

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)

**WILSHIRE CREDIT
CORPORATION,**)

an Affiliate of)

First Bank of Beverly Hills,
Federal Savings Bank,
Beverly Hills, California.)

Order No.: SF-99-002

Date: January 7, 1999

**STIPULATION AND CONSENT TO ISSUANCE
OF AN ORDER TO CEASE AND DESIST**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate administrative cease-and-desist proceedings against WILSHIRE CREDIT CORPORATION ("WCC"), pursuant to 12 U.S.C. § 1815(b)(1); and

WHEREAS, WCC desires to cooperate with the OTS and to avoid the time and expense of such administrative proceedings and, therefore, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) WCC is an "institution-affiliated party," as that term is defined at 12 U.S.C. § 1813(u)(4), of First Bank of Beverly Hills, F.S.B., Beverly Hills, California ("First Bank"),
OTS Docket No. 07810.

(b) WCC is an "affiliate" of First Bank as that term is defined at 12 U.S.C. § 1462(9) and 12 C.F.R. § 563.41(b)(1)(iii)(A).

(c) Pursuant to 12 U.S.C. § 1818(b)(1), the “appropriate Federal banking agency” may initiate cease-and-desist proceedings against insured depository institutions and institution-affiliated parties for regulatory violations and unsafe or unsound acts or practices.

(d) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with authority to initiate cease-and-desist proceedings against institution-affiliated parties. Accordingly, WCC is subject to the jurisdiction of the OTS to initiate and maintain such administrative proceedings pursuant to 12 U.S.C. § 1818(b).

2. OTS Findings of Fact.

The OTS finds (without admission by WCC) that WCC knowingly or recklessly participated in (a) a violation of law and regulation; (b) a breach of fiduciary duty; or (c) an unsafe or unsound practice, which caused or is likely to cause a significant adverse effect on First Bank. Specifically, as the mortgage servicer for First Bank, WCC failed to timely remit loan payment proceeds to First Bank, in violation of the loan servicing agreement and in breach of its fiduciary duty owed to First Bank. WCC knowingly or recklessly caused First Bank to violate 12 C.F.R. §§ 563.41 and 563.42 (the transactions-with-affiliates regulation) and 12 C.F.R. § 560.93 (the loans-to-one-borrower regulation). The regulatory violations constitute an unsafe or unsound practice and caused a significant adverse effect on First Bank. Moreover, by lending funds that WCC held on behalf of First Bank without assuring WCC’s ability to pay those funds to First Bank when due, WCC violated 12 C.F.R. § 563.200(a) (the conflicts of interest regulation).

3. Consent.

WCC hereby consents to the issuance by the OTS of the accompanying Order to Cease and Desist ("Order"). WCC further agrees to comply with all terms of the Order upon its issuance, and stipulates that the Order complies with all requirements of law.

4. Finality.

The Order is issued pursuant to 12 U.S.C. § 1818(b). Upon its issuance by the Regional director for the West Region, or his designee, it shall be a final order, effective and fully enforceable by the OTS under 12 U.S.C. § 1818(i).

5. Waivers.

(a) WCC waives its right to a written Notice of Charges and the administrative hearing provided by 12 U.S.C. § 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by 12 U.S.C. § 1818(h), or otherwise challenge the validity of the Order.

(b) WCC acknowledges and agrees that its consent to the entry of the Order is for purpose of resolving this OTS enforcement matter only, arising out of the findings described herein, and does not resolve, affect, or preclude any other civil or criminal proceeding that may be or has been brought by the OTS or any other governmental entity.

(c) WCC waives any and all claims against the OTS, including its employees, agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and for the Order, whether arising under common law, the Equal Access to Justice Act (5 U.S.C. § 504), or 28 U.S.C. § 2412.

6. Signature of Directors.

Each director signing this Stipulation attests that he or she voted in favor of a resolution authorizing the execution of the Stipulation.

WHEREFORE, WCC, by its sole director, executes this Stipulation and Consent to the Entry of an Order to Cease and Desist, intending to be legally bound thereby.

WILSHIRE CREDIT CORPORATION (By its Sole Director):

Director

Date

Accepted by:

OFFICE OF THRIFT SUPERVISION

By:

Charles A. Deardorff
Regional Director
West Region

Date

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Beverly Hills, California.))
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Order No.: SF-99-002
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ORDER TO CEASE AND DESIST

WHEREAS, Wilshire Credit Corporation ("WCC"), Portland, Oregon ("WCC"), is an institution-affiliated party, as that term is defined at 12 U.S.C. § 1813(u)(4), of First Bank of Beverly Hills, Beverly Hills, California ("First Bank"), OTS Docket No. 07810; and

WHEREAS, WCC is an "affiliate" of First Bank as that term is defined at 12 U.S.C. § 1462(9) and 12 C.F.R. § 563.41(b)(1)(iii)(A); and

WHEREAS, WCC, by and through its Board of Directors ("the Board"), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist ("Stipulation"); and

WCC
ORDER TO CEASE & DESIST

WHEREAS, WCC, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to 12 U.S.C. § 1818(b); and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue an Order to Cease and Desist on behalf of the OTS where entities subject to OTS jurisdiction have consented to the issuance of the Order.

NOW, THEREFORE, IT IS ORDERED that:

1. Transactions-with-Affiliates.

(a) WCC shall not enter into any transaction, or otherwise engage in any action which would cause, directly or indirectly, First Bank to violate or be in violation of 12 C.F.R. §§ 563.41 and 563.42.

(b) WCC shall provide the OTS with at least thirty (30) days prior written notice of any transaction which would constitute a covered transaction from the perspective of First Bank. The term "covered transaction" shall have the meaning as set forth at 12 C.F.R. § 563.41(b)(7),

(c) WCC shall provide the OTS with at least thirty (30) days prior written notice of any transaction, or series of transactions, between First Bank and any third party where:

(i) WCC, any affiliate of WCC, or any shareholder of WCC, has a financial interest in such third party; or

(ii) WCC, any affiliate of WCC, or any shareholder of WCC, is a participant in the transaction; or

(iii) any of the proceeds of the transaction are used for the benefit of, or transferred to, directly or indirectly, WCC, any affiliate of WCC, or any shareholder of WCC.

For purposes of this subparagraph (c), the term "affiliate" as it relates to WCC shall have the meaning as set forth at 12 C.F.R. § 563.41(b)(1) as if the term "WCC" were substituted for the word "savings association."

(d) Upon written notice of objection by OTS during the notice period set forth in paragraphs (b) and (c), above, WFSG and WAC shall not enter into any of said transactions.

2. Compliance With Order.

(a) The Board and the officers of WCC shall take immediate action to cause WCC to comply with the terms of this Order and shall take all actions necessary or appropriate thereafter to cause the WCC to continue to comply with this Order.

(b) The Board, on a quarterly basis, shall adopt a Board resolution (the "Compliance Resolution") formally resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief,

during the immediate preceding quarter, WCC complied with each provision of this Order, except as otherwise stated. The Compliance Resolution shall: (1) specify in detail how, if at all, full compliance was not found to exist; and (2) identify all notices of exemption issued by the OTS that were outstanding as of the date of its adoption.

(c) The minutes of the meetings of the Board shall set forth the following information with respect to the adoption of the Compliance Resolution: (1) the identity of each director voting in favor its adoption; and (2) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each such director's reasons for opposing or abstaining.

(d) By February 28, 1999 (for calendar quarter ending December 31, 1998), and within sixty (60) days following the end of each calendar quarter thereafter, WCC shall provide to the OTS a certified true copy of the Compliance Resolution adopted at the Board meeting. The Board, by virtue of WCC's submission of a certified true copy of each such Compliance Resolution to the OTS, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided below. In the event that one or more directors do not agree with the representations set forth in the Compliance

Resolution, such disagreement shall be noted in the minutes of WCC.

(e) The Board shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

3. Stipulation.

The Stipulation is incorporated by reference into this Order.

4. Definitions.

All technical words or terms used in this Order, and the Stipulation, for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the *Code of Federal Regulations*, the Home Owners' Loan Act ("HOLA"), FDIA, or OTS publications. Any such technical words or terms used in this Order and the Stipulation and undefined in the *Code of Federal Regulations*, HOLA, FDIA, or OTS publications shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

5. Successor Statutes, Regulations, Guidance, Amendments.

Any references in this Order and Stipulation to provisions of statutes, regulations, OTS publications, and OTS regulatory guidance shall be deemed to include references to all amendments

to such provisions as have been made as of the date of this Order and references to successor provisions as they become applicable.

6. Notices.

Except as otherwise provided herein, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with the OTS or the WCC shall be in writing and mailed, first class or overnight courier, or by facsimile transmission, or physically delivered, and addressed as follows:

OTS

Office of Thrift Supervision
Attn: Timothy J. Lane
Assistant Regional Director
1551 N. Tustin Ave.
Suite 1050
Santa Ana, CA 92705-8635

WCC

Wilshire Credit Corporation
Attn: Andrew A. Wiederhorn
1776 S.W. Madison Street
Portland, OR 97205

Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service, or facsimile, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this Order, then, in the event such notice was sent by the U.S. mail,

there shall be a presumption that the notice was received two (2) business days after the date of the postmark on the envelope in which the notice was enclosed.

7. Duration, Termination or Suspension of Order.

(a) This Order shall: (1) become effective upon its execution by the OTS, acting through its authorized representative whose signature appears below; and (2) remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or Regional Director (including any authorized designee thereof).

(b) The Regional Director of the OTS, in his or her sole discretion, may, by written notice, suspend, modify, or terminate any or all provisions of this Order.

8. Time Limits.

Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted.

9. Effect of Headings.

The section headings herein are for convenience only and shall not affect the construction hereof.

10. Separability Clause.

In case any provision of this 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.

11. No Violations of Law, Rule, Regulation or Policy Statement Authorized; OTS Not Restricted.

Nothing in this Order shall be construed as:

(1) allowing WCC or First Bank to violate any law, rule, regulation, or policy statement to which it is subject; or (2) restricting or estopping the OTS from taking any action(s) that it deems appropriate in fulfilling the responsibilities placed upon it by law.

12. Successors in Interest/Benefit.

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. Nothing in this Order, express or implied, shall give to any person or entity, other than the parties hereto, and the Federal Deposit Insurance Corporation, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Order.

OFFICE OF THRIFT SUPERVISION

By: 
Charles A. Deardorff
Regional Director
West Region

pkh/C:WCC/ORD/WEDS

WCC
ORDER TO CEASE & DESIST