

{{9-30-93 p.C-1977}}

[¶10,457] **In the Matter of Community State Bank of Rock Falls, Rock Falls, Illinois, Docket No. FDIC-91-190b (2-19-92).**

Bank to cease and desist from such unsafe or unsound practices as operating with inadequate capital; following hazardous lending and lax collection practices; operating in violation of applicable laws or regulations; operating with an excessive level of out-of-area loans; operating with inadequate allowance for loan and lease losses; operating with inadequate liquidity; operating with management whose policies are 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 7-1-93; see ¶ 15,696.*)

- [.1] Loans—Out-of-Area—Reduction Required
- [.2] Loans—Concentrations of Credit—Reduction Plan
- [.3] Loans—Restrictions on Individual Officer
- [.4] Management—Qualifications—Review
- [.5] Capital—Tier 1 Capital—Increase/Maintain—Methods
- [.6] Dividends—Restricted
- [.7] Loans—Risk Position—Reduce—Written Plan Required
- [.8] Loans—Extensions of Credit—Documentation System Required
- [.9] Funds Management—Policy—Review Required
- [.10] Violations of Law—Eliminate/Correct
- [.11] Assets—Adversely Classified—Eliminate/Reduce
- [.12] Allowance for Loan and Lease Losses—Establish/Maintain
- [.13] Profit Plan—Minimum Requirements

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- [.14] Shareholders—Disclosure—Cease and Desist Order
- [.15] Compliance Reports—Frequency

**In the Matter of
COMMUNITY STATE BANK
OF ROCK FALLS
ROCK FALLS, ILLINOIS
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST
FDIC-91-190b**

The Federal Deposit Insurance Corporation ("FDIC") on July 17, 1991, issued to Community State Bank of Rock Falls, Rock Falls, Illinois ("Bank"), a NOTICE OF CHARGES AND OF HEARING ("NOTICE") under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b). The NOTICE charged the Bank with having engaged in unsafe or unsound banking practices and violations of laws and regulations.

The Bank and counsel for the FDIC thereafter executed a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") dated January 14, 1992, whereby solely for the purpose of this proceeding and without admitting or denying any of the allegations in the NOTICE, 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 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 or unsound banking practices and violations of laws and regulations:

- A. Operating with an inadequate level of capital protection for the kind and quality of assets held;
- B. Engaging in hazardous lending and lax collection practices;
- C. Violating section 32 of the Illinois Banking Act, ILL. REV. STAT. Ch. 17, ¶ 339, which limits the amount of borrowing to one entity; violating section 5 of the Illinois Banking Act, ILL. REV. STAT. Ch. 17

¶ 311, for pledging Bank assets to secure the deposits of an estate; violating section 450.4(d) of the Department of Treasury Regulations, 17 C.F.R. § 450.4(d), for failure to perform an annual audit of customer securities; and violating Part 309 of the FDIC Rules and Regulations, 12 C.F.R. Part 309, for making unauthorized disclosures of portions of the FDIC's March 23, 1990 Report of Examination of the Bank;

- D. Operating with an excessive level of out-of-area loans;
- E. Operating with an inadequate reserve for loan and lease losses for the volume, kind, and quality of loans held;
- F. Operating with an inadequate liquidity and funds management policy;
- G. Operating with a management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits; and
- H. Operating with a board of directors which had failed to provide adequate supervision over the direction to the management of the Bank.

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 10 days from the effective date of this ORDER, the Bank shall amend its loan policy to define its "primary trade area." The amended loan policy shall be submitted to the Regional Director (Supervision) of the Chicago Regional Office of the FDIC ("Regional Director") and the Commissioner of Banks and Trust Companies, State of Illinois ("Commissioner") for their review and comment. Within 15 days of receipt of any comment from the Regional Director and Commissioner, and after amending the loan policy in accordance with any recommended changes, the Bank shall approve and implement the amended loan policy.

(b) After the approval and implementation of the amended loan policy the Bank shall discontinue all lending activity to new customers located outside the de- ~~4-30-92 p.C-1979~~ fined "primary trade area." Notwithstanding the requirements of this provision, the Bank shall be allowed to fund any such loan for which it was legally committed as of the effective date of this ORDER.

(c) Following the effective date of this ORDER, any advance of additional funds or renewal of a loan to a borrower located outside the Bank's "primary trade area" shall receive prior approval by the board of directors. Board of directors' minutes shall indicate why the renewal of the loan is in the best interests of the Bank.

[.2] 2. (a) Within 30 days from the effective date of this ORDER, the Bank shall develop a written plan detailing the steps by which it will reduce the concentration of credit detailed in the section entitled "Out-of-Area Loans" in the FDIC Report of Examination as of March 15, 1991 ("Report"). At a minimum, the plan shall provide for a reduction in the concentration of credit to 200 percent of Tier 1 capital by December 31, 1994. For purposes of this ORDER "Tier 1 capital" is defined in accordance with Part 325 of FDIC Rules and Regulations, 12 C.F.R. Part 325.

(b) In addition, the plan shall provide that, should the Bank's adversely classified assets in the concentration of credit exceed 50 percent of the Bank's Tier 1 capital as of any FDIC report of examination subsequent to the effective date of this ORDER, the Bank shall reduce those classified assets to less than 75 percent of Tier 1 capital within 90 days of the Bank's receipt of that report of examination and to less than 50 percent of Tier 1 capital within one year of the date of that report of examination.

(c) The written plan shall be submitted to the Regional Director and the Commissioner for their review and comment. Within 15 days of receipt of any comment from the Regional Director and the Commissioner, and after amending the plan in accordance with any recommended changes, the Bank shall approve and implement the plan.

[.3] 3. Within 10 days from the effective date of this ORDER, the Bank shall limit the lending authority of President Stephen A. Curtis to any one borrower and that borrower's related interests to \$50,000 in the aggregate on an unsecured basis and \$100,000 in the aggregate on a secured basis, provided that all such loans are in full compliance with the requirements of the Bank's formal loan policy. All loans in excess of these amounts will require prior approval of the Loan Committee of the Bank's board of directors. The term "related interests" shall have the meaning ascribed that term at section 215.2(k) of Regulation O of the Board of Governors of the Federal Reserve System ("Regulation O"), 12 C.F.R. § 215.2(k).

[.4] 4. (a) Within 90 days from the effective date of this ORDER, the Bank shall have, and thereafter retain, qualified management. Each member of management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank. In addition, each member of

management shall have specific written authority from the board of directors of the Bank for the implementation of policies and procedures for his or her area of responsibility. Further, during the life of this ORDER, the Bank shall promptly notify the Regional Director of any additions to or replacement of any of the Bank's senior executive officers as required by section 32 of the Act ("section 32"), 12 U.S.C. § 1831(i), and shall submit to the Regional Director and Commissioner, a written statement of the qualifications of any new executive officer. The notification must include the name and background of any replacement personnel and must be provided prior to the individual assuming the new position.

(b) The qualifications of management shall be assessed on its ability to:

- (i) Operate the Bank in a safe and sound manner;
- (ii) Comply with applicable laws and regulations; and
- (iii) Comply with the provisions of this ORDER;
- (iv) Restore all aspects of the Bank to a safe and sound condition, including asset quality, loan administration, capital adequacy, earnings, management effectiveness and liquidity.

(c) Within 120 days from the effective date of this ORDER, the Bank shall conduct a written review of the Bank's staffing requirements in all functional areas, including loan administration, loan col- [{{4-30-92 p.C-1980}}](#)lection and "other real estate" administration. The Bank shall thereafter commence a program to hire or adequately train the number of personnel needed to comply with the results of the review. The results of this review shall be submitted to the Regional Director and Commissioner for review and opportunity for comment.

[.5] 5. (a) Within 30 days from each June 30 and December 31, the Bank's board of directors shall determine the Bank's levels of Tier 1 capital and the total of Tier 1 plus Tier 2 capital as percentages of its total assets for the quarter preceding the respective June 30 and December 31 dates ("capital ratios"). If those percentages are less than 6.5 percent or 7.5 percent, respectively, the Bank shall, within 60 days from the date of that determination, increase these percentages to not less than 6.5 percent and 7.5 percent, respectively, as of the end of that preceding semiannual period. For the purpose of this ORDER, "Tier 1 capital" and "total assets" utilized in computing the capital ratio shall be defined and calculated in accordance with Part 325 of FDIC Rules and Regulations, 12 C.F.R. Part 325; "Tier 2 capital" shall be defined and calculated in accordance with Appendix A of Part 325, 12 C.F.R. Part 325 App.A.

(b) Any increase in capital necessary to meet the requirements of this paragraph may be accomplished by the following:

- (i) The sale of new securities in the form of common stock or noncumulative perpetual preferred stock or;
- (ii) The collection in cash of assets previously charged off; or
- (iii) The direct contribution of cash by the directors and/or shareholders of the Bank; or
- (iv) Any other means acceptable to the Regional Director and Commissioner; or
- (v) Any combination of the above means.

(c) No increase in capital shall be accomplished via a transfer from the allowance for loan and lease losses.

(d) If all or part of the increase in capital required by this paragraph is to be 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 said plan. Should the implementation of the plan involve public distribution of the Bank securities, including a distribution limited only to the Bank's existing shareholders, the Bank shall prepare detailed 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 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 materials used in the sale of the securities shall be submitted to the FDIC at Washington, D.C., for its review. Any changes requested to be made in the materials by the board of directors shall be made prior to their dissemination.

(e) In complying with the provisions of paragraph 5(d) of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank securities written notice of any planned or existing development or other changes which are materially different from the information reflected in any offering used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within ten (10) calendar days of the date any material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber of the Bank's original offering materials.

(f) The formal capital ratio analysis required by this paragraph shall not negate the responsibility of the

Bank and its board of directors for maintaining throughout the year an adequate level of capital protection for the kind, quality and degree of market depreciation of assets held by the Bank.

[.6] 6. (a) Upon the effective date of this ORDER, the Bank shall pay no cash dividends beyond those necessary to enable the Bank's holding company to service its indebtedness to LaSalle National Bank, Chicago, Illinois, without the prior written consent of the Regional Director and Commissioner.
{{10-31-93 p.C-1981}}

(b) Notwithstanding paragraph 6(a) above, no dividends may be paid without the prior written consent of the Regional Director and Commissioner if the Bank's Tier 1 and Tier 2 capital ratios are less than 6.5 and 7.5 percent, respectively; the Bank's allowance for loan and lease losses is inadequate under the requirements of paragraph 12; or the Bank's then current dividend period net income is not sufficient to pay the dividend.

[.7] 7. Within 60 days from the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director for review and comment, a written plan to lessen the Bank's risk position in each line of credit in excess of \$100,000 which is classified "Substandard" in the Report. Within 15 days of receipt of any comment from the Regional Director and Commissioner, and after amending the plan in accordance with any recommended changes, the Bank shall adopt and implement the plan. Such plan shall include, but not be limited to, the following:

(a) Dollar levels to which the Bank will reduce each line of credit within 6 and 12 months from the effective date of this ORDER; and

(b) Provisions for the submission of monthly written progress reports covering each Substandard loan to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors.

[.8] 8. Upon the effective date of this ORDER, the Bank shall require complete loan documentation, realistic repayment terms and current financial information adequate to support the outstanding indebtedness of each borrower. Such financial information shall include, at a minimum, detailed balance sheets, profit and loss statements, or copies of tax returns and cash flow projections for all commercial loans and where applicable for consumer and real estate loans.

[.9] 9. (a) Within 60 days from the effective date of this ORDER, the board of directors shall review the Bank's investment and funds management policies and practices for adequacy and based upon this review, shall make appropriate revisions that are necessary to strengthen funds management procedures, maintain adequate provisions to meet the Bank's liquidity needs, and eliminate the Bank's reliance on volatile liabilities to fund long-term assets. Board minutes shall indicate the results of the reviews.

(b) Necessary revisions to the investment and funds management policies as required by provision 9(a), shall include, at a minimum, the following:

(i) target dollar levels to which the Bank will reduce the dollar amount of loans and other long-term assets which are funded by potentially volatile liabilities within six and twelve months from the effective date of this ORDER; and (ii) provisions for the establishment of appropriate back-up lines of credit that would allow the Bank to borrow funds, as necessary, to meet depositor demands.

[.10] 10. Within 30 days from the effective date of this ORDER the Bank shall eliminate and/or correct all violations of law and regulations described on pages 6-1 and 6-a-1 of the Report. In addition, the Bank shall implement procedures to ensure future compliance with all applicable regulations.

[.11] 11. Within 30 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" in the Report. Reduction of these assets with proceeds of other loans made by the Bank is not considered collection for the purpose of this paragraph.

[.12] 12. (a) Within 30 days from the effective date of this ORDER, the Bank shall replenish its allowance for loan and lease losses by an expense entry in an amount equal to those loans, required to be charged off by paragraph 11 of this ORDER.

(b) Within 30 days from the effective date of this ORDER, the Bank shall make a provision to the allowance for loan and lease losses which, after careful review and consideration by the board of

directors, reflects the potential for further losses in the "Substandard" loan classifications and all other loans in the portfolio. In no event, shall the allowance for loan and lease losses represent less than 1.5 percent of total loans and leases.

(c) Within 30 days from the effective date of this ORDER, Reports of Condition and Income required by the FDIC and filed by the Bank subsequent to March ~~{{10-31-93 p.C-1982}}~~15, 1991, shall be amended and refiled if they do not reflect a provision for loan losses and allowance for loan and lease losses which are adequate considering the condition of the Bank's loan portfolio and which, at a minimum, incorporate the adjustment required by this paragraph.

(d) Prior to the submission or publication of all Reports of Condition and Income required by the FDIC after the effective date of this ORDER, the board of directors of the Bank shall review the adequacy of the Bank's allowance for loan and lease losses and accurately report the same. The minutes of the board meeting at which such review is undertaken shall indicate the results of the review, the amount of increase in the reserve recommended, if any, and the basis for determination of the amount of reserve provided.

[.13] 13. Within 60 days from the effective date of this ORDER, the Bank shall formulate and implement a written Profit Plan. This plan shall be forwarded to the Regional Director and Commissioner and shall address, at a minimum, the following goals and strategies for improving and sustaining the earnings of the Bank, including:

- (a) an identification of the major areas in, and means by which, the board will seek to improve the Bank's operating performance;
- (b) realistic and comprehensive budgets;
- (c) a budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections;
- (d) a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components; and
- (e) periodic salary review.

[.14] 14. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER:

- (a) in conjunction with the Bank's next shareholder communication; and
- (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 at Washington, D.C., 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.

[.15] 15. On the last day of the second month following the date of issuance of this ORDER, and every third month thereafter, the Bank shall furnish written progress reports to the Regional Director and Commissioner detailing the form and manner of any 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 has, in writing, released the Bank from making further reports.

The effective date of this ORDER shall be 10 days after its issuance by the FDIC.

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

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Dated: February 19, 1992.

Pursuant to delegated authority.