

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

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In The Matter Of:)	
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NEW ENGLAND FEDERAL SAVINGS BANK)	Re: Resolution No. BOS 91-10
Wellesley, Massachusetts)	Date: August 9, 1991
)	
OTS No. 08269)	
_____)	

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Deputy Director for the Boston District Office ("Deputy Director"), and New England Federal Savings Bank, Wellesley, Massachusetts ("New England" or the "Institution"), stipulate and agree as follows:

1. Consideration

The OTS, based upon information reported to it, is of the opinion that grounds exist for it to initiate an administrative cease and desist proceeding against New England pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. 1818(b). New England desiring to cooperate with the OTS and to avoid the time and expense of such administrative proceedings or litigation, and without admitting any allegation or implication of fact or the existence of any grounds for the initiation of a proceeding pursuant to Section 8(b) of the FDIA, hereby stipulates and agrees to the following terms in consideration

of the forbearance by the OTS from initiating such administrative cease and desist proceedings or litigation against New England with respect to the matters covered in the most recent Report of Examination of the OTS and in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction

New England is a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. 1813(b) and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, 12 U.S.C. 1813(c)(2). Pursuant to Section 3(q)(4) of the FDIA, 12 U.S.C. 1813(q)(4), the Director of OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, New England 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, 12 U.S.C. 1818(b).

3. Consent

New England consents to the issuance by the OTS of the Order solely for the purpose of settling this proceeding without protracted, burdensome and expensive litigation. 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, 12 U.S.C. 1818(b). Upon its issuance by the OTS, it shall be a final order, effective and fully enforceable by the OTS under Section 8(i) of the FDIA, 12 U.S.C. 1818(i). It is agreed that no action to enforce the Order in United States District Court or pursuant to Section 8(i)(2) of the FDIA will be undertaken by the OTS against New England unless the OTS determines that New England has violated, is violating, or is about to violate any provision of the Order.

5. Waivers

New England, solely for the purpose of settling this proceeding without protracted, burdensome and expensive litigation, waives its right to a notice of charges and the administrative hearing provided by Section 8(b)(1) of the FDIA, 12 U.S.C. 1818(b)(1), and further waives any right to seek judicial review of the Order, including any such right provided in Section 8(h) of the FDIA, 12 U.S.C. 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS and New England, by a majority of its board of directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

NEW ENGLAND FEDERAL SAVINGS BANK
By a majority of its
Board of Directors:

/S/
By: Ralph W. Gidley
Regional Deputy Director
Boston District Office

/S/

/S/

/S/

Concur:
FEDERAL DEPOSIT INSURANCE
CORPORATION

/S/
By: Paul H. Wiechman
Regional Director

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UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In The Matter Of:

NEW ENGLAND FEDERAL SAVINGS BANK
Wellesley, Massachusetts

OTS No. 08269

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) Re: Resolution No. BOS 91-10
) Date: August 9, 1991
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ORDER TO CEASE AND DESIST

WHEREAS, New England Federal Savings Bank, Wellesley, Massachusetts ("New England" or the "Institution"), through its directors, has executed a Stipulation and Consent to Issuance of Order to Cease and Desist ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Regional Deputy Director for the Boston District Office ("Regional Deputy Director"); and

WHEREAS, solely for the purpose of settling this proceeding without protracted, burdensome and expensive litigation, and without admitting or denying any allegation or implication of fact or the existence of any grounds for the initiation of a Cease and Desist proceeding, the Institution, 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"), 12 U.S.C. 1818(b);

NOW THEREFORE, IT IS ORDERED that:

I. The Institution shall cease and desist from:

A. Engaging or participating in any of the following practices:

- (1) failing to take steps to avoid operating with inadequate financial operating ratios, substantial operating losses and significant deterioration of asset quality;
- (2) operating without adequate internal controls; and
- (3) operating without adequate general loss reserves.

B. Violating the following regulations (for purposes of this Order, the term "violate" shall have the meaning set forth in Section 10(i)(2)(E) of the Home Owners' Loan Act, 12 U.S.C. 1467a(i)(2)(E)):

- (1) 12 C.F.R. 563.160, regarding internal classification assets and reserves;
- (2) 12 C.F.R. 563.161, regarding management and financial policies;
- (3) 12 C.F.R. 563.170, regarding establishment and maintenance of records (with respect to existing deficiencies regarding this regulation, compliance may be achieved through the exercise of the Institution's best efforts to cure such deficiencies); and
- (4) 12 C.F.R. 563.172, regarding re-evaluation of assets and adjustment of book value.

II. IT IS FURTHER ORDERED THAT the Institution take affirmative corrective action as follows:

A. Management

1. Within sixty (60) days from the effective date of this Order, the Institution shall develop and submit to the Regional Deputy Director a written analysis and assessment of the Institution's management and staffing needs ("Management Plan") which shall include, at a minimum:

- a. identification of both the type and number of officer positions needed to properly manage and supervise the affairs of the Institution;
- b. evaluation of each Institution officer at the level of vice president or above to determine whether such individual possesses the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to applicable regulatory provisions and the Institution's established policies and practices, and maintenance of the Institution in a safe and sound condition;
- c. an analysis of management's strengths and weaknesses, including an assessment of current compensation and organizational structure;
- d. an assessment of senior management staff's ability to effectively manage and resolve current problems confronting the Institution;
- e. a plan of action to recruit and hire any additional or replacement personnel with the ability, experience and other qualifications, which the Board of Directors

("Board") determines are necessary to fill Institution officer and senior policy making positions; and

f. a requirement that the Board (or a committee thereof, a majority of whom are outside directors) provide supervision over the lending, investment and operating policies of the Institution with respect to compliance with the terms of this Order.

2. The Board shall approve the Management Plan, and such approval shall be recorded in the Board minutes. Any modification shall become effective when approved by the Board, and such approval shall be recorded in the Board minutes. The Board shall provide the Regional Deputy Director with written notice of all material modifications to the Plan. The Institution shall implement and follow the written Management Plan and/or any subsequent modification thereto.

B. Board of Directors and Committees

3. Within sixty (60) days from the effective date of this Order, the Institution shall develop and submit to the Regional Deputy Director a written analysis and assessment of the Institution's operating committee needs ("Committee Plan") which shall include, at a minimum:

- a. identification of the operating committees needed to properly guide and oversee the affairs of the Institution and active management;
- b. identification of the functions, responsibilities and frequency of meetings of each operating committee; and

c. identification of the membership of each operating committee.

4. The Board shall approve the written Committee Plan, and such approval shall be recorded in the Board minutes. Any modification shall become effective when approved by the Board, and such approval shall be recorded in the Board minutes. The Board shall provide the Regional Deputy Director with written notice of all material modifications to the Committee Plan. The Institution shall implement and follow the written Committee Plan and/or any subsequent modification thereto.

5. The Institution's Directors shall meet at least monthly. Management shall prepare in advance, and the Board shall follow, a detailed agenda at each meeting, which shall include consideration of the actions of any operating committees. Nothing in the foregoing sentence shall preclude the Board from considering matters other than those in the agenda.

6. The Institution shall take actions designed to ensure that each member of its Board attends a minimum of seventy-five (75) percent of regular monthly Board meetings during any consecutive twelve (12) month period.

C. Asset Quality and Review

7. Within thirty (30) days from the effective date of this Order, the Institution shall charge off or establish specific reserves for all assets classified "loss" in the OTS Report of Examination ("ROE") dated December 17, 1990, and shall establish a general loss reserve equal to \$2.5 million.

8. Within sixty (60) days from the effective date of this Order, the Board shall adopt and submit to the Regional Deputy Director for review, an internal classification of assets policy ("Classification Policy") consistent with, and no less stringent than, the provisions of 12 C.F.R. 563.160 as interpreted and clarified by the OTS policy statement regarding classification of assets, 12 C.F.R. 571.26. The Classification Policy shall include:

- a. a requirement that updated financial information be requested in writing at least annually from all borrowers and guarantors with speculative and/or commercial real estate loans in excess of \$250,000 in the aggregate. In addition, operating statements on properties securing such speculative and/or commercial real estate loans shall be requested in writing at least annually from such borrowers and guarantors. All such requests, responses and subsequent analysis shall be maintained as loan file documentation;
- b. identification of the individuals responsible for the review, the frequency of reviews, the method of loan selection, the scope and depth of the review, and follow-up reporting procedures, some of which individuals shall be independent of the lending function; and
- c. a provision designed to ensure that all classified assets are reported as required on Thrift Financial Reports ("TFRs") submitted to the OTS.

9. The Institution shall review its assets for potential classification and its general loss reserve for adequacy on at least a quarterly basis. Adjustments to the reserve shall be made within fifteen (15) days following each such quarterly review. Such reviews and supporting analysis for the adequacy of the general loss reserve shall be documented within the Board minutes of the meeting at which considered.

10. Upon acquisition of real estate through foreclosure, deed in lieu of foreclosure, or any acquisition deemed to be an "in substance foreclosure" in accordance with the guidelines established by Securities and Exchange Commission Financial Reporting Release No. 28 (collectively "real estate owned" or "REO"), the property shall be appraised in accordance with 12 C.F.R. 563.172. All such REO of the Institution and its subsidiaries shall be carried at the lower of book value or fair market value in accordance with 12 C.F.R. 571.18(h). If the fair market value is less than the book value upon acquisition, the Institution shall charge off or establish a specific reserve immediately to account for the loss.

11. Within thirty (30) days following the calendar quarter ended June 30, 1991, the Institution shall provide the Regional Deputy Director with an update on each major credit with outstanding loans or extensions of credit aggregating more than \$250,000 and each parcel of REO with a balance in excess of \$250,000 classified or subject to special mention in the OTS ROE dated December 17, 1990. Such reports shall set forth the balance as of the reporting date, past due status and a summary of efforts taken to alleviate the

credit deficiency. Said reports shall be required as of the end of each calendar quarter and shall be due within thirty (30) days following the end of each calendar quarter. Said reports may be discontinued only upon the written release of the Regional Deputy Director.

D. Lending Policies and Procedures

12. Within sixty (60) days from the effective date of this Order, the Institution shall develop and submit to the Regional Deputy Director a written loan underwriting policy. The policy shall set forth procedures relative to internal review and approval of loan documentation provided to the Institution in loan referrals made by its agents, correspondents and the like, and loan documentation provided by underwriters of loans to be purchased. At a minimum, the policy shall ensure that the loan documentation provided is in compliance with the requirements of 12 C.F.R. 563.170(c)(1). The Board shall approve the written loan underwriting policy, and such approval shall be recorded in the Board minutes. The Institution shall implement and follow the written policy and/or any subsequent modification thereto.

13. Except pursuant to a binding legal commitment in force at the date hereof, the Institution shall not extend or renew directly or, with knowledge indirectly, any additional credit to any borrower whose loans have been classified or listed for special mention in the aforementioned ROE without the prior approval of the Board or Asset Review Committee. Such approval shall include approval of each advance individually or of a project budget with which each advance

is consistent. A written record of the Board's prior approval of any advance under the terms of this provision shall be maintained in the credit file of the affected borrower(s) as well as the Board minutes.

14. Within sixty (60) days of the effective date of this Order, the Institution shall develop, and thereafter shall maintain a comprehensive borrower credit ledger. At a minimum, the ledger shall provide an accurate record of total borrower credit in all loan types, including direct liability (including liability as maker, co-maker, partner, and any other kind of direct liability), and indirect liability (including liability as endorser, guarantor, and any other kind of indirect or contingent liability). Such ledger shall be maintained in a current status for all borrowers with other than one-to-four family owner-occupied residential loans and/or consumer loans.

E. Internal Controls

15. Within thirty (30) days from the effective date of this Order, the Institution shall develop and implement a "dual control" system relative to its wire transfer activities.

F. Interest Rate Risk Management

16. Within sixty (60) days from the effective date of this Order, the Board shall adopt and submit to the Regional Deputy Director for review, a revised interest rate risk management policy that meets the requirements of 12 C.F.R. 563.176 as interpreted and clarified by the OTS policy statement regarding interest rate risk, 12 C.F.R. 571.3, and Thrift Bulletin No. 13. The policy shall include all implications and strategies with respect to proposed expansion of

mortgage banking activities.

G. Business Plan

17. Within sixty (60) days from the effective date of this Order, the Board shall adopt and submit to the Regional Deputy Director for review, a business plan for the remainder of 1991 and 1992. The plan shall include, at a minimum:

- a. a mission statement of the basic business, scope, activities, and purpose of the Institution;
- b. goals that the Institution desires to achieve;
- c. objectives providing specific quantitative measures consistent with each goal;
- d. strategies regarding the courses of action the Institution will take to achieve its goals; and
- e. proforma financial statements and budgets that reflect the existing position of the Institution and the anticipated position demonstrating the impact of its goals, objectives, and strategies on its existing position.

H. Progress Reports

18. By August 20, 1991, and, thereafter, within thirty (30) days of the end of each calendar quarter, the Institution shall furnish written status reports to the Regional Deputy Director detailing the actions which have been taken to secure compliance with this Order and the results thereof. Said reports may be discontinued only when the corrections required under this Order have been accomplished, and the Regional Deputy Director has, in writing, released the Board from

making further reports. In addition, the Institution shall furnish such reports on request of the Regional Deputy Director. All status reports and other written submissions pursuant to this Order shall be reviewed by the Board of Directors of the Institution and made a part of the Board minutes.

I. Effective Date and Effect of Order

19. This Order shall become effective upon execution by the Regional Deputy Director, and shall remain effective and enforceable until such time as any provisions thereof shall have been modified, terminated, suspended, and or set aside by the Regional Deputy Director.

THE OFFICE OF THRIFT SUPERVISION

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~~Raymond W. Gridley~~
Regional Deputy Director
Boston District Office

Concur:

FEDERAL DEPOSIT INSURANCE CORPORATION

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By:

Paul H. Wiechman
Regional Director