

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of:	)	
MARTIN LIPPETH	)	Resolution No. CHI-93-14
Former Senior Vice President	)	
and Institution-Affiliated	)	Dated: June 29, 1993
Party of:	)	
Peerless Federal Savings Bank	)	
Chicago, Illinois	)	

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 Martin Lippeth ("Lippeth"), former Senior Vice President and institution-affiliated party of Peerless Federal Savings Bank, Chicago, Illinois ("Peerless Federal" or the "Institution"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that Lippeth, as an officer and institution-affiliated party of Peerless, has violated 12 C.F.R. §§ 563.170(c), 563.161(a) and 571.7, thereby providing grounds to initiate an administrative civil money penalty assessment proceeding against Lippeth, pursuant to Section 8(i) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(i) (West 1989 & Supp. 1992).

Lippeth desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying that such grounds exist, Lippeth hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating an administrative civil money penalty assessment proceeding against Lippeth 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. The OTS is of the opinion, and Lippeth neither admits nor denies, 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 civil money penalty 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(i) of the FDIA, 12 U.S.C.A. § 1818(i).

(d) Lippeth was a Senior Vice President and chief lending 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) Lippeth is subject to the authority of the OTS to initiate and maintain civil money penalty proceedings pursuant to Section 8(b) of the FDIA, 12 U.S.C.A. § 1818(b), as well as removal and prohibition proceedings pursuant to Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i).

(f) In November 1989, two individuals ("the Borrowers") purchased 90 acres of vacant land in Sugar Grove, Illinois ("the Property") for \$1.3 million. The acquisition of the Property was financed by another lending institution ("the Bank"), which placed a \$1.4 million first mortgage on the Property. In December 1989, the Borrowers applied to Peerless Federal for a \$250,000 second mortgage on the Property. Peerless Federal's loan underwriting standards ("LUS") required that loans such as this, which were to be secured by undeveloped land, be approved by the Institution's Mortgage Loan Committee ("MLC"). The LUS also required MLC approval for any second mortgages in excess of \$100,000.

Lippeth was aware of the existence of these LUS at all times relevant hereto.

(g) In violation of the LUS and principles of safe and sound lending, Lippeth approved the \$240,000 loan to the Borrowers without seeking or obtaining the required approval of the MLC or informing Peerless Federal's Board of Directors. This loan was closed by Lippeth on December 15, 1989.

(h) On November 28, 1989, Lippeth issued a letter of credit in the amount of \$500,000 in favor of the Bank ("the LOC"). The LOC, which was entirely unsecured, provided that it could be drawn upon if the Borrowers defaulted in any way on their \$1,400,000 loan from the Bank. In contravention of the Institution's policies, Lippeth failed to seek or obtain approval of his superiors, the MLC or Peerless Federal's Board of Directors. If Lippeth had sought such approval, it would have been denied and the LOC would not have been issued. Furthermore, in violation of 12 C.F.R. § 563.170(c), Lippeth failed to cause the LOC to be recorded in the books and records of the Institution. Nor did Lippeth charge the Borrowers any fee for the issuance of the unsecured LOC.

(i) In February 1991, Lippeth approved the purchase by Peerless Federal of a \$500,000 subordinated participation in the Bank loan to the Borrowers. Lippeth's purchase of this \$500,000 subordinated participation was beyond the scope of his lending authority at the Institution. Moreover, the LUS required that such a participation be approved by both the Institution's Executive Committee and its full Board of Directors. Lippeth

never sought or obtained the approval of either the MLC or the Institution's Board of Directors for the purchase of the loan participation. Lippeth's conduct also violated 12 C.F.R. § 563.161(a) relating to the maintenance of safe and sound management and financial policies.

(j) The Borrowers' loans went into default and later into foreclosure. The Institution has recognized losses on these loans.

(k) Lippeth also extended personal loans to the Borrowers. In November 1990 and December 1991, Lippeth made personal loans to the Borrowers totalling in excess of \$41,000. Lippeth failed to inform anyone at the Institution that he had made these personal loans to the Borrowers. These loans, and Lippeth's failure to inform the Institution of their existence, were violations of Lippeth's fiduciary duty to the Institution and of the conflict of interest provisions set forth in 12 C.F.R. § 571.7.

3. Consent. Lippeth consents to the issuance by the OTS of the Order assessing a civil money in the amount of \$15,000.00, a copy of which is attached hereto. Lippeth further agrees to comply with its terms, provisions, and conditions upon issuance and stipulates that the Order complies with all requirements of law.

4. 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)(1) of the FDIA, 12 U.S.C.A. § 1818(i)(1).

5. Waivers. Lippeth waives his 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 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), or to otherwise challenge the validity of the Order.

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

(a) Lippeth acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Lippeth'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 Lippeth by the OTS or another governmental entity. By signing this document Lippeth 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 Lippeth 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 civil money penalty assessment proceeding and all



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Former Senior Vice President	)	) Dated: June 29, 1993
and Institution-Affiliated	)	)
Party of:	)	)
Peerless Federal Savings Bank	)	)
Chicago, Illinois	)	)

ORDER OF CIVIL MONEY PENALTY ASSESSMENT

WHEREAS, Martin Lippeth ("Lippeth"), former Senior Vice President of Peerless Federal Savings Bank, Chicago, Illinois ("Peerless") is an "institution-affiliated party" within the meaning of Section 3(u) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1813(u) (West 1989 and Supp. 1992); and

WHEREAS, Lippeth 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 OTS acting through its Regional Director for the Central Regional Office ("Regional Director"); and

WHEREAS, without admitting or denying that the grounds exist therefore, Lippeth 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 FDIA, 12 U.S.C.A. §1818(i)(2).

NOW, THEREFORE, IT IS ORDERED that:

1. Within five (5) business days of the effective date of this Order, Lippeth shall pay to OTS the sum of Fifteen Thousand Dollars (\$15,000.00) by tendering a certified check to the Regional Director in that amount, made payable to the "Treasurer of the United States".

2. This Order shall become effective on the date of its issuance by the Regional Director.

3. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors and heirs in interest.

OFFICE OF THRIFT SUPERVISION

By: \_\_\_\_\_ /s/  
Ronald N. Barr  
Regional Director  
Central Regional Office

Dated: 6-29-93