

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

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In the Matter of )

RICHARD C. STRAUSS, )

A former advisory director of )  
Gibraltar Savings Association, )  
Houston, Texas, and First Texas )  
Savings Association, Dallas, Texas.)

OTS Order No. AP-92-168

Dated: December 29, 1992

ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision ("OTS") has conducted an investigation into the affairs of Gibraltar Savings Association of Houston, Texas ("Gibraltar") and First Texas Savings Association of Dallas, Texas ("First Texas") (collectively referred to herein as "Gibraltar/First Texas") pursuant to Sections 4 and 5 of the Home Owners' Loan Act ("HOLA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, P.L. 101-73 (August 9, 1989) ("FIRREA"), pursuant to Resolution Nos. DAL 90-25 and DAL 90-26 issued on December 27, 1990; and

WHEREAS, Gibraltar and First Texas were savings associations as that term is now defined by Section 3(b)(1) of the Federal Deposit Insurance Act ("FDIA"), as amended by FIRREA, 12 U.S.C. § 1813(b)(1), and were also

insured-institutions, as that term was defined by Section 401(a) of the National Housing Act ("NHA"), repealed by FIRREA, formerly 12 U.S.C. § 1724(a), whose accounts were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") and, after August 9, 1989, by the Savings Association Insurance Fund (collectively referred to herein as the "Fund"); and

**WHEREAS**, Gibraltar and First Texas were placed in receivership with the FSLIC in December 1988, following which certain of their assets and liabilities were transferred to a new institution, First Gibraltar Bank FSB, Dallas, Texas ("First Gibraltar"); and

**WHEREAS**, after investigation, OTS is of the opinion that violations of regulation or law, unsafe and unsound practices and/or breaches of fiduciary duty in the conduct of the business of an insured depository institution have occurred that resulted in damage to Gibraltar/First Texas and First Gibraltar, as set forth in the Notice of Charges ("Notice"), attached hereto, incorporated by reference herein and issued concurrently herewith pursuant to 12 U.S.C. §1818(b); and

**WHEREAS**, Richard C. Strauss, the Respondent hereinafter, without admitting or denying the allegations of the Notice, has knowingly, voluntarily and after consultation with counsel of his choice, agreed to the entry of this Order and to abide by the terms thereof, which consent is set forth in the Consent to Entry of Order to Cease and Desist, of even date herewith;

NOW THEREFORE, it is ORDERED that:

1. Respondent shall pay restitution in accordance with the settlement agreement entered into with the Federal Deposit Insurance Corporation, as receiver for Gibraltar/First Texas in the amount of Four Million Five Hundred Thousand Dollars (\$4,500,000.00), the payment terms of which are incorporated herein by this reference.

2. Upon becoming and while serving as an institution-affiliated party of a federally insured depository institution (hereinafter "institution"), Respondent shall:

a. at least annually, and with a continuing obligation in the event of a change of circumstances, make full disclosure to the institution and each member of the board of directors of any and all loans, investments, partnership interests, stock ownership, and any other business relationships that the Respondent, or any member of his immediate family, has that constitutes a conflict of interest with the institution or the appearance of same as governed by 12 C.F.R. §571.7 (or any regulation made applicable to such conduct by the appropriate Federal banking agency, as well as any successor statutes and regulations).

b. abstain from voting on or participating in any manner

in any proposals, transactions or other matters in which Respondent has an existing or prospective financial or personal interest or may experience a direct or indirect benefit (except such indirect benefit as may be received by virtue of being a shareholder of the institution for which he is an institution-affiliated party).

c. prior to any action being taken by the Board of Directors, a Board Committee or management that binds or obligates the institution, fully disclose to the full Board of Directors, his financial or other personal interest in the transaction, matter or proposal subject to subparagraph b. and any interest or involvement in any aspect of such transaction, matter or proposal and cause all such disclosures to be reflected in the corporate minutes of the institution.

d. cause to have reduced to writing any legal opinion or opinion of any compliance officer addressing or relating to any transaction subject to subparagraph b and include such opinion as part of the minutes recording the consideration of or action on any such transaction, matter or proposal.

e. not engage in any transaction subject to subparagraph b. which represents an opportunity of present or potential practical advantage to the institution to perform itself or through its service corporation as contemplated by 12 C.F.R. §571.9 or any regulation made applicable to such circumstances

by the appropriate Federal banking agency or any successor provision thereto.

3. When serving or functioning as an officer or director of any insured depository institution, Respondent shall take all necessary steps within his authority to cause an adequate system of procedures, policies and controls to exist at the institution to ensure that management, officers and directors conduct institution affairs in a manner that (a) independently assesses and determines the safety and soundness of any transaction involving the institution and an institution-affiliated party, (b) assures that the transaction is not dependent on information obtained from the institution-affiliated party that has not been independently verified; and (c) assures that all such assessments, determinations and verifications (i) occur before any action is taken by the Board, a Board Committee or management that binds the institution and (ii) are recorded in appropriate institution files or records.

4. After the date of the entry of this Order, Respondent shall notify the Regional Director of the Dallas Office of the OTS of any and all positions as advisory director, director or officer that he assumes or functions in at any institution.

5. (a) Concurrent with Respondent's execution of the Consent to Cease and Desist Order, Respondent shall submit an

affidavit, executed under oath by Respondent and subject to the penalties for false statements and perjury under 18 U.S.C. §§ 1001 and 1621, stating, to the best of his knowledge and belief after due inquiry, that the financial statement of November 30, 1992 was true and correct when made and that as of the date of the Consent no material change in Respondent's financial condition has occurred since November 30, 1992. A falsely sworn affidavit shall be considered a violation of the Order.

(b) If, after notice, the OTS determines that the financial disclosures submitted by Respondent pursuant to paragraph 5(a) materially understate Respondent's net worth as of the date of this Order because of an intentional or reckless (i) omission of one or more assets; (ii) undervaluation of one or more listed assets; or (iii) overvaluation of one or more listed liabilities, Respondent shall (i) forfeit such undisclosed asset to the OTS or the FDIC, either by transferring such undisclosed asset to the OTS or FDIC or compensating the OTS or the FDIC for the full value of the undisclosed asset (including interest or other income generated by the asset) as if such asset had been transferred as of the date of this ORDER; (ii) pay to the OTS or the FDIC the cash equivalent of the undervaluation of any undervalued assets; or (iii) pay to the OTS or the FDIC the cash equivalent of any overvaluation of any overvalued liability. OTS further reserves its rights to enforce through any administrative or civil actions, or to make any criminal referrals, against Respondent, including, but not limited to, an administrative action against Respondent for

civil money penalties under 12 U.S.C. § 1818(i) for violation of this paragraph of the Order. In any proceeding to enforce this paragraph of the Order, Respondent retains any applicable right to contest the OTS's determination of an intentional or reckless material understatement of his net worth.

6. This Order shall become effective on the date it is issued.

Dated:

*December 29, 1992*

*JS*  
Jonathan L. Fiechter  
Acting Director  
Office of Thrift Supervision