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ARIZONA CORPORATION COMMISSION

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EXECUTIVE SECRETARY

SECURITIES DIVISION  
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August 18, 1992

Filomena D'Elia, Esq.  
Malizia and Spidi, P.C.  
1420 New York Avenue, N.W., Suite 975  
Washington, D.C. 20005

RE: American Federal Bank/Am-First Financial Corporation  
A.R.S. §44-1844(A)(6)

Dear Ms. D'Elia:

On the basis of the facts set forth in your letter of August 7, 1992, and in reliance upon your opinion as counsel, the Securities Division will not recommend enforcement action for violation of the Securities Act of Arizona should the transaction take place as set forth in your letter and should the transaction within Arizona be limited to the Subscription Offering. In making this determination, the Division recognizes that a registration statement has been filed with the Securities and Exchange Commission in connection with this offering and that a copy of the prospectus contained therein will be provided to each offeree. This position is consistent with prior no-action letters issued by the Division. However, the Division continues to analyze the breadth of the exemption found in A.R.S. §44-1844(A)(6) and may take a different position on similar facts in the future. Furthermore, this response only expresses the Division's position on the applicability of the exemption claimed under A.R.S. §44-1844(A)(6) and does not purport to express any legal conclusion on the availability of A.R.S. §44-1844(A)(7) to the facts presented in your letter.

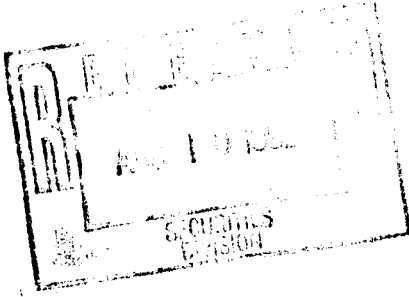
As this position is premised upon the facts set forth in your letter, it should not be relied on for any other set of facts or by any other person. Please also note that this position applies only to the registration requirements of the Act; the anti-fraud provisions of the Act continue to be applicable.

We have attached a photocopy of your letter. By doing this we are able to avoid having to recite or summarize the facts set forth therein.

Very truly yours,

DEE RIDDELL HARRIS  
Director of Securities

DRH:lb  
Attachment



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WRITER'S DIRECT DIAL NUMBER

August 7, 1992

(202) 434-4671

VIA FEDERAL EXPRESS

Dee R. Harris, Director  
Corporation Commission  
Securities Division  
1200 West Washington Street, Suite 201  
Phoenix, Arizona 85004

Re: Request for Confirmation of Exemption Regarding the Proposed Reorganization of American Federal Bank, a federal savings bank, Madison, South Dakota and the sale of Common Stock by its Holding Company, Am-First Financial Corporation, a Delaware corporation

Dear Ms. Harris:

On behalf of American Federal Bank, a federal savings bank ("American Federal" or the "Savings Bank") and Am-First Financial Corporation ("Am-First") we are filing a no-action request pursuant to Section 44-1861(L) of the Arizona Blue Sky Act (the "Act"). Am-First Financial Corporation was incorporated on June 26, 1992 in order to become a savings and loan holding company for American Federal. American Federal will convert from a federally chartered mutual savings bank to a federally chartered stock savings bank (the "Conversion") and simultaneously become the wholly-owned subsidiary of Am-First. In connection with this reorganization of American Federal, between \$1,615,000 (161,500 shares at \$10.00 per share), and \$2,512,750 (251,275 shares at \$10.00 per share) of the common stock of Am-First, par value \$.01 per share (the "Common Stock") will be sold to certain persons, including residents of the State of Arizona.

The purpose of this letter to request that the Division of Securities confirm that, with respect to the facts and circumstances discussed herein:

- (i) The proposed sale of Common Stock of Am-First is exempt from registration in the State of Arizona pursuant to Sections 44-1844(6) and/or 44-1844(7) of the Act. We request that this exemption apply to (a) depositors and certain borrowers of American Federal residing in

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Arizona and (b) persons who are not depositors but wish to buy the Common Stock of Am-First in the "Community Offering," as described below.

- (ii) Am-First will not be subject to broker-dealer registration pursuant to Section 44-1842 due to the sale of stock being an exempt transaction pursuant to Sections 44-1844(6) and/or 44-1844(7) of the Act.
- (iii) For purposes of the proposed sale of stock, officers and directors of Am-First will not be subject to registration as salesmen pursuant to Section 44-1842 due to the sale of stock being an exempt transaction pursuant to Sections 44-1846(6) and/or 44-1844(7) of the Act.
- (iv) No filings are required to be made in connection with the proposed issuance of stock.

On April 14, 1992, the Board of Directors of American Federal adopted a Plan of Conversion, attached as Exhibit 1 hereto, whereby the Savings Bank will convert from a federally-chartered mutual savings bank to a federally-chartered stock savings bank, as a wholly-owned subsidiary of Am-First. The Savings Bank has filed with the Office of Thrift Supervision ("OTS") an Application for Approval of Conversion on Form AC for permission to convert to a stock savings bank. In connection with the Conversion of the Savings Bank from a mutual savings bank to stock savings bank, American Federal has proposed that all of its shares of capital stock to be issued in the Conversion will be acquired by the Am-First. Am-First has filed a Registration Statement with the Securities and Exchange Commission ("SEC") to register the shares of Common Stock sold in a Subscription and Community Offering as part of the Conversion. The pro forma market value of the Common Stock to be sold in the Conversion has been determined by an independent appraisal prepared by Capital Resources Group, Inc. Upon consummation of the Conversion, the Savings Bank will become a wholly owned subsidiary of Am-First, and, at such time, Am-First's assets shall consist solely of the stock of the Savings Bank, which it will acquire in the Conversion, and Am-First's initial capitalization. The Conversion is subject to the approval of the members of the Savings Bank at a Special Meeting of Members expected to be held in September 1992. Attached as Exhibit No. 2 is an Organizational Chart illustrating the Corporate structure before and after the Conversion.

As part of the Conversion, Am-First is conducting a Subscription Offering of the Common Stock for holders of subscription rights in the following order of priority: (i) tax

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qualified employee benefit plans of the Savings Bank; (ii) depositors of the Savings Bank as of December 31, 1991 ("Eligible Account Holders") and (iii) depositors and certain borrowers of the Savings Bank eligible to vote on the approval of the Conversion ("Other Members") who are not Eligible Account Holders; subject to the provisions of the Plan. All Common Stock not sold in the Subscription Offering is being offered to the general public in a Community Offering to persons and entities residing and doing business in the State of South Dakota and surrounding states with preference given to persons residing in Lake, Minnehaha, Brule, Potter, Brown and Day Counties, South Dakota, subject to the provisions in the Plan.

The OTS conversion regulations require, with certain exceptions, that all shares of the Common Stock offered in the Conversion must be sold in order for the Conversion to become effective. At least \$1,615,000 of the Common Stock must be sold in order for the Conversion to be completed. All shares of the Common Stock not sold in the Subscription Offering will be offered in the Community Offering. Regulations further require completion of the Community Offering within 45 days after the last day of the Subscription Offering period unless such period is extended by the Savings Bank with the approval of the regulatory authorities.

We believe that the exemption pursuant to Section 44-1844(6) is applicable to these facts. The conversion of American Federal to stock form, the reorganization of American Federal into the holding company form of ownership, and the concurrent stock offering by Am-First must be approved by the OTS pursuant to applicable statutes and the rules and regulations of the OTS, and by the depositor and borrower members of American Federal who currently hold voting rights in American Federal. The members of American Federal will also receive subscription rights to buy stock in the Conversion stock offering. Such members are currently the equivalent of stockholders, but if they approve the Conversion they will receive subscription rights in the Conversion and will lose their voting rights upon the successful completion of the Conversion. In effect they are exchanging their voting rights in American Federal in consideration for the right to buy the Common Stock of Am-First in the Conversion stock offering.

We believe that the exemption from securities registration pursuant to Section 44-1844(7) is also applicable since the members are the equivalent of existing stockholders of the Savings Bank and they will be offered subscription rights in the Conversion stock offering. The Conversion and offering of Common Stock must be approved by a majority of the outstanding votes entitled to be cast by the members of the Savings Bank.

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The offering of the Common Stock of Am-First will be carried out by the officers and directors of Am-First, who will be given no commissions or additional remuneration for their role. No underwriter or broker-dealer will be used to offer Am-First Common Stock.

We have enclosed a check for \$200 to the Arizona Corporation Commission in payment of the applicable fee. We would appreciate your response on this matter, on or before August 13, 1992, if possible. Sales of the Common Stock are expected to begin the week of August 17, 1992.

Please contact the undersigned or John J. Spidi of this office if you have any further questions. You may call collect if that is standard procedure.

Thank you for your assistance in this matter.

Sincerely,

*Filomena D'Elia*

Filomena D'Elia

cc: Bill Burnham, President  
John J. Spidi, Esq.