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{{5-31-01 p.C-5064}}

[¶11,767] **In the Matter of Fielding Simmons, III, BSB Bank & Trust Company, Binghamton, New York, Docket No. 00-095k (3-1-01)**

Respondent agrees to pay civil money penalty assessed by the FDIC in the amount of \$7,500.

**In the Matter of
FIELDING SIMMONS III
individually, and as an
institution-affiliated party of
BSB BANK & TRUST COMPANY
BINGHAMTON, NEW YORK
Insured State Nonmember Bank
ORDER TO PAY**

FDIC-00-095k

Fielding Simmons III ("Respondent") and a representative of the Legal Division of the Federal Deposit Insurance Corporation ("FDIC") executed a Stipulation and Consent to the Issuance of an Order to Pay ("Consent Agreement") dated August 21, 2000, whereby Respondent, solely for the purpose of this proceeding and without admitting or denying any violation of law, unsafe or unsound banking practice or breach of fiduciary duty for which a civil money penalty may be assessed, consented and agreed to pay a civil money penalty in the amount specified below to the treasurer of the United States.

After taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of Respondent, the gravity of the violation by Respondent, the history of previous violations by Respondent, and such other matters as justice may require, the FDIC accepts the CONSENT AGREEMENT and issues the following:

ORDER TO PAY

IT IS HEREBY ORDERED that by reason of the violation set forth in paragraph 3 of the CONSENT AGREEMENT, a penalty of \$7,500.00 be, and hereby is, assessed against Fielding Simmons III. The Respondent shall pay the civil money penalty to the Treasurer of the United States as follows:

- (a) The first installment of \$2,500 shall be paid on the date the Consent Agreement is executed ("Execution Date"),
- (b) The second installment in the amount of \$2,500 shall be paid no later than 45 days after the Execution Date; and
- (c) The third installment in the amount of \$2,500 shall be paid no later than 90 days after the Execution Date.

In the event that Respondent fails to remit any payment required by this Order to Pay in a timely manner, the Respondent shall pay a civil money penalty in the total amount

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of \$15,000, the unpaid balance of which shall become immediately due and payable. For purpose of calculating when a payment is made, payments are deemed to be made upon deposit in or delivery to an appropriate point of collection in the case of overnight commercial delivery service, U.S. Express Mail delivery, or first class, registered, or certified mail.

IT IS FURTHER ORDERED that the Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

This Order to Pay shall be effective upon issuance.

Pursuant to delegated authority.

Dated at Washington, D.C., this 1st day of March, 2001.

Last Updated 6/6/2003

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