

{{11-30-93 p.C-312}}

[¶10,064] **In the Matter of Family Bank, Park Forest, Illinois, Docket No. FDIC-90-58b (4-12-90).**

Bank to cease and desist from practices such as engaging in hazardous lending and lax collection practices; violating the prior approval requirements and federal and state laws; and operating with inadequate internal routine and controls, with inadequate board supervision and management, with inadequate liquidity, with inadequate allowance for loan and lease losses, with inadequate level of capital protection so as to produce excessive interest expense, occupancy and personnel costs resulting in inadequate earnings. *(This order was terminated by order of the FDIC dated 9-23-93; see ¶15,732.)*

- [.1] **Management—Qualifications—Compliance**
- [.2] **Total Capital—Increase—Methods**
- [.3] **Total Assets—Growth Plan—Minimum Requirements**
- [.4] **Assets—Adversely Classified—Reduce**
- [.5] **Loans—Risk Position—Minimum Requirements**
- [.6] **Technical Exceptions—Correct**
- [.7] **Loan Concentration—Minimum Requirements—Review**
- [.8] **Loan Policy—Minimum Requirements—Internal Audit Program**
- [.9] **Loan Loss Reserve—Adequacy—Review**
- [.10] **Reports on Financial Condition—Amendment—Filing**
- [.11] **Violations of Law—Assets Listed for "Special Mention"—Eliminate/ Correct Deficiencies—Eliminate/Correct—Compliance**
- [.12] **Profit Plan—Minimum Requirements—Review**
- [.13] **Deposits—Volatile Liabilities—Review**
- [.14] **Reported Deficiencies—Internal Routine and Controls—Correct**
- [.15] **Board of Directors—Compliance Committee—Review**
- [.16] **Shareholders—Disclosure—Cease and Desist Order**
- [.17] **Compliance—Progress Reports—Frequency**

{{4-1-90 p.C-313}}

In the Matter of

**FAMILY BANK
PARK FOREST, ILLINOIS
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

Family Bank, Park Forest, Illinois ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law and regulation alleged to have been committed by the Bank, and of its right to a hearing on the charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §1818(b), *amended by* section 902 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73 §902, 103 Stat. 183, 450 (1989) (to be codified at 12 U.S.C. §1818(b)), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT"), with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated April 6, 1990, whereby, solely for the purpose of this proceeding and without admitting or denying the charges of unsafe or unsound banking practices and violations of law and regulation, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Bank had engaged in unsafe or unsound banking practices and had violated laws and regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT, and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED, that the Bank, its institution-affiliated parties, as that term is defined in section 204(f) of FIRREA, Pub. L. No. 101-73 §204(f), 103 Stat. 183, 193 (1989) (to be codified at 12 U.S.C. §1813(u)), and its successors and assigns, cease and desist from the following unsafe or unsound banking practices and violations of law and regulation:

- A. Engaging in hazardous lending and lax collection practices;

B. Violating the prior approval requirements for loans to bank insiders as set forth in section 215.4(b)(2) of Regulation O of the Board of Governors of the Federal Reserve System ("Regulation O"), 12 C.F.R. §215.4(b)(2), made applicable to insured State nonmember banks by section 337.3(b) of FDIC Rules and Regulations, 12 C.F.R. §337.3(b); and violating the State of Illinois legal lending limit restrictions as set forth in section 32 of the Illinois Banking Act, ILL. REV. STAT., Ch. 17 §339, the lobby notice requirements of section 350.7(b) of FDIC Rules and Regulations, 12 C.F.R. §350.7(b), the prohibitions against disclosure of examination report information of section 309.6(b) of FDIC Rules and Regulations, 12 C.F.R. §309.6(b), the designated security officer requirement of section 326.2 of FDIC Rules and Regulations, 12 C.F.R. §326.2, the written security program requirements of section 326.4 of FDIC Rules and Regulations, 12 C.F.R. §326.4, sections 349.3(a) and (b) of FDIC Rules and Regulations, 12 C.F.R. §§349.3 (a) and (b) and sections 103.22(a) and (f), 31 C.F.R. §§103.22 (a) and (f) of the United States Treasury Financial Recordkeeping and Reporting of Currency and Foreign Transactions Regulations.

C. Operating with inadequate internal routine and controls;

D. Operating with a management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;

E. Operating with a board of directors which has failed to provide adequate supervision over and direction to the management of the Bank;

F. Operating with inadequate liquidity;

G. Operating with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans held;

H. Operating with an inadequate level of capital protection for the kind and quality of assets held; and

I. Operating in such a manner as to produce excessive interest expense, and occupancy and personnel costs which have resulted in an inadequate level of earnings.

IT IS FURTHER ORDERED, that the Bank, its institution-affiliated parties, and its successors and assigns take affirmative action as follows:

[.1] 1. (a) Within 90 days from the effective date of this ORDER, the Bank shall [{{4-1-90 p.C-314}}](#) have, and thereafter retain, qualified management. Each member of management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank. Further, during the life of this ORDER, the Bank shall promptly notify the Regional Director and the Commissioner of any changes in any of the Bank's executive officers, and shall submit to the Regional Director and Commissioner, a written statement of the qualifications of any new executive officer. The notification must include the name and background of any replacement personnel and must be provided prior to the individual assuming the new position. For purposes of this paragraph, "executive officer" shall have the meaning ascribed that term in section 215.2(d) of Regulation O, 12 C.F.R. §215.2(d).

(b) The qualifications of management shall be assessed on its ability to:

- (i) Comply with the requirements of this ORDER;
- (ii) Operate the Bank in a safe and sound manner;
- (iii) Comply with applicable laws and regulations; and
- (iv) Restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, management effectiveness and liquidity.

(c) No provision of this paragraph one (1) shall be construed to exempt the Bank from the provisions of section 32 of the Act ("section 32"), *added by* section 914 of FIRREA, Pub. L. No. 101-73, 103 Stat. 183, 484-485 (1989) (to be codified at 12 U.S.C. §1831(i)), and compliance with this paragraph one (1) shall not be in lieu of adherence to the prior consent requirements of section 32 for directors and senior executive officers as that term is defined in section 303.14(a)(3) of FDIC Rules and Regulations, 12 C.F.R. §303.14(a)(3) promulgated pursuant to section 32.

[.2] 2. (a) Within 30 days from the effective date of this ORDER, the Bank shall submit to the Regional Director of the FDIC's Chicago Regional Office ("Regional Director") and the Commissioner of Banks and Trust Companies for the State of Illinois ("Commissioner") a plan to raise the Bank's level of total capital as a percentage of its total assets to a minimum of 7.5% by April 30, 1990.

(b) Within 30 days from each June 30 and December 31 following the effective date of this ORDER, the Bank's board of directors shall determine the Bank's level of total capital as a percentage of its total assets for the quarter preceding the respective June 30 and December 31 dates ("capital ratio"). If that percentage is less than 7.5 percent, the Bank shall, within 90 days from the date of that determination, increase the capital/asset relationship to not less than 7.5 percent as of the end of that preceding semiannual period. For the purpose of this ORDER, total capital and total assets utilized in computing the relationship shall be calculated in accordance with the provisions of Part 325 of FDIC Rules and

Regulations, 12 C.F.R. Part 325.

(c) Any increase in total capital necessary to meet the requirements of this paragraph may be accomplished by the following:

- (i) The sale of securities allowed as total capital under 12 C.F.R. Part 325; or
- (ii) The elimination of all or part of the "Loss" assets referred to in paragraph 3 of this ORDER, without loss or liability to the Bank; or
- (iii) The collection in cash of assets previously charged-off; or
- (iv) The direct contribution of cash by the directors and/or shareholders of the Bank; or
- (v) Any other means acceptable to the Regional Director and Commissioner; or
- (vi) Any combination of the above means.

(d) If all or part of the increase in total capital required by this paragraph is to be accomplished by the sale of new securities, the board of directors of the Bank shall adopt and implement a plan for the sale of such additional securities, including the voting of any shares owned or proxies held by or controlled by them in favor of said plan. Should the implementation of the plan involve public distribution of the Bank securities, including a distribution limited only to the Bank's existing shareholders, the Bank shall prepare detailed offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with the Federal securities laws. Prior to the implementation of the plan and, in any event, not less than twenty [{{4-1-90 p.C-315}}](#)(20) days prior to the dissemination of such materials, the materials used in the sale of the securities shall be submitted to the FDIC at Washington, D.C., for its review. Any changes requested to be made in the materials by the FDIC shall be made prior to their dissemination.

(e) In complying with the provisions of paragraph 2(d) of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank securities written notice of any planned or existing development or other changes which are materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within ten (10) calendar days of the date any material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber of the Bank's original offering materials.

(f) The formal capital ratio analysis as of June 30 and December 31 of each year described in paragraph 2(b) of the ORDER shall not negate the responsibility of the Bank and its board of directors for maintaining throughout the year an adequate level of capital protection for the kind, quality and degree of market depreciation of assets held by the Bank.

[.3] 3. (a) Following the effective date of this Order, the Bank shall not increase its total assets by more than four percent during any consecutive three month period without first submitting, at least 30 days prior to its implementation, a growth plan to the Regional Director and Commissioner. Such growth plan shall identify and explain the funding source to support the projected growth, as well as the anticipated use of funds. This growth plan shall not be implemented without the prior written consent of the Regional Director and Commissioner, and in no event, shall the Bank increase its total assets by more than twelve percent annually. For the purpose of this paragraph, "total assets" has the meaning ascribed to that term by the Federal Financial Institutions Examination Council's Instructions for the Consolidated Reports of Condition and Income.

(b) Within 60 days from the effective date of this ORDER, the board of directors shall develop a written plan to reduce the Bank's loan volume to a more manageable level, commensurate with the size and ability of the lending staff. This written plan shall be submitted to the Regional Director and Commissioner for their review and comment.

(c) Within 30 days of the receipt of any comment from the Regional Director and Commissioner regarding the Bank's growth plan and written plan to reduce loan volume described in sub-paragraphs (a) and (b) above, and after conforming the plans in accordance with any changes recommended by the Regional Director or Commissioner, the board of directors shall approve and implement the plans. These approvals shall be recorded in the minutes of a directors' meeting.

[.4] 4. Within 30 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" in the FDIC Report of Examination as of August 12, 1989 ("Report"). Reduction of these assets with proceeds of other loans made by the Bank is not considered collection for the purpose of this paragraph.

[.5] 5. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate and adopt a

written plan to lessen the Bank's risk position in each line of credit in excess of \$25,000 which is classified "Substandard" in the Report. Such plan shall include, but not be limited to, the following:

- (i) Dollar levels to which the Bank will reduce each line of credit within 6 and 12 months from the effective date of this ORDER; and
- (ii) Provisions for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors.

(b) The written plan required to be developed by this paragraph shall be submitted to the Regional Director and Commissioner for review and comment. Within 30 days of the receipt of any comment from the Regional Director and Commissioner, and after conforming the plan in accordance with any changes recommended by the Regional Director or Commissioner, the board of directors shall approve and implement the {{4-1-90 p.C-316}}plan. The approval shall be recorded in the minutes of a directors' meeting.

[.6] 6. Within 60 days from the effective date of this ORDER, the Bank shall correct all Technical Exceptions listed on pages 2-f and 2-f-1 of the Report.

[.7] 7. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate and adopt a written plan of action to reduce the loan concentration of credit involving UNI-FIN Corporation listed on page 2-c of the Report to no more than 25% of equity capital and reserves. The written plan shall also provide that all other loan concentrations noted in the Report be reduced to the extent required to be in compliance with the established loan policy. This plan shall prohibit any additional advances which would increase the concentrations and shall detail:

- (i) Dollar levels to which the Bank will reduce the concentrations within 6 and 12 months from the effective date of this ORDER; and
- (ii) Provisions for the submission of monthly written progress reports of such reductions to the Bank's board of directors for review and notation in the board of directors' minutes.

(b) The written plan required to be developed by this paragraph shall be submitted to the Regional Director and Commissioner for review and comment. Within 30 days of the receipt of any comment from the Regional Director and Commissioner, and after conforming the plan in accordance with any changes recommended by the Regional Director or Commissioner, the board of directors shall approve and implement the plan. The approval shall be recorded in the minutes of a directors' meeting.

[.8] 8. (a) Within 60 days from the effective date of this ORDER, and annually thereafter, the Bank shall review its loan policy and practices for adequacy and, based upon this review, shall make appropriate revisions in the policy which are necessary to strengthen lending procedures and abate additional loan deterioration. The reviews required by this paragraph shall be recorded in the minutes of a directors' meeting.

(b) The initial revision of the Bank's loan policy required by this paragraph, at a minimum, shall include the following:

- (i) a provision requiring that all extensions of credit originated or renewed above \$5,000 be supported by current and complete financial data and, where applicable, complete collateral documentation; have a clearly defined purpose; and have a predetermined repayment source and schedule.
- (ii) a provision requiring loan committee review and monitoring of the status of repayment and collection of overdue and maturing loans, as well as those loans which were classified "Substandard" in the Report, or in any future examination conducted by the FDIC or State authority.
- (iii) a provision requiring the establishment and maintenance of a loan grading system and internal loan watch list.
- (iv) a provision requiring a written plan to lessen the Bank's risk position in each line of credit identified as a problem credit on the Bank's internal loan watch list.
- (v) a provision requiring accurate reporting of past due loans to the loan committee on at least a monthly basis.
- (vi) a provision requiring a nonaccrual policy in accordance with the Federal Financial Institutions Examination Council's (FFIEC) instructions for the Consolidated Reports of Condition and Income.
- (vii) a provision which addresses concentrations of credit and diversification of risk, including goals for portfolio mix, establishment of limits within loan and other asset categories, and

development of a tracking and monitoring system for the economic and financial condition of specific geographic locations, industries and groups of borrowers.

(viii) a provision which establishes standards for extending unsecured credit.

(c) Within 60 days from the effective date of this ORDER, the Bank shall implement a written, detailed internal audit program designed to monitor and ensure compliance with the Bank's loan policy and procedures.

(d) The written loan policy and audit program required to be developed by this paragraph shall be submitted to the Regional Director and Commissioner for review and comment. Within 30 days of the receipt of any comment from the Regional Director and Commissioner, and after conforming the loan policy and audit program in accordance with any changes recommended [{{10-31-93 p.C-317}}](#) by the Regional Director or Commissioner, the board of directors shall approve and implement the loan policy and audit program. The approvals shall be recorded in the minutes of a directors' meeting.

[.9] 9. (a) Within 30 days from the effective date of this ORDER, the Bank shall replenish its loan valuation reserve by an expense entry in an amount equal to those loans required to be charged-off by paragraph four (4) of this ORDER.

(b) Within 30 days from the effective date of this ORDER, the Bank shall make a provision to the loan valuation reserve which, after careful review and consideration by the board of directors, reflects the potential for further losses in the "Substandard" loan classifications and all other loans in its portfolio.

[.10] (c) Within 30 days from the effective date of this ORDER, Reports of Condition and Income required by the FDIC and filed by the Bank subsequent to August 12, 1989, shall be amended and refiled if they do not reflect a provision for loan losses and loan valuation reserve which are adequate considering the condition of the Bank's loan portfolio and which, at a minimum, incorporate the adjustments required by this paragraph.

(d) Prior to the submission or publication of all Reports of Condition and Reports of Income required by the FDIC after the effective date of this ORDER, the Bank shall review the adequacy of its loan valuation reserve and accurately report the same. The minutes of the board of directors' meeting at which such review is undertaken shall indicate the results of the review, the amount of increase in the reserve recommended, if any, and the basis for determination of the amount of reserve provided.

[.11] 10. Within 60 days from the effective date of this ORDER, the Bank shall correct all deficiencies in those assets listed for "Special Mention" in the Report, and in any future examination conducted by the FDIC or State authority.

11. Within 90 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulation which are listed on pages 6-a through 6-a-2 of the Report. In addition, the Bank shall devise and implement procedures to ensure future compliance with all applicable laws and regulations.

[.12] 12. (a) Within 60 days from the date of this ORDER, the Bank shall formulate and fully implement a written Profit Plan. This plan shall address, at a minimum, the following:

(i) goals and strategies for improving and sustaining the earnings of the Bank, including:

(a) identification of the major areas in, and means by which, the board of directors will seek to improve the Bank's operation performance;

(b) a budget review process to monitor the income and expenses of the Bank which compares actual figures with budgetary projections;

(c) realistic and comprehensive budget(s);

(d) a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components; and

(e) periodic salary review; and

(ii) coordination of the Bank's loan, investment, and operating policies, and budget and profit planning, with the funds management policy.

(b) The written plan required to be developed by this paragraph shall be submitted to the Regional Director and Commissioner for review and comment. Within 30 days of the receipt of any comment from the Regional Director and Commissioner, and after conforming the plan in accordance with any changes recommended by the Regional Director or Commissioner, the board of directors shall approve and implement the plan. The approval shall be recorded in the minutes of a directors' meeting.

[.13] 13. Within 60 days from the date of this ORDER, the Bank shall examine the extent of the volatility present in its deposit structure and shall document its conclusions in the minutes of the board of directors' meeting. Upon completion of this analysis, the Bank shall submit the results of its study, as well as the basis for its conclusions to the Regional Director and Commissioner for review and comment. This determination shall specifically take into account any premium-rate money market deposit accounts, as well as the three-year, \$50,000 certificates of deposit which the Bank obtained through the advertising campaign which began in April of 1989. To the extent these deposits are determined to be potentially volatile, the {{10-31-93 p.C-318}}Bank shall include these deposits as volatile liabilities when determining its dependency ratio as calculated on page 5-a of the Report.

[.14] 14. Within 90 days from the effective date of this ORDER, the Bank's board of directors shall correct the deficiencies in Internal Routine and Controls described in the Report, and develop procedures to correct such deficiencies.

[.15] 15. Within 30 days from the effective date of this ORDER, the Bank shall establish a compliance committee comprised of at least two directors. No committee member may also be an active officer or principal shareholder of the Bank, as the term "principal shareholder" is defined in section 215.2(j) of Regulation O, 12 C.F.R. § 215.2(j). The committee shall monitor the Bank's compliance with this ORDER, and shall submit to the board of directors on a monthly basis, a written report detailing such compliance. The monthly compliance report shall be incorporated into the minutes of each directors' meeting.

[.16] 16. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER: (1) in conjunction with the Bank's next shareholder communication; and (2) in conjunction with its notice of proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, statement or notice shall be sent to the FDIC at Washington, D.C., for review at least twenty (20) days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice or statement.

[.17] 17. On the last day of the second month following the date of issuance of this ORDER, and every third month thereafter, the Bank shall furnish written progress reports, signed by each member of the Bank's board of directors, to the Regional Director and Commissioner detailing the form and manner of any actions taken to secure compliance with the ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and Commissioner have in writing released the Bank from making further reports.

The effective date of this ORDER shall be ten (10) days after its issuance by the FDIC.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, and its successors and assigns.

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated: April 12, 1990.