

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

In the Matter of)	
JOHN CHRISTO, JR.,)	Docket No. OTS AP 93-69
CHARLES HILTON, JR.,)	Dated: August 27, 1993
MICHAEL H. NELSON,)	
DOUGLAS MCALLISTER,)	Order No. AP 94-15
)	Dated: March 14, 1994
former officers and/or)	
directors of Bay Savings Bank,)	
West Palm Beach, Florida;)	
and)	
JCJ IRREVOCABLE TRUST,)	
BB&T REVOCABLE TRUST, and)	
E.S.O.P., BAY SAVINGS BANK)	
)	
shareholders,)	
of Bay Savings Bank,)	
West Palm Beach, Florida,)	
)	
Respondents.)	

CONSENT CEASE-AND-DESIST ORDER REQUIRING AFFIRMATIVE RELIEF
AGAINST HILTON, NELSON AND MCALLISTER

WHEREAS, the Office of Thrift Supervision ("OTS"), in connection with its regulation of Bay Savings Bank, of West Palm Beach, Florida (OTS No. 8281), has commenced an administrative proceeding against certain former directors and/or officers of Bay Savings Bank, including CHARLES HILTON, JR., MICHAEL H. NELSON, and DOUGLAS McALLISTER (collectively "RESPONDENTS HILTON, NELSON and McALLISTER"), pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818;¹ and

WHEREAS, RESPONDENTS HILTON, NELSON and McALLISTER, for purposes of settling the administrative proceeding as to

1. All references to the United States Code (U.S.C.) are as amended.

them, each has executed the accompanying Stipulation and Consent by Charles Hilton, Jr., Michael H. Nelson, and Douglas McAllister to Entry of Consent Order (the "Stipulation"); and

WHEREAS, by the Stipulation, RESPONDENTS HILTON, NELSON and McALLISTER each has consented to the issuance of this Consent Order pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

NOW THEREFORE, IT IS ORDERED that:

1. RESPONDENTS HILTON, NELSON and McALLISTER each shall take all appropriate actions to cause any Federally insured depository institution, with which any of them is affiliated as a director or senior officer, to timely comply in all respects with the requirements of 12 C.F.R. § 563.170(a)(2) (OTS regulation concerning examinations and audits) and Part 363 of the federal banking regulations (Annual Independent Audits and Reporting Requirements), 58 Fed. Reg. 31,332 et seq. (to be codified at 12 C.F.R. Part 363), or any successor regulations.

2. RESPONDENTS HILTON, NELSON and McALLISTER, jointly and severally, shall pay restitution, toward additional expenses incurred by Bay Savings Bank with respect to audits of its financial statements in 1989 and 1990, of Fifteen Thousand Dollars (\$15,000.00) to Bay Savings Bank (in receivership) by delivering to the OTS' Enforcement Counsel, within ten (10) days of issuance of this Order, a certified check in said amount made payable to the order of the Resolution Trust Corporation, as Receiver for Bay Savings Bank. Said check shall be delivered to Jules P. Kirsch, Esq., Office of Thrift Supervision, 10 Exchange

Place, 18th Floor, Jersey City, New Jersey 07302.

OFFICE OF THRIFT SUPERVISION

Date: March 14, 1994

By: Richard M. Riccobono
Richard M. Riccobono
Acting Regional Director
Southeast Region

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In the Matter of)
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MICHAEL H. NELSON,)
DOUGLAS McALLISTER,)
former officers and/or)
directors of Bay Savings Bank,)
West Palm Beach, Florida;)
and)
JCJ IRREVOCABLE TRUST,)
BB&T REVOCABLE TRUST, and)
E.S.O.P., BAY SAVINGS BANK)
shareholders,)
of Bay Savings Bank,)
West Palm Beach, Florida,)
Respondents.)

Docket No. OTS AP 93-69
Dated: August 27, 1993
Re: Order No. AP 94-15
Dated: March 14, 1994

**STIPULATION AND CONSENT BY CHARLES HILTON, JR., MICHAEL H. NELSON,
AND DOUGLAS McALLISTER TO ENTRY OF CONSENT ORDER**

WHEREAS, the Office of Thrift Supervision ("OTS"), in connection with its regulation of Bay Savings Bank ("Bay Savings"), of West Palm Beach, Florida (OTS No. 8281), has commenced an administrative proceeding against certain institution-affiliated parties of Bay Savings including, inter alia, CHARLES HILTON, JR., MICHAEL H. NELSON, and DOUGLAS McALLISTER (collectively "RESPONDENTS HILTON, NELSON and McALLISTER"), pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818;¹ and

1. All references to the United States Code (U.S.C.) are as amended.

WHEREAS, the Acting Director of OTS, in the exercise of authority conferred by the FDIA and the Home Owners' Loan Act ("HOLA") has commenced the aforesaid administrative proceeding by issuing and serving a written notice of charges ("Notice of Charges") that, inter alia, charges that Bay Savings failed to timely file audited financial statements with the OTS in violation of OTS regulations, and that members of Bay Savings' Board of Directors and senior management participated in the aforesaid regulatory violations; and

WHEREAS, RESPONDENTS HILTON, NELSON and McALLISTER, to avoid the time and expense of the pending administrative litigation, and, without either admitting or denying liability for any of the claims asserted in the Notice of Charges, and only for the purpose of resolving these matters in accordance with Rule 408 of the Federal Rules of Evidence, now wish to settle the OTS' charges against them, and are willing to stipulate and consent to the issuance to them by the OTS of the accompanying CONSENT CEASE-AND-DESIST ORDER REQUIRING AFFIRMATIVE RELIEF AGAINST HILTON, NELSON AND McALLISTER (the "Consent Order").

NOW, THEREFORE, in consideration of the foregoing premises and for the purposes of this settlement only, RESPONDENTS HILTON, NELSON and McALLISTER hereby stipulate and agree as follows:

1. Settlement of Charges. RESPONDENTS HILTON, NELSON and McALLISTER hereby stipulate and agree to the terms of this Stipulation and Consent and to issuance of the Consent Order in

consideration of the settlement, compromise and resolution of the above-captioned proceeding against RESPONDENTS HILTON, NELSON and McALLISTER by the OTS, whereby the OTS forever releases and discharges each of RESPONDENTS HILTON, NELSON and McALLISTER from all claims, charges, damages, demands, or causes of action that have been, may be, or might have been asserted by the OTS arising from, or based upon, (i) the facts alleged in the Notice of Charges and Assessment, (ii) matters reported in any Reports of Examination of Bay Savings for the years 1986 through 1991, which were submitted to Bay Savings by the OTS (or the Federal Home Loan Bank Board), or (iii) information discovered by the OTS as a result of its investigative proceeding commenced pursuant to OTS Resolution No. ATL-90-26, dated December 31, 1990, which led to the issuance of the Notice of Charges and Assessment; provided, however, that nothing in this Stipulation and Consent shall be a release or discharge by OTS of claims or charges, if any, OTS has or may have against any person or entity other than RESPONDENTS HILTON, NELSON and McALLISTER.

2. Jurisdiction.

(a) Bay Savings (now in receivership) is and has been 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 HOLA, 12 U.S.C. § 1462(4). Accordingly, it is and has been an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) CHARLES HILTON, JR. was a director of Bay Savings and, having served in such capacity within six (6) years of the

date of issuance of the Notice of Charges, is an "institution-affiliated party" of Bay Savings as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u). See 12 U.S.C. § 1818(i)(3).

(c) MICHAEL H. NELSON was a director and officer of Bay Savings and, having served in such capacity within six (6) years of the date of issuance of the Notice of Charges, is an "institution-affiliated party" of Bay Savings as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u). See 12 U.S.C. § 1818(i)(3).

(d) DOUGLAS McALLISTER was a director and officer of Bay Savings and, having served in such capacity within six (6) years of the date of issuance of the Notice of Charges, is an "institution-affiliated party" of Bay Savings as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u). See 12 U.S.C. § 1818(i)(3).

(e) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Acting Director of the OTS is the "appropriate Federal banking agency" with jurisdiction over Bay Savings and persons participating the conduct of the affairs thereof.

(f) The Acting Director of the OTS, pursuant to authority conferred by Section 8 of the FDIA, 12 U.S.C. § 1818, issued the Notice of Charges.

(g) RESPONDENTS HILTON, NELSON and McALLISTER each is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to provisions of Section 8 of the FDIA, 12 U.S.C. § 1818.

3. Consent. RESPONDENTS HILTON, NELSON and McALLISTER each consents to the issuance by the OTS of the Consent Order. RESPONDENTS HILTON, NELSON and McALLISTER each further agrees to comply with the terms of the Settlement Order upon issuance, and stipulates that the Consent Order complies with all requirements of law.

4. Finality. The Consent Order is issued by the OTS under the authority of Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Upon its issuance by the Acting Director of OTS (or his designee), it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

5. Waivers. RESPONDENTS HILTON, NELSON and McALLISTER following consultation with their counsel, each hereby waives: (i) the right to an administrative adjudicatory hearing of the OTS' charges pursuant to provisions of Section 8 of the FDIA, 12 U.S.C. § 1818; (ii) the right to seek judicial review of the Consent Order, including, without limitation, any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Consent Order; and (iii) any claims for attorneys' fees or expenses under the Equal Access to Justice Act, 5 U.S.C. § 504.

6. Other Actions, Proceedings and Parties. This Stipulation and Consent and the Consent Order are issued solely to settle the above-captioned proceeding. By entering into this Stipulation and Consent, RESPONDENTS HILTON, NELSON and McALLISTER each acknowledges and agrees explicitly to the following

provisions:

a. This Stipulation and Consent, the Consent Order and the payment by each of RESPONDENTS HILTON, NELSON and McALLISTER of any monies as contemplated by the Consent Order, does not compromise, release, discharge, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of RESPONDENTS HILTON, NELSON and McALLISTER that (i) arise pursuant to this administrative proceeding or otherwise, and (ii) may be, or have been, brought by the Resolution Trust Corporation or any other governmental entity other than the OTS.

b. The obligation of RESPONDENTS HILTON, NELSON and McALLISTER to pay the restitution amount toward additional expenses incurred by Bay Savings Bank with respect to audits of its financial statements in 1989 and 1990, as required pursuant to this Stipulation and Consent and the Consent Order, shall not be dischargeable in bankruptcy under any circumstances.

7. Cooperation. RESPONDENTS HILTON, NELSON and McALLISTER each shall cooperate fully with the OTS (including its enforcement and litigation lawyers) whenever requested in connection with any administrative proceeding or other litigation concerning Bay Savings, John Christo, Jr., or any other institution-affiliated party of Bay Savings. Without limitation on the foregoing, Respondent CHARLES HILTON, JR., within ten days following issuance of the Consent Order, shall deliver to OTS' Enforcement Counsel true, accurate and complete copies of all files, papers, and other records (including, but not limited to, checks, promissory notes, correspondence and memoranda) in his

possession, or subject to his control, that concern: (i) his \$560,000 payment to Bay Savings in May 1989; and (ii) the source or sources of that \$560,000 payment, including without limitation any loans obtained by him, directly or indirectly, whether from Bay Bank & Trust Company or otherwise, and any renewals thereof. Originals of the foregoing documents which are in HILTON's possession, custody or control will be made available to OTS' Enforcement Counsel for inspection and copying at the office of L. CHARLES HILTON, JR. in Panama City, Florida.

8. Service. The OTS may serve the Consent Order on RESPONDENTS HILTON, NELSON and McALLISTER care of their counsel:

Jacalyn N. Kolk, Esq.
Hilton, Hilton, Kolk,
Penson & Roesch
1610 Beck Avenue
Panama City, Florida 32405

9. Miscellaneous.

(a) The construction and validity of this Stipulation and Consent and the Order shall be governed by the laws of the United States of America.

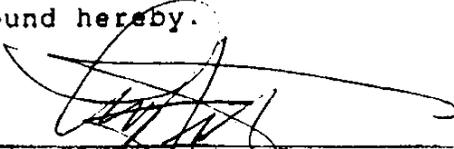
(b) All references to the OTS in this Stipulation and Consent and the Consent Order shall also mean any of the OTS' predecessors, successors, and assigns.

(c) The section and paragraph headings in this Stipulation and Consent and the Consent Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation and Consent and the Settlement Order.

(d) This Stipulation and Consent and the Settlement Order represent the final written agreement of the parties with

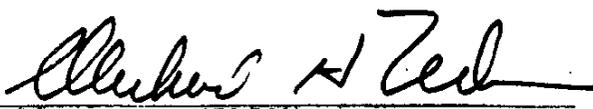
respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

WHEREFORE, RESPONDENTS HILTON, NELSON and McALLISTER execute this Stipulation and Consent, intending to be legally bound hereby.



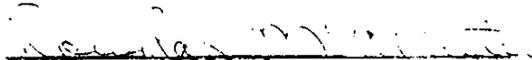
CHARLES HILTON, JR.

Date: Feb 24, 1994



MICHAEL H. NELSON

Date: Feb 19, 1994



DOUGLAS McALLISTER

Date: Feb 21, 1994

Accepted by:

OFFICE OF THRIFT SUPERVISION

By: 

Richard M. Riccobono

Date: March 14, 1994