

{{12-31-91 p.C-507}}

[¶10,105] **In the Matter of State Bank and Trust Company, Nevada, Iowa, Docket No. FDIC-90-171b (8-28-90).**

Bank to cease and desist from engaging in such practices as violating applicable laws and regulations; engaging in management policies and practices which are detrimental to Bank, and failing to provide adequate supervision and direction over the affairs of the Bank to prevent unsafe or unsound practices and violations of laws and regulations. *(This order was terminated by order of the FDIC dated 7-24-91; see ¶ 15,309.)*

- [.1] **Management—Qualifications—Management Plan**
- [.2] **Violations of Law and Regulations—Eliminate and/or Correct**
- [.3] **Shareholders—Disclosure—Cease and Desist Order**
- [.4] **Compliance—Progress Reports—Frequency**

In the Matter of

**STATE BANK AND TRUST COMPANY
NEVADA, IOWA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST
FDIC-90-171B**

The State Bank and Trust Company, Nevada, Iowa ("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 laws and regulations alleged to have been committed by the Bank and of its right to a hearing on such alleged charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 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 August 21, 1990, whereby solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices or violations of laws and regulations, 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 has engaged in unsafe or unsound banking practices and has 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 3(u) of the Act, 12 U.S.C. § 1813(u), and its successors and assigns, cease and desist from the following unsafe and unsound banking practices and violations of laws and regulations:

- A. engaging in violations of applicable laws and regulations;
- B. engaging in management policies and practices which are detrimental to the Bank; and
- C. failing to provide adequate supervision and direction over the affairs of the Bank to prevent unsafe or unsound practices and violations of laws and regulations.

IT IS FURTHER ORDERED, that the Bank, its institution-affiliated parties, and {{12-31-91 p.C-508}}its successors and assigns, take affirmative action as follows:

[.1] 1. (a) (i) No more than 120 days from the effective date of this ORDER, the Bank shall have and thereafter retain qualified management. Such management shall include a qualified chief executive officer who shall be given stated written authority by the Bank's board of directors, including responsibility for implementing and maintaining the policies of the Bank. The chief executive officer shall have an appropriate level of experience to perform the duties assigned to that individual by the Bank's board of directors. The Bank shall promptly notify the Regional Director of the FDIC's Kansas City Regional Office ("Regional Director") of the identity of said chief executive officer. Prior to the addition of any individual to the board of directors or the employment of any individual as a senior executive officer, the Bank shall comply with the requirements of section 32 of the Act, 12 U.S.C. § 1831i, and section 303.14 of the FDIC's Rules and Regulations, 54 Fed. Reg. 53040 and 53043 (to be codified at 12 C.F.R. § 303.14).

(ii) The assessment of whether the Bank has "qualified management" shall be based upon management's conduct, both individual and joint, with respect to the Bank in: (A) complying with the requirements of this ORDER; (B) complying with applicable laws and regulations; and (C) not engaging in any unsafe or unsound banking practice which has an adverse effect on the Bank's asset quality, capital adequacy, earnings, or liquidity.

(b) The board of directors shall in no more than 30 days from the effective date of this ORDER develop a written analysis and assessment of the Bank's management and staffing needs ("management plan"), which shall include, at a minimum:

(i) identification of both the type and number of officer positions needed to manage and supervise properly the affairs of the Bank;

(ii) identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;

(iii) evaluation of each Bank officer, and in particular the chief executive officer, and staff member to determine whether these individuals possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to the Bank's established policies and practices, and maintenance of the Bank in a safe and sound condition; and

(iv) a plan of action to recruit and hire any additional or replacement personnel with the requisite ability, experience and other qualifications, which the board of directors determines are necessary to fill Bank officer or staff member positions consistent with the board's analysis, evaluation and assessment as provided in paragraphs 1(b)(i) and 1(b)(iii) of this ORDER.

(c) The written management plan and any subsequent modification thereto shall be submitted to the Regional Director for review and comment. No more than 30 days from the receipt of any comment from the Regional Director, and after consideration of such comment, the board of directors shall approve the written management plan and/or any subsequent modification thereto which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall implement and follow the written management plan and/or any subsequent modification.

[.2] 2. No more than 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of laws and regulations committed by the Bank as described on pages 6-1 through 6-1-b of the FDIC's Report of Examination of the Bank as of March 30, 1990.

[.3] 3. Following the effective date of this ORDER, the Bank shall send to its shareholders a description of this ORDER, (a) in conjunction with the Bank's next shareholder communication, and also (b) 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 made prior to dissemination of the description, communication, notice, or statement.

[.4] 4. The Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any action taken to secure compliance with this ORDER and the results thereof every 90 days, beginning 90 days from the effective date of this ORDER. In addition, the Bank shall furnish such reports on request of the Regional Director. All progress reports and other written responses to this ORDER shall be reviewed by the board of directors of the Bank and made a part of the minutes of the board meeting.

5. The Consent Agreement of the Bank is made a part hereof and incorporated herein by reference.

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

The provisions of this ORDER shall be binding upon the Bank and its institution-affiliated parties, 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 this 28th day of August, 1990.

