

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In The Matter Of:)

NEWPORT SAVINGS AND LOAN ASSOCIATION)
Newport, Rhode Island)
OTS No. 05652)

and)

ISLAND TRUST COMPANY)
Newport, Rhode Island)

Re: Resolution No. JC(B)- 91-29

Date: *December 19, 1991*

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 Northeast Regional Office ("Regional Director"), Newport Savings and Loan Association, Newport, Rhode Island ("Newport" or the "Institution"), and Island Trust Company, Newport, Rhode Island ("Island Trust" or "ITC") stipulate and agree as follows:

1. Consideration

The OTS, based upon information reported to it, is of the opinion that grounds exist for it to initiate administrative cease and desist proceedings against Newport and Island Trust pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. 1818(b). Newport and Island Trust, desiring to cooperate with the OTS and to avoid the time and expense of such administrative proceedings or litigation, and without admitting or denying any unsafe or unsound practices or violation of law and/or regulations

hereby stipulate and agree to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease and desist proceedings or litigation against them with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction

Newport is 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, 12 U.S.C. 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, 12 U.S.C. 1813(c)(2). Island Trust is a "subsidiary" of Newport within the meaning of Section 3(w)(4) of the FDIA, 12 U.S.C. 1813(w)(4) and a "service corporation" of Newport within the meaning of 12 C.F.R. 561.45. Pursuant to Section 3(q)(4) of the FDIA, 12 U.S.C. 1813(q)(4), the Director of OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such a savings association. Moreover, pursuant to Section 8(b)(8) of the FDIA, 12 U.S.C. 1818(b)(8), the authority to take such enforcement actions also applies to proceedings against inter alia, subsidiaries and service corporations of savings associations. Therefore, Newport and Island Trust are subject to the authority of the OTS to initiate and maintain cease and desist proceedings against them pursuant to Section 8(b) of the FDIA, 12 U.S.C. 1818(b).

3. Consent

Newport and Island Trust consent to the issuance by the OTS of the Order. They further agree to comply with the terms of the Order upon issuance and stipulate that the Order complies with all requirements of law.

4. Finality

The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. 1818(b). Upon its issuance by the OTS, it shall be a final order, effective and fully enforceable by the OTS under Section 8(i) of the FDIA, U.S.C. 1818(i).

5. Waivers

Newport and Island Trust waive their right to a notice of charges and the administrative hearing provided by Section 8(b)(1) of the FDIA, 12 U.S.C. 1818(b)(1), and further waive any right to seek judicial review of the Order, including any such right provided in Section 8(h) of the FDIA, 12 U.S.C. 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, Newport, by a majority of its board of directors, and Island Trust, by a majority of its board of directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

NEWPORT SAVINGS AND LOAN ASSOCIATION

By a majority of its
Board of Directors:

By: / S /
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Angelo A. Vigna
Northeast Regional
Director

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ISLAND TRUST COMPANY
By a majority of its
Board of Directors:

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NEWPORT SAVINGS AND LOAN ASSOCIATION
Newport, Rhode Island
OTS No. 05652

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ISLAND TRUST COMPANY
Newport, Rhode Island

Re: Resolution No. JC(B)-91-29
Date: *December 19, 1991*

ORDER TO CEASE AND DESIST

WHEREAS, Newport Savings and Loan Association, Newport, Rhode Island ("Newport" or the "Institution") and Island Trust Company, Newport, Rhode Island ("Island Trust" or "ITC"), through their respective boards of directors, have 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 Northeast Regional Office ("Regional Director"); and

WHEREAS, the Institution and ITC, in the Stipulation, have consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. 1818(b);

NOW THEREFORE, IT IS ORDERED that:

I. CEASE AND DESIST PROVISIONS

The Institution and ITC, their directors, officers, employees, agents, successors, assigns and other persons participating in the conduct and affairs of the Institution and ITC, and their service corporations, shall cease and desist from:

A. Engaging in any of the following unsafe and unsound banking practices and/or violations of law, and from aiding and abetting in the same:

- (1) operating in an unsound and unsafe financial condition as evidenced by poor financial operating ratios, substantial operating losses and significant deterioration of asset quality;
- (2) failing to maintain adequate internal controls;
- (3) failing to develop and implement an effective loan review and asset classification system;
- (4) failing to establish and maintain adequate general loss reserves; and
- (5) failing to adhere to the provisions of the Supervisory Agreement entered into with the Federal Savings and Loan Insurance Corporation, the predecessor agency of the OTS, on March 15, 1989 (the "Supervisory Agreement").

B. Violating the following statutes and regulations, and from aiding and abetting in the same:

- (1) 12 C.F.R. 563.93, regarding lending limitations on loans to one borrower;
- (2) 12 C.F.R. 563.160, regarding internal

classification of assets and reserves;

- (3) 12 C.F.R. 563.170, regarding establishment and maintenance of records relating to loans (including in particular, 12 C.F.R. 563.170(c)(1)(iv), (v), (ix) and (xi), regarding appraisal reports, financial statements, title opinions, and insurance records, respectively);
- (4) 12 C.F.R. 563.172, regarding re-evaluation of assets and adjustment of book value;
- (5) 12 C.F.R. 563.176, regarding interest rate risk management procedures; and
- (6) 12 C.F.R. 564.8(c)(3), regarding review of appraisers' performance.

II. AFFIRMATIVE CORRECTIVE ACTION

IT IS FURTHER ORDERED THAT the Institution and ITC, their directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of the affairs of the Institution and ITC, take affirmative corrective action as follows:

A. Management

1. Within ninety (90) days from the effective date of this Order, the Boards of Directors ("Boards") of Newport and ITC shall develop and submit to the Regional Deputy Director for the Boston Office of OTS ("Regional Deputy Director") a written analysis and assessment of the Institution's and ITC's management and staffing needs ("Management Plan") which shall include, at a minimum:

- a. identification of both the type and number of

- officer positions needed to properly manage and supervise the affairs of the Institution and ITC;
- b. evaluation of each Institution and ITC officer and senior staff member to determine whether these individuals possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to applicable regulatory provisions and the Institution's and ITC's established policies and practices, and maintenance of the Institution and ITC in a safe and sound condition;
 - c. an analysis of management's strengths and weaknesses, including an assessment of current compensation and organizational structure;
 - d. an assessment of senior management staff's ability to effectively manage and resolve current problems confronting the Institution and ITC;
 - e. a plan of action to recruit and hire any additional or replacement personnel with the ability, experience, and other qualifications which the Boards determine are necessary to fill Institution and ITC officer and senior staff member positions; and
 - f. a requirement that the Boards (or committees thereof, a majority of whom are not officers or employees of the Institution or ITC ("outside directors")) provide supervision over the lending, investment and operating policies of the

Institution and ITC sufficient to ensure that the Institution and ITC comply with the terms of this Order.

2. Each Board shall approve its respective Management Plan, and such approval shall be recorded in the appropriate Board minutes. Any modification shall become effective when approved by the appropriate Board, and such approval shall be recorded in the appropriate Board minutes. Each Board shall notify the Regional Deputy Director of all material modifications to its Plan. The Institution and ITC, their directors, officers and employees shall implement and follow the respective Management Plan and/or any subsequent modification thereto.

B. Compensation

3. Within ninety (90) days from the effective date of this Order, the Boards shall develop, adopt and submit to the Regional Deputy Director for review, a Compensation Policy ("Compensation Policy"). The Compensation Policy shall include at a minimum: (a) job descriptions, detailing the requirements of each management position; (b) pay scales for each management position (including the criteria used (i.e. industry standards) in the development of the pay scales); (c) should the policy contain a provision for the payment of bonuses, a bonus policy with clear and specifically detailed qualifiable and quantifiable goals and objectives and/or measures of performance that must be met prior to granting bonuses; and (d) established parameters for travel, entertainment and miscellaneous officer and employee expenses

which shall require pre-approval by the Boards (or committees thereof, a majority of whom are outside directors). No bonuses shall be paid until the Compensation Policy has been reviewed by the Regional Deputy Director.

C. Loans to One Borrower

4. The Institution and ITC shall make no loans in excess of the amounts permitted by 12 U.S.C. 84 and 12 C.F.R. 563.93 regarding loans to one borrower. Further, the Institution and ITC shall review their loan portfolios to identify any loans currently in excess of said limitations, and, within sixty (60) days from the effective date of this Order, develop a written policy to bring any loans or extensions of credit in excess of said limitations to within the applicable limitations.

5. Within ninety (90) days of the effective date of this Order, the Institution and ITC shall develop, and thereafter shall maintain a comprehensive borrower credit ledger. At a minimum, the ledger shall provide an accurate record of total borrower credit in all loan types, including direct liability (including liability as maker, co-maker, partner, and any other kind of direct liability), and indirect liability (including liability as endorser, guarantor, and any other kind of indirect or contingent liability). Such ledger shall be maintained in a current status for all borrowers with other than one-to-four family owner-occupied residential loans and/or consumer loans. In addition, recordkeeping with respect to loans to one borrower shall be maintained in accordance with 12 C.F.R.

563.93(f)(2).

6. Within ninety (90) days from the effective date of this Order, the Institution and ITC shall either: a) remove the following loans, granted in excess of the limitations of 12 C.F.R. 563.93 and contrary to Provision 8(c) of the Supervisory Agreement from the books of the Institution or ITC; or b) reduce the aggregate outstanding indebtedness of the borrowers to the amounts permitted by said regulation:

- a. Loan No. 52503025 granted to Lloyd Ripa on March 28, 1991; and
- b. Loan No. 5009659 granted to Peter Kehew on January 23, 1991.

D. Asset Quality and Review

7. Within thirty (30) days from the effective date of this Order, the Institution and ITC shall charge off or establish specific reserves for all assets classified "loss" in the OTS Report of Examination dated May 28, 1991 ("ROE"), and shall establish a minimum general loss reserve of \$1.0 million. The Institution and ITC shall review their assets for potential classification and their general loss reserves for adequacy on at least a quarterly basis. Adjustments to the reserves shall be made within 15 days following each such quarterly review. Such reviews and supporting analysis for the adequacy of the general loss reserve shall be documented within the appropriate Board minutes of the meetings at which considered.

8. Within ninety (90) days from the effective date of this Order, the Boards shall adopt and submit to the Regional

Deputy Director for review, an internal classification of assets policy ("Classification Policy") consistent with, and no less stringent than, the provisions of 12 C.F.R. 563.160 as interpreted and clarified by the OTS policy statement regarding classification of assets, 12 C.F.R. 571.26. The Classification Policy shall include:

- a. identification of the individuals responsible for the review, the frequency of reviews, the method of loan selection, the scope and depth of the review, and follow-up reporting procedures, some of which individuals shall be independent of the lending function and shall include at least one outside director;
- b. a provision that classified assets shall be reviewed and approved by the Boards; and
- c. a provision to ensure that all classified assets are reported as required on Thrift Financial Reports ("TFRs") submitted to the OTS.

9. Within thirty (30) days following the end of the calendar month subsequent to the effective date of this Order, the Institution and ITC shall provide the Regional Deputy Director with a detailed update on each borrower with outstanding loans or extensions of credit aggregating more than \$150,000 and each parcel of real estate owned with a balance in excess of \$150,000 in each case classified or subject to special mention in the OTS ROE. Such reports shall include the balance of each separate asset as of the date of the examination, the balance as of the reporting

date, past due status and a summary of efforts taken to alleviate the credit deficiency. Thereafter, said reports shall be required as of the end of each calendar quarter and shall be due within thirty (30) days following the end of each calendar quarter. Said reports may be discontinued only upon the written release of the Regional Deputy Director.

E. Lending Policies and Procedures

10. Without the prior written approval of the Regional Deputy Director, neither Newport nor ITC shall make any loans other than: 1) loans not exceeding \$250,000, secured by owner occupied 1-4 family residential properties underwritten in accordance with guidelines established by the Federal National Mortgage Association and the Government National Mortgage Association; and 2) home equity loans, loans for the purchase of automobiles, and consumer installment loans not exceeding \$15,000; until Newport and ITC have developed and submitted to the Regional Deputy Director a revised written loan policy (the "Loan Policy"). The Loan Policy shall be submitted within ninety (90) days from the effective date of this Order, and shall ensure that loan documentation is obtained in compliance with the requirements of 12 C.F.R. 563.170(c)(1). At a minimum the Loan Policy shall include:

- a. the individual lending authority of each loan officer;
- b. the lending authority of a loan or executive committee, if any;
- c. the responsibility of the Boards in reviewing, ratifying and approving loans, extensions or

modifications;

- d. underwriting guidelines for the each type of credit offered by the Institution and ITC;
- e. a requirement that updated financial information be obtained at least annually from all borrowers and guarantors with speculative and/or commercial real estate loans in excess of \$250,000 in the aggregate. In addition, operating statements on properties securing such speculative and/or commercial real estate loans shall be obtained at least annually from such borrowers and guarantors. All such requests, responses and subsequent analysis shall be maintained as loan file documentation;
- f. a provision addressing the capitalization of unpaid interest, taxes, insurance and legal fees on loans, extensions and modifications;
- g. a procedure for identifying nonaccrual loans; and
- h. recordkeeping requirements regarding loan discussions at both Board and committee levels.

11. The Boards shall approve the Loan Policy, and such approval shall be recorded in the appropriate Board minutes. The Institution and ITC, their directors, officers, and employees shall implement and follow the Loan Policy and/or any subsequent modification(s) thereto.

12. Neither the Institution nor ITC shall extend or renew, directly or indirectly, any additional credit to any borrower whose loans have been classified or listed for

special mention in the aforementioned ROE without the prior approval of the appropriate Board. Such approval shall include approval of each advance individually or of a project budget with which each advance is consistent. A written record of the respective Board's prior approval of any advance under the terms of this provision shall be maintained in the credit file of the affected borrower(s) as well as the appropriate Board's minutes.

F. Operating Expenses

13. Within ninety (90) days from the effective date of this Order, the Boards shall adopt and submit to the Regional Deputy Director a written plan to reduce operating expenses. The plan shall include procedures to review, monitor and control operating expenses of the Institution and ITC on a consolidated basis. Such reviews shall be recorded in the appropriate Board minutes.

G. Appraisal Reviews

14. Within sixty (60) days from the effective date of this Order, the Institution and ITC shall review the performance of all Board approved appraisers for compliance with the Institution's and ITC's appraisal policies and procedures, and for reasonableness of the reported value estimates. Thereafter, such reviews shall be performed on an annual basis in accordance with 12 C.F.R. 564.8(c)(3). Such reviews shall be recorded in the appropriate Board minutes.

H. Interest Rate Risk Management

15. Within sixty (60) days from the effective date of this Order, the Boards shall adopt and submit to the Regional

Deputy Director for review and approval, an interest rate risk management policy which specifies the procedures to be followed for the Institution and ITC to assess and manage interest rate risk on a consolidated basis. The procedures should be no less stringent than those set forth by 12 C.F.R. 563.176. In addition, the policy shall include guidelines that address secondary market activities.

I. Business Plans

16. Within sixty (60) days from the effective date of this Order, the Boards shall adopt and submit to the Regional Deputy Director for review and approval, a business plan for 1992. In addition, business plans for 1993 and 1994 shall be adopted and submitted to the Regional Deputy Director for review and approval, prior to October 31, 1992, and October 31, 1993, respectively. The plans shall include at a minimum:

- a. a mission statement of the basic business, scope, activities, and purpose of the Institution and ITC;
- b. goals that the Institution and ITC desire to achieve;
- c. objectives providing specific quantitative measures consistent with each goal;
- d. strategies regarding the courses of action the Institution and ITC will take to achieve its goals; and
- e. proforma financial statements of condition and operations, and budgets that reflect the existing

positions of the Institution, ITC, and the Institution and ITC on a consolidated basis, and the anticipated positions demonstrating the impact of the goals, objectives, and strategies on the existing positions.

17. Within the Business Plan, the Institution shall include a capital enhancement plan ("Capital Plan"). The Capital Plan shall include a specific plan of action to increase and maintain capital at a level which is commensurate with the risk profile of the Institution.

J. Progress Reports

18. Within thirty (30) days of the effective date of this Order, and, thereafter, within thirty (30) days of the end of each calendar quarter, the Institution and ITC shall furnish written status reports to the Regional Deputy Director detailing the actions which have been taken to secure compliance with this Order and the results thereof. Said reports may be discontinued only when the corrections required under this Order have been accomplished, and the Regional Deputy Director has, in writing, released the Boards from making further reports. In addition, the Institution and ITC shall furnish such reports on request of the Regional Deputy Director. All status reports and other written submissions pursuant to this Order shall be reviewed by the Boards of Directors of the Institution and ITC and be made a part of the appropriate Board minutes.

K. Effective Date and Effect of Order

19. This Order shall become effective upon execution by

