

Docket # 2891
94864

SUPERVISORY AGREEMENT

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This Supervisory Agreement ("Agreement") is made and is effective this 17th day of June, 1996 (the "Effective Date"), by and between First Savings Bank, F.S.B. (the "Association"), a federally chartered stock association, having its main office located in Clovis, New Mexico, and the Office of Thrift Supervision ("OTS"), an office within the United States Department of the Treasury, having its principal executive offices located at 1700 G Street, N.W., Washington, D.C., acting through its Midwest Regional Director or his/her designee ("Regional Director").

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

WHEREAS, based on the Report of Examination for the OTS examination of the Association commenced on February 5, 1996 ("ROE"), the OTS is of the opinion that the Association has engaged in acts and practices that are considered to be unsafe and unsound; and

WHEREAS, the OTS is of the opinion that grounds exist for the initiation of administrative proceedings against the Association; and

WHEREAS, the OTS is of the view that it is appropriate to take measures intended to ensure that the Association will engage in safe and sound practices; and

WHEREAS, the Association, acting through its Board of Directors (the "Board") without admitting or denying any unsafe and unsound practices, wishes to cooperate with the OTS and to evidence the intent to engage in safe and sound practices.

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

CORRECTIVE PROVISIONS

1. **BUSINESS PLAN AND CAPITAL**

No later than June 30, 1996, the Association shall submit to the Regional Director a business plan (the "Plan"), satisfactory to the Regional Director, to achieve compliance with the requirements of this Paragraph. The Association shall thereafter comply with such Plan and shall comply without deviation with the requirements set

forth in this Paragraph 1 except as otherwise approved in writing by the Regional Director. The Plan shall not be amended without the written approval of the Regional Director. In any case in which it becomes apparent that the Association shall be unable to comply with its Plan due to factors beyond the control of the Association and its officers and directors, the Regional Director shall, in good faith, give consideration to a proposed amendment to the Plan, if requested in writing by the Association, in order to allow for variations that would adapt to such factors. The requirements include progressively targeted levels of core capital calculated pursuant to 12 C.F.R. Part 567. Such requirements are as follows:

A. Capital Requirements

(i) On the Effective Date, and thereafter, the Association shall, at a minimum, maintain all capital requirements of 12 C.F.R. Part 567, and any successor provisions, as are now in existence or as hereafter amended.

(ii) In addition to complying with those capital requirements set forth in subparagraph (i) hereof, but subject to subparagraph (iv) hereof, the Association shall, by December 31, 1996, obtain, and thereafter shall maintain, such additional core capital as shall be necessary to reach total core capital of no less than six percent (6%) of the Association's adjusted total assets.

~~(iii) In addition to complying with those capital requirements set forth in subparagraphs (i) and (ii) hereof, but subject to subparagraph (iv) hereof, the Association shall, by June 30, 1997, obtain, and thereafter shall maintain, such additional core capital as shall be necessary to reach total core capital of no less than seven percent (7%) of the Association's adjusted total assets.~~

(iv) The Association shall not be deemed to be in violation of either subparagraph (ii) or subparagraph (iii) hereof for failing to satisfy the core capital requirements set forth therein at a given point in time, provided, however, that within thirty days of such date of such failure to satisfy such core capital requirement, the Association does satisfy all requirements of Subparagraphs (ii) and (iii) that are otherwise applicable. Nothing herein shall be deemed to authorize any failure to satisfy the requirements of Subparagraph (i) hereof, including, but not limited to, the core capital requirements.

B. Additional Business Plan Requirements.

(i) The Plan shall, at a minimum:

(a) describe the manner in which the Association will increase its capital to achieve compliance with its capital requirements;

(b) specify the types and levels of activities in which the Association will engage;

(c) include a specific and realistic strategy to reduce interest-rate-risk exposure, ensure compliance with the established exposure limits, and improve earnings by addressing increasing net interest income and core income and how operating expenses shall be controlled;

(d) contain the certifications required by 12 C.F.R. § 567.10(a)(3);

(e) be consistent with all supervisory guidance including, but not limited to, Office of Thrift Supervision Thrift Bulletin No. 36a of March 8, 1990, and any successor guidelines;

(f) contain all other required information specified by the Regional Director; and

(g) address the requirements contained in this Agreement.

(ii) If the capital requirements contained in Part 567 of the OTS regulations (12 C.F.R. Part 567) should be revised upward, the Association shall submit a revised capital plan that demonstrates how the Association will comply with such revised capital requirements.

2. ASSET/LIABILITY AND INVESTMENT COMMITTEE

By no later than June 30, 1996, the Board of Directors of the Association (the "Board") shall establish an effective asset/liability and investment committee, which shall be charged with regular oversight of pricing activities, investment selections, implications of interest rate risk, and compliance by the Association with policies set by the Board.

3. QUARTERLY COMPLIANCE REPORTS

Within 45 days of the end of each calendar quarter, the Association shall submit to the Regional Director a written report, providing a review of actual operating results versus budgeted projections, as contained in the plan, and include reasons for material variances. Additionally, the written report shall include a detailed analysis of the Association's exposure to interest-rate risk as of the end of such quarter and the reasons for material variances, if any, during such quarter from the interest rate risk strategy contained in the Plan.

4. APPOINTMENT OF DIRECTORS OR HIRING OF SENIOR EXECUTIVE OFFICERS

Pursuant to Section 32 of the Federal Deposit Insurance Act, 12 U.S.C. § 1831i, and any regulations promulgated thereunder, the Board shall notify the Regional Director of the proposed addition, or

employment, of any director or senior executive officer or a lateral change or a change in responsibilities of a senior executive officer, before such addition, employment or change becomes effective. The Association and the Board may not add or change the responsibilities of, or employ any director or senior executive officer if the Regional Director issues a notice of disapproval before the end of 30 days from the date on which the notice was deemed complete by the Regional Director.

MISCELLANEOUS

5. DIRECTOR RESPONSIBILITY

Notwithstanding the requirements of this Agreement that the Board submit various matters to the Regional Director for the purpose of receiving his approval, non-objection or notice of acceptability, such regulatory oversight does not derogate or supplant each individual member's continuing fiduciary duty. The Board shall have the ultimate responsibility for overseeing the safe and sound operation of the Association at all times, including compliance with the determinations of the Regional Director as required by this Agreement.

6. COMPLIANCE WITH AGREEMENT

A. The Board and officers of the Association shall take immediate action to cause the Association to comply with the terms of this Agreement and shall take all actions necessary or appropriate thereafter to cause the Association to continue to carry out the provisions of this Agreement.

B. The Board, on a monthly basis, shall adopt a board resolution (the "Compliance Resolution") formally 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 Agreement currently in effect, except as otherwise stated. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist, and (ii) identify all notices of exemption or non-objection issued by the Regional Director that were outstanding as of the date of its adoption.

C. The minutes of the meeting of the Board shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each such director's reasoning for opposing or abstaining.

D. No later than the 45th calendar day following the end of a calendar quarter, beginning with the end of the first calendar

quarter following the Effective Date, the Association shall provide to the Regional Director a certified true copy of the Compliance Resolutions adopted at the Board meeting of each month in such calendar quarter. The Board, 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, except as provided below. In the event that one or more director of the Board do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the Association.

7. **DEFINITIONS**

All 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 as defined in Chapter V of Title 12 of the Code of Federal Regulations, Home Owners' Loan Act ("HOLA"), Federal Deposit Insurance Act ("FDIA") or OTS Memoranda. Any such technical words or terms used in this Directive and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

8. **SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS**

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

9. **DURATION, TERMINATION OR SUSPENSION OF AGREEMENT**

A. This Agreement shall: (i) become effective upon its execution by the OTS, through its authorized representative whose signature appears below and (ii) remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof).

B. The Regional Director, in his or her sole discretion, may, by written notice, suspend any or all provisions of this Agreement.

10. **TIME LIMITS**

Time limitations for compliance with the terms of this Agreement run from the Effective Date, unless otherwise noted.

11. **EFFECT OF HEADINGS**

The Section headings herein are for convenience only and shall not affect the construction hereof.

12. SEPARABILITY CLAUSE

In case any provision in this Agreement is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his/her sole discretion determines otherwise.

13. NO VIOLATIONS OF LAW, RULE, REGULATION OR POLICY STATEMENT AUTHORIZED; OTS NOT RESTRICTED

Nothing in this Agreement shall be construed as: (i) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject or (ii) restricting the OTS from taking such action(s) that are appropriate in fulfilling the responsibilities placed upon it by law, including, without limitation, any type of supervisory, enforcement or resolution action that the OTS determines to be appropriate.

14. SUCCESSORS IN INTEREST/BENEFIT

The terms and provisions of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Agreement, express or implied, shall give to any person or entity, other than the parties hereto, and the Federal Deposit Insurance Corporation and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Agreement.

15. SIGNATURE OF DIRECTORS

Each director of the Board signing the Agreement attests, by such act, that she or he, as the case may be, voted in favor of the resolution, in the form attached to this Agreement, authorizing the execution of this Agreement by the Association.

16. INTEGRATION CLAUSE

A. This Agreement represents the final written agreement of the parties with respect to the subject matter hereof and constitutes the sole agreement of the parties, as of the Effective Date, with respect to such subject matter.

B. Nothing herein shall be construed as affecting the status of the Prompt Corrective Action Directive ("PCA Directive") issued by the OTS against the Association on July 28, 1993, and amended on August 2, 1994, provided, however that in the case of any conflict between the language of this Agreement and the PCA Directive, as so amended, the language of this Agreement shall prevail.

17. ENFORCEABILITY OF AGREEMENT

The Association represents and warrants that this Agreement has been duly authorized, executed, and delivered, and constitutes, in accordance with its terms, a valid and binding obligation of the Association. The Association acknowledges that this Agreement is a "written agreement" entered into with the OTS within the meaning of Section 8 of the FDIA, 12 U.S.C. §1818.

IN WITNESS WHEREOF, the OTS, acting by and through the Regional Director and the Association, in accordance with a duly adopted resolution of its Board (copy attached hereto), hereby execute this Agreement as of the Effective Date.

OFFICE OF THRIFT SUPERVISION

THE ASSOCIATION

By: _____
Name: David E. Bradley
Title: Regional Deputy Director

By: _____
Name: Ken Huey, Jr.
Title: Chief Executive Officer

DIRECTORS OF THE ASSOCIATION

Robert "Chad" Lydick
Director

Harry Eastham
Director

Carl Deaton
Director

Ken Huey, Jr.
Director

Charles Guthals
Director

Everett L. Frost
Director

Thomas W. Martin, III
Director

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OFFICE OF THRIFT SUPERVISION

THE ASSOCIATION

By: 151
Name: David E. Bradley
Title: Regional Deputy Director

By: 151
Name: Ken Huey, Jr.
Title: Chief Executive Officer

DIRECTORS OF THE ASSOCIATION

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Charles Guthals
Director

Everett L. Frost
Director

151
Thomas W. Martin, III
Director

**CERTIFIED COPY OF
RESOLUTION OF BOARD OF DIRECTORS**

I, the undersigned, being the duly appointed and qualified Secretary of First Savings Bank, F.S.B., Clovis, New Mexico (the "Association"), hereby certify as follows:

1. A duly called meeting of the Board of Directors of the Association was held on May 31, 1996, 1996;
2. At said meeting a quorum was present and voting throughout;
3. The following is a true copy of resolutions duly adopted by the Association's Board of Directors, which resolutions have not been rescinded or modified and are now in full force and effect:

WHEREAS, the Board of Directors of the Association wishes to cooperate with the OTS and to demonstrate that said Board and the Association have the intent to: (1) comply with all applicable laws and regulations and (2) engage in safe and sound practices; and

WHEREAS the Directors of the Association have read and considered the proposed Supervisory Agreement ("Agreement") which shall be attached to the minutes of this meeting; and

WHEREAS after due consideration, the Directors of the Association have determined to cause the Association to enter into the proposed Agreement which is in the best interest of the Association;

NOW THEREFORE, BE IT RESOLVED, that the Association be and it hereby is authorized to enter into the Agreement in the form attached to the minutes of the meeting,

FURTHER RESOLVED, that the execution and delivery of, and performance of all of the provisions of the Agreement be, and they hereby are, authorized and approved,

FURTHER RESOLVED, that the Directors and Officers of the Association be, and they hereby are, authorized and directed to execute and deliver the Agreement and to take all steps necessary or appropriate to implement the terms of the Agreement and to cause the Association to comply in all respects with the terms of the Agreement.

4. All members of the Board of Directors were present and voted at the meeting (except _____) and all members of the Board of Directors (except _____) voted in favor of the resolution;

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the seal of the Association on this 31st day of May, 1996.

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~~Name: Kathy Allenberg~~
Title: Secretary

(SEAL)