

UNITED STATES OF AMERICA
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF TREASURY

In The Matter of:)	
)	OTS AP-91-89
Gerald G. Barton, Former Chairman)	OTS AP-94-06
Of the Board of Directors,)	
Oak Tree Savings Bank, S.S.B.)	Order No.: <u>MWR-02-7</u>
New Orleans, Louisiana)	
)	Dated: <u>August 5, 2002</u>

ORDER TO CEASE AND DESIST AGAINST
GERALD G. BARTON

WHEREAS, the Office of Thrift Supervision (OTS) has issued a Second Amended Notice of Charges: OTS Order No. AP-94-06, dated February 10, 1994 (Notice), against Respondent **Gerald G. Barton (Barton)**, asserting certain enforcement claims arising out of **Barton's** activities as former chairman of the board of directors of Oak Tree Savings Bank, S.S.B., New Orleans, Louisiana, now in receivership (Oak Tree), and seeking, among other things, an Order to Cease and Desist that would provide **Barton** shall cease and desist from any unsafe or unsound practices as an institution-affiliated party within the meaning of Section 3(u) of the FDIA, 12 U.S.C. § 1813(u); and

WHEREAS, Respondent **Barton** has submitted an Offer of Settlement (Offer) in the above-captioned proceeding. Upon consideration, OTS has determined to accept the Offer solely on the basis of the consent evidenced by the Offer and without any adjudication on the merits. In the Offer, without admitting or denying the allegations of the Notice in this proceeding, **Barton** acknowledges service of the Notice, admits the jurisdiction of the OTS with respect to the matters set forth in the Notice; waives a hearing, all post-hearing judicial review of the OTS's Order by any court, any objection to the staff's participating in OTS's consideration of the Offer, and any and all claims against OTS for the award of fees, costs, or expenses arising under common law or under the Equal Access to Justice Act, 5 U.S.C. Section 504 and 28 U.S.C.

Section 2412; and stipulates that the record basis for this proceeding consists of the Notice, Barton Answer, and the Offer. Solely by virtue of the Offer and not by an adjudication on the merits, this Order to Cease and Desist and Order against **Barton** (Order) may be used in any proceeding brought by OTS to enforce this Order; provided, however, that there shall be no use of the Notice in such a proceeding except in connection with a proceeding to enforce this Order. The Notice, the Offer, and this Order, or the relief consented to by virtue of the Offer, shall not be used by OTS for any other purpose. Negotiation of the terms of this Order, including conduct and statements made in connection therewith, shall not be admissible in accordance with Rule 408 of the Federal Rules of Evidence.

WHEREAS, simultaneously with the issuance of this Order, **Barton** has reached a separate SETTLEMENT AND RELEASE AGREEMENT, with the Federal Deposit Insurance Corporation ("FDIC"), negotiated between and among the parties in the civil action captioned FDIC v. Gerald G. Barton and William W. Vaughan, III, Civil Action No. 94-3294, Section "J", United States District Court, Eastern District of Louisiana.

THE OTS HEREBY ORDERS THAT:

1. If **Barton** becomes an institution-affiliated party within the meaning of Section 3(u) of the FDIA **Barton** shall cease and desist from any unsafe or unsound practice(s).
2. If, as a director, officer or controlling person of a federally insured depository institution, **Barton** has reason to know, by way of regulatory criticism or otherwise, of any unsafe and unsound practice or violation of law or regulation in which the institution has engaged or is about to engage, **Barton** shall:

- (a) Make independent inquiries and review pertinent documentation and regulations as appropriate, rather than relying solely on representations of others, to

determine that alleged unsafe and unsound practices and/or regulatory violations by such institution are corrected; and

(b) Submit for approval by the institution's board of directors, adequate policies and procedures to prevent the recurrence of such practices and/or violations by the institution.

3. **Barton** shall cease and desist from acts, omissions, or practices, which constitute a breach of fiduciary duty to any federally insured depository institution.
4. If **Barton** becomes director, officer or controlling person of a federally insured depository institution, or any holding company thereof, **Barton** shall obtain advice of competent counsel on his duties and responsibilities, both initially upon accepting such a position and when particular issues arise that may cause **Barton** to be uncertain about his responsibilities.
5. The Notice and Offer are made a part hereof and are incorporated herein by this reference.
6. **Barton** shall execute and deliver, upon issuance of this Order, a written release (in the form attached hereto) of the OTS, its employees, agents, and attorneys, from any and all claims and counterclaims that have been or could be asserted against them arising out of or in any way related to Oak Tree, including but not limited to the subject matter of this administrative action, including all claims and counterclaims for costs, fees, or sanctions.
7. The OTS shall execute and deliver, upon issuance of this Order, a written release (in the form attached hereto) of **Barton**, and his agents and attorneys, from any and all claims and counterclaims that have been or could be asserted against them arising out of or in

any way related to Oak Tree, including but not limited to the subject matter of this administrative action, including all claims and counterclaims for costs, fees, or sanctions.

8. This Order constitutes the final disposition of all allegations in the Notice of Charges for penalties, monetary and non-monetary administrative relief that could have been brought by OTS against **Barton** in connection with any aspect of his activities as a director of Oak Tree, including its holding companies, subsidiaries and service corporations. All OTS proceedings against **Barton** related to the Notice of Charges are hereby terminated and no future civil or administrative proceedings shall be commenced by OTS against **Barton** relating to Oak Tree, including its holding companies, subsidiaries and service corporations.
9. **Barton** shall promptly respond to any request from OTS for documents that OTS reasonably requests to demonstrate compliance with this Order.
10. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. This Order applies only to **Barton** as an individual, and does not apply to any corporation, firm or other business with which **Barton** may be or may become affiliated.
11. A copy of this Order shall be served upon **Barton** through his designated counsel.

THE OFFICE OF THRIFT SUPERVISION

By: 
Frederick R. Casteel, Regional Director

Dated: August 5, 2002

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OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF TREASURY

In The Matter of:)	
Gerald G. Barton, Former Chairman)	OTS AP-91-89
Of the Board of Directors,)	OTS AP-94-06
Oak Tree Savings Bank, S.S.B.)	Order No.: <u>MWR-02-7</u>
New Orleans, Louisiana)	Dated: <u>August 5, 2002</u>

OFFER OF SETTLEMENT BY
GERALD G. BARTON

I.

Respondent **Gerald G. Barton** (Barton) hereby submits this Offer of Settlement (Offer) to the Office of Thrift Supervision (the OTS). This Offer is submitted for the sole purpose of disposing of the allegations and issues raised in the Second Amended Notice of Charges issued by OTS, Order No. AP-94-06, dated February 10, 1994 (Notice).

II.

This Offer is submitted solely for the purpose of terminating all litigation as it relates to **Barton**, and shall be null and void and shall not be used in any manner in any proceeding if it is not accepted by OTS as hereinafter set forth.

III.

Without admitting or denying the factual and legal allegations of the Notice, and without any adjudication of any issue of fact or law, and because of his desire to avoid additional time and expense of such administrative litigation, and in accordance with Rule 408 of the Federal Rules of Evidence, **Barton**:

1. Admits the jurisdiction of OTS with respect to the matters set forth in the Notice;

2. Stipulates that the record basis for this proceeding consists of the Notice, **Barton Answer**, and this Offer;
3. Acknowledges service of the Notice; and
4. Waives:
 - (a) A hearing;
 - (b) All post-hearing procedures;
 - (c) Entry of findings of fact and conclusions of law;
 - (d) Judicial review of OTS's order by any court;
 - (e) Any objection of the staff's participation in OTS's consideration of this Offer;
 - (f) Any and all pending and potential claims against OTS, including its employees and agents, and any other government entity for the award of fees, costs, or expenses arising under common law or under the Equal Access of Justice Act, 5 U.S.C. Section 504 and 28 U.S.C. Section 2412.

IV.

Barton consents, solely by virtue of this Offer and not any adjudication on the merits, to the entry of an Order to Cease and Desist and Order (Order) by OTS in the form attached hereto and incorporated herein by reference.

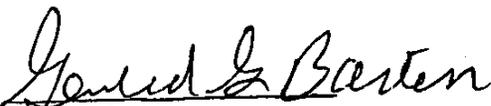
V.

The undersigned states that he has read and understands the foregoing Offer and declares that no promises or agreements of any kind have been made to or with the undersigned other than those represented in this Offer and in the Order and that the submission of this Offer is a free and voluntary act on his part.


GERALD G. BARTON

RELEASE

Gerald G. Barton, for himself, and his heirs, executors, administrators, successors in interest, and assigns, hereby fully, generally, and unconditionally forever remise, give up, quitclaim, release, acquit and discharge the Office of Thrift Supervision of the United States Treasury, and its respective predecessors, successors, assigns, officers, agents, employees, servants, attorneys, and other representative, and all persons or entities in privity with them, and each of them, from any and all claims, suits, controversies, accounts, covenants, promises, judgments, damages, executions, causes of action, rights, duties, expenses, debts, liabilities, demands, obligations, contracts, agreements, costs, and actions of any kind or character, at law or in equity, whether or not well-founded in law or fact, suspected or unsuspected, direct or indirect, which relate to, arise out of, or are in any way connected to the ownership or operation of Oak Tree Savings Bank, S.S.B., New Orleans, Louisiana, Oak Tree Federal Savings Bank, New Orleans, Louisiana (collectively "Oak Tree"), or any of its subsidiaries or affiliates, in any court, forum, proceeding, or otherwise, from the beginning of the world to the date hereof, provided, however, that nothing in this Release is intended to or shall be deemed to release or affect in any way any claim or action of the Federal Deposit Insurance Corporation as Receiver for Oak Tree.


Gerald G. Barton

Dated: 7-23-02