

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
GEORGE MICHAEL MAGNUSSON,)
)
Former Branch Manager and)
Institution-Affiliated Party)
of:)
)
First Federal Savings & Loan)
Association of Giles County,)
Pulaski, Tennessee)

Resolution No. CIN-93-7

Dated: May 6, 1993

STIPULATION AND CONSENT TO ENTRY OF AN
ORDER OF CIVIL MONEY PENALTY ASSESSMENT

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Central Regional Office ("Regional Director") and George Michael Magnusson ("Magnusson"), former Branch Manager and institution-affiliated party of First Federal Savings & Loan Association of Giles County, Pulaski, Tennessee ("First Federal" or "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 civil money penalty assessment proceeding against Magnusson pursuant to Section 8(i) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(i) (West 1989 & Supp. 1992). Magnusson desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying that such

H. 30. 93
D m m

grounds exist, Magnusson hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative civil money penalty assessment proceeding against Magnusson with respect to the matters set forth in this Stipulation and Consent to Entry of an Order of Civil Money Penalty Assessment ("Stipulation") and the accompanying Order of Civil Money Penalty Assessment ("Order"). The OTS has determined that it is appropriate, and in the best interest of the public, to execute this Stipulation and the attached Order.

2. Jurisdiction and Facts.

(a) First Federal, 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) and Section 2(4) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C.A. § 1462(4) (West Supp. 1992). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C.A. § 1813(c).

(b) Until August 9, 1989, pursuant to Section 5 of HOLA, 12 U.S.C.A. § 1464, the Federal Home Loan Bank Board ("FHLBB") was the regulatory agency with jurisdiction over First Federal and its directors and officers.

(c) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (Pub. L. No. 101-73, 103 Stat. 183 (August 9, 1989)), 12 U.S.C.A. § 1813(q), the OTS succeeded to the interests of the FHLBB with

respect to the supervision and regulation of all savings associations, and thus became the "appropriate Federal banking agency" with jurisdiction over First Federal and its officers, directors and persons participating in the conduct of its affairs.

(d) The Director of the OTS has the authority to bring administrative civil money penalty assessment proceedings against institution-affiliated parties of First Federal pursuant to Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i).

(e) Magnusson was a Branch Manager of the First Federal 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.

(f) Magnusson is subject to the authority of the OTS to initiate and maintain civil money penalty assessment proceedings pursuant to Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i).

(g) On November 30, 1984, First Federal entered into a Supervisory Agreement with the FHLBB that included a provision prohibiting First Federal from granting any real estate or commercial loans contrary to sound underwriting principles, which at a minimum included: (1) a signed application, (2) a completed appraisal, if appropriate, (3) a review of current financial statements from the applicant, (4) a documented review of the applicant's ability to repay the credit extended, (5) a documented review of the lien status of security property, and (6) compliance with existing regulatory requirements and established association

lending policies and standards. Said Supervisory Agreement continued in full force and effect until July 10, 1992.

(h) Magnusson began his employment at First Federal in September 1988 and was manager of the Institution's branch office in Ardmore, Tennessee from July 1, 1989 until December 1, 1990. Magnusson's employment with First Federal was terminated on June 24, 1991.

(i) Between August 9, 1989 and December 1, 1990, during which time Magnusson was the Ardmore branch manager, Magnusson originated and/or renewed 96 loans that contained: (1) significant violations of regulatory requirements, and/or (2) unsafe or unsound underwriting practices. Each of the 96 loans also violated one or more of the Institution's written loan and/or appraisal policies. Twenty-seven (27) of the 96 loans violated the Supervisory Agreement between First Federal and the FHLBB.

(j) The 96 loans referred to in Subsection (i) above contained significant unsafe and unsound practices and violations of regulations including: (1) failure to obtain complete financial information concerning borrowers and/or cosigners in violation of 12 C.F.R. §§ 563.170(c)(1)(v) and 563.170(c)(2); (2) failure to obtain meaningful appraisals of real estate in violation of 12 C.F.R. §§ 545.32(b)(1), 563.170(c)(1)(iv) and 564.1 et seq., and failure to obtain proper valuations of personal property taken as collateral; (3) extending loans to persons with demonstrated poor credit and/or high debt-to-income ratios; and (4) failure to obtain and/or perfect liens in violation of 12 C.F.R.

§§ 563.170(c)(1)(iii) and 563.170(c)(2).

(k) The 96 loans referred to in Subsection (i) above contained significant violations of First Federal's internal lending and appraisal policies, including: (1) failure to comply with the requirements of the appraisal policies; (2) failure to obtain full financial information concerning borrowers and/or cosigners; (3) failure to obtain verification of employment and income, and/or tax returns, from loan applicants; and (4) under-collateralization of loans.

(1) The 27 real estate and commercial loans referred to in Subsection (i) above contained violations of the Supervisory Agreement including: (1) failure to obtain completed appraisals of real estate; (2) failure to obtain and review current financial statements from borrowers and cosigners; (3) failure to document the applicants' ability to repay the loans; and (4) failure to comply with existing regulatory requirements and established association lending policies as noted in Subsections (j) and (k) above.

4. Consent. Without admitting or denying the foregoing allegations, Magnusson 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 requirements of law, including Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i).

5. Finality. The Order is issued under Section 8(i)(2) of the FDIA, 12 U.S.C.A. § 1818(i)(2). Upon its issuance, 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).

6. Waivers. Magnusson waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i)(2)(H) of the FDIA, 12 U.S.C.A. § 1818(i)(2)(H), and the administrative hearing provided by Section 8(i)(2) of the FDIA, 12 U.S.C.A. § 1818(i)(2), 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 to otherwise challenge the validity of the Order.

7. Other Actions, Proceedings and Parties. By entering into this Stipulation, the OTS and Magnusson acknowledge and agree explicitly to the following provisions:

(a) Magnusson acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Magnusson's 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 have been brought against Magnusson by the OTS or another governmental entity. By signing this document Magnusson agrees that he will not assert the assessment or payment of this penalty as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

(b) The OTS and Magnusson acknowledge and agree that the

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
GEORGE MICHAEL MAGNUSSON,)
)
Former Branch Manager and)
Institution-Affiliated Party)
of:)
)
First Federal Savings & Loan)
Association of Giles County,)
Pulaski, Tennessee)
)

Resolution No. CIN-93-7

Dated: May 6, 1993

ORDER OF CIVIL MONEY PENALTY ASSESSMENT

WHEREAS, George Michael Magnusson ("Magnusson"), without admitting or denying the allegations contained therein, has executed a Stipulation and Consent to Entry of an Order of Civil Money Penalty Assessment ("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 Central Regional Office ("Regional Director"); and

WHEREAS, Magnusson has consented and agreed in the Stipulation to the issuance of this Order of Civil Money Penalty Assessment ("Order") pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i)(2) (West 1989 & Supp. 1992);

NOW, THEREFORE, IT IS ORDERED THAT:

1. Magnusson shall pay a civil money penalty assessment to the OTS in the sum of Seven Thousand Dollars (\$7,000.00). Payment

4-30-93
A

