

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

In the Matter of)
)
JOHN CHRISTO, JR.,)
CHARLES HILTON, JR.,)
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. AP 93-69
OTS Order No. AP 94-30
Dated: June 23, 1994

CONSENT ORDER OF PROHIBITION; and
CONSENT ORDER OF CIVIL MONEY PENALTY ASSESSMENT
ISSUED TO JOHN CHRISTO, JR.

WHEREAS, JOHN CHRISTO, JR., until September 6, 1991, was the Chairman of the Board of Directors and a controlling stockholder of BAY SAVINGS BANK ("BAY SAVINGS"), which was a federally insured savings and loan association that maintained its home office in West Palm Beach, Florida; and

WHEREAS, the Office of Thrift Supervision ("OTS"), on August 27, 1993, by issuing a Notice of Charges and Hearing, commenced the above-captioned administrative proceeding, which seeks issuance against JOHN CHRISTO, JR. of a cease-and-desist/resti-
tution order, prohibition order, and order of civil money penalty assessment, pursuant to provisions of Section 8 of the Federal

Deposit Insurance Act ("FDIA"), 12 U.S.C. 1818;¹ and

WHEREAS, the Notice of Charges alleges, inter alia, that JOHN CHRISTO, JR., while the Chairman of the Board and a controlling stockholder of Bay Savings, (i) engaged in violations of federal banking regulations and/or laws (requiring Bay Savings to timely file annual audited financial statements and to file accurate Thrift Financial Reports with the OTS) and of a written Net Worth Maintenance Agreement entered into with a federal banking agency, and (ii) by reason of such violations he received financial gain or other benefit (including unjust enrichment), and (iii) such violations demonstrated willful or continuing disregard for the safety or soundness of Bay Savings; and

WHEREAS, prior to commencement of the hearing of this proceeding, the presiding Administrative Law Judge granted Enforcement Counsel's Motion for Summary Disposition on Cease-and-Desist/Restitution Claims Under 12 U.S.C. § 1818(b), and issued a recommendation that the OTS' Acting Director issue against JOHN CHRISTO, JR. and other respondents herein the cease-and-desist/restitution order sought by the Notice of Charges; and

WHEREAS, JOHN CHRISTO, JR., by his execution of the accompanying Stipulation and Consent ("Stipulation"), has consented and agreed to issuance by the OTS of this CONSENT ORDER OF PROHIBITION; and CONSENT ORDER OF CIVIL MONEY PENALTY ASSESSMENT ("Order"), pursuant to Sections 8(e) and 8(i)(2) of the FDIA, 12 U.S.C. §§ 1818(e), 1818(i)(2).

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

NOW THEREFORE, IT IS ORDERED, pursuant to Sections 8(e) and 8(i)(2) of the FDIA, 12 U.S.C. §§ 1818(e) and 1818(i)(2), that:

1. JOHN CHRISTO, JR. is prohibited from participating in any manner in the conduct of the affairs of BAY SAVINGS (in receivership) or its successors, and is and shall be subject to the statutory prohibitions provided by Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Due to, and without limitation on, the operation of 12 U.S.C. §§ 1818(e)(6) and 1818(e)(7), JOHN CHRISTO, JR., except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other "appropriate Federal financial institutions regulatory agency," for purposes of 12 U.S.C. § 1818(e)(7)(B)(ii), shall not:

(A) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or agency specified in 12 U.S.C. § 1818(e)(7)(A) (the "Paragraph (7)(A) Institutions"), including, but not limited to:

- (i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, trust companies, and other banking institutions;
- (ii) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9), e.g., subsidiaries and holding companies of banks or savings associations;
- (iii) any insured credit union under the Federal Credit Union Act, 12 U.S.C. §§ 1781 et seq.;
- (iv) any institution chartered under the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq.;
- (v) any appropriate Federal financial institutions regulatory agency, within the meaning of 12 U.S.C. § 1818(e)(7)(D);
- (vi) the Federal Housing Finance Board and any Federal

vote or attempt to vote any proxy, consent or authorization with respect to any voting rights in any Paragraph (7) (A) Institution;

(C) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of 12 U.S.C. § 1813(q); or

(D) vote for a director, or serve or act as an "institution-affiliated party", as that term is defined at 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

2. (a) JOHN CHRISTO, JR. shall pay a civil money penalty in the amount of One Thousand Six Hundred (\$1,600.00 U.S.). JOHN CHRISTO, JR. may make payment of such amount in four quarterly payments of Four Hundred Dollars (\$400.00 U.S.), which quarterly payments shall be made on September 30, 1994, December 30, 1994, March 31, 1995, and June 30, 1995 (the "Payment Dates"); provided, however, that if JOHN CHRISTO, JR. fails to make a quarterly payment within ten (10) days of a required Payment Date, then on the tenth day following such Payment Date, the entire outstanding amount shall become immediately due and payable.

(b) JOHN CHRISTO, JR. shall make payment of the civil money penalty by delivering to the OTS' Controller's Division certified or cashier's checks in the required amount on or before each of the required Payment Dates. Each such check shall be made payable to the order of the Treasurer of the United States. Other

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directors of Bay Savings Bank,)
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and)
JCJ IRREVOCABLE TRUST,)
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E.S.O.P., BAY SAVINGS BANK)
shareholders,)
of Bay Savings Bank,)
West Palm Beach, Florida,)
Respondents.)

Docket No. OTS AP 93-69

Re: Order No. AP 94-30

Dated: June 23, 1994

STIPULATION AND CONSENT BY JOHN CHRISTO, JR.

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 the above-captioned administrative proceeding against JOHN CHRISTO, JR. and certain other institution-affiliated parties of Bay Savings, pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818,¹ by issuing and serving a written notice of charges ("Notice of Charges"), which charges that the grounds exist to issue against JOHN CHRISTO, JR. a prohibition order (pursuant to 12 U.S.C. § 1818(e)), an order of civil money penalty assessment (pursuant to 12 U.S.C. § 1818(i)(2)), and a cease-and-desist/restitution

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

order (pursuant to 12 U.S.C. § 1818(b)); and

WHEREAS, the presiding Administrative Law Judge granted Enforcement Counsel's Motion for Summary Disposition on Cease-and-Desist/Restitution Claims Under 12 U.S.C. § 1818(b), and issued a recommendation that the OTS' Acting Director issue against JOHN CHRISTO, JR. (and related parties) the cease-and-desist/restitution order sought by the Notice of Charges;² and

WHEREAS, JOHN CHRISTO JR., to avoid the time and expense of the pending administrative litigation, and, without either admitting or denying the prohibition and civil-money-penalty charges alleged in the Notice of Charges, now wishes to settle the OTS' prohibition and civil-money-penalty charges against him, and is willing to stipulate and consent to the OTS' issuance to him of the accompanying CONSENT ORDER OF PROHIBITION; and CONSENT ORDER OF CIVIL MONEY PENALTY ASSESSMENT ISSUED TO JOHN CHRISTO, JR. (the "Order").

NOW, THEREFORE, in consideration of the foregoing premises and for the purposes of this settlement only, JOHN CHRISTO, JR. enters into this Stipulation and Consent ("Stipulation"), hereby stipulating and agreeing as follows:

1. Consent and Settlement of Certain Charges. JOHN CHRISTO, JR. consents to the issuance by the OTS of the Order in consideration of the settlement, compromise and resolution of the OTS' prohibition and civil-money-penalty charges, as set forth in the Notice of Charges pursuant to 12 U.S.C. §§ 1818(e) and 1818(i)(2). JOHN CHRISTO, JR. agrees to comply with the Order

2. Also, respondents Hilton, Nelson and McAllister have settled the OTS' charges against them by consenting to OTS Order No. AP 94-15.

upon its issuance, and stipulates that the Order complies with all requirements of law. JOHN CHRISTO, JR. stipulates and acknowledges that the OTS' outstanding cease-and-desist/restitution charges against him, pursuant to 12 U.S.C. § 1818(b), are not affected by his execution of this Stipulation or by the OTS' issuance of the accompanying Order.

2. Jurisdiction.

(a) Bay Savings (now in receivership) is and has been a federally insured "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) JOHN CHRISTO, JR., having been the Chairman of the Board of Directors and a controlling stockholder of Bay Savings within six years of the date hereof, is deemed to be an "institution-affiliated party" 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) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the OTS (under the direction of its Acting Director) is the "appropriate Federal banking agency" with jurisdiction and authority to maintain enforcement proceedings against such a savings association and/or its institution-affiliated parties. Therefore, JOHN CHRISTO, JR. is subject to the authority of the OTS to initiate and maintain prohibition and civil-money-penalty proceedings against him pursuant to Sections 8(e) and 8(i)(2) of the FDIA, 12 U.S.C. §§ 1818(e) and 1818(i)(2).

(d) The OTS (by its Acting Director) lawfully issued the Notice of Charges, which was served on JOHN CHRISTO, JR., and has authority to issue the Order, pursuant to authority conferred by Sections 8(e) and 8(i)(2) of the FDIA, 12 U.S.C. §§ 1818(e) and 1818(i)(2).

3. Finality. The Order is issued by the OTS under the authority of Sections 8(e) and 8(i)(2) of the FDIA, 12 U.S.C. §§ 1818(e) and 1818(i)(2). Upon its issuance by the OTS (by the Acting Regional Director for the Southeast Region or otherwise), the Order 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).

4. Waivers. JOHN CHRISTO, JR. waives the following:

(a) the right to an administrative hearing of the OTS' charges against him (see Sections 8(e) and 8(i)(2) of the FDIA);

(b) the right to seek judicial review of the accompanying Order or any other final order issued by the OTS in connection with the above-captioned proceeding, 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 Order; and

(c) any and all claims for the award of fees, costs or expenses related to the above-captioned proceeding, whether arising under common law or under any statute, including but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504, and 28 U.S.C. § 2412.

5. Other Government Actions Not Affected.

(a) Except as otherwise specifically provided by Paragraph 1 hereof, this Stipulation, the Order and the payment by JOHN CHRISTO, JR. of any monies as contemplated by the Order, are solely for the purposes of resolving the OTS' administrative prohibition and civil-money-penalty charges against him (which are set forth in the Notice of Charges), and do not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any other actions, charges against, or liability of JOHN CHRISTO, JR. that may be or have been brought by the OTS or any other governmental entity, including but not limited to the Resolution Trust Corporation.

(b) By signing this Stipulation, JOHN CHRISTO, JR. agrees that he will not assert the assessment or payment of the civil money penalty (assessed by the Order) as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

(c) The obligation of JOHN CHRISTO, JR. to pay the civil money penalty assessed by the Order shall not be dischargeable in bankruptcy under any circumstances. See 11 U.S.C. § 523(a)(7).

6. Acknowledgment of Criminal Sanctions. JOHN CHRISTO, JR. acknowledges that, upon issuance of the Order, he will be a person "subject to an order in effect under subsection (e) [of Section 8 of the FDIA]" for purposes of Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), and acknowledges that said Section 8(j) sets forth criminal penalties against any such person who knowingly

participates, directly or indirectly, in any manner in an activity specifically prohibited by the Order (including any activity prohibited by 12 U.S.C. § 1818(e)(6)).

7. Payment Procedures. JOHN CHRISTO, JR. shall send his civil-money-penalty payments to the OTS' Controller's Division at the following address:

Office of Thrift Supervision
Controller's Division
1700 G Street, N.W.
Washington, D.C. 20552
Attention: Ms. Elisabeth M. Gustafson

JOHN CHRISTO, JR. shall send each payment under cover of a letter signed by him (or his counsel on his behalf), and the letter shall indicate that the payment is being made to satisfy the civil money penalty assessed by the Order, which shall be referred to by its order no. (No. AP 94-30) as set forth in the caption thereof.

JOHN CHRISTO, JR. shall send a copy of each such letter (together with a copy of the check transmitted thereby) to the OTS'

Enforcement Counsel at the following address:

Steven A. Rosenberg, Esq.
Senior Enforcement Counsel
Office of Thrift Supervision
10 Exchange Place, 17th Floor
Jersey City, New Jersey 07302.

8. Miscellaneous.

(a) The construction and validity of this Stipulation 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 the Order shall also mean any of the OTS' predecessors, successors, and assigns.

(c) The section and paragraph headings in this

Stipulation and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation and the Order.

(d) This Stipulation and the 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.

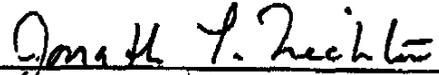
WHEREFORE, JOHN CRISTO, JR. executes this Stipulation, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION



JOHN CRISTO, JR.

BY: 

Jonathan L. Fiechter
Acting Director

Date: June 12, 1994

Date: June 23, 1994

(R6.9)

CERTIFICATE OF SERVICE

Re: In the Matter of John Christo, Jr., No. OTS AP 93-69
OTS Order No. AP 94-30 issued to John Christo, Jr.

I hereby certify that on June 23, 1994, I caused a true copy of the foregoing OTS Order with related Stipulation and Consent to be served as indicated on the following:

CERTIFIED MAIL, RRR (copy by first class mail):

John Christo, Jr.
100 Cherry Street, #601
Panama City, FL 32401

John Christo, Jr.
340 Bunkers Cove Road
Panama City, FL 32401

John Christo, III
3104 Kings Harbour Road
Panama City, FL 32405

FEDERAL EXPRESS OVERNIGHT DELIVERY SERVICE:

Jules P. Kirsch, Esq.
Steven A. Rosenberg, Esq.
Office of Thrift Supervision
10 Exchange Place, 17th Floor
Jersey City, NJ 07302

A. Patricia Marcucci, Esq.
Office of Thrift Supervision
1475 Peachtree Street, N.E.
Atlanta, GA 30309

BY HAND DELIVERY:

Honorable Walter J. Alprin, ALJ
Office of Financial Institution Adjudication
1700 G Street, N.W.
Washington, D.C. 20552

Melba McCannon

Melba McCannon for the Secretary
Office of Thrift Supervision