

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )  
South Bergen Savings )  
and Loan Association )  
Wood Ridge, New Jersey )

Re: Northeast Regional Director:

Resolution No. NE92-79

Dated: August 19, 1992

STIPULATION AND CONSENT TO ISSUANCE  
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Northeast Regional Office, OTS, and South Bergen Savings and Loan Association ("South Bergen" or "Association"), stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it and/or derived from the exercise of its supervisory and regulatory powers, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against South Bergen pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b). South Bergen wishes to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist litigation against South Bergen with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) South Bergen is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. Section 1813(b) and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. Section 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

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



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In the Matter of:	)	Re: Northeast Regional
South Bergen Savings	)	Director
and Loan Association	)	OTS Resolution No.
Wood Ridge, New Jersey	)	NE92-79
	)	Dated: August 19, 1992

ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision ("OTS") Report of Examination dated December 30, 1991 ("ROE") of South Bergen Savings and Loan Association ("South Bergen" or "the Association"), Wood Ridge, New Jersey, sets forth the view of the OTS that the Association and/or the board of directors failed to comply with Sections 1, 4, 10, 15 and 16 of the Cease and Desist Order dated May 10, 1991; and

WHEREAS, the OTS is of the view that the level of oversight by the Board of Directors of South Bergen is inadequate, as evidenced by comments throughout the ROE, including the failure to comply with the May 10, 1991 Cease and Desist Order; and

WHEREAS, South Bergen, through its board of directors, has executed a Stipulation and Consent to the Issuance of Order to Cease and Desist (the "Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), a bureau within the United States Department of the Treasury; and

WHEREAS, South Bergen, without admitting or denying any fault, by execution of the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist, pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b); and

WHEREAS, South Bergen is a New Jersey state chartered savings association that is regulated by the OTS.

NOW, THEREFORE, the OTS hereby issues this Order to Cease and Desist ("Order") to the Association.

PART I  
CEASE AND DESIST ORDER

COMPLIANCE WITH LAWS AND REGULATIONS

1.01. Compliance with Laws and Regulations

The Association and its directors, officers, employees, and 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 of the following Federal laws and regulations:

(a) Section 563.160 of the OTS Regulations, 12 C.F.R. Section 563.160 (regarding classification of assets and establishment of adequate valuation allowances);

(b) Section 563.172(a) of the OTS Regulations, 12 C.F.R. Section 563.172(a) (regarding appraisal of properties in in-substance foreclosure and properties held as real estate owned);

(c) Section 563.170(c)(1)(iv) of the OTS Regulations, 12 C.F.R. Section 563.170(c)(1)(iv) (regarding written appraisals of real estate securing loans); and

(d) Sections 566.1 and 566.2 of the OTS Regulations, 12 C.F.R. Section 566.1 and 566.2 (regarding liquidity).

PART II  
CORRECTIVE PROVISIONS

2.01. Director Responsibility

(a). Oversight

The Board of Directors (the "Board") has the ultimate responsibility for overseeing the safe and sound operation of the Association. The Board shall take a more active role in overseeing the business and affairs of the Association.

Steps to further increase the Board's oversight of the Association shall include, but not be limited to, the following:

(1). Board Review of Compliance With This Order

(A) The Board of Directors of the Association shall take prompt action to cause the Association to fully comply with this Order.

(B) Each month, the Board of Directors shall adopt a formal resolution (the "Compliance Resolution") resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar month, the Association has complied in all material respects with each provision of this Order currently in effect, except as otherwise stated. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist; and (ii) identify all notices of exemption or other exceptions issued by the Regional Director that were outstanding as of the date of the Compliance Resolution.

(C) No later than five business days after each monthly meeting of the Board of Directors of the Association, the Association shall provide to the Regional Director a certified true copy of the entire minutes of each meeting of its Board of Directors (including any committees thereof) which were approved at such monthly meeting. The Compliance Resolution shall be included with the minutes provided to the Regional Director. The minutes of the meeting of the Board of Directors shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption, and (ii) ~~the~~ the identity of each director abstaining from voting thereon. The Board of Directors of the Association, by virtue of the Association's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the best of their knowledge as to the accuracy of the statements set forth in each Compliance Resolution. In the event that one or more director do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the meeting.

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(2). Board Expansion

The Board shall: (i) use its best efforts to increase the size of the existing Board of Directors by at least one additional outside director and (ii) document and report to the OTS on its efforts on a monthly basis.

(3). Board and Committee Minutes

The Secretary shall prepare in advance, and the Board or Board Committee shall follow, a written agenda at each meeting. Such agenda shall not preclude consideration of any other matter. Minutes shall reflect discussions held, policies and procedures approved, and information reported by management to the Board.

Detailed minutes of all Board and Board Committee meetings shall be maintained and recorded on a timely basis. Minutes shall include, among other things, the date of the meeting, a list of attendees, a detailed summary of discussions and of recommendations made, and the results of voting on any motions offered, including the identity of each Director voting for and against a motion, and any abstention from voting, and the reasons for any vote against or any abstention, the date the minutes are prepared, and the date the minutes are ratified. Committee minutes shall be disseminated to the full Board at the next regularly scheduled Board meeting. Any actions recommended or taken by a Board Committee shall be considered by the full Board and, where appropriate, shall be ratified by the Board and duly noted in the Board minutes.

(b). Fiduciary Duty

(1) Each member of the Board of Directors owes fiduciary duties to the Association and depositors. Notwithstanding that certain provisions of this Order require the Board of Directors to submit various matters to the Regional Director for the purpose of receiving approval, notice of acceptability or non-objection, such regulatory oversight does not derogate or supplant the fiduciary duties owed by the members of the Board of Directors of the Association. The Board of Directors, at all times, shall have the ultimate responsibility for overseeing the safe and sound operation of the Association, except to the extent that any action or inaction by the Board is imposed upon the Board by the OTS over the objection of the Board. In the opinion of the OTS, no member of the Board of Directors of the Association shall be deemed to have breached such director's fiduciary duties by complying with the terms of this Order in good faith.

(2) Each member of the Board of Directors, as part of the performance of his or her duty of care, shall become familiar with the contents of the Director Information Guidelines, published by OTS in December, 1989 and shall obtain and consider the kinds of information set forth therein which is applicable to the performance of his or her duties as a Director of the Association.

2.02. Monitoring System to Ensure Compliance

The Board of Directors and management shall establish and implement a monitoring system designed to ensure that the Association is complying with (a) this Order and (b) any supervisory actions required, or which may be required, by the OTS.

### 2.03. Lending-Related Restrictions

(a) Except (i) as permitted by subparagraph (b) hereof or (ii) with the prior written notice of nonobjection from the Regional Director, the Association shall not, directly or indirectly, commit to make, make, invest in, purchase, sell, refinance, extend or otherwise modify loans or loans-in-process or otherwise extend any credit or loan to any person or entity.

(b) In accordance with written policies and procedures adopted by the Board of Directors, the Association may commit to make, make, commit to purchase or purchase the following types of loans or investments:

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

(ii) loans fully secured by deposit accounts maintained at the Association;

(iii) investments in assets that qualify as Liquid Assets, within the meaning of Section 6 of the Home Owners' Loan Act and Part 566 of the OTS Regulations;

(iv) consumer credit loans, within the meaning of Section 561.12 of the OTS Regulations, 12 C.F.R. Section 561.12;

(v) second mortgage or home equity loans that are prudently underwritten with a documented loan-to-value ratio not exceeding 80%; and

(vi) other real estate loans that are prudently underwritten up to \$250,000 with a documented loan-to-value ratio not exceeding 70%.

### 2.04. Growth Limitation

The Association shall not increase its total assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities (or earnings credited on share accounts) during the quarter, without the prior written approval of the Regional Director.

2.05. Staffing and Related Matters

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mortgage

(a) Pursuant to the request made by the OTS, within 60 days of the date of this Order, the Association shall hire a new (i) President and chief executive officer (who shall also become a member of the Association's board of directors) and (ii) senior mortgage officer. The retention of a new chief executive officer shall not necessarily entail the termination of the existing chief executive officer as an employee of the Association, provided that: (i) compensation is commensurate with the new position and (ii) the arrangements for the new position are subject to the non-objection of the OTS. The Board shall identify those qualifications that it considers important or necessary for such officers to possess in order to assist the Board in correcting management deficiencies.

(b) Pursuant to Thrift Bulletin 45 and Section 32 of the FDIA, 12 U.S.C. Section 1831i, the Association shall notify the Regional Director, who will provide written approval or disapproval, of any proposed (i) addition or replacement of a director or hiring or replacement of a senior executive officer and (ii) change in responsibilities of any individual resulting in his or her assumption of a senior executive officer position, including a promotion or a lateral transfer from one senior executive officer position to another.

2.06. Compensation

(a) Pursuant to Regulatory Bulletin 27, the Association shall submit to the Regional Director for prior written nonobjection all employment contracts with directors and employees of the association.

(b) The Association and the Board shall not pay any form of bonus to any employee that is inconsistent with the April, 1992 Bonus Policy without the prior written nonobjection of the Regional Director.

(c) If it has not already done so, the Board shall obtain full restitution of bonuses paid for the year 1991 from Executive Vice President Albert Gossweiler within one year.

(d) The Board shall modify the composition of the Bonus Committee such that it is made up solely of outside Board members.

(e) The Association shall not, directly or indirectly, pay director's fees (including committee fees or other similar compensation) to directors in an amount exceeding an aggregate of \$12,000 per year per director. The Association shall not, directly or indirectly, pay director emeritus fees in an amount exceeding \$200 per director Emeritus for each board meeting attended, and in no event shall total board fees paid in the aggregate to each director emeritus exceed \$5,000 per year.

(f) The Association shall not make any Golden parachute payment or indemnification payment to any person, without the prior written nonobjection of the Regional Director.

#### 2.07. Amendment and Implementation of Policies

(a) To the extent that it has not already done so, the Board shall amend its policies governing internal loan review and asset classification, loan underwriting, loan administration, loan collection, bonuses and investments, as well as the general valuation allowance methodology, to correct the deficiencies noted in the December 30, 1991 Report of Examination. The amendments shall include, but not be limited to, the following:

(1) To the extent it has not already done so, the Association shall amend its bonus policy to:

(A) include an employee's performance as a factor in determining whether to award bonuses and the amount of such bonuses. The bonus policy shall specify in detail the performance criteria to be utilized in making these determinations;

(B) specify how the Association will measure profitability and overall financial condition for purposes of determining whether to award bonuses and how much to award; and

(C) prohibit payment of bonuses until the Association has (i) received its independent auditor's final written annual audit report and (ii) made any adjustments required by the independent auditors.

(b) The Board shall implement a system designed to ensure that the Association promptly implements the amended policies adopted by the Board, as well as board adopted procedures for establishing an adequate level of valuation allowances.

#### 2.08. Internal Loan Review and Asset Classification

Within 30 days after the end of each calendar quarter, the Board of Directors shall provide OTS with a corporate resolution certifying that the Board has reviewed and determined that, following a diligent inquiry of relevant information, to the best of its knowledge, the level of general valuation allowances ("GVAs") and specific valuation allowances ("SVAs") reported on Schedule VA of the quarterly Thrift Financial Report ("TFR") appropriately reflect the level of current and anticipated exposure to loss in the Association's portfolio. The Board shall consider and attach to the corporate resolution:

(a) a listing of all assets classified in the most recent OTS Report of Examination and/or identified internally as a "classified asset" as reported on Schedule TA of the TFR, including for each asset: (i) the loan, REO parcel or other identification number, (ii) the borrower or title of the asset, (iii) the Association's recorded investment (i.e., principal balance, plus accrued interest, plus or minus related discounts or premiums), (iv) the amount classified as special mention, substandard, doubtful or loss, (v) specific valuation allowances established against the asset, (vi) the carrying amount of the asset (recorded investment minus loss allowances), and (vii) the net realizable value and/or the fair value of the related assets; and

(b) an analysis of the adequacy of the Association's GVAs and SVAs prepared by the Association's management.

#### 2.09. Asset Collection Policy

(a) Within 30 days of the Effective Date, the Board of Directors shall adopt and implement an asset collection policy which, at a minimum, requires:

(i) prompt identification of all loans that are past due;

(ii) systematic, progressively more forceful and thoroughly documented written and verbal contacts with delinquent borrowers;

(iii) appropriate inspections and/or appraisal reviews are performed when setting and implementing the collection strategy;

(iv) that the status of required filings and payments are known to management so that the Association's collateral interests are maintained and protected; and

(v) prompt referrals to the Asset Workout Group and/or Legal Counsel for collection.

(b) The Board shall take steps to ensure that management is adhering to the asset collection policy. At a minimum, the board shall: (i) designate a management official responsible for overseeing compliance with the asset collection policy and (ii) require monthly reports from the management official as to the extent of the Associations compliance (or non-compliance) with the asset collection policy.

2.10. Asset Workout Policies/Asset Action Plans.

(a) Within 90 days after the Effective Date, the Board of Directors shall adopt and implement a comprehensive asset workout policy. The workout policy shall provide for, at a minimum:

(i) establishment of an asset workout function, reporting through the senior ~~mortgage loan~~ <sup>LENA/NG</sup> officer hired pursuant to Section 2.05 of this Order, whose responsibilities shall be: (a) to develop and implement asset action plans with respect to each asset referred to the workout group, and (b) to report to the Association's Board of Directors on the status of workout efforts on a monthly basis,

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(ii) the identification of all assets that will be referred to the asset workout group, which shall include, at a minimum, all assets over \$300,000 that are reported as: (a) Criticized Assets (i.e. assets classified as Special Mention, Substandard, Doubtful or Loss) in the most recent OTS Report of Examination and/or (b) identified internally as a Criticized Asset,

(iii) a comprehensive analysis of all loan documents and related correspondence,

(iv) a realistic analysis of: (a) the available cash flow to service the debt, (b) the value of any collateral and (c) the ability to enforce any guarantees,

(v) an assessment of potential legal issues relating to the workout, and

(vi) based on the above, the development of an asset action plan for the workout of each asset referred to the workout group, including a proposed timetable for each suggested action.

(b) Each asset action plan shall, inter alia, identify the amount (if any) of any additional disbursements planned or contemplated for each asset, and contain a description of any contemplated modifications, extensions or renewals in connection with the asset.

2.11. Audit Adjustments

Within 60 days of the date of this Order, the outside directors shall evaluate and determine why (a) audit adjustments for the period 1987-1989 recommended by the Association's independent auditor Stephen P. Radics & Co. in

the September 30, 1989 audit report were not recorded by the Association's senior management and (b) the audit committee of the Board did not detect the Association's failure to record the recommended adjustments. The outside directors' report shall be submitted to the Regional Director.

#### 2.12. Real Estate Owned and In-substance Foreclosures

(a) If it has not already done so, within 60 days from the date of this Order, the Board shall implement a policy for real estate owned and for determining in-substance foreclosures. The policy shall require, among other things, that the Association (1) properly account for such in-substance foreclosures and repossessed assets and (2) appraise each parcel of real estate owned at the time of acquisition, unless (A) an appraisal has been obtained earlier due to a determination that an in-substance foreclosure exists and (B) management determines that such appraisal is sufficient to enable it to reasonably and accurately determine the fair value of the property. If it has not already done so, the Association shall immediately order appraisals for existing in-substance foreclosures and shall determine the fair value of the properties using the appraisals and any other appropriate considerations.

(b) The Association shall identify all real estate owned and loans in in-substance foreclosure and shall record these assets at fair value in accordance with FASB Accounting Pronouncement Number 15. If it has not already done so, the Association shall submit to the OTS a report describing each asset identified as REO or an in-substance foreclosure, its book value, the appropriate fair value, and any resulting loss recorded.

#### 2.13. Treatment of Assets Classified as Loss

Within thirty days of the receipt of any future OTS Report of Examination, the Association shall record on its books by collection, charge off, establishment of specific reserves, or other proper entry, as appropriate, 100% of all assets classified as Loss in such Report of Examination.

#### 2.14. Transactions With Affiliates

Pursuant to Section 563.41(e)(2), the Association and any subsidiary shall provide to the Regional Director a minimum of thirty days' prior written notice of any proposed transaction with any affiliate or subsidiary of the Association.

2.15. Budget

If it has not already done so, the Association shall prepare and the board shall approve a 1992 operating budget based on reasonable assumptions, including supportable levels of valuation allowances.

**PART III**  
**MISCELLANEOUS**

**DEFINITIONS**

3.01. (a) For all purposes of this Order, except as otherwise expressly provided or unless the context otherwise requires, (1) the terms used in this Order have the meanings assigned to them in this Section and include the plural as well as the singular, (2) all accounting terms not otherwise defined have the meanings assigned to them in accordance with generally accepted accounting principles in the United States, except that if such terms are defined in the Rules and Regulations of the OTS, such regulatory definitions shall be controlling, (3) all terms not otherwise defined herein that are defined in the HOLA, the Federal Deposit Insurance Act, or the Rules and Regulations of the OTS or its publicly available Bulletins and Advisory Memoranda shall have the meanings assigned to them in such statutes, Rules and Regulations, Bulletins, and advisory memoranda, and (4) all technical words or terms not subject to a definition in this Order shall have the meanings that accord with the best custom and usage in the thrift and banking industries.

"Business Day" means any weekday excluding Federal holidays.

"FDIA" means the Federal Deposit Insurance Act, as amended.

"FIRREA" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183.

"Golden parachute payment" shall have the meaning set forth in Section 1828(k) of the FDIA, 12 U.S.C. Section 1828(k), or regulations promulgated thereunder.

"HOLA" means the Home Owners' Loan Act, as amended, 12 U.S.C. §§ 1461 et seq.

"Indemnification payment" shall have the meaning set forth in Section 1828(k) of the FDIA, 12 U.S.C. Section 1828(k), or regulations promulgated thereunder.

"OTS" refers to the Office of Thrift Supervision, United States Department of the Treasury, or its successor.

"Outside director" means a board member who is independent of management of the Association.

"Regional Director" or his successor is the "senior supervisory official" within the meaning of Section 723(d) of the FIRREA, and refers to the Regional Director of the Northeast region of OTS. All references to the Regional Director shall include the Regional Director and/or his designee(s).

"Savings association" shall have the meaning as set forth in Section 2(4) of the HOLA, 12 U.S.C. § 1462(4).

(b) The words "herein", "hereof", and "hereunder" and other words of similar import refer to this Enforcement Order as a whole and not to any particular Part, Section, Paragraph, or other subdivision, unless the context otherwise requires.

(c) Certain of the terms herein may refer to terms applicable to a savings association in stock form. If the Association is chartered in mutual form, then: (i) all references to stockholders shall be treated as references to the members of the Association; (ii) all references to deposits shall be treated as references to the accounts of the Association; and (iii) any other terms applicable solely to stock-form associations shall be given the meaning most appropriate for a mutual-form association.

#### SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS

3.02. 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 hereof and references to successor provisions as they become applicable.

#### NOTICES

3.03. Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with:

(a) the OTS by the Association shall be sufficient for every purpose hereunder if in writing and mailed, first class or airmail postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302, or telecopied to (201) 413-7543 and confirmed by mail, first class or airmail postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(b) the Association by the OTS shall be sufficient for every purpose hereunder if in writing and mailed, first class or airmail postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Association at 250 Valley Boulevard, Wood-Ridge, New Jersey 07075, or telecopied to the president of the Association at (201) 507-8642 and confirmed by mail, first class or airmail postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

3.04. Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service or telecopy, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this Order, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received two Business Days after the date of the postmark on the envelope in which the notice was enclosed.

#### DURATION, TERMINATION OR SUSPENSION OF ORDER

3.05. This Order shall 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).

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

#### EFFECT OF HEADINGS

3.07. The Part and Section headings herein are for convenience of reference only and shall not affect the construction hereof.

SEPARABILITY CLAUSE

3.08. In case any provision in this Order is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

NO VIOLATIONS OF LAW, RULE, REGULATION  
OR POLICY STATEMENT AUTHORIZED;  
NO APPROVAL OF APPLICATIONS; OTS NOT RESTRICTED;  
FDICIA CONTROLLING

3.09. (a) Nothing in this Order shall be construed as: (1) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject or (2) restricting, in any way, the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

(b) It is understood that the execution of this Order shall not be construed as an approval of any application or notices that are contemplated by the Association.

(c) As an Association chartered under State law and subject to regulation and supervision by a State regulatory authority, the Association may be subject to various restrictions imposed by the appropriate State regulatory authority. The Association must continue to comply with any such restriction, notwithstanding the receipt by the Association of authorizations or notices of non-objection of the Regional Director, except to the extent that such restrictions have been deemed to be pre-empted by Federal law.

(d) To the extent that any provision of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236 (December 19, 1991) ("FDICIA") or any regulation(s) promulgated thereunder imposes more restrictive requirements than any provision contained in this Enforcement Order (either expressly or through OTS interpretive Bulletins or policy statements), such provision(s) of the FDICIA or such regulation(s) shall be controlling.

ORDER BINDING ON PARTIES AND SUCCESSORS

3.10. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest.

