

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of

Stephen Matthew Short

a Director of

Family Bank, FSB
Paintsville, Kentucky

Order No. CHI-98-03

Date: **February 18, 1998**

STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Stephen Matthew Short, director of Family Bank, FSB, Paintsville, Kentucky ("Family Bank"), OTS Docket Number 03951, that grounds exist to initiate an administrative civil money penalty assessment proceeding against him pursuant to 12 U.S.C. § 1818(i);¹ and

WHEREAS, Stephen Matthew Short desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

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the OTS, except as to Jurisdiction, paragraph 1, below, which is admitted, hereby stipulates and agrees to the following:

1. Jurisdiction. (a) Family Bank is a "savings association" within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c);

(b) Stephen Matthew Short is a Director of Family Bank and is an "institution-affiliated party" as that term is defined in 12 U.S.C. § 1813(u); and

(c) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" to maintain an administrative civil money penalty assessment proceeding against such a savings association or its institution-affiliated parties. Therefore, Stephen Matthew Short is subject to the jurisdiction of the OTS to initiate and maintain a civil money penalty assessment proceeding against him pursuant to 12 U.S.C. § 1818(i). The Director of the OTS has delegated to the Regional Director of the Central Region of the OTS or his designee ("Regional Director") the authority to issue orders of assessment of civil money penalties where the individual has consented to the issuance of the order.

2. OTS Findings of Fact. The OTS finds that:

(a) Family Bank and the Federal Home Loan Bank Board entered into a Supervisory Agreement ("Agreement") on April 14, 1988. Section 1 of the Agreement required Family Bank to comply with certain loan documentation requirements; Section 2

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and Section 4 of the Agreement required Family Bank to comply with certain loan underwriting requirements; Section 5 of the Agreement required Family Bank to comply with certain appraisal report requirements; and Section 9 of the Agreement required Family Bank to comply with certain construction loan requirements.

(b) Stephen Matthew Short was elected Director of Family Bank in April 1994. In the February 13, 1995 Report of Examination, the OTS instructed the directors of Family Bank, including Stephen Matthew Short, to review and comply with the provisions of the Agreement. In the September 30, 1996 Field Visit Report, the OTS notified the directors of Family Bank, including Stephen Matthew Short, that it expected a higher level of compliance with the intent of the Agreement.

(c) Despite being placed on notice by the OTS of the necessity to comply with the Agreement, Stephen Matthew Short violated the Agreement by permitting Family Bank to violate Section 1, Section 2, Section 4, Section 5, and Section 9 of the Agreement. These violations are detailed in the Report of Examination dated February 24, 1997.

3. Consent. Stephen Matthew Short consents to the issuance by the OTS of the accompanying Consent Order of Assessment of Civil Money Penalties ("Order"). Stephen Matthew Short 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 12 U.S.C. § 1818(i). Upon its issuance by the OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. Waivers. Stephen Matthew Short waives the following:

(a) the right to be served with a written notice of assessment of civil money penalties against him as provided by 12 U.S.C. § 1818(i);

(b) the right to an administrative hearing of the OTS's charges against him as provided by 12 U.S.C. § 1818(i);

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504 or 28 U.S.C. § 2412; and

(e) the right to assert this proceeding, his consent to issuance of the Order, the issuance of the Order, the payment of any monies or the provision of any other financial relief as contemplated by the Order as the basis for a claim of double jeopardy in any

pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. Indemnification. Stephen Matthew Short represents that he has not received, directly or indirectly, any sums from Family Bank for the purpose of indemnifying or reimbursing him for any expenses incurred by him in connection with the Order. Stephen Matthew Short shall neither cause nor permit Family Bank (or any successor institution, holding company, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional services rendered to Stephen Matthew Short relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from Family Bank (or any successor institution, holding company, subsidiary or service corporation thereof) with respect to such expenses. In the event that any such payments are received by or on behalf of Stephen Matthew Short in connection with this action, **Stephen** Matthew Short agrees promptly to notify the OTS of the receipt of such payments and to return such payments without delay to Family Bank (or the successor institution, holding company, subsidiary or service corporation thereof).

7. Other Governmental Actions Not Affected. Stephen Matthew Short acknowledges and agrees that the consent to the issuance of the Order is for the purpose of resolving this OTS enforcement matter only, the violations of Sections 1,2,4,5, and 9 of the Agreement as detailed in the February 24, 1997 Report of Examination, and does not release, discharge, compromise, settle,

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dismiss, resolve, or in any way affect any actions, charges against, or liability of Stephen Matthew Short that arise pursuant to this action or otherwise and that may be or have been brought by the OTS or another governmental entity.

8. Representation As To Financial Condition. It is understood that, as part of this settlement, the OTS has relied in part on Stephen Matthew Short's representations concerning his current financial condition. as set forth in: (1) a written statement of financial condition as of August 25, 1997 (on OTS Form 1571, "Statement of Financial Condition"); and (2) Income Tax Returns for the year 1995. If any information included in the Statement of Financial Condition or the Income Tax Returns is found to be false or misleading with respect to any material fact (including but not limited to the failure to properly identify and/or value any material asset or liability), the OTS reserves the right to take any action authorized by law, in the exercise of its discretion, including assessing civil money penalties under 12 U.S.C. § 1818(i), or to void this Stipulation and the Order, or to take any other legal action.

9. Miscellaneous. (a) The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America;

(b) All references to the OTS in this Stipulation and the Order shall also mean any of the OTS' predecessors, successors, and assigns;

(c) The section and paragraph headings in this Stipulation and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Order;

(d) The terms of this Stipulation and the Order represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters; and

(e) This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

WHEREFORE, Stephen Matthew Short, executes this Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION

By: Stephen Matthew Short
Stephen Matthew Short

Ronald N. Karr
Ronald N. Karr
Regional Director
Central Region

Dated: 2-13-98

Dated: 2-18-98

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Before The
OFFICE OF THRIFT SUPERVISION

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In the Matter of)	
Stephen Matthew Short)	Order No. CHI-98-03
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A Director of)	Date February 18, 1998
)	
Family Bank, FSB)	
Paintsville, Kentucky)	
_____)	

CONSENT ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, Stephen Matthew Short has executed a Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalties ("Stipulation"); and

WHEREAS, **Stephen Matthew Short**, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order of Assessment of Civil Money Penalties ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to 12 U.S.C. § 1818(i).

NOW THEREFORE, IT IS ORDERED that:

1. **Within** ten (10) calendar days of the date of this Order, **Stephen Matthew Short shall** pay to the Office of Thrift Supervision the sum of \$12,000, by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The check or bank **draft** and a copy of the Order shall be delivered, together with a cover letter stating the name of the association,

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to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, DC 20552. A copy of the check or bank draft and the cover letter shall be provided by U.S. Mail to: Barbara Haggerty, Office of Thrift Supervision, 200 W. Madison, Suite 1300, Chicago, Illinois 60606.

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

3. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: 
Ronald N. Karr
Regional Director
Central Regional Office

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