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UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of  
AMERICAN SAVINGS AND LOAN  
ASSOCIATION OF FLORIDA  
Miami, Florida

Re: Resolution No. ATL-90-22  
Date: December 21

STIPULATION AND CONSENT TO ISSUANCE  
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("the OTS"), by and through its Regional Director for the Southeast Region, and American Savings and Loan Association of Florida, Miami, Florida ("American Savings") stipulate and agree as follows:

1. Consideration. The OTS, based upon information 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 American Savings pursuant to Section 8 (b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. Section 1818 (b) (1989).

American Savings 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 against American Savings with respect to the specific matters covered in the accompanying Order to Cease and Desist ("Order"). However, it is understood by the parties that the OTS may take other actions, including formal enforcement actions, against American Savings and others which arise from the same facts which provide the basis for this Order.

2. Jurisdiction.

(a) American Savings is a "savings association" within the meaning of Section 3 of the FDIA, 12 U.S.C. 1813 (1989), and Section 2 of the Home Owners' Loan Act, 12 U.S.C. 1462 (1989). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. Section 1813(c) (1989).

(b) Pursuant to Section 3 (q) (4) of the FDIA, 12 U.S.C. 1813 (q) (4) (1989), the Director of the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against a savings association. Therefore, American Savings 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.

3. Consent. American Savings consents to the issuance by the OTS of the accompanying 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. Upon its issuance by the Regional Director for the Southeast Region of the 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. Section 1818(i) (1989).

5. Waivers. American Savings waives its right to a notice of charges and the administrative hearing provided by Section 8 (b) of the FDIA, 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. Section 1818(h) (1989) , or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the Southeast Region, and American Savings, by a majority of its directors, execute this Stipulation and Consent to Issuance of an Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

AMERICAN SAVINGS AND LOAN ASSOCIATION OF FLORIDA, by a majority of its directors:

By:

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John E. Ryan  
Regional Director  
Southeast Region  
Office of Thrift Supervision

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UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of  
- AMERICAN SAVINGS AND LOAN  
ASSOCIATION OF FLORIDA  
Miami, Florida

Re: Resolution No. ATL-90-22  
Date: December 21, 19

ORDER TO CEASE AND DESIST

WHEREAS, American Savings and Loan Association of Florida, Miami, Florida ("American Savings"), through its directors, has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("the OTS"), acting through its Regional Director for the Southeast Region; and

WHEREAS, American Savings, 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, 12 U.S.C. Section 1818 (b) (1989).

NOW THEREFORE, IT IS ORDERED that American Savings acting through its directors, officers, employees, agents and service corporations shall cease and desist from any unsafe or unsound practice in its transactions with The Enstar Group, Inc., Montgomery, Alabama ("Enstar"), and any of Enstar's subsidiaries and affiliates and further, shall cease and desist from any violation of, or the aiding and abetting of any violation of:

- a. Section 23A of the Federal Reserve Act, 12 U.S.C. 371c (1988);
- b. Section 23B of the Federal Reserve Act, 12 U.S.C. 371c-1 (1988); and
- c. the provisions of the Note, Collateral Pledge Agreement, Guaranty and other financial agreements entered into by Enstar, Enstar Financial Services, Inc., and American Savings on December 22, 1989, as modified on April 30, 1990 and by this Order ("the Junk Bond Loan Documents").

IT IS FURTHER ORDERED that:

1. On or after the effective date of this Order, there shall be no direct or indirect transactions between American Savings and Enstar or any of its subsidiaries and affiliates other than: (i) those transactions permitted by the Junk Bond Loan Documents as modified on April 30, 1990 and by this Order, (ii) those required or expressly contemplated by this Order, (iii) those hereafter required or approved in advance in writing by the OTS and (iv) commercial transactions which were, as of the date of this order, reflected on the books and records of American Savings as detailed on schedule A attached hereto and incorporated by reference herein.

2. Without the prior written approval of the Regional Director or his designee, American Savings shall not release any of the collateral, including the stock of Enstar Specialty Retail Inc., or income, dividends or cash proceeds from the collateral, pledged in connection with the Junk Bond Loan Documents.

3. For purposes of this order the term "best efforts" shall include but not be limited to:

- a) The gathering of information from Enstar or others necessary to restructure the notes, collateral agreements and other related documents for the indebtedness described herein; and
- b) The preparation of such notes and agreements ("documents") designed to comply with the terms of this order; and,
- c) The presentation of the documents to Enstar, its subsidiaries or affiliates and any other necessary parties and a demand for Enstar, its subsidiaries or affiliates, or other parties to execute such documents; and
- d) A report to the Regional Director of the OTS as soon as possible after the meeting with Enstar now scheduled for November 27, 1990, but in any event not later than December 10, 1990. The report shall include but not be limited to a discussion of Enstar's failure or refusal to execute any of the documents.

4. American Savings shall exercise its best efforts to cause to be amended the Junk Bond Loan Documents to provide that all cash

proceeds, less bona fide third party commissions, from the sale or distribution of the collateral, or interest or dividends paid on the collateral, shall immediately be applied to reduce the outstanding principal balance of Enstar's indebtedness to American Savings as evidenced by the Loan Documents or to accrued interest as American Savings may direct.

5. American Savings shall exercise its best efforts to cause to be amended the Custodial Services Agreement of January 19, 1990, between American Savings and Citibank, N.A. to provide that the custodian shall not release any collateral without the prior written approval of American Savings and the Regional Director of the OTS or his designee, and to further provide that at the direction of the the Regional Director of the OTS or his designee, American Savings shall immediately terminate the Agreement and engage another authorized corporate entity to hold the subject collateral.

6. American Savings shall exercise its best efforts to cause the total indebtedness including interest, at the rate set forth below, from the date of payments until execution of this note, owed American Savings by Enstar arising from payments made by American Savings pursuant to the Tax Sharing Agreement between American Savings and Enstar, as successor in interest to Kinder-Care, Inc., dated May 1, 1988 to be evidenced by a note ("the Tax Sharing Note") in form and substance acceptable to the OTS. In order to be acceptable to the OTS:

(a) Interest on the Tax Sharing Note shall be paid quarterly and shall accrue at a per annum rate of one hundred and fifty (150) basis points over the "Prime Rate" as that term is defined in the Promissory Note included in the Junk Bond Loan Documents.

(b) The indebtedness evidenced by the Tax Sharing Note shall be secured in a manner which conforms to the requirements of paragraph 10 of this Order.

7. With respect to the Promissory Note of April 29, 1988 which evidences certain indebtedness of Enstar Financial Services, Inc. to American Savings ("Crista Oil Note"), American Savings shall use its best efforts to secure additional collateral to secure this note as provided in paragraph 10 of this order.

8. Without prior notice to and the prior written approval of the Regional Director of the OTS, American Savings shall make no payments, whether pursuant to an employment contract or its employment policy, to any officer who is employed in a "designated category" (as hereafter defined) and who resigns or is terminated

from American Savings, except payments required to be made under federal employment law or as ordered by a court. For purposes of this paragraph the term "designated category" shall refer to the officers employed by American Savings in the following departments:

1. Executive;
2. Finance;
3. Controller;
4. Legal;
5. Corporate Lending;
6. Commercial Bank Lending; and,
7. Any other officer, regardless of assignment, who performs or has performed services relating to financial transactions between American Savings and its parent companies and/or holding company affiliates.

9. American Savings shall not provide to, or on behalf of, any of its officers and/or directors, if requested, any funds for attorney's fees or other costs of litigation in advance of a decision on the merits in favor of such officers and/or directors, in connection with any judicial or administrative litigation between any such officers and/or directors and the OTS or the Federal Deposit Insurance Corporation, ("FDIC") or any negotiations initiated in advance of the filing of such proceeding as to which American Savings has been given written notice by the OTS or the FDIC as appropriate, against any such officers and/or directors, except as follows:

- a. If a majority of the directors of American Savings concludes that, in connection with any such action, any person ultimately may become entitled to indemnification under Section 607.0850 of the Florida Statutes, the directors may authorize payment of reasonable costs and expenses, including reasonable attorneys' fees, arising from the defense or settlement of such action.
- b. The directors of American Savings shall impose such conditions on such a payment of expenses as they deem warranted and in the interests of American Savings. In no event shall American Savings pay an attorney more than \$5,000 as a

retainer in advance of services rendered or expenses actually incurred. Before making advance payment of such expenses, American Savings shall, after making a reasonable determination that the officer or director has the resources to repay such advances, obtain an agreement that American Savings will be repaid if the person on whose behalf payment is made is later determined not to be entitled to such indemnification.

- c. No such indemnification shall be made unless American Savings gives the OTS at least 60 days notice of its intention to make such indemnification. Such notice shall state the facts on which the action arose, the name of any attorneys to be retained by the officer or director involved, the terms of any settlement, and any disposition of the action by a court. Such notice, a copy thereof, and a certified copy of the resolution containing the required determination by the board of directors shall be sent to the Regional Director of the OTS, shall promptly acknowledge receipt thereof. The notice period shall run from the date of such receipt.
- d. Notwithstanding any language to the contrary set forth herein, American Savings shall not, except as required by law or the Order of any Agency having jurisdiction over American Savings, be required to abridge any contract created by the indemnification resolutions adopted on July 31, 1987; provided, however, that American Savings shall adopt new resolutions in conformity with paragraphs 9a-c, which shall govern indemnification for actions and/or omissions on or after the date hereof.
- e. Nothing set forth herein shall restrict the power of American Savings to provide expense reimbursement to officers and/or directors in connection with any matters or proceedings in which they have not been named as defendants at the time the expense is incurred or in which the plaintiff is neither the OTS nor the FDIC.

10. American Savings shall use its best efforts to make such amendments to the Junk Bond Note, the Tax Sharing Note and the Crista Oil Note (collectively, the "Notes"), to provide that the Notes are secured, in a manner acceptable to the OTS by such of the assets of Enstar or its subsidiaries or affiliates as the OTS deems appropriate and to ensure that each of these Notes provides that a default by the obligor on any of these Notes shall constitute a default on all of these Notes and that collateral held to secure any one of the Notes may be used to satisfy any other indebtedness of Enstar or any of Enstar's subsidiaries or affiliates to American Savings.

THE OFFICE OF THRIFT SUPERVISION

By: \_\_\_\_\_

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John E. Ryan  
Regional Director  
Southeast Region