

Order No.: 2001-56

OFFICE OF THRIFT SUPERVISION

**Pass-Through Receivership Of A Federal Savings Association
Into A De Novo Federal Savings Association
That is Placed Into Conservatorship
With the FDIC**

Date: July 27, 2001

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The Director of the Office of Thrift Supervision ("OTS"), or her designee, in cooperation with the Federal Deposit Insurance Corporation ("FDIC"), has determined: (1) to appoint the FDIC as receiver for the savings association specified below ("OLD THRIFT"); (2) to approve the FDIC's request for the issuance of a new federal mutual savings association charter ("NEW THRIFT") as a successor to OLD THRIFT; (3) to approve the transfer of such assets and liabilities of OLD THRIFT to its successor NEW THRIFT, as the FDIC has determined to be appropriate; and (4) to appoint the FDIC as conservator of NEW THRIFT. Collectively, numbers 2 through 4 of the foregoing are referred to herein as the "APPLICATIONS."

"OLD THRIFT," refers to:

<u>Name</u>	<u>Location</u>	<u>OTS No.</u>
Superior Bank FSB	Hinsdale, Illinois.	08566

I. GROUNDS FOR ACTIONS TAKEN IN THIS ORDER:

**RECEIVERSHIP;
GROUNDS FOR APPOINTMENT OF FDIC AS
RECEIVER FOR OLD THRIFT**

The Director, or her designee, based upon the administrative record, and for the reasons set forth in the supporting legal and supervisory memoranda contained in the administrative record from various offices within the OTS finds and determines that:

- (a) OLD THRIFT's assets are less than its obligations to its creditors and others;
- (b) OLD THRIFT is in an unsafe and unsound condition to transact business due to having negative tangible equity;

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(c) OLD THRIFT has incurred losses that have depleted all or substantially all of its capital, and there is no reasonable prospect for OLD THRIFT to become adequately capitalized as defined in section 38(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1831o(b), without Federal assistance;

(d) OLD THRIFT is undercapitalized as defined in section 38(b) of the FDIA, and (i) has no reasonable prospect of becoming adequately capitalized as defined in section 38(b) of the FDIA, and (ii) has materially failed to implement a capital restoration plan submitted by it and accepted by OTS under section 38(e)(2) of the FDIA, 12 U.S.C. § 1831o(e)(2);

(e) OLD THRIFT (i) is critically undercapitalized, as defined in section 38(b) of the FDIA, and (ii) has substantially insufficient capital; and

(f) OLD THRIFT, by resolution of its board of directors consents to the appointment of a conservator or receiver.

The Director, or her designee, therefore, has determined that grounds for the appointment of a receiver for OLD THRIFT exist under section 5(d)(2) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1464(d)(2) and section 11(c)(5) of the FDIA, 12 U.S.C. § 1821(c)(5).

**TRANSFER INTO A NEW FEDERAL CHARTER:
GROUNDS FOR ISSUANCE OF NEW FEDERAL CHARTER AND
APPROVAL OF TRANSFER OF ASSETS AND LIABILITIES OF
OLD THRIFT TO NEW THRIFT**

The FDIC, as receiver of OLD THRIFT, has applied for authority to organize a new Federal mutual savings association, NEW THRIFT, that is to take over such assets or such liabilities of OLD THRIFT as the FDIC has determined to be appropriate, pursuant to section 11(d)(2)(F)(i) of the FDIA, 12 U.S.C. §1821(d)(2)(F)(i). The FDIC would insure the accounts of NEW THRIFT.

The Director, or his or her designee: (i) has considered the factors set forth in section 6 of the FDIA, 12 U.S.C. § 1816, and section 5(e) of HOLA, 12 U.S.C. § 1464(e), with regard to granting a new federal savings association charter, has determined that the charter should be issued, that NEW THRIFT is authorized to transact business as a savings association, and that the charter and bylaws to be issued are in a form consistent with applicable regulations for NEW THRIFT; and (ii) has considered the factors set forth in section 18(c) of the FDIA, 12 U.S.C. § 1828(c), and 12 C.F.R. § 563.22 with respect to the acquisition of certain assets and assumption of certain liabilities of OLD THRIFT by NEW THRIFT. Immediate action is necessary given the seriously adverse financial condition of OLD THRIFT and in order to permit NEW THRIFT to acquire certain assets and assume certain liabilities of OLD THRIFT and continue to serve OLD THRIFT's community and customers.

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For the foregoing reasons, the Director, or her designee, has determined that, pursuant to 12 C.F.R. §§ 563.22 (d) and 543.7-1, public notice of the APPLICATIONS shall not be required. In addition, the Director, or her designee, finds that the OTS must act immediately in order to prevent the probable default of OLD THRIFT. Therefore, the publication of notice required by section 18(c)(3) of the FDIA, the reports on the competitive factors of the acquisition required by section 18(c)(4) of the FDIA, and the delayed consummation required by section 18(c)(6) of the FDIA, shall be dispensed with. Accordingly, NEW THRIFT may immediately acquire the assets and assume the liabilities determined to be appropriate by the FDIC.

CONSERVATORSHIP:

**GROUND FOR APPOINTMENT OF FDIC AS
CONSERVATOR FOR NEW THRIFT**

The FDIC has indicated that, immediately upon the completion of the organization of NEW THRIFT (which will be federally chartered) and completion of the transfer of the aforesaid assets and liabilities of OLD THRIFT to NEW THRIFT, it will, in the exercise of its authority to act as the board of directors of NEW THRIFT pursuant to section 11(d)(2)(B) of the FDIA, 12 U.S.C. § 1821(d)(2)(B), consent to the OTS appointing the FDIC as conservator for NEW THRIFT. Moreover, NEW THRIFT will have virtually the same capital as OLD THRIFT had immediately prior to the appointment of a receiver for OLD THRIFT and, therefore, (a), (b), (d)(i) and (e) of the grounds set forth in Section I above for appointment of the receiver for OLD THRIFT, are also applicable as grounds for the appointment of a conservator for NEW THRIFT.

II. ACTIONS ORDERED OR APPROVED:

APPOINTMENT OF A RECEIVER

The Director, or her designee, hereby appoints the FDIC as receiver for OLD THRIFT, for the purpose of liquidation, pursuant to section 5(d)(2) of HOLA, 12 U.S.C. §1464(d)(2), and section 11(c)(6)(B) of the FDIA, 12 U.S.C. § 1821(c)(6)(B).

**ISSUANCE OF A FEDERAL CHARTER AND
APPROVAL OF THE PASS-THROUGH OF ASSETS AND LIABILITIES**

The Director, or her designee, hereby approves: (1) the application of the FDIC to organize NEW THRIFT as a federal mutual savings association (and hereby authorizes the issuance of an appropriate charter and bylaws for NEW THRIFT in form and content

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approved by the Chief Counsel's Office); (2) the transfer of such assets and liabilities of OLD THRIFT to its successor, NEW THRIFT, as the FDIC has determined to be appropriate; and (3) the retention of the home and branch offices of OLD THRIFT by its successor, NEW THRIFT. Prior to the appointment or election of a board of directors for NEW THRIFT, the FDIC may, in addition to any other powers granted by applicable law, exercise the powers of the board of directors pursuant to section 11(d)(2)(B) of the FDIA, 12 U.S.C. § 1821(d)(2)(B).

**APPOINTMENT OF A CONSERVATOR
FOR NEW THRIFT**

The Director, or her designee, hereby appoints the FDIC as conservator for NEW THRIFT pursuant to sections 5(d)(2)(A) and (E) of the HOLA, 12 U.S.C. §§ 1464(d)(2)(A), 1464(d)(2)(E), effective upon receipt of the consent of NEW THRIFT to such appointment. That consent must be contained in a resolution of its board of directors issued by the FDIC in exercise of its power, as the organizer of NEW THRIFT, to act as its interim board of directors pursuant to section 11(d)(2)(B) of the FDIA, 12 U.S.C. § 1821(d)(2)(B).

DELEGATION OF AUTHORITY TO ACT FOR THE OTS

The Director, or her designee, hereby authorizes the OTS Central Region Director, or his designee, and the Deputy Chief Counsel for the Business Transactions Division of the Chief Counsel's Office, or his designee, to: (1) certify orders; (2) sign, execute, attest or certify other documents of OTS issued or authorized by this Order; (3) deliver or accept delivery of any notice from or to OTS regarding OLD THRIFT or NEW THRIFT; and (4) perform such other functions of OTS necessary or appropriate for the implementation of such Orders. All documents to be issued under the authority of this Order must be first approved, in form and content, by the Chief Counsel's Office. In addition, the Director, or her designee, hereby authorizes the Deputy Chief Counsel for the Business Transactions Division, or his designee, to make any subsequent technical corrections, that might be necessary, to this Order, or any documents issued under the authority of this Order.

By Order of the Director of OTS, effective July 27, 2001.


Ellen Seidman
Director