

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	
Transohio Savings Bank)	Resolution No.: CIN 91-8
Cleveland, Ohio)	Dated: February 26, 1991
TransCapital Financial Corporation)	
Miami, Florida)	
American Capital Corporation)	
Miami, Florida)	
_____)	

STIPULATION AND CONSENT TO ISSUANCE OF CONSENT ORDER

The Office of Thrift Supervision ("OTS"), by and through its Deputy Regional Director for the Cincinnati District Office, and Transohio Savings Bank, Cleveland, Ohio ("Transohio"), TransCapital Financial Corporation, Miami, Florida ("TransCapital"), and American Capital Corporation, Miami, Florida ("AmCap"), 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 proceeding against Transohio, TransCapital and AmCap pursuant to the Federal Deposit Insurance Act, § 8(b), 12 U.S.C.A. § 1818(b) (West 1989). Transohio, TransCapital and AmCap desire to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting that such grounds exist, hereby stipulate and agree

to the following terms in consideration of the forbearance by the OTS from initiating such administrative litigation against Transohio, TransCapital and AmCap with respect to the matters covered in the accompanying Consent Order which is incorporated herein by reference and made a part hereof.

2. Jurisdiction.

(a) Transohio is a "savings association" and an "insured depository institution" as defined by 12 U.S.C.A. §§ 1462 and 1813 (West 1989).

(b) TransCapital and AmCap are savings and loan holding companies as defined by 12 U.S.C.A. §§ 1813(w) and 1841 (West 1989).

(c) The Director of the OTS is the "appropriate Federal Banking agency" to maintain administrative proceedings against Transohio, TransCapital and AmCap pursuant to 12 U.S.C.A. § 1818(b) (West 1989).

3. Consent. Transohio, TransCapital and AmCap consent to the issuance by the OTS of the Consent Order. They further agree to comply with the terms of the Consent Order upon issuance and stipulate that the Consent Order complies with all requirements of law.

4. Finality. The Consent Order is issued under 12 U.S.C.A. § 1818(b) (West 1989). Upon its issuance by the Cincinnati District Office, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C.A. § 1818(i) (West 1989).

5. Waivers. Transohio, TransCapital and AmCap waive their rights to a notice of charges and the administrative hearing provided by 12 U.S.C.A. § 1818(b) (West 1989), and further waive their rights to seek judicial

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
)

Transohio Savings Bank)
Cleveland, Ohio)

TransCapital Financial Corporation)
Miami, Florida)

American Capital Corporation)
Miami, Florida)

OTS Resolution No: CIN 91-8

Dated: February 26, 1991

CONSENT ORDER

WHEREAS, Transohio Savings Bank, Cleveland, Ohio ("Transohio"), American Capital Corporation, Miami, Florida ("AmCap"), and TransCapital Financial Corporation, Miami, Florida ("TransCapital"), through their directors, have entered into a Stipulation and Consent to Issuance of a Consent Order ("Stipulation") that is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Deputy Regional Director for the Cincinnati District and is incorporated herein by reference; and

WHEREAS, Transohio, AmCap and TransCapital, in the Stipulation, without admitting any of the allegations of OTS, have consented and agreed to the issuance of this Consent Order ("Order") pursuant to the Federal Deposit Insurance Act, §8(b), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C.A. §1818(b) (West 1989) and have agreed to be bound by the terms hereof.

NOW, THEREFORE, IT IS ORDERED that:

1. Transohio's board of directors shall be comprised of a majority of outside directors. For the purpose of this Order, outside directors are defined as directors who are not then salaried officers of the institution, officers, directors, principals, consultants, attorneys or agents of TransCapital or AmCap, or FGI Voting Trust (FGI) or their subsidiaries, or any other affiliates of Transohio, and not 5% or more shareholders, directly or indirectly, of TransCapital, AmCap, or FGI. One director on Transohio's board may be an officer or employee of AmCap. Such appointment and any other appointment to Transohio's board cannot be made without receiving the prior written approval of the Deputy Regional Director or his designee. All such appointments are subject to a determination by the Deputy Regional Director or his designee that they are in the best interests of Transohio, including but not limited to a consideration of conflicts of interest, and the guidelines promulgated by the OTS pursuant to §914 of FIRREA, 12 U.S.C.A. §1831i (West 1989).
2. Transohio's board of directors shall meet on a regular basis (not less frequently than one time in each calendar month) to review the prior month's operations, consider loan applications as required, consider the need for policy changes, evaluate management's compliance with existing board policies and procedures, provide timely responses to regulatory correspondence and inquiries, and take all other actions deemed appropriate by the board of

directors. In taking such actions, Transohio's board of directors shall give appropriate consideration and effect to §140 of the FHLBS Thrift Activities Handbook, "Oversight by Board of Directors," as well as to the "OTS Director Information Guidelines." Minutes of board and committee meetings shall document all actions and decisions. The board of directors will submit a draft of such minutes to the Deputy Regional Director or his designee within seven (7) business days from the date of each such meeting.

3. Transohio shall not hire in any capacity any officers, directors, principals, consultants, attorneys or agents of TransCapital or AmCap without the prior written approval of the Deputy Regional Director or his designee. This does not prohibit Transohio from retaining accounting firms, legal firms, consulting or investment banking firms used by AmCap or TransCapital, for purposes solely related to Transohio, as long as retention of such firms is consistent with prudent operating practices of a federally-insured financial institution.
4. Without the prior written approval of the Deputy Regional Director or his designee, Transohio shall not hire any new executive officer, nor enter into, amend, or renew any employment contracts or severance agreements with any executive officers. Executive officers shall be deemed to be the President, Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, and all Executive Vice Presidents of Transohio or other persons serving in similar capacities.

5. Transohio shall neither declare nor pay any dividends nor make any capital distributions without the prior written approval or written non-objection of the Deputy Regional Director or his designee which approval shall be governed by the then applicable OTS regulation as to the payment of dividends and capital distributions.
6. (a) Transohio shall not pay any fees, including salaries, expenses or any portion thereof, or fees to attorneys, consultants or advisors, to or on behalf of, TransCapital, AmCap, or FGI, or any existing or prior director, principal, or officer thereof, without the prior written approval of the Deputy Regional Director or his designee. The foregoing shall not apply to payment of fees for matters solely related to the business of Transohio, however, for any such fees, Transohio shall give ten (10) days prior written notice to the Deputy Regional Director or his designee. Any bills submitted to Transohio by any of the above persons or entities must clearly demonstrate that such services were rendered for and were authorized by Transohio.
- (b) Transohio shall not provide any of its officers and/or directors any advance funds for attorneys' fees or other costs of litigation except as such fees or costs are actually incurred, upon receipt by Transohio of the undertaking described in Ohio Revised Code §1701.13(E)(5), and upon Transohio giving ten (10) days prior notice to the Deputy Regional Director or his designee.

7. Within thirty (30) days of the issuance of this Order, Transohio shall submit a detailed business plan to the Deputy Regional Director or his designee for approval. The plan must contain comprehensive narrative discussions of each significant activity and strategy to be used by Transohio and must, at minimum, provide objectives for the following:
- a. Reduction of classified assets and correction of deficiencies in those assets designated Special Mention;
 - b. Reduction of levels of concentrations of credit criticized by the most recently received Reports of Examination of the OTS and the FDIC;
 - c. Maintenance of general valuation allowances, pursuant to 12 C.F.R. §563.160(c);
 - d. Correction of the criticisms set forth in the most recently received Reports of Examination of the OTS and the FDIC and the implementation of procedures to assure continuation of future correction;
 - e. Continuation of measures to strengthen internal controls including timely reconciliations of all general ledger accounts; and
 - f. Detailed strategies designed to improve liquidity, and address dependency on volatile and/or high-cost liabilities.

Detailed quarterly schedules showing actual and planned asset and liability mixes, yield and cost data, and capital positions, must be supplied. Projected operating results by quarter for a 3-year

period for Transohio and its subsidiaries must be submitted.

On a quarterly basis, Transohio's board shall compare actual operating results to projected amounts and provide detailed written variance analyses to the Deputy Regional Director within forty-five (45) days of the close of each quarter.

8. Transohio shall disclose to and notify the Deputy Regional Director or his designee of any proposed affiliated transactions between Transohio and its holding companies and any other affiliated parties, other than Transohio's service corporations.
9. Transohio agrees not to implement or undertake any transaction, activity, plan or strategy, which has been approved by the board of directors, that will result in a material change to the business plan submitted and approved pursuant to this Order, unless such transaction, activity, plan or strategy is not objected to in writing by the Deputy Regional Director or his designee. In addition, Transohio agrees to notify the Deputy Regional Director or his designee within ten (10) business days of the presentation to the board of directors of any proposal for any transaction, activity, plan or strategy that would have a material impact on the operations or financial condition of Transohio. Such notification shall be in sufficient detail to fully explain the proposal, indicate its originator or advocate, and indicate the direct or indirect benefits to Transohio, its affiliates, shareholders or other controlling persons or entities. Any transaction, activity, plan or strategy presented to the Deputy Regional Director or his

designee for authorization, which is not otherwise subject to prior OTS approval or non-objection, (a) shall be processed and decided by the Deputy Regional Director or his designee within thirty (30) business days unless it is an emergency matter requiring a more prompt decision; and (b) shall be authorized by the OTS unless the Deputy Regional Director or his designee has a basis to determine that such transaction, activity, plan or strategy would violate applicable laws, rules or regulations or constitute an unsafe and unsound practice.

Until the Deputy Regional Director or his designee accepts a satisfactory business plan, Transohio shall operate pursuant to an interim business plan adopted by resolution of Transohio's board of directors dated February 19, 1991, and incorporated herein by reference.

10. Any request for an exception to any restriction herein must receive the prior written approval of Transohio's board of directors and the Deputy Regional Director or his designee. Transohio's board shall approve such request prior to submission to the Deputy Regional Director or his designee.

The Supervisory Directives issued by the OTS by letters dated August 10, 1990, September 17, 1990, September 13, 1990, November 7, 1990, and November 29, 1990, are hereby superseded by this Order. Nothing contained in this Order shall prevent the OTS from taking additional supervisory action on matters not specifically covered by this Order, as deemed appropriate under the then present circumstances. Moreover, Transohio,

AmCap, and TransCapital in no way waive, release, settle, or otherwise compromise their rights under that certain Assistance Agreement dated August 29, 1986, entered by and among TransOhio, AmCap, TransCapital, and the Federal Savings and Loan Insurance Corporation, and any stipulations, forbearances, and litigation related thereto.

All technical words or terms used in this Order, for which meanings are not specified shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act, or Federal Deposit Insurance Act, and any such technical words or terms used in this Order, and undefined by said statutes, rules, regulations or OTS memoranda, shall have meanings that accord with the best custom and usage in the savings and loan industry.

OFFICE OF THRIFT SUPERVISION

/S/

Thomas A. Hamilton
Deputy Regional Director
Cincinnati District Office
Office of Thrift Supervision