

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" to maintain an administrative proceeding against such a savings association. Therefore, the Bank is subject to the jurisdiction and jurisdiction of the OTS to initiate and maintain a administrative proceeding against it pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

2. OTS Findings of Fact. The OTS is of the opinion that, in order for the Bank to operate in a safe and sound manner, it needs a Board of Directors and senior management whose members are qualified, competent, and possessing the requisite character and integrity to fulfill their fiduciary duties in operating a depository institution. In view of the deficiencies cited in past reports of examination the OTS believes that it is necessary to formalize the process of reconstituting the Board of Directors and senior management.

3. Consent. The Bank consents to the issuance by the OTS of the Order. It further agrees to comply with the terms of the Order upon issuance.

4. Finality. The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director or designee for the Northeast Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers.

(a) The Bank waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

(b) The Bank acknowledges and agrees that the consent to the entry of the Order is for the purposes of resolving this OTS enforcement matter only, and does not resolve, affect or preclude any other civil or criminal proceeding which may be or has been brought by the OTS or another governmental entity.

6. Signature of Directors. Each Director signing this Stipulation attests that s/he voted in favor of a resolution authorizing the execution of the Stipulation.

WHEREFORE, the Bank, by a majority of its directors, executes this Stipulation and Consent to the Entry of an Order to Cease and Desist, intending to be legally bound hereby.

Family First FSB
by a majority of its directors

Accepted by:
Office of Thrift Supervision

By: _____ /S/
Director

Director /S/

Director /S/

Director /S/

Director

Director

Director

/S/
Robert C. Albanese
Regional Deputy Director
Northeast Region
Date: 10/4/93

UNITED STATES OF AMERICA

Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

Family First Federal Savings Bank)
Clifton, New Jersey)
OTS No. 8223)

OTS Order No. NE93-40

Dated: October 4, 1993

CONSENT ORDER TO CEASE AND DESIST

WHEREAS, a Consent Order was issued on June 3, 1991 to Family First Federal Savings Bank ("Family First" or "the Bank") pursuant to Northeast Regional Director Resolution No. NY-91-7 (the "Original Order"); and

WHEREAS, the OTS and Family First wish to amend the requirements of the Original Order through the issuance of a new Consent Cease and Desist Order; and

WHEREAS, Family First, by and through its board of directors ("Board"), has executed a Stipulation and Consent to the Entry of a Consent Order to Cease and Desist ("Stipulation"); and

WHEREAS, the Bank, in the Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)¹; and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue Orders to Cease and Desist on behalf of the OTS where there has been consent to the issuance of the Order; and

1. All references to the U.S.C. are as amended.

NOW THEREFORE, IT IS ORDERED THAT:

1. Compliance with laws and regulations.

The Bank and its directors, officers, employees, agents, shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any unsafe or unsound practice or any violation of:

(a) Section 11 of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1468, incorporating Sections 22(g), 22(h), 23A, and 23B of the Federal Reserve Act, 12 U.S.C. §§ 375a, 375b, 371c and 371c-1 (transactions with affiliates, extensions of credit to executive officers, directors, and principal shareholders);

(b) Section 545.46 of the OTS Regulations, 12 C.F.R. § 545.46 (regarding commercial loan limitations);

(c) Section 563.41 of the OTS Regulations, 12 C.F.R. § 563.41 (regarding loans and other transactions with affiliates and subsidiaries);

(d) Section 563.42 of the OTS Regulations, 12 C.F.R. § 563.42 (regarding additional standards applicable to transactions with affiliates and subsidiaries);

(e) Section 563.43 of the OTS Regulations, 12 C.F.R. § 563.43 (regarding loans to executive officers, directors and principal shareholders)

(f) Section 563.93 of the OTS Regulations, 12 C.F.R. § 563.93 (regarding lending limitations);

(g) Sections 563.160 of the OTS Regulations, 12 C.F.R. §§ 563.160 (regarding classification of assets);

(h) Section 563.161 of the OTS Regulations, 12 C.F.R. § 563.161 (regarding management and financial policies/compensation);

(i) Section 563.170 of the OTS Regulations, 12 C.F.R. § 563.170(c) (regarding establishment and maintenance of records);

(j) Section 563.176 of the OTS Regulations, 12 C.F.R. § 563.176 (regarding interest rate risk management procedures); and

(k) Section 571.7 of the OTS Regulations, 12 C.F.R. § 571.7 (regarding conflicts of interest).

2. Full-Time President and Chief Executive Officer

No later than November 15, 1993, the Bank shall hire a full-time President and Chief Executive Officer who: (i) has extensive experience as a senior officer in the banking industry and whose record of performance indicates that s/he has the requisite qualifications, experience, character, and integrity to cause the Bank to operate in a safe and sound manner and (ii) is not a Disqualified Candidate. The deadline may be extended by the OTS, in its discretion, upon a showing of "good cause". As required by Section 32 of the FDIA, 12 U.S.C. § 1831i, and Section 574.9 of the OTS Regulations, the Bank shall provide at least 30 days prior notice to the OTS before the employment becomes effective.

3. Filling Vacancies On Board Of Directors

No later than November 15, 1993, the Bank shall fill any vacancies on its Board of Directors as may exist at that time. The deadline may be extended by the OTS, in its discretion, upon a showing of "good cause". In filling any existing or future vacancies, the Bank shall seek out only those individuals that: (i) possess the requisite qualifications, experience, character, and integrity to cause the Bank to operate in a safe and sound manner and (ii) are not Disqualified Candidates. As required by Section 32 of the FDIA, 12 U.S.C. § 1831i, and Section 574.9 of the OTS Regulations, the Bank shall provide at least 30 days prior notice to the OTS before the service as director becomes effective.

4. Restrictions on Loans and Investments.

(a) Except (i) as otherwise specifically permitted by this Paragraph 4, or (ii) with the prior written notice of non-objection from the OTS (acting by and through its Regional Director or his designee), or (iii) for written loan commitments by the Bank which were outstanding and enforceable against the Bank as of June 3, 1991, neither Family First nor any subsidiary thereof shall, directly or indirectly, make, invest in, purchase, sell refinance, extend or otherwise modify loans or loan-in-process or otherwise extend any credit to any person or entity.

(b) The Bank and its subsidiaries, in accordance with written policies and procedures adopted by their respective Boards of Directors, may make or purchase the following types of loans and loan-related investments:

(i) qualifying mortgage loans, within the meaning of Section 567.1(u) of the OTS Regulations, 12 C.F.R. § 567.1(u);

(ii) loans fully secured either by deposit accounts maintained at Family First or marketable securities (i.e. securities that may be sold with reasonable promptness at a price which corresponds reasonably to their fair value);

(iii) home equity loans and second mortgage loans on primary residences where the aggregate amount of debt secured by the Borrower's home at no time exceeds more than 70 percent of the appraised market value of the security property provided;

(iv) education loans, guaranteed or insured under a Federal or State education loan program;

(v) consumer loans, provided that the aggregate amount of all unsecured loan funds shall not exceed more than \$7,500 (\$25,000 if approved by the Board of Directors), to any one borrower including any member of the immediate family of such borrower (immediate family shall be construed within the meaning of 12 C.F.R. § 561.24);

(vi) consumer loans secured by a first lien against a passenger motor vehicle;

(vii) securities issued with or guaranteed by the full faith and credit of the U.S. Treasury, as well as securities issued or guaranteed by FNMA, FHLMC, FHLB or the FFCB, provided that the investment qualifies as a liquid asset under Part 566 of the OTS Regulations, 12 C.F.R. Part 566, or would so qualify but for its maturity; and

(viii) advances necessary to honor legally binding commitments existing as of June 3, 1991;

(ix) overnight investments in Federal fund loans;
and

(x) renewals of loans and lines of credit in existence on June 3, 1991, provided that such renewals do not result in additional extensions of credit.

(xi) when renewing loans and lines of credit in existence on June 3, 1991, the Bank shall make its best good faith effort to bring nonconforming loans into conformance with the loans to one borrower limitations contained with 12 C.F.R. § 563.93.

(xii) secured commercial loans up to \$50,000 per loan.

(c) Before the Bank engages in any lending or investment activity that requires the non-objection of the Regional Director pursuant to subparagraph (a) hereof, the Board of Directors with respect to such lending or investment activity shall duly adopt and submit to the Regional Director, a resolution providing as follows:

(i) Family First's management is capable of underwriting and administering the loans or investments in a safe and sound manner;

(ii) Family First's Board of Directors has adopted policies and procedures to ensure that the loans or investments are prudently underwritten and administered;

(iii) Family First has implemented internal controls to assure compliance with such policies and procedures;
and

All documentation considered by the Board of Directors in adopting each such resolution shall be explicitly referenced in the minutes of the meeting at which the resolution was adopted and shall be made available to representatives of the OTS upon request. The copy of each resolution submitted to the OTS's Regional Director shall be signed by each of the directors who voted in favor of adopting the resolution.

5. Internal Loan Review; Specific Valuation Allowances.

(a) Within thirty (30) days from the Bank's receipt of any Report of Examination from the OTS, the result of which shall be subject to appeal to the Regional Director, the Bank shall establish such specific loss allowances (or other charge-off entries) so as to cause the Bank's accounting records for its assets to conform with the "Loss" classifications in said Report of Examination.

(b) The Bank shall continue to implement the asset review program that was originally required and described in Paragraph 5(c) of the Original Order.

6. General Valuation Allowances.

Utilizing a method of assessing the adequacy of Family First's general valuation allowances ("GVA") that gives consideration to the volume and composition of the loan portfolio not subject to regulatory classification, as well as to the volume and composition of regulatorily classified assets, Family First's Board of Directors shall, during each quarter, re-evaluate the allowances for loan losses and make such additional provisions for loan losses that are, in the judgment of the Board, necessary to maintain the allowances at an adequate level relative to the level of risk in Family First's loan portfolio. All such additional provisions for loan losses shall be made in the calendar quarter in which the deficiency in the allowance is identified, and shall be reflected in the Thrift Financial Reports filed in such calendar quarter. The minutes of the Board of Directors of Family First shall reflect that it has performed such re-evaluation.

7. Classified Asset Program

The Bank shall continue to administer the Classified Asset Program that was established pursuant to paragraph 7 of the Original Order.

8. Restrictions on Asset Growth and Capital Distributions.

Except with the prior written notice of non-objection from the OTS, the Bank shall not: (i) cause or permit its total assets to exceed the amount reported on its Thrift Financial Report as of March 31, 1991, except that such total assets may increase solely in an amount equal to the net interest credited to its deposit liabilities; or (ii) pay any dividends or otherwise make any capital distributions.

9. Loans to Past and Present Affiliated Persons.

(a) Except (i) with the prior written notice of non-objection from the OTS (acting through its Regional Director or his designee) or (ii) as otherwise permitted by subparagraph 9(b) hereof, neither the Bank nor any subsidiary thereof shall, directly or indirectly, make any loans or otherwise extend any credit to any "affiliated person" of the Bank (or any affiliate thereof) within the meaning of 12 C.F.R. § 561.5, as it was published in the January 1, 1993 Edition of the Code of Federal Regulations (Attachment 1). The limitations hereof are intended to expand and not to limit the restrictions set forth in the HOLA, the Federal Reserve Act, and the regulations of the OTS.

(b) The limitations of subparagraph (a) hereof shall not prevent the Bank (or any subsidiary thereof) from making any lawful loan² to an affiliated person where the loan is of the following types:

- (i) an education loan guaranteed or insured under a government program;
- (ii) an owner-occupied, first lien residential home loan on the primary residence provided that the principal amount of such loan does not exceed 80 percent of the appraised market value of the security property, provided, however, that such loan may not exceed 90 percent of the appraised market value of the security property if private mortgage insurance is obtained for the amount in excess of 80 percent of the appraised market value, and, provided further, that such loans may not exceed 80 percent of the appraised market value of the security property to the extent that they are insured or guaranteed by the Federal Housing Administration or the Veterans Administration;
- (iii) a loan secured by a passbook account; or
- (iv) consumer loans secured by a first lien against a passenger motor vehicle.

2. Including, without limitation, the requirements of 12 C.F.R. § 563.43, which incorporates the restrictions set forth in Federal Reserve Board Regulation O.

(c) The Bank shall not extend credit to any former affiliated person (i.e. an individual or entity that was previously deemed to be an affiliated person, but, by virtue of the departure of an individual from the Bank's Board of Directors or management no longer meets the definition set forth in Attachment 1), unless such credit: (i) is extended on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions by Family First with other persons not subject to this Order; (ii) does not involve more than the normal risk of repayment or features unfavorable to Family First; (iii) is approved, prior to commitment and funding, by Family First's Board of Directors at a duly called and held meeting thereof; and (iv) does not involve a violation of any laws, rules, or regulations applicable to such loans. In no event shall extensions of credit permitted by this Paragraph 9(c) to any person, as that term is used in 12 C.F.R. Part 32, exceed \$200,000 unless the Bank first (i) provides a minimum of thirty days advance notice of the proposed transaction and (ii) receives a written notice of non-objection from the Regional Director.

10. Terms of Employment and Golden Parachute Payments.

(a) Pursuant to OTS Regulatory Bulletin 27a, the Bank shall not enter into, renew, extend or revise any contractual arrangement related to compensation or benefits with any director, senior executive officer of the Bank or any subsidiary thereof, unless it first (i) provides a minimum of thirty days advance notice of the proposed transaction and (ii) receives a written notice of non-objection from the Regional Director.

(b) The Bank shall not make any "golden parachute payment", as that term is defined in Section 18(k) of the FDIA, 12 U.S.C. § 1828(k), and as it may be further defined in regulations adopted by the Federal Deposit Insurance Corporation ("FDIC") under that authority, unless it first (i) provides a minimum of thirty days advance notice of the proposed payment and (ii) receives a written notice of non-objection from the Regional Director with regard thereto.

11. Third Party Contracts; TB 50 Review

The Bank shall not enter into any third party contracts outside the normal course of business pursuant to OTS Thrift Bulletin 50, dated November 19, 1991, unless it first (i) provides a minimum of ten days advance notice of a proposed contract and (ii) receives the prior written approval of the Regional Director.

12. Liquidity.

The Bank shall, at all times, maintain sufficient unpledged assets (giving effect to the applicable margin requirements or "haircut" requirements) that will enable it to secure advances by the Federal Home Loan Bank of New York or the Federal Reserve Bank of New York in an amount which, when added to the Bank credit facilities not then drawn on, will equal not less than 10.0% of total assets, as reported in the most recent quarterly Thrift Financial Report to the OTS (Schedule CSC - Line 60). The Bank shall immediately notify the Regional Director of any violation of this Paragraph 12. For purposes of this Paragraph 12, "unpledged assets" may include liquid assets as defined in Section 566.1(g) of the OTS Regulations that are used to meet the Bank's liquidity requirement.

13. Compliance with Order/Compliance Review Committee.

(a) The board of directors ("board") and officers of the Bank shall take immediate action to cause the Bank to comply with the terms of this Order and shall take all actions necessary or appropriate thereafter to cause the Bank to continue to carry out the provisions of this Order.

(b) The Bank shall continue to implement the Compliance Committee review program that was originally required and described in paragraph 15 of the Original Order, except that submission of the minutes of such meetings to the OTS may be discontinued.

14. Definitions

All technical words or terms used in this Order for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, HOLA, FDIA or OTS Memoranda. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

(a) "Acting in Concert" has the meaning set forth at subsection 574.2(c) of the OTS Regulations (12 C.F.R. § 574.2(c) (1993)).

(b) "Director Subject To Enforcement Action" means any current or former director who has consented, in his individual capacity, to an enforcement action against him by the OTS or has been notified (formally or informally) of the OTS's intent to seek such enforcement action as a consequence of the OTS Formal Examination.

(c) "Disqualified Candidate" means

(i) any person who is a Relative, agent, employee, attorney or representative of any Director Subject To Enforcement Action,

(ii) any person acting in concert with any of the aforesaid persons;

(iii) any partner or joint venture partner of any Director Subject To Enforcement Action;

(iv) unless otherwise notified in writing by the Regional Director, any participant in any business transaction or investment with any Director Subject To Enforcement Action, where the value of such business transaction or investment exceeded \$2,000;

(v) any person who, by virtue of their relationship with any Director Subject To Enforcement Action is now or was in the past classified as, or was employed by, an Affiliated Person as that term is defined in Paragraph 9; and

(vi) any person whose relationship with any Director Subject To Enforcement Action may reasonably be concluded to have the potential to interfere with the reasonable exercise of his/her fiduciary duties.

(d) "Relative" means the spouse, father, mother, children, aunts, uncles, brothers, sisters, nephews, nieces and grandchildren, of any individual and to the extent not already included, the spouses of such relatives.

15. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Order to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

16. Duration, Termination or Suspension of Order.

(a) This Order shall: (i) become effective upon its execution by the OTS, through its authorized representative whose signature appears below and (ii) remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof).

(b) The Regional Director in his or her sole discretion, may, by written notice, suspend any or all provisions of this Order.

17. Time Limits.

Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted.

§ 561.5

number of shares voted for the election of directors of such savings association at the preceding election, or by trustees for the benefit of the shareholders of any such savings association; or

(c) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one savings association.

§ 561.5 Affiliated person.

The term *affiliated person* of a savings association means the following:

(a) A director, officer, or controlling person of such association;

(b) A spouse of a director, officer, or controlling person of such association;

(c) A member of the immediate family of a director, officer, or controlling person of such association, who has the same home as such person or who is a director or officer of any subsidiary of such association or of any holding company affiliate of such association;

(d) Any corporation or organization (other than the savings association or a corporation or organization through which the savings association operates) of which a director, officer or the controlling person of such association:

(1) Is chief executive officer, chief financial officer, or a person performing similar functions;

(2) Is a general partner;

(3) Is a limited partner who, directly or indirectly either alone or with his or her spouse and the members of his or her immediate family who are also affiliated persons of the association, owns an interest of 10 percent or more in the partnership (based on the value of his or her contribution) or who, directly or indirectly with other directors, officers, and controlling persons of such association and their spouses and their immediate family members who are also affiliated persons of the association, owns an interest of 25 percent or more in the partnership; or

(4) Directly or indirectly either alone or with his or her spouse and the members of his or her immediate family who are also affiliated persons of the association, owns or controls 10 percent or more of any class of equity securities or owns or controls, with other directors, officers, and control-

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ling persons of such association and their spouses and their immediate family members who are also affiliated persons of the association, 25 percent or more of any class of equity securities; and

(5) Any trust or other estate in which a director, officer, or controlling person of such association or the spouse of such person has a substantial beneficial interest or as to which such person or his or her spouse serves as trustee or in a similar fiduciary capacity.

§ 561.6 Audit period.

The *audit period* of a savings association means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit conducted to satisfy § 563.170.

§ 561.7 BIF.

The term *BIF* means the Bank Insurance Fund established by the Federal Deposit Insurance Act. (12 U.S.C. 1821 *et seq.*)

§ 561.8 [Reserved]

§ 561.9 Certificate account.

The term *certificate account* means a savings account evidenced by a certificate that must be held for a fixed or minimum term.

§ 561.10 Closed-end consumer credit.

The term *closed-end consumer credit* means consumer credit other than open-end consumer credit.

§ 561.11 Closing date.

The term *closing date* means any annual or semiannual closing date.

§ 561.12 Consumer credit.

The term *consumer credit* means credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security: *Provided*, the savings association relies substantially upon other factors, such as