

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)

J. MICHAEL CORNWALL,)

A former director and)
institution-affiliated party of)
Gibraltar Savings Association,)
Houston, Texas, and First Texas)
Savings Association, Dallas, Texas.)
_____)

OTS Order No. AP-92-169

Dated: December 29, 1992

ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision ("OTS") has
- conducted an investigation into the affairs of Gibraltar
Savings Association of Houston, Texas ("Gibraltar") and First
Texas Savings Association of Dallas, Texas ("First Texas")
(collectively referred to herein as "Gibraltar/First Texas")
pursuant to Sections 4 and 5 of the Home Owners' Loan Act
("HOLA"), as amended by the Financial Institutions Reform,
Recovery, and Enforcement Act of 1989, P.L. 101-73 (August 9,
1989) ("FIRREA"), pursuant to Resolution Nos. DAL 90-25 and DAL
90-26 issued on December 27, 1990; and

WHEREAS, Gibraltar and First Texas were savings
associations as that term is now defined by Section 3(b)(1) of
the Federal Deposit Insurance Act ("FDIA"), as amended by
FIRREA , 12 U.S.C. § 1813(b)(1), and were also

insured-institutions, as that term was defined by Section 401(a) of the National Housing Act ("NHA"), repealed by FIRREA, formerly 12 U.S.C. § 1724(a), whose accounts were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") and, after August 9, 1989, by the Savings Association Insurance Fund (collectively referred to herein as the "Fund"); and

WHEREAS, Gibraltar and First Texas were placed in receivership with the FSLIC in December 1988, following which certain of their assets and liabilities were transferred to a new institution, First Gibraltar Bank FSB, Dallas, Texas ("First Gibraltar"); and

WHEREAS, after investigation, OTS is of the opinion that violations of regulation or law, unsafe and unsound practices and/or breaches of fiduciary duty in the conduct of the business of an insured depository institution have occurred that resulted in substantial damage to Gibraltar/First Texas and First Gibraltar, as set forth in the Notice of Charges ("Notice"), attached hereto, incorporated by reference herein and issued concurrently herewith pursuant to 12 U.S.C. §§ 1818(b) and 1818(e); and

WHEREAS, J. Michael Cornwall, the Respondent hereinafter, without admitting or denying the allegations of the Notice, has knowingly, voluntarily and after consultation with counsel of his choice, agreed to the entry of this Order and to abide by the terms thereof, which consent is set forth in the Consent to Entry of an Order to Cease and Desist, of even date herewith;

NOW THEREFORE, it is ORDERED that:

1. Respondent shall pay restitution to the Federal Deposit Insurance Corporation ("FDIC"), as receiver for Gibraltar/First Texas, in the amount of \$50,000.00 in accordance with the settlement agreement entered into between Respondent and the FDIC, the payment terms of which are incorporated herein by this reference.

2. When serving or functioning as a director of a federally insured depository institution (hereinafter "institution"), in every instance where Respondent knows, or has reason to know, that an officer, director, shareholder participating in or advising the directors or officers in their functions, or any other institution affiliated person, has a direct or indirect financial or other personal interest in a transaction or matter under consideration by the institution, Respondent shall do the following:

a. prior to any action being taken by the Board of Directors, a Board Committee or management that binds or obligates the institution, Respondent shall (1) fully disclose to the full board of directors Respondent's knowledge of such person's financial or other personal interest and involvement in the transaction or matter; (2) request, in the presence of the full Board of Directors, that such interested person fully disclose to all directors, his or her financial or other

personal interest in the transaction or matter and any involvement in the timing, negotiation, underwriting, presentation or approval of such transaction or matter; (3) cause all such disclosures to be reflected in the corporate minutes of the institution and (4) cause all such disclosures to be communicated to those individual directors, officers and employees of the institution responsible for approving or disapproving the transaction in question;

b. Respondent shall demand from the officers of the institution sufficient, comprehensive and timely information to adequately assess (i) the fairness of such transaction or matter to the institution with particular emphasis on the comparability of any terms of such transaction or matter to the institution's prior practice or course of dealing in non-affiliated transactions or matters and (ii) the capabilities of the institution (or the ability of the institution to acquire the necessary capabilities) to perform any services required in connection with the transaction or matter that are otherwise proposed to be performed by the interested institution affiliated person or an affiliate thereof;

c. Respondent shall exercise all fiduciary care and loyalty to the institution when considering or acting on any such transaction or matter;

d. Respondent shall cause to have reduced to writing any legal opinion or opinion of any compliance officer addressing or relating to any such transaction and include same as part of the minutes recording any such consideration or action.

3. When serving or functioning as an officer or director of any federally insured depository institution, Respondent shall take all necessary steps within his authority to cause an adequate system of procedures, policies and controls to exist at the institution to ensure that institution management and directors conduct institution affairs in a manner that (a) independently assesses and determines the safety and soundness of any transaction involving the institution and an institution-affiliated party, (b) assures that the transaction is not dependent on information obtained from the institution-affiliated party that has not been independently verified; and (c) assures that all such assessments, determinations and verifications (i) occur before any action is taken by the Board, a Board Committee or management that binds the institution and (ii) are recorded in appropriate institution files or records.

4. When serving as an officer of an insured depository institution, Respondent shall do the following:

a. Ensure to the extent of his authority that each member of the board of directors is provided with sufficient,

comprehensive and timely information to assess the financial condition and overall safety and soundness of the institution adequately, which may include, but is not limited to, financial reports, reports on asset quality and performance, subsidiary financial reports, assessment of interest rate risk, and compliance with regulatory and statutory requirements; and

b. Ensure that each member of the board of directors is provided with all material information necessary for the board member to make an independent and informed judgment on any matter, transaction or proposal in which the Respondent was involved on behalf of the institution.

5. After the date of the entry of this Order, Respondent shall notify the Regional Director of the Dallas Office of the OTS of any and all positions as advisory director, director or officer that he assumes at any institution or subsidiary or holding company thereof.

6. (a) Concurrent with Respondent's execution of the Consent to Cease and Desist Order, Respondent shall submit an affidavit, executed under oath by Respondent and subject to the penalties for false statements and perjury under 18 U.S.C. §§ 1001 and 1621, stating, to the best of his knowledge and belief after due inquiry, that the financial statement of SEPT 30, 1992 was true and correct when made and that as of the date of the Consent no material change in Respondent's financial

condition has occurred since SEP. 30, 1992. A falsely sworn affidavit shall be considered a violation of the Order.

(b) If, after notice, the OTS determines that the financial disclosures submitted by Respondent pursuant to paragraph 6(a) materially understate Respondent's net worth as of the date of this Order because of an intentional or reckless (i) omission of one or more assets; (ii) undervaluation of one or more listed assets; or (iii) overvaluation of one or more listed liabilities, Respondent shall (i) forfeit such undisclosed asset to the OTS or the FDIC, either by transferring such undisclosed asset to the OTS or FDIC or compensating the OTS or the FDIC for the full value of the undisclosed asset (including interest or other income generated by the asset) as if such asset had been transferred as of the date of this ORDER; (ii) pay to the OTS or the FDIC the cash equivalent of the undervaluation of any undervalued assets; or (iii) pay to the OTS or the FDIC the cash equivalent of any overvaluation of any overvalued liability. OTS further reserves its rights to proceed with any administrative or civil actions, or to make any criminal referrals, against Respondent, including, but not limited to, an administrative action against Respondent for civil money penalties under 12 U.S.C. § 1818(i) for violation of this paragraph of the ORDER. In any proceeding to enforce this paragraph of the ORDER, Respondent retains any applicable right to contest the OTS's determination of an intentional or reckless material understatement of his net worth.

7. This Order shall become effective on the date it is issued.

/s/

Jonathan L. Flechter
Acting Director
Office of Thrift Supervision

Dated: December 29, 1992