

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
KERRY L. DAVIDSON)
)
Former Consumer Loan Officer)
Institution-Affiliated)
Party of:)
)
Bargersville Federal Savings)
Bank)
Bargersville, Indiana)
)

Resolution No. IND-93-02

Dated: MARCH 19, 1993

STIPULATION AND CONSENT TO ENTRY
OF AN ORDER OF PROHIBITION

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Central Regional Office ("Regional Director"), and Kerry L. Davidson ("Davidson"), former Consumer Loan Officer and institution-affiliated party of Bargersville Federal Savings Bank, Bargersville, Indiana ("Institution"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information derived from the exercise of its supervisory and regulatory powers, is of the opinion that grounds exist to initiate an administrative prohibition proceeding against Davidson pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(e) (West 1989 and Supp. 1992). Davidson desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting that such grounds exist, Davidson hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative prohibition litigation against Davidson with respect to the matters covered in the accompanying Order of Prohibition ("Order"). Davidson, without trial,

presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of this Stipulation and Consent to Entry of an Order of Prohibition ("Stipulation"). The OTS has determined that it is appropriate, and in the best interest of the public to execute this Stipulation and the attached Order. This Stipulation and Order are not intended to, nor shall they be construed to have the effect of, limiting the right of any governmental or administrative agency to initiate or pursue any other action, civil or otherwise, against Davidson. Further, this Stipulation and Order are not intended to, nor shall they be construed to have the effect of, limiting the right or authority of the OTS to initiate or pursue any other action, civil or otherwise, against Davidson for conduct that occurs, or is first disclosed to or discovered by the OTS, after the entry of the Order.

2. Jurisdiction and Facts. The OTS is of the opinion that:

(a) The Institution, at all times relevant to the allegations set forth herein, was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C.A. § 1813(b) (West 1989 and Supp. 1992) and Section 2(4) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C.A. § 1462(4) (West Supp. 1992). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C.A. § 1813(c).

(b) Pursuant to Section 3(q) of the FDIA, 12 U.S.C.A. § 1813(q), the OTS is the "appropriate Federal Banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(c) The Director of the OTS has the authority to bring administrative prohibition proceedings against persons participating in

the conduct of the affairs of the Institution and against institution-affiliated parties, pursuant to Section 5(d)(1)(A) of HOLA, 12 U.S.C.A. § 1464(d)(1)(A) and Section 8(e) of the FDIA, 12 U.S.C.A. § 1818(e).

(d) Davidson was a Consumer Loan Officer of the Institution and is deemed to be an "institution-affiliated party" of the Institution as that term is defined in Section 3(u) of the FDIA, 12 U.S.C.A. § 1813(u), having served in such capacity within six (6) years of the date hereof.

(e) Davidson is subject to the authority of the OTS to initiate and maintain prohibition proceedings pursuant to Section 8(e) of the FDIA, 12 U.S.C.A. § 1818(e).

(f) From a period beginning approximately June 1990 through approximately May 1991, Loan Officer Davidson made false entries to the Institution's computer system by changing maturity dates on past due loans. As a consequence, these past due loans were not indicated on the Institution's slow loan reports which were reviewed by both OTS examiners and the Institution's Board of Directors.

(g) Davidson diverted approximately \$14,853.61 in proceeds from the sale of residential property financed by the Institution into accounts over which Davidson had exclusive control.

(h) Beginning December 27, 1990 through approximately May 1991, a number of loan disbursements to Richard L. Davidson's loan account #2235 (Davidson's father) were diverted to accounts either directly or indirectly within Loan Officer Davidson's control.

(i) On April 12, 1991, Davidson disbursed \$2,600 to loan account of Steven Weddle (#1265), and diverted \$1,800 of the disbursement to an account over which Davidson had control.

(j) On April 12, 1991, Davidson debited the loan account of Thomas A. Thompson for \$1,475 (#161303) in order to make interest payments on the following loans:

<u>Loan #</u>	<u>Borrower</u>	<u>Interest Amount</u>
#1997601	Jill Thompson	\$101.74
#161303	Thomas A. Thompson	\$573.26
#133005	Tommie N. Thompson	\$800.00

These unauthorized interest payment prevented these loans from appearing on the institution's delinquency reports.

(k) On April 18, 1991, Davidson made a disbursement on loan to Gary Bolin (#2312) for \$12,507.68, of which \$1,500 went directly to an account within the exclusive control of Davidson.

(l) On May 23, 1991, Davidson made a disbursement to a loan to Natalie Jill Thompson (#192601) for \$1,475, all of which was diverted into an account over which Davidson had control.

(m) On May 30, 1991, Davidson misapplied \$1,800 for loan to Gary Bolin (#2312) to an account over which he had exclusive control.

(n) During the period beginning July 1988 through August 1991, Davidson received 33 separate extensions of credit totaling approximately \$133,000. These credit extensions included a mortgage loan and multiple consumer loans, some of which were renewed as many as 5 times.

3. Consent. Without admitting the foregoing allegations, Davidson consents to the issuance by the OTS of the Order. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all the requirements of Section 8(e) of the FDIA, 12 U.S.C.A. § 1818(e).

4. Finality. The Order is issued under Section 8(e) of the FDIA; 12 U.S.C.A. § 1818(e). Upon its issuance it shall be a final order, effective

(c) The OTS and Voss acknowledge and agree that the imposition of the civil money penalty by the OTS, and the payment of such civil money penalty, are for the purpose of resolving the administrative actions within the jurisdiction of the OTS concerning Voss relating to the matters known or discovered by the OTS during the course of its Formal Investigation of United Savings of America, Chicago, Illinois, OTS Resolution No. CHI-92-12, up to the date of entry of the Order; and

(d) Voss' obligation to pay civil money penalties pursuant to this Stipulation and Order shall not be dischargeable in bankruptcy under any circumstances.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director or designee for the Central Regional Office, OTS, and David H. Voss, execute this Stipulation and Consent to Entry of an Order of Civil Money Penalty Assessment.

OFFICE OF THRIFT SUPERVISION

By:

/S/

Ronald N. Karr
Regional Director
Central Regional Office

/S/

David H. Voss

Dated:

3/25/93

Dated:

3/23/93

regulatory agency, Davidson may not act as a director for, hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) or other entity as set forth in Section 8(e)(7)(A) of the FDIA, 12 U.S.C.A. § 1818(e)(7)(A), hereinafter referred to as a "Covered Institution." Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C.A. § 1818(e)(6), as amended, conduct prohibited by this Order includes, inter alia, the solicitation, the transfer or the exercise of any voting rights with respect to any securities issued by any insured depository institution.

3. Nothing in this Order, however, prohibits Davidson from the following activities, even though such activities may involve or relate to a Covered Institution:

(a) being a customer, as a depositor or borrower, of a Covered Institution; or

(b) owning stock in a Covered Institution;

Provided however, that the activities outlined in this paragraph 3(a)-(b) above may not be performed in a manner that would make Davidson an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C.A. § 1813(u).

4. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided for by the provisions of this Order, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Federal Deposit Insurance Act (FDIA), or the Home Owners' Loan Act ("HOLA"), or as such definition is amended after the execution of this Order, and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, FDIA, or HOLA, shall have meanings that accord with their best custom and usage in the savings and loan industry.

