

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:

RICHARD M. HATTLER,

Former Chief Lending
Officer of AmeriFirst Bank,
a Federal Savings Bank

Miami, Florida

No.: ATL-94-15

Dated: December 7, 1994

ORDER OF PROHIBITION

WHEREAS, Richard M. Hattler ("Hattler") has executed a Stipulation and Consent to Entry of An Order of Prohibition ("Stipulation"); and

WHEREAS, Hattler, by his execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition ("Order"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e)¹;

NOW THEREFORE, IT IS ORDERED THAT:

1. Hattler is prohibited from further participation, in any manner, in the conduct of the affairs of AmeriFirst Bank, a Federal Savings Bank, Miami, Florida, OTS Docket No. 2143 ("AmeriFirst" or "Institution"), and any holding company, subsidiary or service corporation thereof.

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

2. Hattler shall not hold any office in, or participate in any manner in the conduct of the affairs of any Federally regulated depository institution or the other entities that are described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written approval of the OTS acting through the Southeast Regional Director of the OTS, and the "appropriate Federal financial institutions regulatory agency" for the Federally regulated depository institution involved. Due to the operation of Section 8(e)(6) of the FDIA, 12 U.S.C. § 1818(e)(6), conduct prohibited by this Order, without the said prior written approval of the OTS and of the "appropriate Federal banking agency", also includes, without limitation: (a) the soliciting, procuring, transferring, attempting to transfer, voting, or the attempting to vote, any proxy consent, or authorization with respect to any voting rights in any insured depository institution described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A); and (2) voting for a director, or serving or acting as an institution-affiliated party.

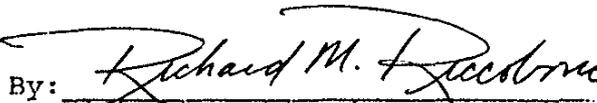
3. On or before the effective date of this Order, Hattler shall provide the OTS with an affidavit as shown in the attached Exhibit "A". Attached to the affidavit and incorporated therein by reference is a copy of Hattler's current financial statement, dated October 31, 1994.

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

5. This Order is subject to the provisions of Sections 8(i) and (j) of the FDIA, 12 U.S.C. §§ 1818(i) and (j), and shall become effective on the date it is issued, as shown in the caption above.

6. Hattler shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

THE OFFICE OF THRIFT SUPERVISION

By: 
Richard M. Riccobono
Acting Regional Director
Southeast Region

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STIPULATION AND CONSENT TO
ENTRY OF AN ORDER OF PROHIBITION

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 an administrative prohibition proceeding against Richard M. Hattler ("Hattler"), former Chief Lending Officer of AmeriFirst Bank, a Federal Savings Bank, Miami, Florida, OTS Docket No. 2143 ("AmeriFirst" or "Institution"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e)¹; and

WHEREAS, Hattler desires to cooperate with the OTS to avoid the time and expense of an administrative proceeding and, without admitting or denying the findings, opinions and conclusions of the OTS, hereby stipulates and agrees to the following terms.

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

1. Jurisdiction.

(a) AmeriFirst was 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 of 1933 ("HOLA"), 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) Hattler, as the Chief Lending Officer of AmeriFirst and member of AmeriFirst's Loan Committee, was an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within 6 years of the date hereof. (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 is the "appropriate Federal banking agency" to maintain an administrative proceeding against such a savings association or its institution-affiliated parties. Therefore, Hattler is subject to the authority of the OTS to initiate and maintain a prohibition proceeding against him pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

2. OTS Findings of Fact. The OTS finds that:

(a) Hattler became the chief lending officer of AmeriFirst in 1984. Shortly thereafter AmeriFirst and the AmeriFirst Board of Directors embarked on a strategy to accelerate the growth of the Institution and increase its concentration in commercial real estate. As a result, the size of AmeriFirst's commercial real estate and commercial construction loan portfolio increased from approximately \$400

million in 1984 to approximately one billion dollars in 1988.

(b) As AmeriFirst's chief lending officer, Hattler was responsible for implementing this change in direction by the AmeriFirst Board of Directors in a responsible and prudent manner.

(c) Hattler, as the chief lending officer: (i) failed to take proper steps to avoid the risk inherent in commercial real estate loans; (ii) failed to implement a level of internal control system adequate to identify and monitor troubled commercial real estate loans; and (iii) failed to implement prudent policies and procedures that, if followed, may have decreased AmeriFirst's exposure to the risk.

(d) Hattler was a member of AmeriFirst's loan committee, and had authority to approve commercial real estate loans up to \$1 million. Many of the commercial real estate loans that were recommended for approval by the loan committee, of which Hattler was a member, subsequently went into default resulting in substantial losses to AmeriFirst.

(e) Hattler, as the chief lending officer, participated in establishing ambitious loan production quotas for loan officers, some of whom had little expertise in commercial real estate lending.

(f) By 1988, when Hattler was, or should have been, fully aware that the commercial real estate market in south Florida was deteriorating and that a significant number of AmeriFirst's commercial real estate loans were showing signs of weakness, AmeriFirst failed to establish specific reserves relating to its commercial real estate

loans other than those loans involved in in-substance foreclosures as of September 30, 1988.

3. Consent. Hattler consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order") in order to avoid the time and expense of an administrative proceeding. He further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Upon its issuance by the Acting Regional Director for the Southeast Region 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. Hattler waives the following:

(a) the right to be served with a written notice of the OTS' charges against him (referred to as a Notice of Intention to Prohibit) (see 12 U.S.C. § 1818(e)); and

(b) the right to an administrative hearing of the OTS' charges against him (see 12 U.S.C. § 1818(e)); and

(c) the right to seek judicial review of the 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 Order.

6. Other Government Actions Not Affected.

Hattler acknowledges and agrees that the consent to the entry of the Order is for purposes of resolving this prohibition action only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Hattler that arise pursuant to this action or otherwise, and may be or have been brought by the Resolution Trust Corporation or any other government entity other than the OTS.

7. Hattler further acknowledges and agrees that his consent to the entry and issuance of the Order is in consideration of the OTS forbearing from initiating such administrative prohibition proceeding against him and not initiating any other enforcement action against him arising from his employment by AmeriFirst; provided that if any of the financial information submitted to the OTS by Hattler in the accompanying affidavit, or in any financial statement, including but not limited to the October 31, 1994 financial statement attached thereto and incorporated by reference therein is materially false or misleading, including but not limited to the failure to identify and/or value any material asset, then the OTS shall have the right in its sole discretion (i) to void this Stipulation and/or the Order, and (ii) to institute whatever legal action is deemed appropriate against Hattler.

8. By signing this Stipulation, Hattler agrees that he 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.

9. Acknowledgment of Criminal Sanctions. Hattler acknowledges that Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), sets forth criminal penalties for knowing violations of the Order.

WHEREFORE, Hattler executes this Stipulation and Consent to Entry of an Order of Prohibition, intending to be legally bound hereby.

By:


Richard M. Hattler

Accepted by:
OFFICE OF THRIFT SUPERVISION


Richard M. Riccobono
Acting Regional Director
Southeast Region