

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)

FIRST BANK OF BEVERLY HILLS, SSB)
Beverly Hills, California)
)
_____)

Re: Resolution No. SF-92-037

Date: September 24, 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 West Region Office, OTS and FIRST BANK OF BEVERLY HILLS, SSB, Beverly Hills, California, ("FIRST BANK"), stipulate and agree as follows:

1. Consideration.

(a) The OTS, based upon information obtained in the examination and supervisory process, is of the opinion that grounds exist to initiate an administrative cease-and-desist proceeding against FIRST BANK pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. § 1818(b)). FIRST BANK desires 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 and the assessment of civil money

penalties against FIRST BANK with respect to the matters contained in the accompanying Order to Cease and Desist ("Order").

(b) FIRST BANK acknowledges and agrees that this Stipulation and the accompanying Order do not compromise, settle, dismiss, resolve, or in any way affect any civil actions, charges against, or liability of FIRST BANK, or its institution-affiliated parties that arise pursuant to this action or otherwise, and that may be or have been brought by the RTC or any other governmental entity other than the OTS.

(c) Subject to paragraph (a) above, FIRST BANK acknowledges and agrees that this proceeding and the consent to the entry of the Order are for the purposes of resolving this OTS enforcement action only, and do not resolve, affect or preclude any other civil or criminal proceedings, or enforcement actions based upon, or different, newly discovered and/or additional facts, and/or actions based upon violation of the Order, which may be or have been brought against FIRST BANK or its institution-affiliated parties by the OTS or another governmental entity.

(d) By signing this document, FIRST BANK agrees that it will not assert the execution of this Stipulation as a basis for the claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or another governmental entity.

2. Jurisdiction.

(a) FIRST BANK is a "savings association" within the

meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act ("HOLA"), as amended by FIRREA. Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, as amended by FIRREA (12 U.S.C. § 1813(c)(2)).

(b) Pursuant to Section 3(q) of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, FIRST BANK is subject to the authority of the OTS to initiate and maintain a cease-and-desist proceeding against it pursuant to Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)).

3. Consent. FIRST BANK consents to the issuance by the OTS of the Order. It further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director for the West 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, as amended by FIRREA (12 U.S.C. § 1818(i)).

5. Waivers. With respect to the Order, FIRST BANK waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(b)), and further waives any right to seek judicial

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FIRST BANK OF BEVERLY HILLS, SSB)
Beverly Hills, California)

Re: Resolution No. SF-92-037

Date: September 24, 1992

ORDER TO CEASE AND DESIST

WHEREAS, FIRST BANK OF BEVERLY HILLS, SSB, Beverly Hills, California ("FIRST BANK" or "Institution"), through its Board of Directors ("Board"), has executed a Stipulation and Consent to Issuance of Order to Cease and Desist, dated September 24, 1992, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the west Regional Office;

WHEREAS, FIRST BANK, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. § 1818(b)); and

WHEREAS, the OTS agrees that it will not assess civil money penalties, pursuant to the authority set forth in 12 U.S.C. § 1818(i)(2), against the Institution or the undersigned

directors arising solely on the basis of the matters addressed in this Order, in consideration of the undersigned directors' execution of the Stipulation compliance within this Order and their cooperation with the OTS.

NOW THEREFORE, IT IS AGREED and ORDERED that:

1. Conflicts of Interest. Within 60 days of the effective date of this Order ("Effective Date"), FIRST BANK shall prepare, adopt and submit for review by the Assistant Regional Director of the Office of Thrift Supervision, West Region ("ARD") an amended Conflicts of Interest policy. The ARD shall have 30 days in which to object to all or any part of the amended Conflicts of Interests policy. After such time, and if no ARD objection is issued, FIRST BANK shall immediately implement the policy. Such policy will, at a minimum, be amended to include the requirements set forth in OTS Regulation 563.41(e) and the concerns raised in the OTS's Report of Examination of the Institution dated May 11, 1992.

The Board shall take all appropriate action to ensure that the Institution's directors, officers, and affiliated persons comply with the Conflicts-of-Interest policy and the provisions set forth in 12 C.F.R. § 571.7 of the OTS's Regulations, which prohibit any director, officer, or affiliated person of the savings association from placing

himself or herself in a position which creates, leads to or could lead to a conflict of interest or the appearance of a conflict of interest, and will require the prompt discontinuance of any practice or condition which gives rise to a conflict of interest or the appearance of a conflict of interest.

2. Board Plan. Within 60 days after the Effective Date, FIRST BANK shall prepare, adopt and submit to the ARD for review, a plan to increase the number and improve the qualifications of the Board ("Board Plan"). The ARD shall have 30 days review period in which to object to any or all parts of the Board Plan. After such time, and if no objection is issued by the ARD, FIRST BANK shall immediately implement the plan. Specifically the Board

Plan shall address, at a minimum:

- a. Number. The Board Plan shall include provisions for increasing the total number of directors to at least five (5) members. At all times thereafter, the Board shall be composed of a minimum of five (5) directors. Each proposed director shall be subject to the formal Notice Requirements of Thrift Bulletin 45.
- b. Qualifications. The Board Plan shall require all new directors to possess relevant financial or business

experience, education, competence, and integrity, so as to provide adequate oversight regarding the Institution's operations, proposed business activities, and other policy decisions. The qualified new directors shall have diversified business experience outside of the financial services industry, or have extensive savings association and/or depository institution-related experience. No new directors shall have any familial relationship with any existing director, officer, employee or shareholder.

- c. Policies and Procedures. The Board Plan shall establish written policies and procedures that require each current and future director or officer

of FIRST-BANK to:

- (1) Read, review and confirm the understanding of applicable OTS regulations, policy statements, and/or memoranda concerning transactions with affiliates and affiliated persons, conflicts of interest, and usurpation of corporate opportunity, including but not limited to, the information and requirements set forth in 12 C.F.R. §§ 561.4, 561.5, 563.161, 563.41, 563.42, 563.43, and 571.7, 571.9.

(2) Read, review and confirm the understanding of the Institution's Conflicts of Interest Policy; and

(3) Read, review and sign a statement certifying his/her understanding of the Board Plan.

d. Timing. The Board Plan shall require the Board to complete the review of the aforementioned rules and regulations, and the required certifications, within 60 days following the expiration of the ARD's review period of the Board Plan (assuming the ARD has no objection thereto). The Board shall make all reasonable effort to locate and submit for approval to the ARD the additional directors contemplated by Paragraph 3(a) of this Order. However, in the event the Institution is unable to locate qualified candidates to serve as directors within the time period set forth above, the ARD shall have the authority to nominate to the Board candidates to serve as additional directors contemplated by Paragraph 3(a) of this Order, and upon such nomination, the Board shall, in good faith, consider the ARD nominated candidates for positions on the Board. The Board shall fill directorship vacancies until the next election by shareholders of directors in accordance with FIRST BANK's bylaws and OTS regulations, and shall nominate for election by

shareholders, candidates nominated by the ARD to a position on the Board, in the absence of a bona-fide reason, which reason(s) shall be submitted in writing to the ARD. This provision shall not, nor is it intended to, require any existing Board member to relinquish his position.

4. Organizational Plan. Not later than 60 days following regulatory approval of the new CEO, FIRST BANK shall prepare, adopt and submit an Organization Plan for review and possible comment by the ARD. The Organizational Plan shall, at a minimum, clearly define and delineate management job responsibilities, communication channels, reporting lines of authority, and approval levels to be followed by Institution personnel. The ARD shall have 30 days in which to object to all or any parts of the Organization Plan. After such time, and if no objection is issued by the ARD, FIRST BANK shall immediately implement the Plan. FIRST BANK shall take all necessary actions to ensure that the Organizational Plan is adhered to at every level of the Institution and the Board shall take all necessary action to ensure that the Organizational Plan is continually updated to reflect the needs of the Institution. The minutes of the Institution's Board meetings shall detail the Board's involvement in the monitoring and implementation of the Organizational Plan.

5. Management Plan. Not later than 60 days following regulatory approval of the new CEO, FIRST BANK shall prepare, adopt and submit a Management Plan for review and possible comment by the ARD. The ARD shall have 30 days in which to object to all or any part of the Management Plan. After such time if no objection is issued, FIRST BANK shall immediately implement the Management Plan. The Management Plan shall, at a minimum, assess the strengths and weaknesses of senior management, and have as its major goal the strengthening and enhancement of senior management, especially in the areas of internal controls, internal asset review, and loan administration. The Management Plan shall include a procedure for the succession and supplementation of senior and middle management. The Management Plan shall also contain an organizational chart of the management of FIRST BANK, including the identity of all officers, a description of their respective responsibilities, and to whom they report.

6. Personnel Policy. Within 30 days of the Effective Date, the Board shall prepare and adopt a personnel policy which, at a minimum, requires the following:

- a. A comprehensive annual written performance review of all senior officers (Vice President or above) by the

Chief Executive Officer (or such officer's immediate supervisor);

- b. A comprehensive annual written performance review of the Chief Executive Officer by the Board or at the Board's direction, the Personnel Committee; and
- c. A requirement that interim performance comments of a substantive nature be documented in writing and maintained in the personnel files of all senior officers.

7. Reduction of G&A. Within 60 days from the Effective Date, the Board shall conduct an in depth review of FIRST BANK's general and administrative expenses. Upon completion of this review the Board shall promptly adopt a plan and require management to implement such plan, which should require FIRST BANK to take all necessary actions to eliminate all unnecessary expenses and to reduce those expenses which they deem excessive. The Board shall also provide an amended employee reimbursement policy which, at a minimum, will reflect proper approval levels and documentation requirements. The Policy will also require Board approval of all extraordinary expenses, any expenses in excess of the Board-authorized dollar limits or those

expenses which the Board has determined not necessary to the day-to-day operations of the Institution.

8. Activity Restrictions. Without prior written approval of the ARD, FIRST BANK shall not:
- a. Fund or commit to fund any officer or employee compensation increase, including bonuses;
 - b. Pay a dividend;
 - c. Approve any management or consulting contracts;
 - d. Originate or purchase any loan secured by less than a first lien position;
 - e. Make any unsecured loan in excess of \$25,000;
 - f. Make new loans to any one borrower such that total loans to the borrower does not exceed \$500,000;
 - g. Make new loans, direct or indirect, to a borrower with previously classified or charged-off loans; and
 - h. Reduce total assets below the amount reported as of July 31, 1992, less any legally binding commitments as of August 11, 1992, to sell assets, unless such reduction would result in a reduction in the level of nonperforming assets.
9. Reduction of Classified Assets. FIRST BANK, acting through its Board, shall take all reasonable steps necessary to reduce, on an on-going basis, the level of its classified assets as a percentage of tangible capital plus GVAs, with

the ultimate goal of reducing its level of classified assets to no more than 125 percent of tangible capital plus GVAs by December 31, 1992, and no more than 75 percent of tangible capital plus GVAs by June 30, 1993.

Not later than 60 days following regulatory approval of the new CEO, the Institution shall develop written plans for the collection of all of its current problem assets. Thereafter, within 30 days after any asset becomes a problem asset, the Institution shall adopt a written plan for each such problem asset, which shall then be immediately implemented. For the purposes of this requirement, a "problem asset" shall mean any asset that:

- a. has been adversely classified or criticized by the OTS as a result of its most recent examination of the Institution, or is adversely classified or criticized by either the FDIC or the OTS as a result of any subsequent examination of the Institution;
- b. has been accorded a sub-investment quality rating and/or has been designated a work-out or watch-list asset, or some equivalent designation, as the result of an internal asset review and rating procedure performed by the Institution or by another party on behalf of the Institution;

c. is past due in excess of 90 days and/or has been placed in either a nonaccrual or non-earning status by the Institution; and/or

d. has been partially charged-off.

10. General Valuation Allowances. FIRST BANK will compute the adequacy of its general valuation allowances ("GVAs") at least monthly or more frequently if deemed prudent in the operation of the Institution. Further, FIRST BANK shall modify, adjust, and revise its GVA to ensure that adequate levels of reserves are maintained on an ongoing basis. Through December 31, 1992, FIRST BANK shall record a minimum GVA of at least \$2.0 million, and shall maintain at least such level unless it receives prior written nonobjection from the ARD before any downward adjustment shall be made by FIRST BANK.

11. Internal Asset Review. Within 60 days of the Effective Date, FIRST BANK will take all actions necessary to implement and ensure ongoing compliance with the Institution's Internal Asset Review ("IAR") Policy and Procedures, as restated by the Board in May 1992. Management of FIRST BANK and the Board of Directors will

take all appropriate action necessary to ensure that FIRST BANK adheres to and complies with the IAR Policy and Procedures. In addition, within the same 60 day period, FIRST BANK will adopt a comprehensive documentation strategy that demonstrates implementation of the IAR Policy and Procedures, to ensure that its IAR system produces and maintains a complete record of all monthly or more frequent asset reviews deemed necessary by the Institution's management and/or directors, and IAR Committee meeting discussions and plans of action. This IAR documentation strategy shall include, at a minimum, the following:

- a. Development of an IAR worksheet that documents each and every asset reviewed and which summarizes the quality of each asset reviewed. At a minimum, the IAR worksheet shall include: (1) a description of the asset reviewed; (2) the individual who performed the review; (3) the date of the review and the date of IAR Committee discussion of the review; (4) the classification assigned by the reviewer and the Committee; (5) a narrative explanation of the basis for the classification; (6) an analysis of the asset's fair value or net realizable value as appropriate; (7) a narrative description of the Committee's instructions and/or requests to the reviewer to provide further information or analysis;

and (8) current and ongoing status of correction of deficiencies.

- b. Maintenance of an IAR file, which includes documentation covering the scope of review, minutes of the IAR Committee meetings, IAR findings, all individual IAR worksheets, and any other information supporting the classification decisions.
- c. Development of a formal reporting standard in order for management to provide the IAR Committee with all pertinent information as identified in the IAR Policy on a timely basis and require management to notify the IAR Committee of all known or potential problems with asset quality. Senior officers (Vice President and above) will provide training to management regarding the IAR Policy and the benchmarks which trigger the reporting of assets to the IAR Committee.
- d. Development of procedures which provide that timely and accurate information is submitted to and reviewed by the IAR Committee.

12. Loan Documentation Policy. The Board shall promptly develop and implement procedures requiring FIRST BANK to obtain updated financial statements on borrowers for any

newly originated, purchased, modified or extended multi-family or non-residential loans (as to any delinquent non-residential loans or purchased loans, FIRST BANK shall, depending upon the terms of the loan instruments, require or request financial statements) and shall keep a log of replies received. Such policy shall require that management analyze the financial statements to determine loans which require review by the IAR Committee. With regard to slow loans or non-performing loans, the updated financial statements should be compared with the original loan application and related financial information to determine material changes in the borrower's financial condition. The Board's policy shall require that review and analysis of updated financial statements shall be a condition precedent to the extension and/or modification of any loan. The Board shall ensure that the analysis is adequate on all newly originated, purchased, and modified or extended loans in excess of \$300,000 and Board Minutes shall confirm the same.

13. Lending Policies and Procedures. Within 60 days of the Effective Date, the Board shall review and adopt any necessary amendments to the Institution's existing Lending Policy and Procedures to ensure such policies comply with the requirements of 12 C.F.R. § 563.170 for all areas of lending. In the event the Board determines that no

amendments are necessary, the Board shall document the basis for such determination. In addition, the Board shall take all appropriate action with regard to loan originations, purchases, modifications, assumptions and extensions, to provide that:

a. Specific procedures for the completion of written financial analysis of loan applicants are implemented and that weaknesses in the financial condition of applicants will be specifically presented in writing to the officer or committee with approval authority prior to the approval of any loan or loan modification; and

b. The primary and secondary sources of repayment will be noted in writing and presented to the officer or committee with approval authority prior to the approval of any loan or loan modification.

14. Appraisal Review. FIRST BANK shall promptly develop and implement policies and procedures to require the Institution to obtain copies of all appraisals ordered by its servicer, Long Beach Bank, on behalf of FIRST BANK. In addition, FIRST BANK shall retain the services of a qualified review appraiser to determine the adequacy of appraisal ordered by Long Beach Bank. For those appraisals

deemed inadequate, FIRST BANK shall promptly order a reappraisal, which will be conducted by an approved appraiser.

15. Discontinuation of Certain Activities. Immediately upon the Effective Date, FIRST BANK shall cease to conduct new business in any manner whatsoever, with Judith Hopkinson, Berkeley Development Corp. or any affiliated persons or entities thereof. Modifications, adjustments, and/or other transactions involving loans made by FIRST BANK to Judith Hopkinson existing as of the Effective Date, must receive the prior written approval of the ARD.

16. REO Policy. Within 60 days of the Effective Date, the Board shall develop, adopt and submit for ARD review a policy and procedures for real estate owned ("REO"). The ARD shall have 30 days in which to object to all or any part of the REO Policy. After such time, and if no ARD objection is issued, FIRST BANK shall immediately implement the policy. The REO policy and procedures shall include, at a minimum:

- a. analysis of troubled loans for insubstance foreclosures;
- b. insubstance foreclosure/REO appraisal procedures;
- c. the generally accepted accounting treatment of REO;

- d. guidelines for holding and selling REO;
- e. internal review process for REO; and
- f. policies for the selection and compensation of firms and/or individuals retained by FIRST BANK to complete rehabilitation work on REO properties.

17. Capital Plan. Not later than September 28, 1992, the Board shall submit a comprehensive Capital Plan for ARD review and approval which describes in detail the manner in which FIRST BANK proposes to achieve the capital requirements set forth in paragraph 18 of this Order.

18. Individual Minimum Capital Requirement.

- a. Not later than January 20, 1993, FIRST BANK shall provide the ARD with evidence that as of December 31, 1992, the Institution after giving effect to all applicable phase outs and exclusions from capital applicable at any given time (i) has achieved a level of core capital in an amount equal to or in excess of five percent (5%); (ii) a risk-based capital ratio of eight percent (8%) and (iii) is otherwise in compliance with all other capital requirements applicable to the Institution as set forth in Part 567 of the OTS Regulations.

b. Not later than July 20, 1993, FIRST BANK shall provide the ARD with evidence that as of June 30, 1993, the Institution, after giving affect to all applicable phase outs and exclusions from capital applicable at any given time (i) has achieved a level of core capital in an amount equal to or in excess of five percent (5%); (ii) a risk-based capital of ten percent (10%) and (iii) is otherwise in compliance with all other capital requirements applicable to the Institution as set forth in Part 567 of the OTS Regulations.

19. Corrective Action The Board shall take all appropriate action to ensure that all of the deficiencies cited in the OTS Report of Examination dated May 11, 1992, which are not specifically cited herein are corrected.

20. Compliance with Order. For good cause shown, the ARD may extend the time to complete any act required by this Order, specifically:

a. If the ARD objects, in whole or in part to any policy, plan, or act required under the terms of this Order, the Institution shall revise the policy, plan, or act within 15 days after receiving written notice of objection. Any notice of objection shall state

the basis and reasons for objecting to the policy, plan, or act. The failure to submit a revised policy acceptable to the ARD within 15 days after receiving written notice of objection shall be considered to be a violation of this Order unless the ARD has provided FIRST BANK with prior written approval to extend the resubmission timeframe;

- b. With respect to the development and submission of any policy required herein, FIRST BANK shall be considered to be in compliance with the development and submission requirement so long as the Institution develops and submits the policy to the ARD within the required timeframe;

c. No policy, plan, or act reviewed by the ARD may be amended, suspended, or revoked without the prior written approval of the ARD. However, the ARD may terminate in writing, any requirement imposed on the Institution by this Order after receiving a written request to do so and if the Institution has been in substantial compliance with the provision; and

- d. A resolution evidencing the Board's review, consideration and approval of plans required by this

Order shall accompany any and all submissions to the ARD.

21. Terms. All technical words or terms used in this Order, for which meanings are not defined or otherwise provided by the provisions of this Order, shall, insofar as applicable, have the meaning set forth in Chapter V of Title 12 of the Code of Federal Regulations and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings and loan industry.
22. Termination. This Order shall remain in effect until terminated by the Office of Thrift Supervision. All requests for termination of the Order, in whole or in part, shall be submitted to the ARD in writing. Upon review of any such request, the ARD may make a recommendation to the Regional Director for denial or approval of the request. The Regional Director may grant a written request for termination, in whole or in part, or modification of the Order if, in his opinion, FIRST BANK has satisfactorily complied with the terms of this Order. The Regional

