

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

STATE OF MAINE,)	
)	
Plaintiff,)	
)	
v.)	CASE NO.
)	
KEY BANK OF MAINE)	
)	
Defendants.)	

COMPLAINT

INJUNCTIVE RELIEF SOUGHT

I. INTRODUCTION

1. This is an antitrust action brought by the State of Maine by and through the Attorney General of the State to obtain equitable and other relief to prevent the occurrence of the adverse effects on competition which would result from the proposed acquisition by Defendant Key Bank of Maine, Inc. ("Key Bank") of eleven branches of Casco Northern Bank, N.A. ("Casco Northern") located in Aroostook, Oxford, and York Counties, Maine.

II. PARTIES

2. Plaintiff, the State of Maine, sues in its sovereign capacity, by and through its Attorney General, pursuant to 15 U.S.C. § 26. As sovereign and parens patriae, the State of Maine has a strong interest in maintaining the competitive health of the State's economy.

3. Key Bank is a corporation organized and existing under the laws of the State of Maine which operates a commercial bank within the State of Maine. As measured by total deposits, Key Bank is the third largest commercial bank operating within the State of Maine. Based on December, 1990 figures, Key Bank has total deposits of approximately \$1,458,112,000 in the State of Maine, representing 11.13 percent of the total deposits from commercial banks and thrift institutions.

4. Casco Northern is a corporation organized and existing under the laws of the State of Maine which operates a commercial bank within the State of Maine. As measured by total deposits, Casco Northern is the fourth largest commercial bank operating within the State of Maine. Based on June, 1990 figures, Casco Northern has total deposits of approximately \$1,415,819,000 in the State of Maine representing 10.81 percent of the total deposits of commercial banks and thrift institutions.

III. JURISDICTION AND VENUE

5. This Complaint is filed and this action is instituted under § 16 of the Clayton Act, as amended, 15 U.S.C. § 26, to prevent and restrain violations by Defendant, as hereinafter alleged, of § 7 of the Clayton Act, as amended, 15 U.S.C. § 18.

6. Defendant Key Bank and Casco Northern both maintain offices, transact business, and are found within the District of Maine.

7. Venue is proper in the District of Maine under § 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(c).

IV. DEFINITIONS

8. "Banking Services" means services offered to individual and business customers, including at least:

- (a) Transaction account deposits, i.e., money deposited with a depository institution either at an agreed upon interest rate or at no interest, withdrawable upon demand, and upon which third-party drafts may be drawn by the depositor, including checking accounts and NOW accounts; and
- (b) Savings account deposits, i.e., money deposited with a depository institution at an agreed upon interest rate, which may not be withdrawable upon demand, including savings accounts, money market accounts and Treasury Notes;
- (c) Loans, i.e., secured or unsecured loans, including mortgages and various types of commercial credit;
- (d) Miscellaneous consumer services, including trust and estate services and safety deposit boxes; and
- (e) Miscellaneous commercial services, including payroll, night deposit, and cash and coin.

V. PROPOSED ACQUISITION

9. On July 8, 1991, Key Bank and Casco Northern filed an application with the Federal Deposit Insurance Corporation ("FDIC") seeking approval for Key Bank to purchase the

following eleven branches of Casco Northern: Presque Isle, Caribou, Fort Kent, Madawaska, Houlton, Rumford, Bethel, South Paris, Buckfield, Fryeburg, and Limerick.

10. On November 12, 1991, the FDIC approved the proposed acquisition. The FDIC's ruling does not require Key Bank to make any branch divestitures.

11. On September 20, 1991, the Maine Bureau of Banking approved the proposed merger. The Maine Bureau of Banking's ruling does not require Key Bank to make any branch divestitures.

VI. INTERSTATE COMMERCE

12. Customers of Key Bank and Casco Northern regularly utilize interstate communications, including the mails, telephones, and telegraphs to obtain services from and carry on business with their banks. Key Bank and Casco Northern are federally insured and federally regulated. Key Bank and Casco Northern utilize interstate communications, including the mails, telephone, and telegraph, to conduct business with customers and other financial institutions. Key Bank and Casco Northern engage in and affect interstate commerce.

VII. ANALYSIS OF MERGERS

13. Pursuant to 15 U.S.C. § 18, acquisitions and mergers which "may ... substantially ... lessen competition" or which

will "tend to create a monopoly" in any line of commerce and in any section of the country are illegal. Pursuant to 15 U.S.C. § 26, any person, including a sovereign state in its capacity as parens patriae, may seek injunctive relief including divestiture against threatened loss or damage by a violation of § 18.

14. In attempting to determine whether an acquisition may substantially tend to lessen competition, it is first necessary to identify all distinct lines of commerce or product markets which are affected by the acquisition. After identifying affected product markets, the geographical areas or geographic markets in which the particular product is purchased or sold must be identified. Once the product and geographical markets are defined, market shares may be calculated for the acquiring firm, the acquired firm and other major firms in the market.

15. The Herfindahl-Hirschman Index, or HHI as it is commonly known, is a well-recognized and accepted measure of market concentration. The HHI is utilized in the Merger Guidelines of the United States Department of Justice, 49 Federal Register 26824, (June 29, 1984), reprinted in Antitrust & Trade Reg. Rep. (BNA) No. 1169 (June 14, 1984), Trade Reg. Rep. (CCH) No. 655 at 25 (June 18, 1984) ("DOJ Guidelines") and the Horizontal Merger Guidelines of the National Association of Attorneys General. The HHI is computed by squaring the market share percentage of each firm competing in the market and then

totaling the resulting numbers. The reason for squaring the market shares is to reflect the increased market power of firms holding larger market shares. For example, a firm with a four percent market share will result in a total of 16 points (4 squared) in the HHI while a firm holding twenty-two percent of the market will add a total of 484 points (22 squared) to the index. As the concentration of market power within the industry increases, the total HHI increases. Pursuant to the DOJ Guidelines, any industry is considered to be unconcentrated if the postmerger HHI is less than 1000 points; any industry is considered to be moderately concentrated when the postmerger HHI is between 1000 and 1800 points; and any industry is considered to be highly concentrated when the HHI exceeds 1800 points. The HHI also permits a measurement of the addition to market concentration that is brought about by an acquisition. For example, in a moderately concentrated market (between 1000 and 1800 points), an increase of over 100 points is thought to significantly increase concentration; and in a highly concentrated market (over 1800 points), an increase of over 50 points generally is thought to significantly increase concentration. See generally DOJ Guidelines, §§ 3.1 - 3.11, Trade Reg. Rep. No. 655, ¶¶4493.10 - 4493.101. The Department of Justice has applied a higher standard to review of bank mergers and generally will challenge only those mergers which increase the HHI by 200 points or more to a level above 1800 points.

VII. TRADE AND COMMERCE

A. Provision of Banking Services

16. Commercial banks and thrift institutions are engaged in the business of providing banking services to business and individual customers. Some thrift institutions, however, do not provide the full range of business banking services.

17. Individual consumers in the State of Maine generally seek to obtain banking services from depository institutions located near their residence or workplace, and business customers in the State of Maine generally seek to obtain those banking services near the locus of the business.

18. Customers generally utilize a number of different banking services from the bank with which they do business. For example, an individual customer might use his bank for a checking account, a savings account, a money market fund and a mortgage on his residence. A commercial customer might use his bank for a checking account, payroll services, night deposit, cash and coin, credit for the purchase of inventory and a commercial mortgage.

19. Credit unions offer banking services to individual consumers but do not offer the full range of business banking services provided by commercial banks. Credit unions are not adequate substitutes for the full range of banking services provided by commercial banks and thrift institutions.

20. Non-depository institutions may provide one or even a few of the services provided by commercial banks or thrift

institutions. For example, investment or brokerage houses offer products that compete with various savings account products which are offered by commercial banks or thrift institutions. Non-depository institutions, however, do not provide the full range of banking services which are offered by commercial banks and thrift institutions. Non-depository institutions are not adequate substitutes for the full range of banking services provided by commercial banks and thrift institutions.

B. Product Market

21. The relevant product market in which to assess the effect of the acquisition of Casco Northern branches by Key Bank is the market for the cluster of banking services generally provided by commercial banks and thrift institutions.

C. Geographic Market

22. The relevant geographic markets in which to assess the effect of the acquisition of the Casco Northern branches by Key Bank are:

(a) the St. John Valley area as defined by the Board of Governors of the Federal Reserve and including the following: Aroostook County townships of Cyr, Eagle Lake, Fort Kent, Frenchville, Grand Isle, Hamlin, Madawaska, New Canada, St. Agatha, St. Francis, St. John, Van Buren, Wallagrass and Winterville, plus unorganized townships T17R-3, T17R-4 and T17R-5.

(b) the Houlton area as defined by the Board of Governors of the Federal Reserve, including the following: The Aroostook County townships of Amity, Bancroft, Cary, Dudley, Dyer Brook, Forkstown, Hammond, Haynesville, Hodgdon, Houlton, Linneus, Littleton, Ludlow, Merrill, Monticello, Moro, New Limerick, Oakfield, Orient, St. Croix, Smyrna, Webbertown and Weston; the Washington County township of Danforth, plus unorganized townships TCR-2, T7R-5, T8R-3, T8R5 and TAR-2.

(c) the Presque Isle-Caribou area as defined by the Board of Governors of the Federal Reserve, including the following: the Aroostook County townships of Ashland, Blaine, Bridgewater, Caribou, Castle Hill, Caswell, Chapman, Connor, Cox Patent, Easton, Fort Fairfield, Garfield, Limestone/Loring AFB, Mapleton, Mars Hill, Masardis, Nashville, New Sweden, Oxbow, Perham, Portage Lake, Presque Isle, Squapan, Stockholm, Wade, Washburn, Westfield, Westmanland, and Woodland, plus unorganized townships T14R-5, T13R-5, T9R-5, T9R-4, T9R-3, T11R-4, T10R-6, T10R-3, TDR-2 and TEP1.

(d) the Rumford area as defined by the Board of Governors of the Federal Reserve, and including the following: Oxford County townships of Andover, N. Andover, S. Andover, Bethel, Canton, Dixfield, Hanover, Hartford, Mexico, Milton, Newry, Peru, Roxbury and Rumford, and the Franklin County townships of Byron and Carthage.

(e) the Paris-Norway areas as defined by the Board of Governors of the Federal Reserve, and including the following:

Oxford County townships of Albany, Buckfield, Greenwood, Norway, Oxford, Paris, Stoneham, Sumner, Waterford and Woodstock, and the Cumberland County township of Otisfield.

D. Market Concentration

23. A relationship exists between the ability of a commercial bank or thrift institution to accept deposits and the ability of that same institution to grant credit and provide other banking services. The deposits accepted by a commercial bank or thrift institution are the primary source of loans made by it and a principal source of funds to support other services. Consequently, bank deposits are an appropriate indicator of a commercial bank or thrift institution's capacity to provide banking services offered to individual and business customers by such institutions.

24. Deposits of thrift institutions should be adjusted to reflect the institution's level of commercial banking business. For example, a thrift institution which offers the full range of business banking services should have its deposits included at 100%, while a thrift institution which offers only limited business banking services should have its deposits included at a reduced percentage.

25. Key Bank and Casco Northern compete with each other in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway markets.

26. Substantial barriers to entry exist with respect to the provision of banking services to individual and business

customers in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway markets.

27. The markets for the provision of banking services offered by commercial banks and thrift institutions in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway areas are highly concentrated.

1. St. John Valley Market

28. As of June 30, 1990, five commercial banks or thrift institutions operated in the St. John Valley market. Key Bank ranked third with approximately 7.5 percent of total bank deposits and Casco Northern ranked first with approximately 55.9 percent of total bank deposits. Based upon bank deposits as of June 30, 1990, with thrift inclusion of 100 percent, the HHI is approximately 3678.

29. If Key Bank acquires Casco Northern branches in Fort Kent and in Madawaska, it will rank first in the St. John Valley market with approximately 63.4 percent of total bank deposits. The HHI would increase by 839 to 4517.

2. Houlton Market

30. As of June 30, 1990, six commercial banks or thrift institutions operated in the Houlton market. Key Bank ranked first with approximately 30.9 percent of total bank deposits and Casco Northern ranked sixth with approximately 7.2 percent of total bank deposits. Based upon bank deposits as of June 30, 1990, with thrift inclusion of 100 percent, the HHI is approximately 1988.

31. If Key Bank acquires the Casco Northern branch in Houlton, it will rank first in the Houlton market with approximately 38.1 of total bank deposits. The HHI would increase by 445 to 2433.

3. Presque Isle-Caribou Market

32. As of June 30, 1990, six commercial banks or thrift institutions operated in the Presque Isle-Caribou market. Key Bank ranked fourth with approximately 18 percent of total bank deposits and Casco Northern ranked first with approximately 28.7 percent of total bank deposits. Based upon bank deposits as of June 30, 1990, with thrift inclusion of 100 percent, the HHI is approximately 2213.

33. If Key Bank acquires the Casco Northern branches in Presque Isle and in Caribou, it will rank first in the Presque Isle-Caribou market with approximately 47.2 percent of total bank deposits. The HHI would increase by 1062 to 3275.

4. Rumford Market

34. As of June 30, 1990, five commercial banks or thrift institutions operated in the Rumford market. Key Bank ranked fifth with approximately 3.2 percent of total bank deposits and Casco Northern ranked first with approximately 30.6 percent of total bank deposits. Based upon bank deposits as of June 30, 1990, with thrift inclusion of 75 percent, the HHI is approximately 2517.

35. If Key Bank acquires the Casco Northern branches in Rumford and in Bethel, it will rank first in the Rumford market with approximately 33.8 percent of total bank deposits. The HHI would increase by 206 to 2723.

5. Paris-Norway Market

36. As of June 30, 1990, six commercial banks or thrift institutions operated in the Paris-Norway market. Key Bank ranked fifth with approximately 12 percent of total bank deposits and Casco Northern ranked third with approximately 16.2 percent of total bank deposits. Based upon bank deposits as of June 30, 1990, with thrift inclusion of 75 percent, the HHI is approximately 2428.

37. If Key Bank acquires the Casco Northern branches in South Paris and in Buckfield, it will rank second in the Paris-Norway market with approximately 28.2 percent of total bank deposits. The HHI would increase by 389 to 2817.

IX. CAUSE OF ACTION

38. Paragraphs 1 through 37 are re-alleged and incorporated into this cause of action.

39. The effect of the proposed acquisition of Casco Northern branches by Key Bank may be substantially to lessen competition in the aforesaid lines of interstate trade and commerce in violation of Section 7 of the Clayton Act in the following ways, among others:

- (a) Existing competition and the potential for increased competition between Key Bank and Casco Northern in the markets for the provision of banking services offered by commercial banks and thrift institutions in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway areas will be permanently eliminated;
- (b) Concentration in the relevant product market in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway areas will be significantly increased; and
- (c) Competition, in the relevant product market in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway areas will be substantially lessened.

40. The economic health of the State, and in particular of the banking industry and its customers in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway market areas may tend to suffer injury as a proximate result of the proposed acquisition.

41. Unless Key Bank's proposed acquisition of Casco Northern branches is modified by appropriate divestitures or other restrictions governing Key Bank's mode of operation in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway market areas, the State's economy, and in particular ~~to~~ the banking industry and its customers in those market areas, will be injured.

X. REQUEST FOR RELIEF

WHEREFORE, Plaintiff, the State of Maine, requests that this Court:

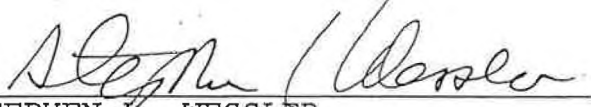
1. Adjudge and declare that Key Bank's proposed acquisition of Casco Northern branches is in violation of Section 7 of the Clayton Act.

2. Preliminarily and permanently enjoin Key Bank from acquiring Casco Northern branches unless appropriate relief is ordered in the St. John Valley, Houlton, Presque Isle-Caribou, Rumford, and Paris-Norway markets.

3. Accord to the Plaintiff, State of Maine, such other and further relief as the Court may deem just and proper.

MICHAEL E. CARPENTER
ATTORNEY GENERAL

DATED: November 26, 1991


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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE

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STATE OF MAINE,)	BY: <u>CKT</u>
)	DEPUTY CLERK
Plaintiff,)	
)	
v.)	CASE NO. 91-0380-P-H
)	
KEY BANK OF MAINE)	
)	
Defendants.)	

CONSENT JUDGMENT

WHEREAS, Plaintiff, State of Maine, having filed its Complaint herein on November 26, 1991, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Consent Judgment without trial or adjudication of any issue of fact or law herein and without this Consent Judgment constituting any evidence against or an admission by any party with respect to any such issue;

AND WHEREAS, defendant has agreed to be bound by the provisions of this Consent Judgment pending its approval by the Court;

AND WHEREAS, prompt divestiture of bank branches and the establishment of loan to deposit ratios is the essence of this agreement

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

I.

JURISDICTION

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendant under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II.

DEFINITIONS

As used in this Final Judgment:

A. "Banking Services" means services offered to individual and business customers, including at least:

- (a) Transaction account deposits, i.e., money deposited with a depository institution either at an agreed upon interest rate or at no interest, withdrawable upon demand, and upon which third-party drafts may be drawn by the depositor, including checking accounts and NOW accounts; and
- (b) Savings account deposits, i.e., money deposited with a depository institution at an agreed upon interest rate, which may not be withdrawable upon demand, including savings accounts, money market accounts and Treasury Notes;
- (c) Loans, i.e., secured or unsecured loans, including mortgages and various types of commercial credit;

- (d) Miscellaneous consumer services, including trust and estate services and safety deposit boxes; and
- (e) Miscellaneous commercial services, including payroll, night deposit, and cash and coin.

B. "Branch assets" means personal property; cash on hand; the branch loan portfolio; all safe deposit boxes at the branches, exclusive of contents; all prepaid expenses, such as insurance and taxes, including security deposits of the branches, determined in accordance with generally accepted accounting principles, as of the closing date; all rights of defendant to all contracts relating to the branch; all records and original documents in defendant's possession pertaining to the leasehold, the personal property, the branch loans, the mortgage loans and the nondeposit liabilities; any leasehold; any real estate, buildings, structures, drive-in teller facilities, ATMs, fixtures and improvements thereon which are owned and used by defendant as premises for the branches. Branch assets does not include those assets that at the request of the purchaser are excluded from a branch sale, such as classified loans, signs, and computer equipment not useful to a purchaser.

C. "Branch deposits" means liabilities allocated to a branch that constitute the unpaid balance of money or its equivalent received or held by the branch in the usual course of business and for which the branch has given or is obligated to give credit, either conditionally or unconditionally, to a

commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the branch; but shall not include any branch deposits of a commercial customer whose commercial loans have not been acquired by the purchaser of a divested branch as set forth in paragraph D, infra.

D. "Branch loan portfolio" means at least ninety-five percent (95%) of all commercial loans and consumer loans allocated to a branch (the decision whether to purchase the remaining five (5) percent, or some portion thereof, resting in the discretion of the purchaser of a divested branch).

E. "Bureau" means the State of Maine Bureau of Banking; Department of Professional and Financial Regulation.

F. "Casco Northern Bank, N.A." (hereinafter Casco Northern) means Casco Northern Bank, N.A., its successors and assigns, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, any other persons under its direct or indirect control, and any other person acting for or on behalf of it.

G. "Casco Northern Houlton" means the Casco Northern office located at Market Square, Houlton, Maine in the Houlton market.

H. "Casco Northern Madawaska" means the Casco Northern office located at 485 Main Street, Madawaska, Maine in the St. John Valley market.

I. "Casco Northern South Paris" means the Casco Northern office located at Cornwall Shopping Plaza, South Paris, Maine in the Paris-Norway market.

J. "Fleet Bank" means the Fleet/Norstar Financial Group, Inc., its successors and assigns, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, any other persons under its direct or indirect control, and any other person acting for or on behalf of it. Fleet Bank shall include Fleet Bank of Maine.

K. "Norway Savings Bank" means Norway Savings Bank, its successors and assigns, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, any other persons under its direct or indirect control, and any other person acting for or on behalf of it.

L. "Oxford Bank and Trust Company" means Oxford Bank and Trust Company, its successors and assigns, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, any other persons under its direct or indirect control, and any other person acting for or on behalf of it.

M. "Peoples Heritage Savings Bank" means Peoples Heritage Savings Bank, its successors and assigns, its subsidiaries, affiliates, directors, officers, managers, agents, and employees, any other persons under its direct or indirect control, and any other person acting for or on behalf of it.

N. "Relevant geographic market" means any or all of the following geographic areas:

- (a) the St. John Valley market area as defined by the Board of Governors of the Federal Reserve and including the following: Aroostook County townships of Cyr, Eagle Lake, Fort Kent, Frenchville, Grand Isle, Hamlin, Madawaska, New Canada, St. Agatha, St. Francis, St. John, Van Buren, Wallagrass and Winterville, plus unorganized townships T17R-3, T17R-4 and T17R-5.
- (b) The Houlton market area as defined by the Board of Governors of the Federal Reserve, including the following: The Aroostook County townships of Amity, Bancroft, Cary, Dudley, Dyer Brook, Forkstown, Hammond, Haynesville, Hodgdon, Houlton, Linneus, Littleton, Ludlow, Merrill, Monticello, Moro, New Limerick, Oakfield, Orient, St. Croix, Smyrna, Webbertown and Weston; the Washington County township of Danforth, plus unorganized townships TCR-2, T7R-5, T8R-3, T8R5 and TAR-2.
- (c) The Presque Isle-Caribou market area as defined by the Board of Governors of the Federal Reserve, including the following: the Aroostook County townships of Ashland, Blaine, Bridgewater, Caribou, Castle Hill, Caswell, Chapman, Connor, Cox Patent, Easton, Fort Fairfield, Garfield,

Limestone/Loring AFB, Mapleton, Mars Hill, Masardis, Nashville, New Sweden, Oxbow, Perham, Portage Lake, Presque Isle, Squapan, Stockholm, Wade, Washburn, Westfield, Westmanland, and Woodland, plus unorganized townships T14R-5, T13R-5, T9R-5, T9R-4, T9R-3, T11R-4, T10R-6, T10R-3, TDR-2 and TEP1.

- (d) The Rumford market area as defined by the Board of Governors of the Federal Reserve, and including the following: Oxford County townships of Andover, N. Andover, S. Andover, Bethel, Canton, Dixfield, Hanover, Hartford, Mexico, Milton, Newry, Peru, Roxbury and Rumford, and the Franklin County townships of Byron and Carthage.
- (e) The Paris-Norway market area as defined by the Board of Governors of the Federal Reserve, and including the following: Oxford County townships of Albany, Buckfield, Greenwood, Norway, Oxford, Paris, Stoneham, Sumner, Waterford and Woodstock, and the Cumberland County township of Otisfield.

III.

APPLICABILITY

A. The provisions of this Consent Judgment shall apply to the defendant, to its successors and assigns, to its subsidiaries, affiliates, directors, officers, managers,

agents, and employees, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Consent Judgment by personal service or otherwise.

B. Defendant Key Bank of Maine, Inc. (Key Bank) shall require, as a condition of the sale or other disposition of all or substantially all of its assets or stock, other than as a result of bankruptcy or the action of any regulatory authority based on the insolvency of the bank or its non-compliance with regulatory requirements, that the acquiring party agree to be bound by the provisions of this Consent Judgment.

C. Nothing herein shall suggest that any portion of this Consent Judgment is or has been created for the benefit of any third party, and nothing herein shall be construed to provide any rights to any third party.

IV.

DIVESTITURE OF BRANCHES

A. Subject to the provisions of Section IV.I. infra, Defendant Key Bank is hereby ordered and directed to divest to a qualified purchaser(s), within one hundred and twenty (120) days of the date of closing of the acquisition by Key Bank of branches from Casco Northern (hereinafter "date of closing"), all of its direct and indirect ownership and control in the branch assets and deposits identified below at a price no less than the price which Key Bank paid to Casco Northern Bank N.A.

(Casco Northern) for the branch assets and deposits. A qualified prospective purchaser(s) shall be independent of defendant Key Bank; shall be a federally insured financial institution(s) that offers banking services; shall deliver promptly to plaintiff following the execution of a binding contract(s) for the purchase of said branch assets and deposits, an affidavit from an authorized officer of the purchaser stating a present intention that the branch(es) purchased will offer banking services in the geographic area currently served by the branch(es). A prospective purchaser shall not be considered a qualified prospective purchaser unless it (1) has requested of its primary federal or state banking regulator, at least five days before bids must be submitted, that the primary regulator submit to defendant Key Bank and to plaintiff, prior to the date on which bids must be submitted, a statement as to whether the prospective purchaser is qualified to bid, and (2) has not received a statement from the primary regulator that the prospective purchaser has been deemed not qualified to bid. The obligation to divest shall be satisfied if, within one hundred and twenty (120) days of the date of closing defendant Key Bank enters into a binding contract(s) with a qualified purchaser(s) for the sale of the branch assets and deposits at each location listed below to a purchaser(s) according to terms that are contingent upon compliance with the terms of this Consent Judgment and that specify a prompt and reasonable closing date no later than ten (10) business days after compliance with all federal or

state bank regulatory requirements (including any waiting periods) and if the sale is completed pursuant to the contract(s). In the event that any proposed divestiture is denied approval by any federal or state bank regulatory agency, the plaintiff may, in his sole discretion, within seven (7) days of such denial, extend the time period for defendant Key Bank to satisfy its obligation to divest, by ~~an~~ one additional period not to exceed ninety (90) days to any qualified prospective purchaser which provided a timely bid or offer pursuant to paragraph E, infra, including the purchaser whose proposed acquisition was denied by a regulatory agency.

B. The foregoing order to divest shall apply to the following branches:

1. the Casco Northern Madawaska branch assets and deposits in the St. John Valley market. The purchaser cannot be Peoples Heritage Savings Bank.
2. the Casco Northern Houlton branch assets in the Houlton market.
3. the Casco Northern South Paris branch assets and deposits in the Paris-Norway market. The purchaser cannot be Norway Savings Bank, Oxford Bank and Trust Company or Fleet Bank.

C. If defendant Key Bank has not accomplished the required divestiture(s), within one hundred and twenty (120) days of the date of closing, plaintiff may, in its sole

discretion, extend this time period, separately for each Section IV.B. branch location, for an additional period of time not to exceed ninety (90) days, if defendant Key Bank is then engaged in negotiations with a prospective purchaser(s) that are likely to result in the required divestiture(s) but that the divestiture(s) cannot be completed by the one hundred and twentieth (120th) day following the date of closing of the purchase of branch assets of Casco Northern.

D. Defendant Key Bank agrees to take all reasonable steps to accomplish quickly said divestitures. In carrying out its obligation to divest the branch assets and deposits at each location identified in Section IV.B. of this Consent Judgment, defendant Key Bank may divest these branch assets alone, or may divest along with these branch assets any other assets of Key Bank.

E. In accomplishing the divestitures ordered by this Consent Judgment, the defendant Key Bank within seven (7) business days after the date of closing of the purchase of branch assets of Casco Northern, shall make known in the Wall Street Journal, the American Banker, the Bangor Daily News, the Portland Press Herald, the Lewiston Sun Journal, and by the usual and customary means and in the usual and customary form required by the Bureau, the availability of the Section IV.B. branch locations, for sale as ongoing branches that offer business banking services. Defendant Key Bank additionally

shall provide notice, within fifteen (15) business days of the date of closing, of the availability of the Section IV.B. branch locations to any persons designated by plaintiff in a form similar to that of the notice described in the preceeding sentence. Defendant Key Bank shall notify any person making an inquiry regarding the possible purchase of any or all of the Section IV.B. branch locations that the sale is being made pursuant to this Consent Judgment. Defendant Key Bank shall provide any such person with a copy of this Consent Judgment. Defendant Key Bank also shall furnish to all qualified prospective purchasers of any or all of the Section IV.B. branch locations, subject to customary confidentiality assurances, all pertinent information regarding each Section IV.B. branch location within seven (7) business days of receiving a written request. Defendant Key Bank shall provide such information to the plaintiff as soon as possible, but no later than five (5) business days after it furnishes such information to any other person. Defendant Key Bank shall permit qualified prospective purchasers of any or all of the Section IV.B. branch locations to have access to personnel at each Section IV.B. branch location and to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of each Section IV.B. branch location. Defendant Key Bank shall not be required to permit qualified prospective

purchasers to have access to any documents or information relevant to defendant's banking business, except to the extent it relates to the Section IV.B. branch locations' operations and business. Defendant Key Bank shall not object to any application for new bank charters sought to facilitate any divestiture(s). Defendant Key Bank shall require any qualified prospective purchaser to provide a bid or offer for any of the Section IV.B. branch locations within fifty (50) days of the date of closing of the purchase of branch assets and deposits from Casco Northern and a letter of commitment to enter into a binding contract within sixty (60) days of the date of such closing.

F. Divestiture required by Section IV.B. of this Consent Judgment shall be accomplished in such a way as to satisfy plaintiff, in its sole discretion, that (1) the purchaser is qualified in the following two respects: (a) the purchaser intends to use the Section IV.B. branch assets and deposits to compete in the provision of banking services in the geographic area currently served by the branch, and (b) the purchaser has the managerial, operational, and financial capability to compete effectively in the provision of such banking services; and (2) no other bona fide qualified prospective purchaser exists which would provide more effective competition in the provision of banking services and which is willing and able to acquire the branch assets and deposits on terms which, taken as a whole, are at least as favorable to Defendant Key Bank as those offered by the purchaser selected by defendant Key Bank.

G. Following accomplishment of divestitures, defendant Key Bank shall not acquire or attempt to acquire any branch assets divested pursuant to Section IV.B. of this Consent Judgment without first receiving prior approval from the plaintiff during the duration of this Consent Judgment.

H. Except to the extent otherwise approved by plaintiff, any branch assets divested pursuant to this Consent Judgment shall be transferred to the purchaser free and clear of all mortgages, liens or other encumbrances to defendant Key Bank; provided that any leases, mortgages or other contracts which are not fully assignable without recourse against defendant Key Bank may be transferred subject to requirements that the purchaser perform all obligations of defendant Key Bank thereunder and fully indemnify and provide adequate security to defendant Key Bank against any failure of the purchaser to perform such obligations. Nothing contained in the foregoing sentence shall require defendant Key Bank to breach any contract or other obligation.

I. If no divestiture of a particular Section IV.B. branch location is made by defendant Key Bank within one hundred and twenty (120) days following the date of closing or within any additional period ordered by plaintiff pursuant to Section IV.A. or C. then, defendant's obligation to make divestiture of the specified Section IV.B. branch location shall terminate and the provisions in Section V below shall take effect.

V.

LOAN TO DEPOSIT RATIOS

A. Defendant Key Bank shall maintain the following loan to deposit ratios (1) in any relevant geographic market in which a Section IV.B. branch is located for which defendant's obligation to make divestiture has terminated pursuant to Section IV.I., and (2) in the Rumford and Presque Isle-Caribou relevant geographic markets:

1. As of the eighth quarter after the closing of the purchase of the branch assets from Casco Northern Bank, a loan to deposit ratio of no less than .60 of the average loan to deposit ratio, as determined by the Bureau, of loans of all commercial banks and thrift institutions in the relevant geographic area for the twelve month period ending on the last day of the eighth quarter or, if not available, for the most recent twelve (12) month period for which data is available to the Bureau.

2. As of the twelfth quarter after the closing of the purchase of the branch assets from Casco Northern Bank, a loan to deposit ratio of no less than .80 of the average loan to deposit ratio, as determined by the Bureau, of loans of all commercial banks and thrift institutions in the relevant geographic area for the twelve month period ending on the last day of the twelfth quarter or, if not available, for the most recent twelve (12) month period for which data is available to the Bureau.

3. As of the sixteenth quarter after the closing of the purchase of the branch assets from Casco Northern Bank, a loan to deposit ratio of no less than the average loan to deposit ratio, as determined by the Bureau, of loans of all commercial banks and thrift institutions in the relevant geographic area for the twelve month period ending on the last day of the sixteenth quarter or, if not available, for the most recent twelve (12) month period for which data is available to the Bureau.

4. For each twelve month period after the expiration of sixteen quarters after the closing of the purchase of the branch assets from Casco Northern Bank, a loan to deposit ratio no less than the average loan to deposit ratio, as determined by the Bureau, of loans of all commercial banks and thrift institutions in the relevant geographic area for the same twelve month period or, if not available, for the most recent twelve (12) month period for which data is available to the Bureau.

For purposes of this Section V.A. (1) the first quarter after the closing of the purchase of the branch assets from Casco Northern Bank shall commence on the first day of the January, April, July or October which first occurs after the closing, and (2) for the purpose of determining the loan to deposit ratio of defendant Key Bank, loans shall include all

loans originated by it in the relevant geographic market, including loans subsequently transferred to others (such as in any secondary market) or made pursuant to governmental programs.

C. At any time defendant Key Bank may apply to the Bureau for a reduction in the applicable loan-to-deposit ratio. The Bureau, in its sole discretion, may reduce the ratio, on a prospective basis, for a period not to exceed one year. Upon the expiration of any period during which a reduction has been ordered by the Bureau the ratio shall revert to the level required by Section V.B. Nothing in this Section V. shall require defendant Key Bank to make loans to borrowers not qualified according to defendant Key Bank's usual and customary underwriting standards.

VI.

NOTIFICATION

Immediately following execution of a binding contract(s), contingent upon compliance with the terms of this Consent Judgment, to effect any proposed divestitures pursuant to Section IV. of this Consent Judgment, defendant Key Bank shall notify plaintiff of the proposed divestitures. The notice shall set forth the details of the proposed transactions and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the Section IV.B. branch locations, together with full details of same.

Within fifteen (15) days of receipt by plaintiff of such notice, plaintiff may request additional information concerning the proposed divestiture(s) and the proposed purchaser(s). Defendant Key Bank shall furnish any additional information requested within twenty (20) days of receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within twenty (20) days after plaintiff has been provided the additional information requested (including any additional information requested of persons other than the defendant Key Bank), whichever is later, plaintiff shall provide written notice to defendant Key Bank stating whether or not it objects to the proposed divestiture(s). If plaintiff provides written notice to defendant Key Bank that it does not object, then the divestiture(s) may be consummated. Upon objection by plaintiff, a divestiture proposed under Section IV. shall not be consummated.

VII.

AFFIDAVITS

A. Within five (5) business days of filing of this Consent Judgment and every thirty (30) days thereafter until the divestitures have been completed defendant Key Bank shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV. of this Consent Judgment. Each such affidavit shall include the name, address, and telephone

number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any ownership interest in the Section IV.B. branch locations, and shall describe in detail each contact with any such person during that period. Defendant Key Bank shall maintain full records of all efforts made to divest the Section IV.B. branch locations.

B. One year after the entry of this Consent Judgment, and every year thereafter until the expiration of this Consent Judgment, defendant Key Bank shall deliver a detailed affidavit to plaintiff as to the fact and manner of compliance with this Consent Judgment, including compliance with Section V.

VIII.

FINANCING

Defendant Key Bank shall not finance all or any part of any purchase made pursuant to Section IV. of this Consent Judgment.

IX.

PRESERVATION OF ASSETS

Until the divestiture of the Section IV.B. branch locations required by this Final Judgment have been accomplished:

A. The defendant Key Bank shall take all steps necessary to assure that the Section IV.B. branch locations will be

maintained as economically viable, ongoing branches that offer banking services. Defendant Key Bank shall use all reasonable efforts to maintain and increase sales of banking services at the Section IV.B. branch locations, and continue with any current plans for development of banking services at those locations.

B. Defendant Key Bank shall not, except in the ordinary course of business, sell, lease, assign, transfer or otherwise dispose of, or pledge as collateral for loans, any branch assets required to be divested pursuant to Section IV.B., except that any physical component of such branch assets as is replaced in the ordinary course of business with a newly purchased component may be sold or otherwise disposed of, provided the newly purchase component is so identified as a replacement component for one to be divested.

C. Defendant Key Bank shall provide capital and provide and maintain sufficient working capital to maintain the Section IV.B. branch locations, including funds for commercial lending, as viable, ongoing branches that offer banking services consistent with the requirements of Section IX.A.

D. Defendant Key Bank shall preserve the physical branch assets required to be divested pursuant to Section IV. except those physical components of such branch assets replaced with newly acquired branch assets and deposits in the ordinary course of business, in a state of repair equal to their state of repair as of the date of closing of the purchase of branch

assets of Casco Northern, ordinary wear and tear excepted. Defendant Key Bank shall preserve the documents, books and records of the Section IV.B. branch locations until the date of divestiture.

E. Except in the ordinary course of business, or as otherwise consistent with the requirements of Section X., the defendant shall refrain from terminating or altering one or more current employment, salary, or benefit agreements (except that defendant Key Bank may substitute its benefit agreement provided that the employees of the Section IV. branch locations receive benefits comparable to those of other Key Bank employees) for one or more managerial or loan personnel of the Section IV.B. branch locations, and shall refrain from transferring any employee so employed without the prior written approval of plaintiff.

F. Defendant Key Bank shall refrain from taking any action that would jeopardize the sale of the Section IV.B. branch locations.

X.

EMPLOYMENT OFFERS

A. Defendant Key Bank is hereby enjoined and restrained until two (2) years following the date of divestiture, from directly or indirectly soliciting the employment of any person who currently is a commercial loan manager, officer or representative, the preponderance of whose duties relate to the

successful operation of the Section IV.B. branch locations, without consent of plaintiff. This provision, however, does not apply to any employee who is terminated by the purchaser of a divested branch. Defendant Key Bank shall encourage and facilitate employment by the purchaser of such employees, and shall release such employees from any contractual restrictions (such as noncompetition agreements) which would prevent them from accepting employment with the purchaser of a Section IV.B. branch location, and shall pay any bonuses accrued during their employment by defendant Key Bank to which such employees would otherwise have been entitled had they remained in the employment of defendant Key Bank until December 31, 1991.

XI.

VISITORIAL CLAUSE

For the purpose of determining or securing compliance with this Consent Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the State of Maine Department of the Attorney General shall, upon written request of the Attorney General or of the Deputy Attorney General in charge of the Consumer and Antitrust Division, and on reasonable notice to the defendant Key Bank made to its principal offices, be permitted access during office hours of the defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents

in the possession or under the control of the defendant Key Bank, who may have counsel present, relating to any matters contained in this Consent Judgment.

B. No information or documents obtained by the means provided in this Section XI shall be divulged by any representative of the Department of the Attorney General to any person other than a duly authorized representative of the State of Maine or the United States Department of Justice, except in the course of legal proceedings to which the State of Maine is a party (including grand jury proceedings), or for the purpose of securing compliance with this Consent Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by the defendant to Key Bank to plaintiff, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten (10) days notice shall be given by plaintiff to the defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

XII.

EXPIRATION OF JUDGMENT

This Consent Judgment will expire on the ninth anniversary of its date of entry or, with respect to any particular provision, on any earlier date specified.

XIII.

RETENTION OF JURISDICTION

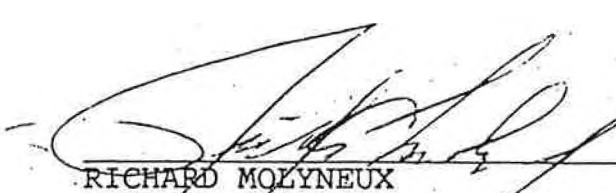
Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Consent Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIV.

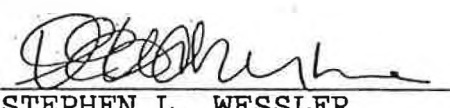
STATEMENT OF PUBLIC INTEREST

Entry of this Consent Judgment is in the public interest.

Dated: Nov. 26, 1991


RICHARD MOLYNEUX
Chairman & CEO
Key Bank of Maine
Portland, Maine 04101

Dated: November 26, 1991

 / for
STEPHEN L. WESSLER
Deputy Attorney General
Chief, Consumer & Antitrust Division
State House Station 6
Augusta, Maine 04333
(207) 626-8800
Attorney for Plaintiff
Bar No. 1169

A TRUE COPY

ATTEST: William S. Brownell, Clerk

By 
Deputy Clerk

It is hereby ordered and decreed.

Dated: 12/3/91


United States District Judge