

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

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IN THE MATTER OF:)	
)	
MICHAEL R. MORGAN,)	
FORMER PRESIDENT AND DIRECTOR)	AA-EC-2000-18
)	
THE FIRST NATIONAL BANK & TRUST OF PIPESTONE)	
PIPESTONE, MINNESOTA, AND)	
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)	
THE FIRST NATIONAL BANK IN GARRETSON)	AA-EC-2000-19
GARRETSON, SOUTH DAKOTA)	
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STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (Comptroller) has initiated prohibition, civil money penalty, and cease and desist proceedings against Michael R. Morgan (Respondent), former President and member of the Board of Directors (Board) of the First National Bank & Trust of Pipestone, Pipestone, Minnesota (Pipestone) pursuant to 12 U.S.C. §§ 1818(b), (e) and (i)(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 for Affirmative Relief Including Restitution and Guaranty Against Future Loss, and Notice of Assessment of Civil Money Penalties dated March 14, 2000 (collectively, the Pipestone Notice); and

WHEREAS, the Comptroller has initiated prohibition, civil money penalty, and cease and desist proceedings against Respondent, former vice president and member of the Board of the First National Bank in Garretson, Garretson, South Dakota (Garretson) pursuant to 12 U.S.C.

§§ 1818(b), (e) and (i)(as amended) through the issuance of Notice of Intention to Prohibit Further Participation, Notice of Charges for Issuance of an Order to Cease and Desist for Affirmative Relief Including Restitution and Guaranty Against Future Loss, and Notice of Assessment of Civil Money Penalties dated March 14, 2000 (collectively, the Garretson Notice); 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 Respondent desire to enter into this Stipulation and Consent Order (Order);

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

ARTICLE I

JURISDICTION

(1) At all times relevant to the Pipestone Notice, Pipestone was 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) At all times relevant to the Garretson Notice, Garretson was 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).

(3) Respondent was Pipestone’s president and a member of its Board, and is an “institution-affiliated party” of the Bank as that term is defined in 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)).

(4) Respondent was a vice president and member of Garretson's Board, and is an "institution-affiliated party" of the Bank as that term is defined in 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)).

(5) Pursuant to 12 U.S.C. § 1813(q), the Office of the Comptroller of the Currency (OCC) is the "appropriate Federal banking agency" to maintain an enforcement proceeding against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain prohibition and cease and desist actions, and an assessment of a civil money penalty against him pursuant to 12 U.S.C. §§ 1818(b), (e), and (i)(2).

ARTICLE II

FINDINGS OF FACT

The OCC makes the following findings of fact, which findings Respondent neither admits nor denies:

(1) At all times relevant to the allegations in the Pipestone and Garretson Notices, FAMAR, Inc. was a related interest of Respondent within the meaning of 12 C.F.R. § 215. Respondent failed to disclose to Pipestone's or Garretson's Board that FAMAR was his related interest, voted as both a Board member and Loan Committee member to approve credit extensions to FAMAR, caused Pipestone and Garretson to approve and fund numerous loans to FAMAR in violation of 12 C.F.R. § 215, and used the proceeds of FAMAR loans to make his capital contributions in an entity called Global Ventures I, Inc. (Global), to pay his personal debts, and to pay himself for obligations owed to him by FAMAR. Respondent never disclosed to Pipestone's Board or Garretson's Board that he personally benefited from the proceeds of FAMAR loan funds.

(2) At all times relevant to the allegations in the Pipestone and Garretson Notices, Global, as well as entities known as Gandami, Inc., Buttercup, Inc., International Swine Builders, Inc. (ISB), and [Redacted] were related interests of Respondent within the meaning of 12 C.F.R. § 215. Respondent caused the Pipestone Board minutes to be falsified so as to mislead OCC examiners regarding his ownership interests in Global and Gandami. Respondent voted as both a Board member and Loan Committee member to approve credit extensions to Global, Gandami, Buttercup, ISB, and [Redacted], but failed to disclose that he had ownership interests in any of these companies. Respondent caused Pipestone to fund numerous loans to Gandami, Buttercup and ISB, caused Garretson to issue a \$1 million line of credit to [Redacted], and caused Pipestone and Garretson to fund numerous loans to Global, resulting in repeated violations of 12 C.F.R. § 215. Respondent never disclosed to Pipestone's Board or Garretson's Board that he personally benefited from the proceeds of any of these loans.

(3) Despite knowing that he would shortly become a .5% owner and director of an entity called Nelson Minnesota Farms L.L.C. (NMFLLC), Respondent failed to disclose his intended ownership and managerial interests in NMFLLC to Pipestone's Loan Committee, and voted to approve this \$1.5 million credit at that Committee meeting. After the loan was booked, Respondent received \$100,000 of the loan's proceeds through a previously undisclosed finder's fee.

(4) Respondent voted as a member of Pipestone's Board to approve a \$1,000,000 credit extension, Pipestone Loan # 1989. Respondent caused "excess" proceeds from Loan # 1989 to be used to make a \$250,000 investment in Respondent's name, and in the name of Respondent's brother, Todd W. Morgan.

(5) Respondent caused Pipestone to approve and fund a series of loans to members of a single family, and to business entities controlled by that family's members, at a time when he knew, or should have known, that this family and those entities were experiencing financial difficulties. Because these loans are combineable, based upon either a direct benefit analysis, or a facts and circumstances analysis, Respondent's decision caused Pipestone to exceed its legal lending limit (LLL), in violation of 12 U.S.C. § 84 and 12 C.F.R. § 32. As a direct result of Respondent's reckless violation of Pipestone's LLL, Pipestone suffered losses totaling approximately \$756,116, which losses incurred have not been repaid.

(6) Respondent caused Garretson to approve a \$400,000 loan to Global, in violation of 12 C.F.R. § 215, and then transferred the entire proceeds of this loan to Respondent's related interest, Pipestone Financial Services, Inc. (PFS). Respondent failed to disclose that this transfer had occurred, so Garretson's subsequent approval and disbursement of a \$300,000 loan to PFS caused Garretson to exceed its legal lending limit, in violation of 12 U.S.C. § 84 and 12 C.F.R. § 32.

(7) Respondent caused Pipestone to refinance and re-purchase low quality debt that it had previously sold to his affiliate PFS, causing violations of 12 U.S.C. § 371c. Respondent's actions have resulted in losses at Pipestone totaling approximately \$71,000.

(8) On or about June 2, 1998, Garretson paid \$426,062 to purchase five poor-quality PFS loans. In light of his positions at PFS and Pipestone, Respondent knew, or should have known, that the PFS loans at issue were of poor quality. Because Respondent failed to call the numerous credit and/or collateral shortcomings of these PFS loans to the attention of Garretson's Board, Garretson's purchase of these five PFS loans violated 12 U.S.C. § 371c. Garretson

subsequently charged off at least \$79,037 in connection with its purchase of one of these PFS loans.

(9) In April 1997, aware that the OCC would be starting an examination at Garretson, Respondent knew that he needed to get poor performing loans out of Garretson. Therefore, Respondent transferred the proceeds of a \$400,000 loan he personally secured from another bank, as well as the proceeds of \$400,000 loan to Global, and a \$300,000 loan to Gandami, or a total of \$1.1 million, to his affiliate PFS, so that PFS could purchase these poor quality loans. Respondent subsequently retired his \$400,000 personal loan by utilizing funds that he withdrew from Pipestone's correspondent account at that other bank.

(10) Respondent caused loans to be shifted back and forth between Garretson and Pipestone, so as to create the false impression that these businesses were generating sufficient funds to repay their debt. These transactions generally were initiated immediately before the commencement of an OCC examination.

ARTICLE III

ORDER OF PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any wrongdoing, Respondent 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);

(d) or 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 prohibitions of paragraphs (1) and (2) of this Article shall cease to apply with respect to a particular institution if Respondent 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).

(4) 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 IV

ORDER OF CIVIL MONEY PENALTY

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the total amount of three hundred thousand dollars

(\$300,000). Respondent shall pay this civil money penalty according to the procedure and schedule set out in this Order:

(a) Upon execution of this Order, Respondent shall pay fifty thousand dollars (\$50,000);

(b) On or before April 15, 2002, and on or before the fifteenth (15th) day of April for each successive year through and including 2006, Respondent shall make a minimum payment in the amount of forty-two thousand dollars (\$42,000);

(c) On or before April 15, 2007, Respondent shall make a final payment in the amount of forty thousand dollars (\$40,000);

(d) Respondent shall make all payments due in connection with this Article by certified check or money order. Respondent shall make each certified check or money order payable to the Treasurer of the United States and deliver it to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. The docket number of this case should be entered on all checks; and

(e) Respondent shall deliver a copy of each certified check or money order to the Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E St., S.W., Washington, DC 20219.

(2) If Respondent fails to make any payment as required by Paragraph # 1 of this Article IV, the entire remaining balance of the civil money penalty amount ordered to be paid in this Article shall become immediately due and payable.

(3) 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(h) and (i)(2) (as amended).

ARTICLE V

ORDER OF GUARANTEE AGAINST FUTURE LOSS

(1) Without admitting or denying any wrongdoing, Respondent shall provide a guarantee against future loss for the entire remaining balance of the loans identified in the Guaranty Agreement attached hereto as Attachment A. On or before issuance of this Order, Respondent shall execute the attached Guaranty Agreement.

(2) This guarantee against future loss shall be enforceable by the Comptroller as a term of this Order pursuant to 12 U.S.C. § 1818(b)(6).

(3) The attached Guaranty Agreement, as fully executed and delivered, is and shall be incorporated herein by reference and, in addition to the remedies set forth in the Guaranty Agreement, shall be enforceable by the Comptroller as a term of this Order pursuant to 12 U.S.C. § 1818(b)(6) as though fully set forth in this Order.

ARTICLE VI

BANKRUPTCY

(1) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligations pursuant to this Order to pay the agreed upon civil money penalties, and to provide guaranty against future loss, and/or Respondent's compliance with the Guaranty Agreement, are subject to discharge, Respondent will in no manner contest the Comptroller's assertion, pursuant to 11 U.S.C. § 523(a)(7) and (a)(11), or otherwise, that the foregoing obligations arise out of acts which result in claims not dischargeable in bankruptcy.

ARTICLE VII

COOPERATION OF RESPONDENT

(1) Respondent agrees that, at the request of the OCC, on reasonable notice and without service of a subpoena, he will appear voluntarily and testify truthfully at any deposition and/or judicial or administrative proceeding, related to any subsequent proceedings brought in connection with the allegations detailed in the Pipestone and/or Garretson Notices, and/or the information developed during the 1996, 1997, and 1998 examinations of Pipestone and Garretson.

ARTICLE VIII

RESPONDENT'S WAIVERS

(1) By executing this Stipulation and Consent Order, Respondent waives:

- (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b), (e), and (i)(2)(as amended) 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, expenses or damages against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter, the conduct of any examination of Pipestone or Garretson, 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 the acts which form the basis for issuance of this Order.

(2) Respondent shall not cause, participate in or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any expense for, or in connection with, the guarantee against future loss and/or the payment of the civil money penalty under this Order, or 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, Respondent 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) Respondent acknowledges that he has read and understands the premises and obligations of this Stipulation and Consent Order and declares that no separate promise or inducement of any kind has been made by the Comptroller, his agents or employees to cause or induce the Respondent to agree to consent to the issuance of this Order and/or to execute this Stipulation.

ARTICLE IX

RELEASE OF CLAIMS

(1) It is hereby agreed that the provisions of this Stipulation and Consent Order constitute a settlement of all claims brought by the Comptroller in connection with the actions as charged in the Pipestone and Garretson Notices. The Comptroller agrees not to institute additional proceedings based on the information developed to date but unalleged in the Pipestone and Garretson Notices.

(2) It is further agreed that the provisions of this Stipulation and Consent Order shall not be construed as an adjudication on the merits and, except as set forth above, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent regarding any matters not subject to the release set forth in Paragraph 1 above.

(3) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Stipulation and Consent Order, and that nothing herein constitutes, nor shall Respondent 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.

/s/ Leann G. Britton
Leann G. Britton
Senior Deputy Comptroller
for Bank Supervision Operations

4-5-01
Date

/s/ Michael R. Morgan
Michael R. Morgan

4-4-01
Date

NOTARY

Subscribed and sworn to before me personally appeared, Michael R Morgan on the 4th, day of April, 2001

01-31-2005

My Commission Expires: _____

/s/ Steven B. Werner

Notary Public

ATTACHMENT A

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT (Guaranty) is made as of the 4th day of April, 2001, by Michael R. Morgan (hereinafter, Guarantor), to and for the benefit of The First National Bank & Trust of Pipestone, Pipestone, Minnesota (hereinafter, Pipestone Bank).

WHEREAS, on or about [Date] Pipestone Bank advanced credit to [Redacted] in the approximate amount of \$549,262, designating that credit facility as Pipestone Bank Loan # [Redacted];

WHEREAS, on or about [Date], Pipestone Bank advanced credit to [Redacted] in the approximate amount of \$600,000, designating that credit facility as Pipestone Bank Loan # [Redacted];

WHEREAS, the undersigned has agreed to guarantee the performance of \$192,443 owed to Pipestone Bank in connection with Loan # [Redacted] and Loan # [Redacted] - specifically, \$141,860 owed to Pipestone Bank in connection with Loan # [Redacted], and \$50,583 owed to Pipestone Bank in connection with Loan # [Redacted];

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged by both parties, Pipestone Bank and the Guarantor hereby enter into this Guaranty.

1. Guarantor agrees:

A. To guarantee the punctual payment of (i) the principal, interest, and other moneys due to Pipestone Bank from [Redacted] under Loan # [Redacted] and (ii) the principal, interest, and other moneys due to Pipestone Bank from [Redacted] under Loan # [Redacted]. To this end the Guarantor covenants and agrees to take all such actions necessary to enable [Redacted] and [Redacted] to observe and perform, and to refrain from taking any actions, which would prevent [Redacted] and [Redacted] from making punctual payments of the principal, interest, and other moneys due to Pipestone Bank under Loan # [Redacted] and Loan # [Redacted], respectively;

B. That this Guaranty cannot be transferred or assigned by Guarantor to any third party;

C. That this Guaranty shall be a continuing guaranty, shall be binding upon the Guarantor, and upon his heirs, administrators, and legal representatives, and shall remain in full force and effect, and shall not be discharged, impaired or affected in any manner by (a) the validity or invalidity of any document or agreement evidencing some or all of [Redacted]'s obligations under Loan # [Redacted], and/or [Redacted]'s obligations under Loan # [Redacted]; (b) any limitation or exculpation of liability on the part of [Redacted] or [Redacted] with regard to Loan # [Redacted] and Loan # [Redacted], respectively; (c) the existence or continuance of [Redacted] and/or [Redacted] as legal entities; (d) the acceptance by Pipestone Bank of any

security for, or other guarantors upon, all or any part of [Redacted]'s obligations under Loan # [Redacted], or [Redacted]'s obligations under Loan # [Redacted]; (e) any defense whatsoever that [Redacted] and/or [Redacted] may or might have to the payment or to the performance or observance of any their respective obligations under Loan # [Redacted] and Loan # [Redacted]; and (f) [Redacted]'s or [Redacted]'s sale, pledge, surrender, indulgence, alteration, substitution, exchange, change in, modification or other disposition of any collateral or security supporting Loan # [Redacted] and Loan # [Redacted], respectively;

D. That this Guaranty shall not operate as a discharge or waiver of any other obligation that Guarantor presently has, or incurs in the future, to either Pipestone Bank or the First National Bank in Garretson, Garretson, South Dakota (Garretson Bank);

E. That this Guaranty shall not impair or negate any other claim that Pipestone Bank and/or Garretson Bank has now, or has in the future, against Guarantor;

F. That this Guaranty shall remain in full force and effect, and can only be discharged, upon the payment of all principal, interest and other moneys due in connection with both Loan # [Redacted] and Loan # [Redacted];

G. That Pipestone Bank may, without any notice whatsoever, sell, assign or transfer all or any part of the obligations created by Loan # [Redacted] and/or Loan # [Redacted], or grant participations in those obligations. Each and every immediate and successive assignee, transferee, holder of or participant in all or any part of the Obligations shall have the right to fully enforce this Guaranty, subject to the same limitations imposed on Pipestone Bank under Paragraph # 2, infra;

H. That in the event this Guaranty is placed in the hands of an attorney for enforcement, and Guarantor subsequently agrees to honor his obligations under this Guaranty, or is ordered to do so by a court of competent jurisdiction, the Guarantor will reimburse Pipestone Bank for all expenses incurred, including reasonable attorneys' fees; and

I. That this Guaranty shall inure to the benefit of and may be enforced by Pipestone Bank and its successors and assigns, and shall be binding upon and enforceable against the Guarantor and his legal representatives or assigns.

2. It is expressly understood and agreed that Pipestone Bank must act in a commercially reasonable manner in its efforts to collect Loan # [Redacted] and Loan # [Redacted], and in connection with any decision made to charge-off all or a portion of either loan.

3. The parties hereto agree that this Guaranty shall be governed by the laws of the State of Minnesota.

4. This Guaranty constitutes the entire agreement between the parties with respect to the subject matter at issue, and all prior agreements, arrangements, and negotiations involving Guarantor or his attorneys, whether oral or written, with respect to this Guaranty are deemed to be merged herein.

