

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	
)	
LAURENCE A. SCHIFFER)	Re: Resolution No. KC 93- <u>06</u>
)	
Institution-Affiliated Party of:)	Dated: <u>May 20</u> , 1993
HEARTLAND SAVINGS BANK, F.S.B.)	
St. Louis, Missouri)	

STIPULATION AND CONSENT TO THE ENTRY
OF A CEASE AND DESIST ORDER

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Region, OTS, and Laurence A. Schiffer, director and institution affiliated party of Heartland Savings Bank, F.S.B., St. Louis, Missouri, stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that the grounds exist to initiate an administrative cease and desist proceeding against Laurence A. Schiffer pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA") (12 U.S.C.A. § 1818(b) (West 1992)). Laurence A. Schiffer 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 by the OTS from initiating such administrative cease-and-desist proceeding against him with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction and Facts.

(a) Heartland Savings Bank, F.S.B., St. Louis, Missouri, is a "savings association" within the meaning of Section 3(b) of the FDIA (12 U.S.C.A. § 1813(b) (West 1992)) and Section 2(4) of the Home Owners' Loan Act (12 U.S.C.A. § 1462(2) (West 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) (West 1992)).

(b) Laurence A. Schiffer, as Director, is an "institution-affiliated party" of Heartland Savings Bank, F.S.B., St. Louis, Missouri, as that term is defined in Section 3(u) of the FDIA (12 U.S.C.A. § 1813(u) (West 1992)).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C.A. § 1813(q) (West 1992), the Director of the OTS is the "appropriate Federal Banking Agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(d) The Director of the OTS has the authority to bring an administrative cease and desist proceeding directing affirmative relief against persons participating in the conduct of the affairs of the Institution and institution affiliated parties pursuant to Section 8(b) of the FDIA, 12 U.S.C.A. § 1818(b) (West 1992).

(e) Laurence A. Schiffer is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to Section 8(b) of the FDIA, 12 U.S.C.A. § 1818(b) (West 1992).

(f) In the opinion of the OTS, a basis exists for initiating an administrative cease and desist proceeding against Laurence A. Schiffer

as a result of an unsafe or unsound practice and breach of fiduciary duty related to an investment by a wholly-owned subsidiary of Heartland in a property leased to an entity controlled by institution-affiliated parties.

3. Consent. Laurence A. Schiffer 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.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA (12 U.S.C.A. § 1818(b) (West 1992)). Upon its issuance by the Regional Director for the Midwest Regional Office, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C.A. § 1818(i) (West 1992)).

5. Waivers.

(a) Laurence A. Schiffer waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA (12 U.S.C.A. § 1818(b) (West 1992)) and further waives any 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) (West 1992)), or otherwise to challenge the validity of the Order.

(b) Laurence A. Schiffer acknowledges and agrees that the 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 proceeding which may be or has been brought by the OTS or another governmental entity.

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HEARTLAND SAVINGS BANK, F.S.B.)
St. Louis, Missouri)
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Re: Resolution No. KC 93-06
Dated: May 20, 1993

ORDER TO CEASE AND DESIST

WHEREAS, Laurence A. Schiffer, individually, has executed a Stipulation and Consent to the Entry of a Cease and Desist 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 Midwest Regional Office; and

WHEREAS, Laurence A. Schiffer, in the Stipulation, has consented and agreed to the entry of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(b) (West 1992);

NOW THEREFORE, IT IS ORDERED that Laurence A. Schiffer shall cease and desist from any violation of, or the aiding and abetting of any violation of 12 U.S.C.A. §§ 375b, 371c, and 371c-1 (West 1992); 12 C.F.R. §§ 563.43 (1992), and 12 C.F.R. § 571.7 (1992).

IT IS FURTHER ORDERED THAT:

1. Laurence A. Schiffer shall not hereafter participate in the decision to make any investment on behalf of Heartland or its subsidiaries, in which he is involved in such a way as to create a conflict, whether directly or indirectly.

2. Laurence A. Schiffer shall hereafter:

- a. obtain advice of competent, experienced, and independent counsel about his duties and responsibilities as they relate to any actual or potential conflict of interest that may arise between his own personal or business interests and the interests of Heartland or its subsidiaries;
- b. abstain from voting on or participating in any manner in the decision making process for any proposal presented to Heartland or any of its subsidiaries in which Laurence A. Schiffer has a personal interest or may experience a direct or indirect benefit from such proposal;
- c. in connection with any transaction subject to subparagraph (b) above, make full disclosure to the full Board of Directors of (i) the existence of any interest by Laurence A. Schiffer, (ii) the nature and extent of such interest, and (iii) the pertinent facts known to Laurence A. Schiffer as to the matter or transaction under consideration; and
- d. refrain generally from violating the standards governing conflicts of interest, fiduciary duties, and safe or sound operations as set forth at 12 C.F.R. §§ 571.7 and 215.1 et seq. (1992).

3. When serving or functioning as a director of a federally insured depository institution (hereinafter "institution"), in every instance where Laurence A. Schiffer knows, or has reason to know, that an officer, director, shareholder participating in or advising the directors or officers in their functions, or any other institution-affiliated person, has a direct or indirect financial or other personal interest in a transaction or matter under consideration by the institution, Laurence A. Schiffer shall do the following:

- a. prior to any action being taken by the Board of Directors, a Board Committee or management that binds or obligates the institution, Laurence A. Schiffer shall (1) fully disclose to the full Board of Directors his knowledge of such person's financial or other personal interest and involvement in the transaction or matter; (2) request, in the presence of the full Board of Directors, that such interested person fully disclose to all directors, his or her financial or other personal interest in the transaction or matter and any involvement in the timing, negotiation, underwriting, presentation or approval of such transaction or matter; (3) formally request all such disclosures to be reflected in the corporate minutes of the institution; and (4) formally request all such disclosures to be communicated to those individual directors, officers, and employees of the institution responsible for approving or disapproving the transaction in question;
- b. Laurence A. Schiffer shall demand from the officers of the institution sufficient, comprehensive and timely information to adequately assess (i) the fairness of such transaction or matter to the institution with particular emphasis on the comparability of any terms of such transaction or matter to the institution's prior practice or course of dealing in non-affiliated transactions or matters and (ii) the capabilities of the institution (or the ability of the institution to acquire the necessary capabilities) to perform any services required in connection with the transaction or matter that are otherwise proposed to be performed by the interested institution-affiliated person or an affiliate thereof;

- c. Laurence A. Schiffer shall exercise fiduciary care and loyalty to the institution when considering or acting on any such transaction or matter;
 - d. The requirements of this Paragraph 3 shall not apply to transactions in which an indirect financial or personal interest arises solely because of Laurence A. Schiffer's or any other person's ownership interest in the institution on which Laurence A. Schiffer or such other person is serving or functioning as a director.
4. When serving or functioning as an officer or director of any federally insured depository institution, Laurence A. Schiffer shall take all necessary steps within his authority to request an adequate system of procedures, policies, and controls to exist at the institution to ensure that institution management and directors conduct institution affairs in a manner that (a) independently assesses and determines the safety and soundness of any transaction between the institution and an institution-affiliated party; (b) assures that the transaction is not dependent on information obtained from the institution-affiliated party that has not been independently verified; and (c) assures that all such assessments, determinations and verifications (i) occur before any action is taken by the Board, a Board Committee or management that binds the institution or any subsidiary and (ii) are recorded in appropriate institution files or records.
5. For the purposes of this Order, the term "institution" or "federally insured depository institution" shall include any and all of their subsidiaries.

