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[Inquiry into the Comptroller's regulatory processes  
through a study of the Franklin National Bank.]  
Statement by

James E. <sup>o</sup>Smith

Comptroller of the Currency

before the

Subcommittee on

Commerce, Consumer and

Monetary Affairs

of the

House Committee on Government Operations,

June 1, 1976.

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FEDERAL DEPOSIT INSURANCE  
CORPORATION

I appreciate this opportunity to appear before the Committee in connection with its inquiry into the Comptroller's regulatory processes. In this hearing the Committee is attempting to evaluate those processes through a study of the Franklin National Bank, which was placed in receivership on October 8, 1974.

I believe that we can learn from our past experiences, both good and bad. Thus, as the Committee staff testified last week, I initiated even before the failure of Franklin National Bank a special study of the events leading to the bank's difficulties.

This Committee's record on Franklin National Bank would be incomplete, however, without including information on (a) the behavior of the financial market place during the critical years 1970-1974 and (b) the changes that have occurred in the Comptroller's Office.

#### I. The Financial Market Place and Its Effect on Franklin

National banks are privately owned corporations. The most important decisions made in each bank are those of the bank's own board of directors and management, responding to competitive pressures and opportunities. Thus no inquiry into the failure of Franklin National Bank can be complete without an examination of the decisions made by the Franklin management in the context of the then existing market place environment.

Inflation during the 1970-1974 period was rampant: because of the effects of the Vietnam war, an expansionary monetary policy and other such factors, consumer prices increased by 31.9% from 1970 to 1974. At the same time, the steepest recession since the Great Depression of the 1930's had set in.

From the banker's point of view, the greatest problem was the enormous increase in interest rates: the Federal funds rates during the summer of 1974 rose to an unprecedented 12.9% and the prime rate

was at a staggering 12.1%. The basic cost of money to banks aggressively using liability management during the 1970-1974 period had increased an incredible 105.3% during this time. Franklin was particularly ill-suited to survive these economic pressures.

Franklin was a marginal operation throughout the 1960's, yet the bank managed to operate and grow to a \$3 billion institution by the end of 1969 without arousing any significant concerns by this Office or the financial industry. Despite its apparent progress, however-particularly in 1968 and 1969-the bank had neither the management depth and acumen nor the operational systems and controls to cope with its ambitious expansion program and the financial perils of the 1970's. Had the bank curtailed its activities after 1969 and solidified its position in the marketplace, the results may have been different.

By December 31, 1973, Franklin's resources exceeded \$5 billion. The bank's management proved incapable of developing and handling the sophisticated asset and liability management techniques necessary for a bank this size.

During the 1960's and early 1970's, the money market banks, faced with declining rates of growth in deposits, sought new ways to meet the heavy credit demands of their customers. In consequence, Franklin and other banks placed less and less reliance on the generation of liquidity through asset composition and cash flow. Instead, increasing emphasis was given to acquisition of deposits and the purchase of a wide array of borrowed money, including Federal funds, Eurodollars, negotiable CD's and long-term debt.

Franklin thus was able to buy its liquidity in the marketplace to support its rapid asset growth. In retrospect, Franklin's liability structure and asset structure made the bank exceptionally vulnerable to the confidence of the money markets.

Confidence in financial institutions declined significantly in 1973 and 74 as a result of bank failures, both here and abroad, significant foreign exchange losses in several major banks and evidence of deterioration in bank loans to struggling real estate firms, airlines, public utilities and the like. This decline in confidence, coupled with steadily rising interest rates, tight money conditions, high inflation and the beginnings of a recession led to a rush to safe havens for funds. The very largest banks with unquestioned national and international reputations were the direct beneficiaries, since the money market participants seemed to be making the judgment that biggest also meant safest. Marginally operated and smaller money center banks like Franklin were often denied funds altogether or were forced to pay high premiums for a limited amount of funds. The tiered markets which developed forced many banks to scramble to avoid negative margins and to assure liquidity adequate to meet the claims against them. Franklin had long term, low yielding assets in both its loan and its investment portfolios, and thus was locked into a negative margin between the cost of the funds it borrowed and the uses it made of those funds.

Under these turbulent market conditions, Franklin struggled. The money market's continuing concern about Franklin was greatly aggravated in the spring of 1974 when significant problems were disclosed and market rumors about substantial losses became generally known. A loss of confidence occurred and a massive outflow of funds resulted, from which Franklin never recovered. The specific actions taken by the Comptroller's Office during the November 1973 through

October 8, 1974 Franklin difficulties are detailed in the Appendix to my statement.

The lesson that all banks could not always be assured of equal access to the money markets was a rude awakening for many banks practicing liability management, and an important lesson for us. We believe we now have the sophisticated analytical techniques and a far better understanding of money market banks to take remedial action early and effectively.

However, because our powers -- by design -- fall far short of actually running a bank, there will always be a limit on our capacity to insure a fail-safe national banking system.

## II. Changes in the Comptroller's Office

The Committee staff's testimony last week mentioned several times the year-long study and report on the Comptroller's Office by the nationally known management consulting firm of Haskins & Sells. There was apparently no direction to the Committee staff, however, to evaluate the many changes which have resulted from implementation of the recommendations in that report.

As the Committee knows, the General Accounting Office is now undertaking a full scale review of the operations of the Comptroller's Office. GAO's report is expected to deal with these changes in our regulatory and supervisory procedures.

Meanwhile, however, I should review for the Committee some of these changes in order to dispel the erroneous impression that might be left in the record from the limited scope of the testimony already presented to this Committee.

### Domestic Examination Procedures

Substantial improvements in national bank examination procedures now are being adopted.

The new procedures will gear examination efforts more precisely to the needs of the Comptroller's Office and the particular bank being examined and will stress review of bank internal controls, such as credit and investment rules, and internal audit procedures. Examiners will devote more time to the review and evaluation of the bank's own policies and procedures, its decision-making process, and its management information system. Had these new examination procedures and processes been in place earlier, they may have enabled the examiners of the Franklin National Bank to perceive much earlier the inherent weaknesses in the bank's philosophy, policies, and procedures which eventually created the problems leading to its demise.

In addition to these new examination processes, major revisions are being made in the examination report itself. The primary purpose of the revised report of examination is to communicate meaningful information effectively to both the Office of the Comptroller of the Currency and to bank directors and management. The report must clearly identify the problems of special concern to the examiner, the factors that have caused the problems, and the remedial action that is suggested.

To promote effective communication of these matters to the intended recipients, the new report of examination is divided into three sections designed to explain the relative importance of the examiner's findings of problems and causes and to indicate recommended corrective action to the applicable recipient.

The first section of the report is designed specifically for the immediate benefit of the Board of Directors and its Examining Committee, as well as senior management. It is to be in letter form and will set forth the scope of the examination plus a summary of all critical comments, in narrative form, backed by appendices and schedules that will support the conclusions in sufficient detail to enable the Board,

or its representatives, to take specific corrective action. The examiner's comments are to include probable problem causes and recommended actions to assist the Directorate with this aspect of remedial responsibility.

The second section of the report consists of various schedules, technical irregularities and deficiencies, and comments by the examiner relative to the conclusions and evaluation of specific areas. This section will be a checklist against which a bank's auditor, cashier, or other designated officer can effect correction and against which the bank's Board of Directors and/or senior management can measure the progress of the corrective action.

The third section of the report is designed specifically for the Comptroller's Office, although we will receive copies of all three report sections. The third section will include confidential information and a certain amount of additional informative data necessary to the operation of our Office. The confidential section will set forth matters requiring the prompt attention of our senior staff, such as:

- Suspected violations of law uncovered during the course of the examination reported, or to be reported, to the appropriate Comptroller officials or other regulatory enforcement agencies.
- Critical comments relating to senior bank officers which may require official remedial action by the Comptroller's Office such as the threat of cease and desist orders or officer removal.
- Subjective comments regarding management or other matters which have not been factually proven by the examiner but which, nevertheless, constitute areas of concern.

As is evident, the report of examination and related procedures have undergone substantial change. Perhaps the most important change is that most of the information previously "hidden" in the confidential section of the report of examination is now presented in the open section. Directors and management of the bank will have no excuse for

doubt concerning our Office's evaluation of the condition of the bank.

#### National Bank Surveillance System

We are also implementing a bank evaluation and monitoring system called the National Bank Surveillance System (NBSS). Had this system been in operation at the time when Franklin's earnings problems were developing, the system - in coordination with the new examination procedures - would have assisted in detecting the detailed causes of those problems and, more importantly, it could have helped management to correct those problems in a timely manner.

The NBSS consists of four elements: a data collection system; a computerized analysis system which detects unusual or changing conditions in any national bank; an analysis of those changes by trained NBSS specialists; and, of primary importance, an Action Control System.

Rapidly processed reports of condition and income from each national bank are entered into the system at quarterly intervals. The computer calculates fifteen pages of meaningful ratios and percentages for each bank. A second computer program summarizes these performance reports and ranks each bank in an "Anomaly Severity Ranking Report." This report simply designates those banks in the national banking system which deserve a priority review. At that point the human element re-enters the process. The trained NBSS specialists review each of the fifteen page reports and all other relevant data on each bank which the Anomaly Severity Ranking Report has designated for priority review.

The Anomaly Severity Ranking System covers three basic aspects of a bank's condition in relation to that of other banks in its peer group. It considers the bank's current position in each ratio, its short term trend in the most recent quarter and its long term trend over the past five years. Had the NBSS been in use earlier, it would have designated Franklin for priority review. The NBSS specialists would have noted a number of conditions in the Franklin report,

including its low and declining earnings; its sources of those earnings; its inadequate provisions for its reserve for possible loan losses; and its inability to utilize fully its municipal tax exempt income. In view of all of those factors, the hazards involved in its large, volatile liabilities would have been flagged.

With the Anomaly Severity System having designated Franklin for priority review, the NBSS specialist would have reviewed the performance report, noted conditions of concern, and then turned to the Action Control System.

All banks designated for priority review are placed in the Action Control System quarterly. The bank cannot be removed from the Action Control System until the conditions of concern have been corrected. While the bank remains in the Action Control System, reports will be made every two weeks showing the progress or the lack of progress in correcting conditions of concern.

The conditions of concern must be acknowledged by the Regional Administrator, who has the responsibility for the initiation of corrective action. He must respond to the conditions cited in the Action Control System. He can achieve correction at his discretion, but correction and/or his response must be made within 30 days.

The Action Control Reports will also be utilized by various functional units of the Washington office. If those reports show a bank or a region as delinquent or unsuccessful in its corrective efforts, they can be assisted by other appropriate units such as our Special Projects staff or the staff of our Enforcement and Compliance Division.

The NBSS does exist now to this extent. Fast and accurate data is flowing into the system. The fifteen page performance reports are being produced and they are being utilized in most of our geographic

regions. Seven trained NBSS specialists are now in regional offices and all fourteen regional offices will have trained specialists before the end of June, 1976. The Anomaly Severity Ranking Reports have been utilized repeatedly and they have proven reliable. We have used in the banks the results of the reports and the specialists to cause the correction of serious problems which would otherwise not have been detected at an early date.

The Action Control Program is a crucial part of the system. Its programming is nearly complete; its action, condition and response codes have been tested and, with the input of the next quarter's data, the Action Control System is to be implemented.

We will then be using a new system of bank supervision. We know that system must remain flexible to cope with the rapid changes in the banking system. It must also maintain the proper balance between its machine-operated segments and those involving good human judgment.

#### Foreign Exchange Procedures

We are in the process of finalizing a new examination procedures manual which covers every aspect of foreign exchange trading and requires written policy goals and guidelines, segregation of specific duties by trading and bookkeeping personnel, specific confirmation requirements, internal controls and audit programs.

Recognizing that with relatively minor changes in our old techniques we might well have found reason to suspect some less than prudent action on the part of Franklin's personnel, we now require that the examiner review, not just the most recent, but all monthly revaluation worksheets since the last examination to insure that proper market rates were in fact used. The new procedures, under appropriate circumstances, require the examiner to intercept all mail

to insure that all incoming confirmations can be identified with contracts on the bank's books. These new examination procedures are the most comprehensive guidelines written to date.

We have made other modifications in personnel, training, and examining procedures and policies. These are designed to help prevent the occurrence of similar situations in other banks.

We insist that the Board, through senior management, set up strict segregation of duties and responsibilities for every function of this and every other area. Traders should trade and nothing else. Accounting personnel should be responsible for all accounting, confirmation, revaluation, and other recordkeeping functions, completely independent of all trading functions. This would include sending and receiving trade confirmations and checking discrepancies directly with the counterparties and reporting these activities to the audit department, obtaining forward rates for revaluations independently and performing these revaluations without interference from the traders. Auditors must be truly independent from influence by senior management or by the personnel they are auditing. They must feel free to report their findings to proper Board-level committees. The Position Clerk should only keep records for the trader and not prepare reports for management. This should be a function of the accounting department.

Examiners are evaluating the organization and effectiveness of this separation of duties and commenting upon deficiencies or overlapping of responsibilities. Critical comments are made directly to senior management and the Board. Examiners include in their examination procedures an inspection of internal bank reports from periods between examinations to insure their accuracy and the correctness of their content.

In addition, as part of the "ongoing examination" concept, while examiners are in the bank they review reports, daily activities, and similar matters, at least on a test basis, to ascertain if required procedures are followed as a regular practice and also to determine any major changes in positions and policies.

The International Banking Group continues its efforts at upgrading the quality, knowledge, and experience of personnel engaged in examining international activities. Examiners-in-Charge of international divisions are now recommended by the Regional Administrators and final selections are made by the International Banking Group, based on experience, ability, and availability. Additional personnel are participating in quarterly training sessions on international banking. This training, both in general international banking and in foreign exchange, is conducted by Washington staff personnel, as well as by other authorities from government agencies such as the Ex-Im Bank and the Federal Reserve, and by experienced bankers. An advanced seminar on foreign exchange trading is also given at least twice annually to help disseminate knowledge of this subject to as many of our examiners as possible. In addition, international examiners travel to other areas of the country in order to help where experienced support personnel are needed, and gain experience from this increased exposure.

#### Branch and Other Approvals

Procedures for actions on corporate activities, such as new branches, mergers and other applications in the corporate area, are being developed to examine more closely the expansion policies of a national bank in light of its historical and current condition.

The Comptroller's Office will soon announce policy statements which will be published for comment by the public prior to their adoption. These policies will set forth guidelines under which the

Comptroller's Office will either grant or deny branches, mergers and other applications of a corporate nature. These guidelines will specify that, if a Regional Administrator wants to approve a branch or merger which falls outside the guidelines, the application will get close scrutiny in Washington. If a particular bank is subject to special surveillance, its application will undergo special analysis by the Bank Organization and Structure Division in consultation with the special surveillance units in Washington.

In short, our new policies in regard to corporate expansion will permit closer monitoring, in conjunction with our new examination and analysis techniques, both at the regional and Washington levels.

#### Operations Review

Prior to 1976 the Comptroller's Office had no formal process for reviewing in a systematic way the manner in which national bank examiners perform their examinations to assure that they are performed consistently in accordance with established instructions and procedures. Such a formal operations review process is now in place. It is headed by a Deputy Comptroller with 27 years examining experience who reports directly to me. He is our own internal inspector general.

Under his supervision, examiners in each of our 14 regions have been specially trained to review the procedures by which banks in other regions are examined and supervised. Any exceptions from established procedures and instructions are noted and reported to the Washington Office.

Additionally, our Deputy Comptroller for Operations Review is the person to whom a banker who is fundamentally aggrieved by any of our regulatory activities can bring his complaint.

These operations review procedures should lessen the possibility of examinations being conducted improperly or not in accordance with

the new procedures which are being established by our Office.

Recommended Enforcement Legislation

Although these changes should make our Office more effective, there are still more tools we need that only the Congress can provide. The Congress is currently considering enforcement legislation recommended jointly by the Comptroller, the Federal Reserve Board, and the FDIC to enable us better to deal with problem banks. I urge prompt consideration and passage of this legislation.

The legislation has several provisions. The first empowers the banking agencies to assess civil penalties for violations of various banking statutes and cease and desist orders. I endorse the idea of giving the agencies this authority.

Another provision of the bill which I heartily support would give the banking agencies power to remove an officer, director, or other person participating in the affairs of the bank from his position upon being able to show gross negligence in the operation or management of the bank, or a willful disregard for the bank's safety and soundness. Under the present statute, bank officials can be removed only if the agency can establish "personal dishonesty." The judicial review provisions already contained in the statutes are ample to protect against arbitrary or capricious use of this power.

The procedures by which an officer or a director of a national bank can be removed also need amendment. Under existing law, the Comptroller lacks power to remove a bank official unless that official has been indicted. If he has not been indicted, the Comptroller can do no more than certify facts to the Federal Reserve Board. The Federal Reserve is given the responsibility for issuing a notice of proposed removal, prosecuting the case, hearing the evidence

and making the final decision. The Comptroller cannot even institute the proceeding.

This procedure is so cumbersome to use that neither the Federal Reserve Board nor my Office believes that it has been very effective. We thus have recommended a provision which would empower the Comptroller to institute and prosecute proceedings. The Comptroller also would have the power to suspend a bank official pending completion of the proceedings. The Federal Reserve Board, however, would retain its authority to hear the case and make final decisions. I am in complete agreement with this recommendation.

In addition to this general statement on Franklin and the operations of our Office, responses to specific questions in your letter of invitation of May 4, 1976 are addressed in the Appendix to the statement.

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Appendix to Statement of

James E. Smith,

June 1, 1976. *on*

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FEDERAL DEPOSIT INSURANCE  
CORPORATION

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I. Franklin National Bank - November, 1973 - October 8, 1974

On November 14, 1973, our Office began a regular examination of Franklin. This examination, which was not to conclude until March 8, 1974, disclosed that Franklin had serious financial problems. These problems included a low-yielding loan portfolio, depreciation in the municipal and investment portfolios, heavy reliance by the bank on short term borrowed funds (so-called hot money) and the bank's poor management. Uncollectable loans totalled \$10 million. The operating income of the bank was poor, which, being public information, affected public confidence in the bank.

Total resources of the bank had grown to \$4,852,999,972, or 29% higher than the previous December 8, 1972 examination. The capital, however, had increased by less than one half of one per cent; demand and savings deposits actually had declined 5.5%. The bank's recent growth had been financed almost entirely by using short term borrowed funds, including time deposits of other banks and money market certificates of deposit. These types of funds totaled \$2.3 billion, or 50% of the bank's liabilities. They had increased dramatically by \$984 million, or 76%, since the last examination. Such borrowed funds are volatile and likely to disappear quickly if creditors have reason to question a bank's stability or soundness.

I instructed Regional Administrator Van Horn by letter of February 22, 1974, to meet with the senior management of Franklin in order to formulate a plan with the bank for remedial action in such areas as reduction in all forms of borrowings, standards of new loan extensions and adjustment of the imbalance between the bank's capital and the size of its operations. Mr. Van Horn met with the senior officers of Franklin on February 28, 1974, and with the Board of Directors on March 28, 1974. The bank agreed to reduce its borrowings

by \$500 million through liquidating \$260 million carried in its bond trading account, selling \$100 million of loans to another bank, reducing new loan commitments, increasing compensating deposits maintained at the bank by borrowers.

On April 18, 1974, Franklin New York Corporation (FNYC) announced net operating income for the first quarter of two cents per share or \$79,000, down from the previous year of sixty-eight cents per share or \$3.123 million. The holding company release stated that income was "adversely affected by the sharp rise in the cost of short-term borrowings needed to carry assets during the 1974 quarter."

On May 1, 1974, the Federal Reserve Board announced its denial of the holding company's application to acquire Talcott National Corporation, a business financing and factoring firm. FNYC had applied for this acquisition on August 13, 1973. The Board decided that "this proposal may constitute an undue drain on Applicant's managerial and financial resources."

On May 10, 1974, the Comptroller's Office and the Federal Reserve Board learned from Franklin that heavy losses in an undetermined amount had occurred in the bank's foreign exchange department. Bank management decided to announce these losses. It was clear that an announcement of this kind would dry up the bank's sources of borrowed funds, thereby creating a severe liquidity crisis. In anticipation, the bank sought from the Federal Reserve Bank of New York a huge loan to cover this expected run-off.

On May 10, 1974, management announced that, in light of the small profit for the first quarter of 1974 and management's estimate for the second quarter, it would recommend that Franklin's Board of Directors not declare the regular dividend on Franklin's common stock and convertible preferred stock.

We advised the FDIC of these events.

Taken together, the bank's April 18 release, the May 1 Talcott turndown, and the May 10 release caused large scale institutional withdrawals and forced the bank to the Fed discount window to obtain the liquidity funds it needed.

At this time, management of the bank and representatives of this Office began exploring merger possibilities. The only possible, immediate merger partner showing serious interest was Manufacturers-Hanover Trust Company of New York. Manufacturers-Hanover in April, 1974 had loaned FNYC \$30 million on a long term basis. After intensive discussions with the officers of Franklin, the management of Manufacturers-Hanover determined on May 12 that an immediate merger was not feasible.

On Friday and Saturday, May 10 and May 11, 1974, an internal review of the foreign exchange department was taking place and by Saturday evening, May 11, 1974, a relatively large loss was estimated. On Sunday, May 12, 1974, Franklin issued a press release, which stated in part:

The bank also reported that its foreign currency exchange department has realized losses since March 31, 1974, of approximately \$2 million. In addition, it has recently been discovered that because of a trader in that department operating beyond his authority and without the bank's knowledge, it will have sustained losses, as of May 13, 1974, of \$12 million, and has potential losses of \$25 million at May 10, 1974 rates.

The bank also noted that earlier in the day on May 12, 1974 Vice-Chairman Mitchell of the Federal Reserve Board, after having been assured by our Office that Franklin was solvent, advised in a press release that "as with all member banks, the Federal Reserve System stands prepared to advance funds to this bank as needed." FNYC asked the Securities and Exchange Commission to suspend trading in its securities. The SEC did suspend trading and conducted an investigation

into the accuracy of FNYC financial statements. Ultimately a lawsuit was instituted by the SEC.

On May 13, 1974, at a special meeting of the bank's Board of Directors, the President of the bank and the head of its foreign exchange department were fired. These events further eroded confidence in the bank so that by close of business on Wednesday, May 15, 1974, the bank's loan at the Federal Reserve window reached \$780 million.

Much of the public attention at that time was focused on Michele Sindona, an Italian lawyer and resident of Switzerland, who had purchased through his holding company, Fasco, 1,000,000 shares of FNYC in July, 1972. This stock constituted 21.6% of the outstanding shares of the common stock of FNYC. Mr. Sindona became a director of FNYC in August 1972.

In view of the public concern over Mr. Sindona's association with the holding company, Mr. Sindona agreed that he would relinquish for one year his rights to vote the FNYC stock held by Fasco and give the sole voting rights to former Treasury Secretary David Kennedy. This was completely agreeable to me and an announcement to this effect was made by Franklin in a press release dated May 12, 1974. Franklin also announced plans to raise additional capital of \$50 million, as well as several major management changes to be put into effect at the bank's Board meeting the next day. On Monday, May 13, the bank accepted the resignations of Paul Luftig, the President and Chief Executive Officer of the bank and Peter Shaddick, Vice Chairman of Franklin in charge of its international department.

On Tuesday, May 14, 1974, a new examination of the bank was commenced in order to update the value of its loans, its securities and foreign exchange position. The May 14 examinations showed large foreign exchange losses, accelerated depreciation in securities and a general lack of improvement in the bank's condition since November 1973.

On May 13, 1974, I requested the member banks of the New York Clearing House Association to explore Franklin's affairs. The purpose of this review was threefold:

- 1) To advise me and my staff as to how other bankers would view the condition of Franklin National Bank;
  - 2) To establish a foundation upon which the Clearing House Association members might act to help with Franklin's liquidity problems; and
  - 3) To provide information to members of the Clearing House who might be interested in acquiring Franklin National Bank.
- In this regard, it was agreed that any information received through this processing by members of the Clearing House also would be made available to any non-Clearing House member interested in acquiring Franklin National Bank.

On June 11, 1974, with the encouragement of the Federal Reserve System, an arrangement was reached whereby members of the Clearing House individually would loan Federal funds to Franklin in an amount which aggregated \$225 million.

Meanwhile, efforts had been made to attract stronger management. With my assistance, Mr. Edwin Reichers was brought into Franklin on May 17, 1974, as an Executive Vice President in charge of Franklin's foreign exchange operations. He had for 40 years been with First National City Bank of New York, and headed that bank's foreign exchange operations.

A long search for a new head of Franklin culminated on June 21, when Joseph W. Barr was brought into Franklin as its Chief Executive Officer.

Mr. Barr, who is well known to many members of this Committee as a former colleague in the House, had a distinguished background in the fields of government and finance, having served as Chairman of the FDIC, Under Secretary and Secretary of the Treasury Department, and as the Chairman and Chief Executive Officer of American Security and Trust Company of Washington, D.C. He was well and favorably known by foreign financial institutions, and a man with whom I was confident we could work effectively under most demanding conditions. My confidence in him was fully justified by his performance. Without him and the qualities of integrity, courage, and decisiveness which he brought to bear on the myriad of problems, I frankly doubt that the successful result on behalf of Franklin's depositors could have been achieved.

On July 2, I wrote the FDIC requesting it contact other banking organizations which were potential purchasers of some or all of the business assets of Franklin National Bank. The FDIC developed a plan to assist a prospective purchaser to assume liabilities and purchase assets of Franklin and began negotiations with interested bankers to draft a set of acquisition papers upon which banks could bid competitively in the event the FDIC became the receiver.

In an effort to alleviate further liquidity problems, I requested a meeting of representatives of 17 large U.S. banks to discuss selling Franklin's portfolio of Euro-currency loans. The meeting took place in Chicago on July 22. Some \$300 million of loans were offered for sale. This proved to be an unsuccessful effort, however, because of the interest rates on these credits in comparison with the then prevailing high interest rates, and because of the liquidity problems of all large banks at that time.

In September, Mr. Barr presented the regulatory agencies a plan by which, with substantial assistance from the FDIC, Franklin would retrench, give up most of its national and international business, and become a Long Island bank. I requested the investment banking firm of Blyth Eastman Dillon & Co. to advise us concerning Mr. Barr's proposal. On October 3, the firm advised that the prospects of Franklin's achieving financial viability as an independent banking institution were bleak.

Mr. Barr also suggested that in the event a takeover of Franklin became necessary, it would be beneficial to the interests of the shareholders and to the competitive situation to widen as much as possible the list of potential purchasers. The greatest obstacle to this was the legal situation which limited the list of potential U.S. buyers to New York State-chartered institutions and national banks located in New York. Mr. Barr requested that, not only for this case, but also for the future, Congress should act quickly on legislation which would permit the purchase and operation of banks across state lines where necessary to prevent the probable failure of a large institution. Time did not permit the adoption of such legislation before the end came for Franklin, but I hope that the Congress will soon provide for such a situation.

As a result of continuing negative publicity, continuing deposit decline, and management's continued inability to reduce the loan portfolio, on September 30, Franklin's total borrowings from the Federal Reserve Bank of New York exceeded \$1.7 billion. By the end of September, total deposits were rapidly declining to the \$1 billion mark and total other liabilities, principally borrowings, were rising to nearly \$2 billion. The bank was unable to retain large maturing certificates of deposits or other maturing money market liabilities.

Based on all facts available, including Mr. Barr's proposal which conceded that the bank could not survive without massive government assistance, the Blyth Eastman Dillon report, and the negative reports by the New York Clearing House banks, I concluded that Franklin did not appear to be a viable institution.

On October 4, I wrote to the Federal Reserve bank, briefly reviewing the situation, and asking for the Federal Reserve Bank's views with respect to its continued willingness to lend funds to Franklin. On October 7, the Federal Reserve Bank replied, stating that its emergency credit assistance to Franklin was based on public policy considerations arising from the responsibility of the Federal Reserve System as a lender of last resort and was designed to give Franklin and the concerned Federal bank regulatory agencies a sufficient period to work out a permanent solution to the bank's difficulties. The Federal Reserve Bank also had concluded that the Franklin proposal of September 16, to the FDIC did not offer a feasible means of achieving the continuation of Franklin as an independent, viable bank. The Federal Reserve Bank advised that it would not be in the public interest for that bank to continue its program of credit assistance to Franklin.

It was no longer in the best interest either of Franklin's depositors and other creditors or of its shareholders to wait for further deterioration in the bank's condition, especially when the alternative of the FDIC-assisted purchase of the bank at a price including a substantial premium for a going concern, became available. By October 8, Franklin was no longer the 20th largest bank in the country but had become about the 46th largest bank. Of the 65 banks in its size category (\$1 to \$5 billion in deposits) Franklin had ranked 65th in earning power. This lack of ability to generate earnings, combined with heavy reliance on purchased money, finally created a set of

circumstances which the bank could not bear. On October 8, having become satisfied that Franklin National Bank was insolvent, and acting pursuant to 12 U.S.C. 191, I declared the Bank insolvent and appointed the FDIC as receiver.

In order to protect all of the depositors of Franklin, the FDIC moved immediately to accept bids from several major New York banks upon a pre-negotiated contract which provided full protection for all Franklin depositors and other normal banking creditors. All bids were opened simultaneously in the presence of the entire FDIC Board of Directors. The high bidder was the European-American Bank and Trust Company, a federally insured, New York State chartered institution owned by six large European banks. The following day every banking office of Franklin was opened at the regular banking hour by the European-American Bank. All depositors in Franklin, including holders of certificates of deposit, savings accounts, time accounts, and checking accounts, automatically became depositors of the European-American Bank. The European-American Bank also assumed all existing liabilities to trade creditors of Franklin. The approval of the purchase and assumption transaction avoided any disruption in service for depositors and increased the chances of subordinate creditors for full repayment of their claims.

In summary, our number one goal was to protect the depositors and the banking system of this country, and that goal was achieved.

## II. Responses to the Subcommittee's Questions

The Subcommittee has asked, in Chairman Rosenthal's letter of May 4, 1976, for responses to a series of specific questions. Most of the questions have been answered in the earlier portions of the statement or by making available documents to the Committee Staff. The remaining questions are answered below:

Questions: For the years 1971 to date, provide the number of parties to, terms of, and degree of compliance with each (i) agreement between the Office of the Comptroller of the Currency and a national bank, and (ii) statement of intent or assurance by the board of directors and/or officers of a national bank, which was given as a condition for obtaining approval for a merger, acquisition, new domestic or foreign branch, expansion of office facilities, an issuance of equity shares or debentures, or other act requiring the consent of the Comptroller of the Currency.

(i) Attached as Exhibit A is a summary of the administrative actions brought pursuant to the Financial Institutions Supervisory Act of 1966 from 1971 to present. Likewise I am enclosing a copy of a chart prepared reflecting the number of times specific violations were addressed in the proceedings.

We have found that the administrative actions taken have proven successful in the majority of instances. In that regard, we note that in 29 instances since 1971 this Office has requested banks to obtain additional capital or to initiate plans to increase capital. In all but four instances, the banks have complied with those requirements. In two of the four instances where there was inadequate compliance with formal written agreements between the bank and this Office, we resorted to the issuance of a Notice of Charges and a commencement of a formal Cease and Desist Proceeding. In both of those instances the bank added additional capital as a direct result of the proceedings.

Four of the proceedings brought have been formally concluded as there has been complete compliance with the provisions. Nine proceedings have been terminated due to the sale, merger or failure of the banks while under administrative actions. We believe that in at least 37 instances, proceedings, although still in effect, may be concluded as the banks have fully complied or are taking adequate steps to gain compliance.

The remainder of the banks have not yet fully complied and may require additional administrative action.

(ii) This Office has on several occasions attached conditions to the approval of branches, mergers, acquisitions and other actions by banks. The typical situation involves a request for a branch, the approval of which is conditioned on the bank's increasing its capital by a specific amount. Neither the files on mergers and branches nor the files on capital increase are established to reflect after the event that the raising of new capital was a condition for approval of a new branch. The information can be developed only by a separate review of documents associated with each branch, merger, acquisition, capital issue or expansion.

Question: All approvals and consents given and made by personnel of the Comptroller of the Currency permitting mergers, the opening of new domestic or foreign branches, and/or expansion of office facilities regarding FNB for each year from 1965 through 1974.

Branches, Mergers and Expansion of Facilities of Franklin

Domestic Branches

	Final Approvals Permitting Openings	Rejected	Withdrawn
1965	4	1	2
1966	4	4	0
1967	15*	3	0
1968	1	0	0
1969	3	2	2
1970	3	4	2
1971	7	1	0
1972	5	0	0
1973	1	0	0
1974	0	0	0

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\*The approvals in 1967 include the main office (retained as a branch) and 13 operating branches of the Federation Bank and Trust Co. acquired by merger June 30, 1967.

Mergers, Expansion of Office Facilities, Foreign Branches

The only merger during the period was with Federation Bank and Trust, referred to above. The New York Regional Office issued two approvals during 1972 permitting expansion of office space pursuant to 12 U.S.C. 371d. This Office has no authority to approve or disapprove foreign branches. Documents in OCC files pertaining to Franklin foreign branches have been provided to the Committee staff.

Question: Set forth the number of national banks which were given composite or group ratings of 3 or 4 continuously from 1971 through 1975, and for each bank the annual number of (i) new domestic branches, (ii) new foreign branches and (iii) expansions of office space the Comptroller of the Currency has approved for each year since 1972.

There were five (5) national banks which were given Composite or Group ratings of 3 or 4 continuously from 12/31/71 through 12/31/75.

i. For these five banks, the following new domestic branch applications were approved or denied during the 1971 through 1975 period:

	1972		1973		1974		1975	
	<u>Approved</u>	<u>Denied</u>	<u>Approved</u>	<u>Denied</u>	<u>Approved</u>	<u>Denied</u>	<u>Approved</u>	<u>Denied</u>
Bank #1			1			2		
Bank #2						2		
Bank #3								
Bank #4								
Bank #5								

Total for the Period:

Applications - 5  
Approved - 1  
Denied - 4

ii. For the same five national banks, the Office received no applications for new foreign branches.

iii. Pursuant to 12 U.S.C. 371d, a national bank may invest in bank premises up to 100% of its capital stock without the approval of the Comptroller of the Currency. Bank #2 applied to the Office for permission to exceed its limitation in 1974. Permission was granted for the bank to invest in banking premises in an amount not to exceed its capital accounts plus \$150,000. None of the other four banks requested permission to exceed the limitation during the 1972-1975 period.

Question: The management, operations and conditions of, and supervisory recommendations made and actions taken by personnel of the Comptroller of the Currency with respect to FNBEI for the years 1971 through 1975, to the extent the same previously has been made a matter of public record through court records, proxy statements, press releases and other means.

Copies of the public documents of which we are aware that relate to the management, operations and conditions of the FNBEI and the Comptroller's supervisory actions related to that bank are annexed hereto.

Proceedings Brought by the Comptroller Pursuant to the  
Cease and Desist Provisions of the Financial Institutions  
Supervisory Act of 1966  
12 United States Code §1818 (b)  
1971 - to Present

Exhibit A

1971

1. An Agreement to eliminate self-dealing and self-serving transactions by directors, officers or shareholders of more than 2% of the outstanding shares of the bank. Limitations on the trade area and management contracts to be made by the bank.
2. An Agreement to eliminate unreasonable employment contracts of insiders and eliminate insider dealings. The bank also was to improve the credit quality of its loan portfolio and take steps to eliminate general criticized problems, unsafe and unsound practices and violations of law.
3. An Agreement to eliminate extensions of credit to unqualified borrowers, self-dealing by insiders and self-serving management contracts. Also provisions to improve the credit quality of the loan portfolio and to take steps to eliminate general criticized problems, unsafe and unsound practices and violations of law.

1972

4. A Notice of Charges and Permanent Order to Cease and Desist to eliminate extensions of credit to insiders and self-dealing transactions. Provisions to eliminate overdrafts and increase the documentation for loans. Elimination of further extensions of credit on classified loans and the elimination of an unsafe and unsound correspondent account relationship. Also elimination of violations of 12 United States Code §84, §375a and various unsafe and unsound practices.
5. An Agreement to eliminate loans in violation of 12 United States Code §84 and the indemnification of the bank for losses.
6. An Agreement with several banks rectifying problems in employee benefit trusts and eliminating self-serving employment and management contracts which were entered into on behalf of the bank for a controlling owner of the banks. Elimination of a number of unsafe practices.
7. An Agreement to eliminate loans made in excess of the lending limit and to update the loan portfolio with credit information and strengthening in the collection efforts of the bank. Termination of employment of the bank's president because of self-dealing and illegal practices.

8. A Notice of Charges and Permanent Order to Cease and Desist to strengthen management through the eliminating problems of an unsafe and unsound nature such as excessive classified assets, overdrafts, collateral imperfections, and the elimination of concentrations of credit. Provisions to direct the strengthening of the liquidity and capital. Provisions to cause an outside audit and an effective loan policy. Provisions to eliminate a number of unsafe and unsound practices, as well as violations of law, including 12 United States Code §84.
9. An Agreement to prohibit the extensions of credit to insiders and to eliminate self-dealing by major shareholders. Provisions eliminating the extensions of credit to these insiders and a reduction in excessive compensation of the insiders.

1973

10. An Agreement to eliminate insider and self-dealing and the illegal practice of nominee loans. The elimination of excessive extensions of credit to affiliates and affiliated persons. Provisions to eliminate unsafe practices including the handling of criticized loans and the modification of a self-dealing management contract.
11. A Notice of Charges and an Agreement to eliminate excessive directors' compensation and self-dealing by principal owners and directors of a bank.
12. A Notice of Charges and an Order to Cease and Desist to eliminate extensions of credit to affiliates and substantial self-dealing transactions by a principal officer and shareholder of the bank. The appointment of a committee to eliminate the various violations of law and unsafe and unsound banking practices including the collection of classified assets and elimination of contingent liabilities, as well as provisions to help restore the liquidity and establishing a loan and investment policy. The removal of the principal officer and controlling person from positions of authority in the bank. Indemnification for losses on the self-dealing transactions.
13. An Agreement to eliminate various violations of law, including 12 United States Code §84, and to prohibit general unsafe and unsound banking practices. Procedures to effect collection of substantial criticized assets and the obtaining of current and satisfactory credit information. Provisions to help restore the capital position of the bank.

14. A Notice of Charges and a Permanent Order to eliminate loans of a self-dealing nature to companies closely related to the controlling owner of the bank and the elimination of any nominee loans. The establishment of a committee and provisions to correct unsafe and unsound banking practices as well as violations of 12 United States Code §84, §371, §371c, §375a, §473, and the Truth in Lending statute (Regulation Z). Provisions requiring the indemnification for loss on certain violations of law. Provisions to help restore the capital and limitations on dividends.
15. An Agreement to eliminate insider and self-dealing and illegal nominee loans. The elimination of excessive extensions of credits for the benefit of affiliates and affiliated persons. Provisions to eliminate unsafe practices including the handling of criticized loans, executive salaries and modifications of a self-dealing management contract.
16. A Notice of Charges and a Permanent Order to enforce an agreement previously entered for various violations of law including 12 United States Code §84 and to prohibit general unsafe and unsound practices. Procedures to effect collection of substantial criticized assets. Provisions to improve the capital and liquidity positions of the bank.
17. An Agreement to eliminate self-dealing and self-serving loans made for the benefit of the controlling owner of the bank and to eliminate self-dealing loans to affiliates. Indemnification for losses on the self-dealing loans.
18. An Agreement to eliminate abuses by the president and controlling shareholders. Provisions to effect collection of criticized assets and for the elimination of violations of law, including 12 United States Code §375a.
19. A Notice of Charges and a Temporary Order to Cease and Desist from unsafe and unsound practices. Provisions to eliminate loans or extensions of credit to related companies or individuals and to preclude the issuance of letters of credit, guarantees or endorsements to related companies or individuals. The elimination of breaches of fiduciary relationships.

1974

20. An Agreement to establish internal controls and eliminate management problems as well as to rectify violations of law, including 12 United States Code §1829b, 31 CFR §103, 12 CFR §217 and Regulations J and Q.

21. An Agreement to eliminate self-dealings by an official of the bank and his resignation. A limitation on loans to certain individuals. Provisions to improve the credit quality of the loan portfolio and to take steps to eliminate general criticized problems, unsafe and unsound practices of law, including 12 United States Code §84.
22. An Agreement to establish internal controls and eliminate management problems. Provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate a number of criticized problems, unsafe and unsound practices and violations of law, including 12 United States Code §84. Provisions for indemnification for losses.
23. An Agreement to eliminate management and internal control problems. Provisions to upgrade the credit quality and procedures for handling loans. Provisions to eliminate unsafe and unsound practices, criticized problems and violations of law, including 12 United States Code §84 and §375a.
24. An Agreement to eliminate extensions of credit to affiliates and to eliminate several problems in the loan portfolio. Provisions to eliminate unsafe and unsound practices and criticized problems.
25. An Agreement to improve the credit quality of the loan portfolio and to take steps to eliminate various criticized problems, unsafe and unsound banking practices and violations of law, including 12 United States Code §84.
26. An Agreement eliminating various self-dealing transactions and excessive concentrations of credit. Provisions to eliminate specific management problems, unsafe and unsound banking practices and violations of law, including 12 United States Code §84.
27. An Agreement to correct a number of unsafe and unsound banking practices including violations of 12 United States Code §§84, 375a, 24(7). Provisions to eliminate abuses by the controlling owner and a requirement to obtain a new active and capable chief executive officer.
28. An Agreement to eliminate insider and self-dealing extensions of credit to affiliates and controlling persons. Provisions to eliminate unsafe practices including the handling of criticized loans.
29. An Agreement to improve the credit quality of the loan portfolio and to take steps to eliminate a number of criticized problems, unsafe and unsound practices, and violations of law.

30. An Agreement to establish internal controls and eliminate management problems. Provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate a number of criticized problems, unsafe and unsound practices and violations of law, including 12 United States Code §§84, 82, 371c, 375a. Provisions for indemnification for losses.
31. A Notice of Charges and a Cease and Desist Order requiring the bank to comply with a previously issued formal written agreement and particularly requiring the bank to eliminate violations of 12 United States Code §§84, 375a, and 24(7). The Order also required the obtaining of a new and active chief executive officer.
32. An Agreement to eliminate various violations of law, including 12 United States Code §84 and to prohibit unsafe and unsound banking practices. Procedures to effect collection of substantial criticized assets and the obtaining of current and satisfactory credit information. Provisions to help restore the capital position of the bank.
33. A Letter Agreement dealing with restrictions on the loan portfolio and a concomitant reduction on the dependency of volatile money. Limitations on expansion and implementation of management changes.
34. A Notice of Charges and an Order to Cease and Desist from advertising and paying excessive interest rates in violation of 12 CFR §217.
35. An Agreement to establish a management committee to direct corrective actions to improve the credit quality of the loan and investment portfolio and to take steps to eliminate criticized problems including violations of law and unsafe and unsound practices.
36. An Agreement to eliminate violations of various statutes including 12 United States Code §84 and establishment of procedures of a safe and sound nature to eliminate excessive criticized assets and unjustified loan participations from affiliate banks.
37. An Agreement to eliminate violations of various statutes including 12 United States Code §§84, 375a, as well as an indemnification agreement for certain loans made in violation of law. The establishment of policies for eliminating problem credits and establishing guidelines for the bank's operations. Provisions to insure that no nominee loans are made for the benefit of companies or individuals not primarily obligated on the loans. Provisions for the obtaining and employing the services of a new president and chief executive officer as well as a review of executive salaries, dividends, and loans to directors.

38. An Agreement to eliminate transactions between affiliated corporations and individuals.

1975

39. An Agreement to eliminate various unsafe and unsound banking practices including excessive amounts of criticized assets and the establishment of policies to eliminate unsafe practices. Elimination of violations of various statutes uncluding 12 United States Code §84. Establishment of procedures to closely evaluate transactions between the directors, employees and their related interests.
40. An Agreement to take corrective action relating to criticized assets. Establishment of procedures to strengthen capital. Removal of bank personnel responsible for the problems in the bank.
41. An Agreement to eliminate various unsafe and unsound banking practices including concentrations of credit as well as the elimination of violations of law. The adoption of a new loan policy as well as the hiring of additional lending officers.
42. An Agreement to eliminate self-dealing, insider extensions of credit to affiliates and closely related individuals. Various provisions to eliminate unsafe and unsound practices and violations of law.
43. An Agreement to eliminate participation of loans with affiliates and violations of various law, rules and regulations including 12 United States Code §§84, 161, 371c and to eliminate unsafe and unsound banking practices.
44. A Notice of Charges and a Permanent Cease and Desist Order for a failure to conform to an agreement which required compliance with various laws including 12 United States Code §84 and inadequate and unsafe practices requiring an independent audit, additional capital and a new chief executive officer.
45. An Agreement to eliminate various violations of law including 12 United States Code §84 and to eliminate statutorily proscribed tying agreements in violation of 12 United States Code §1972. The agreement likewise required compliance with the truth in lending act of 1968 (15 U.S.C. §1601; 12 CFR §226) and required disclosure by the bank. Various violations of law also required corrective action including 12 United States Code §§371, 222, 371c, as well as other unsafe and unsound banking practices.

46. An Agreement to eliminate self-dealing and insider transactions and for the termination of certain officials of the bank responsible for extraordinary extensions of credit to closely related individuals and companies. Corrections of various violations of law including 12 United States Code §84. Restrictions placed on active officers of the bank.
47. An Agreement eliminating various violations of the law including 12 United States Code §84 and procedures to eliminate various unsafe and unsound banking practices concerning the elimination of criticized assets and overdue loans. A policy to hire additional lending officers and insuring that internal operations and control were instituted.
48. An Agreement between several banks and this Office eliminating loans and participations with affiliates and the elimination of unsafe and unsound banking practices.
49. An Agreement to eliminate unsafe and unsound banking practices and provisions to improve the credit quality of the loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and violations of law including 12 United States Code §84 and the Truth-in-Lending Statute (Regulation Z).
50. A Notice of Charges, a Temporary Cease and Desist Order and a Permanent Order eliminating the extensions of loans of a self-dealing nature and a prohibition to preclude the purchase of loans for the benefit of controlling persons or officials of the bank. A provision to eliminate a potential misuse of a correspondent account by the officials of the bank for their own personal benefit.
51. An Agreement to eliminate internal controls and management problems and a provision requiring the hiring of a new executive officer. Provisions to improve the credit quality of the loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and violations of law including 12 United States Code §§375a and 463.
52. An Agreement amending a previous agreement dealing with loans to affiliates and subsidiaries in violation of 12 United States Code §371c.
53. An Agreement to eliminate internal controls and management problems. Provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and violations of law including 12 United States Code §§84, 371c, 1829b. Provisions to improve the capital position of the bank and the loan policies of the bank.

Provisions to preclude the assumptions of obligations incurred by affiliated companies or individuals and the elimination of concentrations of credit to individuals or to industries.

54. A Notice of Charges and a Permanent Order to establish internal controls and eliminate management problems with provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and violations of law including 12 United States Code §§371c, 72, 375a and 12 CFR §23. Procedures to eliminate self-dealing by officials of the bank.
55. Resolution Agreement to eliminate unsafe and unsound and self-dealing practices and relationships with controlling owner. Limitations of loans to specified insiders. Removal of officers and directors for unsafe and self-dealing practices.
56. Resolution Agreement to eliminate unsafe and unsound and self-dealing practices and relationships with controlling owner. Limitations of loans to specified insiders.
57. Resolution Agreements to eliminate unsafe and unsound and self-dealing practices and relationships with controlling owner. Limitations of loans to specified insiders.
58. An Agreement to establish internal controls and eliminate management problems with provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and violations of law including 12 United States Code §84. Provisions to eliminate concentrations of credit to single or closely-related borrowers.
59. An Agreement to establish internal controls and eliminate management problems together with provisions to improve the credit quality of the investment and loan portfolio and to take steps to eliminate criticized problems, unsafe and unsound banking practices and provisions to strengthen the capital position of the bank. Provisions to eliminate self-dealing transactions by officials of the bank and to obtain new capable lending officers.
60. A Notice of Charges, Temporary Cease and Desist Order and Permanent Order to eliminate management and internal control problems including provisions to upgrade the credit quality and procedures for handling loans. Provisions to eliminate unsafe and unsound banking practices, criticized problems and violations of various statutes including 12 United States Code §§84, 24(7), 371a, 12 CFR 217, 226, and 15 United States Code §1601. Limitations placed on the Trust Department and a procedure to assist the bank in obtaining additional capital. Also a provision for the bank to obtain a new capable executive officer. Provisions to eliminate self-dealing by officials of the bank.

61. A Notice of Charges and a Permanent Order for a breach of an agreement entered into to eliminate violations of 12 United States Code §84, Regulation Z (12 C.F.R. §226) and the Truth-in-Lending Act 15 United States Code §1601 as well as violations of provisions of the agreement and substantial management and internal control problems.

1976

62. An Agreement to eliminate excessive extensions of credit, in violation of 12 United States Code §84, and to eliminate various unsafe and unsound banking practices concerning criticized assets. Provisions to upgrade the credit quality and procedures for handling loans and to improve the capital position of the bank.
63. A Notice of Charges, a Temporary Cease and Desist Order and a Permanent Order to eliminate unsafe and unsound banking practices, criticized assets and violations of law, including 12 United States Code §84, 31 C.F.R. §103.33, 12 C.F.R. §221 and 12 C.F.R. §226. Provisions to improve the capital position of the bank and the loan policies of the bank and the elimination of excessive concentrations of credit. Provisions to cause the collection of all debts previously charged off and to hire an executive officer and operations officer.
64. An Agreement to improve the capital position, the liquidity position and the loan policies of the bank. Provisions for the elimination of unsafe and unsound banking practices, criticized assets and violations of law, including 12 United States Code §84 and the Truth-in-Lending Statute (Regulation Z). A provision to hire a new executive officer.
65. An Agreement to eliminate various unsafe and unsound banking practices and to take steps to eliminate criticized problems, including excessive holdings in real estate. Provisions requiring the improvement of the capital position of the bank and the hiring of an executive officer.
66. An Agreement to eliminate excessive extensions of credit, in violation of 12 United States Code §84, and to eliminate various unsafe and unsound banking practices concerning criticized assets. Provisions to improve the capital and earnings position of the bank and to upgrade the credit quality and procedures for handling loans. Provisions to hire an executive officer and a full time auditor.

67. A Notice of Charges and a Temporary Cease and Desist Order to eliminate extensions of credit of a self-dealing and self-serving nature for the benefit of the controlling shareholder of the bank and related companies or individuals. A provision to eliminate overdrafts.
68. An Agreement to improve the liquidity position of the Bank and to upgrade the credit quality and procedures for handling loans. Provisions for the elimination of unsafe and unsound banking practices, criticized problems, excessive concentrations of credit, and violations of law, including 12 United States Code §371c, 12 C.F.R. §23, 12 C.F.R. §11 and 12 C.F.R. §18. Provisions for the hiring of an operations officer to ensure adequate internal controls.



DEPOSITS (In Thousands)	NUMBER	12 U.S.C. §34	LOANS WITHIN TRADE AREA	DIVIDENDS	OVERDRAFTS	CORRECTIONS OF LAW VIOLATIONS	MANAGEMENT QUALIFICATION	CLASSIFIED ASSETS	CORRESPONDENT BALANCES	EXECUTIVE AND DIRECTOR COMPENSATION	INDEMNIFICATION	INCREASE CAPITAL	LIQUIDITY	COLLATERAL EXCEPTIONS	BONUSES	LIMIT NEW LOANS OR EXTENSIONS OF CREDIT	LIMIT CREDIT EXTENSION ON EXISTING LOANS	MANAGEMENT FEES	LOAN COLLECTIONS AND LOAN POLICY	AUDIT - (INTERNAL CONTROLS)	TRUTH IN LENDING - Z	SATISFACTORY CREDIT INFORMATION	NEW MANAGEMENT AND DIRECTOR	12 USC §375	12 USC §375a	INDIVIDUAL EXCLUSION AND PROHIBITION	12 USC §371	OTHER
\$931,000	12			X							X		X	X			X		X	X		X	X			X	X	X
11,000	13	X	X	X				X			X	X	X	X		X		X	X	X		X	X			X	X	X
31,000	14	X		X							X	X	X	X		X		X	X	X		X	X		X	X	X	X
51,000	15							X		X					X	X	X			X						X	X	X
12,000	16	X	X					X			X	X		X		X			X	X		X	X			X	X	X
55,000	17	X									X					X	X			X						X	X	X
7,000	18																X							X				
105,000	19																X									X		
17,000	20																											
24,000	21	X						X			X			X					X	X		X	X			X	X	X
11,000	22	X						X			X			X					X	X		X	X			X	X	X





DEPOSITS (In Thousands)	NUMBER	12 U.S.C. §84	LOANS WITHIN TRADE AREA	DIVIDENDS	OVERDRAFTS	CORRECTIONS OF LAW VIOLATIONS	MANAGEMENT QUALIFICATION	CLASSIFIED ASSETS	CORRESPONDENT BALANCES	EXECUTIVE AND DIRECTOR COMPENSATION	INDEMNIFICATION	INCREASE CAPITAL	LIQUIDITY	COLLATERAL EXCEPTIONS	BONUSES	LIMIT NEW LOANS OR EXTENSIONS OF CREDIT	LIMIT CREDIT EXTENSION ON EXISTING LOANS	MANAGEMENT FEES	LOAN COLLECTIONS AND LOAN POLICY	AUDIT - (INTERNAL CONTROLS)	TRUTH IN LENDING - Z	SATISFACTORY CREDIT INFORMATION	NEW MANAGEMENT AND DIRECTOR	12 USC §375	12 USC §375a	INDIVIDUAL EXCLUSION AND PROHIBITION	12 USC §371	OTHER
\$25,000	45	X		X		X																						
40,000	46	X	X					X				X	X	X		X	X		X	X	X	X		X				
34,000	47	X				X		X					X				X		X	X	X		X					
144,000	48	X		X				X				X	X	X		X	X		X	X	X	X	X					
16,000	49	X											X	X						X	X							
124,000	50			X		X			X							X	X		X	X						X	X	
28,000	51	X			X								X	X		X	X		X	X		X						
395,000	52																X											
78,000	53	X		X		X		X				X				X	X		X			X						
37,000	54		X					X				X				X	X	X	X	X				X				
21,000	55	X	X		X											X	X		X							X	X	

DEPOSITS (Thousands)	NUMBER	12 U.S.C. §84	LOANS WITHIN TRADE ARE	DIVIDENDS	OVERDRAFTS	CORRECTIONS OF LAW VIOLATIONS	MANAGEMENT QUALIFICATION	CLASSIFIED ASSETS	CORRESPONDENT BALANCES	EXECUTIVE AND DIRECTOR COMPENSATION	INDEMNIFICATION	INCREASE CAPITAL	LIQUIDITY	COLLATERAL EXCEPTIONS	BONUSES	LIMIT NEW LOANS OR EXTENSIONS OF CREDIT	LIMIT CREDIT EXTENSION ON EXISTING LOANS	MANAGEMENT FEES	LOAN COLLECTIONS AND LOAN POLICY	AUDIT - (INTERNAL CONTROLS)	TRUTH IN LENDING - Z	SATISFACTORY CREDIT INFORMATION	NEW MANAGEMENT AND DIRECTOR	12 USC §375	12 USC §375a	INDIVIDUAL EXCLUSION AND PROHIBITION	12 USC §371	OTHER
\$14,000	56	X	X		X			X				X				X	X		X			X				X	X	
34,000	57							X				X				X	X		X			X					X	
971,000	58	X						X				X				X	X		X			X				X	X	
48,000	59				X			X		X		X			X	X	X		X			X				X	X	
77,000	60	X		X	X			X		X		X			X	X	X		X			X				X	X	
17,000	61	X						X		X		X			X	X	X		X			X				X	X	
1,003,100	62	X						X		X		X			X	X	X		X			X				X	X	
9,653	63	X		X		X		X		X		X			X	X	X		X			X				X	X	
11,550	64	X						X				X			X	X	X		X			X				X	X	
83,827	65	X				X		X			X				X	X	X		X			X				X	X	
65,123	66	X		X				X				X			X	X	X		X			X				X	X	

	46,044	67	NUMBER
			12 U.S.C. §84
			LOANS WITHIN TRADE ARE
			DIVIDENDS
			OVERDRAFTS
			CORRECTIONS OF LAW VIOLATIONS
			MANAGEMENT QUALIFICATI
			CLASSIFIED ASSETS
			CORRESPONDENT BALANCES
			EXECUTIVE AND DIRECTOR COMPENSATION
			INDEMNIFICATION
			INCREASE CAPITAL
			LIQUIDITY
			COLLATERAL EXCEPTIONS
			BONUSES
			LIMIT NEW LOANS OR EXTENSIONS OF CREDIT
			LIMIT CREDIT EXTENSION ON EXISTING LOANS
			MANAGEMENT FEES
			LOAN COLLECTIONS AND LOAN POLICY
			AUDIT - (INTERNAL CONTROLS)
			TRUTH IN LENDING - Z
			SATISFACTORY CREDIT INFORMATION
			NEW MANAGEMENT AND DIRECTOR
			12 USC §375
			12 USC §375a
			INDIVIDUAL EXCLUSION AND PROHIBITION
			12 USC §371
			OTHER
TOTALS	10,200	68	

First National Bank of East  
Islip Exhibits

Exhibit B:

Notice of annual meeting and proxy statement for the annual meeting of shareholders of January 19, 1971.

Exhibit C:

Notice of annual meeting and proxy statement for the annual meeting of shareholders of March 7, 1972.

Exhibit D:

Notice of special meeting and proxy statement for special shareholders' meeting of August 29, 1972.

Exhibit E:

Notice of annual meeting and proxy statement for the annual meeting of shareholders of March 6, 1973.

Exhibit F:

Shareholders' Derivative Suit of Charles H. Wolpert and Martha Wolpert as stockholders of the First National Bank of East Islip against the First National Bank of East Islip et al, commenced on or about 2-3-74.

Exhibit G:

Shareholders' Derivative Suit of Charles Housler et al versus the First National Bank of East Islip et al, commenced on or about January 21, 1974.

Exhibit H:

Complaint of Joel E. Kastein, John W. McGraine and Crest Affiliates Inc. against the First National Bank of East Islip et al, commenced on or about October 22, 1973.

Exhibit I:

The notice of annual meeting and proxy statement for the annual meeting of shareholders held March 5, 1974.

Exhibit J:

The notice of special meeting of shareholders to be held November 12, 1974.

Exhibit K:

Notice of annual meeting of shareholders and proxy statement of the annual shareholders' meeting held March 4, 1975.

Exhibit L:

The notice of annual meeting of shareholders and the proxy statement of annual shareholders' meeting held March 2, 1976.

Exhibit M:

Article, Newsday, dated March 2, 1974.

Exhibit N:

Article, Long Island Press, dated March 2, 1974.

**The First National Bank of East Islip**  
**East Islip, New York**

**NOTICE OF ANNUAL MEETING**

To the Holders of Shares of Common Stock:

NOTICE IS HEREBY GIVEN that, pursuant to call of its Directors, an Annual Meeting of the shareholders of The First National Bank of East Islip will be held at the banking house, 345 East Main Street, East Islip, New York, on Tuesday, January 19, 1971, at 3:00 P.M. for the purpose of considering and voting upon the following matters:

1. **ELECTION OF DIRECTORS.** Fixing the number of Directors to be elected at thirteen (13) and the election of those persons listed in the Proxy Statement accompanying this notice of said meeting.

2. **OTHER BUSINESS.** Any other business which may lawfully be brought before the meeting or any adjournment thereof.

The management has no knowledge of any matters to come before the meeting other than the matters set forth above.

Only those shareholders of record at the close of business on January 8, 1971, shall be entitled to the Notice of the Meeting and to vote at the meeting.

By Order of the Board of Directors

**RUSSELL J. WOLPERT**  
*President*

**DATED: December 18, 1970**

Polls will remain open for one (1) hour.

**WE URGE YOU TO SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING IN PERSON. IF YOU DO ATTEND THE MEETING, YOU MAY THEN WITHDRAW YOUR PROXY AND CAST YOUR VOTE IN PERSON. THE PROXY MAY BE REVOKED AT ANY TIME PRIOR TO ITS EXERCISE.**

**PROXY FOR ANNUAL MEETING OF SHAREHOLDERS**

**The First National Bank of East Islip**

**East Islip, New York**

Know All Men By These Presents, That I (we) the undersigned shareholder(s) of The First National Bank of East Islip, East Islip, New York, do hereby nominate, constitute and appoint Walter F. Lang, Jr. of Islip, New York, and Charles J. Thorneswell of Bay Shore, New York, or any one of them my true and lawful attorney(s) with full power of substitution, for me and in my name, place and stead to vote all the Common Stock of said bank, standing in my name on its books on January 8, 1971, at the Annual Meeting of its shareholders to be held at the Banking House, East Islip, New York, on January 19, 1971, at 3:00 o'clock P.M., or at any adjournments thereof with all the powers the undersigned would possess if personally present, as follows:

1. Fixing the number of Directors to be elected at 13 (thirteen) and the election of 13 (thirteen) such persons listed in the Proxy Statement dated December 18, 1970, accompanying the notice of said meeting.

**FOR**

**AGAINST**

2. Any other business which may lawfully be brought before the meeting or any adjournment thereof. Management at present knows of no other business to be brought before the meeting.

This Proxy confers authority to vote "FOR" the proposition listed above unless "AGAINST" is indicated thereon. If any other business is presented at said meeting, this Proxy shall be voted in accordance with the recommendations of management.

The Board of Directors of the bank recommends a vote "FOR" the above proposition. This Proxy is solicited on behalf of management and may be revoked prior to its exercise.

**DATED: December 18, 1970.**

.....(L.S.)

.....(L.S.)

Proxies shall be signed exactly as the name or names appear on the stock certificate. ALL JOINT OWNERS MUST EACH SIGN. When signing as attorney, executor, trustee, guardian or in a corporate capacity, please give full title.

No officer or employee of the bank may be named as proxy.

**NUMBER OF SHARES .....**

## PROXY STATEMENT

### The First National Bank of East Islip East Islip, New York

The number of shares of Common Stock outstanding and entitled to vote at the Annual Shareholders' Meeting is 208,750 as of this date. Only those shareholders of record at the close of business January 8, 1971, shall be entitled to vote.

#### **Election of Directors:**

The Articles of Association of the bank provide that the number of Directors to be elected at the Annual Meeting will be determined by vote of the shareholders. A resolution will be offered at the meeting establishing the number of Directors at thirteen (13).

The persons named below, eleven (11) of whom are members of the present Board of Directors, will be nominated for election to serve until the 1972 Annual Meeting of Shareholders. Other nominations may be made at the meeting in accordance with the procedures set forth in Section 1 of the By-Laws. It is the intention of the persons named in the Proxy to vote for the resolution establishing the number of Directors at thirteen (13) and for the election of the following nominees:

<i>NAME</i>	<i>OCCUPATION</i>
Unton J. Buccck	Banker
Melvin R. Cannon	Attorney
Andrew M. Geis	Banker
Everett Griek	Insurance Broker
Henry Hocker	Industrialist
Harry R. Howard	Retired Contractor
Harry Karp	Retailer
Walter F. Lang, Jr.	Attorney
John A. Mennella	Wholesale Food Distributor
Charles J. Thornewell	Real Estate Broker
Alston A. Wever	Banker
Russell J. Wolpert	Bank President
Walter W. Wolpert	Bank Vice President

#### **Remuneration of Management:**

The direct aggregate remuneration paid to all principal officers of the bank, as a group, during the year ending December 31, 1970, will amount to \$80,886.00.

The aggregate amount to be paid during the year ending December 31, 1970, for all pension or retirement benefits under an existing plan in the event of retirement with respect to all principal officers, as a group, will be \$2,477.04.

**DATED:** December 18, 1970.

By Order of the Board of Directors  
**RUSSELL J. WOLPERT**  
*President*

The First National Bank of East Islip  
East Islip, New York

**NOTICE OF ANNUAL MEETING**

To the holders of shares of Common Stock:

NOTICE IS HEREBY GIVEN that, pursuant to a call of its Directors, an ANNUAL MEETING of the shareholders of The First National Bank of East Islip, East Islip, New York, will be held at the banking house, 345 East Main Street, East Islip, New York, on Tuesday, March 7, 1972 at 3:00 o'clock P. M., for the purpose of considering and voting upon the following matters:

1. ELECTION OF DIRECTORS.  
Fixing the number of Directors to be elected at eleven (11) and the election of those persons listed in the Proxy Statement accompanying this notice of said Annual Meeting.
2. CONSULTANT AGREEMENTS.  
Approving and ratifying the five (5) Agreements, with former employees of the bank, as listed in the accompanying Proxy Statement.
3. OTHER BUSINESS.  
Any other business which may lawfully be brought before the meeting or any adjournment thereof.

The management has no knowledge of any matters to come before the meeting other than the matters set forth above.

The management of the bank recommends a vote "FOR" the above propositions.

Only those shareholders of record at the close of business on February 25, 1972 shall be entitled to the Notice of the Annual Meeting and to vote at said meeting.

Dated: February 16, 1972

By order of the Board of Directors.

Russell J. Wolpert  
President

POLLS WILL REMAIN OPEN FOR ONE (1) HOUR

WE URGE YOU TO SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING IN PERSON. IF YOU DO ATTEND THE MEETING, YOU MAY THEN WITHDRAW YOUR PROXY AND CAST YOUR VOTE IN PERSON. THE PROXY MAY BE REVOKED AT ANY TIME PRIOR TO ITS EXERCISE.

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**The First National Bank of East Islip**  
East Islip, New York

**PROXY STATEMENT**

The number of shares of Common Stock outstanding and entitled to vote at the Annual Meeting of the shareholders of the bank is 213,750 as of this date. Only those shareholders of record at the close of business February 25, 1972 shall be entitled to vote.

Each share shall have one vote, except in the election of Directors when shares may be accumulated.

**ELECTION OF DIRECTORS**

The Articles of Association of the bank provide that the number of Directors to be elected at the Annual Meeting will be determined by a vote of the shareholders. A resolution will be offered at the meeting establishing the number of Directors at eleven (11).

The persons named below, all of whom are members of the present Board of Directors have been nominated for election to serve until the 1973 Annual Meeting of shareholders.

Other nominations may be made at the meeting in accordance with the procedures set forth in Section 1 of the bank's By-Laws. It is the intention of the persons named in the Proxy to vote for the resolution establishing the number of Directors at eleven (11) and for the election of the following nominees:

<u>NAME</u>	<u>OCCUPATION</u>	<u>NUMBER OF SHARES DIRECTLY AND BENEFICIALLY OWNED AS OF FEBRUARY 1, 1972</u>	<u>DIRECTOR SINCE</u>
Unton J. Bucek	Banker, The First Nat'l Bank of East Islip (retired)	700	1952
Melvin R. Cannon	Attorney Self Employed	385	1969
Andrew M. Geis	Banker, The First Nat'l Bank of East Islip (retired)	376	1949
Everett Griek	Insurance Broker Proprietor	887	1961
Henry Hocker	Contractor President, Stanley Sand & Gravel Co. Inc.	1100	1971
Harry Karp	Merchant, Proprietor of Karp's Liquors	2680	1968
John A. Mennella	Wholesale Foods President, John A. Mennella Food Corp.	513	1970
Charles J. Thornewell	Real Estate Broker, Proprietor of Thornewell Realty	1232	1969

Alston A. Wever	Banker, The First Nat'l Bank of East Islip (retired)	1093	1948
Russell J. Wolpert	President, The First Nat'l Bank of East Islip	4700	1968
Walter W. Wolpert	Vice-President & Cashier The First Nat'l Bank of East Islip	429	1971

### CONSULTANT AGREEMENTS

On June 26, 1969, August 28, 1969 and July 2, 1970 the Board of Directors of the bank entered into an agreement with five (5) of its Senior Officers who were to be retained as consultants after their retirement. The total annual payments for their services was established at \$39,857.28. These individuals have been serving in this capacity since January 1, 1971, providing the bank with valuable and important functions of continuing past and present successful policies of operations.

Accordingly, the following resolution will be presented at the Annual Meeting for stockholder consideration, approval and ratification.

RESOLVED, that the action of the Board of Directors of the bank, relative to the bank's agreements with its five employees, since retired, namely Alston A. Wever, Andrew M. Geis, Unton J. Bucek, Bertha C. Feil and Radcliff A. Schwab, providing for their services as consultants be approved and ratified.

### REMUNERATION OF MANAGEMENT

The direct aggregate remuneration paid to the principal officers of the bank, as a group, during the year ended December 31, 1971 is as follows:

<u>NAMES OF INDIVIDUALS</u>	<u>CAPACITY</u>	<u>AGGREGATE DIRECT REMUNERATION</u>
Russell J. Wolpert	President	
Jay W. Woods	Executive Vice-President	
Walter W. Wolpert	Vice-President & Cashier	
Raymond C. Baldwin	Vice-President & Comptroller	\$87,685.00
William G. Carman	Vice-President	
Robert Moneta	Vice-President & Loan Officer	

The direct aggregate remuneration paid to all Directors of the bank, as a group, during the year ended December 31, 1971 is as follows:

<u>NUMBER OF PERSONS IN GROUP</u>	<u>CAPACITY</u>	<u>AGGREGATE DIRECT REMUNERATION</u>
13	Directors	\$17,285.00

The aggregate amount paid during the year ended December 31, 1971, for all pension or retirement benefits under an existing plan, in the event of retirement, with respect to six principal officers of the bank, as a group, was \$4,962.72.

THE PROXY FOR THE ANNUAL MEETING OF SHAREHOLDERS IS SOLICITED ON BEHALF OF MANAGEMENT AND MAY BE REVOKED PRIOR TO ITS EXERCISE. THE COST OF SOLICITATION IS BORNE BY THE BANK.

Dated: February 16, 1972

By order of the Board of Directors  
Russell J. Wolpert  
President

The First National Bank of East Islip  
East Islip, New York

PROXY FOR ANNUAL MEETING OF SHAREHOLDERS

KNOW ALL MEN BY THESE PRESENTS, that I (we) the undersigned shareholder(s) of The First National Bank of East Islip, East Islip, New York, do hereby nominate, constitute and appoint Everett Griek of Great River, New York and Charles J. Thornewell of Bay Shore, New York or either of them my true and lawful attorney(s) with full power of substitution, for me and in my name, place and stead to vote all the Common Stock of said bank, standing in my (our) name(s) on its books on February 25, 1972 at the Annual Meeting of its shareholders to be held at the banking house, East Islip, New York, on March 7, 1972 at 3:00 o'clock P. M., or at any adjournments thereof with all the powers the undersigned would possess if personally present, as follows:

1. Fixing the number of Directors to be elected at eleven (11) and the election of the eleven (11) such persons listed in the Proxy Statement dated February 16, 1972 accompanying the Notice of said Annual Meeting.

FOR

WITHHOLD

2. Approving and ratifying the five (5) Consultant Agreements with the senior employees of the bank as listed in the Proxy Statement.

FOR

AGAINST

3. Any other business which may lawfully be brought before the meeting or any adjournment thereof.

MANAGEMENT OF THE BANK KNOWS OF NO OTHER BUSINESS TO BE BROUGHT BEFORE THE MEETING.

This Proxy confers authority to vote "FOR" the propositions listed above unless "WITHHOLD" or "AGAINST" is indicated thereon. This Proxy will be voted as directed by the shareholder with respect to any matters to be acted upon by the meeting. If any other business is presented at said meeting, this Proxy shall be voted in accordance with the recommendations of management.

THIS PROXY IS SOLICITED ON BEHALF OF MANAGEMENT AND MAY BE REVOKED PRIOR TO ITS EXERCISE. THE COST OF SOLICITATION IS BORNE BY THE BANK.

MANAGEMENT OF THE BANK RECOMMENDS A VOTE "FOR" THE ABOVE PROPOSITIONS. EACH SHARE SHALL HAVE ONE VOTE, EXCEPT IN ELECTION OF DIRECTORS WHEN SHARES MAY BE ACCUMULATED.

Dated: .....1972 ..... (L.S.)

..... (L.S.)

Proxies shall be signed exactly as the name or names appear on the stock certificate. ALL JOINT OWNERS MUST EACH SIGN. When signing as attorney, executor, trustee, guardian or in any corporate capacity, please give full title.

No officer or employee of the bank may be named as proxy.

NUMBER OF SHARES .....

The First National Bank of East Islip  
East Islip, New York

NOTICE OF SPECIAL MEETING

To the Holders of Shares of Common Stock:

NOTICE IS HEREBY GIVEN that, pursuant to call of its Directors, a Special Meeting of Shareholders of The First National Bank of East Islip will be held at the banking house, 345 East Main Street, East Islip, New York on Tuesday, August 29, 1972 at 3:00 P.M., for the purpose of considering and voting upon the following matters:

1. STOCK SPLIT. Increase the number of shares outstanding from 213,750 to 427,500, par value to be changed from present \$5.00 per share to \$2.50 per share, and the terms and conditions thereof, as referred to in the Proxy Statement dated August 9, 1972, accompanying the notice of said Special Meeting, and appropriate amendments to the Articles of Association effecting such increase.
2. STOCK DIVIDEND. Increase of the capital stock of the Bank from \$1,068,750.00 to \$1,335,937.50 by the issuance of a 25% stock dividend of \$267,187.50 representing 106,875 shares of the par value of \$2.50 each, if the increase referred to in ITEM 1 is approved, and the terms and conditions thereof, as referred to in the Proxy Statement dated August 9, 1972, accompanying the notice of said Special Meeting, and appropriate amendments to the Articles of Association effecting such increase.
3. SALE OF COMMON STOCK. Increase of the capital stock of the Bank from \$1,335,937.50 to \$1,603,125.00 if the increase referred to in both ITEMS 1 and 2 are approved, by the issuance and sale of 106,875 additional shares of Common Stock, par value \$2.50 each, and the terms and conditions thereof, as referred to in the Proxy Statement dated August 9, 1972, accompanying the notice of said Special Meeting, and appropriate amendments to the Articles of Association effecting such increase.
4. AMENDMENT TO ARTICLE 6th of 8 of the ARTICLES OF ASSOCIATION. To delete that portion of said Article which requires at least one Vice President shall be a member of the Board of Directors, and the appropriate amendment to the Articles of Association effecting this change.
5. OTHER BUSINESS. Whatever other business may be brought before the meeting or any adjournment thereof.

Only those shareholders of record at the close of business on August 8, 1972, shall be entitled to notice of the Special Meeting and to vote at the meeting.

By order of the Board of Directors.

Jay W. Woods  
President

Date: August 9, 1972

POLLS WILL BE OPEN FOR ONE (1) HOUR

SINCE APPROVAL OF TWO-THIRDS OF THE OUTSTANDING SHARES IS NECESSARY TO PASS THE PROPOSALS CONTAINED IN THE NOTICE OF THIS SPECIAL MEETING, WE URGE YOU TO

## The First National Bank of East Islip

### PROXY STATEMENT

#### FOR SPECIAL SHAREHOLDERS MEETING AUGUST 29, 1972

The number of shares of common stock outstanding and entitled to vote at the Special Meeting of shareholders is 213,750. Only those shareholders of record at the close of business on August 8, 1972 shall be entitled to vote.

This proxy is solicited on behalf of Management and may be revoked at any time prior to the voting by giving notice of revocation to the Bank in writing or at the meeting.

#### 1. STOCK SPLIT.

The Board of Directors recommends a Stock Split of two shares for each one held or an increase of the presently outstanding 213,750 shares to 427,500, par value to be changed from \$5.00 per share to \$2.50 per share. This increase will not affect the Capital Account. An affirmative vote of two-thirds of the outstanding stock is necessary for this change.

#### 2. STOCK DIVIDEND.

The Board of Directors recommends a 25% stock dividend, or one additional share for each four shares held. The payment is subject to the approval of the Comptroller of the Currency and by the affirmative vote of shareholders owning two-thirds of the outstanding stock. Your Bank has been growing rapidly making it necessary to retain earnings. In doing so, a policy of paying stock dividends has been followed.

The stock dividend and the split will be payable September 28, 1972 to shareholders of record August 8, 1972 thereby increasing the capital stock of the Bank by \$267,187.50 as represented in the issuance of 106,875 shares of \$2.50 par, with appropriate amendments to the Articles of Association effecting such increase.

#### 3. SALE OF COMMON STOCK.

There will be submitted to the shareholders at the meeting a proposal to increase the capital stock of the Bank from \$1,335,937.50 to \$1,603,125.00, if the stock split and stock dividend is approved, by the issuance and sale, at a sale price to be fixed by the Board of Directors, of 106,875 additional shares of Common Stock, par value \$2.50 each, subject to the approval by the Comptroller of the Currency. Shareholders of record on August 8, 1972 will be entitled to subscribe for shares issued pursuant thereto at the rate of one full share for each five rights held. Fractional shares will not be issued upon the exercise of Rights. If the number of Rights issued to a shareholder is not evenly divisible by five, he may round out his subscription. The shareholders will have the additional privilege of subscribing for any remaining shares not subscribed for pursuant to the exercise of Rights.

As a result of the reduction in the par value, each shareholder will receive two shares of new par \$2.50 stock and an additional  $\frac{1}{2}$  share in the form of a stock dividend or  $2\frac{1}{2}$  shares of new par \$2.50 stock for each share of the old par \$5.00 stock. To the extent that shareholders

## REASONS FOR THE SALE OF COMMON STOCK.

Capital offers the Bank a prime base for making loans, opening new branches, and making other sound investments. Because of our rapid growth over the past few years, the Bank should raise additional capital. This will be accomplished through the sale of additional Common Stock. It will enable the Bank to continue its growth and maintain a competitive position.

In addition, the Bank experienced loan losses in the first half of 1972 which were unforeseen. Fortunately, our loan reserve was adequate to cover such losses which totaled \$449,114.91. A loss of this magnitude is unfortunate but a contingency which is sometimes experienced in a financial institution. However, because of anticipated partial recoveries, excellent current earnings, and our favorable tax status, the net loss to the Bank will be substantially below the amount charged to our loan reserve.

The affirmative vote of shareholders owning two-thirds of the outstanding stock is required to approve the capital increase.

## 4. AMENDMENT TO ARTICLE 6th of 8 of the ARTICLES OF ASSOCIATION.

The Board of Directors recommends a change in procedure outlined in this Article. At present the Article reads as follows in part:

"The Board of Directors shall have the power to appoint one or more Vice Presidents, at least one of whom shall also be a member of the Board of Directors, and who shall be authorized, in the absence of the President, to perform all acts and duties pertinent to the office of the President, except such as the President only is authorized by law to perform."

It is recommended that that portion of the Article be changed to read as follows:

"The Board of Directors shall have the power to appoint one or more Vice Presidents, one of whom shall be authorized, in the absence of the President, to perform all acts and duties pertinent to the office of the President, except such as the President only is authorized by law to perform."

The vote of stockholders owning two-thirds of the stock of the Bank is required for the approval of this change to the Articles of Association.

THE COST OF THIS SOLICITATION IS BORNE BY THE BANK.

By order of the Board of Directors

Jay W. Woods  
President

Dated: August 9, 1972



**The First National Bank of East Islip**

**East Islip, New York**

**PROXY FOR ANNUAL MEETING OF SHAREHOLDERS**

KNOW ALL MEN BY THESE PRESENTS that I, the undersigned shareholder of The First National Bank of East Islip, East Islip, New York, do hereby nominate, constitute, and appoint Everett Griek of Great River, New York and Charles J. Thornewell of Bay Shore, New York or either of them with full power to act alone, my true and lawful attorney(s) with full power of substitution, for me and in my name, place and stead to vote all common stock of said Bank, standing in my name on its books on February 23, 1973 at the Annual Meeting of Shareholders to be held at its banking house, 345 East Main Street, East Islip, New York, on Tuesday, March 6, 1973 at 3:00 P.M. or any adjournments, thereof, with all the powers the undersigned would possess if personally present, as follows:

- 1. ELECTION OF DIRECTORS. Nominees are set forth in the enclosed Proxy Statement. FOR ( )  
AGAINST ( )
- 2. RATIFICATION OF THE SALE, ISSUANCE AND RETENTION OF COMMON STOCK. Details are incorporated in the enclosed Proxy Statement. FOR ( )  
AGAINST ( )
- 3. REVISION OF PENSION PLAN. Details are incorporated in the enclosed Proxy Statement. FOR ( )  
AGAINST ( )
- 4. As of the date of this Proxy, the only business which Management expects to be considered at the meeting are the three matters listed above.

This Proxy confers authority to vote "FOR" each proposition listed above unless "AGAINST" is indicated. If any other business is presented at said meeting, the persons named in this Proxy are expected to vote the Proxy in accordance with their judgement and recommendations of management.

The Board of Directors recommends a "FOR" each of the above listed propositions. This Proxy is solicited on the BEHALF OF MANAGEMENT and may be revoked prior to its exercise. THE COST OF SOLICITATION IS BORNE BY THE BANK.

Date: ....., 1973

.....L.S.

.....L.S.

When signing as attorney, executor, administrator, trustee or guardian, please give full title. If more than one trustee, all shall sign. All joint owners must sign.

NO OFFICER OR EMPLOYEE OF THE BANK  
MAY BE NAMED AS PROXY.

NUMBER OF SHARES .....

The First National Bank of East Islip  
East Islip, New York

NOTICE OF ANNUAL MEETING

To the Shareholders:

Notice is hereby given that, pursuant to call of its Directors, the Annual Meeting of the shareholders of The First National Bank of East Islip will be held at the banking house, 345 East Main Street, East Islip, New York on Tuesday, March 6, 1973 at 3:00 P.M., for the purpose of considering and voting upon the following matters:

1. ELECTION OF DIRECTORS. Fixing the number of Directors at eleven and the election of the persons listed in the proxy statement dated February 15, 1973, accompanying the notice of said meeting.
2. RATIFICATION OF THE SALE, ISSUANCE AND RETENTION OF COMMON STOCK. Ratification of the proposed increase of the capital stock of the Bank from 534,375 to 641,250 shares through the sale of 106,875 additional shares. This is the same proposed increase which was considered and approved at the Special Meeting of Shareholders on August 29, 1972. We urge you to read the further details regarding this matter set forth in the accompanying proxy statement.
3. REVISED PENSION PLAN. Because of the unrealistic approach and lackluster performance of our present pension plan, approval will be sought for its revision as to formula and investment procedures of the funds allocated for the pension.
4. OTHER BUSINESS. Any other business that comes before the meeting or adjournment thereof.

Only those shareholders of record at the close of business on February 23, 1973, shall be entitled to notice of the Annual Meeting and to vote at said meeting.

By order of the Board of Directors

Jay W. Woods  
President

Dated: February 15, 1973

POLLS WILL BE OPEN FOR ONE (1) HOUR

SINCE THE ARTICLES OF ASSOCIATION OF THE BANK PROVIDE FOR APPROVAL OF A MAJORITY VOTE OF ITS SHAREHOLDERS FOR THE ELECTION OF DIRECTORS, AND SINCE A TWO THIRDS MAJORITY VOTE OF THE SHAREHOLDERS IS REQUIRED FOR THE RATIFICATION OF THE SALE AND ISSUANCE AND RETENTION OF COMMON STOCK AND ALSO THE REVISION OF THE PENSION PLAN, WE URGE YOU TO SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING IN PERSON. IF YOU DO ATTEND THE MEETING, YOU MAY WITHDRAW YOUR PROXY AND VOTE IN PERSON.

The First National Bank of East Islip

East Islip, New York

ANNUAL MEETING OF SHAREHOLDERS

PROXY STATEMENT

Dated: February 15, 1973

This proxy statement is furnished in connection with the Annual Meeting of Shareholders of The First National Bank of East Islip to be held at 3:00 P.M. on Tuesday, March 6, 1973, at the banking house, 345 East Main Street, East Islip, New York.

The Bank's only class of stock is its common stock, \$2.50 par value, of which there are 534,375 shares outstanding. Only those Shareholders of record at the close of business on February 23, 1973 shall be entitled to vote.

Each shareholder has the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate the number of votes equal to the number of directors to be elected multiplied by the number of his shares, or to distribute them on the same principle among as many candidates as he thinks fit. In the determination of all other matters that may be presented at the meeting, each shareholder is entitled to one vote on each share of stock held by him. The affirmative vote of a majority of the votes represented at the meeting is necessary to adopt the resolution fixing the number of directors to be elected for the ensuing year.

This solicitation of proxies is being made by the management of The First National Bank of East Islip. THE COST OF SOLICITATION WILL BE BORNE BY THE BANK.

A shareholder executing the proxy herewith presented has the power to revoke it at any time prior to the exercise thereof.

1. **ELECTION OF DIRECTORS:** Eleven directors are to be elected at the Annual Meeting to hold office until the next Annual Meeting of Shareholders or until their successors have been elected and have qualified. A shareholder entitled to vote for the election of directors may make nominations for election to the Board of Directors. However, the shareholder making such nomination must give written notification of such intent to the President of the Bank and to the Comptroller of the Currency no later than seven days after the receipt of this notice.

The proxies named on the enclosed form of proxy will vote in favor of fixing the number of directors at eleven and for the election of the eleven persons named below as directors unless contrary instructions are specified on the proxy form. Each person nominated and named below has consented to being named in the proxy statement and to serve as a director if elected.

The following table sets forth with respect to each nominee for director, his name, the year in which he first became a director of the Bank, and his principal occupation:

NAME	YEAR ELECTED	PRINCIPAL OCCUPATION
Unton J. Bucek	1952	Retired Banker (The First National Bank of East Islip) Formerly Cashier from 1950 to 1970
Melvin R. Cannon	1969	Attorney (Practicing since 1939)
Andrew M. Geis	1949	Retired Banker (The First National Bank of East Islip) Executive Vice President from 1950 to 1970
Everett Griek	1961	Insurance Broker (since 1950) Proprietor
Henry Hocker	1971	Contractor (since 1958) President, Stanley Sand and Gravel Co., Inc.
Harry Karp	1968	Merchant (since 1957) Proprietor, Karp's Liquors
John A. Mennella	1970	Wholesale Foods (since 1959) President, John A. Mennella Food Corporation
Charles J. Thornewell	1969	Real Estate Broker (since 1965) Proprietor, Thornewell Realty
Alston A. Wever	1948	Retired Banker (The First National Bank of East Islip) Formerly President until 1970
Russell J. Wolpert	1968	Vice President (The First National Bank of East Islip since 1962)
Jay W. Woods	1972	President (The First National Bank of East Islip, employed November 1971) Former Representative of Federal Reserve Bank since 1956.

The following table sets forth, for the fiscal year ended December 31, 1972, the remuneration of Officers and Directors. No one Officer or Director received remuneration in excess of \$30,000.00 during the year and are therefore listed by groups:

Directors as a group	\$ 19,385.00
Officers as a group (16)	261,521.00

Some of the Bank's officers and directors, individually or through firms of which they are involved, have had borrowing transactions in the ordinary course of business with the Bank. These transactions all were on substantially the same terms as those prevailing at the time for comparable transactions with other persons and do not involve more than normal risk of collectibility or present any other unfavorable features.

The following table sets forth with respect to each nominee for director the number of shares of capital stock of the Bank beneficially owned, either directly or indirectly, by him or his associates as of December 31, 1972:

NAME	COMMON STOCK OF THE BANK*	NAME	COMMON STOCK OF THE BANK*
Unton J. Bucek	2750	John A. Mennella	532
Melvin R. Cannon	996	Charles Thornewell	3080
Andrew M. Geis	1088	Alston A. Wever	2954
Everett Griek	2592	Russell J. Wolpert	16,372
Henry Hocker	8830	Jay W. Woods	500
Harry Karp	6700		

\*Includes stock owned by immediate family members

## 2. RATIFICATION OF THE SALE, ISSUANCE AND RETENTION OF COMMON STOCK

The Proxy Statement furnished in connection with the Special Shareholders Meeting of August 29, 1972 at which meeting the sale of 106,875 additional shares of the Bank's stock was approved, referred to the reasons for the sale of the common stock. It pointed out there was a need for additional capital in order for the Bank to continue its growth and maintain a competitive position. It also cited the fact that the bank had experienced loan losses in the first half of 1972 in the amount of \$449,114.91 which were covered at the time by adequate reserves. It subsequently appeared desirable to provide the shareholders with additional information concerning these losses as discussed below and ask them to ratify the proposed capital increase at the Annual Meeting.

During 1971, the Bank favorably entertained a loan application from Crest Affiliates, Inc. for interim financing of a modular home project in the Township of Brookhaven. Permanent mortgages were to be placed on these homes by the Farmers Home Administration, a United States Government agency. The Bank was merely to furnish building loans until each home was completed. There would be a bona fide contract of sale for each home and an approval of the Farmers Home Administration before the Bank would make any loan. In addition, the Bank provided direct working capital loans to the same borrower. Since the modular homes were delivered to the building site as a complete dwelling, except for utilities hookups, it was estimated that the bank's building loans would not be outstanding for more than four to six weeks from inception to repayment by the Farmers Home Administration. Late in 1971 the builder, Crest Affiliates, Inc., began to experience delays in obtaining local town and county inspections and issuances of certificates of occupancy without which the permanent mortgage of the Farmers Home Administration could not be made. Acute financial difficulties in meeting subcontractor's bills and pay-rolls created the need for additional interim financing, until Farmers Home Administration mortgage closings could be speeded up. With a record of one hundred twenty five homes having been sold and delivered at that time, the Bank's officers and directors had reason to believe that the prospects for success were good and that further interim financing by way of unsecured working capital loans was justified. However, early in 1972, Crest Affiliates, Inc. found that continued delays in closings required more financing and at this point in time, the Bank refused to grant further loans, except to pay subcontractors for what was due them to date on their promise to complete the homes already delivered to the job sites. The Bank allocated \$170,000.00 on April 14, 1972 for this purpose, which in effect were building loans, the proceeds of which were being actually invested in the construction and completion of the houses. Soon after this last advance to Crest Affiliates, Inc., the Bank was informed by the borrower that the project could not proceed and that some arrangement was required to meet outstanding bills and the debt due to the Bank. An arrangement was entered into on June 27, 1972, whereby Crest Affiliates, Inc. turned over title to seventy six parcels of real estate to the Bank with modular homes already on fifty of them in various stages of completion, having a loan book value of \$1,093,473.00. At that time Crest Affiliates, Inc. had other unsecured working capital loans outstanding of \$449,114.91. The loan book values of \$1,093,473.00 which were carried on the bank's books as "Building Loans" were transferred to the account of "Other Real Estate". The outstanding unsecured working capital loans of \$449,114.91 were charged off.

The Comptroller of the Currency, the Federal agency which regulates National Banks, conducted its review of the Bank's existing loans, including the Crest Affiliates, Inc. loans, during its examinations on March 22, 1971 (\$445,240.00-building loans) and again on September 13, 1971 (\$1,333,569.00-building loans). No adverse comment nor criticism was made by any of the examiners in those reviews at those times. However, in his examination of May 9, 1972, the Comptroller criticized both the unsecured working capital loans and the building loans as being in excess of the statutory lending limits to any one borrower (\$300,000.00). The Bank was ordered to charge off a portion of these Crest loans which amounts to all of the unsecured working capital loans outstanding at that time (\$449,114.91 of which \$170,000.00 was allocated as building loans). These loans were charged off prior to June 30, 1972.

A statute which governs National Banks provides that mortgage loans on real estate which are guaranteed to be taken or insured by a government agency, are exempt from the Bank's lending limitation. The Bank's general counsel advised the Board of Directors on April 20, 1971 that inasmuch as the Farmers Home Administration, a Federal agency, having in his opinion guaranteed these loans or committed itself to take the building loan portion of these loans, the Bank would not be exceeding its legal loan limit of \$300,000.00 with regard to such building loans (\$379,376.00 in amount at that time). The Comptroller of the Currency having not criticized these loans in two previous examinations, has expressed an opinion on its latest examination that the mortgage dealings with the Farmers Home Administration do not qualify for an exemption, whereas the Bank, on advise of counsel, contends that they do.

On October 10, 1972 the Board of Directors considered the matter at length, conferred with the local Regional Administrator of National Banks and resolved on October 17, 1972 as follows:

"Upon motion duly made and seconded it was unanimously resolved that the minutes of the Discount and Executive Committee meeting of June 6, 1972 be clarified and ratified as follows:

It having been brought to the attention of the directors that the Bank Examiners report dated May 9, 1972 and the covering letter forwarding the said examination to the Bank, dated June 1, 1972 from the Deputy Regional Administrator of National Banks, advised the directors to either remove that portion of the Crest Affiliates Line presently considered loss (\$449,114.91) on or before June 30, 1972, or furnish a director's guarantee of said loss removing the loss within six months. The matter was opened for discussion and the board made its decision.

It was unanimously decided by the directors that they not guarantee the loans but authorized and directed with the consent and approval of the Regional Administrator of National Banks that the said loans in the amount of \$449,114.91 be charged to Reserve for Bad Debts".

The Directors present and voting were Walter Wolpert, Russell J. Wolpert, Charles J. Thornewell, Melvin R. Cannon, Everett Griek, Henry Hocker, Harry Karp, John A. Mennella, Andrew M. Geis, Unton J. Bucek and Alston A. Wever.

It must be emphasized that all of the building loans to Crest Affiliates, Inc. were predicated on firm Contracts of Sale with permanent mortgage commitments from a U.S. Government Agency, subject to completion of each home and search of title. Since the charge-off date of June 9, 1972, the bank has realized \$26,000.00 in recoveries and has instituted legal actions against the principals of Crest Affiliates, Inc., in which the bank seeks to recover approximately \$200,000.00.

When the Bank took over the realty holdings of Crest Affiliates, Inc., it proceeded to complete the houses and turn them over to their purchasers and the bank is continuing to do so. Twenty-four homes out of a total of fifty are completed now and awaiting title closings with the Farmers Home Administration. The book value of "Other Real Estate" has been reduced by reason of closings and land sales from \$1,093,473.00 to \$501,161.00 as of February 2, 1973. The balance will be reduced practically in its entirety after all remaining properties are delivered to purchasers. An additional \$273,470.00 of the building loans was charged off as of December 31, 1972. Refer to Annual Report mailed under separate cover.

There is no question but that the Crest Affiliates, Inc. loan loss is a serious one. It has not, however in the opinion of management, threatened the security nor the liquidity of the bank. Also, in the opinion of management the bank's financial position is healthy, and improving. With the anticipated rapid growth and expansion, additional capital is desirable. A new high in assets was reached in 1972. The new programs instituted in 1972 augurs well for even greater highs in capital structure, profitable business, and concomitant higher dividends for the stockholders. Specific programs instituted in 1972 and those planned for implementation, are spelled out in detail in the Annual Report.

To date, approximately 83,000 shares of the new stock issue have been subscribed. It is recommended these be issued and duly certified and the remaining approximately 23,000 shares be retained by the Bank for future use as stock dividends and various employee incentive programs.

3. REVISED PENSION PLAN. Because of the unrealistic approach and lackluster performance of our present pension plan, approval will be sought for its revision as to formula and investment procedures of the funds allocated for the pensions.
4. OTHER MATTERS. As of the date of this proxy statement, the only business which management expects to be considered at the Annual Meeting are the three matters listed above. However, if other matters come before the meeting, the persons named in the attached form of proxy are expected to vote the proxy in accordance with their judgement and the recommendations of management on such matters.

By Order of the Board of Directors

Jay W. Woods  
President

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

x ----- x

CHARLES H. WOLPERT and MARTHA WOLPERT,  
as stockholders of the FIRST NATIONAL BANK OF  
EAST ISLIP, suing on behalf of themselves and  
all other stockholders of the FIRST NATIONAL  
BANK OF EAST ISLIP similarly situated,

Plaintiffs,

- against -

FIRST NATIONAL BANK OF EAST ISLIP; and CHARLES  
J. THORNEWELL; ALSTON A. WEVER; RUSSELL J.  
WOLPERT; JOHN A. MENNELLA; UNTON J. BUCEK;  
ANDREW M. GEIS; MELVIN R. CANNON; JAY W. WOODS;  
EVERETT GRIEK; and HENRY HOCKER, as members of  
the Board of Directors of the FIRST NATIONAL  
BANK OF EAST ISLIP, and individually,

Defendants.

x ----- x

Plaintiffs, by their attorneys, DONNER, FAGELSON,  
HARITON & BERKA, P.C., as and for their Complaint, allege:

JURISDICTION

1. That this action arises under the Laws of the United States under the provisions of Title 12 of the United States Code involving a national bank. The amount in question exceeds TEN THOUSAND (\$10,000.00) DOLLARS.
2. That Rule 23.1 of the Federal Rules of Civil Procedure is involved in that it involves derivative actions by shareholders.
3. That plaintiffs bring this action on behalf of themselves and all other stockholders of the FIRST NATIONAL BANK OF EAST ISLIP similarly situated. Plaintiffs fairly and adequately represent the interests of the shareholders similarly situated in enforcing the rights of the FIRST NATIONAL BANK OF EAST ISLIP herein alleged.
4. That plaintiffs are now and were at the time of the transactions complained of, shareholders of the defendant,

FIRST NATIONAL BANK OF EAST ISLIP.

5. That the plaintiffs did not make any demands upon the defendants through the individual defendants above-named as its officers and board of directors to commence an action against the said individual defendants for the wrongful and fraudulent conduct hereinafter alleged for the reason that said defendants have been directly involved in the wrongful and/or fraudulent conduct and/or have acquiesced or approved the wrongful and fraudulent conduct which would render any demand upon the defendants to bring an action futile.

6. That this action is not a collusive one to confer jurisdiction on the Court.

7. That at all times hereinafter mentioned, the defendant, FIRST NATIONAL BANK OF EAST ISLIP, was and is a national banking corporation organized and existing under the laws of the United States of America.

8. That at all times hereinafter mentioned, defendants, RUSSELL J. WOLPERT, JAY W. WOODS, ALSTON A. WEVER, ANDREW M. GEIS, UNTON J. BUCEK, MELVIN R. CANNON, EVERETT GRIEK, HENRY HOCKER, JOHN A. MENNELLA and CHARLES J. THORNEWELL, were officers and/or directors of the defendant, FIRST NATIONAL BANK OF EAST ISLIP.

AS AND FOR A FIRST CAUSE OF ACTION  
AGAINST DEFENDANT CHARLES J. THORNEWELL:

9. That upon information and belief, in or about September of 1972, BRENTWOOD HOLDING CORPORATION applied for a loan in the amount of \$100,000.00.

10. That upon information and belief, CHARLES J. THORNEWELL was and still is a majority stockholder of the BRENTWOOD HOLDING CORPORATION.

11. That upon information and belief, in or about March of 1973, the defendant, CHARLES J. THORNEWELL, did use his

office and influence as director of the defendant BANK to obtain the aforesaid loan for the BRENTWOOD HOLDING CORPORATION in the sum of \$100,000.00 at 7-1/2% interest for twenty (20) years.

12. That upon information and belief, a substantial portion of the proceeds of this loan were used for the personal benefit of the defendant, CHARLES J. THORNEWELL.

13. That upon information and belief, there were no other individuals obligated on the mortgage note other than CHARLES J. THORNEWELL, notwithstanding the fact that CHARLES LACE is a stockholder in BRENTWOOD HOLDING CORPORATION.

14. That the aforesaid loan was made in violation of Title 12, Chapter 3, Section 375a of the United States Code.

AS AND FOR A SECOND CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

15. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "14.", inclusive, as if the same were set forth at length herein.

16. That the aforesaid loan was made with the knowledge and approval of the defendants.

17. That the aforesaid loan was made notwithstanding the advice to the contrary by counsel for the defendant BANK.

18. That the defendants are each jointly or severally in violation of Title 12, Chapter 3, Section 375a of the United States Code.

19. That the defendants did cause to have issued on or about February 11, 1974, a document entitled "Notice of Annual Meeting and Proxy Statement."

20. That the proxy statement failed to disclose borrowing transactions of the BRENTWOOD HOLDING CORPORATION of which CHARLES J. THORNEWELL was the majority stockholder.

21. That the proxy statement falsely and fraudulently states that "some of the Bank's officers and directors, individually or through firms in which they are involved have had borrowing transactions in the ordinary course of business with the Bank."

22. That the proxy statement fraudulently omits reference to the fact that the defendants were in violation of Title 12, Chapter 13, Section 375a of the United States Code.

3  
AS AND FOR A THIRD CAUSE OF ACTION  
AGAINST DEFENDANT JOHN A. MENNELLA:

23. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

24. That upon information and belief, in or about September of 1972, JOHN A. MENNELLA and another, applied for a mortgage loan in the sum of \$200,000.00 for a term of twenty (20) years with interest at the rate of 7-1/2% per annum.

25. That upon information and belief, JOHN A. MENNELLA used certain real property in Coram, New York, as collateral for the above loan.

26. That upon information and belief, in or about February of 1973, the defendant, JOHN A. MENNELLA, did use his office and influence as director of the defendant BANK to obtain the aforesaid loan for himself and for his own personal benefit.

27. That the aforesaid loan was made in violation of Title 12, Chapter 3, Section 375a of the United States Code.

AS AND FOR A FOURTH CAUSE OF ACTION  
AGAINST DEFENDANTS CHARLES J.  
THORNEWELL AND ALSTON A. WEVER:

28. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs of this complain marked and designated "1." through "8.", inclusive, and "24." through "27.", inclusive, as if the same were set forth at length herein.

29. That upon information and belief, in or around September of 1972, CHARLES J. THORNEWELL and ALSTON A. WEVER did, in their official capacity as directors of the defendant BANK, make an appraisal of certain real property at Coram, New York, in connection with a loan application for JOHN A. MENNELLA, as afore-described.

30. That upon information and belief, the said appraisal was improper, excessive and did not show the true value of the real property.

31. That upon information and belief, the conduct of CHARLES J. THORNEWELL and ALSTON A. WEVER was collusive in nature in that the said appraisal was made for the purpose of benefitting JOHN A. MENNELLA.

AS AND FOR A FIFTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

32. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs of this complaint marked and designated "1." through "8.", inclusive, and "24." through "31.", inclusive, as if the same were set forth at length herein.

33. That the aforesaid loan was made with the knowledge and approval of the defendants.

34. That the aforesaid loan was made notwithstanding the advice to the contrary by counsel for the defendant BANK.

35. That the defendants are each jointly or severally in violation of Title 12, Chapter 3, Section 375a of the United States Code.

36. That the defendants did cause to have issued on or about February 11, 1974, a document entitled, "Notice of Annual Meeting and Proxy Statement."

37. That the proxy statement failed to disclose borrowing transactions of JOHN A. MENNELLA.

38. That the proxy statement falsely and fraudulently states that "some of the Bank's officers and directors,

individually or through firms in which they are involved have had borrowing transactions in the ordinary course of business with the Bank."

39. That the proxy statement fraudulently omits reference to the fact that the defendants were in violation of Title 12, Chapter 3, Section 375a of the United States Code.

40. That the proxy statement dated February 11, 1974, falsely and fraudulently stated, "These transactions all were substantially on the same terms as those prevailing at the time for comparable transactions with other persons...."

41. That upon information and belief, an application for a loan of \$80,000.00 was previously made by JOHN A. MENNELLA to another lending institution with the same real property as security, which application was rejected.

AS AND FOR A SIXTH CAUSE OF ACTION  
AGAINST DEFENDANTS RUSSELL J. WOLPERT  
AND JAY W. WOODS:

42. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

43. That upon information and belief, in or about the Fall of 1970, the defendant BANK commenced financial arrangements with CREST AFFILIATES, INC., which corporation was engaged in the business of modular home building.

44. That upon information and belief, the defendant BANK was to provide building loan monies to CREST AFFILIATES, INC. in the amount of \$16,800.00 per modular home unit.

45. That upon information and belief, the defendant BANK did make numerous building loans during the year 1971, obtaining mortgages on the modular home and real property.

46. That upon information and belief, in or about the Fall of 1971, CREST AFFILIATES, INC. was unable to obtain permanent financing and was experiencing financial difficulties

causing it to draw checks in amounts exceeding the monies deposited in their account with the defendant BANK.

47. That upon information and belief, in addition to making building loans to CREST AFFILIATES, INC. the defendant BANK, upon the specific instruction of RUSSELL J. WOLPERT, did honor overdrafts of CREST AFFILIATES, INC.

48. That upon information and belief, the defendant BANK did honor overdrafts of CREST AFFILIATES, INC. for amounts in excess of \$100,000.00.

49 That upon information and belief, in or about 1972, RUSSELL J. WOLPERT and/or JAY W. WOODS, did charge off the overdrafts honored by the defendant BANK as aforesaid as a loan to CREST AFFILIATES, INC.

50. That upon information and belief, RUSSELL J. WOLPERT and JAY W. WOODS exceeded their corporate authority by authorizing employees of the defendant BANK to honor overdrafts of CREST AFFILIATES, INC.

51. That upon information and belief, RUSSELL J. WOLPERT and JAY W. WOODS, in an effort to conceal their improper conduct, did, individually and/or collusively, charge the aforesaid overdrafts on the books and records of the defendant BANK as building loans to CREST AFFILIATES, INC.

AS AND FOR A SEVENTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

52. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

53. That upon information and belief, in or around April of 1972, the defendant BANK purportedly made loans to CREST AFFILIATES, INC. which were unsecured in a sum exceeding \$449,000.00.

54. That upon information and belief, at the time

the loans were made the total amount of the loans exceeded ten (10%) per cent of the amount of the capital stock of the defendant BANK actually paid in and unimpaired, and ten (10%) per cent of its unimpaired surplus funds.

55. That upon information and belief, the defendants acquiesced and approved the amounts of the loans as directors of the defendant BANK and, as such, are in violation of 12 U.S.C. 84.

56. That upon information and belief, CREST AFFILIATES, INC. has failed to repay to the defendant BANK the monies so loaned and is now in default with respect to said loan.

AS AND FOR A EIGHTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

57. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "52." through "56.", inclusive, as if the same were set forth at length herein.

58. That upon information and belief, in an effort to reduce the amount of loans which were in violation of 12 U.S.C. 84 of the United States Code, the defendants did cause to have the books and records of the defendant BANK altered in such a manner so that it would appear that it was not in violation of 12 U.S.C. 84.

59. That upon information and belief, in or about April of 1972, the Comptroller of the Currency conducted an audit of the defendant BANK'S books and records and advised as follows:

"A review of the report discloses that total criticized loans represent 113% of gross capital funds; past due obligations are heavy at 8.6%; 13% of total loans lack adequate credit data; the bank has not established limits or proper controls on its indirect lines of credit, some of which have reached unwarranted levels; three loans in excess of the bank's legal lending limit are presently outstanding, including the Crest Affiliates Line in which there appears to be substantial losses; and the bank's capital is considered inadequate in relation to the

risks taken and the volume of business transacted."

60. That upon information and belief, and in connection with the defendants' violation of 12 U.S.C. 84, the defendants were directed by the Deputy Regional Administrator of National Banks as follows:

"The Directors will either remove that portion of the Crest Affiliates Line presently considered loss (\$464,776) on or before June 9, 1972, or furnish this Office with a written guarantee of this portion signed jointly and severally by the entire Board with the understanding that the loss portion will be removed within six months."

61. That upon information and belief, the aforesaid directive of the said Deputy Regional Administrator of National Banks was disregarded by the defendants.

62. That upon information and belief, thereafter, and on or about February 15, 1973, defendants issued a proxy statement which alleges that the Regional Administrator of National Banks consented and approved that loans in the amount of \$449,114.91 be charged to reserve for bad debts.

63. That upon information and belief, the Regional Administrator of National Banks never consented or approved the defendants' decision to charge the loans in the amount of \$449,114.91 to reserve for bad debts.

64. That upon information and belief, the said representation was made by the defendants for the sole purpose of misleading and defrauding the stockholders of the defendant BANK.

AS AND FOR A NINTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

65. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

66. That on February 15, 1973, the defendants

issued a proxy statement which stated as follows:

"It must be emphasized that all of the building loans to Crest Affiliates, Inc. were predicated on firm contracts of sale with permanent mortgage commitments from a U.S. Government Agency subject to a completion of each home and search of title. Since the charge-off date of June 9, 1972, the Bank has realized \$26,000.00 in recoveries and has instituted legal action against the principals of Crest Affiliates, Inc. in which the Bank seeks to recover approximately \$200,000.00."

67. That upon information and belief, the statement described in paragraph "66." above is false and misleading and was made solely with the intention of defrauding the stockholders of the defendant BANK.

68. That upon information and belief, the \$26,000.00 which was alleged to have been a recovery was a sale of certain modular homes, formerly CREST AFFILIATES, INC. property, to an individual named SAGER who, in turn, executed a promissory note for the full amount of \$26,000.00.

AS AND FOR A TENTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

69. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

70. That upon information and belief, from the Summer of 1971 through the year 1972, the defendant BANK made loans to one VICAL REALTY CORP. in excess of \$320,000.00.

71. That upon information and belief, said loans were made in violation of 12 U.S.C. 84 in that the loans exceeded ten (10%) per cent of the amount of capital stock of the defendant BANK actually paid in and unimpaired, and ten (10%) per cent of its unimpaired surplus funds.

72. That upon information and belief, the defendants acquiesced and approved the amounts of the loans as directors of the defendant BANK and, as such, are in violation of 12 U.S.C. 84.

73. That upon information and belief, VICAL REALTY CORP. has failed to repay to the defendant BANK the monies so

loaned and is now in default with respect to said loan.

AS AND FOR AN ELEVENTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

74. Plaintiffs repeat, reiterate and reallege each and every allegation of the paragraphs of this complaint marked and designated "52." through "56.", inclusive, and "69." through "73.", inclusive, as if the same were set forth at length herein.

75. That upon information and belief, in addition to violating the laws of the United States of America, the defendants violated the duties imposed upon them in that the loans made to CREST AFFILIATES, INC. and VICAL REALTY. CORP. were improvident and did constitute a waste of the defendant BANK'S assets.

AS AND FOR A TWELFTH CAUSE OF ACTION  
AGAINST DEFENDANTS UNTON J. BUCEK AND  
ALSTON A. WEVER:

76. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive.

77. That upon information and belief, in or around June of 1969, a meeting was held of the then existing board of directors of the defendant BANK, at which time a discussion was had concerning pension benefits for certain members of the board of directors, to wit: ALSTON A. WEVER, UNTON J. BUCEK and RADCLIFFE A. SCHEWAB.

78. That upon information and belief, a Resolution was made at a meeting of the board on June 26, 1969, providing that ALSTON A. WEVER and UNTON J. BUCEK receive a deferred compensation payable upon their retirement from the said BANK of fifty (50%) per cent of their highest full-time salary.

79. That upon information and belief, the defendants, ALSTON A. WEVER and UNTON J. BUCEK, made inquiry concerning the propriety of receiving benefits from a deferred compensation plan and did write to the Administrator of National Banks framing the question in a manner which they thought would be favorable to them.

80. That upon information and belief, the Administrator of National Banks advised that pension plans should be submitted to shareholders for approval.

81. That upon information and belief, a proxy statement dated February 16, 1972, makes reference to consultant agreements dated June 26, 1969, August 28, 1969, and July 2, 1970, with five (5) officers retained as consultants after their retirement.

82. That upon information and belief, said statement alleges annual payments for their services at \$39,857.28.

83. That upon information and belief, these individuals never acted as consultants, and the defendant BANK did not receive any services from these individuals.

84. That upon information and belief, ALSTON A. WEVER, ANDREW GEIS and UNTON J. BUCEK did act as directors of the defendant BANK at the same time as they claimed that they were entitled to compensation as consultants.

85. That upon information and belief, the consultant agreements referred to in the proxy statement dated February 16, 1972, are illegal, unenforceable and constitute a waste of corporate assets.

86. That upon information and belief, the proxy statement dated February 16, 1972, fails and omits to state the purpose of the deferred compensation plan above referred to sufficiently in order that the shareholders could approve or disapprove.

87. That upon information and belief, ALSTON A. WEVER, ANDREW GEIS and UNTON J. BUCEK did receive monies for allegedly acting as consultants in excess of \$75,000.00.

88. That the aforesaid monies were given without consideration, constituting compensation for past services, which acts on the part of defendants are ultravires and constitutes a waste of corporate assets.

AS AND FOR A THIRTEENTH CAUSE OF  
ACTION AGAINST EACH OF THE DE-  
FENDANTS:

89. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "80." through "92.", inclusive, as if the same were set forth at length herein.

90. That upon information and belief, the defendant BANK has paid to the defendants, ALSTON A. WEVER, ANDREW GEIS and UNTON J. BUCEK a sum in excess of \$25,000.00 as and for consultants' fees during the year 1973.

91. That upon information and belief, the proxy statement dated February 11, 1974, does not contain any information concerning the aforesaid remuneration paid to the defendants, ALSTON A. WEVER, ANDREW GEIS and UNTON J. BUCEK.

92. That upon information and belief, the failure and omission on the part of the defendants to include the monies paid to the defendants, ALSTON A. WEVER, ANDREW GEIS and UNTON J. BUCEK, as and for their alleged consultants' fees was wilful and deliberate and made solely with the intention of defrauding and deceiving the stockholders of the defendant BANK.

AS AND FOR A FOURTEENTH CAUSE OF ACTION  
AGAINST DEFENDANTS ALSTON A. WEVER,  
UNTON J. BUCEK AND ANDREW GEIS:

93. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

94. That upon information and belief, in or about September 1972, the defendants decided that they desired life insurance as part of a group policy.

95. That upon information and belief, a resolution was passed by the defendants amending the group life insurance then in existence for their employees so that there would be a

\$50,000.00 life insurance policy for each of the directors of the bank.

.96. That upon information and belief, shortly after the aforesaid amendment to the group life insurance policy, another amendment was made without authorization increasing the face amount of the life insurance to \$100,000.00 for each of the directors of the defendant BANK.

.97. That upon information and belief, these three individuals do not pay any portion of the premiums for the life insurance.

.98. That upon information and belief, ALSTON A. WEVER is 74 years of age, UNTON J. BUCEK is 73 years of age, and ANDREW GEIS is 66 years of age, and the premiums which are paid by the defendant BANK are substantial.

.99. That upon information and belief, the defendant BANK derives no benefits from the issuance of life insurance policies as aforesaid and that the payment of premiums by the defendant BANK constitutes a waste and misappropriation of corporate funds for the personal benefits of the defendants, ALSTON A. WEVER, UNTON J. BUCEK and ANDREW GEIS.

AS AND FOR A FIFTEENTH CAUSE OF ACTION  
AGAINST EACH OF THE DEFENDANTS:

100. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "97." through "103.", inclusive, as if the same were set forth at length herein.

101. That upon information and belief, the defendant BANK has paid the premiums on the life insurance policies of all the defendants, ALSTON A. WEVER, UNTON J. BUCEK and ANDREW GEIS, and has paid a substantial portion of the premiums on the life insurance policies for the other defendant directors, which constitutes additional remuneration to the said defendants.

102. That upon information and belief; the proxy statement dated February 11, 1974, does not contain any information concerning the remuneration paid to the directors as and for insurance premiums.

103. That upon information and belief, the failure and omission on the part of the defendants to include the insurance premium payments as remuneration for the defendants was wilful and deliberate and made solely with the intention of defrauding and deceiving the stockholders of the defendant BANK.

AS AND FOR A SIXTEENTH CAUSE OF  
ACTION AGAINST DEFENDANT MELVIN R.  
CANNON:

104. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs of this complaint marked and designated "97." through "103.", inclusive, as if the same were set forth at length herein.

105. That upon information and belief, and at all times hereinafter mentioned, the defendant, MELVIN R. CANNON, was, in addition to being a director of the defendant BANK, a duly licensed insurance broker.

106. That upon information and belief, the defendant, MELVIN R. CANNON, has acted as the insurance broker procuring the group insurance for the bank employees, and procured the commitments to the said group insurance policy for the benefit of the director.

107. That upon information and belief, MELVIN R. CANNON did receive commissions and compensation from the insurance company for his services in procuring the aforesaid insurance policies.

108. That upon information and belief, the defendant, MELVIN R. CANNON, did utilize his office as director of the defendant BANK for his own personal monetary gain and benefit, said conduct constituting a conflict of interest.

109. That upon information and belief, the conduct on the part of the defendant, MELVIN R. CANNON, denied the defendant BANK the opportunity of obtaining insurance on a competitive basis.

AS AND FOR A SEVENTEENTH CAUSE OF  
ACTION AGAINST DEFENDANT RUSSELL  
J. WOLPERT:

110. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

111. That upon information and belief, in or about the Fall of 1970, the defendant BANK engaged the firm of Touche-Ross, C.P.A., to conduct a directors examination and a management study to determine the efficiency of the defendant BANK for the fee of \$12,500.00.

112. That upon information and belief, in or about May of 1971, Touche-Ross, after completing its study of the operation and procedures of the bank indicated in its report that there was gross waste and inefficiency amounting to, upon information and belief, an amount of approximately \$200,000.00, and the firm made specific recommendations for improving the efficiency and operation of the bank and the elimination of said waste and inefficiency.

113. That upon information and belief, at a meeting of the board of directors wherein the said report and recommendations of Touche-Ross were discussed, RUSSELL J. WOLPERT requested permission and authority to carry out the aforesaid recommendations in order to eliminate the aforesaid waste and inefficiency.

114. That upon information and belief, defendant, RUSSELL J. WOLPERT failed and neglected to take any of the steps directed and recommended by Touche-Ross, and failed to take any of the steps he represented he would take in order to eliminate the aforesaid waste, inefficiency and unnecessary expenditures.

all to the detriment of the stockholders of the defendant BANK in the amount of approximately \$200,000.00.

AS AND FOR A EIGHTEENTH CAUSE OF ACTION AGAINST EACH OF THE DEFENDANTS:

115. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "110 " through "114 ", inclusive, as if the same were set forth at length herein.

116. That upon information and belief, the failure on the part of the defendant, RUSSELL J. WOLPERT, to comply with the report and recommendations of Touche-Ross, C.P.A., to eliminate the waste and inefficiency, amounting to approximately \$200,000.00, was known to the other defendant directors, and was condoned by the said defendant directors.

117. That upon information and belief, said inaction on the part of the defendants, and their condonation, constitutes a waste of corporate assets and a misappropriation of corporate funds.

AS AND FOR A NINETEENTH CAUSE OF ACTION AGAINST EACH OF THE DEFENDANTS:

118. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

119. That upon information and belief, in or about 1972, the defendant BANK did show on its annual report - Statement of Income - a net loss for the year 1972 in the amount of \$241,668.00

120. That upon information and belief, notwithstanding the aforesaid loss, the defendants did approve and issue to its employees year-end bonuses in an amount exceeding \$50,000.00.

121. That upon information and belief, the said payment of bonuses during the year 1972 constituted improvident, improper misappropriation and waste of corporate funds, all to the detriment of the stockholders of the defendant BANK.

AS AND FOR A TWENTIETH CAUSE OF  
ACTION AGAINST DEFENDANT RUSSELL  
J. WOLPERT:

122. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

123. That upon information and belief, in or about the Spring of 1971, the defendant, RUSSELL J. WOLPERT, without the consent or authorization of the defendant Board of Directors, did enter into a contract to purchase a computer for the defendant BANK from the Burrough's Corporation for \$240,000.00.

124. That upon information and belief, the said contract was entered into by RUSSELL J. WOLPERT without a proper study to determine the feasibility of the purchase or lease of computer equipment for the defendant BANK.

125. That upon information and belief, the defendant Board of Directors, in an effort to save the bank from financial embarrassment and to rescue RUSSELL J. WOLPERT from committing a gross misappropriation of corporate funds and a waste of corporate assets, renegotiated the aforesaid contract so that the defendant BANK would enter into a lease with Systems Equipment Leasing Co. wherein and whereby the defendant BANK would lease the aforesaid computers for a period of 8 years at a monthly rental of \$4,725.00

126. That upon information and belief, in addition to entering into said rental agreement with Systems Equipment Leasing Co. the defendant BANK was to loan to Systems Equipment Leasing Co. the sum of \$240,000.00 with interest at the rate of 7-1/2% per annum to enable Systems Equipment Leasing Co. to purchase the aforesaid equipment from Burrough's Corporation.

127. That upon information and belief, the aforesaid contract and or lease for the computers was improvident, unnecessary, ill-advised, ill-conceived, without aforethought, and constitutes a gross misappropriation of corporate funds and a waste of corporate assets.

AS AND FOR A TWENTY-FIRST CAUSE  
OF ACTION AGAINST DEFENDANT RUSSELL  
J. WOLPERT:

128. Plaintiffs repeat, reiterate and reallege each and every allegation contained in paragraphs of this complaint marked and designated "128." through "133.", inclusive, as if the same were set forth at length herein.

129. That upon information and belief, in addition to the leasing of the computers at an increased cost to the defendant BANK, the defendant, RUSSELL J. WOLPERT, took it upon himself and did engage the services of a systems analyst for the purpose of operating the computers at an additional cost in expense of \$20,000.00.

130. That upon information and belief, the person engaged as the systems analyst was the very same person who was the salesman for Burrough's Corporation responsible for the sale of the computers to the defendant BANK.

131. That upon information and belief, such conduct was improvident, unnecessary, ill-advised, ill-conceived, without aforethought, and constitutes a gross misappropriation of corporate funds and a waste of corporate assets.

AS AND FOR A TWENTY-SECOND CAUSE OF  
ACTION AGAINST DEFENDANT ALSTON A.  
WEVER:

132. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

133. That upon information and belief, the defendant, ALSTON A. WEVER, during all times herein mentioned, was not a duly licensed real estate broker.

134. That upon information and belief, during the last five years said ALSTON A. WEVER charged one or more borrowers a "commission" for assisting in the arranging of loans made through his efforts and intervention at the defendant BANK.

135. That upon information and belief, the defendant, ALSTON A. WEVER, was advised on at least one or more occasions that the taking of such a "commission" was illegal and improper.

136. That upon information and belief, and notwithstanding the fact that said ALSTON A. WEVER was not a duly licensed real estate broker and was advised by counsel for the defendant BANK that the taking of said "commissions" was illegal and improper, said ALSTON A. WEVER did wrongfully, illegally and improperly take commissions for procuring loans from the defendant BANK while he was an officer of the said BANK, and that these actions were in violation of 18 U.S.C. 215 and in violation of Sections 440a and 442e of the Real Property Law of the State of New York.

AS AND FOR A TWENTY-THIRD CAUSE OF  
ACTION AGAINST DEFENDANT CHARLES J.  
THORNEWELL:

137. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

138. That upon information and belief, in or about December of 1973, the defendant BANK was the owner of five (5) parcels of real property formerly owned by CREST AFFILIATES, INC., each with a market value of approximately \$21,000.00 each.

139. That upon information and belief, in or about December of 1973, the defendant, CHARLES J. THORNEWELL, negotiated the sale of the aforementioned five (5) parcels on behalf of the defendant BANK to LICARI CONSTRUCTION CO., INC. for \$90,000.00, being in effect \$18,000.00 each.

140. That upon information and belief, as part of the transaction, defendant, CHARLES J. THORNEWELL, did not require the purchaser to pay cash and did, on behalf of the defendant BANK, extend a loan to LICARI CONSTRUCTION CO., INC. for the full amount of the purchase price.

141. That upon information and belief, LICARI CONSTRUCTION CO., INC. did sell one parcel for a sum in excess of \$26,000.00, which profit was retained by LICARI CONSTRUCTION

CO., INC.

142. That upon information and belief, CHARLES J. THORNEWELL, did receive a commission as broker in connection with said sale.

143. That upon information and belief, the conduct of CHARLES J. THORNEWELL in inducing the defendant BANK to transfer the aforesaid five (5) parcels of real property to LICARI CONSTRUCTION CO., INC. below the market value and without receiving any cash down payment constitutes misappropriation and waste of corporate assets in addition to being an improvident transaction, all to the detriment of the stockholders of the defendant BANK.

144. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did wrongfully use his office as a director of the defendant BANK, and did wrongfully receive a commission in violation of 18 U.S.C. 215.

145. That upon information and belief, the defendant, CHARLES J. THORNEWELL, was a personal friend of SALVATORE LICARI, a principal stockholder in LICARI CONSTRUCTION CO., INC.

146. That upon information and belief, as a result of the friendship between CHARLES J. THORNEWELL and SALVATORE LICARI, a collusive agreement was entered into in connection with the purchase and sale of the aforescribed five (5) parcels of real estate, which agreement caused the defendant BANK to lose profits and served to reduce its potential cash position.

AS AND FOR A TWENTY-FOURTH CAUSE OF  
ACTION AGAINST DEFENDANT CHARLES J.  
THORNEWELL:

147. Plaintiffs repeat, reiterate and reallege each and every allegation of the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

148. That upon information and belief, in or about the Spring of 1973, the defendant BANK did foreclose its mortgage lien on a parcel of real property which had been the subject of a fire and substantially destroyed.

149. That upon information and belief, the defendant BANK did acquire title to the aforesaid property at the referee's sale and did receive insurance proceeds in the amount of approximately \$10,000.00.

150. That upon information and belief, CHARLES J. THORNEWELL, did take it upon himself to expend monies of the defendant BANK to rebuild the property and offer the same for sale.

151. That upon information and belief, CHARLES J. THORNEWELL, did enter into a collusive agreement with a third party wherein and whereby he attempted to obligate the defendant BANK to pay the tax arrears on the property which amounted to several thousand dollars and convey the property to the third party without requiring a cash down payment and by extending a permanent mortgage loan in the amount of \$25,000.00.

152. That upon information and belief, the attorney for the defendant BANK, upon learning of this transaction, did notify CHARLES J. THORNEWELL that such a transaction was improvident, improper and constituted a misappropriation and waste of corporate funds.

153. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did disregard the advice of counsel and did persist in consummating the transaction.

154. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did obtain a brokerage commission as a result of the aforesaid transaction in violation of 18 U.S.C. 215.

155. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did wrongfully and illegally use his

office as director of the defendant BANK in order to obtain commissions, all for his own personal gain and benefit, and to the detriment of the stockholders of the defendant BANK.

AS AND FOR A TWENTY-FIFTH CAUSE OF  
ACTION AGAINST DEFENDANT CHARLES J.  
THORNEWELL:

156. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

157. That upon information and belief, on or about September 26, 1973, the defendant BANK did make a loan to CHARLES J. THORNEWELL and ARTHUR ROSENSTEIN for \$18,000.00 for a term of 20 years with interest at the rate of 8% per annum.

158. That upon information and belief, the aforesaid loan was secured by a mortgage on real property owned by CHARLES J. THORNEWELL and ARTHUR ROSENSTEIN, neither of whom ever resided in the said real property or intended to so reside.

159. That upon information and belief, the aforesaid real estate was acquired by CHARLES J. THORNEWELL and ARTHUR ROSENSTEIN solely with the funds procured from the defendant BANK and without any personal funds on the part of either CHARLES J. THORNEWELL or ARTHUR ROSENSTEIN.

160. That upon information and belief, the said real property was purchased by said CHARLES J. THORNEWELL and ARTHUR ROSENSTEIN with the sole purpose and intent of speculating in the real estate market.

161. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did use his office as director of the defendant BANK in order to obtain the aforesaid mortgage loan for the purpose of speculating in the real estate market, all for his personal gain and profit.

AS AND FOR A TWENTY-SIXTH CAUSE OF  
ACTION AGAINST THE DEFENDANT ANDREW  
M. GEIS:

162. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

163. That upon information and belief, during the year 1970, the defendant, ANDREW M. GEIS, did remove funds from the defendant BANK without the knowledge or consent of the defendant directors.

164. That upon information and belief, the defendant, ANDREW M. GEIS, did conceal the fact that he had removed the said funds from the defendant BANK, and did utilize these funds for his own personal benefit.

165. That upon information and belief, the defendant, ANDREW M. GEIS, did wrongfully and improperly use his office as executive vice-president and director of the defendant BANK in order to have access to the defendant BANK'S funds, all to the detriment of the stockholders of the defendant BANK.

AS AND FOR A TWENTY-SEVENTH CAUSE OF  
ACTION AGAINST DEFENDANT EVERETT GRIEK:

166. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

167. That upon information and belief, in or about 1969, when the defendant, EVERETT GRIEK, became chairman of the Board of Directors, he received an annual sum in excess of \$2,500.00 from the defendant BANK.

168. That upon information and belief, the defendant, EVERETT GRIEK, performed no services justifying the receipt of the aforesaid monies.

169. That upon information and belief, the receipt and acceptance of said monies by the defendant, EVERETT GRIEK, constituted a wrongful misappropriation and waste of corporate assets.

AS AND FOR A TWENTY-EIGHTH CAUSE OF  
ACTION AGAINST DEFENDANT ALSTON A.  
WEVER:

170. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

171. That upon information and belief, during the years 1950 through 1972, the defendant, ALSTON A. WEVER, unilaterally and without approval or authorization from the board of directors of the defendant BANK would inspect or re-inspect certain real property upon which the defendant BANK held mortgages.

172. That upon information and belief, the defendant, ALSTON A. WEVER, would in his own discretion, make personal visits to select locations, allegedly to inspect the premises and render an appraisal or reappraisal to the defendant BANK.

173. That upon information and belief, the defendant, ALSTON A. WEVER, would submit a bill for services rendered in providing a reappraisal to the defendant BANK, which bills were paid by the defendant BANK.

174. That upon information and belief, the defendant, ALSTON A. WEVER, would inspect the said premises involved during the hours of 9:00 A.M. and 5:00 P.M., at which time he was employed by the defendant BANK as its President.

175. That upon information and belief, the defendant, ALSTON A. WEVER, has wrongfully and improperly used his office as President of the defendant BANK to provide himself with personal income and monetary gain, all to the detriment of the stockholders of the defendant BANK.

176. That upon information and belief, the conduct of the defendant, ALSTON A. WEVER, in obtaining fees for re-appraisals, constituted a conflict of interest, a wrongful appropriation of corporate opportunities, and misappropriation and waste of corporate funds.

AS AND FOR A TWENTY-NINTH CAUSE OF  
ACTION AGAINST DEFENDANT ALSTON A.  
WEVER:

177. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

178. That upon information and belief, from 1950 until the present, the defendant, ALSTON A. WEVER, would render appraisal reports for real property which the defendant BANK would use as a basis for its security in mortgage loans.

179. That upon information and belief, the defendant, ALSTON A. WEVER, instructed the attorneys for the defendant BANK to deduct his appraisal fee at the mortgage closing by a check made payable to the defendant BANK.

180. That upon information and belief, the defendant, ALSTON A. WEVER, further instructed that the check made payable to the defendant BANK as and for his appraisal fee be converted into cash and that said cash be retained in an envelope so that the defendant, ALSTON A. WEVER, could periodically acquire the same.

181. That upon information and belief, as a result of this procedure of converting the checks payable to the bank into cash and placing the cash in envelopes and picking up the envelopes of cash, no adequate records could be kept as to the sums collected and received by said ALSTON A. WEVER, and that this constituted an unusual departure from normal banking procedure in regard to payment for services rendered.

182. That upon information and belief, this procedure worked to the detriment of the defendant BANK, and said ALSTON A. WEVER should be compelled to accurately account for all of the cash he received during the last six years.

AS AND FOR A THIRTIETH CAUSE OF ACTION  
AGAINST DEFENDANT CHARLES J. THORNEWELL:

183. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "177" through "182", inclusive, as if the same were set forth at length herein.

184. That upon information and belief, the defendant, CHARLES J. THORNEWELL, in conspiracy with defendant, ALSTON A. WEVER, did share the cash proceeds deposited in the envelope as alleged in paragraph "180" above.

185. That upon information and belief, the sharing of the said proceeds by CHARLES J. THORNEWELL constituted a collusive device between the parties in an attempt to further their own personal gain, all to the detriment of the stockholders of the defendant BANK.

AS AND FOR A THIRTY-FIRST CAUSE OF ACTION  
AGAINST DEFENDANT CHARLES J. THORNEWELL:

186. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

187. That upon information and belief, in or about 1971, the defendant BANK had agreed to extend building loans to a contractor named STONEWOOD HOMES, INC. for the construction of five one-family homes.

188. That upon information and belief, the aforesaid property was inspected by representatives of the Federal Housing Administration and appraisals had been received by the bank's attorneys.

189. That upon information and belief, and subsequent to the mortgage closings, the defendant, CHARLES J. THORNEWELL, requested his appraisal fee from the attorney for the defendant BANK.

190. That upon information and belief, the attorney for the defendant BANK advised said CHARLES J. THORNEWELL that he was not entitled to an appraisal fee as he had not made an appraisal, and that an appraisal had been made by the Federal Housing Administration representatives.

191. That upon information and belief, and notwithstanding said advice, defendant, CHARLES J. THORNEWELL, did submit a bill to the defendant BANK for payment of appraisal fees on the aforesaid properties.

192. That upon information and belief, the conduct of defendant, CHARLES J. THORNEWELL, in obtaining a fee for an appraisal which he did not in fact make constitutes a wrongful misappropriation and waste of corporate funds.

193. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did wrongfully and illegally use his office as director of the defendant BANK in order to obtain wrongful and illegal fees, all for his own personal gain and

benefit, to the detriment of the stockholders of the defendant BANK.

AS AND FOR A THIRTY-SECOND CAUSE OF  
ACTION AGAINST DEFENDANT CHARLES J.  
THORNEWELL AND ALSTON A. WEVER:

194. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

195. That upon information and belief, in or about 1971, the defendant BANK received an application for a loan in the amount of \$90,000.00 from TRIPLEX PLUMBING SUPPLY CORP. intended to refinance an existing mortgage on certain property which it owned at Third Avenue, Bay Shore, New York.

196. That upon information and belief, the defendant BANK had an appraisal made of the said real property in 1965 at which time the property was valued at \$90,000.00.

197. That upon information and belief, the defendants, CHARLES J. THORNEWELL and ALSTON A. WEVER, had decided prior to conducting an appraisal of the property to grant such a loan.

198. That upon information and belief, and in accordance with their intention of granting the aforesaid loan in the amount of \$90,000.00, CHARLES J. THORNEWELL and ALSTON A. WEVER, did in conspiracy with one another render an appraisal of of property with a value of \$170,000.00.

199. That upon information and belief, the attorneys for the defendant BANK, being concerned about the appraisal value submitted by CHARLES J. THORNEWELL and ALSTON A. WEVER, did obtain an independent appraisal which stated that the value of the property was between \$90,000.00 to \$125,000.00.

200. That upon information and belief, notwithstanding the recommendation and opinion of the independent appraiser, CHARLES J. THORNEWELL and ALSTON A. WEVER, did disregard said appraisal and did proceed to make the loan to TRIPLEX

PLUMBING SUPPLY CORP. based upon an appraisal of \$170,000.00.

201. That upon information and belief, and within a very short period after the aforesaid loan was made to TRIPLEX PLUMBING SUPPLY CORP., the aforesaid corporation did enter into an arrangement for the benefit of creditors provided for in Chapter 12 of the Federal Bankruptcy Act.

202. That upon information and belief, the defendants, CHARLES J. THORNEWELL and ALSTON A. WEVER, wrongfully and improperly authorized the defendant BANK to extend a loan in the amount of \$90,000.00 to TRIPLEX PLUMBING SUPPLY CORP., and said loan was improvident and did constitute a misappropriation and waste of the defendant BANK'S assets.

AS AND FOR A THIRTY-THIRD CAUSE OF  
ACTION AGAINST DEFENDANT CHARLES J.  
THORNEWELL:

203. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

204. That upon information and belief, during the year 1972, two brothers operating under the name of TOUCHI BROS. contacted the defendant, CHARLES J. THORNEWELL, in an effort to obtain a loan in the amount of \$100,000.00 from the defendant BANK for the purpose of starting a construction business in Suffolk County, New York.

205. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did enter into a collusive arrangement with the aforesaid TOUCHI BROS. wherein and whereby they would receive \$100,000.00 from the defendant BANK for their operating capital to start a construction business in Suffolk County, New York, and whereby defendant, CHARLES J. THORNEWELL,

would receive personal remuneration for his effort in authorizing the issuance of the \$100,000.00 loan by the defendant BANK.

206. That upon information and belief, a mortgage loan was issued to the said TOUCHI BROS. wherein the defendant BANK received as security a mortgage upon the personal residence of the TOUCHI BROS. located in Brooklyn, New York.

207. That upon information and belief, the defendant BANK has never accepted as security property located in any county other than Nassau and Suffolk Counties.

208. That upon information and belief, the defendant, CHARLES J. THORNEWELL, did enter into a collusive agreement with the TOUCHI BROS. all for his own personal gain and benefit, and to the detriment of the stockholders of the defendant BANK.

AS AND FOR A THIRTY-FOURTH CAUSE OF  
ACTION AGAINST DEFENDANT ALSTON A.  
WEVER:

209. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

210. That upon information and belief, in or about 1969, the defendant BANK did authorize the issuance of 30,000 shares of common stock to be sold at a price of \$38.00 per share to non-stockholders, and \$35.00 per share to stockholders.

211. That upon information and belief, the shareholders had stock warrants which they could exercise by July 1, 1969.

212. That upon information and belief, the defendant, ALSTON A. WEVER, in an attempt to control the common stock of the defendant Bank made private arrangements with various stockholders promising to pay them \$3.00 per share for their stock warrants.

213. That upon information and belief, several of the stockholders failed to properly exercise their stock warrants by the deadline date of July 1, 1969, but they still insisted upon the receipt of \$3.00 per share in accordance with their arrangement with the defendant, ALSTON A. WEVER.

214. That upon information and belief, in an effort to obtain funds to pay these various stockholders the sum of \$3.00 per share for their stock warrants, the defendant, ALSTON A. WEVER, did sell the common stock of the defendant BANK to stockholders for \$38.00 per share instead of \$35.00 per share, and did appropriate the balance of \$3.00 per share for the use of providing funds to those stockholders with whom he made private arrangements.

215. That upon information and belief, the sum of \$15,000.00 was acquired by defendant ALSTON A. WEVER, through the sale of common stock of the defendant BANK, and said monies were wrongfully and improperly paid to stockholders who had failed to exercise their rights under the stock warrant.

216. That upon information and belief, the aforesaid sum of \$15,000.00 was the lawful monies of the defendant BANK, and was wrongfully, illegally and improperly misappropriated by the defendant, ALSTON A. WEVER.

AS AND FOR A THIRTY-FIFTH CAUSE OF ACTION AGAINST EACH OF THE DEFENDANTS, EXCEPT THOSE WHO WERE NOT MEMBERS OF THE BOARD OF DIRECTORS OF THE DEFENDANT BANK AT THE TIME OF THE ALLEGED INCIDENT:

217. Plaintiffs repeat, reiterate and reallege each and every allegation contained in the paragraphs of this complaint marked and designated "1." through "8.", inclusive, as if the same were set forth at length herein.

218. That upon information and belief, in or about 1969, the defendant BANK was authorized to issue 30,000 shares of common stock for the purpose of raising additional capital.

219. That upon information and belief, in or about 1969, the defendant BANK had 10,000 shares of common stock of the original 30,000 authorized shares as aforesaid, which remaine unissued.

220. That upon information and belief, the defendants wrongfully and improperly issued stock dividends to its shareholders during the years 1970 and 1971 from the 10,000 unissued shares of common stock.

221. That upon information and belief, the issuance of the stock dividends as aforesaid was not in conformity with the original purpose of the stock issue and did not raise any additional capital.

WHEREFORE, Plaintiffs demand judgment against the Defendants as follows:

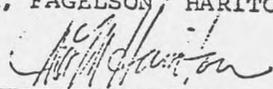
1. To enjoin and restrain the Defendants from continuing in their capacity as officers of the Defendant Bank.
2. To enjoin the Annual Election scheduled for March 5, 1974, wherein and whereby the Defendants seet to have themselves re-elected as Directors of the Defendant Bank.
3. To remove the individual Defendant Directors.
4. To compel the Defendants to account for their official conduct in the management of the Defendant Bank.
5. Compelling the individual Defendants to pay to the Defendant Bank any monies and the value of any properties which they acquired to themselves or transferred to others or lost or wasted by or through their improper conduct and violation of their duties.



6. To set aside any alienation of property belonging to said Defendant Bank made by the Defendants individually or collectively contrary to the law or in violation of their duties.

7. That the Plaintiffs herein be awarded the costs of prosecuting this action, together with reasonable counsel fees and such further, other and different relief as to this Court may seem just and proper in the premises.

DONNER, FAGELSON, HARITON & BERKA, P.C.

By: 

Attorneys for Plaintiffs  
Office and P.O. Address  
2115 Union Boulevard  
Bay Shore, N.Y. 11706

516-666-7400

United States District Court

FOR THE

EASTERN DISTRICT OF NEW YORK

CIVIL ACTION FILE NO. \_\_\_\_\_

CHARLES HOUSLER, MURIEL S. HOOST, ANNA M. WOLPERT, DOROTHY KEPPERT and JOSEPH LITE, as stockholders of the First National Bank of East Islip, suing on behalf of themselves and all other stockholders of The First National Bank of East Islip similarly situated,

73C 1123

Plaintiffs

SUMMONS

THE FIRST NATIONAL BANK OF EAST ISLIP, RUSSELL J. WOLPERT, JAY W. WOODS, ALSTON A. WEVER, ANDREW GEIS, UNTON J. BUCEK, HARRY KARP, JOHN MENNELLA, EVERETT GRIEK, CHARLES J. THORNEWELL, HENRY HOCKER and MELVIN R. CANNON,

Defendants

To the above named Defendants :

You are hereby summoned and required to serve upon DENNIS & STEIN, ESQS.

plaintiff's attorneys, whose address is 600 Old Country Road, Garden City, New York 11530

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

*Dennis Ringel*  
Clerk of Court.  
*Hilda L...*  
Deputy Clerk.

Date: *March 21, 1954*

[Seal of Court]

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
CHARLES HOUSLER, MURIEL S. HOOST, ANNA M. WOLPERT, :  
DOROTHY KEPPERT and JOSEPH LITE, as stockholders :  
of The First National Bank of East Islip, suing on :  
behalf of themselves and all other stockholders :  
of The First National Bank of East Islip similarly :  
situated, :

Plaintiffs, :

COMPLAINT

- against -

Index No.

73 Civ. \_\_\_\_\_

THE FIRST NATIONAL BANK OF EAST ISLIP, RUSSELL J. :  
WOLPERT, JAY W. WOODS, ALSTON A. WEVER, ANDREW :  
GEIS, UNTON J. BUCEK, HARRY KARP, JOHN MENNELLA, :  
EVERETT GRIEK, CHARLES J. THORNEWELL, HENRY :  
HOCKER and MELVIN R. CANNON, :

Defendants. :

-----X

Plaintiffs, for their complaint, herein allege:

JURISDICTION

FIRST:

This action arises under the

laws of the United States pertaining to national banks, to wit: 12  
USC 84 and 12 USC 93. The amount in question exceeds the sum of  
\$10,000.

*admit*

PARTIES AND CLASS ALLEGATIONS

SECOND:

Plaintiffs are now and were at

the time of the transactions complained of, shareholders of the de-  
fendant, The First National Bank of East Islip, holding an aggre-

*admit*

gate of 34,514 shares of the common stock of said defendant, which said holdings constitute more than five percent (5%) of the aggregate authorized and outstanding shares of stock of the said defendant. Plaintiffs bring this action on behalf of themselves and all other stockholders of The First National Bank of East Islip similarly situated.

*D. Bu  
J + B*

THIRD: Plaintiffs do fairly and adequately represent the interests of the shareholders similarly situated in enforcing the rights of The First National Bank of East Islip herein alleged.

*3/6/72*

FOURTH: At all times herein mentioned, the defendant, The First National Bank of East Islip, was and is a national banking corporation organized and existing under the laws of the United States of America.

*Admitted*

FIFTH: At all times herein mentioned the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, were officers and/or directors of the defendant, The First National Bank of East Islip.

FIRST CLAIM FOR RELIEF

SIXTH: On information and belief during the year 1972, the defendant, The First National Bank of East

*Denied*

Islip, made loans to one Crest Affiliates, Inc., which were un-  
secured in a sum totaling in excess of \$450,000.

SEVENTH:

That on information and belief that at the time said loans were made the total amount of such loans exceeded ten percentum of the amount of the capital stock of the defendant, The First National Bank of East Islip, actually paid in and unimpaired, and ten percentum of its unimpaired surplus funds.

*Denied*

EIGHTH:

That on information and belief the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, knowingly approved said loans as directors of the defendant, The First National Bank of East Islip, when they knew or should have known that the aggregate thereof exceeded ten percent of the amount of the capital stock of the defendant, The First National Bank of East Islip, and ten percent of its unimpaired surplus funds, and accordingly they are liable to said bank for all damages sustained by it, pursuant to the statute in such cases made and provided.

*Denied*

NINTH:

That on information and belief Crest Affiliates, Inc. has failed to repay to The First National Bank of East Islip the moneys so loaned to it and is now in default with respect to said loans.

*Deny  
except  
admit  
it has  
failed to*

*repay all*

TENTH:

That demand has been made on The First National Bank of East Islip that it bring suit against

*Denied*

defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornewell, Henry Hocker and Melvin R. Cannon, but that it has failed to do so since said individual defendants comprise its Board of Directors and manage the said bank.

*Admit*  
ELEVENTH: This action is not a collusive one to confer on a Court of the United States jurisdiction of any action of which it would not otherwise have jurisdiction.

SECOND CLAIM FOR RELIEF

*Admit*  
TWELFTH: On information and belief during the year 1972, the defendant, The First National Bank of East Islip, made loans to one Vical Realty Corp. totaling approximately \$320,000.

*Denied*  
THIRTEENTH: That on information and belief at the time said loans were made the total amount of such loans exceeded ten percentum of the amount of the capital stock of the defendant, The First National Bank of East Islip, actually paid in and unimpaired, and ten percentum of its unimpaired surplus funds.

*Denied*  
FOURTEENTH: That on information and belief the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornewell, Henry Hocker and Melvin R. Cannon, knowingly approved said loans as directors of the defendant, The First National Bank of East Islip, when they did know, or should

have known, that the aggregate thereof exceeded ten percentum of the amount of the capital stock of the defendant, The First National Bank of East Islip, and ten percentum of its unimpaired surplus funds and accordingly they are liable to said bank for all damages sustained by it, pursuant to the statute, in such case made and provided.

*Demanded  
except  
about  
Unpaid has  
failed to  
repay, all*

FIFTEENTH: That on information and belief Vical Realty Corp. has failed to repay to The First National Bank of East Islip the moneys so loaned to it and is now in default with respect to said loans.

*Demanded*

SIXTEENTH: That demand has been made on The First National Bank of East Islip to bring suit against defendants Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornewell, Henry Hocker and Melvin R. Cannon, but that it has failed to do so since said individual defendants comprise its Board of Directors and manage the said Bank.

*Demanded*

SEVENTEENTH: This action is not a collusive one to confer on a Court of the United States jurisdiction of any action of which it would not otherwise have jurisdiction.

THIRD CLAIM FOR RELIEF

EIGHTEENTH: Plaintiffs repeat and reallege each and every allegation contained in paragraphs SIXTH through

ELEVENTH of this complaint with the same force and effect as though fully set forth herein.

*Denies*

NINETEENTH: That in addition to violating the laws of the United States, the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, violated the common law of the State of New York, in that the aforesaid loans to Crest Affiliates, Inc. were improvident when made and in violation of the duties empowered upon directors and officers.

FOURTH CLAIM FOR RELIEF

TWENTIETH: Plaintiffs repeat and reallege each and every allegation contained in paragraphs TWELFTH through SEVENTEENTH, of this complaint with the same force and effect as though fully set forth at length herein.

*Denies*

TWENTY-FIRST: That in addition to violating the laws of the United States, the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, violated the duties imposed upon them by the common law of the State of New York in that the loans made to Crest Realty Corp. were improvident when made and in violation of the duties imposed upon directors and officers.

FIFTH CLAIM FOR RELIEF

*Denied*

TWENTY-SECOND: On information and belief that on or about the 31st day of July, 1970, the defendants, Russell J. Wolpert, Alston A. Wever, Andrew Geis, and Unton J. Bucek, entered into certain agreements in writing with the defendant, The First National Bank of East Islip, which agreements in substance provided that said persons were to resign as officers and directors of said Bank, and in consideration therefore they were to receive continued compensation equal to one-half of their then earnings for which they were to continue to act as consultants to the said Bank.

*Denied*

TWENTY-THIRD: On information and belief that the defendants, Alston A. Wever, Andrew Geis and Unton J. Bucek, breached the said agreements in that said defendants failed and refused to resign as directors of the said Bank.

*Denied*

TWENTY-FOURTH: On information and belief that the defendants, Alston A. Wever, Andrew Geis and Unton J. Bucek, further breached the said agreements in that after the execution thereof, they continued to collect their salary and other emoluments as directors and also collected compensation for being consultants under the said agreements.

*Denied*

TWENTY-FIFTH: On information and belief that the defendants, Alston A. Wever, Andrew Geis, and Unton J. Bucek further breached said agreements in that they were being paid twice for the same services rendered to the defendant, The First National Bank of East Islip.

TWENTY-SIXTH: By reason of the foregoing, the defendants, Alston A. Wever, Andrew Geis and Unton J. Bucek, owe to The First National Bank of East Islip a sum of money equivalent to their salaries and other emoluments of office received by them for acting as directors of said Bank since July 31, 1970, and the defendants Jay W. Woods, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon are also liable to said bank for having approved such payments.

*Denied*

SIXTH CLAIM FOR RELIEF

TWENTY-SEVENTH: On information and belief that defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, have wasted the assets of the defendant, The First National Bank of East Islip, in that they caused or allowed the said Bank to pay compensation to two parties to act as President of the said Bank from July 1, 1970, to December 30, 1970.

*Denied*

TWENTY-EIGHTH: By reason of the foregoing, the defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon owe The First National Bank of East Islip a sum of money equivalent to the amount of such waste.

*Denied*

SEVENTH CLAIM FOR RELIEF

TWENTY-NINTH:

On information and belief that during the years 1969 to the date of filing of this complaint, the defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thorne- well, Henry Hocker and Melvin R. Cannon, as officers and/or direct- ors of the defendant, The First National Bank of East Islip, caused said Bank to make loans to themselves or to some of them which were improvident when made and based upon improper appraisals of property pledged as collateral and were for rates of interest which were substantially less than the prevailing rates then being charged by said Bank.

*Sevied*

THIRTIETH:

By reason of the foregoing, The First National Bank of East Islip, sustained losses for which the defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thorne- well, Henry Hocker and Melvin R. Cannon are liable.

*Sevied*

DEMAND FOR RELIEF

WHEREFORE, plaintiffs demand judgment as follows:

- 1) That the Court appoint a recei- ver of the assets of the defendant, The First National Bank of East Islip.
- 2) That the defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thorne- well, Henry Hocker and Melvin R. Cannon be directed to account to the defendant, The

First National Bank of East Islip, for all losses sustained by said Bank as a result of the acts hereinbefore alleged.

3) That the defendants, The First National Bank of East Islip, recover of the defendants, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Bucek, Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon, the amount of such losses.

4) That the defendants, Russell J. Wolpert, Jay W. Woods, Alston A. Wever, Andrew Geis, Unton J. Buce Harry Karp, John Mennella, Everett Griek, Charles J. Thornevell, Henry Hocker and Melvin R. Cannon be removed as officers and directors of The First National Bank of East Islip and that they be enjoined pendente lite and permanently from being officers or directors of said Bank.

5) That the defendants and each of them be enjoined pendente lite and permanently from performing any acts similar to those herein alleged.

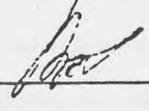
6) That the plaintiff herein be awarded the costs of prosecuting this action including reasonable attorneys' fees.

7) That the plaintiffs have such

other and further relief which as to this Court may seem just and proper.

JOSEPH LITE, P. C.  
Attorney for Plaintiffs  
DENNIS & STEIN, ESQS. OF COUNSEL  
Office and Post Office Address:  
600 Old Country Road  
Garden City, New York 11530  
(516) 248 - 7650

By: \_\_\_\_\_



STATE OF NEW YORK )  
COUNTY OF Suffolk ) SS.:

CHARLES HOUSLER, being duly sworn, deposes and says that deponent is one of the plaintiffs in the within action; that deponent has read the foregoing Complaint and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Charles Housler  
CHARLES HOUSLER

Sworn to before me this  
23rd day of July, 1973.

Joseph Lite

JOSEPH LITE  
Notary Public, State of New York  
No. 522379375, Suffolk County  
Term Expires March 30, 1974.

SUPREME COURT : STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
JOEL P. KASTEIN, JOHN W. McGRAIME and  
CREST AFFILIATES, INC.,

Plaintiffs,

- against -

FIRST NATIONAL BANK OF EAST ISLIP, UNTON  
J. BUCEK, ANDREW M. GEIS, EVERETT GRIEK,  
CHARLES J. THORNEWELL, RUSSELL J. WOLPERT,  
JAY W. WOODS and HENRY CANALE,

COMPLAINT

Defendants.  
-----X

Plaintiffs complaining of the defendants by their attorneys, FLOWER & PLOTKA, allege the following:

1. At all the times hereinafter mentioned the plaintiff, CREST AFFILIATES, INC., is a domestic corporation duly organized and existing under and by virtue of the laws of the State of New York with its principal place of business in the County of Suffolk, State of New York.

2. At all times hereinafter mentioned plaintiffs JOEL P. KASTEIN and JOHN W. McGRAIME, were residents of the County of Nassau, State of New York, and officers and directors of the plaintiff corporation, CREST AFFILIATES, INC.

3. Upon information and belief, at all times hereinafter mentioned, the defendant, the FIRST NATIONAL BANK OF EAST ISLIP is a national banking corporation having its principal place of business at 345 East Main Street, East Islip, Suffolk County, New York.

4. Upon information and belief, at all the times hereinafter mentioned the defendants, UNTON J. BUCEK, ANDREW M. GEIS, EVERETT GRIEK, CHARLES J. THORNEWELL, RUSSELL J.

+ 3

Deceit  
(+ 1/2)

Deceit

WOLPERT and JAY W. WOODS, were members of the Board of Directors of the defendant, FIRST NATIONAL BANK OF EAST ISLIP, and duly authorized agents thereof.

*admit*

5. Upon information and belief that at all the times hereinafter mentioned the defendant, HARRY CANALE, was an officer employed by the defendant, FIRST NATIONAL BANK OF EAST ISLIP, and a duly authorized agent thereof.

*disputed  
agent  
admit  
W.P.  
admit*

6. Upon information and belief, at all the times hereinafter mentioned the defendant, JAY W. WOODS was an officer of the FIRST NATIONAL BANK OF EAST ISLIP, and a duly authorized agent thereof.

7. That all the individual defendants were known to the plaintiffs to be members of the Board of Directors of the defendant bank, and some officers thereof, responsible for the policies and decisions of the bank in connection with the carrying on of their business of lending money.

*admit*

8. On or about the 30th day of May, 1972 the plaintiffs and the defendant the FIRST NATIONAL BANK OF EAST ISLIP entered into a written agreement, copy of which is attached hereto and made a part hereof.

*admit*

9. On or about the 30th day of May, 1972, at the time the plaintiffs and the defendant, FIRST NATIONAL BANK OF EAST ISLIP, entered into the aforesaid agreement there was in full force and effect an agreement in writing between plaintiff, CREST AFFILIATES, INC. and said defendant bank dated April 17, 1972, wherein said bank agreed to make building loans to CREST AFFILIATES, INC. for the erection of

*admit*

modular type one family dwellings by plaintiff, CREST AFFILIATES, INC. A copy of said agreement is attached hereto and made a part hereof.

10. At all the times hereinafter mentioned and commencing on or about November, 1971, plaintiff, CREST AFFILIATES, INC., carried on a business of purchasing land and erecting thereon modular type one family dwellings in the County of Suffolk, State of New York for resale to the general public.

*Revised  
1+B*

11. At all times hereinafter mentioned the plaintiff, CREST AFFILIATES, INC. purchased said modular one family units from Capital Industries, Inc., a corporation with its principal place of business in Avis, Pennsylvania.

*Revised  
1+B*

12. At all times hereinafter mentioned Capital Industries, Inc. was a party to said agreement of April 17, 1972.

*Revised  
1+B*

13. At all the times hereinafter mentioned and from on or about November 1971, defendant, FIRST NATIONAL BANK OF EAST ISLIP, advanced substantial sums of money to the plaintiff, CREST AFFILIATES, INC. secured by mortgages on the said building plots owned by CREST AFFILIATES, INC.

*advised*

14. At all the times herein mentioned the defendant bank advanced substantial sums of money to the plaintiff, CREST AFFILIATES, INC., secured by mortgages on the respective residences of the plaintiffs, KASTEIN and McGRAIME, and their personal bonds.

*advised*

*Devised*

15. At all the times hereinafter mentioned, the plaintiffs duly performed all the terms and conditions of said contract of April 17, 1972.

*Devised*

16. On or about May 1972, contrary to all prior agreements, the defendants falsely, fraudulently and maliciously represented to the plaintiffs that the Comptroller of the Currency of the United States, an agency regulating the conduct of business of national banks, directed the defendant bank to cease making any further advances or loans to plaintiff CREST AFFILIATES, INC.

*Devised*

17. On or about May, 1972, contrary to all prior agreements, the defendants falsely, fraudulently and maliciously represented to the plaintiffs that said Comptroller of the Currency directed the defendant bank to call in and demand immediate payment by plaintiff, CREST AFFILIATES, INC. of all monies due and owing to said bank.

*Devised*

18. On or about May, 1972, the defendants falsely, fraudulently and maliciously represented to the plaintiffs that the Comptroller of the Currency had advised the defendant bank that pursuant to its aforementioned directive to call in all advances of money, the defendant bank could accept from the plaintiffs, as an alternative for cash, assets owned by the plaintiff, CREST AFFILIATES, INC. in repayment of said outstanding loans.

19. Upon information and belief, at all the times herein mentioned, the aforesaid representations made by the defendants to the plaintiffs, were false and untrue.

20. Upon information and belief, at the time such representations were made by the defendants to the plaintiffs the defendants knew them to be false and untrue.

21. Upon information and belief that at the time said representations were made they were made to induce the plaintiff's to withdraw from the business of assembling real estate plots and erecting thereon modular homes for resale to the public.

22. Upon information and belief at the time said representations were made they were made by the defendants to induce the plaintiffs to withdraw from said business by terminating all advances of funds to CREST AFFILIATES, INC. and by demanding immediate repayment by CREST AFFILIATES, INC. to defendant bank of all outstanding loans, without lawful reason therefor, and contrary to the terms of outstanding agreements.

23. At or about the time said representations were made by the defendants, the defendant bank actually did cease advancing any further funds to the plaintiff CREST AFFILIATES, INC. and demanded immediate repayment of all outstanding loans to CREST AFFILIATES, INC., without lawful reason therefor. and contrary to the terms of pending agreements.

*Devised*

24. Upon information and belief when the defendants made such representations they made them in order to deceive the plaintiffs and induce them to enter into the said contract dated May 30, 1972 wherein and whereby, the plaintiffs actually terminated its business of erecting and selling one family homes and in addition, among other things, agreed to and did transfer title to all of the real estate owned by CREST AFFILIATES, INC. to the defendant bank, and forfeited contracts of sale with prospective purchasers, and in addition the plaintiffs, KASTEIN and McGRAIME agreed to and did execute and deliver promissory notes to order of the defendant bank in the sum of \$81,500.00 each.

*Devised*

25. At the time said representations were made by the defendants to the plaintiffs, the plaintiffs did not know them to be false and relying upon the truth of said representations the plaintiffs parted with consideration by executing said agreement of May 30, 1972 with the defendant bank and performing the terms and provisions thereof by actually terminating its business and transferring title to all of the real estate owned by CREST AFFILIATES, INC. to the defendant bank; forfeiting contracts of sale with prospective purchasers, and committing the plaintiff KASTEIN and McGRAIME to pay large sums of money to said bank, as aforesaid, all to their damage and expense.

*Deed*

26. Had the plaintiffs known that said representations were false, they would not have entered into said contract of May 30, 1972 nor parted with consideration therefor.

*Deed*

27. Upon information and belief the representations herein made by the defendants, their agents, servants and/or employees, in behalf of the bank in the regular course of its regular business of dealing in and with the general public, were of such a malicious nature that the defendants are liable for exemplary and punitive damages.

*Deed*

28. By reason of the foregoing, the plaintiff sustained damages in the sum of TWO MILLION and 00/100, (\$2,000,000.00) DOLLARS.

WHEREFORE, the plaintiffs demand judgment against the defendants in the sum of TWO MILLION and 00/100, (\$2,000,000.00) DOLLARS for compensatory damages and in the sum of ONE MILLION and 00/100, (\$1,000,000.00) DOLLARS for punitive damages, together with interest and the costs and disbursements of this action.

FLOWER & PLOTKA, ESQS.  
Attorneys for the Plaintiffs  
Office and P. O. Address:  
One East Main Street  
Bay Shore, New York 11706  
(516) 665-4600

AGREEMENT made and entered into this 30th day of May, 1972, by and between THE FIRST NATIONAL BANK OF EAST ISLIP, a national banking corporation having its principal place of business at 345 East Main Street, East Islip, New York, the party of the first part (hereinafter referred to as the Bank) and CREST AFFILIATES, INC., a domestic corporation having its principal place of business at 625 Middle Country Road, Coram, New York (hereinafter referred to as Crest), JOEL P. KASTEIN, residing at 3036 Timothy Lane, Ballmore, New York and JOHN W. MCGRAIME, residing at Lawn Lane, Oyster Bay, New York, parties of the second part.

WHEREAS, the Bank and Crest had heretofore entered into agreements wherein the Bank loaned monies to Crest to provide financing for the acquisition of land and the erection of modular homes thereon, and whereas Crest executed notes and building loan mortgages to the Bank to secure the monies advanced, and whereas the principal balance now owing on said advances is \$1,097,473.26 which is secured by building loan mortgages, and

WHEREAS, from time to time the Bank advances other monies to Crest and Crest executed promissory notes to the Bank, some of which notes were endorsed for which collateral was offered by Crest and accepted by the Bank; that the balance now owing is in the sum of \$477,775.77, the notes and collateral evidencing and securing said sum is as follows:

- (a) Note dated July 16, 1971, in the sum of \$26,000.00 made by Crest Affiliates, Inc., endorsed by Joel P. Kastain
- (b) Note dated July 16, 1971, in the sum of \$95,000.00 made by Crest Affiliates, Inc., endorsed by Joel P. Kastain, Arnold Ritt and John McGraine
- (c) Note dated October 21, 1971, in the sum of \$13,000.00 made by Kathryn Britton
- (d) Note dated November 9, 1971, in the sum of \$80,000 made by Crest Affiliates, Inc., endorsed by John McGraine, Joel P. Kastain, Gloria Kastain and Flora McGraine

- (a) Note dated November 13, 1971, in the sum of \$101,031.00 made by Crest Affiliates, Inc., endorsed by John W. McGrain, Joel P. Kastain, Gloria Kastain and Flora McGrain
- (f) Note dated April 14, 1972, in the sum of \$170,000.00 made by Crest Affiliates, Inc., endorsed by Joel P. Kastain
- (g) Mortgage dated February 11, 1971, in the sum of \$20,000 made by Joel P. Kastain and Gloria Kastain, recorded February 25, 1971, Liber 8732, page 23
- (h) Mortgage dated March 22, 1971, in the sum of \$25,000 made by Arnold E. Ritt, recorded April 20, 1971, Liber 8750, page 499
- (i) Mortgage dated September 1, 1971, in the sum of \$50,000 made by John W. McGrain and Flora McGrain, recorded September 13, 1971, Liber 6139, page 240
- (j) Mortgage dated October 21, 1971, in the sum of \$13,000 made by George F. Britton and Kathryn Britton,
- (k) Security Agreement dated July 9, 1971, in the sum of \$26,000.00 made by Crest Affiliates, Inc., filed July 22, 1971 (covering model houses)

and

WHEREAS, the party of the second part has informed the Bank that there are certain mortgages subordinate to the aforementioned building loan mortgages which are liens of record and held by Capital Industries, Inc. (the supplier of the modular homes) and Midshore Associates, Inc., and

WHEREAS, the Bank is unwilling to advance any further monies to Crest and Crest is unable to pay the indebtedness at this time, and

WHEREAS, it is the intention and desire of the parties to settle, adjust and compromise the total outstanding indebtedness in furtherance of their mutual benefit,

NOW, THEREFORE, this Agreement:

1. Crest will execute and deliver to the Bank bargain and sale deeds covering all the properties which are subject to the Bank's building loan mortgages. To induce the Bank to accept such deeds, Joel P. Kastain and John W. McGrain represent and warrant that to the best of their knowledge the only liens now of record affecting such property are held by Capital Industries, Inc. and Midshore Associates, Inc. in the form of

subordinate mortgages. The deed will contain a provision that the mortgage will not merge but in any event the Bank will not seek a deficiency judgment nor are they accountable to Crest for any overage. Crest represents that the aforementioned conveyances were authorized by vote of two-thirds of the stockholders and a resolution of the Board of Directors and that they have complied with all laws and procedures affecting the transfer of all or substantially all of the assets of the corporation.

2. Crest will execute and deliver to the Bank Bills of Sale covering the two model houses referred to in paragraph on page 2 and designated (k). Joel Kastein and John McGrains represent and warrant that to the best of their knowledge the said model houses are unencumbered other than the chattel mortgage held by the Bank.

3. The indebtedness of \$477,775.77 is settled, compromised and adjusted by Joel P. Kastein and John W. MC Grains each executing and delivering a promissory note in the sum of \$81,500.00 payable in equal monthly installments of \$500.00 per month commencing December 1, 1972. Simultaneously with the execution and delivery of the notes, the Bank will execute and deliver satisfaction of the following mortgages: all of the mortgages referred to heretofore with the exception of the mortgage made by Arnold E. Ritt and the Security Agreement covering the model houses; and will furnish general releases to Joel P. Kastein, John W. McGrains, Gloria Kastein and Flora McGrain

4. That Crest, Joel P. Kastein and John W. McGrains will adjust, settle and compromise all claim of indebtedness to any party which may claim to assert a claim against the property covered by the deeds heretofore mentioned and will assist, cooperate under the direction of the Bank in the defense or settlement of any claim or suit brought affecting said property.

5. That Crest, Joel P. Kastain and John W. McGraine will cooperate, assist and in every way help the Bank, if the Bank should require or desire such assistance in the sale and satisfaction of said building loan mortgages and will furnish and provide to the Bank any and all records pertaining to customer commitments, etc. which may assist the Bank in its terminating the building loan mortgages.

Nothing herein is intended nor shall it release from obligation any part of the indebtedness which the Bank may assert against Arnold Ritt and the Bank reserves all rights to proceed against him at any time and for any amount which the Bank determines.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

THE FIRST NATIONAL BANK OF EAST ISLIP

by *Ray H. ...*

CREST AFFILIATES, INC.

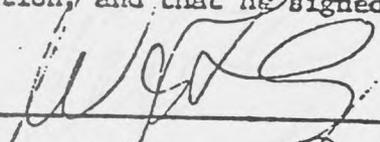
by *Joel P. Kastain*

*Joel P. Kastain*  
Joel P. Kastain

*John W. McGraine*  
John W. McGraine

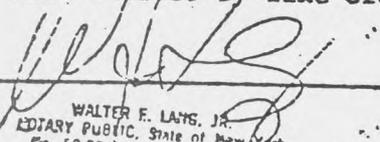
STATE OF NEW YORK }  
COUNTY OF SUFFOLK } ss.:

On the 30th day of May, 1972, before me personally came JAY W. WOODS to me known, who, being by me duly sworn, did depose and say that he resides at 1728 61st Street, Brooklyn, New York; that he is the Executive Vice President of THE FIRST NATIONAL BANK OF EAST ISLIP, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.

  
WALTER E. LAYS, JR.  
NOTARY PUBLIC, State of New York  
No. 52-2247900, Suffolk County  
Term Expires March 30, 1973

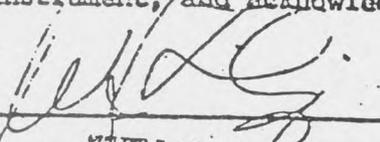
STATE OF NEW YORK }  
COUNTY OF SUFFOLK } ss.:

On the 30th day of May, 1972, before me personally came JOEL P. KASTEIN to me known, who, being by me duly sworn, did depose and say that he resides at 3036 Timothy Lane, Bellmore, New York; that he is the Vice President of CREST AFFILIATES, INC. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that he signed his name thereto by like order.

  
WALTER E. LAYS, JR.  
NOTARY PUBLIC, State of New York  
No. 52-2247900, Suffolk County  
Term Expires March 30, 1973

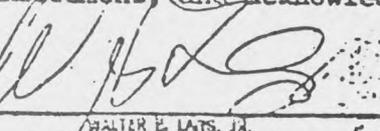
STATE OF NEW YORK }  
COUNTY OF SUFFOLK } ss.:

On the 30th day of May, 1972, before me personally came JOEL P. KASTEIN, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

  
WALTER E. LAYS, JR.  
NOTARY PUBLIC, State of New York  
No. 52-2247900, Suffolk County  
Term Expires March 31, 1973

STATE OF NEW YORK }  
County of SUFFOLK } ss.:

On the 30th day of May, 1972, before me personally came JOHN W. McGRAIME, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

  
WALTER E. LAYS, JR.  
NOTARY PUBLIC, State of New York

STATE OF NEW YORK }  
COUNTY OF SUFFOLK } ss.:

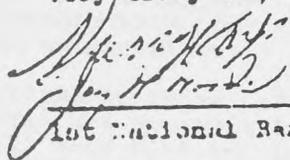
On the 30th day of May, 1972, before me personally came HARRY KARP, to me known, who, being by me duly sworn, did depose and say that he resides at 2364 McCord Avenue, Merrick, New York ; that he is the Chairman of the Board of Directors of THE FIRST NATIONAL BANK OF EAST ISLIP, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that he signed his name thereto by like order.



WALTER F. LANG, JR.  
NOTARY PUBLIC, State of New York  
No. 52-2249800, Suffolk County  
Term Expires March 30, 1973

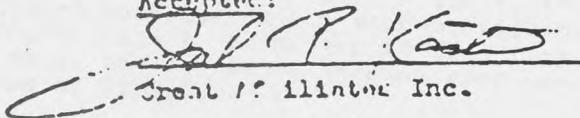
The Bank will be the final arbiter as to any action and may terminate this agreement without notice upon your default in meeting the conditions of this agreement. It is further understood that this agreement will take effect immediately and will continue for at least a three month period on a trial basis, and in the event that the Bank is satisfied, will be renewed on a quarterly basis thereafter. It is further understood and contemplated that this agreement may continue for two years or more.

Very truly yours,



First National Bank of St. Louis

Accepted:



Great Industrial Inc.

Capital Industries Inc.

April 17, 1977

Crest Affiliates, Inc.  
P. O. Box 637  
Old Hook Road & Wilcox Road  
Center Moriches, New York 11934

Attention of Mr. Joel Kasteln, Vice President

Dear Mr. Kasteln:

The First National Bank of West Islip has this day agreed to continue its present relationship with your company under the following understanding and arrangements:

1. Your company is authorized to order and set in progress of 16 regular houses (to be furnished by Capital Builders) per month on which the Bank will make full line loan advances to an amount not to exceed \$18,500.00. (This includes 10% down and necessary improvements.)

2. During the next three months, the total advances, in addition to the aforementioned full line loan advances, will not exceed the sum of \$1,000,000.00 which is to be repaid from time to time, but in no event shall the revolving account ever exceed the aforementioned sum of \$1,000,000.00.

3. It is understood and agreed that Capital Builders will have their indebtedness (of approximately \$10,000,000) reduced to the rate of 11500- per house on the following basis:

- a. First 10 houses on which they have a mortgage interest be released with no consideration.
- b. The second 10 houses will be released by Capital by 1500- per house.

This arrangement will continue on the same rate 10 houses arrangement until Capital is paid the amount owing.

Your company will work in conjunction with the Bank in payments to contractors and sub-contractors in order to maintain and insure their cooperation and will make no payments to them unless authorized by the Bank. Building loan advances or new construction and payouts with Farm Home or other take-out agencies or institutions will be on an individual basis as heretofore.

SUPREME COURT : STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----X  
JOEL P. KASTEIN, JOHN E. McGRAIME and  
CREST AFFILIATES, INC.,

Plaintiffs,

- against -

FIRST NATIONAL BANK OF EAST ISLIP,  
UNTON J. BUCEK, ANDREW M. GEIS,  
EVERETT GRIEK, CHARLES J. THORNEWELL,  
RUSSELL J. WOLPERT, JAY W. WOODS and  
HENRY CANALE,

Defendants.  
-----X

VERIFICATION

STATE OF NEW YORK )  
COUNTY OF SUFFOLK ) ss.:

JOEL P. KASTEIN, and JOHN W. McGRAIME being duly sworn  
depose and say that deponents are two of the plaintiffs in the  
within action; that deponents have read the foregoing complaint  
and know the contents thereof; that the same is true to  
deponents' own knowledge, except as to the matters therein  
stated to be alleged on information and belief, and that as to  
those matters deponents believe it to be true.

s/  
\_\_\_\_\_  
JOEL P. KASTEIN

s/  
\_\_\_\_\_  
JOHN W. McGRAIME

Sworn to before me this  
27 day of October 1973.

Notary Public in and for the State of New York  
My Commission Expires on \_\_\_\_\_

THE FIRST NATIONAL BANK OF EAST ISLIP  
East Islip, New York

Exhibit I  
**PROXY FOR ANNUAL MEETING OF SHAREHOLDERS** **DEFINITIVE PROXY**

KNOW ALL MEN BY THESE PRESENTS THAT I, the undersigned shareholder of The First National Bank of East Islip, East Islip, New York do hereby nominate, constitute, and appoint Everett Griek of Great River, New York and Charles J. Thornewell of Bay Shore, New York or either of them with full power to act alone, my true and lawful attorney(s) with full power of substitution, for me and in my name, place and stead to vote all common stock of said Bank, standing in my name on its books on February 22, 1974 at the Annual Meeting of Shareholders to be held at its banking house, 315 East Main Street, East Islip, New York on Tuesday, March 5, 1974 at 3:00 P.M. or any adjournments, thereof, with all the powers the undersigned would possess if personally present, as follows:



(CONTINUED AND TO BE SIGNED  
ON REVERSE SIDE)

1. Fixing the number of directors at ten (10) and the election of those ten (10) persons listed in the Proxy Statement dated February 11, 1974 accompanying the notice of said meeting.

FOR ..... ( )  
WITHHOLD ..... ( )

2. As of the date of this Proxy, the only business which management expects to be considered is the Election of Directors.

This Proxy confers authority to vote "FOR" the above unless "WITHHOLD" is indicated. If any other business is presented at said meeting, the persons named in this Proxy are expected to vote the Proxy in accordance with their judgment and recommendations of management.

The Board of Directors recommends a "FOR" vote for the election of the named directors. This Proxy is solicited on the BEHALF OF MANAGEMENT and may be revoked prior to its exercise. THE COST OF SOLICITATION IS BORNE BY THE BANK.

DATE: ....., 1974 ..... LS.

NUMBER OF SHARES ..... LS.

NO OFFICER OR EMPLOYEE OF THE BANK  
MAY BE NAMED AS PROXY.

When signing as attorney, executor, administrator, trustee or guardian, please give full title. If more than one trustee, all shall sign. All joint owners must sign.



The First National Bank of East Islip

East Islip, New York

NOTICE OF ANNUAL MEETING

To the Shareholders:

Notice is hereby given that, pursuant to call of its Directors, the Annual Meeting of the shareholders of The First National Bank of East Islip will be held at the banking house, 345 East Main Street, East Islip, New York on Tuesday, March 5, 1974 at 3:00 P.M., for the purpose of considering and voting upon the following matters:

1. ELECTION OF DIRECTORS. Fixing the number of Directors at ten (10) and the election of the persons listed in the proxy statement dated February 11, 1974 accompanying the notice of said meeting.
2. OTHER BUSINESS. Any other business that comes before the meeting or adjournment thereof.

Only those shareholders of record at the close of business on February 22, 1974 shall be entitled to notice of the Annual Meeting and to vote at said meeting.

By order of the Board of Directors

Jay W. Woods  
President



Dated: February 11, 1974

POLLS WILL BE OPEN FOR ONE (1) HOUR

SINCE THE ARTICLES OF ASSOCIATION OF THE BANK PROVIDE FOR APPROVAL OF A MAJORITY VOTE OF ITS SHAREHOLDERS FOR THE ELECTION OF DIRECTORS, WE URGE YOU TO SIGN AND RETURN THE ENCLOSED PROXY AS PROMPTLY AS POSSIBLE WHETHER OR NOT YOU PLAN TO ATTEND THE MEETING IN PERSON. IF YOU DO ATTEND THE MEETING, YOU MAY WITHDRAW YOUR PROXY AND VOTE IN PERSON.

The First National Bank of East Islip  
East Islip, New York

ANNUAL MEETING OF SHAREHOLDERS

PROXY STATEMENT

Dated: February 11, 1974

This proxy statement is furnished in connection with the Annual Meeting of Shareholders of The First National Bank of East Islip to be held at 3:00 P.M. on Tuesday, March 5, 1974 at the banking house, 345 East Main Street, East Islip, New York.

The Bank's only class of stock is its common stock, \$2.50 par value, of which there are 616,173 shares outstanding. Only those Shareholders of record at the close of business on February 22, 1974 shall be entitled to vote.

Each Shareholder has the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate the number of votes equal to the number of directors to be elected multiplied by the number of his shares, or to distribute them on the same principle among as many candidates as he thinks fit. In the determination of all other matters that may be presented at the meeting, each shareholder is entitled to one vote on each share of stock held by him. The affirmative vote of a majority of the votes represented at the meeting is necessary to adopt the resolution fixing the number of directors to be elected for the ensuing year.

This solicitation of proxies is being made by management of The First National Bank of East Islip. THE COST OF SOLICITATION WILL BE BORNE BY THE BANK.

A shareholder executing the proxy herewith presented has the power to revoke it at any time prior to the exercise thereof.

1. **ELECTION OF DIRECTORS:** The directors are to be elected at the Annual Meeting to hold office until the next Annual Meeting of Shareholders or until their successors have been elected and have qualified. A shareholder entitled to vote for the election of directors may make nominations for election to the Board of Directors. However, the shareholder making such nomination must give written notification of such intent to the President of the Bank and to the Comptroller of the Currency no later than seven days after the receipt of this notice.

The proxies named on the enclosed form of proxy will vote in favor of fixing the number of directors at ten (10) and for the election of the ten (10) persons named below as directors unless contrary instructions are specified on the proxy form. Each person nominated and named below has consented to being named in the proxy statement and to serve as a director if elected.

The following table sets forth with respect to each nominee for director, his name, the year in which he first became a director of the Bank, his principal occupation, and the number of shares of capital stock of the Bank beneficially owned, either directly or indirectly, by him or his associates as of December 31, 1973.

NAME	YEAR ELECTED	PRINCIPAL OCCUPATION	SHARES OF COMMON STOCK OWNED BENEFICIALLY AS OF 12/31/73*
Unton J. Bucek	1952	Retired Banker (The First National Bank of East Islip) Formerly Cashier from 1950 to 1970	3,100
Melvin R. Cannon	1969	Attorney (Practicing since 1939)	1,562
Andrew M. Geis	1949	Retired Banker (The First National Bank of East Islip) Executive Vice President from 1950 to 1970	1,088
Everett Griek	1961	Insurance Broker (Since 1950) Proprietor	2,927
Henry Hocker	1971	Contractor (Since 1958) President, Stanley Sand and Gravel Co., Inc.	8,830
John A. Mennella	1970	Real Estate	1,139
Charles J. Thornewell	1969	Real Estate Broker (Since 1965) Proprietor, Thornewell Realty	4,080
Alston A. Wever	1948	Retired Banker (The First National Bank of East Islip) Formerly President until 1970	3,054
Russell J. Wolpert	1968	Vice President (The First National Bank of East Islip since 1962)	14,980
Jay W. Woods	1972	President (The First National Bank of East Islip, employed November 1971) Former Representative of Federal Reserve Bank since 1956.	1,500

\*Includes stock owned by immediate family members.

The following table sets forth, for the fiscal year ended December 31, 1973, the remuneration of Officers and Directors:

Directors as a group	\$ 17,010.00
Officers as a group (21)	\$325,887.49
Officers or Directors in excess of \$30,000. per year	
Jay W. Woods, <i>President</i>	\$ 31,000.00

Some of the Bank's officers and directors, individually or through firms of which they are involved, have had borrowing transactions in the ordinary course of business with the Bank. These transactions all were substantially on the same terms as those prevailing at the time for comparable transactions with other persons and do not involve more than normal risk of collectibility or present any other unfavorable features.

2. OTHER MATTERS: As of the date of this proxy statement, the only business which management expects to be considered at the Annual Meeting is the Election of Directors. However, if other matters come before the meeting, the persons named in the attached form of proxy are expected to vote the proxy in accordance with their judgment and the recommendations of management on such matters.

The Bank in 1973 was the subject of two law suits, one of which involved a stockholders suit against the Bank and some of its directors and officers. The Complaint asks for recovery of the losses sustained in the Crest Affiliates Inc. and Vical Realty Corporation loan losses totaling an alleged \$770,000.00. A copy of the complaint is on file at the Bank and is available for inspection. This matter is being defended by the attorneys appointed by the insurers under the terms of the bank's Blanket Bond and is still pending.

In the second matter, the Bank instituted suit against two of the principals of Crest Affiliates Inc., Joel P. Kastein and John W. McGraine, seeking recovery on two \$80,000.00 notes. In a separate action brought by these defendants, they seek recovery from the Bank and some of its officers and directors in the amount of \$3,000,000.00. A copy of the complaint is also on file at the Bank and may be inspected by any stockholder. The intention expressed by the attorneys for Kastein et al is that they will shortly move to consolidate the actions and that the separate suit was instituted as a matter of defense and counterclaim to the Bank's action on the notes. This, too, is being defended by the attorneys appointed by the insurers under the terms of the bank's Blanket Bond. This matter is still pending.

The coverage afforded by the bank's Blanket Bond, in the opinion of the Board of Directors, is deemed adequate to cover these suits.

By order of the Board of Directors

Jay W. Woods  
President

DEFINITIVE PROXY

REGISTERED  
Exhibit J

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

of

THE FIRST NATIONAL BANK OF EAST ISLIP

To Be Held November 12, 1974



*To the Shareholders:*

NOTICE IS HEREBY GIVEN, that pursuant to the call of its Directors, a special meeting of the shareholders of The First National Bank of East Islip will be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York on Tuesday, November 12, 1974 at 1:00 o'clock in the afternoon for the purpose of considering and voting upon the following matters:

1. *Election of Directors.* Fixing the number of Directors at ten (10) and the election of the ten (10) persons listed in the Proxy Statement dated October 18, 1974 accompanying this notice of the meeting.
2. *Amendment of Articles of Association.* Amending Article Third of the Articles of Association to permit the enactment by the Board of Directors of a By-law granting authority to the Board to increase the number of Directors to a number greater than last determined by the shareholders.
3. Whatever other business may be brought before the meeting or any adjournment thereof.

Only those shareholders of record at the close of business on October 1, 1974 shall be entitled to notice of and to vote at the meeting.

.BY ORDER OF THE BOARD OF DIRECTORS,

JOHN A. MENNELLA,  
*Chairman of the Board*

Dated at East Islip, New York  
October 22, 1974

Shareholders who cannot attend the meeting in person are urged to sign the enclosed Proxy and return it in the envelope enclosed for that purpose as promptly as possible. The enclosed Proxy may be revoked prior to its exercise.

# THE FIRST NATIONAL BANK OF EAST ISLIP

## PROXY STATEMENT (Submitted by Management)

### INTRODUCTORY STATEMENT

The accompanying Proxy is solicited by the management of The First National Bank of East Islip (hereinafter called the "Bank") for use at the Special Meeting of Shareholders to be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York, on Tuesday, November 12, 1974 at 1:00 o'clock in the afternoon, or at any adjournment thereof. When such proxy is properly executed and returned, the shares it represents will be voted at the meeting in accordance with any instructions noted thereon. In the absence of specific instructions, Proxies received by management will be voted for the election as Directors of those persons and for the amendment to the Articles of Association set forth below. If any other matters are properly brought before the meeting, Proxies will be voted in accordance with the recommendations of the Bank's management on such matters.

In February 1974, Charles and Martha Wolpert brought suit, as stockholders of the Bank and on behalf of all stockholders of the Bank, against the Bank and Charles J. Thornewell, Alston A. Wever, Russell J. Wolpert, John A. Mennella, Unton Bucek, Andrew M. Geis, Melvin B. Cannon, Jay W. Woods, Everett Griek and Henry Hocker, as members of the Board of Directors of the Bank and individually. The suit was brought in the United States District Court for the Eastern District of New York and bears file number 74C-333. The complaint in this suit (commonly referred to as a "stockholders' derivative suit") alleges various acts of negligence, misfeasance and malfeasance by the individual defendants which resulted in pecuniary loss to the Bank and seeks to hold the individual defendants liable therefor.

Simultaneously with bringing the suit, the plaintiffs sought to enjoin the Bank's annual meeting scheduled for March 5, 1974. The Court denied plaintiffs' motion, and the annual meeting was held as scheduled. At the meeting, the plaintiffs sought to nominate ten candidates for election to the Board of Directors. The chairman of the meeting rejected the nominations and refused to accept the proxies and ballots that were proffered in support of plaintiffs' candidates upon the ground that the notification permitted by the Comptroller's Regulations and required by the Bank's By-Laws had not been complied with, in that plaintiffs' had not set forth all of the information required.

All of management's nominees were elected at the March meeting. Plaintiffs then moved to set the annual meeting aside upon the grounds, among others, that the Bank's management had improperly refused to accept plaintiffs' nominations and the ballots and proxies that plaintiffs sought to cast for their nominees.

The Court found that management's rejection of the proposed nominees was arbitrary. The Court ruled that at least three of the rejected nominees could have been elected. However, as the Court did not find the facts to clearly suggest how the ballots would have been cast had the opposition nominees been recognized, and that reconstruction of events was impossible, all circumstances considered, the Court found that the election must be set aside and a new one ordered. Accordingly, pursuant to the order of the Court dated September 9, 1974, a new election has been scheduled for Tuesday, November 12, 1974.

As of October 1, 1974, the number of shares of the Bank's common capital stock outstanding and entitled to notice of and to vote at the meeting was 616,173. Only those shareholders of record at the close of business on October 1, 1974 shall be entitled to notice of and to vote at the meeting. In the election of Directors, shareholders are entitled to vote their shares on a cumulative basis. (See "Election of Directors" below).

### ELECTION OF DIRECTORS

The Articles of Association and the By-laws of the Bank provide that the number of Directors to be elected at the shareholders' meeting will be determined by vote of the shareholders. A resolution will be offered at the shareholders' meeting fixing the number of Directors at ten (10).

The persons named below will be nominated for election as Directors to serve until the 1975 annual meeting of the shareholders and until their successors shall have qualified. Other nominations may be made in accordance with Section 1.4 of the By-laws of the Bank and relevant Federal law. It is the intention of the persons named in the Proxy to vote for the resolution establishing the number of Directors at ten (10) and for the election of the following nominees:

<u>Name and Date First Became a Director</u>	<u>Shares Beneficially Owned as of October 1, 1974</u>	<u>Principal Occupation or Employment</u>
David S. Augenblick (1) .....	2,345	Self employed in the general practice of dentistry for more than the past five years.
Harry Cantor, 1974 (1) .....	400	President, Cantor Bros. Glass Corp., retail floor covering, glazing contracting, for more than the past five years.
Morris Chesanow (1) .....	2,100	Self employed in the general practice of medicine for more than the past five years.
John J. Halleron, III, 1974 (1) .....	465	Member, Wrenn & Schmid, Attorneys, for more than the past five years.
Henry Hocker, 1971 (2) .....	8,830	President, Stanley Sand and Gravel Co., Inc., building supplies.
John A. Mennella, 1970 (2) .....	1,300	President and Chairman of the Board of Directors, The First National Bank of East Islip.
Charles J. Thornewell, 1969 (2) .....	4,080	President, Brentwood Holding Corp., real estate investments.
Robert Rumpalik (1) .....	1,550	President, Rumpalik Chevrolet, Inc., retail auto sales, for more than the past five years.

<u>Name and Date First Became a Director</u>	<u>Shares Beneficially Owned as of October 1, 1974</u>	<u>Principal Occupation or Employment</u>
Robert Umbdenstock, 1974 (1) .....	400	President, Griffin-Rutgers Co. Inc., industrial machinery imports and sales, for more than the past five years
Russell J. Wolpert, 1968 (2) .....	14,769	Vice President, The First National Bank of East Islip.

(1) The principal occupation or employment for the past five years is set forth for nominees who have not previously been elected as Directors by vote of the shareholders.

(2) Is a defendant in the stockholders' derivative suit brought by Charles and Martha Wolpert.

Section 2.9 of the Bank's By-laws provides that when any vacancy occurs among the Directors, the remaining members of the Board, in accordance with the laws of the United States, may appoint a director to fill such vacancy at any regular meeting of the Board, or at a special meeting called for that purpose.

Federal law provides in relevant part (12 U.S.C. 61):

"In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give any one candidate as many votes as the number of directors to be elected multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him\*\*\*."

The procedures whereby nominations for election to the Board may be made by any shareholder are set forth in Section 1.4 of the Bank's by-laws, which provides:

"Nominations for election to the Board of Directors may be made by the Board of Directors or by any shareholder of any outstanding class of Capital Stock of the bank entitled to vote for the election of directors. Nominations, other than those made by or on behalf of the existing management of the bank, shall be made in writing and shall be delivered or mailed to the President of the bank and the Comptroller of the Currency, Washington, D. C., not less than fourteen (14) days nor more than fifty (50) days prior to any meeting of shareholders called for the election of directors, provided, however, that if less than twenty one (21) days notice of the meeting is given to shareholders, such nomination shall be mailed or delivered to the President of the bank and to the Comptroller of the Currency not later than the close of business on the seventh (7th) day following the day on which the notice of meeting was mailed. Such notification shall contain the following information to the extent known to the notifying shareholder: (a) the name and address of each proposed nominee; (b) the principal occupation of each nominee; (c) the total number of shares of the capital stock of the bank that will be voted for each proposed nominee; (d) the name and the resident address of the notifying shareholder; and (e) the number of shares of capital stock

of the bank owned by the notifying shareholder. Nominations not made in accordance herewith may, in his discretion, be disregarded by the Chairman of the meeting, and upon his instructions, the vote tellers may disregard all votes cast for each such nominee."

**AMEND ARTICLE THIRD OF THE BANK'S ARTICLES OF ASSOCIATION  
TO PERMIT THE ENACTMENT OF A BY-LAW GRANTING AUTHORITY TO  
THE BOARD OF DIRECTORS TO INCREASE THE MEMBERSHIP OF  
THE BOARD AND TO FILL THE VACANCIES CREATED THEREBY**

Federal law provides in relevant part (12 U.S.C. 74):

"Any vacancy in the board shall be filled through appointment by a majority of the remaining directors then in office, and any director so appointed shall hold his place until the next election."

Interpretive Ruling 7.4305 of the Comptroller of the Currency states:

"If authorized by the bank's articles of association or an amendment thereto, a national bank may properly increase the number of its directors within the limits specified in 12 U.S.C. 71a [which said section states in relevant part that the Board shall be not less than five nor more than twenty-five members] and appoint persons to fill the resulting vacancies between meetings of stockholders. Such authorization to increase the number of directors shall be limited to not more than two where the number of directors last elected by shareholders was fifteen or less and not more than four where the number of directors last elected by shareholders was sixteen or more."

To effect the authority stated in the foregoing Comptroller's Ruling, the Board of Directors proposes the following resolution:

"RESOLVED, that the Bank's Articles of Association be amended by striking out and deleting the provisions of Article Third in its entirety, and in lieu thereof said Article Third shall read as follows:

"The Board of Directors of this Association shall consist of not less than five nor more than twenty-five members, the exact number of Directors within such minimum and maximum limits to be fixed and determined from time to time by resolution of a majority of the full Board of Directors or by resolution of the shareholders at any annual or special meeting thereof. Unless otherwise provided by the laws of the United States, any vacancy in the Board of Directors for any reason, including an increase in the number thereof, may be filled by action of the Board of Directors."

The vote of shareholders owning a majority of the outstanding stock of the Bank is required for approval of the foregoing resolution. If such approval is obtained, the Board of Directors will implement the Articles of Association by enacting a new By-law permitting the Board of Directors to increase the number of directors by not more than two where the number of directors last elected by shareholders was fifteen or less, and by not more than four where the number of directors last elected by shareholders was sixteen or more. The Bank's By-laws, in Section 2.2, presently provided for an increase in the Board of Directors by resolution of a majority thereof so long as such increase does not add more than two members over the number last elected by the shareholders. Such By-law is not effective because of the lack of authority in the Bank's Articles of Association which the proposed amendment is intended to cure.

The Board of Directors recommends that the shareholders approve the foregoing resolution to permit the Bank to have the authority allowed by governing statutes so that the Bank may benefit by the addition of experienced and qualified bankers, industrialists, professionals and other persons to the Board from time to time, when circumstances are deemed favorable by the Board.

### REMUNERATION OF MANAGEMENT

The following table shows the aggregate direct remuneration paid by the Bank to each Director and Officer whose aggregate direct remuneration exceeded \$30,000 and to all Officers and Directors of the Bank as a group.

<u>Name of Individual or Number of Persons in Group</u>	<u>Capacity in Which Remuneration Was Received</u>	<u>Aggregate Direct Remuneration</u>
Jay W. Woods .....	President and Chief Executive Officer	\$ 31,920.00
All 22 Directors and officers as a group .....		\$222,015.99(1)

(1) Includes \$17,010.00 paid to the 10 directors as a group. Excludes \$31,505.25 paid to retired officers Alston A. Wever, Unton J. Bucek and Andrew M. Geis in accordance with their Consulting Agreements with the Bank, approved by the shareholders at the March, 1972 Annual Meeting.

The following table shows the aggregate pension or retirement benefits paid during the year ended December 31, 1973, directly or indirectly, by the Bank to each director and officer whose aggregate direct remuneration exceeded \$30,000:

<u>Name of Individual</u>	<u>Amount Set Aside or Accrued</u>	<u>Estimated Annual Benefits Upon Retirement</u>
Alston A. Wever .....	\$12,881.52	\$12,881.52
Unton J. Bucek .....	10,581.84	10,581.84
Andrew M. Geis .....	8,041.92	8,041.92

### TRANSACTIONS WITH MANAGEMENT

No Director of the Bank has had any transactions with the Bank except in the usual course of business and except for commercial loans made to certain of the Directors and to companies in which a Director had an interest. All such loans were made in arms' length transactions upon terms and conditions not less favorable to the Bank than other loans made contemporaneously to unaffiliated applicants of comparable economic and financial circumstances.

Federal law (12 U.S.C. 93) provides, in relevant part, that directors of a national bank may be held liable if they knowingly permit their bank to engage in certain activities, such as making loans in amounts exceeding the limit set by pertinent federal law. The stockholders' derivative suit seeks, among other things, to hold the individual defendants liable for having made certain loans in amounts which plaintiffs allege are in excess of the Bank's lending limit, and which loans were not paid by the borrowers and were thereafter charged-off by the National Bank Examiners. The answer filed by the defendant-directors denied that such loans exceeded the Bank's lending limits, and denied any personal liability.

## VOTING SECURITIES AND PRINCIPAL HOLDERS THEREOF

As of October 1, 1974, there were outstanding and entitled to vote 616,173 shares of common capital stock, such class of stock being the only class issued and outstanding. Each outstanding share entitles the record holder to one vote on each proposal which will be presented to the meeting, except that shares may be voted cumulatively in the election of directors as described above.

As of October 1, 1974, to the knowledge of management, no person was the beneficial owner of more than ten percent (10%) of the Bank's outstanding common capital stock.

### MISCELLANEOUS

Management will solicit proxies by direct mailing to all shareholders. Management contemplates that various Directors may, on an ad hoc basis, personally solicit shareholders. It is anticipated that the cost of solicitation will not exceed \$2,000 which will be expended for the printing costs of the proxy materials, stationery and postage. No portion of the estimated charge has been billed to the Bank as of the date of this proxy statement. The cost of the solicitation will be borne by the Bank.

At the time of the preparation of this Proxy Statement, the Bank has no notice or information of any matters to be presented by or on behalf of the Bank or its management for action at the meeting other than those listed in this Proxy Statement. If any other matters come before the meeting or any adjournment thereof, it is intended that the Proxies will be voted in respect thereof in accordance with the recommendations of the Bank's management.

Shareholders who cannot attend the meeting in person are urged to sign the enclosed form of Proxy and return it at once in the envelope enclosed for that purpose. Shareholders who execute Proxies retain the right to revoke them at any time before they are voted. Such revocation is effected without prior notice if the shareholder who has given such Proxy attends the meeting and elects to vote in person. A Proxy, when executed, and not so revoked, will be voted in accordance therewith.

By Order of The Board of Directors,

JOHN A. MENNELLA,  
*Chairman of the Board*

East Islip, New York  
October 22, 1974

REGISTERED

Exhibit K

68

NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

of

THE FIRST NATIONAL BANK OF EAST ISLIP

To Be Held March 4, 1975

*To the Shareholders:*

NOTICE IS HEREBY GIVEN, that pursuant to the call of its Directors, the annual meeting of the shareholders of The First National Bank of East Islip will be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York on Tuesday, March 4, 1975 at 1:00 o'clock in the afternoon for the purpose of considering and voting upon the following matters:

1. *Election of Directors.* Fixing the number of Directors at eleven (11) and the election of the eleven (11) persons listed in the Proxy Statement dated February 10, 1975 accompanying this notice of the meeting.
2. Whatever other business may be brought before the meeting or any adjournment thereof.

Only those shareholders of record at the close of business on February 3, 1975 shall be entitled to notice of and to vote at the meeting.

BY ORDER OF THE BOARD OF DIRECTORS.

JOHN A. MENNELLA,  
*Chairman of the Board*

Dated at East Islip, New York  
February 10, 1975

Shareholders who cannot attend the meeting in person are urged to sign the enclosed Proxy and return it in the envelope enclosed for that purpose as promptly as possible. The enclosed Proxy may be revoked prior to its exercise.

## THE FIRST NATIONAL BANK OF EAST ISLIP

### PROXY STATEMENT (Submitted by Management)

#### INTRODUCTORY STATEMENT

The accompanying Proxy is solicited by the management of The First National Bank of East Islip (hereinafter called the "Bank" for use at the Annual Meeting of Shareholders to be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York, on Tuesday, March 4, 1975 at 1:00 o'clock in the afternoon, or at any adjournment thereof. When such proxy is properly executed and returned, the shares it represents will be voted at the meeting in accordance with any instructions noted thereon. In the absence of specific instructions, Proxies received by management will be voted for the election as Directors of those persons set forth below. If any other matters are properly brought before the meeting, Proxies will be voted in accordance with the recommendations of the Bank's management on such matters.

As of February 3, 1975 the number of shares of the Bank's common capital stock outstanding and entitled to notice of and to vote at the meeting was 616,173. Only those shareholders of record at the close of business on February 3, 1975 shall be entitled to notice of and to vote at the meeting. In the election of Directors, shareholders are entitled to vote their shares on a cumulative basis. (See "Election of Directors" below).

#### ELECTION OF DIRECTORS

The Articles of Association and the By-laws of the Bank provide that the number of Directors to be elected at the shareholders' meeting will be determined by vote of the shareholders. A resolution will be offered at the shareholders' meeting fixing the number of Directors at eleven (11).

The persons named below will be nominated for election as Directors to serve until the 1976 annual meeting of the shareholders and until their successors shall have qualified. Other nominations may be made in accordance with Section 1.4 of the By-laws of the Bank (see page 4) and relevant Federal law. It is the intention of the persons named in the Proxy to vote for the resolution establishing the number of Directors at eleven (11) and for the election of the following nominees:

<u>Name and Date First Became a Director</u>	<u>Shares Beneficially Owned as of February 3, 1975</u>	<u>Principal Occupation or Employment</u>
David S. Augenblick, 1974 (1) . . . . .	2,345	Self employed in the general practice of dentistry for more than the past five years.
Carl S. Banno, 1974 . . . . .	565	Attorney.
Wm. J. . . . .	200	<i>President of the Bank of East Islip, New York</i>

<u>Name and Date First Became a Director</u>	<u>Shares Beneficially Owned as of February 3, 1975</u>	<u>Principal Occupation or Employment</u>
John J. Halleron, III, 1974 .....	465	Member, Wrenn & Schmid, Attorneys.
Henry Hocker, 1971 .....	8,830	President, Stanley Sand and Gravel Co., Inc., building supplies.
John A. Mennella, 1970 .....	1,300	President and Chairman of the Board of Direc- tors, The First National Bank of East Islip.
Charles J. Thornewell, 1969 .....	4,080	President, Brentwood Holding Corp., real estate investments.
Robert Rumpalik, 1974 .....	1,550	President, Rumpalik Chevrolet, Inc., retail auto sales.
Robert Umbdenstock, 1974 .....	400	President, Griffin-Rutgers Co. Inc., industrial ma- chinery imports and sales.
Russell J. Wolpert, 1968 .....	14,769	Vice President, The First National Bank of East Islip.

(1) The principal occupation or employment for the past five years is set forth for nominees who have not previously been elected as Directors by vote of the shareholders.

Section 2.9 of the Bank's By-laws provides that when any vacancy occurs among the Directors, the remaining members of the Board, in accordance with the laws of the United States, may appoint a director to fill such vacancy at any regular meeting of the Board, or at a special meeting called for that purpose.

Section 2.2 of the Bank's By-laws provides, in relevant part, that by resolution of a majority of the Board of Directors, the number of Directors may be increased by not more than four over the number of Directors last elected by the shareholders, where such number was sixteen or more, but shall not be increased by more than two where the number of Directors last elected by the shareholders was fifteen or less. All persons elected to the Board of Directors serve until the next annual meeting of shareholders and until the successors shall have qualified.

Federal law provides in relevant part (12 U.S.C. 61):

"In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give any one candidate as many votes as the number of directors to be elected multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him\*\*\*."

The procedures whereby nominations for election to the Board may be made by any shareholder are set forth in Section 1.4 of the Bank's By-laws, which provides:

"Nominations for election to the Board of Directors may be made by the Board of Directors or by any shareholder of any outstanding class of Capital Stock of the bank entitled to vote for the election of directors. Nominations, other than those made by or on behalf of the existing management of the bank, shall be made in writing and shall be delivered or mailed to the President of the bank and the Comptroller of the Currency, Washington, D. C., not less than fourteen (14) days nor more than fifty (50) days prior to any meeting of shareholders called for the election of directors, provided, however, that if less than twenty-one (21) days notice of the meeting is given to shareholders, such nomination shall be mailed or delivered to the President of the bank and to the Comptroller of the Currency not later than the close of business on the seventh (7th) day following the day on which the notice of meeting was mailed. Such notification shall contain the following information to the extent known to the notifying shareholder: (a) the name and address of each proposed nominee; (b) the principal occupation of each nominee; (c) the total number of shares of capital stock of the bank that will be voted for each proposed nominee; (d) the name and the resident address of the notifying shareholder; and (e) the number of shares of capital stock of the bank owned by the notifying shareholder. Nominations not made in accordance herewith may, in his discretion, be disregarded by the Chairman of the meeting, and upon his instructions, the vote tellers may disregard all votes cast for each such nominee."

#### REMUNERATION OF MANAGEMENT

The following table shows the aggregate direct remuneration paid by the Bank during the year ended December 31, 1974 to each Director and Officer, if any, whose aggregate remuneration exceeded \$30,000, and to all Officers and Directors of the Bank as a group.

<u>Name of Individual or Number of Persons in Group</u>	<u>Aggregate Direct Remuneration</u>
All 29 Directors and officers as a group .....	\$218,679,441

#### TRANSACTIONS WITH MANAGEMENT

No Director of the Bank has had any transactions with the Bank except in the usual course of business and except for commercial loans made to certain of the Directors and to companies in which a Director had an interest. All such loans were made in arm's length transactions upon terms and conditions not less favorable to the Bank than other loans made contemporaneously to unaffiliated applicants of comparable economic and financial circumstances.

#### VOTING SECURITIES AND PRINCIPAL HOLDERS THEREOF

As of February 3, 1975, there were outstanding and entitled to vote 616,173 shares of common capital stock, such class of stock being the only class issued and outstanding. Each outstanding share entitles the record holder to one vote on each proposal which will be presented to the meeting, except that shares may be voted cumulatively in the election of directors as described above.

As of February 3, 1975, to the knowledge of management, no person was the beneficial owner of more than ten percent (10%) of the Bank's outstanding common capital stock.

#### MISCELLANEOUS

Management will solicit Proxies by direct mailing to all shareholders. Management contemplates that various Directors may, on an ad hoc basis, personally solicit shareholders. It is anticipated that the cost of solicitation will not exceed \$2,000, which will be expended for the printing costs of the proxy materials, stationery and postage. No portion of the estimated charge has been billed to the Bank as of the date of this proxy statement. The cost of the solicitation will be borne by the Bank.

At the time of the preparation of this Proxy Statement, the Bank has no notice or information of any matters to be presented by or on behalf of the Bank or its management for action at the meeting other than those listed in this Proxy Statement. If any other matters come before the meeting or any adjournment thereof, it is intended that the Proxies will be voted in respect thereof in accordance with the recommendations of the Bank's management.

Shareholders who cannot attend the meeting in person are urged to sign the enclosed form of Proxy and return it at once in the envelope enclosed for that purpose. Shareholders who execute Proxies retain the right to revoke them at any time before they are voted. Such revocation is effected without prior notice if the shareholder who has given such Proxy attends the meeting and elects to vote in person. A Proxy, when executed, and not so revoked, will be voted in accordance therewith.

BY ORDER OF THE BOARD OF DIRECTORS,

JOHN A. MENNELLA,  
*Chairman of the Board*

East Islip, New York  
February 10, 1975

- 
1. Fixing the number of directors to be elected at eleven (11), and the election of the eleven (11) persons listed in the Proxy Statement dated February 10, 1975.

FOR

WITHHOLD

2. With respect to whatever other business may be brought before the meeting or any adjournments thereof. Management at present knows of no other business to be brought before the meeting.

This Proxy confers authority to vote **FOR** proposition 1 listed above unless **WITHHOLD** is indicated. If any other business presented at said meeting or any adjournments thereof, this Proxy shall be voted in accordance with the recommendations of the management.

The Board of Directors recommends a vote **FOR** proposition 1.

ated:

.....  
(Signature of Shareholder)

.....  
(Signature of Shareholder)

.....  
Number of Shares

When signing as attorney, executor, administrator, trustee or guardian, please give full title. If there is more than one trustee, all should sign. All joint owners should sign.

PLEASE FILL IN THE NUMBER OF SHARES HELD, SIGN AND DATE THIS SIDE, AND RETURN IMMEDIATELY.  
This Proxy is solicited on behalf of management and may be revoked prior to its exercise.

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**PROXY**  
**Submitted by The First National Bank of East Islip**  
**East Islip, New York**

**This Proxy Is Solicited on Behalf of Management**

The undersigned shareholder of The First National Bank of East Islip hereby constitutes and appoints EVERETT GRIFFIN and CHARLES J. THORNEWELL (no officer or employee of the Bank may be named as proxy), and each of them (with full power to act alone), true and lawful attorneys, agents and proxies, with power of substitution to each, to attend the Annual Meeting of Shareholders of said Bank to be held at St. Mary's R.C. Parish Hall, 122 West Main Street, East Islip, New York, on Tuesday, March 4, 1975 at 1:00 o'clock P.M., or at any adjournments thereof, and thereat to vote all the shares of common capital stock of said Bank that the undersigned shall be entitled to vote, with all the powers the undersigned would possess if personally present, upon the election of directors and whatever business which may be brought before said meeting or at any adjournment thereof. Without limiting the general authorization hereby given, said attorneys are instructed to vote as follows:

(CONTINUED AND TO BE SIGNED  
ON REVERSE SIDE)

# NOTICE OF ANNUAL MEETING OF SHAREHOLDERS

of

## THE FIRST NATIONAL BANK OF EAST ISLIP

To Be Held March 2, 1976

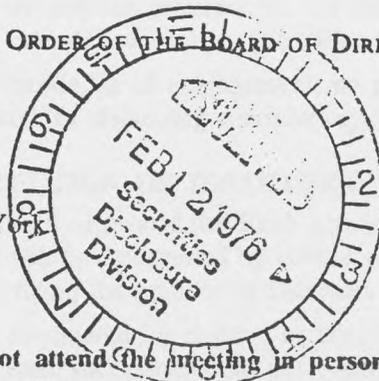
*To the Shareholders:*

NOTICE IS HEREBY GIVEN, that pursuant to the call of its Directors, the annual meeting of the shareholders of the First National Bank of East Islip will be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York on Tuesday, March 2, 1976 at 1:00 o'clock in the afternoon for the purpose of considering and voting upon the following matters:

1. *Election of Directors.* Fixing the number of Directors at nine (9) and the election of the nine (9) persons listed in the Proxy Statement dated February 9, 1976 accompanying this notice of the meeting.
2. Amendment of the Articles of Association; amending Article Eighth of the Bank's Articles of Association to provide for future amendments by a vote of a majority of the shares entitled to vote, except as otherwise provided by law.
3. Whatever other business may be brought before the meeting or any adjournment thereof.

Only those shareholders of record at the close of business on February 2, 1976 shall be entitled to notice of and to vote at the meeting.

BY ORDER OF THE BOARD OF DIRECTORS,



JOHN A. MENNELLA,  
*Chairman of the Board*

Dated at East Islip, New York  
February 9, 1976

Shareholders who cannot attend the meeting in person are urged to sign the enclosed Proxy and return it in the envelope enclosed for that purpose as promptly as possible. The enclosed Proxy may be revoked prior to its exercise.

# THE FIRST NATIONAL BANK OF EAST ISLIP

## PROXY STATEMENT (Submitted by Management)

### INTRODUCTORY STATEMENT

The accompanying Proxy is solicited by the management of The First National Bank of East Islip (hereinafter called the "Bank") for use at the Annual Meeting of Shareholders to be held at St. Mary's R.C. Parish Hall located at 122 West Main Street, East Islip, New York, on Tuesday, March 2, 1976 at 1:00 o'clock in the afternoon, or at any adjournment thereof. When such proxy is properly executed and returned, the shares it represents will be voted at the meeting in accordance with any instructions noted thereon. In the absence of specific instructions, Proxies received by management will be voted for the election as Directors of those persons set forth below. If any other matters are properly brought before the meeting, Proxies will be voted in accordance with the recommendations of the Bank's management on such matters.

### VOTING SECURITIES AND PRINCIPAL HOLDERS THEREOF

As of February 2, 1976 the number of shares of the Bank's common capital stock outstanding and entitled to notice of meeting and to vote at the meeting was 616,173. Only those shareholders of record at the close of business on February 2, 1976 shall be entitled to notice of meeting and to vote at the meeting. Each outstanding share entitles the record holder to one vote on each proposal which will be presented to the meeting, except in the election of directors. In the election of directors, shareholders are entitled to vote their shares on a cumulative basis. (See "Election of Directors" below).

As of February 2, 1976, to the knowledge of management, no person was the beneficial owner of more than ten percent (10%) of the Bank's outstanding common capital stock.

### ELECTION OF DIRECTORS

The Articles of Association and the By-Laws of the Bank provide that the number of Directors to be elected at the shareholders' meeting will be determined by vote of the shareholders. A resolution will be offered at the shareholders' meeting fixing the number of Directors at nine (9).

The persons named below will be nominated for election as Directors to serve until the 1977 annual meeting of the shareholders and until their successors shall have qualified. Other nominations may be made in accordance with Section 1.4 of the By-Laws of the Bank and relevant Federal law. It is the intention of the persons named in the Proxy to vote for the resolution establishing the number of Directors at nine (9) and for the election of the following nominees:

<u>First Became a Director</u>	<u>Shares Beneficially Owned as of February 2, 1976</u>	<u>Principal Occupation or Employment</u>
David S. Augenblick, 1974 .....	2,345	Self employed in the general practice of dentistry.
Harry Cantor, 1974 .....	400	President, Cantor Bros. Glass Corp., retail floor covering, glazing contracting.

<u>First Became a Director</u>	<u>Shares Beneficially Owned as of February 2, 1976</u>	<u>Principal Occupation or Employment</u>
Richard J. Gray, 1975(1) .....	400	Executive Vice-President of the First National Bank of East Islip, bank officer for more than the past five years.
John J. Halleron, III, 1974 .....	465	Member, Wrenn & Schmid, Attorneys.
Henry Hocker, 1971 .....	10,070	President, Stanley Sand and Gravel Co., Inc., building supplies.
John A. Mennella, 1970 .....	1,678	President and Chairman of the Board of Directors, The First National Bank of East Islip.
Charles J. Thornewell, 1969 .....	4,085	President, Brentwood Holding Corp., real estate investments.
Robert Rumpalik, 1974 .....	1,550	President, Rumpalik Chevrolet, Inc., retail auto sales.
Russell J. Wolpert, 1968 .....	18,356	Vice President, The First National Bank of East Islip.

(1) The principal occupation or employment for the past five years is set forth for nominees who have not previously been elected as Directors by vote of the shareholders.

Section 2.9 of the Bank's By-Laws provides that when any vacancy occurs among the Directors, the remaining members of the Board, in accordance with the laws of the United States, may appoint a director to fill such vacancy at any regular meeting of the Board, or at a special meeting called for that purpose.

Section 2.2 of the Bank's By-Laws provides, in relevant part, that by resolution of a majority of the Board of Directors, the number of Directors may be increased by not more than four over the number of Directors last elected by the shareholders, where such number was sixteen or more, but shall not be increased by more than two where the number of Directors last elected by the shareholders was fifteen or less. All persons elected to the Board of Directors serve until the next annual meeting of shareholders and until the successors shall have qualified.

Federal law provides in relevant part (12 U.S.C. 61):

"In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give any one candidate as many votes as the number of directors to be elected multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him\*\*\*."

The procedures whereby nominations for election to the Board may be made by any shareholder are set forth in Section 1.4 of the Bank's By-Laws, which provides:

"Nominations for election to the Board of Directors may be made by the Board of Directors or by any shareholder of any outstanding class of Capital Stock of the bank entitled to vote for the election of Directors. Nominations, other than those made by or on behalf of the existing management of the bank, shall be made in writing and shall be delivered or mailed to the President of the bank and the Comptroller of the Currency, Washington, D. C., not less than fourteen (14) days nor more than fifty (50) days prior to any meeting of shareholders called for the election of directors, provided, however, that if less than twenty-one (21) days notice of the meeting is given to shareholders, such nomination shall be mailed or delivered to the President of the bank and to the Comptroller of the Currency not later than the close of business on the seventh (7) day following the day on which the notice of meeting was mailed. Such notification shall contain the following information to the extent known to the notifying shareholder: (a) the name and address of each proposed nominee; (b) the principal occupation of each nominee; (c) the total number of shares of capital stock of the bank that will be voted for each proposed nominee; (d) the name and the resident address of the notifying shareholder; and (e) the number of shares of capital stock of the bank owned by the notifying shareholder. Nominations not made in accordance herewith may, in his discretion, be disregarded by the Chairman of the meeting, and upon his instructions, the vote tellers may disregard all votes cast for each such nominee."

#### REMUNERATION OF MANAGEMENT

The following table shows the aggregate direct remuneration paid by the Bank during the year ended December 31, 1975 to each Officer and Director, if any, whose aggregate remuneration exceeded \$40,000, and to all Officers and Directors of the Bank as a group.

(A) Name of individuals or number of persons in group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration	(D) Amount set aside for Pensions during Bank's last fiscal year	(E) Estimated annual pension benefits upon retirement
19	Officers and Directors as a group	\$201,419.52	\$7,458.76	\$58,425.00

#### TRANSACTIONS WITH MANAGEMENT

No Director of the Bank has had any transactions with the Bank except in the usual course of business and except for commercial loans made to certain of the Directors and to companies in which a Director had an interest. All such loans were made in arm's length transactions upon terms and conditions not less favorable to the Bank than other loans made contemporaneously to unaffiliated applicants of comparable economic and financial circumstances.

#### AMENDMENT OF ARTICLE EIGHTH OF THE ARTICLES OF ASSOCIATION

The Board of Directors recommends that the stockholders amend Article Eighth of the Bank's Articles of Association to provide for future amendments by a vote of a majority of the shares outstanding entitled to vote, except as otherwise provided by law.

Article Eighth of the Bank's Articles of Association provides, in relevant part:

"These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the shareholders owning at least two-thirds of the stock of this Association, subject to the provisions of the banking laws of the United States . . ."

The national banking laws are set forth in Title 12 of the United States Code. Section 21a thereunder provides, in relevant part:

"Except as otherwise specifically provided by law, or by the articles of association of the particular national banking association, the articles of association . . . may be amended with respect to any lawful matter, and any action requiring the approval of the stockholders of such association may be had by the approving vote of the holders of a majority of the voting shares of the stock association . . ." (Emphasis supplied.)

It will be seen from the foregoing that, except as provided by law or as required by the Bank's Articles, the vote of a majority of the shares outstanding is sufficient to amend the Articles. Management proposes to amend Article Eighth by deleting the above-quoted text thereof and in lieu thereof providing as follows:

These Articles of Association may be amended at any regular or special meeting of the shareholders by the affirmative vote of the holders of a majority of the stock of this Association, unless the vote of the holders of a greater amount of stock is required by law, and in that case by the vote of the holders of such greater amount.

Management believes that such change in Article Eighth will make future amendments to the Articles of Association amenable to a simple majority of the shareholders (except as otherwise provided by law), and thereby diminish the potential veto power now held by the holders of but one-third of the outstanding shares. National banking law at present requires the affirmative vote of two-thirds of the shareholders in a number of instances, such as an amendment to create or eliminate the shareholders' pre-emptive rights to purchase additional shares of stock (Interpretive Rulings, Section 7.6050).

A two-thirds vote of the outstanding shares of the Bank is required to approve and enact this amendment.

#### MISCELLANEOUS

Management will solicit Proxies by direct mailing to all shareholders. Management contemplates that various Directors may, on an ad hoc basis, personally solicit shareholders. It is estimated that the cost of solicitation will not exceed \$2,500, which will be expended for the printing costs of the proxy materials, stationery and postage. No portion of the estimated charge has been billed to the Bank as of the date of this proxy statement. The cost of the solicitation will be borne by the Bank.

At the time of the preparation of this Proxy Statement, the Bank has no notice or information of any matters to be presented by or on behalf of the Bank or its management for action at the meeting

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other than those listed in this Proxy Statement. If any other matters come before the meeting or any adjournment thereof, it is intended that the Proxies will be voted in respect thereof in accordance with the recommendations of the Bank's management.

Shareholders who cannot attend the meeting in person are urged to sign the enclosed form of Proxy and return it at once in the envelope enclosed for that purpose. Shareholders who execute Proxies retain the right to revoke them at any time before they are voted. Such revocation is effected without prior notice if the shareholder who has given such Proxy attends the meeting and elects to vote in person. A Proxy, when executed, and not so revoked, will be voted in accordance therewith.

BY ORDER OF THE BOARD OF DIRECTORS,

JOHN A. MENNELLA,  
*Chairman of the Board*

East Islip, New York  
February 9, 1976

1. Fixing the number of directors to be elected at nine (9), and the election of the nine (9) persons listed in the Proxy Statement dated February 9th, 1976.  
**FOR**       **WITHHOLD**
2. Amendment of the Articles of Association; amending Article Eighth of the Bank's Articles of Association to provide for future amendments by a vote of a majority of the shares entitled to vote, except as otherwise provided by law.  
**FOR**       **AGAINST**
3. With respect to whatever other business may be brought before the meeting or any adjournments thereof. Management at present knows of no other business to be brought before the meeting.

This Proxy confers authority to vote **FOR** propositions 1 and 2 listed above unless **WITHHOLD** or **AGAINST**, respectively, is indicated. If any other business is presented at said meeting or any adjournments thereof, this Proxy shall be voted in accordance with the recommendations of Bank's management.

The Board of Directors recommends a vote **FOR** propositions 1 and 2.

Dated: ..... 1976

.....  
 (Signature of Shareholder)

.....  
 Number of Shares

.....  
 (Signature of Shareholder)

When signing as attorney, executor, administrator, trustee or guardian, please give full title. If there is more than one trustee, all should sign. All joint owners should sign.

**PLEASE FILL IN THE NUMBER OF SHARES HELD, SIGN AND DATE THIS SIDE, AND RETURN IMMEDIATELY.**  
 This Proxy is solicited on behalf of management and may be revoked prior to its exercise.

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**PROXY Submitted by The First National Bank of East Islip  
East Islip, New York**

**This Proxy is Solicited on Behalf of Management**

The undersigned shareholder of the First National Bank of East Islip hereby constitutes and appoints HARRY CANTOR and ROBERT RUMPLIK (no officer or employee of the Bank may be named as proxy), and each of them (with full power to act alone), true and lawful attorneys, agents and proxies, with power of substitution to each, to attend the Annual Meeting of shareholders of said Bank to be held at St. Mary's R.C. Parish Hall, 122 West Main Street, East Islip, New York, on Tuesday, March 2, 1976 at 1:00 o'clock P.M., or at any adjournments thereof, and thereat to vote all the shares of common capital stock of said Bank that the undersigned shall be entitled to vote, as of the record date February 2, 1976 with all the powers the undersigned possess if personally present, upon the election of directors and whatever business which may be brought before said meeting or at any adjournment thereof. Without limiting the general authorization hereby given, said attorneys are instructed to vote as follows:

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(CONTINUED AND TO BE SIGNED  
ON REVERSE SIDE)

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NEWSDAY - MARCH 2, 1974

# Suit Claims Bankers Wrote Own Tickets

*The directors, officers and employes of your bank are not detracted however from a goal of being a profitable, aggressive, community oriented bank.*

The First National Bank of East Islip,  
1973 Annual Report

By Susan Soper

Two stockholders of the First National Bank of East Islip have filed suit against the bank's board of directors charging that it has been misleading and defrauding stockholders by using bank money illegally and without good judgment for personal gain and speculation.

The 35-page complaint was filed Tuesday in U.S. District Court in Brooklyn by Charles H. and Martha Wolpert through their Bay Shore law firm, Donner, Fagelson, Harkon & Berka. A similar suit filed by five other stockholders in September is still pending in the federal court, according to Aaron Donner, one of the law partners.

A Feb. 11 proxy statement to the bank's 1300 stockholders states that, "Some of the bank's officers and directors, individually or through firms in which they are involved, have had borrowing transactions in the ordinary course of business with the bank." The statement does not mention, however, some officers who borrowed more than \$30,000, which according to federal law, must be reported, Donner said.

The Wolperts' attorneys have sought an injunction to delay the election of officers at the annual meeting Tuesday so that a new proxy statement could be issued. But after a four-hour

hearing in Brooklyn yesterday, U.S. District Judge Edward R. Neather denied the request.

The directors and their professions, as listed in the complaint, are John A. Mennella, a real estate broker and Democratic leader of the 1989s who was elected chairman of the board last year; real estate broker Charles J. Thornwell; retired bankers Union J. Bueck, Andrew M. Geis and Alton A. Weyer; bank counsel Melvin R. Cannon, a Democratic candidate for the county legislature in 1969; insurance broker Everett Griek; contractor Henry Hocker; bank vice president Russell J. Wolpert (cousin of the plaintiff, Charles Wolpert); and Jay W. Wood, the bank's president.

Among the 35 allegations, the suit charges that at least one or all of the directors:

- Obtained "excessive" loans at a preferred rate of interest for their companies or their personal use.
- Received fees and commissions as consultants or appraisers for loans granted—a violation, Donner said, of federal law, punishable by no more than \$5,000 or one year in jail, or both.
- Ignored overdrafts incurred by Crest Affiliates Inc., a modular home building firm, and treated the overdrafts as building loans.
- Granted loans in violation of U.S. law in excess of 10 per cent of the amount of the bank's capital stock.
- Adopted a group life insurance policy—for which the bank paid premiums—increasing benefits to \$100,000 (At least three of the directors are over 65 years old.).

The suit asks that the directors be removed from office and compelled to account for their official conduct.

L. I. PRESS MAR-2-74

# BANK'S STOCKHOLDERS SUE

\* \* \* \* \*

## Seek ouster of board of directors

By KARL GROSSMAN

A dissident group of stockholders of the First National Bank of East Islip has filed a suit in Brooklyn Federal Court alleging a wide variety of mismanagement by the bank's board of directors.

The allegations are contained in a 247-page, 57-page legal brief claiming 37 "causes of action."

The dissident group is calling for the court to remove the directors and to compel them to account for the irregularities with which they are charged.

Donald Rice, executive vice president of the bank, declined comment yesterday explaining that the matter is "before the court."

Bank directors and officials were charged in the suit with using their bank positions to influence granting of loans, some at reduced interest rates, to certain clients; accepting large overdrafts and positions to influence granting of loans, exceeding the bank's legal limits; altering bank records; conflicts of interest in handling some accounts; failure to act on a report citing "24 unnecessary jobs" at the bank; and approving year-end bonuses when the bank suffered net losses in 1972.

The dissident stockholders are being represented by the Bay Shore law firm Donner, Fagelson, Hariton and Berka. The attorneys declined comment on the suit.

Part III

Comptroller of the Currency  
Administrator of National Banks

Washington, D. C. 20219

Deputy Comptroller

January 27, 1976

TO ALL REGIONAL ADMINISTRATORS AND NATIONAL BANK EXAMINERS

SUBJECT: Special Projects/Bank Review Program.

The reorganization of the OCC contemplates primary authority and responsibility for the supervision of banks at the regional level through our examiners and Regional Administrators. This Office must, however, retain some overview responsibility of banks, especially in the capacity of lending technical and specialized assistance to the regions. A revised procedure has been devised which allows the Comptroller to be informed and to track movements within the national banking system at all levels.

The details of the new program are contained in the attached package. The Program is essentially designed to provide improved communication and coordination between the National Bank Examiners, the Regional Offices and the Washington Office and, by so doing, to enhance the ability of the OCC as a whole to effectively discharge its supervisory responsibilities.

The Program provides for timely notification when a bank is being assigned to the program or when significant subsequent events change the status of a bank previously assigned. The Program also provides the Washington staff with the opportunity to directly assist the regions in bank supervision when required.

The procedures involved in the program are designed to give this Office a standardization to insure an informed posture, but are not intended to be inflexible. It is recognized that circumstances will on occasion dictate that exceptions be made to the policies and procedures set forth in the attached material. However, when such circumstances warrant a departure from established procedure, we should be promptly advised.

A revised Examiner's memo, which is to be prepared at each examination, is also enclosed. The analysis sheet, which is an integral part of the memo, should be completed in full at each future examination of a bank assigned to the program. It is recognized, however, that certain statistical data called for by the

analysis sheet will not be readily available from prior examination reports. Therefore, examiners may omit the historical information on certain items if it is not easily obtainable.

The task of properly controlling the problems faced by the National Banking System is obviously one of the most important we have. We are hopeful that this program can be successfully integrated into and compliment other planned changes under our reorganization effort. Success in this regard will of course continue to depend on your full cooperation, support and advice.

*H. Joe Selby*  
H. Joe Selby  
First Deputy Comptroller  
for operations

## SPECIAL PROJECTS/BANK REVIEW PROGRAM

### PARTICIPANTS:

Regional Participants will include the examiners who conducted the last examination of banks subject to the program as well as the Regional Administrator, his Deputies, or other designees.

In Washington, responsibility for banks in the program will be divided into two groups, each with a Director and a professional staff of National Bank Examiners.

One group will be known as Special Projects and will have responsibility for all banks in the program with total resources in excess of \$100 million. Overall supervisory responsibility for the Special Projects group will be vested in H. Joe Selby, First Deputy Comptroller for Operations, with primary Administration delegated to Paul M. Homan, Associate Deputy Comptroller.

Bank Review, the other group, will handle those banks assigned to the program which have total resources below \$100 million. Charles B. Hall, Deputy Comptroller for Banking Operations, will have overall supervisory responsibility for this group, with primary Administration delegated to Royal B. Dunham, Jr., Director.

Other Washington Office staff participating in the program on a full or part-time basis include:

1. The Enforcement and Compliance Group.
2. All Groups of Bank Operations.
3. National Bank Surveillance System.
4. Securities Disclosure Group.

CRITERION

A. Banks designated by the Regional Administrator in the exercise of their best judgement as to quality of assets, adequacy of earnings, ability and depth of management, capital adequacy, and other factors which militate for inclusion on the program. All banks having criticized assets (100% substandard, 50% OLEM, 50% Doubtful) aggregating 65% of adjusted capital funds will be reviewed by the Regional Administrator for possible inclusion, as well as those with separate and distinct deficiencies relating to other than asset quality.

B. All banks with assets exceeding \$100 million and having criticized assets (as defined above) aggregating 65% of adjusted capital funds, and not designated by the Regions under A, will be reviewed by Special Projects for possible inclusion in the program.

C. Using the same criteria or additional criteria as may be developed, Banking Operations, Special Projects, and/or the NBSS Group may designate banks for the program at their discretion.

D. All banks operating under a formal written agreement or a Cease and Desist Order.

REMOVAL OF A BANK FROM THE PROGRAM

When a bank no longer meets the criteria as described above, and/or in the opinion of the Regional Administrator the bank no longer requires close supervision under the program, the Regional Administrator should submit a memorandum to the appropriate Group recommending removal of the bank from the program. The decision on such recommendations will be made by the appropriate

Group subject to a review by the First Deputy Comptroller for Operations and/or the Deputy Comptroller for Banking Operations.

COMMUNICATIONS:

Written:

All reports of examination of banks in this program will be marked with the word "PRIORITY" (rubber stamps should be ordered by the Regional Offices). In addition, letters, memoranda or other data pertaining to problems or the correction of problems will also be so marked. Such reports and correspondence should receive expeditious processing and be forwarded to the attention of Paul M. Homan, Associate Deputy Comptroller, Special Projects, or Royal B. Dunham, Jr., Director, Bank Review, as appropriate.

Other correspondence relative to banks in the program should be directed to the appropriate individual, Division or Group in the Washington Office through use of the attention line.

Telephone:

Each Regional Office should be equipped with speaker telephone equipment. Similar equipment will be available to the Washington groups. Conferences will be arranged on a case-by-case basis at the initiation of either Regional Administrators, their designees or Washington Office staff participating in the program.

PROCEDURES: NATIONAL BANK EXAMINERS

The Examiner-in-charge of each examination will communicate with the regional or Washington office under the following circumstances and in the following manner:

1. By telephone to the regional office, during an examination as soon as it becomes apparent that there are significant adverse changes in a bank in the program or there is evidence that a bank should be placed in the program.

2. In writing, to be forwarded to his Regional Administrator as per Example "A", no later than the time of concluding his examination. The written communication will include basic statistical information; a concise narrative of the bank's significant problems, to include causes and a summary of pertinent subsequent events; and specific recommendations for appropriate corrective action. The Regional Administrator will mark the examiner's memorandum with the "Priority" stamp and add his opinions to those of the examiner. The examiner's memo should be forwarded within two business days after receipt in the Regional office. Completion of the report of examination will not delay the forwarding of the examiner's memorandum.

3. When required by the Regional Administrator, the examiner will participate in group telephone conferences between the regional offices and the Washington office concerning banks on the program.

REGIONAL ADMINISTRATORS:

1. New banks added to the Program are to be reported to the Washington office by the Regional Administrator as soon as possible.

2. The regional office will continue to review reports of examination and rate the banks. If by the review and rating, they determine that a bank should have been placed in the Program by the examiner but was not, they

will provide the necessary telephone and written communication as in Example "A".

3. The Regional Administrator, or his designee, and the Examiner-in-charge must meet with the Board of Directors or a Committee thereof, in conjunction with each examination of a bank in the program.

4. For banks in the program with assets exceeding \$50 million, a copy of the report of examination will be sent to the bank and the appropriate Washington group at least ten days prior to the Board meeting.

5. A letter written by the Regional Administrator should be forwarded to the bank's Board of Directors, together with the transmittal of the report. At a minimum this letter should include:

- (a) A request that each Board member review the report;
- (b) A summary of the major deficiencies disclosed in the report in an objective method;
- (c) A request that the Board prepare a specific plan of corrective action designed to deal with and correct the deficiencies of the bank as reflected in the examination report. The Board should be prepared to discuss this plan at the meeting;
- (d) The letter should include a paragraph that indicates:  
"This letter is supplemental to and part of the examination report. Its purpose is to highlight matters in the examination report requiring the attention of the Board of Directors. The letter and its contents should be

treated with the same degree of confidentiality as the examination report."

As an alternative, the Regional Administrator may wish to fully incorporate into the examination report his communication to the Board by commenting on Page 2 under the heading, Regional Administrator's Comments. If this alternative is used, the transmittal letter should instruct the Board to refer to page 2 of the report of examination for the Regional Administrator's comments.

6. Prior to meetings with the Board of Directors, the Regional Administrator will inform the appropriate Washington group of the date and objectives of the Board meetings. When appropriate, a staff member of the group and a representative of the Enforcement and Compliance group will attend such meetings. Participation in the actual Board meeting by the Washington staff is desirable to an extent that is mutually agreeable to the Regional Administrator and the Washington office.

7. The Board or Committee thereof so authorized should present their plan for corrective action at the meeting. If these plans are not considered adequate by the Regional Administrator, his views should be so stated to the Board or committee members and satisfactory amendments adopted by resolution. If satisfactory plans are not adopted, the Regional Administrator should advise the group that further administrative action by the Comptroller's Office may be required.

8. The Regional Administrator should convey in writing the results of the Board meetings.

9. The Regional Administrator should require frequent reports by the Board as to the progress concerning any agreed corrective action. Each

bank required to send a progress report should be asked to forward the original to the Regional Administrator with a copy to the Comptroller of the Currency, Attention: Royal B. Dunham, Jr. or Paul M. Homan, as appropriate.

10. Regional offices should forward copies of internal analyses of progress reports to the appropriate Washington group.

11. Regional Administrators will continue to schedule frequent examinations and visitations of banks assigned to the program as they deem necessary. However, an examination projection of such banks will be completed by each region on a monthly basis. The form (Attachment "B") will be reproduced in the region as needed and forwarded to the attention of the appropriate Washington Group in sufficient time to arrive no later than five working days prior to the beginning of the month projected. Any amendments to the projection after it has been submitted, will be conveyed to the group via telephone communication.

For your information, the names of the Washington staff members assigned to the program are as follows:

Bank Review - Banks with Assets less than \$100 Million

Director - Royal B. Dunham, Jr.

Professional Staff

- \* - National Bank Examiner
- \* - National Bank Examiner
- \* - National Bank Examiner

Special Projects - Banks with Assets \$100 Million or more

Director - Paul M. Homan

Professional Staff

- \* - National Bank Examiner

\*names deleted

EXAMINER'S MEMOSummary of Problems

Summarize your views of the bank's problems, taking into account all significant factors. Specific problems should be identified. Your recommendation as to possible solutions to the significant problems should be included in the narrative.

Subsequent Events

Summarize any pertinent changes since the date of your examination. This would include the resignation of key officers or directors; declines in deposits; increases in loans or commitments to lend; proposed mergers, etc.

Recommended Corrective Actions

Your positive, open views are needed in this section. You can be the most knowledgeable as to the causes of the bank's problems. Please state your views without reservation.

s/ National Bank Examiner

Regional Administrator's Opinion

Statements concurring or differing with those of the examiner should be made in this section.

s/ Regional Administrator

\_\_\_\_\_  
(MONTH)

PRIORITY BANKS  
EXAMINATION PROJECTION

(Include all such banks under examination)

Name of Bank & Location	Projected Starting Date (if under examination indicate starting date.)	Projected Completion Date	Examiner-in- Charge	Type Examination Regular Examination Visitation Bobtail Examination

\_\_\_\_\_  
REGIONAL ADMINISTRATOR



Comptroller of the Currency  
Administrator of National Banks

Washington, D. C. 20219

### SPECIAL PROJECTS/BANK REVIEW PROGRAM ANALYSIS SHEET

NAME OF BANK \_\_\_\_\_ REGION \_\_\_\_\_ CHARTER # \_\_\_\_\_  
CITY \_\_\_\_\_ STATE \_\_\_\_\_  
HOLDING COMPANY AFFILIATION \_\_\_\_\_

(Show prior three and current examinations)  
(Omit 000's)

1. Rating .....				
2. Date of Examination .....				
3. Examiner-in-Charge .....				
4. Total Resources .....				
5. Total Deposits .....				
6. Percent of Time Deposits to Total Deposits .....				
7. Gross Capital Funds (GCF) .....				
8. Adjusted Capital Funds (ACF) .....				
9. Deposits x GCF .....				
10. Total Assets x GCF .....				
11. Loans x GCF .....				
12. Percent of Loans to Deposits .....				
13. Substandard .....				
14. Doubtful .....				
15. Loss .....				
16. Total Classified Assets .....				
17. Percent of Classified Assets to GCF .....				
18. OLFM .....				
19. Percent of OLEM to GCF .....				
20. * SP Ratio .....				
21. Valuation Portion (Reserve for Loan Losses)—Amount .....				
Percent of Total Loans .....				
22. Loans not supported by current Credit Information—Amount .....				
Percent of Total Loans .....				
23. Overdue Loans—Amount .....				
Percent of Total Loans .....				
24. Non-Accrual Loans—Amount .....				
Percent of Total Loans .....				
25. Bond Depreciation—Amount .....				
Percent of ACF .....				
26. Percent of Direct or Indirect Investment in F/A to ACF .....				
27. Percent of Net Liquid Assets to Net Deposits .....				

OVER

CC-9060-03

# ANALYSIS SHEET

28. Loans and Overdrafts .....				
29. Direct Lease Financing .....				
30. Acceptances .....				
31. Stand-by Letters of Credit .....				
32. Irrevocable commitments to lend .....				
33. Advances to Affiliates .....				
34. TOTAL (Lines 28 through 33) .....				
35. Line 34 x GCF .....				
36. Large (\$100M or more) Time CDs .....				
37. Due to Banks—Time .....				
38. Borrowings— Short Term ** .....				
39. TOTAL (Lines 36 through 38) .....				
40. Cash and Due from Banks (Demand and Time) .....				
41. Money Market Assets *** .....				
42. Market Value Unpledged Bonds .....				
43. TOTAL (Lines 40 through 42) .....				
44. Net Volatile Liabilities (Line 39 minus Line 43) .....				
Percent of Total Resources .....				
	197__	197__	197__	197__
45. Operating Income .....				
46. Operating Expense .....				
47. Income before Income Taxes & Securities Gains/Losses .....				
48. Net Income .....				
49. Add Provision for Loan Losses .....				
50. Add Recoveries credited to Reserves .....				
51. Less: Losses charged to Reserves .....				
52. Adjusted Net Income .....				
53. Less: Dividends .....				
54. Retained Profits .....				

- \* SP Ratio: The adjusted sum of substandard, 50% of Doubtful and 50% of OLEM as a percentage of Adjusted Capital Funds.
- \*\* Borrowings—Short Term—Include all forms of money market obligations, except for mortgage debt and capital notes and debentures.
- \*\*\* Money Market Assets—Include Federal Funds sold and securities purchased under Resale Agreements.
- \*\*\*\* Show last three full calendar years plus interim figures through the month-end prior to the examination date.