

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )	Order No.: SE-11-008
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)	
<b>INDEPENDENCE FEDERAL</b> )	Effective Date: February 23, 2011
<b>SAVINGS BANK</b> )	
)	
Washington, D.C. )	
OTS Docket No. 07173 )	
_____ )	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Independence Federal Savings Bank, Washington, D.C., OTS Docket No. 07173 (Association) has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

**WHEREAS**, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

**WHEREAS**, pursuant to delegated authority, the OTS Regional Director for the Southeast Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

**NOW, THEREFORE, IT IS ORDERED that:**

**Cease and Desist.**

1. The Association, its institution-affiliated parties,<sup>1</sup> and its successors and assigns, shall cease and desist from any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or the aiding and abetting the unsafe or unsound banking practices that resulted in:

- (a) operating the Association with an insufficient level of capital protection for the volume, type and quality of assets held by the Association;
- (b) operating the Association with inadequate earnings to fund growth and augment capital; and
- (c) operating the Association with an excessive level of adversely classified loans or assets.

2. The Association, its institution-affiliated parties, and its successors and assigns, shall also cease and desist from any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or the aiding and abetting violations of the following regulations:

- (a) 12 C.F.R. § 560.93(f)(2) (regarding calculating compliance and recordkeeping demonstrating compliance with lending limitations);
- (b) 12 C.F.R. Section 203.4(a) (requiring the compilation of loan data);
- (c) 12 C.F.R. Section 229.13(g)(1) (requiring notices of exemptions to the requirements of the Expedited Funds Availability Act (EFA Act)); and
- (d) 12 C.F.R. Section 229.18(e) (regarding disclosure requirements under the EFA Act).

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<sup>1</sup> The term “institution-affiliated party” is defined at 12 C.F.R. § 1813(u).

**Capital.**

3. By September 30, 2011, the Association shall have and maintain a Tier 1 (Core) Capital Ratio equal to or greater than eight percent (8%) and a Total Risk-Based Capital Ratio equal to or greater than twelve percent (12%).<sup>2</sup>

4. By June 30, 2011, the Association shall submit a written plan through which the Bank would be recapitalized, to achieve and maintain the Association's capital at the levels prescribed in Paragraph 3 (Capital Plan) that is acceptable to the Regional Director. At a minimum, the Capital Plan shall:

- (a) identify the specific sources of additional capital and the timeframes and methods by which additional capital will be raised, including specific target dates and corresponding capital levels;
- (b) detail the Association's capital preservation and enhancement strategies with specific narrative goals;
- (c) address the requirements and restrictions imposed by this Order relating to capital;
- (d) include detailed quarterly financial projections, including Tier 1 (Core) and Total Risk-Based Capital Ratios; and
- (e) address the Association's level of classified assets, ALLL, earnings, asset concentrations, liquidity needs, and trends in the foregoing areas.

5. Upon receipt of written notification from the Regional Director that the Capital Plan is acceptable, the Association shall implement and adhere to the Capital Plan. A copy of the

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<sup>2</sup> The requirement in Paragraph 3 to "have and maintain" a specific capital level means that the Association may not be deemed to be "well-capitalized" for purposes of 12 U.S.C. §1831o and 12 C.F.R. Part 565, pursuant to 12 C.F.R. §565.4(b)(1)(iv).

Capital Plan and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.

6. At each monthly board meeting, beginning with the Board meeting following the month in which the Bank is notified that the Capital Plan is acceptable to the Regional Director, the Board shall review the Association's compliance with the Capital Plan. At a minimum, the Board's review shall include:

- (a) a comparison of actual operating results to projected results;
- (b) detailed explanations of any material deviations;<sup>3</sup> and
- (c) a discussion of specific corrective actions or measures that have been or will be implemented to address each material deviation.

7. Within fifteen (15) days after: (a) the Association fails to meet the capital requirements prescribed in Paragraph 3; (b) the Association fails to comply with the Capital Plan prescribed in Paragraph 4; or (c) any written request from the Regional Director, the Association shall submit a written Contingency Plan that is acceptable to the Regional Director.

8. The Contingency Plan shall detail the actions to be taken, with specific time frames, to achieve one of the following results by the later of the date of receipt of all required regulatory approvals or sixty (60) days after the implementation of the Contingency Plan: (a) merger with, or acquisition by, another federally insured depository institution or holding company thereof; or (b) voluntary dissolution by filing an appropriate application with the OTS in conformity with applicable laws, regulations and regulatory guidance.

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<sup>3</sup> A deviation shall be considered material under this Paragraph of the Order when the Association determines that it needs to adjust its identified sources of additional capital, timeframes, methods, or target dates by which it will raise capital.

9. Upon receipt of written notification from the Regional Director, the Association shall implement and adhere to the Contingency Plan immediately. The Association shall provide the Regional Director with written status reports detailing the Association's progress in implementing the Contingency Plan by no later than the first (1<sup>st</sup>) and fifteenth (15<sup>th</sup>) of each month following implementation of the Contingency Plan.

**Problem Assets.**

10. Within sixty (60) days, the Association shall submit a detailed, written plan with specific strategies, targets and timeframes to reduce<sup>4</sup> the Association's level of problem assets<sup>5</sup> (Problem Asset Reduction Plan) to the Regional Director for review and non-objection. Upon receipt of written non-objection from the Regional Director, the Association shall implement and adhere to the Problem Asset Reduction Plan. The Problem Asset Reduction Plan, at a minimum, shall include:

- (a) monthly targets for the level of problem assets as a percentage of Tier 1 (Core) capital plus ALLL;
- (b) a description of the methods for reducing the Association's level of problem assets to the established targets; and
- (c) all relevant assumptions and projections.

11. Within sixty (60) days, the Association shall develop and adhere to individual written specific workout plans for each problem asset or group of loans to any one borrower or loan relationship of Five Hundred Thousand Dollars (\$500,000) or greater (Asset Workout Plans).

12. Within thirty (30) days after the end of each quarter, beginning with the quarter ending

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<sup>4</sup> For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification.

<sup>5</sup> The term "problem assets" shall include all classified assets, and assets designated special mention, and all nonperforming assets, and all delinquent loans.

June 30, 2011, the Association shall submit a quarterly written asset status report (Quarterly Asset Report) to the Board. The Board's review of the Quarterly Asset Report shall be documented in the Board meeting minutes. The Quarterly Asset Report shall include, at a minimum:

- (a) the current status of all Asset Workout Plans;
- (b) a comparison of problem assets to Tier 1 (Core) capital plus ALLL and Total Risk-Based capital;
- (c) a comparison of problem assets at the current quarter end with the preceding quarter;
- (d) a breakdown of problem assets by type and risk factor;
- (e) an assessment of the Association's compliance with the Problem Asset Reduction Plan; and
- (f) a discussion of the actions taken during the preceding quarter to reduce the Association's level of problem.

13. Within thirty (30) days after the end of each quarter, a copy of the Quarterly Asset Report shall be provided to the Regional Director.

**Loans to One Borrower.**

14. Effective immediately, the Association's records shall include documentation in compliance with the requirements of 12 C.F.R. § 560.93(f)(2) demonstrating the Association's compliance with the Loans to One Borrower (LTOB) requirements set forth in 12 CFR § 560.93.

15. Effective immediately, the Association shall prepare and submit to the Board for review at each regular board meeting, a schedule of all borrowers with total loans outstanding in excess of 10 percent (10%) of the Association's unimpaired capital and surplus.

**Violations of Law.**

16. Within thirty (30) days, the Association shall ensure that all violations of law and/or regulation discussed in the 2010 ROE are corrected and that adequate policies, procedures and systems are established or revised and thereafter implemented to prevent future violations.

**Effective Date, Incorporation of Stipulation.**

17. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

**Duration.**

18. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives. Nothing in this Order is intended to terminate or suspend the prior Order to Cease and Desist between the OTS and the Association, effective August 3, 2009.

**Time Calculations.**

19. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

20. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

**Submissions and Notices.**

21. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

22. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first class U.S.

mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

- (a) To the OTS:  
Regional Director  
Office of Thrift Supervision  
1475 Peachtree St., N.E.  
Atlanta, Georgia 30309  
404.897.1861 (Fax)
  
- (b) To the Association:  
c/o Elliott S. Hall  
Chairman of the Board  
1229 Connecticut Avenue, N.W.  
Washington, DC 20036-2601

**No Violations Authorized.**

23. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED.**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_ /s/ \_\_\_\_\_  
James G. Price  
Regional Director, Southeast Region

Date: See Effective Date on page 1



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Washington, D.C. )	
OTS Docket No. 07173 )	
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**STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST**

**WHEREAS**, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Southeast Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Independence Federal Savings Bank, Washington, D.C., OTS Docket No. 07173 (Association), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association pursuant to 12 U.S.C. § 1818(b);

**WHEREAS**, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order; and

**WHEREAS**, the Association desires to cooperate with the OTS to avoid the time and expense of an administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or

denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs 1 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

**Jurisdiction.**

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is “an insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).

2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

**OTS Findings of Fact.**

3. Based on its January 4, 2010 examination of the Association (2010 ROE), the OTS finds that the Association has engaged in unsafe or unsound banking practices including, but not limited to:

- (a) operating the Association with an inadequate level of capital protection for the volume, type and quality of assets held by the Association;
- (b) operating the Association with inadequate earnings to fund growth and augment capital; and
- (c) operating the Association with an excessive level of adversely classified loans or assets.

4. Based on its 2010 ROE of the Association, the OTS finds that the Association has engaged in violations of law and regulation including, but not limited to:

- (a) 12 C.F.R. § 560.93(f)(2) (regarding calculating compliance and recordkeeping demonstrating compliance with lending limitations);
- (b) 12 C.F.R. Section 203.4(a) (requiring the compilation of loan data);
- (c) 12 C.F.R. Section 229.13(g)(1) (requiring notices of exemptions to the requirements of the Expedited Funds Availability Act (EFA Act)); and
- (d) 12 C.F.R. Section 229.18(e) (regarding disclosure requirements under the EFA Act).

**Consent.**

5. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

**Finality.**

6. The Order is issued by the OTS under 12 U.S.C. § 1818(b) and § 1818(s). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

**Waivers.**

7. The Association waives the following:
- (a) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
  - (b) 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; and
  - (c) any and all claims against the 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, federal statutes, or otherwise.

**OTS Authority Not Affected.**

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

9. The Association acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

11. If any provision of this Stipulation and/or the 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.

12. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.

13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.

14. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

15. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

**Signature of Directors/Board Resolution.**

16. Each Director of the Association has voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation.

A copy of the Board Resolution authorizing execution of this Stipulation shall be delivered to the OTS, along with the executed original(s) of this Stipulation.

