the OTS.

(b) By signing this Stipulation, the Respondents agree that they will not assert this proceeding, their consent to the issuance of the Orders, and/or the issuance of the Orders, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other Federal or state governmental entity.

7. Agreement for Continuing Cooperation

The Respondents agree that, at the OTS's written request, without service of a subpoena, they will provide discovery and will testify truthfully at any judicial or administrative proceeding related to any investigation, litigation, or other proceeding maintained by OTS relating to Bancorp, Dollar, or their institution-affiliated parties, except that the Respondents do not waive any privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If the Respondents invoke their privilege against self-incrimination under the Fifth Amendment of the United States Constitution and the OTS obtains a grant of immunity pursuant to 18 U.S.C. § 6001 *et seq.*, the Respondents agree, consistent with any such grant of immunity, to provide discovery and to testify truthfully at any judicial, administrative, or investigative proceeding for which immunity is given.

8. Miscellaneous

(a) The construction and validity of this Stipulation and the Orders shall be governed by the laws of the United States of America.

(b) All references to the OTS in this Stipulation and the Orders shall also mean any of the OTS' predecessors, successors, and assigns.

(c) The section and paragraph headings in this Stipulation and the Orders are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Orders.

(d) The terms of this Stipulation and the Orders represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

(e) This Stipulation and Orders shall remain in effect until terminated or suspended in

writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

(f) Each individual executing this Stipulation on behalf of a corporation or partnership represents, warrants, and declares under penalty of perjury that he is authorized to act on behalf of such corporation or partnership and that he holds the position noted below his signature.

WHEREFORE, the Respondents execute this Stipulation and Consent to Issuance of an Order to Cease and Desist and an Order of Assessment of a Civil Money Penalty, intending to be legally bound hereby.

By:



David J. Osio

Dated: 11/09/2004.

Accepted by:
Office of Thrift Supervision



Robert C. Albanese
Northeast Regional Director

Dated: 11/10/04

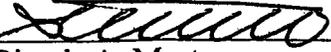
By:



Vaduz Financial Corp.
By David J. Osio.
Its Lawyer of Advice.

Dated: 11/09/2004.

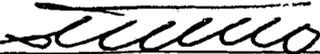
By:



Ricardo A. Montero

Dated: NOV 10, 2004

By:



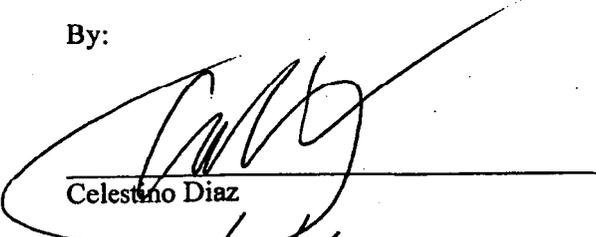
DataPro, Inc.

By RICARDO R MONTERO

Its PRESIDENT

Dated: NOV 10, 2004

By:



Celestino Diaz

Dated: 11/09/04

**UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION**

In the Matter of:

**David J. Osio,
Vaduz Financial Corp.,
Ricardo A. Montero,
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Shareholders of

**Dollar Bancorp, Inc.,
Newark, New Jersey
OTS No. H3489**

Holding Company for

**Dollar Savings Bank
Newark, New Jersey
OTS No. 06755**

OTS Order No. NE-04-10

Dated: November 16, 2004

CONSENT ORDER OF ASSESSMENT OF A CIVIL MONEY PENALTY

WHEREAS, David J. Osio, Vaduz Financial Corp., Ricardo A. Montero, DataPro, Inc., and Celestino Diaz, shareholders of Dollar Bancorp, Inc., Newark, New Jersey ("Bancorp" or the "Company"), holding company for Dollar Savings Bank, Newark, New Jersey ("Dollar" or the "Institution"), placed in receivership on February 13, 2004 (collectively, the "Respondents") have executed a Stipulation and Consent to Issuance of an Order to Cease and Desist and Order of Assessment of a Civil Money Penalty ("Stipulation"); and

WHEREAS, Respondents, by their execution of the Stipulation, have, without admitting or denying that grounds exist to assess civil money penalties against them, consented and agreed to the issuance of this Consent Order of Assessment of a Civil Money Penalty (“Order”) by the Office of Thrift Supervision (“OTS”), pursuant to 12 U.S.C. §§ 1467a(i), 1818(i);

NOW, THEREFORE, IT IS ORDERED THAT:

1. Within ten (10) calendar days of the date of this Order, Respondents shall pay to the OTS the sum of One Hundred Thousand Dollars (\$100,000) by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The check or bank draft and a copy of the Order shall be delivered, together with a cover letter stating the name of the financial institution, to the following address: Controller’s Division, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552. A copy of the check or bank draft and the cover letter shall be sent by U.S. Mail, first class postage prepaid, to Bryan T. Veis, Special Counsel, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

2. This Order is subject to the provisions of subsection (i)(1) of the Savings and Loan Holding Company Act (*i.e.*, Section 10(i)(1) of the Home Owners’ Loan Act) and Section 8(j) of the Federal Deposit Insurance Act, 12 U.S.C. §§ 1467a(i)(1), 1818(j).

3. The Stipulation is made a part hereof and is incorporated herein by this reference.

4. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation shall remain in effect until terminated or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative. This

Order shall terminate upon Respondents' payment in full of the sum specified in paragraph 1 above and their compliance with all other requirements set forth in paragraph 1.

OFFICE OF THRIFT SUPERVISION

By: 
Robert C. Albanese
Northeast Regional Director