

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION  
DEPARTMENT OF THE TREASURY

In The Matter Of:	)	
Daniel K. Augustine	)	Re: Resolution No. CHI-92-18
Former Officer,	)	Dated: May 27, 1992
Director and Institution-	)	
Affiliated Party of:	)	
First Savings of America,	)	
Orland Park, Illinois	)	

**STIPULATION AND CONSENT TO  
ISSUANCE OF ORDER TO CEASE AND DESIST**

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Central Region, and Daniel K. Augustine ("Augustine"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that the grounds exist to initiate an administrative cease-and-desist proceeding against Augustine, pursuant to Section 8(b) of the Federal Deposit Insurance Act (the "FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183 (Aug. 9, 1989), 12 U.S.C. § 1818(b), and the pre-FIRREA version of Section 407(e) of the National Housing Act, as amended ("NHA"), 12 U.S.C. § 1730(e). Augustine desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying that such grounds exist, Augustine hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such

administrative cease and desist litigation against Augustine.

2. Jurisdiction. The OTS is of the opinion that:

(a) First Savings of America, Orland Park, Illinois ("First Savings"), was a stockholder-owned, state chartered savings association organized under the laws of the State of Illinois.

(b) Until August 9, 1989, the accounts of First Savings were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") pursuant to Section 403(b) of the NHA, 12 U.S.C. § 1726(b), by reason of which it was an "insured institution" within the meaning of the NHA, 12 U.S.C. § 1724.

(c) Until August 9, 1989, the Federal Home Loan Bank Board ("FHLBB"), as operating head of the FSLIC, was the regulatory agency with jurisdiction to maintain an enforcement proceeding against First Savings and persons participating in the conduct of its affairs, including Augustine, pursuant to Sections 403 and 407 of the NHA, 12 U.S.C. §§ 1726 and 1730.

(d) The OTS is the successor in interest to the FHLBB by virtue of Section 401(f) of the FIRREA, and Section 3 of the Home Owners' Loan Act ("HOLA"), as amended by Section 301 of the FIRREA, 12 U.S.C. § 1462a.

(e) As successor in interest to the FHLBB, the OTS, as the "appropriate federal banking agency," by and through its Director, has the authority to apply the remedies set forth in Section 8(b) of the FDIA, as amended by the FIRREA, 12 U.S.C. § 1818(b), and Section 407(e) of the NHA, 12 U.S.C. § 1730(e).

(f) During the period from December, 1984, through on or about March 12, 1986, Augustine acted as Executive Vice President and Managing Officer of First Savings. Throughout his tenure as Managing Officer, Augustine participated in all meetings of the Board of Directors of First Savings and communicated with regulatory authorities on behalf of the directors of First Savings. During the period from September 6, 1985, through on or about May 22, 1986, Augustine acted as director of First Savings. During the period from September 6, 1985, through or about October, 1985, Augustine acted as director of First Savings Financial Corporation, a wholly-owned subsidiary of First Savings.

(g) At all times pertinent hereto, Augustine was an officer and/or director of First Savings and participated in the conduct of the affairs of First Savings. Accordingly, Augustine is subject to the jurisdiction of the OTS to maintain an enforcement proceeding against persons participating in the conduct of the affairs of First Savings. 12 U.S.C. § 1730(e); 12 U.S.C § 1818(b).

(h) The OTS alleges that, by March 1985, Augustine was aware that many of First Savings' largest loans were not supported by appraisals which conformed to regulations and Memorandum R41b of the FHLBB. The OTS further alleges that, despite his knowledge of these deficient practices, Augustine, as a director of First Savings, voted to approve at least three loans that were not supported by adequate appraisals. The OTS

further alleges that, in voting to approve these loans without an adequate appraisal, Augustine breached his fiduciary duties, engaged in unsafe or unsound practices, and recklessly or knowingly violated federal and state regulations.

3. Consent. Augustine consents to the issuance by the OTS of the accompanying Order to Cease and Desist ("Order"), a copy of which is attached hereto and incorporated as Exhibit A. He further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director for the Central Region, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i)(1) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(i)(1).

5. Waivers. Augustine waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the Regional Director for the Central



UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION  
DEPARTMENT OF THE TREASURY

In The Matter Of:	)	
Daniel K. Augustine	)	Re: Resolution No. CHI-92-18
Former Managing Officer,	)	
Director and Institution	)	Dated: May 27, 1992
Affiliated Party of:	)	
	)	
First Savings of America,	)	
Orland Park, Illinois	)	

**ORDER TO CEASE AND DESIST**

WHEREAS, Daniel K. Augustine ("Augustine") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the Central Region; and

WHEREAS, without admitting or denying that the grounds exist therefor, Augustine has consented and agreed in the Stipulation to the issuance of this Order to Cease and Desist ("Order"), pursuant to Section 8(b) of the Federal Deposit Insurance Act (the "FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183 (Aug. 9, 1989), 12 U.S.C. § 1818(b), and the pre-FIRREA version of Section 407(e) of the National Housing Act, as amended ("NHA"), 12 U.S.C. § 1730(e);

NOW THEREFORE, IT IS ORDERED that:

1. Augustine shall cease and desist from any acts, omissions, or practices involving failure to comply with Federal and state

regulations, guidelines or standards relating to appraisals used in transactions by a Federally insured depository institution, or any holding company thereof, including, but not limited to, 12 C.F.R. § 563.90, 12 C.F.R. § 563.170(c)(1)(iv), 12 C.F.R. Part 564, 12 C.F.R. § 571.1, and Ill. Admin. Code, tit. 38, ch. III, § 400.510, as well as any successor statutes and regulations and the common law.

2. Augustine shall cease and desist from violating the standards governing safe or sound operations, as set forth in 12 C.F.R. § 563.161(a), as well as any successor regulations.

3. Augustine shall provide a copy of this Order to his current employer within ten days of the effective date of this Order. Augustine shall provide a copy of this Order to each insured depository institution, or other related entity identified in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), from which he is seeking employment as an employee, consultant or director, upon the initial presentation by Augustine of his resume, application and/or credentials, or their functional equivalents.

4. From the effective date of this Order, Augustine shall promptly respond to any request from the OTS for documents under Augustine's control, or that he can reasonably obtain, that the OTS reasonably requests to demonstrate compliance with this Order.

5. This Order shall become effective on May 20, 1992.

6. This Order shall remain in effect until modified or terminated by OTS.

