

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
GORDON SMALE, FORMER DIRECTOR AND)
CHAIRMAN OF THE BOARD OF DIRECTORS OF)
SECURITY FEDERAL SAVINGS AND LOAN)
ASSOCIATION OF ALBUQUERQUE,)
ALBUQUERQUE, NEW MEXICO)

Re: Resolution No.: DAL-93-24

Dated: July 29, 1993

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

The Office of Thrift Supervision ("OTS"), by and through the Regional Director for the Midwest Regional Office, and Gordon Smale ("Respondent") stipulate and agree as follows:

1. Consideration.

The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against Respondent pursuant to Section 8(i) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.S. § 1818(i) (Supp. 1992). Respondent desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation 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 civil money penalty assessment proceeding against Respondent with respect to his failure, in his role as a director and chairman of the board of directors of Security Federal Savings and Loan Association of Albuquerque, Albuquerque, New Mexico, to take appropriate action to prevent, or sufficiently attempt to prevent, such association from violating 12 C.F.R. § 563.172 in failing to obtain appraisals

on real estate owned at the earlier of in-substance foreclosure or at the time of acquisition of such property with regard to properties obtained through foreclosure or in-substance foreclosure from Don W. Hedges.

2. Jurisdiction.

(a) Before being placed in receivership on May 3, 1991, Security Federal Savings and Loan Association of Albuquerque, Albuquerque, New Mexico, was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C.S. § 1813(b) (Supp. 1992), and Section 2 of the Home Owners' Loan Act of 1933, 12 U.S.C.S. § 1462 (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.S. § 1813(c) (Supp. 1992).

(b) Respondent was an institution-affiliated party within the meaning of Section 3(u) of the FDIA, 12 U.S.C.S. § 1813(u) (Supp. 1992).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C.S. § 1813(q) (Supp. 1992), the OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such an institution-affiliated party. Therefore, Respondent is subject to the authority of OTS to initiate and maintain the assessment of a civil money penalty pursuant to Section 8(i) of the FDIA, 12 U.S.C.S. § 1818(i) (Supp. 1992).

3. Consent.

Respondent consents to the issuance by the OTS of the accompanying Order of Assessment of Civil Money Penalties ("Order") and 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 Section 8(1) of the FDIA, 12 U.S.C.S. § 1818(1) (Supp. 1992). Upon its issuance by the Regional Director for the Midwest Region, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(1) of the FDIA, 12 U.S.C.S. § 1818(1) (Supp. 1992).

5. Waivers.

Respondent waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(1) of the FDIA, 12 U.S.C.S. § 1818(1) (Supp. 1992) and the administrative hearing provided by Section 8(1)(2)(H) of the FDIA, 12 U.S.C.S. § 1818(1)(2)(H) (Supp. 1992), 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.S. § 1818(h) (1984 and Supp. 1992) or to otherwise challenge the validity of the Order.

6. Acknowledgments

(a) Respondent acknowledges that the debt owed pursuant to the Order is not dischargeable under the Bankruptcy Code, in accordance with 11 U.S.C.S. § 523(a)(11) and (12) (Supp. 1992).

(b) This Stipulation and Consent to Entry of an Order of Assessment of Civil Money Penalties ("Stipulation"), the Order and the payment by Respondent of any monies or providing any other financial relief as contemplated by the Order, does not compromise, settle, dismiss, resolve, or in any way affect any civil actions, charges against, or liability of Respondent 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.

(c) Respondent acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Respondent'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 has been brought against Respondent by the OTS or another governmental entity.

(d) By signing this document, Respondent 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.

7. General

All technical words or terms used in this Stipulation and accompanying Order, for which meanings are not specified or otherwise provided by the provisions of this Stipulation and accompanying Order, shall, insofar as applicable, have meanings as defined in the rules and regulations adopted by the OTS (including, without limitation, 12 C.F.R. § 500.1 et seq., § 541.1 et seq., and § 561.1 et seq.). Any such technical words or terms used in this Stipulation and accompanying Order and undefined in said rules and regulations shall have meanings that accord with the best custom and usage in the thrift industry.

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ASSOCIATION OF ALBUQUERQUE,)
ALBUQUERQUE, NEW MEXICO)

Re: Resolution No.: DAL-93-24

Dated: July 29, 1993

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, Gordon Smale ("Respondent"), has executed a Stipulation and Consent to Entry of an Order of Assessment of Civil Money Penalties, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the Midwest Region; and,

WHEREAS, Respondent, in the Stipulation, has consented to the issuance of this Order of Assessment of Civil Money Penalties pursuant to Section 8(1) of the Federal Deposit Insurance Act, 12 U.S.C.S. § 1818(1) (Supp. 1992);

NOW THEREFORE, IT IS ORDERED that, within ten days of the effective date of this Order, Respondent shall pay to the OTS the sum of \$1,000.00, by tendering a certified check to the OTS in that amount made payable to the Treasury of the United States. The certified check shall be sent, together with a cover letter stating the name of the association and the resolution number, and a copy of the Order, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552. A copy of the cover

(c) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such an "institution-affiliated party." Therefore, RICK L. CATT is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against him pursuant to Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818 (b)).

3. Consent. RICK L. CATT 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 (to be codified at 12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director for the Central 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 (to be codified at 12 U.S.C. § 1818(i)).

5. Waivers. RICK L. CATT waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the OTS, by and through its Regional Director for the Central Regional Office, OTS, and RICK L. CATT, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

RICK L. CATT

By:

/S/

/S/

Stuart M. Brafman
Regional Director
Central Regional Office

Rick L. Catt
President, First Robinson Savings
and Loan Association, F.A.