

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

and

STATE OF ILLINOIS

OFFICE OF BANKS AND REAL ESTATE

BUREAU OF BANKS AND TRUST COMPANIES

| | | |
|--------------------------------|---|-----------------------|
| _____ |) | ORDER TO |
| In the Matter of |) | CEASE AND DESIST |
| THE FOSTER BANK |) | |
| CHICAGO, ILLINOIS |) | FDIC-03-004b |
| |) | OBRE No. 2003-BBTC-03 |
| (Insured State Nonmember Bank) |) | |
| _____ |) | |

The Foster Bank, Chicago, 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 State of Illinois Office of Banks and Real Estate (“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 _____, 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, rules, 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), by a person or persons and through the use of related or affiliated accounts;
- D. Operating the Bank with an ineffective system of internal controls to ensure ongoing compliance with the Bank Secrecy Act;

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

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

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

H. Failing to implement an effective “Know Your Customer” policy and procedure;
and

I. Violating laws, rules, or regulations, including:

- The development and continued administration of a Bank Secrecy Act compliance program required by section 326.8(b) of the FDIC’s Rules and Regulation, 12 C.F.R. § 326.8(b);
- The prohibition against structuring transactions to evade reporting requirements of 31 U.S.C. § 5325 and 205 ILCS 685/5;
- The failure to comply with the filing and recordkeeping requirements for SARs found in section 353.3 of the FDIC’s Rules and Regulations, 12 C.F.R. § 353.3, and in 31 C.F.R. § 103.18;
- The failure to comply with the filing and recordkeeping requirements of 31 C.F.R. § 103.22 that require the aggregation of transactions if the Bank has knowledge that the transactions are by or on behalf of any person;
- The failure to file CTRs in compliance with the requirements of 31 C.F.R.

§ 103.27 and 205 ILCS 685/4; and

- The prohibition against structuring transactions to evade recordkeeping or reporting requirements as set forth in 31 C.F.R. § 103.63 and 205 ILCS 685/7.

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

1. (a) Within 60 days from the effective date of this ORDER, the Bank shall develop 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 (i) through (v), below.

- (i) Establishing revised procedures for implementing all aspects of the Bank's Know Your Customer policy;
- (ii) Establishing revised procedures for identifying the type and dollar volume of transactions that the Bank anticipates will occur during a weekly period for each deposit account that is expected to have \$5,000 or more in weekly aggregate cash and/or wire transfer activity and to verify, monitor and determine the legitimacy of transactions for each such account. The policies and procedures shall require a periodic comparison, on at least a quarterly basis, 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 weekly aggregate cash and/or wire transfer activity. The policies shall include procedures for identifying and documenting significant variances between anticipated and actual activity, reporting variances to Bank management, and the filing of CTRs and/or SARs, when appropriate;

- (iii) Ensuring that the Bank's BSA compliance program is managed by a qualified officer who shall have the responsibility for all BSA compliance and related matters, including, without limitation, the identification of timely, accurate and complete reporting to law enforcement and supervisory authorities of unusual or suspicious activity or known or suspected criminal activity perpetrated against or involving the Bank;
- (iv) Independent annual testing (which may be performed by an employee of the Bank who does not conduct the Bank Secrecy Act compliance program, does not supervise employees who are responsible for Bank Secrecy compliance, and who is not related by blood or marriage to

- an employee who conducts or supervises Bank Secrecy compliance) for compliance with the Bank Secrecy Act in accordance with the procedures described in the FDIC's Statement of Policy entitled, "Guidelines for Monitoring Bank Secrecy Act Compliance" and should include, at a minimum: (A) at least annual testing of the Bank's internal procedures for monitoring Bank Secrecy Act compliance; (B) at least annual testing of the Bank's identification and reporting of suspicious activities; and (C) at least annual testing of the Bank's customer identification procedures;
- (v) Provide and document training on a regular and on-going basis to management and Bank personnel on all relevant aspects of laws, regulations, and Bank policies and procedures relating to the Bank Secrecy Act, with a specific concentration on the detection and reporting of known or suspected criminal activity.

(b) The revised policies and procedures required by subparagraphs (i) through (v) 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. Within 30 days from the effective date of this ORDER, the Bank shall establish and implement monitoring and reporting procedures relating to the aggregation of cash transactions for related or affiliated accounts and the proper filing of CTRs and SARs for cash transactions involving related or affiliated accounts, and ensure that all appropriate bank employees are aware of the procedures and their responsibilities in implementing the procedures.

3. Within 60 days from the effective date of this ORDER, the Bank shall review each SAR filed by the Bank in the years 1998 through 2002 for inaccuracies and incompleteness. 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 SARs, and shall provide requested written material to complete the file information on any inaccurate or incomplete SAR. In addition, the Bank shall file any additional SAR deemed necessary from the review. Documentation supporting the determination shall be retained in the Bank's records. If the Bank determines an 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. Within 90 days from the effective date of this ORDER, the Bank shall review its cash transaction report for transactions from April of 1999 through 2002 that involved structuring, as defined in 31 C.F.R. § 103.11(gg), including a review of related or affiliated accounts, and file any additional SAR deemed necessary from the review. Documentation

supporting the determination shall be retained in the Bank's records. If the Bank determines an 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.

5. Within 90 days from the effective date of this ORDER, the Bank shall perform an audit of all monetary instrument purchases from 1998 through 2002 to determine additional reporting requirement violations, structuring, and suspicious activity. This audit shall include a review of all paid cashier's checks and requisitions. In addition, the Bank shall file any additional SAR deemed necessary from the review. Documentation supporting the determination shall be retained in the Bank's records. If the Bank determines an 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.

6. Within 30 days from the effective date of this ORDER, and monthly thereafter, Bank management shall present a written 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.

7. Within 60 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.

8. Following the effective date of this ORDER, the Bank shall send to its shareholders and to the shareholders of Foster Bancshares, Inc. ("Bank Holding Company") a copy or description of this ORDER: (1) in conjunction with the Bank and the Bank Holding Company's next shareholder communications; and (2) in conjunction with the Bank and the Bank Holding Company's notice or proxy statement preceding their next shareholder meetings. The description shall fully describe this ORDER in all material respects. The description and any accompanying communication, notice or statement 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 this 14th day of March, 2003.

Scott M. Polakoff
Chicago Regional Director
Federal Deposit Insurance
Corporation

Scott D. Clarke
Assistant Commissioner
State of Illinois
Office of Banks and Real Estate