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{{9-30-93 p.C-475}}

[¶10,096] **In the Matter of Simmesport State Bank, Simmesport, Louisiana, Docket No. FDIC-90-147 (8-3-90).**

Bank to cease and desist from practices such as engaging in hazardous lending and lax collection practices; operating with a large volume of poor quality loans, inadequate loan valuation reserve, inadequate routine and control policies and in a manner as to produce low earnings. *(This order was terminated by order of the FDIC dated 7-22-93; see ¶ 15,701.)*

[.1] **Management—Qualifications—Management Policy**

[.2] **Board of Directors—Committee to Review Compliance—Outside Directors**

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[.3] **Primary Capital—Increase—Methods**

[.4] **Profit Plan—Minimum Requirements—Review**

[.5] **Assets—Adversely Classified—Eliminate/Reduce**

[.6] **Loan Policy—Collection Policy—Revise**

[.7] **Credit Files—Technical Exceptions—Correct**

[.8] **Loan Portfolio—Review and Grading System—Minimum Requirements**

[.9] **Board of Directors—Loan Review Committee—Credit To Existing Borrowers**

[.10] **Bank Operations—Internal Routine And Control Procedures**

[.11] **Shareholders—Disclosure—Cease and Desist Order**

[.12] **Dividends—Restricted**

[.13] **Compliance—Progress Reports**

In the Matter of

SIMMESPORT STATE BANK

SIMMESPORT, LOUISIANA

(Insured State Nonmember Bank)

ORDER TO CEASE AND DESIST

FDIC90-147b

SIMMESPORT STATE BANK, SIMMESPORT, LOUISIANA ("Bank"), having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices alleged to have been committed by the Bank and of its right to a hearing on the alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), 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 July 12, 1990, whereby solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices, 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. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED that the Bank, its directors, officers, employees, agents, successors, assigns, and other institution-affiliated parties of the Bank, cease and desist from the following unsafe or unsound banking practices:

- (a) engaging in hazardous lending and lax collection practices;
- (b) operating with a large volume of poor quality loans;
- (c) operating with an inadequate loan valuation reserve;
- (d) operating with inadequate routine and controls policies; ;and
- (e) operating in such a manner as to produce low earnings;

IT IS FURTHER ORDERED that the Bank take affirmative action as follows:

[.1] 1. (a) During the life of this ORDER, the Bank shall have management qualified to restore the Bank to a sound condition. Such management shall include a chief executive officer and an experienced senior lending officer responsible for supervising the Bank's overall lending function.

(b) Present management shall be assessed on its ability to:

- (i) Comply with the requirements of this ORDER;
- (ii) Improve and thereafter maintain the Bank in a safe and sound condition, including asset quality, capital adequacy, liquidity adequacy, and earnings adequacy; and
- (iii) Comply with all applicable State and Federal laws and regulations.

(c)(i) During the life of this ORDER, the Bank shall notify the Regional Director of the Memphis Regional Office ("Regional Director") and the Commissioner of Financial Institutions for the State of Louisiana ("Commissioner") in writing of any resignation of members and/or terminations of any members of its board of directors and/or any of its senior executive officers.

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(ii) The Bank shall comply with section 32 of the Act, 12 U.S.C. § 1831i, which includes a requirement that the Bank shall notify the Regional Director and the Commissioner in writing of any additions to its board of directors and senior executive officers.

(d)(i) To ensure both compliance with this ORDER and qualified management for the Bank, the board of directors, within 60 days from the effective date of this ORDER shall develop a written policy ("Management Policy") which shall incorporate an analysis of the Bank's management and staffing requirements and shall, at a minimum address (1) both the number and type of positions needed to properly manage the Bank, (2) a clear and concise description of the needed experience and pay for each job, (3) an evaluation of present management, (4) a plan to recruit, hire or replace personnel with requisite ability and experience, (5) a periodic evaluation of each individual's job performance, and (6) the establishment of procedures to periodically review and update the Management Policy.

(ii) The Management Policy and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors shall approve the Management Policy which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank and its directors, officers and employees shall implement and follow the Management Policy and any modifications thereto.

[.2] (e) Within 30 days from the effective date of this ORDER, the board of directors shall establish a committee of the board of directors with the responsibility to ensure that the Bank complies with the provisions of this ORDER. At least two-thirds of the members of such committee shall not be employed, in any capacity, by the Bank or its affiliates other than as a director of the Bank or an affiliate. The committee shall report monthly to the entire board of directors, and a copy of the report and any discussion relating to the report or the ORDER shall be included in the minutes of the board of directors. Nothing contained herein shall diminish the responsibility of the entire board of directors to ensure compliance with the provisions of this ORDER.

[.3] 2. (a) During the life of this ORDER, the Bank shall maintain adjusted primary capital equal to or greater than seven and one-half (7.5) percent of the Bank's adjusted Part 325 total assets.

(b) Any increase in primary capital necessary to meet the ratio required by Paragraph 2(a) of this ORDER may be accomplished by the following:

- (i) The sale of new securities in the form of common stock; or
- (ii) The direct contribution of cash by the directors, shareholders, or parent bank holding company of the Bank; or
- (iii) Any other method acceptable to the FDIC.

(c) If all or part of the increase in primary capital required by Paragraph 2(a) of this ORDER is 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 or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare 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 20 days prior to the dissemination of such materials, the plan and any materials used in the sale of the securities shall be submitted to the

FDIC, Registration and Disclosure Unit, Washington, D.C. 20429. Any changes requested to be made in the plan or materials by the FDIC shall be made prior to their dissemination.

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(d) In complying with the provisions of Paragraph 2 of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank's 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 10 days from the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every subscriber and/or purchaser of the Bank's securities who received or was tendered the information contained in the Bank's original offering materials.

(e) For purposes of this ORDER the terms "primary capital", "total capital" and "Part 325 total assets" shall have the meanings ascribed to them in Part 325 of the FDIC's Rules and Regulations, respectively, subsections 325.2(h), 325.2(l) and 325.2(k), 12 C.F.R. § 325.2(h), (l), (k). The "Analysis of Capital" schedule on page 3 of the FDIC Report of Examination provides the method for determining the ratio of adjusted primary capital to adjusted Part 325 total assets as required by this ORDER.

[.4] 3. (a) Within 90 days from the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop a written profit plan consisting of goals and strategies for improving the earnings of the Bank for each calendar year. The written profit plan shall include, at a minimum:

- (i) Identification of the major areas in, and means by, which the board of directors will seek to improve the Bank's operating performance;
- (ii) Realistic and comprehensive budgets;
- (iii) A budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections on not less than a quarterly basis; and
- (iv) A description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(b) Each written profit plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director, the board of directors shall approve the written profit plan which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank, its directors, officers, and employees shall follow the written profit plan and/or any subsequent modification.

[.5] 4. (a) Within 10 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets classified "Loss" as of January 19, 1990, that have not been previously collected or charged-off. Reduction of these assets through proceeds of other loans made by the Bank is not considered collection for the purpose of this paragraph.

(b) Within 90 days from the effective date of this ORDER, the Bank shall have reduced the assets classified "Substandard" as of January 19, 1990 to not more than \$3,000,000.

(c) Within 180 days from the effective date of this ORDER, the Bank shall have reduced the assets classified "Substandard" as of January 19, 1990 to not more than \$2,700,000.

(d) Within 270 days from the effective date of this ORDER, the Bank shall have reduced the assets classified "Substandard" as of January 19, 1990 to not more than \$2,400,000.

(e) Within 360 days from the effective date of this ORDER, the Bank shall have reduced the assets classified "Substandard" as of January 19, 1990 to not more than \$2,200,000.

(f) The requirements of Paragraphs 4(a), 4(b), 4(c), 4(d), and 4(e) are not to be construed as standards for future operations and, in addition to the foregoing, the Bank shall eventually reduce the total of all adversely classified assets. As used in Paragraphs 4(b), 4(c), 4(d), 4(e), and 4(f) the word "reduce" means (i) to collect, (ii) to charge-off, or (iii) to sufficiently improve the quality of assets adversely classified to warrant removing any adverse classification, as determined by the FDIC.

[.6] 5. (a) Beginning with the effective date of this ORDER, the Bank shall review [{{4-30-93 p.C-479}}](#) and strengthen its collection policies and procedures and adopt and implement a written loan interest nonaccrual policy which conforms with requirements contained in Instructions for Preparation of Reports of Condition and Income published by the Federal Financial Institutions Examination Council.

[.7] (b) Beginning with the effective date of this ORDER, the Bank shall initiate and implement a program to strengthen its credit files and correct the technical exceptions as detailed on pages 2-d and 2-d-1 of the January 19, 1990 Report of Examination. In all future operations, the Bank shall ascertain that all documents or evidence thereof, properly completed, are obtained before credit is extended.

[.8] 6. (a) Within 30 days of the effective date of this ORDER, the board shall establish a loan review and grading system ("System") to periodically review the Bank's loan portfolio and identify and categorize problem credits. At a minimum the System shall provide for:

- (i) Identifying the overall quality of the loan portfolio;
- (ii) The identification and amount of each delinquent loan;
- (iii) An identification or grouping of loans that warrant the special attention of management;
- (iv) For each loan identified, a statement of the amount and an indication of the degree of risk that the loan will not be fully repaid according to its terms and the reason(s) why the particular loan merits special attention;
- (v) An identification of credit and collateral documentation exceptions;
- (vi) The identification and status of each violation of law, rule or regulation;
- (vii) An identification of loans not in conformance with the Bank's lending policy, and exceptions to the Bank's lending policy;
- (viii) An identification of insider loan transactions; and
- (ix) A mechanism for reporting periodically, no less than quarterly, to the board of directors on the status of each loan identified and the action(s) taken by management.

(b) A copy of the reports submitted to the board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be kept with the minutes of the board of directors.

[.9] (c) Within 60 days from the effective date of this ORDER the Bank's board of directors shall establish and appoint a loan committee to review and approve in advance all extensions of credit, and/or renewals that when aggregated with all other extensions of credit to that borrower, either, directly or indirectly, exceed or would exceed \$50,000. The review should include financial, income, and cash flow information, collateral values and lien information, repayment terms, past performance by the borrower, the purpose of the extension, and whether the extension complies with the Bank's loan policy and applicable rates and regulations. The loan committee shall meet at least twice monthly and shall maintain written minutes which document its review conclusions, approvals, denials and recommendations. At least two-thirds of the members of the loan committee shall not be employed, in any capacity, by the Bank or its affiliates other than as a director of the Bank or an affiliate.

[.10] 7. Within 60 days from the effective date of this ORDER, the Bank shall adopt and implement a written policy for the operation of the Bank in such a manner as to provide internal routine and controls consistent with safe and sound banking practices. Such policy and its implementation shall be satisfactory to the Regional Director as determined at subsequent examinations and/or visitations.

[.11] 8. Following the effective date of this ORDER, the Bank shall send to its share-holders or otherwise furnish a description of this ORDER, (i) in conjunction with the Bank's next shareholder communication, and also (ii) in conjunction with its notice or 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, Registration and Disclosure Unit, Washington, D.C. 20429 for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be [{{4-30-93 p.C-480}}](#) made prior to dissemination of the description, communication, notice, or statement.

[.12] 9. While this ORDER is in effect, the Bank shall not declare or pay any cash dividends on its capital stock without the prior written approval of the Regional Director and the Commissioner unless:

- (i) such dividends would not reduce the Depository Institution's adjusted primary capital ratio below the 7.5% maintenance level required by Paragraph 2(a) of this Order; and
- (ii) the amount of the dividends declared and/or paid on an annual basis does not exceed fifty (50) percent of net income as may be determined by using the Instructions for Preparation of Reports of Condition and Income published by the Federal Financial Institutions Examination Council.

[.13] 10. On the fifteenth day of the second month following the effective date of this ORDER, and on the fifteenth day of every third month thereafter, the Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released the Bank in writing from making further reports.

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

This ORDER shall become effective 10 days from the date of its issuance.

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: August 3d, 1990