

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____)
In the Matter of)
WENTFORD ABNER SPEARS, M.D.)
Former Chief Executive Officer)
and Chairman of the Board of)
Directors of Guaranty Federal)
Savings Bank)
Warner Robins, Georgia)
_____)

Resolution No.: ATL-93-14
Dated: March 25, 1993

STIPULATION AND CONSENT TO THE ENTRY
OF A PROHIBITION ORDER AND RESTITUTION ORDER

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Southeast Region, and Wentford Abner Spears, M.D. ("Spears"), former Chief Executive Officer and Chairman of the Board of Directors of Guaranty Federal Savings Bank, Warner Robins, Georgia, OTS Docket No. 9229 (formerly 7852) ("Guaranty Federal" or "Institution"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon its investigative findings, is of the opinion that grounds exist to initiate an administrative proceeding against Spears, pursuant to Sections 8(b) and (e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. §§ 1818(b) and (e) (West 1989 & Supp. 1992) and Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C.A. § 1464(d)(2)(A) (West

1989) (for activity prior to August 9, 1989). The OTS' investigative findings in support of its belief include the following:

(a) Citizens Bank, Dallas, Georgia ("Citizens Bank") was an affiliated person of Guaranty Federal, and transactions between the two entities, without prior written supervisory approval, were specifically prohibited by the terms of Guaranty Federal's voluntary supervisory conversion.

(b) Spears, as Chairman of the Board of Directors and as a member of the Executive Committee of Guaranty Federal, approved and/or ratified numerous loans, the proceeds of which were used to pay off prior liens at Citizens Bank, in violation of the conditions for the voluntary supervisory conversion of Guaranty Federal and of 12 C.F.R. § 563.43(c)(2).

(c) The underwriting for these loans was unsafe and unsound and the borrowers had little equity in the collateral and no means to repay the loans other than the sale of the collateral.

(d) The estimated losses on the Guaranty Federal loans, involving the disbursement of loan proceeds to Citizens Bank, are at least \$1,210,000.

(e) Spears also was responsible, in part, for the formation and operation of Guaranty Lending Services, Inc. ("Guaranty Lending"), a privately owned mortgage loan origination company doing business with Guaranty Federal. Guaranty Lending received loan origination fees on loans made

by Guaranty Federal, in violation of 12 C.F.R. § 563.40.

(f) Spears' financial interest in Guaranty Lending was not disclosed to Guaranty Federal's Board of Directors nor to the Federal Home Loan Bank Board. Spears placed himself in a position that created a conflict of interest, contrary to the provisions of 12 C.F.R. § 571.7.

(g) Spears also received consulting fees from Guaranty Federal of \$3,500 per month in lieu of a salary. The Institution, apparently through inadvertence, paid Spears twice for the month of January 1991.

(h) As a result of these actions, Spears engaged or participated in unsafe or unsound practices, regulatory violations and violations of a condition imposed in writing. By reason of the foregoing unsafe or unsound practices and violations, Guaranty Federal has suffered substantial financial loss or other damage, and Spears received some benefit. Further, such unsafe or unsound practices and violations demonstrate a willful and continuing disregard by Spears for the safety and soundness of Guaranty Federal.

Spears desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the forbearance of the OTS from initiating such administrative proceeding against Spears.

2. Jurisdiction.

(a) Guaranty Federal was a "savings association" within the meaning of Section 3(b)(1) of the FDIA, 12 U.S.C.A. § 1813(b)(1). The Institution was an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, 12 U.S.C.A. § 1813(c)(2).

(b) Spears, as Chief Executive Officer and Chairman of the Board of Directors of Guaranty Federal, was an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C.A. § 1813(u).

(c) The Director of OTS is the "appropriate Federal banking agency" to maintain an administrative proceeding against such a savings association or its institution-affiliated parties, pursuant to Section 3(q)(4) of the FDIA, 12 U.S.C.A. § 1813(q)(4). Therefore, Spears is subject to the authority of the OTS to initiate and maintain an administrative proceeding against him pursuant to Sections 8(b) and 8(e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e), and Section 5(d)(2)(a) of the HOLA, 12 U.S.C.A. § 1464(d)(2)(A).

3. Consent. Spears consents to the issuance by the OTS of the accompanying Order of Prohibition and Order of Restitution ("Order"). He further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under Sections 8(b) and 8(e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e) and

Section 5(d)(2)(A) of the HOLA, 12 U.S.C.A. § 1464(d)(2)(A). Upon its issuance by the Regional Director it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i).

5. Waivers. Spears waives his right to a notice of charges, notice of intention to prohibit and the administrative hearing provided by Sections 8(b) and 8(e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e) and Section 5(d)(2)(A) of the HOLA, 12 U.S.C.A. § 1464(d)(2)(A), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C.A. § 1818(h), or otherwise to challenge the validity of the Order.

Further, this Stipulation, the Order, and the payment by Spears of any monies or providing any other financial relief as contemplated by the Order, do not compromise, settle, dismiss, resolve, or in any way affect any civil actions, charges against, or liability of Spears that arise pursuant to this action or otherwise, and that may be or have been brought by the Resolution Trust Corporation or any other governmental entity other than the OTS. This Stipulation shall not be interpreted as an admission by Spears in any other civil, criminal, or administrative action.

Spears acknowledges and agrees that this proceeding, the assessment or payment of the monies contemplated as part of the resolution thereof, and Spears' consent to the entry

of the Order are for the purposes of resolving this OTS enforcement matter only, and do not resolve, affect or preclude any other civil or criminal proceeding which may be or has been brought against Spears by the OTS or another governmental entity.

By signing this document, Spears agrees that he will not assert the assessment or payment of this restitution as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or other governmental entity.

The OTS' decision to enter into this Stipulation has been predicated in part upon representations made by Spears concerning the amount, nature and quality of cash, property and other assets owned by Spears ("Assets"). It is understood that Spears has made a good faith estimate of the current value of his Assets, and Spears understands that should the OTS discover or learn from any source that the representations made by him about his Assets were intentionally or materially false, including but not limited to the failure to identify and/or value any Asset, the OTS reserves the right to void the settlement reached between the OTS and Spears, including this Stipulation and the Order, and initiate an administrative proceeding against Spears or take any other legal action that the OTS in its sole discretion deems appropriate.

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Resolution No.:ATL-93-14
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ORDER OF PROHIBITION AND
ORDER OF RESTITUTION

WHEREAS, Wentford Abner Spears, M.D. ("Spears") has executed a Stipulation and Consent to the Entry of A Prohibition Order and Restitution Order ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Regional Director for the Southeast Region; and

WHEREAS, Spears in the Stipulation has consented and agreed to the issuance of this Order of Prohibition and Order of Restitution ("Order"), pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. §§ 1818(b) and (e) (West 1989 & Supp. 1992) and Section 5(d)(2)(A) of the Home Owners' Loan Act of 1933 ("HOLA"), 12

U.S.C.A. § 1464(d)(2)(A) (West 1989) (for activity prior to August 9, 1989).

NOW THEREFORE, IT IS ORDERED that:

1. Spears is prohibited from further participation, in any manner, in the conduct of the affairs of Guaranty Federal Savings Bank, Warner Robins, Georgia, OTS Docket No. 9229 (formerly 7852) ("Guaranty Federal" or "Institution") its holding company(ies), or service corporation(s).

2. Without the prior written approval of the Regional Director for the Southeast Region and, if appropriate, any other Federal financial institutions regulatory agency, Spears may not 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). Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C.A. § 1818(e)(6), conduct prohibited by this Order includes, inter alia, the solicitation, transfer or exercise of any voting rights with respect to any securities issued by any insured depository institution.

3. Within 10 days of the effective date of this Order, Spears shall pay the Resolution Trust Corporation as receiver for Guaranty Federal (at 50 Hurt Plaza, Suite 208, Atlanta, Georgia 30303 to the attention of Lawanza Marshall, Staff Accountant, PW/MRC Joint Venture) the sum of \$3,500. This sum represents repayment for the consulting fees that

