

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

FIRST FEDERAL BANK)
Dickson, Tennessee)
OTS Docket No. 04081)

Order No.: MWR-04-23

Date: December 15, 2004

STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

This Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation), which concerns the accompanying and above-referenced Order to Cease and Desist (Order) is submitted by **First Federal Bank, Dickson, Tennessee (Bank)**, OTS Docket No. 04081, to the Office of Thrift Supervision (OTS), which is acting through the OTS Midwest Regional Director (Regional Director).

WHEREAS, OTS, based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against the Bank, pursuant to 12 U.S.C. § 1818(b)¹, and

WHEREAS, the Bank desires to cooperate with 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 OTS, except as to Jurisdiction, Paragraph 1, below, which is admitted, hereby stipulates and agrees to the following:

1. **Jurisdiction**

- A. The 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. Pursuant to 12 U.S.C. § 1813(q), the Director of OTS is the "appropriate Federal Banking agency" to maintain an administrative cease and desist proceeding against such savings association. Therefore, the Bank is subject to the jurisdiction of OTS to initiate and maintain a cease and desist proceedings against it pursuant to 12 U.S.C. § 1818(b). The Deputy Director of OTS, pursuant to delegated authority from the Director of OTS, has delegated to OTS Midwest Regional Director (Regional Director) the authority to issue

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

cease and desist orders where the savings association has consented to the issuance of the orders.

2. **OTS Findings of Fact**

Based on the Report of Examination of the Bank as of June 28, 2004 (ROE), OTS finds that the Bank violated several regulations adopted to implement the Currency and Foreign Transactions Reporting Act, as amended by the USA Patriot Act and other laws (collectively referred to as the Bank Secrecy Act or BSA), 31 U.S.C. §§ 5311 *et seq.*, and the regulations issued thereunder by the U.S. Department of Treasury, 31 C.F.R. §§ 103.11 *et seq.*, and the related BSA regulation issued by OTS, 12 C.F.R. § 563.177. These violations include, but are not limited to violations of:

- A. 31 C.F.R. § 103.29(a) (information regarding cash sales of monetary instrument);
- B. 12 C.F.R. § 563.177(c)(1) (system of internal controls to ensure ongoing compliance with BSA);
- C. 12 C.F.R. § 563.177(c)(3) (designation of the BSA officer who can coordinate and monitor day-to-day compliance with BSA);
- D. 12 C.F.R. § 563.177(c)(4) (adequate BSA training for appropriate personnel);
- E. 31 C.F.R. § 103.18(b) and 12 C.F.R. § 563.180(d)(3) (filing suspicious activity reports in accordance with instructions); and
- F. 31 C.F.R. § 103.121(b) and 12 C.F.R. § 563.177(b)(2) (adequate customer identification (CIP) policy and inclusion or incorporation into BSA Policy).

3. **Consent**

The Bank consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief (Order). It 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(b). Upon its issuance by the Regional Director, it shall be a final order, effective and fully enforceable by OTS under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers**

The Bank waives the following:

- A. the right to be served with a written notice of OTS's charges against it as provided by 12 U.S.C. § 1818(b);

- B. the right to an administrative hearing of OTS's charges against it as provided by 12 U.S.C. § 1818(b);
- 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 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, its consent to the 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. **Other Governmental Actions Not Affected**

The Bank acknowledges and agrees that its consent to the issuance of the Order is for the purpose of resolving this OTS enforcement matter only, as set forth in Paragraph 2, OTS Findings of Fact, hereof and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by another governmental entity. Further, the issuance of this Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by OTS or any other governmental entity against any institution-affiliated party of the Bank. The issuance of this Order also does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions for civil or criminal penalties against the Bank by any other governmental entity.

7. **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. In case any provision of the Stipulation or 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 or the Bank in this Stipulation and the Order shall also mean any of OTS's or Bank's predecessors, successors, and assigns.

- D. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the construction hereof.
- E. 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.
- 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. The assigned Regional Deputy Director or Assistant Director may extend timeframes for compliance with the Order.

8. Signature of Directors

Each Director of the Bank's Board of Directors signing this Stipulation attests that he/she voted in favor of a resolution authorizing the execution of the Stipulation. A copy of the resolution of the Board of Directors of First Federal Bank authorizing the execution of this Stipulation shall be delivered to OTS, along with the executed original of this Stipulation.

WHEREFORE, First Federal Bank, Dickson, Tennessee, by a majority of its directors, execute this Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION

By:



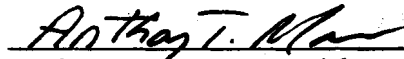
Frederick R. Casteel
Midwest Regional Director

FIRST FEDERAL BANK
Dickson, Tennessee

Date

Effective Date: 12-15-04

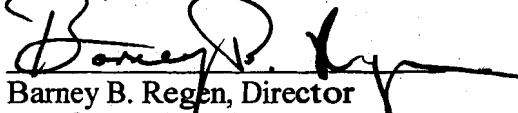
Accepted by a majority of its directors:
By:



Anthony T. Moore, President,
Chairman of the Board, Chief
Executive Officer, and Director



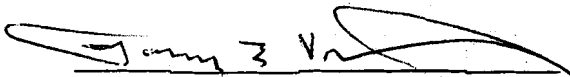
C. Kerry Pruett, Director



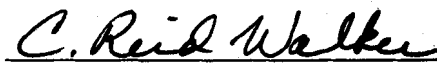
Barney B. Regen, Director



B. J. Smith, Director



Larry E. Vickers, Director



C. Reid Walker, Director

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CONSENT ORDER TO
CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, First Federal Bank, Dickson, Tennessee (Bank) (OTS Docket No. 04081), 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 (Stipulation); and

WHEREAS, the Bank, by execution of this 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 (OTS), pursuant to 12 U.S.C. § 1818(b);¹ and

WHEREAS, the Deputy Director of the OTS has delegated to the Regional Directors of OTS the authority to issue Orders to Cease and Desist on behalf of OTS where the Bank has consented to the issuance of the Order, pursuant to 12 U.S.C. § 1818(b).

NOW THEREFORE, IT IS ORDERED THAT:

1. Compliance With Regulatory Requirements

The Bank, its subsidiaries, and the directors, officers, employees, and agents of the Bank and its subsidiaries shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, aiding or abetting, any violation of:

- A. 31 C.F.R. § 103.29(a) (information regarding cash sale of monetary instruments);
- B. 31 C.F.R. § 103.18(b) and 12 C.F.R. § 563.180(d)(3) (filing of suspicious activity reports (SARs) in accordance with instructions);
- C. 31 C.F.R. § 103.121 and 12 C.F.R. § 563.177(b)(2) (inclusion or incorporation of an adequate customer identification policy within the Bank Secrecy Act² (BSA) Program);

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

- D. 12 C.F.R. § 563.177(c)(1) (a system of internal controls to ensure ongoing compliance with the BSA);
- E. 12 C.F.R. § 563.177(c)(4) (ongoing BSA training for all appropriate personnel); and
- F. 12 C.F.R. § 563.177(c)(3) (designation of a BSA officer who could coordinate and monitor day-to-day compliance with BSA requirements).

IT IS FURTHER ORDERED THAT:

CORRECTIVE PROVISIONS

2. Audit Committee and Board Review of Reports

- A. The Bank's Audit Committee shall review all internal audit reports, compliance reviews, BSA independent tests, loan reviews, external audits, and information technology audits and annual reports, by no later than 30 days after field work completion, and review of OTS examination reports (collectively referred to as external and internal review reports), and perform the functions in the Bank's Amended and Restated Audit Committee Charter adopted on November 12, 2004. The Audit Committee shall consist only of outside directors.
- B. The Board shall consider all external and internal review reports at the next scheduled Board meeting following receipt of final reports unless regulatory requirements, Bank's policy, or an OTS directive require an earlier review. Independent audit and review reports shall be addressed to the Audit Committee or the Board of Directors.
- C. By no later than the 20th day after the end of the quarter, the Board shall submit a report to OTS that addresses (i) the findings of all final external or internal review reports; (ii) the corrective actions required; and (iii) the status of the corrective actions. The Board shall include with this report copies of all external and internal review reports.

3. Compliance Officer

- A. The Board shall retain a qualified individual to serve as a full-time Compliance Officer of the Bank and to report directly to the Audit Committee, and with responsibilities in the position description approved by the Board on November 12, 2004.
- B. Beginning June 30, 2005, and annually thereafter, the Board shall annually review and determine whether the Bank's compliance department is adequately staffed with qualified personnel, including any outsourced assistance, and whether Bank staff is receiving adequate training on applicable regulations, policies, and procedures.

² Currency and Foreign Transactions Reporting Act, as amended by USA Patriot Act and other laws (the Bank Secrecy Act or BSA), 31 U.S.C. §§ 5311 *et seq.*

4. BSA Compliance Program

By June 30, 2005, and annually thereafter, the Board shall review its Bank Secrecy Act and Anti-Money Laundering Policy and Procedures (BSA Program), adopted on November 22, 2004, to ensure that the BSA Program addresses compliance by the Bank and its subsidiaries with BSA and the regulations issued thereunder by the U.S. Department of the Treasury, 31 C.F.R. §§ 103.11 *et seq.*, and the related BSA regulation issued by the OTS, 12 C.F.R. § 563.177 (collectively with the aforementioned laws and regulations, the BSA Laws and Regulations), and make the appropriate revisions. The Bank must submit the revised BSA Program to OTS within 30 days after revision. Such review shall include, but not be limited to the following:

- A. Assessment of the Bank's anti-money laundering risks;
- B. Recommendations of the Bank's outside compliance consultant;
- C. Effective internal controls implemented to ensure compliance with BSA Laws and Regulations and to minimize the risk of money laundering and terrorism financing;
- D. Independent testing of BSA functions on no less than an annual basis by the current or another qualified outside consultant or qualified independent employee, and follow-up on correction of independent test deficiencies;
- E. Adequate staffing, including the designation of a qualified BSA officer(s) responsible for coordinating and monitoring day-to-day compliance with BSA Laws and Regulations and the BSA Program in accordance with Paragraph 5 of this Order;
- F. Timely and comprehensive training of senior management and personnel who are involved in customer transactions or BSA functions in accordance with Paragraph 6 of this Order, and training of all directors;
- G. Clear written delegation of responsibility for management oversight of all BSA reporting and filing functions; and
- H. Regulatory changes, if any.

5. BSA Compliance Program Staffing and Resources

- A. By June 30, 2005, the designated BSA officer shall provide a detailed report to the Board regarding implementation of BSA Program in 2004, including but not limited to: (i) CTR exemptions; (ii) changes in BSA Laws and Regulations and the Bank's procedures; (iii) certification regarding compliance with BSA training in accordance with Paragraph 6; (iv) compliance with recordkeeping requirements; and (v) filing of CTRs and SARs. Thereafter, the BSA officer shall provide semi-annual reports. The Board shall submit to OTS a copy of these reports.

- B. Beginning August 31, 2005, the Board must review the BSA officer position, on an annual basis, to determine whether the recently hired designated BSA officer(s) and related staff are coordinating and monitoring BSA compliance on a day-to-day basis and whether additional resources and training are necessary. The Board shall submit to OTS a copy of its findings within 30 days after completion of the review.

6. **BSA Training**

- A. The Board shall implement the two-year comprehensive training program for the Bank approved on November 22, 2004, for (i) all officers, and employees who are involved in a BSA function or customer transactions and (ii) each director (BSA Training Program).
- B. No later than June 30, 2005, and no less frequently than semi-annually thereafter, the BSA Officer shall submit a written report to the Board that (i) sets forth scope and frequency of training under the BSA Training Program, (ii) evaluates the effectiveness of the BSA Training Program, and (iii) addresses deficiencies noted in the BSA Training Program by the external and internal review reports. No later than 30 days after receipt of this report, the Board shall submit to OTS the training report and a summary of the actions taken to address any deficiencies.

7. **Suspicious Activity Reports**

The Bank and its subsidiaries shall comply with 12 C.F.R. § 563.180(d)(3) and 31 C.F.R. § 103.18(b) regarding the filing of SARs in accordance with the instructions of OTS Form 1601.

BOARD OF DIRECTORS

8. **Directors and Board Responsibility**

Notwithstanding the requirements of this Order that the Board submit various matters to the Regional Director for the purpose of receiving approval, notice of 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 Bank at all times, including compliance with the determinations of the Regional Director as required by this Order.

9. **Compliance with Order**

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

- B. The Board, on a quarterly basis, beginning with the quarter ending March 31, 2005, shall adopt a board resolution (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 quarter, the Bank has complied with each provision of this Order currently in effect, except as otherwise stated. The Compliance Resolution shall specify in detail how, if at all, full compliance was found not to exist, and identify all notices of exemption or non-objection issued by the Regional Director, or his or her designee, 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 director's reasoning for opposing or abstaining.
- D. The Bank shall provide to the Regional Director a certified true copy of each Compliance Resolution as adopted by the Board within 20 calendar days of the Board meeting at which the Compliance Resolution was adopted. The Board, by virtue of the Bank'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 Directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the Bank.

MISCELLANEOUS

10. Definitions

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

11. Successor Statutes, Regulations, Guidance, Amendments

Reference in this Order 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.

12. **Effective Date**

This Order is and shall become effective on the Effective Date, as shown in the caption hereof.

13. **Notices**

A. Except as otherwise provided herein, any request, demand, authorization, directive, 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:

1. The OTS, by the Bank, 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, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062-2327 or telecopied to (972) 277-9501;
2. The Bank, 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 Bank, 611 College Street, Dickson, Tennessee 37055, or telecopied to (615) 446-3200.

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 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.

14. **Time Limits**

Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted. The Regional Director or the assigned Regional Deputy Director or Assistant Director may extend any time limits set forth in this Order by specifically granting that extension in writing.

15. **No Violations Authorized; OTS Not Restricted**

Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping OTS from taking any action(s), including without limitation any actions that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

16. **Incorporation**

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

17. **OTS Review of Actions Required**

The Regional Director or the assigned Regional Deputy Director or Assistant Director may provide a written notice of nonobjection or objection, or request additional information with respect to any submission to OTS required by this Order.

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

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.

OFFICE OF THRIFT SUPERVISION

By: *FR Casteel*
Frederick R. Casteel
Regional Director
Midwest Region