

{{11-30-92 p.C-1899}}

[¶10,435] **In the Matter of The Solomon State Bank, Solomon, Kansas, Docket No. FDIC-92-2b (1-31-92).**

Bank to cease and desist from such unsafe or unsound practices as operating in violation of applicable laws or regulations; operating with management policies detrimental to the Bank; and failing to provide adequate supervision over the Bank's affairs. (*This order was terminated by order of the FDIC dated 9-24-92; see ¶ 15,530.*)

- [.1] **Consumer Laws—Compliance Officer Required**
- [.2] **Violations of Law—Eliminate/Correct**
- [.3] **Consumer Laws—Compliance Program—Minimum Requirements**
- [.4] **Loans—Real Estate—Flood Insurance Required**
- [.5] **Shareholders—Disclosure—Cease and Desist Order**
- [.6] **Compliance Reports—Frequency**

{{11-30-92 p.C-1900}}

In the Matter of

**THE SOLOMON STATE BANK
SOLOMON, KANSAS
(Insured State Nonmember Bank)
ORDER TO CEASE
AND DESIST**

The Solomon State Bank, Solomon, Kansas ("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/or 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, 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 January 9, 1992, whereby solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices or violations of law and/or 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 had engaged in unsafe or unsound banking practices and had violated laws and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

DEFINITIONS

1. "Compliance program" means the same as the definition contained in the FDIC Manual for Compliance Examinations, including a consciously planned and organized effort to meet the Bank's compliance with consumer laws in a comprehensive manner on an ongoing basis.
2. "Consumer laws" means those laws and regulations referenced in the FDIC Manual for Compliance Examinations, including the advertising, consumer credit and flood hazard insurance laws and regulations referred to in the FDIC's Compliance Report as of May 2, 1990, and May 3, 1991.
3. "Loan" means the same as the definition contained in section 339.2(b) of the FDIC Rules and Regulations, 12 C.F.R. § 339.2(b).

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 law and/or regulations:

- A. engaging in violations of applicable consumer laws;
- B. engaging in management policies and practices which are detrimental to the Bank; and
- C. failing to provide adequate supervision and direction over the Bank's compliance program to prevent

unsafe or unsound banking practices and violations of law and regulations.

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

[.1] 1. (a) No more than 60 days from the effective date of this ORDER, the Bank shall have and thereafter retain a qualified compliance officer. The compliance officer shall be given stated written authority by the Bank's board of directors to implement and supervise the Bank's compliance program, and shall report directly to the Bank's board of directors.

(b) The Bank shall promptly notify the Regional Director of the FDIC's Kansas City Regional Office ("Regional Director") of the identity of said compliance officer. If the compliance officer is to be added as a director of the Bank or employed 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 Rules and Regulations, 12 C.F.R. § 303.14, prior to the addition of the compliance officer to such position.

(c) The assessment of whether the Bank has a qualified compliance officer shall be based upon the officer's conduct with respect to the Bank in: (A) complying with the requirements of this ORDER; and (B) complying with applicable consumer laws.

[.2] 2. No more than 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of section 339.3 of the FDIC Rules and Regulations, 12 C.F.R. § 339.3, committed by the Bank as described on pages 2-b and 2-c of [{{9-30-94 p.C-1901}}](#) the FDIC Compliance Report of the Bank as of May 3, 1991. For purposes of this ORDER, a loan made by the Bank in violation of 12 C.F.R. § 339.3 shall not be considered corrected by release of the Bank's lien on the improved real estate or mobile home serving as collateral for the loan unless and until the conditions of paragraph 4(b) are met.

[.3] 3. No more than 60 days from the effective date of this ORDER, the Bank shall develop and implement written policies and practices to prevent violations, especially repeated violations, of consumer laws. Among other things, such policies and practices shall expressly include:

(a) adequate training in the requirements of consumer laws conducted at least annually for all Bank employees involved in lending and any others whose responsibilities include complying with consumer laws; and

(b) monitoring of the Bank's compliance with consumer laws, including an audit of the Bank's compliance program by the compliance officer, conducted as follows:

(i) the compliance officer shall perform or supervise the performance of an internal audit of the Bank's compliance program each calendar quarter, and shall report the results of said audit to the Bank's board of directors; and

(ii) the Bank's board of directors shall evaluate the compliance officer's audit and adopt, implement or ensure the implementation of, and record in its minutes, action to correct any problems uncovered by the audit, including especially violations of consumer laws. Each subsequent audit shall include an evaluation of the corrective action taken by the Bank's board of directors.

(c) The written policies and a description of practices to be adopted by the Bank to comply with this paragraph 3 shall be submitted to the Regional Director for review and comment. No more than 30 days after receipt of any comment from the Regional Director, the Bank's board of directors shall approve the policies and practices, including any modifications thereto resulting from comments by the Regional Director, which approval shall be noted in the minutes of the Bank's board of directors. Thereafter, the Bank and its institution-affiliated parties shall follow the written policies and the practices adopted.

[.4] 4. (a) Within 90 days of the effective date of this ORDER, the Bank shall:

(i) identify all currently outstanding loans made, increased, extended or renewed by the Bank since January 1, 1990, which are secured by improved real estate or a mobile home located in an area in which flood insurance is available, but which are not covered by flood insurance, and at the next regular meeting of the Bank's board of directors after the list is prepared, the loans and borrowers listed shall be recorded in the board of director's minutes;

(ii) using a notice which complies with 12 C.F.R. § 339.6, notify all borrowers identified as required in paragraph 4(a)(i) above: (a) that flood insurance is required by 12 C.F.R. § 339.3, and that such insurance must be purchased; (b) that, if the borrower fails to purchase such insurance upon notification, the Bank will purchase the required flood insurance, list the borrower as the named insured and the Bank as the mortgagee and include the insurance premium in the amount

of the subject loan; and (c) of the amount of the flood insurance required to comply with 12 C.F.R. § 339.3, and the amount of the premiums for such insurance when purchased by the Bank or the borrower, respectively;

(iii) if a subject borrower fails to purchase such insurance upon notification from the Bank, purchase the required flood insurance, list the borrower as the named insured and the Bank as the mortgagee, and include the insurance premium in the amount of the loan; and

(iv) retain in the appropriate Bank record or each loan a copy of the notification to the borrower and the applicable insurance policy.

(b) While this ORDER is in effect, the Bank shall not release its lien on improved real estate or a mobile home located in an area in which flood insurance is available, unless:

(i) the loan for which the real estate or mobile home is provided as collateral has been paid in full;

(ii) the Bank simultaneously obtains

[{{9-30-94 p.C-1902}}](#) substitute collateral of substantially similar value and, thereafter, the loan is in compliance with 12 C.F.R. Part 339; or

(iii) other measures to avoid any increase in the Bank's risk of repayment of the loan are taken with the prior written approval of the Regional Director.

5. While this ORDER is in effect, for each loan made, increased, extended or renewed after the effective date of this ORDER which is secured by improved real estate or a mobile home located in an area in which flood insurance is available:

(a) the Bank's board of directors shall record in its minutes the Bank officer who caused or permitted the loan to be made, increased, extended, or renewed, and whether the extension of credit is in compliance with section 339 of the FDIC Rules and Regulations, 12 C.F.R. § 339; and

(b) if the loan is not in compliance with section 339 of the FDIC Rules and Regulations, the Bank officer responsible shall bring said loan into compliance by, among other things, causing the Bank to follow the requirements of paragraph 4 of the ORDER.

[.5] 6. 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 Section, 550 17th Street, N.W., 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.

[.6] 7. 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.

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.

Dated this 31st day of January, 1992.

Pursuant to delegated authority.