

**UNITED STATES OF AMERICA
NATIONAL CREDIT UNION ADMINISTRATION
NATIONAL CREDIT UNION ADMINISTRATION BOARD**

In the Matter of)

JAMES K. SMITH,)

Respondent.)

Docket No. 97-03-01-I)

FINAL ORDER OF PROHIBITION

WHEREAS respondent James K. Smith ("Respondent"), a former co-founder and officer of Barnstable Community Federal Credit Union ("BCFCU"), formerly located in Hyannis, Massachusetts, was an "institution-affiliated party" of that credit union, as defined by 12 U.S.C. §1786(r);

WHEREAS on July 3, 1993, Respondent was convicted by a jury of a single count of conspiracy, 18 U.S.C. §371, seven counts bank fraud, 18 U.S.C. §1344, and seven counts of money laundering, 18 U.S.C. §1957. United States v. Smith, Case No. 92-10272-01-WGY (D. Mass.);

WHEREAS a violation of 18 U.S.C. §§371, 1344 and 1957 each is a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under Federal law;

WHEREAS on February 16, 1994, Respondent was sentenced for those offenses to concurrent terms totaling fifteen (15) years in prison, followed by a term of thirty-six (36) months supervised release under specified conditions, and ordered to pay \$20 million in restitution to the National Credit Union Administration ("NCUA"); and

WHEREAS the NCUA Board finds that Respondent's service to or participation in the conduct of the affairs of a federally-insured credit union may pose a threat to the interests of the members of such credit union or may threaten to impair public confidence in such credit union; WHEREAS the NCUA Board has delegated authority to Regional Directors of the NCUA to issue an Order on its behalf when such Order is based upon a criminal conviction.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. James K. Smith is prohibited from participating in any manner in the conduct of the affairs of any federally-insured credit union, and from continuing or commencing to hold any office, or participate in any manner, in the conduct of the affairs of any insured depository institution; any institution treated as an insured bank under 12 U.S.C. §1818(b)(3) or (4), or as a savings association under 12 U.S.C. §1818(b)(8); any insured institution chartered under 12 U.S.C. §2001 et seq.; any appropriate Federal depository institution regulatory agency; the Federal Housing Finance Board and any Federal home loan bank; and the Resolution Trust Corporation. See 12 U.S.C. §1786(g)(7)(A).

2. The "Judgment In A Criminal Case" entered in United States v. Smith, Case No. 92-10272-01-WGY (D. Mass.), is made a part hereof and is incorporated herein by reference; and

3. This Final Order of Prohibition shall be effective and enforceable on the date of set forth below. Opportunity for Hearing Pursuant to 12 U.S.C. §1786(i)(3), you may request in writing, within 30 days of service of this Order, a hearing to present evidence and argument that your participation in the affairs of any federally-insured credit union would not, or would not be likely to, pose a threat to the

interests of such credit union's members or threaten to impair public confidence in such credit union. See 12 C.F.R. §747.306 et seq. The NCUA Board will consider the criteria set forth at 12 C.F.R. §747.311. A request for a hearing must state with particularity the relief desired, the grounds therefore, and must include, when available, supporting evidence. The request must be sent to: Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314-3428.

IT IS SO ORDERED this ____ day of March 1997.
NATIONAL CREDIT UNION ADMINISTRATION BOARD

By: _____
LAYNE L. BUMGARDNER
Regional Director
NCUA Region I (Albany)

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of March 1997, I caused one copy of the foregoing "Final Order of Prohibition" and attached "Judgment In A Criminal Case" to be served by U.S. Mail, certified return receipt requested, upon:

James K. Smith
49 Chole Court
Barnstable, Mass. 02630

Joseph Balliro, Sr., Esq.
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Steven W. Widerman
Trial Attorney
Office of General Counsel