

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

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In the Matter of )

OGDEN FIRST FEDERAL SAVINGS AND )  
LOAN ASSOCIATION )  
\_\_\_\_\_ )

Resolution No. <sup>SF</sup> 91-040 \_\_\_\_\_

Date: October 1, 1991

STIPULATION AND CONSENT TO  
ISSUANCE OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Director of the Western Region ("Regional Director"), and Ogden First Federal Savings and Loan Association, Ogden, Utah ("Ogden First"), stipulate and agree as follows.

1. General. The OTS, based upon information it has obtained and reviewed, is of the opinion that the grounds exist to initiate an administrative cease and desist proceeding against Ogden First pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"), codified at 12 U.S.C. § 1818(b), based on the matters set forth in the accompanying Order to Cease and Desist ("Order"). Ogden First desires to cooperate with the OTS and to avoid the time and expense of such administrative proceedings and without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms so that the OTS will not initiate such administrative cease-and-desist proceeding against Ogden First with respect to matters covered in the accompanying Order. This Stipulation and Consent to the Issuance of an Order to Cease and

Desist ("Stipulation") is entered into solely to settle finally the matters referred to above.

2. Jurisdiction.

(a) Ogden First is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act of 1933, as amended by FIRREA. Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA, and codified at 12 U.S.C. § 1813(c).

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Ogden First is subject to the OTS' authority to initiate and maintain a cease and desist proceeding against it pursuant to Section 8(b) of the FDIA, as amended by FIRREA, codified at 12 U.S.C. § 1818(b).

3. Consent. Ogden First consents to the issuance of the Order by the OTS. It further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of the law.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA, codified at 12 U.S.C. § 1818(b). Upon its execution by the Regional Director, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA, and codified at 12 U.S.C. § 1818(i).

5. Waivers. Ogden First waives its right to a Notice of Charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA, and codified at 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA, and codified at 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order. Ogden First acknowledges and agrees that its consent to the entry of the Order is for the purposes of resolving this OTS enforcement matter only, and does not resolve, affect or preclude any other civil or criminal proceeding which may be brought against it by the OTS or another government entity, based on the facts in this proceeding or based on any other facts whatsoever, except to the limited extent as set forth at paragraph 6 below.

6. Based on the information available to the OTS at the Effective Date of the Order, as the term is defined in the Order, the OTS agrees not to pursue civil money penalties against Ogden First relating to specific regulatory violations of 12 C.F.R. § 563.93, as set forth in the letter from the OTS to Ogden First dated May 1, 1991, and incorporated by reference herein.

WHEREFORE, the OTS, by and through its Regional Director, and Ogden First, execute this Stipulation.

BOARD OF DIRECTORS  
Ogden First Federal Savings  
and Loan Association

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Date

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ISI

9-30-91  
Date

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September 17, 1991  
Date

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9/8/91  
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Date

THE OFFICE OF THRIFT SUPERVISION

10/1/91  
Date

\_\_\_\_\_  
By: Michael Patriarca  
Regional Director  
Western Region

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of )  
 ) Resolution No. <sup>SF</sup> 91- 040  
 )  
OGDEN FIRST FEDERAL SAVINGS AND ) Date: October 1, 1991  
LOAN ASSOCIATION )  
 )

ORDER TO CEASE AND DESIST

WHEREAS, Ogden First Federal Savings and Loan Association ("Ogden First" or "Association") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist ("Stipulation") which is incorporated here by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director of the Western Region; and

WHEREAS, Ogden First, in the Stipulation, and by the signatures of the Board of Directors ("Board") hereto, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") codified at 12 U.S.C. § 1818(b).

I. ORDER

NOW THEREFORE, IT IS hereby agreed and ordered that:

Classified Assets

1. Within 60 calendar days from the Effective Date of this Order, Ogden First must develop a comprehensive plan for reducing its classified assets ("Classified Assets Reduction Plan") and

submit the Classified Asset Reduction Plan to the Assistant Regional Director or his designee ("ARD") for review and nonobjection. The assets to be addressed in the Classified Assets Reduction Plan include but are not limited to Real Estate Owned ("REO") and non-performing loans held by Ogden First. At a minimum, the Classified Assets Reduction Plan must indicate how the reduction of classified assets will occur, and set forth timeframes for such reduction.

2. Within 60 calendar days from the Effective Date of this Order, or unless additional time is granted in writing by the ARD, Ogden First must hire a new employee or outside consultant, experienced in loan workouts, and satisfactory to the ARD. The new employee or outside consultant may assist in the preparation of the Classified Asset Reduction Plan, and must at a minimum, prepare a detailed disposition plan for each property held as REO in Ogden First's portfolio and which has a net book value in excess of \$100,000.

3. Ogden First is prohibited from selling or exchanging its REO without receiving a ten percent (10%) cash down payment, unless (a) Ogden First finances the sale of the REO and the resulting loan can be sold on the secondary market, or (b) the transaction involves a single-family dwelling and a loan amount less than \$168,000, in which case Ogden First shall obtain at least a five percent (5%) cash downpayment, or (c) Ogden First receives the prior written nonobjection from the ARD to sell its REO without receiving a ten percent (10%) cash downpayment, in all cases except

for the cases as set forth at subsection (a) and subsection (b) above.

Business Plan

4. Ogden First must develop an updated business plan ("Business Plan") with specific strategies and timeframes sufficient to show profitable operations on a Generally Accepted Accounting Principles ("GAAP") basis by March 31, 1992. The Business Plan must be submitted to the ARD for review and nonobjection within 60 calendar days from the Effective Date of this Order.

5. Ogden First must: (a) employ qualified employees and management who are capable of implementing the Association's Business Plan, and (b) take all actions necessary and/or appropriate to ensure that all persons made a member of the Board shall be qualified to carry out the duties and responsibilities of Board membership.

Underwriting

6. Ogden First is prohibited from extending, modifying, or renewing any loan exceeding \$200,000, or any loan which when aggregated with all other loans currently outstanding to one borrower would exceed \$500,000, unless it has obtained the prior written nonobjection of the ARD. The prior written nonobjection of the ARD may be granted upon receipt by the ARD of written evidence that the Board or Committee of the Board ("Committee") has approved the loan extension, modification, or renewal, after reviewing, at a minimum, the information, as listed below. If the Committee approves the loan extension, modification, or renewal, then the

Committee must forward the loan extension, modification, or renewal to the full Board for ratification. Prior to approval of the loan extension, modification, or renewal, either the Board or the Committee must review, at a minimum:

a. Request(s) for extension, modification or renewal of the loan(s);

b. Current sworn personal financial statements and signed tax returns of all borrowers and guarantors;

c. Current credit reports for all borrowers and guarantors, together with a written narrative report signed by the designated Ogden First employee, explaining any material outstanding derogatory items contained in any credit report;

d. A written narrative report, signed by the designated Ogden First employee, stating that material items in each borrower's or guarantor's financial statements have been verified, as appropriate, and have been analyzed to ensure that the borrower(s) and/or guarantor(s) have sufficient assets and cashflow to retire the loan under the terms of the note and/or guarantee. Such analysis by the Ogden First employee must also include but is not limited to preparing a standard financial analysis form that reconciles discrepancies between the borrower(s) and/or guarantor(s) tax returns and personal financial statements;

e. Written evidence that the borrower has invested cash or another appropriate form of equity in the subject project;

f. Written cost estimates and schedules where pertinent for the loan, prepared by a qualified engineer, architect or other qualified person;

g. A written market or feasibility study, where appropriate to a proposed extension, modification, or renewal of the loan, prepared by a qualified professional, which demonstrates that the property securing the loan can be absorbed in a specified time period and at a sufficient price to repay the loan, according to its terms and conditions; and

h. An appraisal report and other documentation required in compliance with paragraph 7 of this Order.

7. Ogden First cannot disburse funds on any real estate loans unless it has obtained an appraisal report for the property used as security, from an appraiser approved by the Board, and which has otherwise been prepared in accordance with Ogden First's appraisal policy. The Board must ensure that the appraisal report is reviewed and accepted by the designated Ogden First employee, who shall certify its compliance with Ogden First's appraisal policy. The appraisal report must specifically refer to the property or segment of the property securing the actual funds disbursed.

**General Valuation Allowances**

8. Ogden First must develop a comprehensive plan for determining and maintaining an adequate level of general valuation allowances ("GVA Plan"). The GVA Plan must be submitted to the ARD for review and nonobjection within 60 calendar days from the Effective Date of this Order.

Limitations On Loans to One Borrower

9. For all future extensions of credit, as of the Effective Date of this Order, the Association must fully comply with the limitations on the loans to one borrower set forth at 12 C.F.R. § 563.93 ("LTOB Limitations"). Within 60 calendar days from the Effective Date of this Order, Ogden First must submit to the ARD for review and nonobjection, written policies and procedures to monitor compliance with LTOB Limitations.

Limitations on Compensation

10. Ogden First shall not provide any compensation or other direct or indirect benefits to executive officers and directors beyond those determined reasonable and prudent for a capital deficient institution. Such compensation for directors, executive officers and/or other employees shall be in compliance with 12 C.F.R. § 563.39 and 563.161 as they may be amended, and current OTS guidance. In no event shall the Association increase the compensation of any executive officer, either directly or indirectly, without prior written approval of the ARD. All compensation (direct or indirect) paid to directors shall be limited to \$850 per month, with an additional \$150 per month allotted for service as Chairman of the Board. All compensation in excess of the foregoing amounts shall require the prior written approval of the ARD.

11. Further, any purchase of or payment for an item or service, intended for the benefit of any officer or director, that (i) does not have an immediate, direct relationship to the performance of the officer's or director's duties or (ii) is not

available to all Association's staff, shall require the prior written approval of the ARD.

Limitations on Investment and Growth

12. Ogden First shall be prohibited from investing in any asset which will result in a risk weighting higher than fifty percent (50%) as set forth at 12 C.F.R. § 567.6. The only exceptions to this prohibition are limited to categories listed below. This list supersedes the list at Condition 1, subparagraph 2, of the Conditions of Approval to the Capital Plan dated May 30, 1990.

- a. Residential construction loans below \$150,000 made either to (1) the owner who will be the occupant of the home, or (2) on the collateral of a home which has been presold under the terms of a legally binding bonafide commitment;
- b. Construction loans for non-owner occupied properties, provided that the total amount outstanding to all borrowers does not exceed \$500,000 at any time;
- c. Home equity loans below \$75,000 and which result in total loan-to-value ratio below 70 percent;
- d. Loans to facilitate the sale of REO held;
- e. Consumer loans below \$20,000; and
- f. Legally binding commitments outstanding as of the Effective Date of this Order.

13. Until the Association achieves compliance with the fully phased-in capital requirements as set forth in the regulations, Ogden First must limit "total assets" to no more than \$145 million. "Total assets" is defined as consolidated total assets determined

in accordance with GAAP as reported in the Association's Quarterly Thrift Financial Report.

14. Ogden First must not invest in futures or options, or engage in interest rate swaps or purchase any high-risk mortgage derivative products, as described in Thrift Bulletin No. 12, without the prior written nonobjection of the ARD.

15. Ogden First is prohibited from entering into any joint ventures, profit sharing agreements, or equity risk investments of any kind, without the prior written nonobjection of the ARD.

Reports to the Board

16. Ogden First must submit monthly written reports to the Board which list REO properties held in the portfolio ("REO Reports"). The REO Reports must list the amount of time each REO property has been in the portfolio. In addition, the REO Reports must clearly classify each REO pursuant to the type of underlying loan, which loans include but are not limited to construction, owner-occupied single-family, ADC and commercial real estate loans. The REO Reports must provide a cumulative dollar total of REO held in each such category.

17. Ogden First must submit monthly, written delinquency reports ("Delinquency Reports") to the Board. The Delinquency Reports must clearly set forth the delinquencies based upon the type of underlying loan, which include but are not limited to construction, owner-occupied single-family, ADC and commercial real estate loans. The Delinquency Reports must provide a cumulative dollar total of delinquencies which occurred in each such category.

### Miscellaneous

18. As of the Effective Date of this Order, and to the extent applicable, the provisions of this Order will supersede any provisions in conflict with the Conditions of Approval to the Capital Plan dated May 30, 1990. All other provisions in the Conditions of Approval to the Capital Plan will continue to remain in effect, except as noted in the Order, or unless otherwise notified by the OTS.

### II. DEFINITIONS

All technical words or terms used in this 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 Code of Federal Regulations, Title 12, Chapter V; or as defined in FIRREA, the FDIA, or the Home Owner's Loan Act of 1933 ("HOLA"), and any such words or terms undefined in the foregoing shall have meanings that accord with the best custom and usage in the savings association industry.

### III. SUCCESSOR REGULATIONS

Reference in this Order to provisions of statutes and/or regulations or OTS guidance shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date of this Order, and references to successor provisions as they become applicable.

**IV. EFFECTIVENESS**

1. This Order is effective as of Sept. 30, 1991 ("Effective Date").
2. This Order shall remain effective and enforceable until such time as the OTS shall dismiss this final Order.

BOARD OF DIRECTORS  
Ogden First Federal Savings  
and Loan Association

ISI

9-30-91  
Date

ISI

September 17, 1991  
Date

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9/18/91  
Date

ISI

7-18-91  
Date

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9-23-91  
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