

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

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<b>In the Matter of:</b>	)	
Steve Toumazatos and	)	
New York Homestar Realty, Inc.	)	AA-EC-00-50
Institution-Affiliated Parties	)	
Mellon Bank, N.A.	)	
Pittsburgh, PA	)	

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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (Comptroller) intends to initiate removal and prohibition, cease and desist, and restitution proceedings against Steve Toumazatos and New York Homestar Realty, Inc. (Respondents) pursuant to 12 U.S.C. §§ 1818(b) and (e) (as amended) through the issuance of a Notice of Intention to Prohibit Further Participation, Notice of Charges for Issuance of an Order to Cease and Desist, and Notice of Charges for Restitution (Notices) dated November 3, 2000;

WHEREAS, Respondents and Mellon Mortgage Company have reached a settlement in a lawsuit brought by Mellon Mortgage Company in the United States District Court for the Southern District of Texas, resolving many of the issues that were the subject of the Comptroller's restitution action; and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter, the

Comptroller and Respondents desire to enter into this Stipulation and Consent Order (Order);

NOW, THEREFORE, in consideration of above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

## Article I

### JURISDICTION

(1) Mellon Bank, N.A. (Bank) is a national banking association, chartered and examined by the Comptroller, pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 et seq. Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondents were independent contractors to Mellon Mortgage Company, a subsidiary of the Bank. As such, Respondents were institution-affiliated parties of the Bank, as defined by 12 U.S.C. § 1813(u), having served in such capacity within six (6) years from the date hereof (see 12 U.S.C. § 1818(i)(3)).

(3) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against institution-affiliated parties. Therefore, Respondents are subject to the authority of the Comptroller to initiate and maintain removal and prohibition, cease and desist, and restitution proceedings against them pursuant to 12 U.S.C. §§ 1818(b) and (e).

## Article II

### PROHIBITION AND REMOVAL

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any wrongdoing, Respondent Toumazatos hereby agrees that he shall not:

- (a) participate in any manner in the conduct of their affairs;
- (b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights;
- (c) violate any voting agreement previously approved by the “appropriate Federal banking agency,” as defined in 12 U.S.C. § 1813(q) (as amended);  
or
- (d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u) (as amended).

(2) The prohibitions in paragraph (1) of this Article apply to the following institutions and agencies:

- (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c);
- (b) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9) (as amended);
- (c) any insured credit union under the Federal Credit Union Act;
- (d) any institution chartered under the Farm Credit Act of 1971;

- (e) any appropriate Federal depository institution regulatory agency; and
  - (f) the Federal Housing Finance Board and any Federal Home Loan Bank.
- (3) The foregoing shall not be construed as prohibiting Respondent

Toumazatos from referring prospective real estate clients to any institution described in paragraph (2) of this Article, provided that Respondent Toumazatos does not participate in the preparation of any application or related paperwork necessary to apply for a loan.

(4) The prohibitions described in paragraphs (1) through (3) of this Article shall cease to apply with respect to a particular institution if Respondent Toumazatos obtains the prior written consent of both the Comptroller and the institution's "appropriate Federal financial institutions regulatory agency," as defined in 12 U.S.C. § 1818(e)(7)(D) (as amended).

(5) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818(e), (i), (j), and (h) (as amended).

### Article III

#### PERSONAL CEASE AND DESIST ORDER

(1) Respondents shall not participate in the initiation, preparation, or submission of any loan, loan application or other loan documentation to any institution identified in paragraph (3) of this Article.

(2) The foregoing shall not be construed as prohibiting Respondents from referring prospective real estate clients to any institution described in paragraph (3) of this

Article, provided that Respondents do not participate in the preparation of any application or related paperwork necessary to apply for a loan.

- (3) The provisions of this Article apply to the following institutions:
  - (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c);
  - (b) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9) (as amended);
  - (c) any insured credit union under the Federal Credit Union Act; and
  - (d) any institution chartered under the Farm Credit Act of 1971.

#### Article IV

#### WAIVERS

- (1) By executing this Order, Respondents waive:
  - (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b) and (e) and 12 C.F.R. Part 19;
  - (b) all rights to seek judicial review of this Order;
  - (c) all rights in any way to contest the validity of this Order;
  - (d) any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

(e) all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for acts which form the basis for issuance of this Order.

(2) Respondents shall not cause, participate in or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any legal (or other professional) expense relative to the negotiation and issuance of this Order; and, in accordance with 12 C.F.R. § 7.2014, Respondents shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate thereof) with respect to such amounts.

(3) Respondents acknowledge that they have read and understand the premises and obligations of this Order and declare that no separate promise or inducement of any kind has been made by the Comptroller, his agents or employees to cause or induce Respondents to agree to consent to the issuance of this Order and/or to execute this Order.

(4) It is hereby agreed that the provisions of this Order constitute a settlement of the removal and prohibition, cease and desist, and restitution proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations contained in the Notices, unless such acts, omissions, or violations reoccur.

(5) Respondents understand that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and that nothing herein constitutes, nor shall Respondents contend that it constitutes, a waiver of any right,

power, or authority of any other representatives of the United States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

-signed-

01-05-2001

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Leann G. Britton  
Senior Deputy Comptroller  
for Bank Supervision Operations

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Date

12-20-2000

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-signed-  
Steve Toumazatos, individually and as an  
authorized representative of New York Homestar  
Realty, Inc.

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Date