

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

\_\_\_\_\_)  
In the Matter of )  
)  
AFFILIATED COMPUTER SYSTEMS, INC., )  
) OTS Order No.  
) AP 91- 62  
A former subsidiary of, ) Dated: August 30, 1991  
)  
Gibraltar Savings Association, )  
)  
Houston, Texas, and First Texas )  
)  
Savings Association, Dallas, Texas, )  
)  
and an institution-affiliated party of )  
)  
First Gibraltar Bank, FSB, Dallas, )  
)  
Texas. )  
\_\_\_\_\_)

CONSENT TO CEASE AND DESIST ORDER AND  
ASSESSMENT OF CIVIL MONEY PENALTY

Respondent, Affiliated Computer Systems, Inc. ("ACSI") hereby submits this Consent to Cease and Desist Order and Assessment of Civil Money Penalty (the "Consent") to the Office of Thrift Supervision of the United States Department of the Treasury ("OTS") pursuant to 12 C.F.R. § 509.20 for purposes of settling the issues raised in the Notice of Charges for Cease and Desist Order and Notice of Assessment of Civil Money Penalty (the "Notice of Charges") issued by the OTS in this matter.

The OTS, based upon an investigation, has issued the Notice of Charges pursuant to Sections 8(b) and 8(i), of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act, P.L. 101-73

(Aug. 9, 1989) ("FIRREA"), 12 U.S.C. §§ 1818(b) and 1818(i). ACSI desires to facilitate consummation of the settlement agreement ("Settlement Agreement") referred to in paragraph 1 of the Cease and Desist Order and Order of Assessment of Civil Money Penalty (the "Order"), and to avoid the time and expense of litigating the allegations set forth in the Notice of Charges. Therefore, without admitting or denying the allegations set forth in the Notice of Charges, except those allegations set forth in paragraph 1 below, which are admitted, ACSI hereby, without further notice, consents to the entry of the Order in the form attached herewith, pursuant to FDIA Sections 8(b) and 8(i), 12 U.S.C. § 1818(b) and 1818(i).

\* \* \* \*

1. ACSI admits the jurisdiction of the OTS over it and over the subject matter of this action under FDIA Sections 8(b) and 8(i), 12 U.S.C. §§ 1818(b) and 1818(i) and further admits that it is an institution-affiliated party, as that term is defined by FDIA Section 3(u)(3), 12 U.S.C. § 1813(u)(3), of Gibraltar Savings Association, Houston, Texas ("Gibraltar") and First Texas Savings Association, Dallas, Texas ("First Texas"), which were operated under a single management structure and known jointly as "Gibraltar/First Texas," and also of First Gibraltar Bank, FSB, Dallas, Texas ("First Gibraltar").

2. ACSI hereby acknowledges service of the Notice of Charges and waives the filing of an Answer thereto.

3. ACSI acknowledges and states that it enters into this Consent willingly and without any coercion or promises of any kind

from the OTS or any officer, attorney, agent or employee thereof except as stated herein or in the Order.

4. ACSI hereby waives its rights to a hearing, all post-hearing proceedings, and the entry of findings of fact and conclusions of law under the Administrative Procedure Act ("APA"), 5 U.S.C. § 554-557, FDIA Sections 8(b) and 8(i), 12 U.S.C. §§ 1818(b) and 1818(i), and the OTS Rules of Practice and Procedure in Adjudicatory Proceedings, 12 C.F.R. §§ 509.1 et. seq., or any other applicable provision of law.

5. ACSI hereby waives its right to appeal the Order pursuant to FDIA Section 8(h), 12 U.S.C. § 1818(h) or any other applicable provision of law.

6. ACSI agrees that it will not assert the assessment or payment of the civil money penalty set forth in the Order as the basis for a claim of double jeopardy in any future proceeding brought by another government entity.

7. ACSI acknowledges and agrees that this proceeding, the payment of the penalty contemplated as part of the resolution thereof, and its consent to the entry of the Order is for the purposes of resolving this OTS civil proceeding only, and does not resolve, affect, or preclude any other civil or criminal proceeding which may be brought against it by any other governmental agency. ACSI understands that the Order resolves the OTS's regulatory and enforcement concerns as to ACSI, Darwin Deason, and its senior officers described in paragraphs 11 and 12 of the Order, for the matters raised in the Notice of Charges. ACSI understands in executing this Consent, that the OTS has not

relinquished the right to take additional action of a regulatory or other nature based on facts other than those set forth in the Notice of Charges. ACSI hereby acknowledges that it has not received any oral or written representation from the OTS or any of its agents or employees, that the OTS has relinquished any other rights it may have to pursue other regulatory actions.

8. ACSI and Darwin Deason ("Deason"), its Chief Executive Officer and Chairman of the Board, hereby agree to provide such reasonable assistance as may be requested by the OTS in connection with its investigation and prosecution of any actions against other parties involving the facts set forth in the Notice of Charges.

9. Deason, by his signature hereto, without admitting or denying the allegations set forth in the Notice of Charges, agrees to the terms of this Consent and the attached Order, and undertakes and agrees to ensure that ACSI complies with this Consent and Order.

10. Deason, by his signature hereto, acknowledges and agrees that if it is found by the Director of OTS, after appropriate notice and hearing as set forth in FDIA Section 8(b), 12 U.S.C. § 1818(b), that ACSI has failed to comply with the terms of this Order, then Deason shall be liable for civil money penalties and any other relief deemed appropriate by the Director of OTS as though he were a named party who was directly subject to this Order. This provision shall apply to Deason for the time period in which he retains his current position with ACSI, or controls ACSI, and shall further apply to Deason to the extent any failure



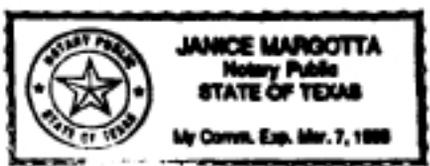
\* \* \* \*

NOTARIZATION

STATE OF )  
 ) ss.  
COUNTY OF )

The aforementioned person, Darwin Deason, and Darwin Deason, being known to me, did subscribe to the foregoing in my presence, this 28 day of August, 1991.

Janice Margotta (SEAL)  
Notary Public



My commission expires: \_\_\_\_\_

\* \* \* \*

CORPORATE AUTHORIZATION

I, William L. Deckelman, Jr., Secretary of Affiliated Computers Systems, Inc. ("ACSI"), hereby certify that the aforementioned Darwin Deason, ACSI's Chief Executive Officer, was authorized to execute the foregoing Consent on behalf of ACSI, pursuant to a duly adopted resolution of ACSI's Board of Directors, a copy of which is attached hereto.

/s/  
\_\_\_\_\_  
William L. Deckelman, Jr. (SEAL)  
Secretary

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

\_\_\_\_\_)  
In the Matter of )  
 )  
AFFILIATED COMPUTER SYSTEMS, INC., ) OTS Order No.  
 ) AP 91-60  
A former subsidiary of, ) Dated: August 30, 1991  
Gibraltar Savings Association, )  
Houston, Texas, and First Texas )  
Savings Association, Dallas, Texas, )  
and an institution-affiliated party of )  
First Gibraltar Bank, FSB, Dallas, )  
Texas. )  
\_\_\_\_\_)

**CEASE AND DESIST ORDER  
AND ORDER OF ASSESSMENT  
OF CIVIL MONEY PENALTY**

WHEREAS, Gibraltar Savings Association, Houston, Texas ("Gibraltar") and First Texas Savings Association, Dallas, Texas ("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 the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, P.L. 101-73 (Aug. 9, 1989) ("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").

**WHEREAS**, Gibraltar and First Texas were managed as a single institution, hereinafter referred to as "Gibraltar/First Texas" in 1987 and 1988, until they were placed in receivership with the FSLIC in December 1988, following which their assets and liabilities were transferred to a new institution, First Gibraltar Bank, FSB, Dallas, Texas ("First Gibraltar"); and

**WHEREAS**, First Gibraltar is a savings association, as defined by FDIA Section 3(b)(1), 12 U.S.C. § 1813(b)(1), and was also an insured institution, as that term was defined by NHA Section 401(a), formerly 12 U.S.C. § 1724(a), whose accounts were insured by the FSLIC; and

**WHEREAS**, on or about July 19, 1988, Gibraltar/First Texas participated in a transaction, hereinafter referred to as the "ACSI Transaction", whereby it entered into a series of agreements (the "1988 Agreements") with a newly organized company, Affiliated Computer Systems, Inc. ("ACSI" or "Respondent"); and

**WHEREAS**, the ACSI Transaction was unsafe and unsound and caused a significant loss to Gibraltar/First Texas, because of, among other things, excessive and disproportionate payments for its equity interest in ACSI; and

**WHEREAS**, ACSI aided and abetted Gibraltar/First Texas' unsafe or unsound practices by consummating the ACSI Transaction which resulted in a significant loss to said institution; and

**WHEREAS**, ACSI and Darwin Deason became institution-affiliated parties of Gibraltar/First Texas and First Gibraltar by virtue of

the consummation of the ACSI Transaction and their participation thereafter in the conduct of affairs of said institutions; and **WHEREAS**, the 1988 Agreements contain provisions which were unsafe and unsound and not in the best interests of Gibraltar/First Texas and First Gibraltar; and

**WHEREAS**, the 1988 Agreements were unsafe and unsound because among other things, they required ACSI to charge and Gibraltar/First Texas to pay excessive and disproportionate rates for data processing services; and

**WHEREAS**, ACSI has consented to the entry of this Order without admitting or denying the allegations set forth herein or in the Notice of Charges incident thereto; and

**WHEREAS**, this Order resolves the regulatory and enforcement concerns of the Office of Thrift Supervision ("OTS") as to ACSI, Deason, and ACSI's senior officers described in paragraphs 11 and 12 below, for the matters raised in the Notice of Charges;

\* \* \* \* \*

**NOW, THEREFORE**, based upon the facts set forth above, in accordance with FDIA sections 8(b) and 8(i), 12 U.S.C. §§ 1818(b) and 1818(i), the Director of the Office of Thrift Supervision finds that proper grounds exist for the imposition of the relief set forth herein, and with the consent of Respondent also filed herewith, hereby enters the following Cease and Desist Order and Order of Assessment for Civil Money Penalty against Respondent as set forth herein.

I.

Respondent Affiliated Computer Systems, Inc., together with its subsidiaries and affiliates ("ACSI"), is hereby ORDERED as set forth below.

1. ACSI shall make the payments and take all actions required to be taken by it pursuant to a settlement agreement dated as of June 17, 1991 entered by ACSI with the Federal Deposit Insurance Corporation ("FDIC") and First Gibraltar to settle litigation relating to the ACSI Transaction.

2. ACSI shall cancel the Voting Agreement and the Data Processing Agreement entered into as part of the ACSI Transaction and shall enter into a new contract for data processing services with First Gibraltar, which new contract must meet the standards of FDIA Section 30, 12 U.S.C. § 1831(g). Additionally, the new contract must include in a manner satisfactory to the Regional Director for the Midwest Regional Office of OTS provisions that:

- (a) contain reasonable rates and terms;
- (b) provide for migration rights at the end of the contract term or in the event that First Gibraltar cancels the contract, at a rate which is consistent with the prevailing market rate;
- (c) mandate a reasonable level of service;
- (d) comply in all respects with any applicable and currently proposed guidelines, policy statements, rules or regulations of any member agency of the Federal Financial Institutions Examination Council ("FFIEC") for data processing service contractors with respect to data

processing services to federally insured depository institutions, including but not limited to OTS Thrift Bulletin Nos. 44 and 46 and OTS Regulatory Bulletin No. 21;

(e) provide for modification of data processing services to ensure compliance with subsequently issued or adopted agency guidelines, policy statements, rules or regulations applicable to ACSI or the new contract; and  
(f) provide for termination, without penalty, by First Gibraltar in the event that ACSI does not deliver the levels of service called for under the contract.

3. ACSI shall take all necessary steps to remove J. Livingston Kosberg ("Kosberg") and Mark J. Brookner ("Brookner") from its Board of Directors, and to replace them with one member who is currently an officer or director of First Gibraltar, who can adequately represent and protect First Gibraltar's interests, and one additional member who is independent (as hereinafter defined) from ACSI. The first individual elected as the independent member shall be subject to advance approval by the Regional Director of the Midwest Region of the OTS. Moreover, during the time period set out in Section 6.01(a) of the Settlement Agreement referred to in Paragraph 1 above, ACSI agrees that at least 28.5% of the directors on its board of directors will be independent of ACSI. For purposes of this Paragraph, "independent" shall mean (1) that such individual or a member of such individual's immediate family as defined at 12 C.F.R. § 574.2(j): (i) is not or was not a director, officer, employee, or

a shareholder holding, as the owner or beneficial owner, five (5) percent or more of any class of stock, of ACSI or of any of ACSI's subsidiaries or affiliates; (ii) is not or was not a representative of any entity, including but not limited to a voting trust, holding, as the owner or beneficial owner, five (5) percent or more of any class of stock of ACSI or of any of ACSI's subsidiaries or affiliates; (iii) is not or was not legal counsel or a consultant to ACSI or any of ACSI's subsidiaries or affiliates; (iv) is not or was not a director, officer, employee, ten (10) percent shareholder or partner of, or attorney or consultant to, any entity or venture in which Deason or other senior officer of ACSI or of its subsidiaries or affiliates was or is a director, officer, employee or ten (10) percent shareholder or partner; and (2) that such individual, or an insured institution or business concern of which the individual served as a director or senior executive officer, is not or was not subject to civil, criminal, or administrative judgments, consents, or orders or to any investigations, examinations or civil or administrative proceedings (excluding routine or customary audits, or inspections) that resulted in a conviction, finding, judgment, or consent to an order or written agreement, which involved (i) fraud, moral turpitude, dishonesty, breach of trust or fiduciary responsibilities, organized crime or racketeering; (ii) violation of securities laws or regulations; (iii) violation of depository institution laws or regulations; or (iv) violation of the rules, regulations, or codes of conduct or ethics of self regulatory trade or professional organizations.

4. Upon the joint request of OTS and any of Kosberg, Brookner, or other former employees of Gibraltar/First Texas, ACSI shall permit Kosberg, Brookner and other former employees of Gibraltar/First Texas to transfer any stock options, stock appreciation rights, contracts, or other interests they have in ACSI to an agency of the United States government. This will be done by appropriate amendment(s) to the option contracts. The amendments effecting the transfer shall not of themselves cause any loss or reduction of value of those options, rights, contracts or other interests. ACSI shall henceforth not issue any stock or make any payments to Kosberg, Brookner or other former employees of Gibraltar/First Texas who received such options, rights, contracts or interests from or at the direction of Gibraltar/First Texas and who might seek to exercise any such options, rights, contracts or other interests, unless required to do so by a court order. In the event that ACSI is sued for its failure to issue stock to any such person, ACSI shall timely notify the OTS and shall not oppose any intervention by the OTS in such litigation.

5. ACSI shall not execute any contracts with any federally insured depository institution that would cause the institution to violate FDIA Section 30, 12 U.S.C. § 1831(g), or any properly adopted applicable guideline, policy statement, rule or regulation of any appropriate Federal banking agency.

6. (a) ACSI shall, within six months of the date of this Order, establish an internal audit control system satisfactory to the Regional Director of the Midwest Region of the OTS that includes but is not limited to:

- (1) expanding the role of the existing audit committee;
- (2) developing internal audit manuals, functions and procedures; and
- (3) taking such other steps as are necessary to develop and maintain an acceptable internal audit system; and

(b) The Regional Director of the Midwest Region of the OTS shall have 60 days to review the proposal submitted by ACSI to comply with subparagraph (a) herein, following which the proposal shall be deemed satisfactory if the Regional Director makes no objection within 60 days.

7. Until such time as ACSI has received approval as set forth in paragraph 6 above, ACSI shall submit all contracts with savings associations or other institutions insured by the Savings Association Insurance Fund ("SAIF") of the FDIC to the OTS for review and approval prior to execution.

8. ACSI shall remain subject to the examination authority of the OTS so long as it has any data processing service contracts with any savings association. ACSI shall further make its records available to OTS upon request in connection with any examination or investigation.

9. Darwin Deason ("Deason") shall take such actions as are necessary to ensure compliance by ACSI with the terms of this Order.

10. ACSI and its management shall take all necessary steps to terminate any and all voting trusts or agreements which provide rights for Kosberg or Brookner to vote any interest in ACSI stock or serve as a member of the ACSI Board of Directors, including but not limited to the Voting Agreement which was entered on July 19, 1988 as one of the 1988 Agreements enacted as part of the ACSI Transaction.

11. If it is found by the Director of OTS, after appropriate notice and hearing as set forth in FDIA Section 8(b), 12 U.S.C. § 1818(b), that ACSI has failed to comply with the terms of this Order, then ACSI, as well as Deason and other senior officers of ACSI shall be liable for civil money penalties and any other relief deemed appropriate by the Director of OTS as though each of them were named parties who were directly subject to this Order. This provision shall apply to Deason for the time period in which he retains his current position with ACSI or controls ACSI, and shall further apply to Deason to the extent any failure of ACSI to comply occurred or was initiated during the time Deason held his current position with ACSI or controlled ACSI. This provision shall also apply to those senior officers of ACSI who cause, or aid or abet or otherwise participate, in the failure of ACSI to comply with this Order.

12. ACSI shall notify its senior officers of the terms of this Order and ACSI's Consent thereto by providing each such officer a copy of the Order and Consent, and shall further inform them of their own responsibility to ensure ACSI's compliance thereto and of their own personal liability, pursuant to paragraph 11 above, for any failure of ACSI to comply. ACSI shall obtain written acknowledgment from such officers that they understand and agree to abide by the terms of this Order, and shall provide copies of such acknowledgments to the OTS within ten (10) days of execution of this Order.

II.

Based on the unsafe and unsound practices, violations and other activities set forth above, ACSI is further ORDERED to pay a civil money penalty as set forth below.

13. A civil money penalty of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) is hereby assessed against ACSI pursuant to FDIA Section 8(i)(2), 12 U.S.C. § 1818(i)(2).

14. This civil money penalty shall be made payable to the United States Treasury and delivered to:

Controllers' Division  
Office of Thrift Supervision  
U.S. Treasury Department  
1700 G Street, N.W.  
Washington, D.C. 20552

within 10 days from the date of this Order. A copy of the check and transmittal letter shall be sent to: Therese D. Pritchard, Deputy Chief Counsel-Enforcement of the OTS.

\* \* \* \* \*

Entered this August day of \_\_\_\_\_, 1991.

OFFICE OF THRIFT SUPERVISION,  
U.S. DEPARTMENT OF THE TREASURY,

ISI

\_\_\_\_\_  
Timothy Ryan  
Director