

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
) Re: Order No. SF-93-027
) Dated: August 23, 1993
RAYMOND AU, an institution)
affiliated party of)
GATEWAY, A. F.S.B.)
San Francisco, California)

STIPULATION AND CONSENT TO THE AMENDMENT TO
ORDER OF CIVIL MONEY PENALTY ASSESSMENT

The Office of Thrift Supervision ("OTS"), by and through the Regional Director for the West Region, and Raymond Au stipulate and agree as follows:

1. Consideration.

The OTS, based upon information reported to it, and representations made by Raymond Au, in his Declaration dated July 23, 1993 ("Declaration"), is of the opinion that grounds exist to determine that Mr. Au has fully satisfied his obligations under OTS Order of Civil Money Penalty Assessment, Order No. SF-91-042, dated October 7, 1991, an administrative civil money penalty assessment proceeding against Mr. Au pursuant to 12 U.S.C. §§ 1818(i)(2) and 1828(j)(4), with his January, 1992 partial payment in the amount of \$2,500 of the total assessment of \$10,000. Mr. Au desires to cooperate with OTS, and hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from enforcing its Order No. SF-91-042 against Mr. Au with respect to his acts while an institution-affiliated party of Gateway Bank, F.S.B., San Francisco, CA.:

2. Rescission

That should Mr. Au's representations made in his Declaration, prove false or misleading, OTS is entitled to full immediate payment of the remaining \$7,500, plus applicable interest from the effective date of the Amendment to Order of Civil Money Penalty Assessment ("Amendment"), and may employ any lawful and appropriate remedies to enforce OTS Order No. SF-91-042.

3. Jurisdiction.

(a) Gateway Bank, a f.s.b., San Francisco, California, is a "savings association" within the meaning of Section 3 of the Federal Deposit Insurance Act ("FDIA") and Section 2 of the Home Owners' Loan Act of 1933, as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183. Accordingly it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA (12 U.S.C. § 1813(c)).

(b) Mr. Au was an institution affiliated party within the meaning of 12 U.S.C. § 1813(u).

(c) Pursuant to Section 3 of the FDIA, as amended by FIRREA, OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such an institution affiliated party. Therefore, Mr. Au is subject to the authority of OTS to initiate and maintain the assessment of a civil money penalty pursuant to 12 U.S.C. §§ 1818(i)(2) and 1828(j)(4).

4. Consent.

Mr. Au consents to the issuance by OTS of the accompanying Order and further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

5. Finality.

The Amendment is issued under 12 U.S.C. §§ 1818(i)(2) and 1828(j)(4). Upon its issuance by the Regional Director for the West Region, it shall be a final order, effective and fully enforceable by OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(i)(2)).

6. Waivers.

Mr. Au waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. §§ 1818(i) and 1828(j)(4)) and the administrative hearing provided by 12 U.S.C. § 1818(i), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h)) or to otherwise challenge the validity of the Order. Mr. Au acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Mr. Au's consent to the entry of Order SF-91-042 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 brought against Mr. Au by OTS or another governmental entity. By signing this document Mr. Au agrees that he will not assert the assessment or payment of this penalty as the basis for a claim of double jeopardy in any future proceeding brought by another governmental entity. Mr. Au agrees that the amount of civil money penalty that was voluntarily paid hereunder is reasonably related to the government expense of investigation and litigation as well as the conduct of Mr. Au.

WHEREFORE, in consideration of the foregoing, the Regional Director for the West Region on behalf of OTS, and Mr. Au execute this Stipulation and Consent to Amendment to Order of Civil Money Penalty Assessment.

OFFICE OF THRIFT SUPERVISION

By

/S/

Charles A. Deardorff
Acting Regional Director
Office of Thrift Supervision
West Region

/S/

Raymond Au

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Under

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AMENDMENT TO
ORDER OF CIVIL MONEY PENALTY ASSESSMENT

WHEREAS, Raymond Au has executed a Stipulation and Consent to the Amendment of Order of Civil Money Penalty Assessment on August 23, 1993, ("Stipulation") which is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the West Region, and has executed a Stipulation and Consent to Issuance of Order of Civil Money Penalty Assessment dated October 7, 1991, and OTS issued its Order of Civil Money Penalty assessment, Order No. SF-91-042, dated October 7, 1991, all of which are incorporated herein by reference; and

WHEREAS, Mr. Au, in the Stipulation, has consented to the issuance of this Amendment of Order of Civil Money Penalty Assessment pursuant to 12 U.S.C. §§ 1818(i)(2) and 1828(j)(4), and,

WHEREAS, the OTS has determined, based upon Mr. Au's representations in his Declaration, dated July 23, 1993, incorporated herein by reference, that Mr. Au does not have the financial means to pay the remaining \$7,500 of Civil Money Penalty assessed against him under OTS Order No. SF-91-042.

NOW THEREFORE, IT IS ORDERED that Mr. Au has fully satisfied his obligation

under OTS Order No. SF-91-042 with his January 1992 partial payment in the amount of \$2,500 of the total assessment of \$10,000.

IT IS FURTHER ORDERED, that should, at any time, the representations made by Mr. Au prove false or misleading, Mr. Au has not fully satisfied his obligations under OTS Order No. SF-91-042, and Mr. Au will be required to immediately pay a sum of \$7,500, plus applicable interest as of the effective date of this Order, by tendering a check to OTS in that amount made payable to the Treasurer of the United States.

OFFICE OF THRIFT SUPERVISION

/S/

By:

Charles A. Deardorff
Acting Regional Director
Office of Thrift Supervision
West Region