

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

_____ )	
In the Matter of )	
Tracy L. SMITH, individually, )	
and as an institution-affiliated )	ORDER OF PROHIBITION
party of )	FROM FURTHER
BANK OF CASTILE )	PARTICIPATION
CASTILE, NEW YORK )	
(Insured State Nonmember Bank) )	FDIC-10-733e
_____ )	

Tracy L. Smith ("Respondent") has been advised of the right to receive a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION ("NOTICE") issued by the Federal Deposit Insurance Corporation ("FDIC") detailing the violations of law and/or regulations, unsafe or unsound banking practices, and/or breaches of fiduciary duty for which an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("ORDER") may issue, and has been further advised of the right to a hearing on the alleged charges under section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308.

Having waived those rights, Respondent entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("CONSENT AGREEMENT")

with a representative of the Legal Division of the FDIC whereby, solely for the purpose of this proceeding and without admitting or denying any violations of law and/or regulations, unsafe or unsound banking practices and/or breaches of fiduciary duty, Respondent consented to the issuance of an ORDER by the FDIC.

The FDIC considered the matter and determined it had reason to believe that:

(a) Respondent has engaged or participated in violations of law and/or regulations, unsafe or unsound banking practices, and/or breaches of fiduciary duty as an institution-affiliated party of Bank of Castile, Castile, New York ("Bank");

(b) By reason of such violations, practices, and/or breaches of fiduciary duty, the Bank has suffered financial loss or other damage, the interests of the Bank's depositors have been or could be prejudiced, and/or Respondent received financial gain or other benefit; and

(c) Such violations, practices, and/or breaches of fiduciary duty involve personal dishonesty on the part of Respondent or demonstrate Respondent's willful and/or continuing disregard for the safety or soundness of the Bank.

The FDIC further determined that such violations, practices, and/or breaches of fiduciary duty demonstrate Respondent's unfitness to serve as a director, officer, person

participating in the conduct of the affairs or as an institution-affiliated party of any insured depository institution, or any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A).

The FDIC, therefore, accepts the CONSENT AGREEMENT and issues the following:

ORDER OF PROHIBITION FROM FURTHER PARTICIPATION

1. Tracy L. Smith is hereby, without the prior written approval of the FDIC and the appropriate Federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D), prohibited from:

(a) participating in any manner in the conduct of the affairs of any financial institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(b) soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent or authorization with respect to any voting rights in any financial institution enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(c) violating any voting agreement previously approved by the appropriate Federal banking agency as that term is defined

in section 3(q) of the Act, 12 U.S.C. § 1813(q); or

(d) voting for a director, or serving or acting as an institution-affiliated party.

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

Pursuant to delegated authority.

Dated this 7<sup>th</sup> day of January, 2010.

/s/\_\_\_\_\_   
Serena L. Owens   
Associate Director   
Division of Supervision and   
Consumer Protection