

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of:

MARVIN SUGAR, SHELDON BLITZ,  
WILLIAM KAPLAN, SAMUEL LEHRMAN,  
and MICHELLE LEAVY,

former Directors of  
American Federal Savings Bank,  
Rockville, Maryland

No. ATL-95-1

Dated: March 2, 1995

STIPULATION AND CONSENT TO ISSUANCE OF A  
CEASE AND DESIST ORDER FOR AFFIRMATIVE RELIEF

This Stipulation and Consent to Issuance of A Cease and Desist Order for Affirmative Relief Including Restitution, Reimbursement, Indemnification, or Guarantee Against Loss ("Stipulation") is made by Marvin Sugar ("Sugar"), Sheldon Blitz ("Blitz"), William Kaplan ("Kaplan"), Samuel Lehrman ("Lehrman"), and Michelle Leavy ("Leavy", and together with Sugar, Blitz, Kaplan and Lehrman "the Respondents"), former directors of American Federal Savings Bank, Rockville, Maryland, OTS Docket Number 8149, ("American Federal"), and is accepted by the Office of Thrift Supervision ("OTS"), an office within the United States Department of the Treasury, acting by and through its Acting Regional Director for the Southeast Region.

WHEREAS, the OTS, based upon information derived from the exercise of its regulatory responsibilities, has informed the Respondents that the OTS is of the opinion that grounds exist to

initiate an administrative cease and desist proceeding against them pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b).<sup>1</sup>

WHEREAS, the Respondents desire to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying the OTS' findings of fact set forth below or that the above grounds exist, hereby stipulate and agree to the following terms:

1. Jurisdiction.

(a) The Institution, at all times relevant hereto, 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 Home Owners' Loan Act ("HOLA"), 12 U.S.C.A. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" with jurisdiction over the Institution and all of its "institution-affiliated parties" and/or all persons participating in the conduct of the affairs thereof.

(c) The Director of the OTS has the authority to bring administrative cease and desist proceedings against persons participating in the conduct of the affairs of the Institution and against institution-affiliated parties, pursuant

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1. All references to the U.S.C. are as amended.

to Section 5(d)(1)(A) of HOLA, 12 U.S.C. § 1464(d)(1)(A) and Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

(d) The Respondents were directors of American Federal and are each deemed to be an "institution-affiliated party" of the Institution as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of the date hereof.

(e) The Respondents are subject to the authority of the OTS to initiate and maintain cease and desist proceedings pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

2. Consent. The Respondents consent to the issuance by the OTS of the Order. The Respondents further agree to comply with the terms of the Order upon issuance and stipulate that the Order complies with all the requirements of law.

3. Findings of Fact.

(a) On or about June 21, 1989, the Board of Directors of American Federal, including the Respondents, approved the grant of a \$7.5 million loan to Cedar Crest Country Club, Inc. ("Cedar Crest") for development of a golf course and country club in Virginia. This loan was a consolidation of nine existing loans to another borrower, Eugene Hooper, that were delinquent and troubled loans.

(b) As of June 22, 1989, nineteen individuals held an interest in an additional \$6.5 million in loans to Cedar Crest. Several members of the Board of Directors held such second trust notes, including Harry Leavy (\$1,000,000), Sugar (\$500,000), Blitz (\$300,000), Kaplan (\$150,000), and Lehrman (\$750,000).

(c) At a meeting of the Board of Directors on December 19, 1990, Mr. Leavy recommended, and the Board of Directors, without Blitz and Sugar who had previously resigned, approved a restructuring of the loan by which the interest rate was lowered from 14 percent to 11 percent effective September 1, 1990, with the remaining three percent interest payable to accrue until September 1, 1992, at which time the interest rate would revert to 14 percent and the deferred interest would be due and payable.

(d) None of the members of the Board of Directors who were then the second trust noteholders altered the terms of their second trust notes to Cedar Crest.

(e) By putting their interest, or the interest of members of their immediate family, over the interests of American Federal, the Respondents participated in a breach of their fiduciary duty, a conflict of interest and an unsafe and unsound practice.

(f) As a result of the above-described events, American Federal has incurred substantial losses on the Cedar Crest loan, and the Respondents have been unjustly enriched.

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

5. Waivers.

The Respondents waive their right to a notice of

charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and further waive any right to seek judicial review of the Order, including 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.

6. Effect of Stipulation.

(a) The Respondents' consent to the entry and issuance of the Order is in consideration of the OTS hereby agreeing to forbear from initiating an administrative proceeding against them and hereby agreeing not to initiate any other enforcement action against them based upon their actions while serving as directors at American Federal (including any subsidiary service corporations thereof).

(b) The differences in the amount of monies required to be paid by each Respondent, pursuant to the terms of the Order, solely represent differences in the individual Respondents' financial ability to make the payments and do not in any way suggest, implicate or fix any greater or lesser liability between and among the Respondents.

7. Other Government Actions Not Affected.

(a) The Respondents acknowledge and agree that their consent to the entry of the Order is for the purpose of resolving any OTS enforcement action against them based upon their actions while serving as directors at American Federal (including any subsidiary service corporations thereof), and does not resolve, affect, or preclude any other civil or criminal proceeding which may be or has been brought by any

governmental entities, other than the OTS.

(b) By signing this Stipulation, the Respondents agree that they will not assert compliance with 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, other than OTS.

(c) The obligation of Blitz and Sugar to pay monies as required by the Order shall not be dischargeable in bankruptcy under any circumstances. See 11 U.S.C. § 523(a)(7).

8. Indemnification. The Respondents shall neither cause nor permit American Federal (or any successor or subsidiary thereof) to incur, directly or indirectly, any legal or other expenses incurred by the Respondents relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from American Federal (or any successor or subsidiary thereof) for such expenses or for the amount of the payment to be made by each Respondent to American Federal under the Order, nor seek indemnification or contribution from each other with respect to such amounts. Nothing herein shall be deemed to prevent American Federal from entering into Releases and Covenants Not to Sue with the Respondents, in the form attached hereto. Any payments, in the form of indemnification, received by or on behalf of the Respondents from American Federal in connection with this action, other than pursuant to the aforementioned Releases and Covenants Not to Sue, shall be returned to American Federal.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Acting Regional Director, and the Respondents execute this Stipulation, intending to be legally bound hereby.

Marvin Sugar  
Marvin Sugar

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Sheldon Blitz

William Kaplan  
William Kaplan

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Samuel Lehrman

\_\_\_\_\_  
Michelle Leavy

OFFICE OF THRIFT SUPERVISION

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

Dated: March 2, 1995

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*Michelle Leavy*  
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Michelle Leavy

OFFICE OF THRIFT SUPERVISION

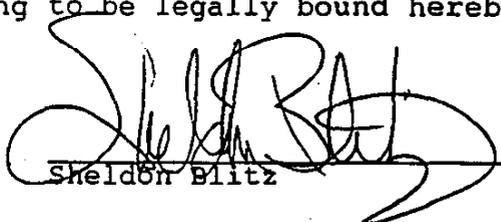
By: *Richard M. Riccobono*  
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Dated: March 2, 1995

Richard M. Riccobono  
Acting Regional Director  
Southeast Regional Office

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Richard M. Riccobono  
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UNITED STATES OF AMERICA  
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MARVIN SUGAR, SHELDON BLITZ,  
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former Directors of  
American Federal Savings Bank,  
Rockville, Maryland

No. ATL-95-1  
Dated: March 2, 1995

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, Marvin Sugar ("Sugar"), Sheldon Blitz ("Blitz"), William Kaplan ("Kaplan"), Samuel Lehrman ("Lehrman"), and Michelle Leavy ("Leavy", and together with Sugar, Blitz, Kaplan and Lehrman "the Respondents"), former directors of American Federal Savings Bank, Rockville, Maryland, OTS Docket Number 8149, ("American Federal") have executed a Stipulation and Consent to Issuance of a Cease and Desist Order for Affirmative Relief Including Restitution, Reimbursement, Indemnification, or Guarantee Against Loss ("Stipulation"); and

WHEREAS, the Respondents in the Stipulation, have consented and agreed to the issuance of this Order to Cease and Desist for Affirmative Relief Including Restitution, Reimbursement, Indemnification, or Guarantee Against Loss ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)<sup>1</sup>; and

1. All references to the U.S.C. are as amended.

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue Orders to Cease and Desist on behalf of the OTS where a party has consented to the issuance of the Order.

NOW, THEREFORE, IT IS ORDERED THAT:

1. Sugar shall pay \$100,000 to American Federal, as follows:

(a) Within 10 days of the effective date of this Order, Sugar shall pay \$25,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

(b) On the date of the bankruptcy settlement with Eugene Hooper or September 30, 1995, which ever occurs first, or a subsequent date, as determined by the Regional Director pursuant to a written request to extend this time period, Sugar shall pay \$75,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

(c) Within ten days of the effective date of this Order, Sugar shall execute a promissory note, in the form of the note attached hereto as Attachment A, that the OTS and American Federal deem acceptable and necessary to set forth the terms of repayment, in accordance with the terms of this Order.

2. Blitz shall pay \$100,000 to American Federal, as follows:

(a) Within 10 days of the effective date of this Order, Blitz shall pay \$25,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

(b) On the date of the bankruptcy settlement with Eugene Hooper or September 30, 1995, which ever occurs first, or a

subsequent date, as determined by the Regional Director pursuant to a written request to extend this time period, Blitz shall pay \$75,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

(c) Within ten days of the effective date of this Order, Blitz shall execute a promissory note, in the form of the note attached hereto as Attachment B, that the OTS and American Federal deem acceptable and necessary to set forth the terms of repayment, in accordance with the terms of this Order.

3. Within 10 days of the effective date of this Order, Kaplan shall pay \$100,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

4. Within 10 days of the effective date of this Order, Lehrman shall pay \$350,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

5. Within 10 days of the effective date of this Order, Leavy shall pay \$80,000 to American Federal by check delivered to the Chief Executive Officer of American Federal.

6. Notice of payment to American Federal shall be made by telefax to: Richard C. Stearns, Deputy Chief Counsel for Enforcement, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, telefax number (202) 906-7005.

7. The Respondents shall comply with applicable provisions of the laws, rules, regulations, and policies that pertain to conflicts of interest and that are enforced by the OTS, or any successor laws, rules, regulations, and policies. In the event that Respondents have any fiduciary relationship with a savings association under the jurisdiction of the OTS,

they shall fulfill their fiduciary duties with respect to conflicts of interest.

8. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided for 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, FDIA, or HOLA, or as such definition is amended after the execution of this Order, and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, FDIA, or HOLA, shall have meanings that accord with their best custom and usage in the savings and loan industry.

9. From the effective date of this Order, the Respondents shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

10. This Order is and shall become effective on the date it is issued, as shown in the caption on the first page hereof.

11. This Order shall remain in effect until it is terminated, modified or suspended, which may occur only by formal written action of the OTS, acting by and through its Director, Regional Director or designee.

12. The Stipulation is made a part hereof and is incorporated herein by this reference.

OFFICE OF THRIFT SUPERVISION

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

Dated: March 2, 1995