

UNITED STATES OF AMERICA
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In The Matter Of

MICHAEL S. LANG, a Former Officer and
Director of Mississippi Savings
Bank, Batesville, Mississippi and
its subsidiaries;

TOMMY M. PARKER, a Former Officer and
Director of Mississippi Savings
Bank, Batesville, Mississippi and
its subsidiaries;

LELAND E. WHITTEN, a Former Officer
and Director of Mississippi Savings
Bank, Batesville, Mississippi;

DANIEL T. HOLLENBACH, a Former Officer
of Mississippi Savings Bank,
Batesville, Mississippi, and its
subsidiaries;

JUDY G. LOWE, a Former Officer of
Mississippi Savings Bank, Batesville,
Mississippi, and its subsidiaries;

G. RICHARD MUNTUN, a Former Officer
and Director of Mississippi Savings
Bank, Batesville, Mississippi, and
its subsidiaries;

THOMAS G. ESTES, JR., a Former Director
of Mississippi Savings Bank,
Batesville, Mississippi;

WILLIAM H. MCKENZIE, III, a Former
Director of Mississippi Savings Bank,
Batesville, Mississippi;

JOHN R. HUTCHERSON, deceased, a Former
Officer and Director of Mississippi
Savings Bank, Batesville,
Mississippi, and its subsidiaries,
through Penelope Carr Hutcherson,
the Administratrix of the Estate of
John R. Hutcherson;

RHONDA S. LANG, a Former Employee of
or Person Participating in the
Affairs of Mississippi Savings Bank,
Batesville, Mississippi.

Re: Order No. OTS AP 93-32

Dated: April 27, 1993

STIPULATION AND CONSENT TO ISSUANCE OF
ORDER TO CEASE AND DESIST AND FOR RESTITUTION, AND
ORDER OF PROHIBITION PROHIBITING PARTICIPATION IN THE CONDUCT OF
THE AFFAIRS OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS

The Office of Thrift Supervision ("OTS"), by and through its Acting Director, Jonathan L. Fiechter, and Michael S. Lang ("RESPONDENT"), hereby stipulate and agree as follows:

1. CONSIDERATION

On November 16, 1990, pursuant to OTS Order No. 90-2018, OTS approved and issued Order No. 90-2019, a Notice of Charges and Hearing to Direct Restitution and Other Appropriate Relief, Notice of Intention to Prohibit Respondents from Participating in the Conduct of the Affairs of Federally Insured Depository Institutions, and Notice of Assessment of Civil Money Penalties ("NOTICE"), and, pursuant to OTS Order No. 90-2016, the OTS approved and issued Order No. 90-2017, a Temporary Order to Cease-and-Desist ("TEMPORARY ORDER"), against RESPONDENT. The NOTICE and the TEMPORARY ORDER are incorporated herein by reference. See Sections 8(b), 8(c) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §§ 1818 (b), (c) and (e) (Supp. I 1989), and Sections 407(e) and (g) of the National Housing Act of 1934 ("NHA"), as amended, 12 U.S.C. §§ 1730(e) and (g) (Supp. I 1989), and Section 5(d)(1)(A) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. § 1464(d)(1)(A) (Supp. I 1989), and Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (Supp. I 1989).

RESPONDENT desires to cooperate with the OTS, and further desires to avoid the time and expense of administrative enforcement proceedings, hearings and litigation as commenced pursuant to the NOTICE.

RESPONDENT neither admits nor denies the allegations, assertions, facts, unsafe and unsound practices, and violations of law, rule, regulation, and agreement set forth in the NOTICE as such pertain and apply to RESPONDENT. RESPONDENT stipulates and agrees to the provisions, terms, and conditions set forth herein and in the accompanying Order to Cease and Desist and for Restitution, and Order of Prohibition Prohibiting Participation in the Conduct of the Affairs of Federally Insured Depository Institutions ("ORDER") in consideration of the OTS's agreement to dismiss RESPONDENT from the administrative litigation commenced pursuant to the NOTICE and to dismiss the TEMPORARY ORDER.

2. JURISDICTION

A. Mississippi Savings Bank, Batesville, Mississippi ("MSB") was a "savings association" as defined by Section 2(4) of the HOLA, 12 U.S.C. § 1813(b) (Supp. I 1989), and is an "insured depository institution" as defined by Section 3(c) of the FDIA, 12 U.S.C. § 1813(c) (Supp. I 1989).

B. RESPONDENT, as a former officer and director of MSB and its subsidiaries is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u) (Supp. I 1989).

C. Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q) (Supp. I 1989), OTS is the "appropriate Federal banking agency" with jurisdiction over MSB and the RESPONDENT as an institution-affiliated party participating in the conduct of the affairs of MSB. The Director of the OTS has the authority to bring administrative cease and desist and prohibition proceedings, and make assessments of civil money penalties, against RESPONDENT, pursuant to Section 5(d)(1)(A) of the HOLA, 12 U.S.C. § 1464(d)(1)(A) (Supp. I 1989), and Section 8 of the FDIA, 12 U.S.C. § 1818 (Supp. I 1989); and RESPONDENT is subject to the authority of the OTS to initiate and maintain such proceedings and make such assessments.

3. CONSENT

RESPONDENT consents to the issuance by the OTS of the accompanying ORDER. Further, RESPONDENT agrees to comply with the terms, provisions, and conditions of the ORDER upon its issuance, and RESPONDENT stipulates that the ORDER complies with all applicable requirements of law.

4. FINALITY

The ORDER is issued pursuant to Sections 8(b), 8(e) and 8(i) of the FDIA, 12 U.S.C. §§ 1818(b), (e), and (i) (Supp. I 1989). Upon its issuance by the OTS, the ORDER shall be a final order, effective and fully enforceable by the OTS, its successor(s), or an appropriate federal banking agency pursuant to the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (Supp. I 1989).

5. WAIVERS

RESPONDENT waives his right to the administrative hearings provided by Sections 8(b), (e), and (i) of the FDIA, 12 U.S.C. §§ 1818(b), (e), and (i) (Supp. I 1989). Further, RESPONDENT agrees not to challenge the validity of this Stipulation and Consent to Issuance of Order to Cease and Desist and for Restitution, and Order of Prohibition Prohibiting Participation in the Conduct of the Affairs of Federally Insured Depository Institutions ("STIPULATION and CONSENT") or the ORDER. Additionally, RESPONDENT waives his right to seek judicial review of this STIPULATION and CONSENT or the ORDER, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h) (Supp. I 1989).

6. COOPERATION

RESPONDENT agrees that, at the request of the OTS or the Resolution Trust Corporation ("RTC"), as successor in interest to MSB, on reasonable notice and without service of a subpoena, he will provide discovery and testify truthfully at any deposition and at any judicial or administrative proceeding related to the NOTICE and any continuing litigation or proceeding brought by the OTS or the RTC as a result of any investigation relating to Mississippi Savings Bank and its institution-affiliated parties, except that RESPONDENT does not waive his privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If the RESPONDENT invokes his privilege against self-incrimination under the Fifth Amendment of the United States

Constitution with respect to any matter about which the OTS or the RTC may inquire or the production of any document requested by the OTS or the RTC, and the OTS or the RTC obtains a grant of immunity pursuant to 18 U.S.C. § 6001 et seq., RESPONDENT agrees, consistent with any such grant of immunity, to provide discovery and to testify truthfully at any deposition and at any judicial or administrative proceeding on the matters for which immunity is given.

7. OTHER ACTIONS, PROCEEDINGS AND PARTIES

By entering into this STIPULATION and CONSENT, RESPONDENT acknowledges and agrees explicitly to the following provisions:

A. RESPONDENT acknowledges and agrees that this STIPULATION and CONSENT, the ORDER, RESPONDENT's payment of restitution contemplated as part of the ORDER, RESPONDENT's compliance with the ORDER, the dismissal of RESPONDENT from the above-captioned OTS administrative proceeding, and the dismissal of the TEMPORARY ORDER are for the purposes of resolving against RESPONDENT the charges set forth in the NOTICE and any other charges, without limitation, arising out of RESPONDENT's activities with respect to Mississippi Savings Bank or any of its subsidiaries, including Beta Financial Corporation, that could have been asserted by the OTS, and do not resolve, affect or preclude any other administrative or civil claim or proceeding which may be brought against RESPONDENT, or any other person named in the NOTICE, by the OTS. Further, except as expressly stated

hereinabove with respect to the OTS, the STIPULATION and CONSENT and the ORDER do not resolve, affect or preclude any administrative, civil or criminal charges or proceedings which may be brought against RESPONDENT, or any other person named in the NOTICE, by any other governmental entity.

B. Upon the dissolution of the TEMPORARY ORDER with respect to RESPONDENT pursuant to the conditions set forth in the ORDER, RESPONDENT agrees to file a joint motion with the OTS dismissing all pending claims involving both RESPONDENT and the OTS before the United States District Court for the Northern District of Mississippi, Civil Action No. DC90-W205-B-0.

C. RESPONDENT enters into this STIPULATION and CONSENT voluntarily and represents that no threats, offers, promises or inducements of any kind have been made by the OTS or any member, officer, employee, agent, or representative of the OTS to induce him to enter into this STIPULATION and CONSENT.

D. RESPONDENT agrees that this STIPULATION and CONSENT shall be incorporated into the ORDER with the same force and effect as if fully set forth therein.

E. RESPONDENT's obligation to pay restitution pursuant to this STIPULATION and CONSENT and the ORDER shall not be dischargeable in bankruptcy under any circumstances.

F. This STIPULATION and CONSENT is conditioned upon the execution and receipt of a mutually acceptable release issued by the RTC to RESPONDENT and Rhonda S. Lang pertaining to

UNITED STATES OF AMERICA
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In The Matter Of

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its subsidiaries;
TOMMY M. PARKER, a Former Officer and
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of Mississippi Savings Bank,
Batesville, Mississippi;
WILLIAM H. MCKENZIE, III, a Former
Director of Mississippi Savings Bank,
Batesville, Mississippi;
JOHN R. HUTCHERSON, deceased, a Former
Officer and Director of Mississippi
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Mississippi, and its subsidiaries,
through Penelope Carr Hutcherson,
the Administratrix of the Estate of
John R. Hutcherson;
RHONDA S. LANG, a Former Employee of
or Person Participating in the
Affairs of Mississippi Savings Bank,
Batesville, Mississippi.

Re: Order No. OTS AP 93-32

Dated: April 27, 1993

**ORDER TO CEASE AND DESIST AND FOR RESTITUTION, AND
ORDER OF PROHIBITION PROHIBITING PARTICIPATION IN THE CONDUCT OF
THE AFFAIRS OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS**

WHEREAS, Michael S. Lang ("RESPONDENT") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist and for Restitution, and Order of Prohibition Prohibiting Participation in the Conduct of the Affairs of Federally Insured Depository Institutions ("STIPULATION and CONSENT"), which is accepted and approved by the Office of Thrift Supervision ("OTS") acting by and through its Acting Director, Jonathan L. Fiechter; and

WHEREAS, RESPONDENT, in the STIPULATION and CONSENT has agreed and consented to the issuance of this Order to Cease and Desist and for Restitution, and Order of Prohibition Prohibiting Participation in the Conduct of the Affairs of Federally Insured Depository Institutions ("ORDER") pursuant to Sections 8(b), (e), and (i) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §§ 1818(b), (e), and (i) (Supp. I 1989); and

WHEREAS, on November 16, 1990, pursuant to OTS Order No. 90-2018, the OTS approved and issued Order No. 90-2019, a Notice of Charges and Hearing to Direct Restitution and Other Appropriate Relief, Notice of Intention to Prohibit Respondents from Participating in the Conduct of the Affairs of Federally Insured Depository Institutions, and Notice of Assessment of Civil Money Penalties ("NOTICE"), and, pursuant to OTS Order No. 90-2016, the

OTS approved and issued Order No. 90-2017, a Temporary Order to Cease-and-Desist ("TEMPORARY ORDER"), against RESPONDENT; and

WHEREAS, RESPONDENT neither admits nor denies the allegations, assertions, facts, unsafe and unsound practices, and violations of law, rule, regulation, and agreement set forth in the NOTICE as such pertain and apply to RESPONDENT;

NOW, THEREFORE, IT IS ORDERED that:

1. The STIPULATION and CONSENT, attached hereto, is made a part hereof and is incorporated herein by reference.

CEASE AND DESIST and RESTITUTION

2. RESPONDENT shall cease and desist from committing, committing in the future, or aiding and abetting the commitment of, the violations of laws, regulations, rules and agreements and the unsafe and unsound practices alleged against RESPONDENT in the NOTICE.

3. RESPONDENT is hereby ordered to and shall individually make restitution as correction for the conditions resulting from the alleged unsafe and unsound practices and/or violations of rules, regulations, and laws arising from the payment of improper and excessive dividends, bonuses and compensation to RESPONDENT as alleged in the NOTICE by (i) payment of restitution in the amount of One Million One Hundred Eighty-Eight Thousand Dollars (\$1,188,000) and (ii) return of the non-cash or "in-kind" dividends received in RESPONDENT's capacity as a shareholder of Mississippi Savings Bank ("MSB") including but not limited to the following:

- I. Riviera, Inc. 13.50% 2d Series Floating Rate First Mortgage Notes, face value \$1,256,000;
- II. Interest(s) in Westridge Partners, a Texas Joint Venture;
- III. Interest(s) in Larkin Properties Joint Venture;
- IV. Texas Preferred General Agency, common stock; and,
- V. Notes or debt instruments made by InsurUSA Holdings, Inc. and/or Michael Edison.

The non-cash or "in-kind" dividends defined in this paragraph 3(ii) shall hereinafter be referred to as the "In-Kind Dividends."

A. RESPONDENT shall pay or cause to be paid on his behalf restitution in the amount of \$1,188,000 in the form of a cashier's check payable jointly to the order of the Office of Thrift Supervision and the Resolution Trust Corporation ("RTC"), as successor in interest to MSB, within ten (10) business days of the issuance of this ORDER. RESPONDENT's cashier's check shall be sent to the address set forth in paragraph 14 below.

B. RESPONDENT shall transfer and assign any and all rights, title, or interest in the In-Kind Dividends to the RTC, as the successor in interest of MSB, or, with the prior written approval of the RTC, dispose of the assets and transfer the proceeds therefrom to the RTC. The obligation to return the In-Kind Dividends, or the proceeds from any sale thereof, is effective as of the date of this ORDER, and the return of the In-Kind Dividends, or the proceeds from any sale thereof, shall be effected within ten (10) business days of the receipt by the

undersigned Counsel for RESPONDENT of instructions from the RTC regarding the transfer of said dividends or proceeds.

4. If the OTS determines in good faith that the RESPONDENT has failed to provide the financial disclosure ordered in paragraphs 7 and 8 of the ORDER or the RESPONDENT has made an intentional material misrepresentation in his financial disclosure, the Director of the OTS may, at his discretion and without prior notice to the RESPONDENT: (i) issue and serve a Notice of Charges upon the RESPONDENT pursuant to 12 U.S.C. § 1818(b); or, (ii) apply to the United States District Court of competent jurisdiction to enforce the ORDER pursuant to 12 U.S.C. § 1818(i)(1). Nothing hereunder, however, will preclude the OTS from seeking other appropriate remedies under 12 U.S.C. § 1818.

In any action initiated by the Director of the OTS, as provided in subparagraphs 4(i) and (ii) above, in which it is asserted by the OTS that the RESPONDENT has violated paragraphs 7 and 8 of the ORDER by making or causing to be made a material omission or misrepresentation, materially misstating the net worth of RESPONDENT or his spouse, or otherwise violating the terms set forth in paragraphs 7 and 8 of the ORDER, the OTS shall have the burden of making a prima facie showing of such violation after which the burden shall shift to the RESPONDENT who shall have the burden of proving by a preponderance of the evidence that any material omission, misrepresentation, or misstatement or other violation was unintentional. In order to determine that any misrepresentation, misstatement, or omission is material, the

Director of the OTS must find that such misrepresentation, misstatement, or omission caused the net worth of the RESPONDENT to be understated by Ten Thousand Dollars (\$10,000) or more. If, after a hearing before a District Court of competent jurisdiction or before the OTS, as provided in 12 U.S.C. § 1818(b), a District Court or the Director of the OTS finds that RESPONDENT has violated his obligation to make financial disclosure as set forth in paragraphs 7 and 8, the amount of restitution that the RESPONDENT is obligated to make in paragraph 3 of this ORDER shall be increased by the amount by which it is determined by the District Court or the Director of the OTS that the RESPONDENT misstated his net worth.

FINANCIAL DISCLOSURE

5. Prior to the issuance of this ORDER, RESPONDENT provided the RTC and the OTS with the financial disclosure set forth in paragraph 6 below. This disclosure was expressly relied upon by the OTS in accepting the STIPULATION and CONSENT and agreeing to enter the ORDER.

6. The financial disclosure of the RESPONDENT included: (i) a current sworn statement of financial condition as of August 31, 1992; and, (ii) copies of individual income tax returns for calendar years 1988, 1989, 1990 and 1991. The statement of financial condition was required to truthfully and accurately disclose all assets in which the RESPONDENT had any legal, equitable or beneficial title or interest (whether such title or

interest was liquidated, inchoate or contingent), liabilities, and the net worth of the RESPONDENT.

7. The RESPONDENT shall, within fifteen (15) calendar days of the entry of the ORDER, either (i) provide a sworn affidavit under penalty of perjury stating that the previously submitted financial disclosure described in paragraph 6 is still true and correct or, in the alternative, (ii) submit financial disclosure, updated to the date of this ORDER, of the nature described in paragraph 6 above, accompanied by a sworn affidavit under penalty of perjury that the information contained in such updated financial disclosure is true and correct.

8. For a period of three (3) years following the execution of the ORDER, RESPONDENT shall submit on the anniversary of the issuance of the ORDER to the OTS the following additional financial disclosure accompanied by a sworn affidavit under penalty of perjury of the RESPONDENT stating that the accompanying financial disclosure is true and correct:

- i. a current statement of financial condition of the RESPONDENT as of the most recent calendar month-end; and,
- ii. copies of the most recently filed federal income tax returns of the RESPONDENT.

9. Limited only to the financial disclosure for the time period required by paragraphs 7 and 8 of this ORDER, the RESPONDENT shall provide to the OTS, upon request, a signed waiver in a form satisfactory to the Internal Revenue Service ("IRS")

permitting the OTS to obtain access to all federal tax returns and tax return information maintained by the IRS with respect to the RESPONDENT.

COOPERATION

10. RESPONDENT shall, at the request of the OTS or the RTC, on reasonable notice and without service of a subpoena, provide discovery and testify truthfully at any deposition and at any judicial or administrative proceeding brought by the OTS or the RTC as a result of any investigation relating to MSB and its institution-affiliated parties, except that RESPONDENT does not waive his privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If the RESPONDENT invokes his privilege against self-incrimination under the Fifth Amendment of the United States Constitution with respect to any matter about which the OTS or the RTC may inquire or the production of any document requested by the OTS or the RTC and the OTS or the RTC obtains a grant of immunity pursuant to 18 U.S.C. § 6001 et seq., RESPONDENT will, consistent with any such grant of immunity, provide discovery and testify truthfully at any deposition and at any judicial or administrative proceeding on the matters for which immunity is given.

PROHIBITION

11. RESPONDENT shall not hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) or other entity(ies) as set forth in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) (Supp. I 1989), without the prior

written approval of the Director of the OTS, or his designee, and, if appropriate, the approval of other federal financial institution regulatory agencies. Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C. § 1818(e)(6) (Supp. I 1989), 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.

MISCELLANEOUS

12. RESPONDENT's obligation to make restitution as correction for the conditions resulting from the alleged unsafe and unsound practices and/or violations of rules, regulations, and laws set forth against the RESPONDENT in the NOTICE as set forth in paragraph 3 herein shall be deemed full and final settlement of any and all claims alleged in the NOTICE for the recovery of improper dividends, bonuses, and compensation paid to RESPONDENT as well as any similar claims relating to dividends, bonuses, and compensation identified in any release given by the RTC as referenced in paragraph 7(F) of the STIPULATION and CONSENT. In the event RESPONDENT fails to remit the settlement payment totalling One Million One Hundred Eighty-Eight Thousand Dollars (\$1,188,000) within fifteen (15) calendar days of the issuance of this ORDER and to effect the timely return of all non-cash or "in-kind" dividends as specified herein, RESPONDENT's STIPULATION and CONSENT may, at the discretion of the OTS, be deemed rescinded and this ORDER may be deemed null and void, in which case the ORDER shall not constitute or be construed as a bar to the OTS's action

against RESPONDENT pursuant to the NOTICE, or the ORDER may be enforced pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (Supp. I 1989).

13. RESPONDENT's obligation to make the payments required by paragraph 3 of this ORDER shall not be dischargeable in bankruptcy under any circumstances.

14. The cashier's check and an accompanying cover letter linking RESPONDENT's restitution payment, as set forth in paragraph 3(A), to OTS Order No. 90-2019 should be sent directly to Deborah A. Holland at the address listed below, with a photocopy to Paul G. Leiman, Esq., Special Trial Division:

Office of Thrift Supervision
U.S. Treasury Department
1700 G Street, N.W.
Washington, D.C. 20552

15. RESPONDENT shall send any financial disclosure required pursuant to this ORDER to the Regional Director of the OTS Midwest Regional Office, or his successor, at the following address:

Regional Director
Office of Thrift Supervision
122 W. John Carpenter Freeway, Suite 600
Irving, TX 75039

16. The OTS hereby dismisses RESPONDENT from the above-captioned administrative litigation in consideration of RESPONDENT's agreement to comply with both this ORDER, and, inter alia, the recitals set forth in the STIPULATION and CONSENT. The OTS further agrees and hereby orders that the TEMPORARY ORDER

shall be dissolved with respect to RESPONDENT upon full and complete compliance with the payment of restitution by RESPONDENT as set forth in paragraph 3 herein. Within fifteen (15) calendar days of the dissolution of the TEMPORARY ORDER with respect to RESPONDENT, RESPONDENT and the OTS shall jointly move to dismiss all pending claims involving both RESPONDENT and the OTS before the United States District Court for the Northern District of Mississippi, Civil Action No. DC90-W205-B-0.

17. The STIPULATION and CONSENT, the ORDER, RESPONDENT's payment of restitution and compliance with the ORDER, the dismissal of RESPONDENT from the above-captioned OTS administrative proceeding, and the dismissal of the TEMPORARY ORDER are only for the purposes of resolving against RESPONDENT the charges set forth in the NOTICE and any other charges, without limitation, arising out of RESPONDENT's activities with respect to Mississippi Savings Bank, its affiliates or any of its subsidiaries, including Beta Financial Corporation, that could have been asserted by the OTS, and do not resolve, affect or preclude any other administrative or civil claim or proceeding which may be brought against RESPONDENT, or any other person named in the NOTICE, by the OTS. Further, except as expressly stated hereinabove with respect to the OTS, the STIPULATION and CONSENT and the ORDER do not resolve, affect or preclude any administrative, civil or criminal charges or proceedings which may be brought against RESPONDENT, or any other person named in the NOTICE, by any other governmental entity.

