

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)
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HOMER SHORT)

Order No. CHI-01-05

Order No. CHI-01-06

President, Chairman and)
Controlling Stockholder of)
Family Bank, FSB,)
Paintsville, Kentucky)
(OTS Docket # 03951))

Dated: June 20, 2001

**STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF AND AN
ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Homer Short, President, Chairman and Controlling Stockholder of Family Bank, FSB, Paintsville, Kentucky ("Family Bank"), that grounds exist to initiate an administrative cease and desist proceeding and assess a civil money penalty against him pursuant to 12 U.S.C. §§ 1817(j) and 1818(b);¹ and

WHEREAS, Homer Short ("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 the OTS, except as to Jurisdiction, paragraph 1 below, which is admitted, hereby stipulates and agrees to the following:

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

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) Short is the President, Chairman and Controlling Stockholder 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 cease and desist proceeding and civil money penalty assessment proceeding against such a savings association or its institution-affiliated parties. Therefore, Short is subject to the jurisdiction of the OTS to initiate and maintain a cease and desist proceeding against him pursuant to 12 U.S.C. § 1818(b) and assess a civil money penalty against him pursuant to 12 U.S.C. § 1817(j). 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 cease and desist orders and orders of assessment of civil money penalties where the individual has consented to the issuance of the orders.

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

(a) In November 1992, in conjunction with Family Bank's conversion from mutual to stock form of ownership, Short and another individual filed a Notice of Change in Control with the OTS, pursuant to 12 C.F.R. § 574.3 (1992). In their Notice, they sought approval to purchase 80% of the stock of the institution. The OTS did not disapprove the Notice. Subsequently, the other individual transferred his portion of the stock to Short. Short thus acquired 80% of the stock of Family Bank. The OTS did not object to Short's creation of a holding company that would

hold 80% of the stock of Family Bank. Between 1994 and 1997, however, Short purchased an additional 13,350 shares of Family Bank stock, representing approximately 7% of the stock of the institution, without filing the Notice of Change in Control required by 12 C.F.R. § 574.3 (1994-1997). Short's acquisition of the stock was in violation of the Change in Bank Control Act, 12 U.S.C. § 1817(j), and 12 C.F.R. § 574.3 (1994-1997).

(b) Short acquired a Family Bank asset, a 1993 Chevy S-10 truck Family Bank had repossessed, in violation of a 1988 Supervisory Agreement requirement that the transaction comply with all conflict of interest regulations.

3. Consent. Short consents to the issuance by the OTS of the accompanying Order to Cease and Desist For Affirmative Relief and Order of Assessment of Civil Money Penalty ("Orders"). Short further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all requirements of law.

4. Finality. The Orders are issued under 12 U.S.C. §§ 1817(j) and 1818(b). Upon their issuance by the OTS, they shall be final orders, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. §§ 1817(j) and 1818(i).

5. Waivers. Short waives the following:

(a) the right to be served with a written notice of the OTS's charges against him as provided by 12 U.S.C. § 1818(b) and written notice of assessment of civil money penalty against him as provided by 12 U.S.C. § 1817(j);

(b) the right to an administrative hearing of the OTS's charges against him as provided by 12 U.S.C. §§ 1817(j) and 1818(b);

(c) the right to seek judicial review of the Orders, including, without limitation, any such right provided by 12 U.S.C. §§ 1817(j) and 1818(h), or otherwise to challenge the validity of the Orders;

(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 Orders, 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 Orders, the issuance of the Orders, the payment of any monies or the provision of any other financial relief as contemplated by the Orders 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. 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 OTS investigation or the payment of the civil money penalty under the Orders. Short shall neither cause nor permit Family Bank (or any successor institution, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional services rendered to Short relative to the negotiation and issuance of the Orders, nor obtain any indemnification (or other reimbursement) from Family Bank (or any successor institution, subsidiary or service corporation thereof) with respect to such

expenses or his payment of the civil money penalty pursuant to the Orders. In the event that any such payments are received by or on behalf of Short in connection with this action, 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. Short acknowledges and agrees that the consent to the issuance of the Orders is for the purpose of resolving this OTS enforcement action only, which encompasses those matters described in OTS Findings of Fact, paragraph 2 herein, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Short that arise otherwise and that may be or have been brought by the OTS or another governmental entity.

8. Agreement for Continuing Cooperation. Short agrees that, at the OTS's written request, on reasonable notice and without service of a subpoena, he will provide discovery and testify truthfully at any deposition or at any judicial or administrative proceeding related to any investigation, litigation, or other proceeding maintained by the OTS relating to Family Bank, its holding company, service corporation or subsidiaries or its institution-affiliated parties, except that Short does not waive any privilege against self-incrimination under the Fifth Amendment of the United States Constitution or any attorney-client privilege. If Short invokes his privilege against self-incrimination under the Fifth Amendment of the United States Constitution and the OTS obtains a grant of immunity pursuant to 18 U.S.C. § 6001 et seq., Short agrees, consistent with any such grant of immunity, to provide discovery and testify truthfully at any deposition and

at any judicial, administrative, or investigative proceeding on the matter for which immunity is given.

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

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

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

(d) The terms of this Stipulation and the Orders 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 Orders 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, Homer Short executes this Stipulation and Consent to the Issuance of an Order to Cease and Desist For Affirmative Relief and Order of Assessment of Civil Money Penalty, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION

By: /s/
Homer Short

 /s/
Ronald N. Karr
Regional Director
Central Regional Office

Dated: 6/11/01 Dated: 6-20-01

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President, Chairman and)
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Paintsville, Kentucky)
(OTS Docket #03951))

Order No. CHI-01-05

Dated: June 20, 2001

CONSENT ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, Homer Short has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and an Order of Assessment of Civil Money Penalty ("Stipulation");

WHEREAS, Homer Short, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist for Affirmative Relief ("Order") by the Office of Thrift Supervision, pursuant to 12 U.S.C. § 1818(b)¹; and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue Orders to Cease and Desist on behalf of the OTS where the individual has consented to the issuance of the Order.

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

NOW THEREFORE, IT IS ORDERED THAT:

1. Homer Short ("Short") shall cease and desist from any violations of the Change in Bank Control Act, 12 U.S.C. § 1817(j), and 12 C.F.R. § 574.3 (2000), including any successor statutes and regulations.
2. In any oral or written solicitation to purchase Family Bank stock in which Short will be the acquiror, Short or his agent or designee shall identify Short as the proposed purchaser.
3. Short shall not fund, directly or indirectly, the acquisition of Family Bank stock by any other individual or entity, unless he has the prior written approval or non-objection of the OTS Regional Director, Central Region, to do so.
4. Short shall not, as of the effective date of the Stipulation, increase his ownership or control, or that of any entity he controls, directly or indirectly, in the stock of Family Bank without obtaining the required regulatory approvals. All shares of Family Bank stock that Short owns or controls, directly or indirectly, in excess of 80% of the total outstanding shares of Family Bank stock are considered to be excess shares (referred to hereafter as "Excess Shares").
5. Within 150 days after the effective date of this Order, Short, Short Holding Company and any other entity owned or controlled by Short that owns shares of Family Bank stock, directly or indirectly, shall divest all Excess Shares in accordance with the Plan of Divestiture (Attachment A), which is incorporated herein by reference. Such divestiture must include divestiture of sufficient shares to offset the number of shares held by others, such as Short's children and certain directors, who are presumed to act in

concert with Short under 12 C.F.R. § 574.4 (2000), thus reducing the number of shares owned and controlled by Short, directly or indirectly, and those presumed to be acting in concert with him, to 80% of the total outstanding shares of Family Bank. All expenses, fees or other charges associated with the divestiture will be borne by Short.

6. Short shall comply with the conflicts of interest provisions of 12 C.F.R. § 563.200 (2000), including any successor regulation, and obtain the prior written approval of the Board of Directors of Family Bank for any loan or purchase, sale or lease of property, directly or indirectly, between himself (including his immediate family or any company or entity that he controls) and Family Bank. In making his application to the Board of Directors, Short shall make full written disclosure of all material details of the transaction. He shall recuse himself from voting on the transaction. He shall ensure that the minutes of the meeting of the Board of Directors at which the transaction is acted upon include a complete and accurate record of the Board's deliberation, discussion and action on the transaction, including his interest and recusal.

7. Short shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

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

9. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and this 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: /s/
Ronald N. Karr
Regional Director
Central Regional Office

PLAN OF DIVESTITURE

1. Homer Short (Short) has previously obtained and submitted to OTS an appraisal of all shares of Family Bank by Keller and Company. The appraisal includes a per share valuation (Appraised Per Share Value) for Family Bank's stock.
2. Short shall, within ten (10) days after the effective date of the Order, distribute to all former Family Bank stockholders (or, if applicable, their legal heirs) who sold any of the Excess Shares to Short, Short Holding Company, a Short nominee or any other individual or entity considered to be acting in concert with Short under 12 C.F.R. § 574.4 (2000), the amount of money that the Appraised Per Share Value, multiplied by the number of shares purchased from that person, exceeds the amount originally paid for each person's shares.
3. Short shall sell, transfer, set over and assign a quantity of Family Bank shares (equivalent to the number of Excess Shares) to a Trustee for the consideration of \$1.00 (the "sale"). Such sale must be in accordance with law and regulation. The Trustee shall be appointed pursuant to a written Trust Instrument and shall have sole voting and disposition authority in connection with the shares transferred to the trust. Family Bank shall not pay or be responsible for any fees or costs in connection with the trust. The individual beneficiaries of the trust must be approved by Family Bank's Board of Directors. The Trustee chosen, the Trust Instrument and the sale of the shares are all subject to non-objection by the OTS Regional Director, Central Region.
4. If the sale described in paragraph 3 shall not be effected within 90 days of the effective date of the Order, then Short shall offer to sell, for not more than the Appraised Per Share Value of the stock, a quantity of Family Bank shares equivalent to the number of Excess Shares to one or more independent third party investors, who shall be identified in writing to OTS. Any such sale must be at arm's-length, with no express or implied agreement to repurchase. Such sale must be in accordance with law and regulation and is subject to non-objection by the OTS Regional Director, Central Region. Short may retain the proceeds of the sale.
5. If within 120 days of the effective date of the Order Short has not divested himself of a quantity of Family Bank shares equivalent to the number of Excess Shares, for whatever reason, Short shall within 30 days thereafter donate full interest in any remaining offered shares to one or more charities. The choice of such charities is subject to non-objection by the OTS Regional Director, Central Region.

ATTACHMENT A