

OTS No. > 8571

SUPERVISORY AGREEMENT

This Supervisory Agreement ("Agreement") is made and is effective on this 28 day of December, 1990 (the "Effective Date"), by and between First Florida Savings Bank, FSB, ("First Florida" or the "Association"), a federally-chartered stock savings association, and the Office of Thrift Supervision ("OTS"), an office within the Department of the Treasury, a department in the Executive Branch of the United States Government, having its principal executive offices located at 1700 G Street, N.W., Washington, D.C.

Handwritten initials and a circled number '91'.

WHEREAS, the Association is a federally-chartered stock-form savings association, the deposits of which are insured by the Savings Association Insurance Fund ("SAIF") of the Federal Deposit Insurance Corporation ("FDIC"), and is subject to Federal laws and regulations; and

WHEREAS, the OTS is the primary Federal regulator of the Association; and

WHEREAS, the OTS, represented by the District Director for the New York District ("District Director"), is of the opinion

that the Association has violated certain of the laws or regulations to which the Association is subject and has engaged in unsafe and unsound practices in conducting the business of the Association; and

WHEREAS, OTS is of the view that it is appropriate to take measures intended to ensure that the Association will: (1) comply with all applicable laws and regulations; (2) engage in safe and sound practices; and (3) maintain itself in a safe and sound condition; and

WHEREAS OTS is of the view that such measures include requiring the Association to take the corrective actions that are set forth in this Agreement to remedy such violations and practices; and

WHEREAS, the Board of Directors of the Association, without indicating agreement with the opinion of OTS stated in the third Whereas clause above, wishes to cooperate with the OTS and to demonstrate that they have the intent to: (1) comply with all applicable laws and regulations; (2) engage in safe and sound practices; and (3) maintain the Association in a safe and sound condition, consistent with its fiduciary duties owed to the Association and its depositors; and

WHEREAS, in the interest of regulatory compliance and cooperation, the Association is willing to enter into this

Agreement;

NOW THEREFORE, in consideration of the above premises, the mutual undertakings set forth herein, and other good and sufficient consideration, the parties hereto agree as follows:

1. Compliance and Management Review Committee

(a) Appointment of a Committee. Within fifteen (15) days of the date of this Agreement, the board of directors shall appoint a Compliance and Management Review Committee (the "Committee") comprised of at least three outside directors who are not now, and have never been, involved in the daily operations of First Florida, and whose composition is acceptable to the District Director for the Atlanta District of the Office of Thrift Supervision or his designee or successor ("District Director").

(b) Compliance Review and Reports. The Committee shall monitor First Florida's compliance with this Agreement. Within forty five days (45) days from the date of this Agreement, and at quarterly intervals thereafter, such Committee shall prepare and present to the board of directors a written report of its findings, detailing the form, content, and manner of the actions First Florida has taken to comply with this Agreement and the Committee's recommendations for the Association's continued and/or improved compliance. First Florida shall include the Committee's

progress reports in the minutes of the board of directors and shall submit such progress reports to the District Director on a quarterly basis.

c) Committee Meetings. The Committee shall meet at least monthly and shall keep minutes and exhibits of its meetings. First Florida shall submit copies of the Committee's minutes to the District Director within three (3) weeks following each Committee meeting. The Committee shall hold its first meeting no later than five (5) weeks following the date of this Agreement.

2. Lending and Investment Restrictions



(a) Prohibited Loans and Investments. Until First Florida has satisfied the conditions set forth below in paragraph 2(c), First Florida or any wholly owned or majority owned subsidiary, service corporation, or affiliate of First Florida shall not extend, purchase, or refinance, or commit to extend, purchase or refinance, directly or indirectly, any loans, or make any investment which does not qualify as a liquid asset under Section 933.13 of the Regulations of the Federal Housing Finance Board, 12 C.F.R. §933.13 (1990), without the prior written approval of the District Director.

(b) Exceptions. Notwithstanding the prohibition set forth above in paragraph 2(a) of this Agreement, First Florida may:

(i) make one-to-four family owner-occupied residential mortgage loans;

(ii) invest in obligations issued by the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation. These investments shall be made in accordance with First Florida's interest rate risk policy;

(iii) make consumer loans in accordance with the policies and procedures outlined in the consumer loan policy received by this office on November 28, 1990;

(iv) make available additional loans or advances on existing loans as part of a work-out or restructuring of such loans provided that such additional loans or advances are a) guaranteed or are otherwise secured by additional collateral and b) specifically approved in advance in writing by OTS;

(v) make new loans which are fully collateralized by funds on deposit with the institution subject to applicable regulatory limitations; and

(vi) with respect to certain non-critized loans and credit facilities listed on Schedule I of this Agreement, (a) rollover commercial loans listed on Schedule I, provided that

the amount of each such rollover does not exceed the amount outstanding as of the date of this Agreement, (b) make additional advances under letter of credit facilities listed on Schedule I up to the maximum amount specified for such facility at the date of this Agreement, and (c) extend letter of credit facilities shown on Schedule I, provided that the maximum amount under such facility is not increased above the maximum amount at the date of this Agreement, as shown on Schedule I.

(vii) make advances necessary to honor legally binding commitments existing as of the date of this Agreement to fund loans or loans-in-process ("LIP").

Prior to finalizing any such pre-existing legally binding commitment, in a loan contract or making any disbursement under a loan contract or LIP, the Association shall affirmatively determine that all conditions precedent to the commitment or disbursement have been satisfied.

No later than twenty (20) days after the date of this Agreement, the Association shall provide the District Director with a list of all LIP obligations and loan commitments existing as of the date of this Agreement that the Association seeks to fund pursuant to the exception set forth in this paragraph 2(b)(vii). The list shall include the following information:

- (a) amount and type of commitment or LIP (including whether firm or standby);
- (b) date commitment was issued;
- (c) identity of borrower and amount of other outstanding loans or commitments and LIPs to borrower;
- (d) type, location, and value of security property;
- (e) schedule of anticipated funding;
- (f) amount of any commitment fee received and date of receipt; and
- (g) amount and portion of interest and fees funded by loan proceeds, if any.



For any commitment or LIP exceeding \$100,000, which the Association intends to fund pursuant to the exception set forth in this paragraph 2(b)(vii), the Association shall obtain a written opinion from independent legal counsel stating: (1) that counsel has reviewed the terms of each commitment and LIP and that such commitment or LIP constitutes a legally binding obligation of the Association that could be enforced in a court of law by the party to whom the commitment and LIP is made and (2) that the honoring of such commitment and LIP will not cause the Association to otherwise violate any laws or regulations applicable to it.

(c) Resumption of Certain Loans and Investments. Prior to engaging in any lending or investment activity prohibited above in paragraph 2(a) of this Agreement, First Florida shall obtain the District Director's prior written approval of First Florida's written request to resume such activities. First Florida's written request to the District Director must be accompanied by a resolution of a majority of the board of directors, signed by each individual member of the board voting in favor of the resolution, indicating that:

(i) management is capable of underwriting and administering loans or investments in a safe and sound manner;

(ii) the board of directors has adopted policies and procedures to ensure that the loans or investments are prudently underwritten and administered;

(iii) First Florida has implemented internal controls to assure compliance with the Association's policies and procedures;

(iv) with respect to commercial loans (including commercial real estate and commercial construction loans) an independent qualified third-party (who may be the Association's current external auditor), has reviewed the Association's policies and procedures and

that the Association has considered and implemented such third party's recommendations;

(v) First Florida has not experienced significant losses within the past year in connection with similar loans or investments; and

(vi) the loans or investments contemplated are necessary to preserve First Florida's franchise value.

All documentation considered by the board of directors in adopting the resolution shall be explicitly referenced in the minutes of the meeting at which the resolution was adopted and First Florida shall submit such documentation to the District Director for his review and approval as part of the Association's request to resume activities.


3. Trading Activity

First Florida shall not engage in any investment trading activity until the District Director approves in writing the resumption of such activity by First Florida.

4. Commercial Loan Limitations

First Florida shall comply with the commercial loan limitation set forth in 12 U.S.C. §1464(c)(2)(a) and 12 C.F.R. §545.46.

5. Loan Documentation

First Florida shall, at a minimum, obtain and maintain the following listed documentation at the Association for the purpose of evaluating the basis for loan approvals, the collectibility of loan participations or any other interest in loans, and the viability of projects securing loans:

(a) all records and documentation required by 12 C.F.R. §563.170;

(b) a credit approval memorandum or loan request, which shall include the amount, term, interest rate, repayment or prepayment terms, and tax and insurance deposits;

(c) the borrower's name, address, periodic financial statements, credit references and credit checks;

(d) descriptions, location and cost of real estate security, actual or estimated cost of construction, if applicable;

(e) where a loan is secured by an interest in real property, an appraisal report, prepared for and at the direction of First Florida or, in the case of participations, at the request of the lead bank;

(f) for construction, condominium conversion or loans for a similar purpose involving a change in the property and its subsequent sale, a report documenting the feasibility of the project as a profit making venture (this report may be either as part of or separate from the appraisal);

(g) for loans secured by accounts receivable and inventory, periodic inspection and aging reports on the collateral;

(h) written documentation of First Florida's review and evaluation of the appraisal report, feasibility study, if applicable and borrower's financial statement;

(i) a calculation of the borrower's cash investment in the real estate project;

(j) a statement that the loan conforms to the lending authority conferred by First Florida's board;

(k) a statement of ownership, which may be derived from the loan application, setting forth the names of all individuals, corporations, or partnerships that have a beneficial interest in the property or the borrower and a statement signed by each person approving or recommending approval of the loan stating whether such person knows that any director, officer (assistant vice president and higher) or an affiliated person (as defined by 12 C.F.R. §563.5) of First Florida has a beneficial interest

in the borrower or in the land or other security for the loan or joint venture.

(l) a comprehensive cash flow projection which contains data on the following matters projected over the life of the project at quarter-year intervals: sales; expenditures broken down as to land, overhead, development, taxes and interest, marketing and maintenance; and calculation of internal rate of return of profitability analysis; and

(m) in the case of loans underwritten on the basis of project income, substantiation that income generated by the property is sufficient to service the loan.

 This paragraph 5 applies equally to loans, participations and any other interest in loans brokered or sold to First Florida by one of its subsidiaries, or outside third parties, as well as to loans, participations and any other interest in loans committed, purchased, restructured, or modified by First Florida and its subsidiaries, but only where such loan, participation, or interest was committed, purchased, restructured, renewed, or modified after the date of this Agreement.

6. Problem Assets

(a) Loss Assets. As of June 30, 1990, First Florida shall recognize, by principal reduction or charge-off, or by the

establishment of specific allowances all assets or portions of assets classified "Loss" by the OTS as a result of its April 16, 1990 examination of First Florida which have not been previously charged off or collected. In addition, subject to any rights to review available to First Florida by then applicable regulations, First Florida shall, within thirty (30) days from the receipt of any subsequent Report of Examination from the OTS, recognize, by collection, charge-off, or the establishment of specific allowances, all assets or portions of assets classified "Loss" in said Report of Examination.

(b) General Valuation Allowance. Within ten (10) days from the date of this Agreement, and immediately after effecting the charge-offs made pursuant to paragraph 6(a) of this Agreement, First Florida shall increase the total balance in its general valuation allowance ("GVA") to at least \$1.2 million and shall thereafter maintain an adequate GVA.

(c) Management of GVA Balance. Within thirty (30) days from the date of this Agreement, First Florida's board of directors shall adopt a method to assess the adequacy of First Florida's GVA that gives consideration to the volume and composition of the loan portfolio not subject to criticism, as well as to the volume and composition of criticized assets. Thereafter, First Florida's board of directors shall, during the first month of each quarter, re-evaluate the reserves for loan losses and make such additional provisions for loan losses that are, in the

judgment of the board, necessary to maintain the reserve at an adequate level relative to the volume of risk in First Federal's loan portfolio. All such additional provisions for loan losses shall be made in the first month of the calendar quarter in which the deficiency in the reserve is identified, and shall be reflected in the Thrift Financial Reports filed in such calendar quarter. First Florida will charge off or establish specific reserves for all loans determined to be uncollectible, or as required by 12 C.F.R. §563.160 on a quarterly basis. The minutes of the board of directors of First Federal shall reflect that it has performed such re-evaluation. First Federal shall submit documentary proof of the method it has employed in determining the level of the reserve to the District Director on a quarterly basis beginning December 31, 1990.

7. Classified Asset Program

a) Management Plan. Within one (1) month of the date of this Agreement, First Florida shall establish a plan for managing its problem assets in a manner acceptable to the District Director. The plan will include the assignment of responsibility to the Committee to monitor management's handling of problem assets.

b) Asset Classification Program. Within ninety (90) days of the date of this Agreement, the board of directors of First Florida shall adopt and implement a written program with regard to each asset and contingent liability criticized in the April

16, 1990 OTS Report of Examination of First Florida, so as to eliminate the basis of criticism of each asset and contingent liability. Each program shall include, at a minimum, an assessment of the status of each criticized asset and contingent liability, the proposed action for eliminating the basis of criticism, and the time frame for its accomplishment. First Florida shall submit to the District Director a copy of the program for each criticized asset which equals or exceeds \$200,000. The board of directors shall, within thirty (30) days following receipt of any OTS Report of Examination of First Florida and subject to any then applicable rights of review available to First Florida by regulation, adopt and implement written programs, as specified above, for any assets and contingent liabilities criticized in said Report and forward copies of such programs to the District Director.

 c) Status Reports. The Committee shall monitor each existing loan classified in the April 16, 1990 OTS Report of Examination or in subsequent examination reports. Beginning with the quarter ending December 31, 1990, the Committee shall submit quarterly status reports on such loans to the District Director.

For purposes of this Agreement, the term "criticized asset and contingent liability" means any asset and/or contingent liability or group of related assets and/or contingent

liabilities or portion thereof, scheduled as "Special Mention", "Substandard", or "Doubtful" in any OTS Report of Examination of First Florida.

8. Internal Loan Review

The board of directors of First Florida shall establish an Internal Loan Review Committee, and may in its judgement determine to appoint one or more or all of the persons constituting the initial compliance and Management Review Committee to also serve on the Internal Loan Review Committee. The Internal Loan Review Committee shall review the Association's internal loan review function and shall develop an internal loan review policy. The internal loan review policy shall establish procedures that will ensure that First ^{FLORIDA} ~~Federal~~ _{INC} appropriately classifies its assets and maintains an appropriate level of GVA. The board of directors shall approve the Internal Loan Review Committee's report and proposed policy and forward such report and policy to the District Director within sixty (60) days of the effective date of this Agreement.

9. Liquidity

Within sixty (60) days of the effective date of this Agreement, First Florida shall submit both a short term (less than one year) and long term (over one year) liquidity contingency plan. This plan should address all available sources of credit as of

the date of the plan. In addition, the liquidity contingency plan should be specific as to the particular sources of credit availability, the amount of credit available from each source, the expected maturity and the corresponding amount of collateral needed to secure each source of funds.

10. Directors and Senior Officers

Within thirty (30) days of the date of this Agreement, all directors and senior officers (senior vice president and above), must submit a biographical and financial report to board of directors. First Florida shall forward copies of these reports to the District Director within thirty (30) days of the date of this Agreement in the format required by OTS Thrift Bulletin 45 ("TB-45"). All new senior officers and directors must file the biographical and financial report as required by TB-45 and Section 32 of the FDIA, as added by Section 914 of FIRREA, (to be codified at 12 U.S.C. §1831i).

11. Transfer of Problem Assets

First Florida and its parent First Federal Savings Bank, Santurce, Puerto Rico, shall not transfer to each other, by any means, any asset that has been criticized or classified in the April 16, 1990 OTS Report of Examination of First Florida or in

the Association's own internal asset review, is delinquent, or which fails to meet the board approved underwriting and documentation requirements of either institution.

12. Transactions with Charles Ramos and Others

(a) Charles Ramos. First Florida shall not, directly or indirectly, disburse or permit to be disbursed from any account in which it has a legal or beneficial interest funds to any of the following:

- (i) Cambrian Capital, Inc.;
- (ii) Cambrian Securities, Inc.;
- (iii) Charles Ramos;
- (iv) Baird Technologies;
- (v) American Capital Complex;
- (vi) Talbrick Pty., Ltd.,
- (vii) Printon Kane Capital Corporation;
- (viii) Printon Kane & Co.;
- (ix) BancBoston Trust Company of New York; and
- (x) any known affiliate or affiliated person of any of the aforesaid entities and persons.

(b) Letters of Credit. First Florida shall not, directly or indirectly, purchase, invest in, or otherwise engage in any letters of credit transactions of the type described in the Office of the Comptroller of the Currency's circular of May,

1990 referring to letter of credit transactions (Attachment 1).

In addition, First Florida shall not, directly or indirectly, purchase, invest in, or otherwise engage in any transactions relating in any manner to letters of credit except in accordance with the requirements of 12 C.F.R. §545.48 and any other provision of the OTS regulations.

13. Indemnification of Officers and Directors

Without the prior written non-objection of the District Director, the Association shall not, directly or indirectly, indemnify any current or former officer or director of the Association for any expenses incurred (or to be incurred) by them (or members of their families) that relate in any manner to any administrative proceedings and/or any judicial proceedings initiated by the OTS against such officer or director unless and until such proceedings result in a decision in favor of the officer or director.

14. Board of Director Responsibility

Each member of the Board of Directors owes fiduciary duties to the Association and its depositors. Notwithstanding that certain provisions of this Agreement require the Board of Directors to submit various matters to the District 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.

15. Duration, Termination, or Suspension of Agreement

This Agreement shall remain in effect until terminated, modified or suspended, in writing, by the OTS, acting through the District Director or his designee. The District Director or his designee leave in his or her sole discretion, any or all provisions of this Agreement, provided, however, that such power shall not be exercised so as to cause the Agreement to become more restrictive, as, for example, by eliminating one or more of the exceptions at paragraph 2(b) while maintaining the prohibition at paragraph 2(a).

16. Signature of Directors

Each director signing the Agreement, which shall include at least a majority of the Board, attests that s/he voted positively in favor of the resolution authorizing the execution of the Agreement by the Association.

17. Enforceability of Agreement

This Agreement has been duly authorized, executed, and delivered, and constitutes, in accordance with its terms, a valid and binding obligation of the Association. It is understood and agreed that this Agreement is a "written Agreement" entered into with the OTS within the meaning of Section 8 of the FDIA, as amended, 12 U.S.C. § 1818.

18. Miscellaneous Definitions



(a) General. All other technical words or terms used in this Agreement for which meanings are not specified or otherwise provided by the provisions of this Agreement shall insofar as applicable, have meanings defined in Title 12 of the Code of Federal Regulations ("CFR") and any such technical words or terms used in this Agreement and undefined in said CFR shall have meanings that accord with the best custom and usage in the savings and loan industry.

(b) District Director. "District Director" or his successor is the "senior supervisory official" within the meaning of Section 723(d) of the FIRREA, 101 Stat. 183, 428 (1989), 12 U.S.C. §1437(d). All references to the District Director shall include the District Director and/or his designee(s).

IN WITNESS WHEREOF, the OTS, acting by and through the District Director, and the Association, in accordance with a duly adopted resolution of its Board of Directors (copy attached hereto as Appendix I), hereby execute this Agreement as of the date first above written.

OFFICE OF THRIFT SUPERVISION
By:

THE ASSOCIATION
By:

151
Name: _____
Title: Assistant Director

151
Name: JOSE M. CALDERON
Title: ACTING PRESIDENT

A MAJORITY OF THE DIRECTORS OF THE ASSOCIATION

151
Director _____

Director _____

151
Director _____

Director _____

151
Director _____

Director _____

Director _____

Director _____

Director _____

Director _____

A T T A C H M E N T 1

Concerned about the rapid expansion of proposed investment schemes supported by so-called "zero coupon" or discount L/Cs, Deputy Chief Counsel Robert B. Serino of the Office of the Comptroller of the Currency has issued a warning via OCC Circular. These schemes were detailed extensively in past issues of UPDATE. In order to continue to provide readers with the fullest coverage of such potentially fraudulent schemes, UPDATE publishes the Circular, entitled "Suspicious Transactions," and dated Feb. 7:

**Text, OCC
Warning On
L/C Scams**

To: Chief Executive Officers of all National Banks; All State Banking Authorities; Chairman, Board of Governors of the Federal Reserve System; Chairman, Federal Deposit Insurance Corporation; Conference of State Bank Supervisors; Deputy Comptrollers (Districts); District Administrators; District Counsel and Examining Personnel.

Information is being received by the Office of the Comptroller of the Currency that indicates that many banks are being requested to enter into financial transactions involving so-called "Prime Bank Discounted Letters of Credit" and "Zero Coupon Letters of Credit". Such proposed transactions for the most part cite multi-millions and multi-billions of either U.S. or foreign currency. Such instruments are not known to be issued by the legitimate banking community and the legality of such instruments is questionable. Extreme caution should be exercised if approached by individuals promoting such instruments.

Information has also been received that the Office of the Comptroller of the Currency, Enforcement & Compliance Division, is being cited as a reference in certain promotional materials being distributed to financial institutions relating to so called Collateral Enhancement Programs, Link Deposit/Loan Programs and other financial plans.

Please be advised that this Office has not authorized any entity which may be "marketing" such plans to represent that OCC will act as a reference, serve as an approval authority, or otherwise serve as a due diligence clearinghouse for any such plans or proposals.

As always, financial institutions themselves are responsible for reviewing the merits of any such proposals or plans.

Any information which you may have concerning this matter should be brought to the attention of:

Office of the Comptroller
of the Currency
Enforcement & Compliance Division
Washington, D.C. 20219

151
ROBERT B. SERINO
Deputy Chief Counsel (Policy)

IN WITNESS WHEREOF, the OTS, acting by and through the District Director, and the Association, in accordance with a duly adopted resolution of its Board of Directors (copy attached hereto as Appendix I), hereby execute this Agreement as of the date first above written.

OFFICE OF THRIFT SUPERVISION
By:

THE ASSOCIATION
By:

Name:
Title:

151

Name: JOSE M. CALDERIN
Title: ACTING PRESIDENT

A MAJORITY OF THE DIRECTORS OF THE ASSOCIATION

151
~~Director~~ _____

Director _____

Director _____

Director _____