

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

In the Matter of:

**FIRST FEDERAL BANK, A FEDERAL  
SAVINGS BANK**

Tuscaloosa, Alabama  
OTS Docket No. 06432

Order No.: ATL-2004- 36

Dated: December 21, 2004

**STIPULATION AND CONSENT TO ISSUANCE OF  
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 First Federal Bank, A Federal Savings Bank, Tuscaloosa, Alabama, OTS Docket No. 06432 (First Federal or Bank) that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against First Federal pursuant to 12 U.S.C. §§ 1818(i),<sup>1</sup> and

**WHEREAS**, First Federal desires to cooperate with the OTS to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

**1. Jurisdiction.**

(a) First Federal, at all times relevant hereto, was a "savings association" within the meaning of Section 3(b) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1462(4). Accordingly, First

---

<sup>1</sup> All references in this Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty (Stipulation) and the related Order are to the United States Code as amended.

Federal was 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(q) of the FDIA, 12 U.S.C. § 1813(q), OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against such an institution. Therefore, First Federal is subject to the authority of OTS to initiate and maintain civil money penalty assessment proceedings against it pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i). The Deputy Director of OTS, pursuant to delegated authority, has delegated to the Regional Director of the Southeast Region of OTS (Regional Director) the authority to issue Orders where the institution subject to the Order has consented to its issuance.

## **2. OTS Findings of Fact.**

The OTS finds that First Federal has failed to comply with the Bank Secrecy Act (BSA), 31 U.S.C. § 5311 et seq., and the implementing regulations set forth at 31 C.F.R. Part 103, in its completion and filing of Currency Transaction Reports (CTRs). Such errors and omissions of information include: (i) incorrectly identifying a customer as "known"; (ii) failure to include the Bank's MICR number on multiple CTRs; and (iii) failure to timely file one CTR. While First Federal has taken steps to correct deficiencies, a civil money penalty (CMP) is appropriate to ensure that the Board of Directors and management are fully committed to compliance with applicable laws and regulations in the future. Accordingly, OTS believes that a CMP of Four Thousand Dollars (\$4,000.00) should be assessed for the inaccurate CTRs.

## **3. Consent.**

First Federal consents to the issuance by the OTS of the accompanying Consent Order of Assessment of Civil Money Penalty (Order). First Federal 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 by the OTS under the authority of 12 U.S.C. §§ 1818(i). Upon issuance by the Regional Director or designee for the Southeast Region, OTS, the Order shall be

a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

**5. Waivers.**

First Federal waives the following:

(a) the right to be served with any written notice of OTS's assessment of civil money penalty against it (see Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and 12 C.F.R. Part 509);

(b) the right to an administrative hearing of OTS's charges against it (see Section 8(i) of the FDIA, 12 U.S.C. § 1818(i)).

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), or otherwise to challenge the validity of the Order;

(d) the right to assert this proceeding, this consent to issuance of the Order, and/or 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; and

(e) any and all claims against 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 or the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412.

**6. Scope of Release; Other Governmental Actions Not Affected.**

(a) Upon OTS's issuance of the accompanying Order, following OTS's acceptance of

this Stipulation executed by First Federal, OTS does release and discharge First Federal from all potential claims and charges that have been or might have been asserted by OTS, based on the alleged violations described in the Findings of Fact set forth in Paragraph 2 of this Stipulation, to the extent known to OTS as of the effective date of the accompanying Order. However, the findings of fact in Paragraph 2 above of this Stipulation may be utilized by OTS in future enforcement actions to establish a pattern or practice of violations or the continuation of a pattern or practice of violations. This release shall not preclude or affect any right of OTS to determine and ensure compliance with the terms and provisions of this Stipulation and the accompanying Order.

(b) First Federal acknowledges and agrees that its consent to the issuance of the accompanying Order is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided by Paragraph 6(a) above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, liability, or other administrative, civil, or criminal proceeding that arise pursuant to this action or otherwise, and that may be or have been brought by another governmental entity.

**7. Agreement for Continuing Cooperation.**

First Federal agrees that, on reasonable notice and without service of a subpoena, it will promptly respond to any written request from OTS for documents that OTS reasonably requests to demonstrate compliance with the Order. First Federal agrees to cooperate with OTS or any other federal agency in any review requested by OTS or any other federal government agency, or in any investigation, litigation, or other proceeding relating to First Federal, its holding company, subsidiaries, service corporations, or institution-affiliated parties.

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

**9. Signature of Directors.**

Each Director signing this Stipulation attests that s/he voted in favor of a Board Resolution authorizing execution of the Stipulation.

**WHEREFORE**, First Federal, by a majority of its directors, executes this Stipulation

**FIRST FEDERAL BANK, A FEDERAL SAVINGS BANK**  
by a majority of its directors

  
Director

  
Director

*Robert E. Stewart*  
Director

  
Director

William A. Tate  
Director

  
Director

James E. Malt, Jr.  
Director

Director

**OFFICE OF THRIFT SUPERVISION**

  
John E. Ryan  
Regional Director  
Southeast Region

Date: 12/21/04

**UNITED STATES OF AMERICA**  
**Before The**  
**OFFICE OF THRIFT SUPERVISION**

\_\_\_\_\_  
In the Matter of: )

**FIRST FEDERAL BANK, A FEDERAL**  
**SAVINGS BANK** )

Tuscaloosa, Alabama )  
OTS Docket No. 06432 )  
\_\_\_\_\_ )

Order No.: ATL-2004- 36

Dated: December 21, 2004

**ORDER OF ASSESSMENT OF**  
**CIVIL MONEY PENALTY**

**WHEREAS**, First Federal Bank, A Federal Savings Bank, Tuscaloosa, Alabama, OTS Docket No. 06432 (First Federal or Bank), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty (Stipulation); and

**WHEREAS**, First Federal, by executing the Stipulation, has consented and agreed to the issuance of this Order of Assessment of Civil Money Penalty (Order) by the Office of Thrift Supervision (OTS), pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i)<sup>1</sup>; and

**WHEREAS**, the Deputy Director of OTS, pursuant to delegated authority, has delegated to the Regional Directors of OTS the authority to issue Orders of Assessment of Civil Money Penalty on behalf of OTS where the institution that is the subject of the Order has consented to the issuance of the Order.

\_\_\_\_\_  
<sup>1</sup> All references to the United States Code (U.S.C.) are as amended.

**NOW THEREFORE, IT IS ORDERED that:**

1. Within ten (10) calendar days of the date of this Order, First Federal shall pay the sum of Four Thousand Dollars (\$4,000.00) by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The certified check or bank draft and a copy of the Order shall be delivered by overnight courier, together with a cover letter referencing First Federal Bank, A Federal Savings Bank, Tuscaloosa, Alabama, OTS Docket No. 06432, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552. A copy of the certified check or bank draft and the cover letter shall be provided by U.S. Mail or overnight courier to Karen Bruton, Regional Counsel, Office of Thrift Supervision, 1475 Peachtree St., N.E., Atlanta, GA 30309.

**MISCELLANEOUS PROVISIONS**

**2. Definitions.**

All technical words or terms used in this Order and the Stipulation 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 FDIA. Any such technical words or terms used in this Order and the Stipulation and undefined in said FDIA shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

**3. Successor Statutes, Regulations, Guidance, and Amendments.**

Reference in this Order and the Stipulation to provisions of statutes, regulations, and OTS Publications 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.

**4. Notices.**

(a) Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with:

(i) OTS, by First Federal, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 1475 Peachtree St., N.E., Atlanta, GA 30309 or telecopied to 404.897.1861 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(ii) First Federal by OTS, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, or sent via overnight delivery service or physically delivered, in each case addressed to the First Federal Bank's Board at 1300 McFarland Boulevard, NE, Tuscaloosa, Alabama 35406 or telecopied to 205.391.6714 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(b) Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service, or telecopy, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received

by a party to this Order, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received two business days after the date of the postmark on the envelope in which the notice was enclosed.

**5. Duration, Termination or Suspension of Order.**

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 OTS, acting through its Director, Deputy Director, Regional Director, or other authorized representative.

**THE OFFICE OF THRIFT SUPERVISION**

By:

  
\_\_\_\_\_  
John E. Ryan  
Regional Director  
Southeast Region