

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )  
 )  
Gloversville Federal Savings )  
and Loan Association )  
Gloversville, New York )  
 )  
 )  
 )

Re: Northeast Regional Director

Resolution No. NY-91-17

Dated: September 3, 1991

STIPULATION AND CONSENT TO ISSUANCE  
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Northeast Regional Office, OTS, and Gloversville Federal Savings and Loan Association ("Gloversville" or "Association"), stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against Gloversville pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b). Gloversville 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 Gloversville with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

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

(b) Pursuant to Section 3 of the FDIA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, the Association 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. The Association consents to the issuance by the OTS of the Order. 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. Upon its issuance by the Regional Director for the Northeast Regional Office, 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. § 1818(i).

5. Waivers. The Association 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. § 1818(h), or otherwise to challenge the validity of the Order.

7. Signature of Directors. Each Director signing this Stipulation attests that s/he voted positively in favor of the resolution authorizing the execution of the Stipulation.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the Northeast Regional Office, OTS, and Gloversville by a majority of its directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

By: \_\_\_\_\_ /S/  
Angelo A. Vigna  
Regional Director  
Northeast Regional Office

Name and Address of Association  
By its CEO and Directors:

_____ /S/	_____ /S/
CEO-Director	Director
_____ /S/	_____ /S/
Director	Director
_____ /S/	_____ /S/
Director	Director
_____ /S/	_____ /S/
Director	Director

UNITED STATES OF AMERICA  
Before The  
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In the Matter of	)	
Gloversville Federal Savings	)	Re: Northeast Regional Director
and Loan Association	)	Resolution No. NY-91-17
Gloversville, New York	)	
and its Directors, Officers,	)	Dated: September 3, 1991
Employees, and Affiliates	)	

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ORDER TO CEASE AND DESIST

WHEREAS, the level of oversight by the Board of Directors of Gloversville Federal Savings and Loan Association of Gloversville, New York ("Gloversville" or the "Association") is inadequate, as is evidenced by comments throughout the Office of Thrift Supervision ("OTS") Report of Examination dated February 25, 1991; and

WHEREAS, Gloversville through its directors, has executed a Stipulation and Consent to Issuance of Order to Cease and Desist, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the OTS, acting through its Regional Director for the Northeast Regional Office as of the date indicated herein ("Effective Date"); and

WHEREAS, Gloversville 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, as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (12 U.S.C. § 1818(b)).

NOW THEREFORE, IT IS ORDERED that Gloversville and its directors, officers, employees, and agents shall cease and desist from any violation of, or the aiding and abetting of any violation of:

1. Section 11 of the Home Owner's Loan Act, as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. Section 1468, and Section 22(h) of the Federal Reserve Act, 12 U.S.C. Section 375b (regarding extensions of credit to executive officers, directors, and principal shareholders);

2. Section 563.43(b)(1),(2) and (5) of the OTS Regulations, 12 C.F.R. Section 563.43(b)(1),(2), and (5) (regarding

2. Section 563.43(b)(1), (2) and (5) of the OTS Regulations, 12 C.F.R. Section 563.43(b)(1), (2), and (5) (regarding restrictions on loans with affiliated persons);

3. Section 563.160(c)(2) and (3) of the OTS Regulations, 12 C.F.R. Section 563.160(c)(2) and (3) (regarding implementation of classification system);

4. Section 563.172(c) of the OTS Regulations, 12 C.F.R. Section 563.172(c) (regarding reevaluation of assets; adjustment of book value);

5. Section 571.18(h) of the OTS Regulations, 12 C.F.R. Section 571.18(h) (regarding accounting for troubled debt restructuring; transfer of assets in full or partial satisfaction of loan);

6. Section 564.8 of the OTS Regulations, 12 C.F.R. Section 564.8 (regarding appraisal policies and practices);

7. Section 563.170(c) of the OTS Regulations, 12 C.F.R. Section 563.170(c) (regarding establishment and maintenance of records);

8. Section 545.32(d)(2) of the OTS Regulations, 12 C.F.R. Section 545.32(d)(2) (regarding loan to value ratios; mortgage insurance); and

9. Section 545.37(b)(1) of the OTS Regulations, 12 C.F.R. Section 545.37(b)(1) (regarding construction loans; amortization).

The compliance requirements of this Order shall not be construed as an authorization for the Association or its affiliates to engage in the activities governed by the aforesaid laws, rules, and regulations. To the extent that it is lawful for the Association or its affiliates to engage in such activities, and if provisions of this Order set forth more strict restrictions, limitations, and requirements than are set forth in applicable laws and regulations, then, under such circumstances, those activities shall be subject to the stricter restrictions, limitations, and requirements set forth in this Order.

IT IS FURTHER ORDERED that:

10. Director Responsibility

a. Oversight

The Board of Directors (the "Board") has the ultimate responsibility for overseeing the safe and sound operation of the

Association. The Board shall take a more active role in overseeing the business and affairs of the Association. Specifically, the Board shall establish policies, procedures and controls to ensure the safe and sound operation of the Association, monitor compliance with such policies and procedures, as well as with the laws and regulations governing the Association, and more closely supervise management's performance.

Steps to increase the Board's oversight of the Association shall include, but not be limited to, the following:

(i). Revised Attendance Policy.

Within 30 days from the Effective Date, the Board shall revise the Board's attendance policy, which shall require the active, continuous, and full participation of each director.

(ii). Board and Committee Minutes

Detailed minutes of all Board and committee meetings shall be maintained and recorded on a timely basis. The Secretary shall prepare in advance, and the Board or committee shall follow, a detailed written agenda at each meeting. Such agenda shall not preclude consideration of any other matter. Management reports to the Board shall contain greater detail than at present. Minutes shall reflect discussions held, policies and procedures approved, and information reported by management to the Board. See generally, OTS Director Information Guidelines, a copy of which is attached.

(iii). Board Review of Compliance With This Order

(A) The Board of Directors of the Association shall take prompt action to cause the Association to fully comply with this Order.

(B) Each month, the Board of Directors shall adopt a formal resolution (the "Compliance Resolution") resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar month, the Association has complied with each provision of this Order currently in effect, except as otherwise stated. The Compliance Resolution shall:

(1) specify in detail how, if at all, full compliance was found not to exist; and

(2) identify all notices of exemption or other exceptions issued by the Regional Director that were outstanding as of the date of the Compliance Resolution.

(C) No later than three business days after each monthly

meeting of the Board of Directors of the Association, the Association shall provide to the Regional Director a certified true copy of the entire minutes of each meeting of its Board of Directors (including any committees thereof) which were approved at such monthly meeting. The Compliance Resolution shall be included with the minutes provided to the Regional Director. The minutes of the meeting of the Board of Directors shall set forth the following information with respect to the adoption of each Compliance Resolution:

(1) the identity of each director voting in favor of its adoption;

(2) the identity of each director voting in opposition to its adoption and each director's reason(s) for such vote; and

(3) the identity of each director abstaining from voting thereon and each director's reason(s) for abstaining.

The Board of Directors of the Association, by virtue of the Association's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution. In the event that one or more directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the meeting.

**b. Fiduciary Duty to the Association**

Each member of the Board of Directors owes fiduciary duties to the Association and its depositors. Notwithstanding that certain provisions of this Order requires the Board of Directors to submit various matters to the Regional Director for the purpose of receiving approval, or 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.

**11. Growth Limitations**

Gloversville shall not increase its total assets during any fiscal quarter in excess of an amount equal to net interest credited on deposit liabilities during the quarter, without the prior written notice of non-objection by the Regional Director.

**12. External Consultant**

If it has not already done so, the Association shall engage a consulting firm no later than 30 days following receipt of written

non-objection of the Regional Director. The consulting firm shall be engaged (i) to conduct an assessment of the depth and capabilities of management and to assess the need for additional management and/or training of existing management, (ii) to address and facilitate the Association's correction of all regulatory violations, exceptions and concerns contained in the OTS Report of Examination dated February 25, 1991, (iii) to assist the Association in establishing a plan for managing and reducing its interest rate risk; and (iv) to assist the Board and management in completing all required actions (not subject to earlier or later completion date requirements) addressed in the Report of Examination and/or this Order by no later than August 30, 1991. The consulting firm shall provide monthly written engagement assessment reports to OTS and to the Board of Directors of the Association. The hiring of any consulting firm shall not derogate or supplant the fiduciary duties and oversight responsibilities of the Board of Directors to the Association.

### 13. Internal Auditor/Compliance Officer

Within 30 days of the Effective Date, the Association shall hire an internal auditor/compliance officer or engage an outside consultant under terms acceptable to this office who shall report directly to the Board of Directors. The Association shall submit to the OTS for prior review and written nonobjection the name and qualifications of the individual to be hired. The auditor/compliance officer or outside consultant shall determine, among other things:

- a. whether the Association is in compliance with laws and regulations;
- b. whether the internal controls system is working, and the soundness and adequacy of accounting, operating, and administrative controls;
- c. the effectiveness of internal policies and procedures; and
- d. the extent to which the Association's assets are protected against losses.

The internal auditor/compliance officer or outside consultant shall also participate in the formulation and revision of policies and procedures.

### 14. Lending and Investment Restrictions

Gloversville shall not make any new loan or investment without the prior written non-objection of the Regional Director,

except as permitted below.

The following loans or investments need not be submitted for prior written non-objection, as long as they do not cause asset growth beyond net interest credited:

a. advances necessary to honor existing legally binding commitments to fund loans or loans-in-process ("LIP"). Prior to finalizing any 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.

b. investments that qualify as liquid assets pursuant to Section 6 of the Home Owners' Loan Act ("HOLA"), as amended by Section 301 FIRREA and 12 CFR § 566.1.

c. Origination of Qualifying Mortgage Loans, as defined in Section 567.1(u) of the OTS Regulations, provided that each of the following conditions is satisfied:

(i) the Association independently verifies both the borrower's ability to repay the loan and the source of the down payment;

(ii) the interest rates offered are (A) consistent with rates offered for similar loans by other mortgage lenders in the Association's market area, and (B) such that the loans could be sold at par to FHLMC and/or FNMA within 60 days of origination;

(iii) the real property securing the loans is located within the Association's Local Community, within the meaning of Section 563e.3 of the OTS Community Reinvestment Act Regulations; and

(iv) the terms of the loans are such that the loans are "conforming" in that they would be eligible for purchase by FHLMC and/or FNMA.

d. Passbook loans.

e. New York State Higher Education Service Corporation guaranteed student loans pursuant to an agreement dated December 1, 1988, and any subsequent agreement(s), between the Association and the Student Loan Marketing Association.

f. Consumer/personal installment loans for personal, automobile and home improvement purposes. The amount of any such loan shall not exceed \$3,000 and the term of any such loan shall not exceed 5 years.

g. Requests by the Association to make loans or investments other than those indicated above must be submitted to OTS for approval, accompanied by a resolution of the Board of Directors,

signed by each individual member, that: (1) management is capable of underwriting and administering the loans in a safe and sound manner, (2) the Board has adopted and implemented policies and procedures to ensure that the loans or investments are prudently underwritten and administered, (3) internal controls measuring compliance with the policies and procedures are in place, (4) the Association has not experienced significant losses within the past year in connection with similar loans or investments, and (5) the loans or investments contemplated are necessary to preserve the institution's franchise value and will not cause an increase in total assets beyond that outlined in paragraph (12) above.

15. Restitution for Preferentially Priced Loans To Affiliated Persons

The Board of Directors shall ensure that full restitution is made to the Association on all preferentially priced loans noted in the Report of Examination dated February 25, 1991 to compensate the Association for the difference between market rate and preferential rates of interest. If the Association has not already done so, the amount owed to the Association must be forwarded to the Association by August 31, 1991. The Board shall certify by Board resolution, signed by each individual Board member, that such restitution has been made. Such certification shall be forwarded to OTS no later than five days following the adoption of the resolution, which in any event shall not be later than September 16, 1991.

In addition, (a) if the Association has not already done so, the terms of these loans shall immediately be adjusted to the prevailing rates and terms offered to the public at the time of origination, and (b) within 60 days of the Effective Date, the Board shall approve and submit to the Regional Director policies and procedures to ensure that future loans to affiliated persons will comply with applicable laws and regulations.

16. Business Plan

a. Within 60 days of the Effective Date, the Board of Directors shall adopt, implement and forward to the Regional Director a detailed Board approved one (1) and three (3) year business plan, which includes annual operating budgets. The Association's Board of Directors, together with senior management, shall formulate the business plan, which shall specifically address, but shall not be limited to, the following:

(i) the Association's objectives, operating strategy and business philosophy during the next one (1) and three (3) year period;

(ii) present financial condition;

(iii) credit exposure;

- (iv) regulatory capital position;
- (v) profit composition;
- (vi) market penetration;
- (vii) interest rate risk management goals, including specific plans to prudently and effectively reduce interest rate risk exposure to levels within the limits established by the Board;
- (viii) deposit solicitation strategies;
- (ix) projected sources and uses of funds;
- (x) projected mortgage banking activity, including intended parties to transactions;
- (xi) asset/liability management;
- (xii) internal audit program; and
- (xiii) new business initiatives.

b. A written review of (and any necessary updates to) the business plan shall be prepared and certified by the Board of Directors on a quarterly basis. Such review shall be submitted to OTS within 30 days following the end of each quarter.

## 17. Budget

a. Within 60 days of the Effective Date, the Board shall adopt and implement a new budget for the current and following fiscal years. The budget process shall include, among other things, preparation of proforma statements of condition, operations, changes in equity, cash flows, and sources and uses of funds.

b. The Board shall review and compare the budget to actual operating results on a monthly basis and shall document its review in the Board minutes. Variances from the budget shall be explained and documented in the Board minutes. Material variances shall be analyzed and explained, and when necessary, budget assumptions adjusted.

## 18. Policies and Procedures

### a. Loan Underwriting Policy

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written policy covering each type of loan made by the Association. Such policy should include at a minimum for each type of loan:

(i). a definition of the Association's market area (and appropriate action required to make a loan outside of its lending area);

(ii). maximum maturities;

(iii). loan pricing;

(iv). financial analysis guidelines;

(v). limitations on aggregate outstanding balances;

(vi). limits and guidelines for purchasing loans;

(vii). concentration of credit risk;

(viii). loan to value ratios;

(ix). loan authority;

(x). collection and charge-off procedures;

(xi). board of directors objectives;

(xii). consequence of a violation of policy;

(xiii). loan policy review; and

(ix). the following additional requirements:

(A) all loans originated, renewed, modified or restructured shall comply with all regulations and established internal policies;

(B) all loan documentation shall be properly prepared, recorded and reviewed by counsel prior to disbursement of funds;

(C) all credit files shall contain the loan purpose, planned repayment schedule and disposition of loan proceeds;

(D) current financial and operating statements shall be obtained and analyzed prior to disbursement of funds, and updated statements be routinely obtained for all commercial borrowers;

(E) all loan files shall contain financial and valuation analyses prior to the time funds are disbursed;

(F) loans shall not be permitted to go beyond maturity, or otherwise exceed loan terms, without appropriate board action;

(G) loan files shall contain evidence of appropriate approvals and disclosures by the approving loan officer, committee and board of directors;

(H) reasons for deviation from loan policies and procedures shall be documented and brought to the Board for review and approval; and

(I) the Board shall review and ratify all loan committee actions and decisions.

**b. Internal Asset Review Policy**

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written internal asset review policy that establishes an asset classification system, monitors asset quality (including REO) and provides for the maintenance of an adequate level of specific and general valuation allowances as specified by OTS Regulation 563.160(d)(3).

The policy should provide for the monitoring of compliance as well as provide an assessment tool and maintain the integrity of the Association's financial reports. It should ensure that all loans originated, renewed, modified or restructured comply with all regulations and established internal policies and ensure that all loan documentation has been properly prepared, recorded and reviewed by counsel.

Furthermore, internal asset review must be performed by a person who is independent of the loan approval, origination or appraisal processes, and who will report directly to the Board of Directors. Written procedures shall also be developed, including a methodology for determining and applying valuation allowances. The asset review process must be performed at least quarterly. Such review shall be documented in the Board minutes.

**c. Appraisal Policy and Procedures**

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written appraisal policy and procedures which, at a minimum, conform to Sections 563.170, 563.172, 564 and 571.1 of the OTS Regulations, as well as other applicable industry appraisal standards. These policies and procedures shall include, but not be limited to, the following:

- (i) a process for the review of appraisers and appraisals;
- (ii) appraisals shall be performed by qualified appraisers on

all loans, including construction loans, prior to granting such loans;

(iii) appraisals shall be performed on all real estate secured loans which are missing appraisals;

(iv) reasons for deviations from appraisal policies shall be reviewed, approved, and documented by the Board of Directors;

(v) use qualified outside appraisers and discontinue the practice of permitting appraisals to be performed by directors, officers and employees who have limited qualifications and who participate in the lending process.

The Board shall consider, as a reference in establishing its appraisal policy, the "Appraisal Policy and Procedures Guide", by Gregg A. Hoefer, MAI, Department of Treasury, Office of Thrift Supervision, a copy of which is attached.

d. Internal Audit Policy and Procedures

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written internal audit policy that will enable the Board to effectively monitor the implementation of its policies. The internal audit function, which must be independent of management and report directly to the Board, will also assist the Board in monitoring the actions and decisions of committees and management operating under delegated authority.

e. Investment Policy

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written investment policy which shall include the following:

(i) a statement of the investment objectives of the Association;

(ii) the Association's investment strategy;

(iii) the types and levels of allowable investments;

(iv) a listing of authorized brokers;

(v) a liquidity program;

(vi) a program for monitoring investments; and

(vii) an organizational structure and decision making process.

f. Training Policy

Within 60 days of the Effective Date, the Board shall adopt and implement a formal written training policy to improve the overall level of regulatory awareness of Board members, management and staff. This policy should require, among other things, loan originators to be trained in underwriting standards that conform to appropriate secondary market sources.

19. Interest Rate Risk Management

Within 60 days of the Effective Date, the Board of Directors shall adopt and implement a formal written interest rate risk ("IRR") policy that : (i) is consistent with 12 C.F.R. §§ 563.176 and 571.3 and Thrift Bulletins 13, 13-1 and 13-2 and (ii) specifically identifies measures to reduce the Association's one and three year GAP positions to within the levels established by the Board. In addition, this policy shall identify and document the rationale for maximum permissible changes in net interest income and market value of portfolio equity due to changes in interest rates.

The Association's management shall provide to the Board a quarterly report containing an analysis of compliance with the Board's adopted limits and how net interest income and the market value of portfolio equity would be affected by the hypothetical interest rate changes specified in the Board's policy. The Board's review shall be documented in the minutes.

20. Books and Records

Within 60 days of the Effective Date, the Board shall:

- a. establish procedures to ensure the timely review of the Association's general and subsidiary ledgers;
- b. identify and segregate all loans and other assets by type on the Association's general ledger, and
- c. revise its accounting policies to conform with regulatory requirements and generally accepted accounting principles. Areas of revision include, but are not limited to, accrual of interest on delinquent mortgage loans, establishment of general and specific valuation allowances, and the capitalization of certain real estate owned expenditures.

21. Construction Loans

Within 10 days of the Effective Date, the Association shall convert to permanent loan status and shall begin amortizing all construction loans that exceed the maximum three-year loan repayment limitation contained in Section 545.37(b)(1) of the OTS Regulations.

22. Surety Bond Coverage

The Association shall diligently attempt to obtain Surety Bond coverage in a form and amount consistent with Section 563.190 of the OTS Regulations, 12 C.F.R. §563.190. The Association shall document all such attempts to obtain the required coverage.

MISCELLANEOUS PROVISIONS

23. Incorporation of Stipulation

The Stipulation is made a part hereof and is incorporated herein by this reference.

24. Definitions

a. General. All technical words or terms used in the Order, for which meanings are not specified or otherwise provided by the provisions of this Order, shall, insofar as applicable, have meanings as defined in the regulations, policy statements, or bulletins issued by the OTS and any such technical words or terms used in this Order and undefined in said regulations, policy statements, or bulletins shall have meanings that accord with the best custom and usage in the savings and loan or banking industries, as applicable. For purposes of this Order, references to regulations, policy statements, bulletins, memoranda and publications shall include any successor regulations, policy statements, bulletins, memoranda and publications.

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

25. Effective Date of Order

The Order is effective and enforceable immediately upon the date of its issuance by the OTS ("Effective Date"), which date is set forth herein.

IT IS SO ORDERED on this 3<sup>rd</sup> day of September, 1991.

THE OFFICE OF THRIFT SUPERVISION  
By:

ISI

Angelo A. Vigva,  
Regional Director, Northeast Region