



b. The OTS is of the opinion that, based upon the conduct and participation by JENKINS in the affairs of Lincoln as set forth in the Notice, grounds exist to pursue administrative proceedings against JENKINS pursuant to Sections 8(b) and (e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"), 12 U.S.C. §§ 1818(b) and (e) (Supp. I 1989), and Sections 407(e) and (g) of the National Housing Act of 1934 ("NHA"), formerly codified at 12 U.S.C. §§ 1730(e) and (g), for an order to cease and desist and an order to prohibit JENKINS from any further participation in any manner in the conduct of the affairs of any insured depository institution.

c. JENKINS desires to avoid the time and expense of such administrative litigation, and without admitting or denying that such grounds exist, solely for the purposes of effecting this Offer of and Consent to Settlement ("Offer and Consent"), hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from pursuing such administrative cease-and-desist and prohibition proceedings against JENKINS with respect to the matters set forth in the Notice.

2. Jurisdiction.

a. JENKINS, was an "institution-affiliated party" with respect to Lincoln as that term is defined in Section 3(u) of the FDIA, as amended, 12 U.S.C. § 1813(u).

b. Lincoln was a "savings association" within the meaning of Section 2(4) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. §1813(b). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended, 12 U.S.C. § 1813(c).

c. Pursuant to Section 3(q) of the FDIA, as amended, 12 U.S.C. §1813(q), the Director of OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such a savings association or its institution-affiliated parties. Therefore, JENKINS is subject to the jurisdiction and authority of the OTS to initiate and maintain a prohibition proceeding and a cease-and-desist and proceeding against him pursuant to Section 8(b) and (e) of the FDIA, as amended, 12 U.S.C. §§ 1818(b) and (e).

3. Consent. JENKINS consents to the issuance by the OTS of the accompanying Order and stipulates that the record basis for this proceeding consists of the Notice, the Order and this Offer and Consent. JENKINS further agrees to comply with the terms of the Order upon its issuance and stipulates that the Order complies with all applicable requirements of law.

4. Finality. The Order is issued pursuant to Sections 8(b) and (e) of the FDIA, as amended, 12 U.S.C. §§ 1818(b) and (e). Upon its issuance by the Director of OTS, the Order shall be a final order, effective and fully enforceable by the OTS under the applicable provisions of the FDIA, as amended.

14. This Order shall be effective as of the date hereof.

Approved as to form and content:

/S/

Robert H. Jenkins

Dated:

7/23/93

OFFICE OF THRIFT SUPERVISION

By:

/S/

Jonathan L. Flechter, \*  
Acting Director

Dated:

December 21, 1993

- \* This Order has been executed by John Robinson, Regional Director, West Region on behalf of Jonathan Fleichter, Acting Director for the Office of Thrift Supervision pursuant to OTS Resolution No.: 91-643, October 23, 1991.

UNITED STATES OF AMERICA  
Before the  
OFFICE OF THRIFT SUPERVISION  
OF THE DEPARTMENT OF THE TREASURY

\_\_\_\_\_  
In the Matter of )

ROBERT H. JENKINS )

Chief Appraiser of )  
Lincoln Savings )  
and Loan Association, )  
Irvine, California )  
\_\_\_\_\_ )

Re: OTS Order No. AP 93-105

Dated: December 21, 1993

**ORDER TO CEASE AND DESIST AND  
ORDER OF PROHIBITION PROHIBITING PARTICIPATION IN  
THE CONDUCT OF THE AFFAIRS OF  
FEDERALLY INSURED DEPOSITORY INSTITUTIONS**

WHEREAS, the Office of Thrift Supervision ("OTS") has conducted a formal examination proceeding concerning the affairs of Lincoln Savings and Loan, Irvine, California ("Lincoln") pursuant to Section 5(d)(1)(B) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. § 1464(d)(1)(B);

WHEREAS, the OTS, based upon the conduct and participation of Robert H. Jenkins ("JENKINS") in the affairs of Lincoln as Chief Appraiser, issued a Notice of Charges and Hearing to Cease and Desist and Notice of Intention to Remove and Prohibit JENKINS from Participation in the Affairs of Federally Insured Depository Institutions, ("Notice") pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of

1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"), 12 U.S.C. §§ 1818(b) and (e) (Supp. I 1989), and Sections 407(e) and (g) of the National Housing Act of 1934 ("NHA"), formerly codified at 12 U.S.C. §§ 1730(e) and (g);

WHEREAS, JENKINS, without admitting or denying the conclusions reached by the OTS, has executed an Offer of and Consent to Settlement ("Offer and Consent") which is accepted and approved by the OTS acting by and through its Acting Director, Jonathan L. Fiechter; and

WHEREAS, JENKINS, in the Offer and Consent, has agreed and consented to the issuance of this Order to Cease and Desist and Order of Prohibition Prohibiting Participation in the Conduct of the Affairs of Federally Insured Depository Institutions ("Order"), pursuant to Sections 8(b) and (e) of the FDIA, 12 U.S.C. §§ 1818(b) and (e), which is accepted and approved by the OTS acting by and through its Acting Director, Jonathan L. Fiechter;

NOW THEREFORE, IT IS ORDERED that:

1. The Offer and Consent, attached hereto, is made a part hereof and is incorporated herein by reference.

CEASE AND DESIST

2. JENKINS shall cease-and-desist from:

a. Committing, committing in the future, or aiding and abetting the commitment of, unsafe and unsound practices and violations of laws, rules and regulations set forth in the Notice; and

b. Committing, committing in the future, or aiding and abetting the commitment of, any unsafe and unsound practice or any violation of law, regulation, rule or condition imposed in writing by a Federal regulatory banking agency in connection with the conduct of the business of any federally insured financial institution set forth in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) ("insured institution").

**PROHIBITION**

3. JENKINS shall not participate in any manner in the conduct of the affairs of any institution or other entity as set forth in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), except as specifically set forth in paragraphs 4 and 5, below, without the prior written approval of the Director of OTS, or his designee, and, if appropriate, the approval of any other Federal financial institutions regulatory agency.

4. JENKINS shall be permitted to engage in the appraisal of single family residential properties for submission to insured institutions under the following conditions:

a. the appraisal report shall be entirely his original work product and will conform to all applicable regulatory and FNMA/FHLMC standards; and

b. the appraisal assignments shall be directly from the insured institution, and not from loan brokers or other agents of the insured institution, where the loan is funded by an insured institution.

5. JENKINS shall be permitted to assist in the preparation

of any non-residential appraisal report for any designated government approved appraiser for submission to insured institutions under the following conditions:

a. JENKINS is not permitted to sign or cosign the appraisal report; and

b. In all cases, the signing appraiser must acknowledge in the report that JENKINS contributed to the preparation of the report and the nature of such contribution.

6. JENKINS shall prepare and maintain a written record of each appraisal assignment undertaken by JENKINS pursuant to paragraph 4 and 5 of this Order. Such written record will include, inter alia, true copies of written reports, all data, statements and other information as may be required to support findings and conclusions. The term written record also includes information stored on electronic, magnetic or other media. The written record of each such appraisal shall be retained by JENKINS for a period of ten years after preparation of the appraisal report, and shall be made available by JENKINS to any authorized representative of the OTS, or its successor, upon demand.

7. JENKINS agrees to notify the OTS, or its successor, within ten days of any litigation concerning his appraisal activities or of any professional or ethical referral relating to his appraisal activities made to any State licensing authorities or professional appraisal societies for a period of ten years, by

mailing a notice of such action to the below names persons:

Bruce F. Rinaldi, Deputy Chief Counsel  
Robert J. Lesnick, Trial Counsel  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, D.C. 20552

and

Chief Appraiser  
Office of Thrift Supervision  
1 Montgomery Street, Suite 400  
San Francisco, California 94104

#### COOPERATION

8. JENKINS shall, at the OTS's request, on reasonable notice and without service of a subpoena, provide discovery and testify truthfully at any deposition and at any judicial or administrative proceeding related to the Notice and any continuing litigation or proceeding brought by the OTS as a result of its investigation relating to Lincoln and its institution affiliated parties.

#### FINANCIAL DISCLOSURE

9. Prior to the issuance of this Order, JENKINS provided the OTS with the financial disclosure set forth in paragraph 10 below which was accompanied by sworn affidavits, attesting to the accuracy of such financial disclosure, executed by those persons required to submit the financial information in such disclosure. This disclosure and the accompanying affidavits were expressly relied upon by the OTS in agreeing to enter into the Offer and Consent.

10. The financial disclosure of JENKINS included (a) a current sworn statement of financial condition as of June 30,

1993, (b) a petition in bankruptcy indicating that JENKINS was without assets; and (c) copies of income tax returns for calendar years 1988, 1989, 1990, 1991 and 1992. The statements of financial condition were required to truthfully and accurately disclose all assets, liabilities, and net worth of JENKINS, his spouse, and all dependent children.

11. JENKINS shall, within 15 days of the entry of the order, either (a) provide a sworn affidavit under penalty of perjury stating that the previously submitted financial disclosure described in paragraphs 9 and 10 is still true and correct or, in the alternative, (b) submit financial disclosure, updated to the date of this Order, of the nature described in paragraphs 9 and 10 above, accompanied by a sworn affidavit under penalty of perjury that the information contained in such updated financial disclosure is true and correct.

#### MISCELLANEOUS

12. The OTS in all of its capacities on behalf of itself, and its representatives, predecessors, successors and assigns does hereby release and forever discharge JENKINS from any and all claims, rights, damages, demands or causes of action which OTS has had, now has, or may have, but only to the extent that such claims, rights, damages, demands or causes of action arise from or are based upon matters alleged in the Notice and any and all other claims that might be asserted by the OTS against JENKINS in connection with his participation in the affairs of Lincoln; provided, however, that (i) nothing in the Offer and

Consent and this Order shall release or discharge any claims or preclude any remedies OTS has or may have against JENKINS in the event JENKINS has misrepresented his financial condition as described in or pursuant to paragraphs 9 through 11, or if JENKINS fails to comply with paragraph 11; and (ii) nothing in the Offer and Consent and this Order shall release or discharge any claims OTS has or may have against any person or entity other than JENKINS. The Offer and Consent and this Order, do not release, discharge, compromise, settle, dismiss or resolve, or in any way affect any civil actions, charges against, or liability of JENKINS 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. The construction and validity of this Offer and Consent and this Order shall be governed by the laws of the United States of America.

13. This Order and the Offer and Consent may be used in any proceeding brought by the OTS to enforce this Order.

14. This Order shall be effective as of the date hereof.

Approved as to form and content:

/S/

Robert H. Jenkins

Dated:

7/23/93

OFFICE OF THRIFT SUPERVISION

By:

/S/

Jonathan L. Flechter, \*  
Acting Director

Dated:

December 21, 1993

- \* This Order has been executed by John Robinson, Regional Director, West Region on behalf of Jonathan Fleichter, Acting Director for the Office of Thrift Supervision pursuant to OTS Resolution No.: 91-643, October 23, 1991.