

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

In the Matter of:	)	Order No.: <b>ATL-2005-01</b>
	)	
<b>FIRST FEDERAL SAVINGS AND LOAN</b>	)	Date: <b>January 3, 2005</b>
<b>ASSOCIATION OF EDWARDSVILLE</b>	)	
Edwardsville, Illinois	)	
OTS Docket No. 05174	)	

**STIPULATION AND CONSENT TO THE 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 Savings and Loan Association of Edwardsville, Edwardsville, Illinois, OTS Docket No. 05174 (First Federal or Association), that OTS is of the opinion that grounds exist to initiate administrative civil money penalty assessment proceedings against First Federal pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i), and Section 102 of the Flood Disaster Protection Act of 1973 (FDPA), 42 U.S.C. § 4012a(f).<sup>1</sup>

**WHEREAS**, First Federal desires to cooperate with the OTS to avoid the time and expense of such administrative enforcement proceedings and, without any adjudication on the merits, neither admits nor denies that grounds exist for any administrative enforcement proceedings, but only admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

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

## **1. Jurisdiction.**

(a) First Federal, at all times relevant hereto, was a "savings association" within the meaning of Section 3(b) of the 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 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.

(c) First Federal is a "regulated lending institution" within the meaning of Section 3(a)(10) of the FDPA, 42 U.S.C. § 4003(a)(10).

(d) OTS is the "appropriate Federal entity for lending regulation" within the meaning of Section 3(a)(5) of the FDPA, 42 U.S.C. § 4003(a)(5). For purposes of enforcing Section 102 of the FDPA, 42 U.S.C. § 4012a, against such an institution, OTS has jurisdiction over First Federal and the subject matter of this administrative enforcement proceeding.

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

First Federal has failed to comply with the FDPA, 42 U.S.C. §§ 4001-4128, and OTS implementing regulations, 12 C.F.R. Part 572. Specifically, the OTS finds that First Federal failed to maintain flood insurance of an appropriate amount on fourteen (14) loans as required by

Section 102(e) of the FDPA, 42 U.S.C. § 4012a(e) and 12 C.F.R. § 572.3(a) and failed to maintain flood notices that were signed and dated by the borrower on eight (8) loans as required by 12 C.F.R. § 572.9(a). OTS finds that the above-described action constitutes a pattern or practice of violations under Section 102(f)(1) of the FDPA, 42 U.S.C. § 4012a(f)(1). Accordingly, OTS believes that a civil money penalty of Seven Thousand Seven Hundred Dollars (\$7,700.00) should be assessed under the FDPA.

**3. Consent.**

First Federal consents to the issuance by OTS of the accompanying 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 pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and Sections 102(f)(1) and 102(f)(5) of the FDPA, 42 U.S.C. §§ 4012a(f)(1) and 4012a(f)(5). Upon its issuance by the Regional Director or designee for the Southeast Region, OTS, it shall be a final Order, effective and fully enforceable by OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and Section 102(f) of the FDPA, 42 U.S.C. § 4012a(f).

**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); Section 102(f)(4) of the FDPA, 42 U.S.C. § 4012a(f)(4); and 12 C.F.R. Part 509);

(b) the right to an administrative hearing of OTS's charges against it (see Sections 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 Orders, whether arising under common law, 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 violations alleged above in Paragraph 2 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.

**8. 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) If any provision of this Stipulation and the Order 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 or her sole discretion determines otherwise;

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

(d) 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;

(e) The terms of this Stipulation and the Order represent the final 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

(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.**

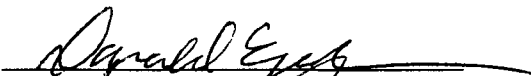
Each Director signing this Stipulation attests that s/he voted in favor of a Board resolution authorizing execution of the Stipulation.

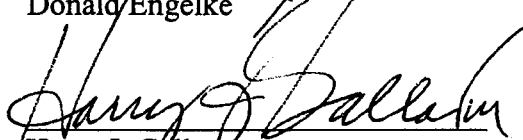
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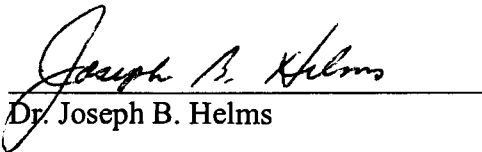
WHEREFORE, First Federal, by a majority of its directors, executes this Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalty, intending to be legally bound hereby.

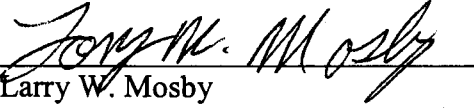
**FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION OF EDWARDSVILLE**  
by a majority of its directors


By:  12/16/04  
Nina J. Baird Date

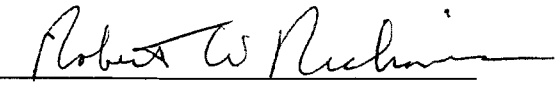
 12/16/04  
Donald Engelke Date

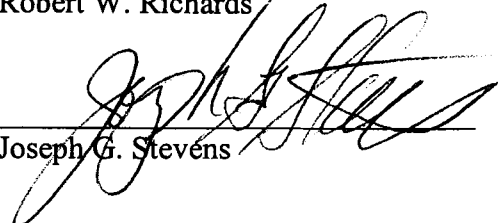
 12-16-04  
Harry J. Gallatin Date

 12-16-04  
Dr. Joseph B. Helms Date

 12-16-04  
Larry W. Mosby Date


 12-16-04  
Dean Pletcher Date

 12/16/04  
Robert W. Richards Date

 12/16/04  
Joseph G. Stevens Date

**ACCEPTED on the date of the Order by:**

**OFFICE OF THRIFT SUPERVISION**

By:   
John E. Ryan  
Regional Director  
Southeast Region

Date: 1/3/05

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

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In the Matter of: )

**FIRST FEDERAL SAVINGS AND LOAN )**  
**ASSOCIATION OF EDWARDSVILLE )**

Edwardsville, Illinois )  
OTS Docket No. 05174 )

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Order No.: **ATL-2005-01**

Date: **January 3, 2005**

**ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

**WHEREAS**, First Federal Savings and Loan Association of Edwardsville, Edwardsville, Illinois, OTS Docket No. 05174, (First Federal or Association), by and through its Board of Directors (Board), 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 Penalties (Stipulation); and

**WHEREAS**, First Federal, by executing the Stipulation, has consented and agreed to the issuance of this Order of Assessment of Civil Money Penalties (CMP 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 Section 102(f) of the Flood Disaster Protection Act of 1973 (FDPA), 42 U.S.C. § 4012a(f); and

**WHEREAS**, the Deputy Director of the OTS, pursuant to delegated authority, has delegated to the Regional Directors of the OTS the authority to issue Orders of Assessment of Civil Money Penalties on behalf of the OTS where the institution that is

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

the subject of the Order has consented to the issuance of the Order.

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

1. Within ten (10) calendar days after the date of this CMP Order, First Federal shall pay the sum of Seven Thousand Seven Hundred Dollars (\$7,700.00) by tendering a certified check or bank draft made payable to the order of the National Flood Insurance Program - Mitigation Fund, together with a copy of the executed CMP Order and a cover letter referencing First Federal Savings and Loan Association of Edwardsville, Edwardsville, Illinois, OTS Docket No. 05174, to the following address: 7700 Hubble Drive, Lanham, Maryland 20706. A copy of the certified check or bank draft and the cover letter shall be provided by U.S. Mail or overnight courier to P. Stacy Powers, Special Counsel, Office of Thrift Supervision, 1 South Wacker Drive, Suite 2000, Chicago, Illinois 60606.

**MISCELLANEOUS PROVISIONS**

**2. Definitions.**

All technical words or terms used in this CMP Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this CMP Order shall, insofar as applicable, have meanings as defined in the FDIA or FDPA. Any such technical words or terms used in this CMP Order and the Stipulation and undefined in said FDIA or FDPA 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 CMP 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 CMP 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 this CMP Order to be made upon, given or furnished to, delivered to, or filed with:

- i. the 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, Georgia 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 the 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 First Federal's Board at 300 Saint Louis Street, Edwardsville, Illinois 62025 or telecopied to 618-656-0371 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

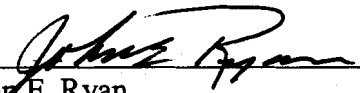
delivery service, or telecopy, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this CMP Order, then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was 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 CMP Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the CMP Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional Director, or other authorized representative.

**THE OFFICE OF THRIFT SUPERVISION**

By:

  
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John E. Ryan  
Regional Director