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[¶11,902] **In the Matter of Family Bank and Trust Co., Palos Hills, Illinois**, Docket No. 02-019b (3-12-02).

A cease and desist order was issued, based on findings by the FDIC that it had reason to believe that respondent had engaged in unsafe and unsound practices.

(This order was terminated by order of the FDIC dated 6-23-04; see ¶16,388.)

[.1] **Bank Secrecy Act—Compliance**

[.2] **Currency Transactions—Internal Review Procedures**
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[.3] **Suspicious Activity Report—Internal Review Procedures**

[.4] **Audit—Audit Committee, Establish**

[.5] **Audit—Review of Policies Required**

[.6] **Board of Directors—Compliance with Cease and Desist Order—Written Progress Reports Required**

[.7] **Shareholders—Disclosure of Cease and Desist Order Required**

**In the Matter of
 FAMILY BANK AND TRUST CO.
 PALOS HILLS, ILLINOIS
 (Insured State Nonmember Bank)
 ORDER TO CEASE AND DESIST**

FDIC-02-019b
 OBRE No. 2002-BBTC-07

Family Bank and Trust Co., Palos Hills, Illinois ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING ("NOTICE") detailing the unsafe or unsound banking practices and violations of law, rule or 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 ("FDI Act"), 12 U.S.C. §1818(b), and under 38 Ill. Adm. Code, Section 392.30, regarding hearings before the Office of Banks and Real Estate for the State of Illinois ("OBRE"), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("STIPULATION") with representatives of the Federal Deposit Insurance Corporation ("FDIC") and OBRE dated March 8, 2002, whereby, solely for the purpose of this proceeding and without admitting or denying the charges of unsafe and unsound banking practices and violations of law, rule or regulation, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC and OBRE.

The FDIC and OBRE considered the matter and determined that they had reason to believe that the Bank had engaged in unsafe or unsound banking practices and violations of law, rule or regulation. The FDIC and OBRE, therefore, accepted the STIPULATION and the FDIC and OBRE 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 FDI Act, 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, rule or regulation:

A. Operating the Bank without effective supervision by the board of directors and executive management to prevent unsafe or unsound practices and violations of law and regulations related

to the Currency Reporting act, 205 ILCS 685/1 *et seq.*, the Bank Secrecy Act, 31 U.S.C. §§ 5311-5330, and regulations implementing the Bank Secrecy Act, including 12 C.F.R. Part 326, Subpart B, and 31 C.F.R. Part 103 (hereinafter collectively, "Bank Secrecy Act") and Part 353 of the FDIC Rules and Regulations, 12 C.F.R. Part 353 (Part 353");

B. Failing to ensure accurate and timely filing of Suspicious Activity Reports ("SARs") pursuant to Section 353.3(a) of FDIC's Rules and Regulations, 12 C.F.R. §353.3(a);

C. Failing to file Currency Transaction Reports ("CTRs") as required under 31 C.F.R. §103.22 for transactions that are structured, as defined by 31 C.F.R. §103.11(gg);

D. Operating the Bank with an ineffective system of internal controls to ensure ongoing compliance with the Bank Secrecy Act and Part 353;

E. Operating the Bank with an ineffective system of independent testing for compliance with the Bank Secrecy Act and Part 353;

F. Operating the Bank with an ineffective training program for appropriate Bank personnel to ensure compliance with the Bank Secrecy Act and Part 353;

G. Failing to implement effective coordinating and monitoring procedures by a single, designated, responsible individual to ensure compliance with the Bank Secrecy Act and Part 353; and

H. Failing to implement an effective "Know Your Customer" policy and procedure
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to ensure compliance with the Bank Secrecy Act and Part 353.

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 60 days from the effective date of this ORDER, the Bank shall adopt all necessary policies and procedures to ensure the Bank's future compliance with the Bank Secrecy Act and Part 353. At a minimum, such policies and procedures shall include the provisions set out in subparagraphs (b) and (c), below.

(b) Within 30 days from the effective date of this ORDER, the Bank shall:

(i) establish revised procedures for implementing all aspects of its Know Your Customer policy; and

(ii) establish revised procedures for identifying and verifying the type and dollar volume of transactions that the Bank anticipates will occur during a monthly period for each deposit account that is expected to have \$5,000 or more in monthly aggregate cash and/or wire transfer activity.

(c) Within 60 days from the effective date of this ORDER, the Bank shall develop and implement policies and procedures to identify, verify, monitor and determine the legitimacy of transactions for each deposit account that is expected to have monthly cash and/or wire transfer activity aggregating \$5,000 or more. The policies and procedures shall require a regular periodic comparison of actual activity against expected or anticipated activity, including a comparison of the type and dollar amount of actual activity against the expected activity, for each account that was expected to have and each account that had \$5,000 or more in monthly aggregate cash and/or wire transfer activity. The policies and procedures shall require this periodic comparison to be conducted on each such account not less frequently than quarterly. The Bank's policies and procedures shall include procedures for identifying and documenting significant variances between anticipated and actual activity and for reporting variances to Bank management and to the audit committee to be established pursuant to paragraph 3 of this ORDER and shall include procedures for the filing of CTRs and/or SARs, when appropriate.

(d) The revised policies and procedures required by subparagraphs (a), (b) and (c) shall be submitted to the Regional Director of the Chicago Regional Office of the FDIC ("Regional Director") and the Commissioner of OBRE ("Commissioner") for review and comment upon completion. Within 30 days from the receipt of any comments from the Regional Director and Commissioner on the policies and

procedures required by this paragraph, and after the adoption of any recommended changes, the board of directors shall approve the policies and procedures, which approvals shall be recorded in the minutes of a board of directors' meeting.

[.2][.3]2. (a) Within 30 days from the effective date of this ORDER, the Bank shall establish and implement monitoring and reporting procedures relating to the proper filing of CTRs and SARs, and ensure that all appropriate bank employees are aware of the procedures and their responsibilities in implementing the procedures; and

(b) Within 60 days from the receipt by the Bank of the CTR log, the Bank shall review each CTR and SAR filed by the Bank in the years 1998 through 2001 for inaccuracies, incompleteness and/or a failure to file CTRs and SARs. After such review is completed, the Bank shall contact the Financial Crimes Enforcement Network of the Department of the Treasury regarding the refiling of inaccurate and/or incomplete CTRs and SARs, and shall provide requested written material to complete the file information on any inaccurate or incomplete CTR and SAR. In addition, the Bank shall file any additional CTR and SAR deemed necessary from the review. Documentation supporting the determination shall be retained in the Bank's records. If the Bank determines a CTR and/or SAR shall be filed, it shall follow its procedures with respect to the filing and retention of documentation. Upon the completion of its review, the Bank shall submit the findings of its review to the Regional Director and Commissioner.

[.4]3. (a) Within 30 days from the effective date of this ORDER, the Bank shall establish an audit committee comprised of at least 3 directors who are not officers of the Bank. In addition to other duties which may be assigned, the audit committee shall oversee the Bank's compliance with the Bank [{{5-31-02 p.C-5368}}](#)

Secrecy Act, Part 353, and the Bank's Know Your Customer policies and procedures.

[.5] (b) Within 30 days from the effective date of this ORDER, the Bank shall amend its audit policies, procedures, and practices, both with regard to internal audits and with regard to external audits, to provide that audit findings are submitted directly to the audit committee for review and to provide that the Bank's Know Your Customer policies and procedures become subject to review as part of the Bank's routine auditing. The audit committee shall receive from Bank management monthly reports regarding the Bank's compliance with the Bank Secrecy Act, Part 353, and the Bank's Know Your Customer policies and procedures. The audit committee shall present a report regarding the Bank's compliance with the Bank Secrecy Act, Part 353, and the Bank's Know Your Customer policies and procedures to the Bank's board of directors at each regularly scheduled meeting of the Bank's board of directors. Such report shall be recorded in the minutes of the Bank's board of directors and retained in the Bank's records.

[.6] 4. Within 75 days from the effective date of this ORDER and, thereafter, within 30 days of the end of each calendar quarter, the Bank shall furnish to the Regional Director and Commissioner written progress reports signed by each member of the Bank's board of directors, detailing the 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.

[.7] 5. Within 60 days from the effective date of this ORDER, the Bank shall send to its shareholders a description of this ORDER. The description shall fully describe this 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 and to Scott D. Clarke, Assistant Commissioner, Office of Banks and Real Estate, 500 East Monroe, Springfield, Illinois 62701, for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC or OBRE shall be made prior to dissemination of the description, communication, notice or statement.

This ORDER shall be effective 10 calendar days after its issuance by the FDIC and OBRE.

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

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 and OBRE.

Pursuant to delegated authority.

Dated: March 12, 2002.

Last Updated 10/3/2004

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