

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

_____)
IN THE MATTER OF)
Rickie K. Miyake) Re: OTS Order No. §F-92-008
Former Vice-President and Controller)
of Uni-Cal Financial Corporation, a) Dated: March 6, 1992
Wholly-Owned Subsidiary of Union)
Federal Savings Bank, Brea,)
California)
_____)

STIPULATION AND CONSENT TO ORDER TO CEASE
AND DESIST AND ORDER OF PROHIBITION

Respondent, Rickie K. Miyake ("MIYAKE" or "RESPONDENT"), the former Vice-President and Controller of Uni-Cal Financial Corporation, a wholly-owned subsidiary of Union Federal Savings Bank, Brea, California, hereby submits this Consent to Order to Cease and Desist and Order of Prohibition, ("Consent") to the Office of Thrift Supervision of the United States Department of the Treasury ("OTS") pursuant to 12 C.F.R. § 509.20 (1991) for purposes of settlement in consideration of the OTS' forbearance from initiating administrative proceedings on the matters covered in the accompanying Order to Cease and Desist and Order of Prohibition ("Order"). The OTS is of the opinion that grounds, as set forth in the Order, exist to initiate an administrative proceeding against the RESPONDENT, pursuant to Sections 8(b), 8(e)

and 8(i) 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), (e) and (i) (1988 & Supp. I 1989)). Without admitting or denying that such grounds exist, except those allegations set forth in paragraph 1 below, which are admitted, MIYAKE consents to the entry of the attached Order pursuant to Sections 8(b), 8(e) and 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. §§ 1818(b), (e) and (i) (1988 & Supp. I 1989)).

1. MIYAKE admits the jurisdiction of the OTS over him and over the subject matter of this action and Sections 8(b), 8(e) and 8(i) of the FDIA, as amended by FIRREA (12 U.S.C. §§ 1818(b), (e) and (i)), and admits that he was an "institution-affiliated" party of Union Federal Savings Bank as that term is defined by Section 3(u) of the FDIA, as amended by FIRREA (12 U.S.C. § 1813(u) (1988 & Supp. I 1989)).

2. MIYAKE consents to the issuance of the accompanying Order, agrees to comply with its terms upon issuance, and stipulates that the Order complies with all requirements of law.

3. MIYAKE acknowledges and states that he enters into this Consent willingly and without any coercion or promises of any kind from the OTS or any officer, attorney, agent or employee thereof.

4. MIYAKE hereby waives his rights to a hearing, all post-hearing proceedings, and the entry of findings of fact and conclusions of law under the Administrative Procedure Act ("APA"), 5 U.S.C. § 554-557, Sections 8(b), 8(e) and 8(i) of the FDIA, as amended by FIRREA, (12 U.S.C. §§ 1818(b), (e) and (i) (1988 & Supp. I 1989)), and the OTS Rules of Practice and Procedure in Adjudicatory Proceedings, 12 C.F.R. §§ 509.1 (1991) et. seq., or any other applicable provision of law.

5. MIYAKE hereby waives his right to appeal the Order pursuant to Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h) (1988) & Supp. I 1989) or any other applicable provision of law.

6. MIYAKE agrees to cooperate with the OTS by providing truthful and complete information, upon request, concerning matters relating to this investigation. This agreement to provide continued cooperation is binding only upon the OTS and Mr. Miyake, and specifically does not bar, compromise, or affect in any way any agreement Mr. Miyake makes or has made with any other governmental agency.

7. MIYAKE acknowledges and agrees that the OTS reserves the right to amend the Order to change the amount of restitution or expenses owed by him in the event the amounts currently reflected in the order are subsequently determined to understate the amount of losses or expenses owed by MIYAKE to Union Federal. MIYAKE further acknowledges and agrees that the OTS reserves the right to assess an additional civil money penalty in the event MIYAKE fails to comply with the terms of this Order and Consent or in the event the OTS determines it is necessary or appropriate to do so for other good cause.

8. MIYAKE acknowledges and agrees that this proceeding, the assessment or payment of money contemplated as part of the resolution thereof, and his Consent to the entry of this Order, are for the purpose 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 MIYAKE by the OTS or another governmental agency.

9. By signing this document, MIYAKE agrees that he will not assert this assessment or payment of money as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or another governmental entity.

WHEREFORE, intending to be legally bound thereby, Rickie K. MIYAKE executes this Consent.

Dated: February 28, 1992

/s/

Rickie K. Miyake

NOTARIZATION

STATE OF CALIFORNIA)
COUNTY OF ~~ORANGE~~ ^{LOS ANGELES}) ss.

Rickie K. MIYAKE, being known to me, did subscribe to the foregoing in my presence, this 28th day of February 1992.

Lawrence Guy Devito (SEAL)
Notary Public

My commission expires: October 22, 1993



WHEREFORE, intending to be legally bound hereby, the Acting Regional Director for the West Region, on behalf of the OTS, executes this Stipulation and Consent.

OFFICE OF THRIFT SUPERVISION

Dated: 3/6/92

By: /s/ Eric D. Shand
Eric D. Shand
Acting Regional Director
West Region

Uni-Cal checks to make direct payments to various merchants and other entities for personal purchases, including more than 3,500 bottles of "rare" or "collector" wines. These wines ranged in price from approximately \$10 to \$325 per bottle and were purchased in quantities of up to eight cases at a time. In order to cover up this conduct, MIYAKE used his position as Uni-Cal Controller to gain access to account records maintained on computer, and entered on the books and records of Uni-Cal false entries reflecting fictitious expenses and fictitious payees so that they would appear to be for legitimate corporate business expenses. When the cancelled checks for these unauthorized transactions were ultimately received by Uni-Cal, MIYAKE removed them from the files in an effort to avoid detection of his wrongful conduct. The total losses to Uni-Cal caused by MIYAKE'S conduct of using Uni-Cal checks to make direct payments for personal merchandise were at least \$128,000.

2. MIYAKE used a corporate Visa credit card for unauthorized personal use and caused Uni-Cal to pay for the charges. Items paid for in this fashion include, but are not limited to, box-seat season theatre tickets for the Hollywood Bowl, gifts for

wine merchants (electronics, wine glasses, and miscellaneous wine accessories), shoes, toys, car repairs, computer equipment, videotapes, and various home improvement products. The total losses to Uni-Cal caused by this conduct were at least \$48,000.

3. MIYAKE caused Uni-Cal to pay for unauthorized non-business charges on his personal credit cards. Items paid for in this fashion include, but are not limited to collector wines and miscellaneous household items. The total losses to Uni-Cal caused by this conduct were at least \$184,000.

WHEREAS, the OTS is of the opinion that as a result of the aforementioned actions, MIYAKE, has violated laws and regulations, engaged in unsafe and unsound practices, and has committed or engaged in acts or omissions and practices that constitute breaches of fiduciary duty; and that the OTS further has grounds to demonstrate that MIYAKE's misconduct resulted in financial losses and damage to Union Federal and personal gain or other benefit to MIYAKE, and that said conduct evidences his personal dishonesty and his willful and continuing disregard for Union Federal's safety and soundness; and that by virtue of these acts and practices he has been unjustly enriched and has acted with reckless disregard for the law; and

WHEREAS, MIYAKE has executed a Consent to Order to Cease and Desist and Order of Prohibition, ("Consent"), which is accepted and approved by the OTS;

NOW THEREFORE, It is ORDERED that:

1. MIYAKE is prohibited from further participation, in any manner, in the conduct of the affairs of Union Federal.
2. Without prior written approval of the Regional Director for the West Region and, if appropriate, another federal financial institutions regulatory agency, MIYAKE may not hold any office in, or 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, as amended by FIRREA (12 U.S.C. 1818(e)(7)(A) (1988 & Supp. I 1989)). Pursuant to Section 8(e)(6) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(e)(6)) (1988 & Supp. I 1989)), conduct prohibited by this Order includes, inter alia, the solicitation, transfer, or exercise of any voting rights with respect to any securities issued by any insured depository institution.
3. As affirmative action to correct conditions

resulting from violations and practices with respect to which the Order is issued, pursuant to 12 U.S.C. § 1818(b)(6)(A) (1988 & Supp. I 1989)), MIYAKE shall pay restitution to Union Federal in the amount which was embezzled by Miyake, currently determined to be \$360,000, less the current market value of the subject wine bottles that have been transferred by MIYAKE (in title and possession) to Union Federal. The current market value of these wine bottles will be determined to be the highest price at which they can be sold to a licensed California wine merchant within 180 days of the date of this Order, pursuant to a reasonable bidding process or auction to be conducted by or on behalf of Union Federal. Within ten (10) days of the entry of this Order, MIYAKE shall pay the amount of \$50,000 to Union Federal as a partial payment of the restitution to be paid by him to Union Federal. MIYAKE's remittance of this sum shall be made payable to Union Federal Savings Bank and shall be delivered to:

Union Federal Savings Bank
c/o Mr. Leland Weinberg
330 East Lambert
Brea, California 92622

The balance of the restitution shall be paid to Union Federal by MIYAKE upon the sale by Union Federal of the

subject wine bottles, which sale shall establish the amount of additional restitution owed by MIYAKE. MIYAKE shall also pay to Union Federal at that time the amount necessary to reimburse it for all expenses incurred in connection with the appraisal, storage, shipment, and sale of the subject wine bottles. The amount of additional restitution and expenses to be paid by Miyake upon the sale of the subject wine bottles will be limited by a ceiling cap of \$75,000 (not including the initial \$50,000 deposit and other restitution made by Miyake to date).

4. Copies of all transmittal letters to Union Federal Savings Bank, together with copies of the respective payments, shall be sent to:

Eliot Goldstein
Senior Enforcement Attorney
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552

5. The Consent is made a part hereof and is incorporated herein by this reference.
6. This Order is subject to the provisions of Section 8(j) of the FDIA, as amended by FIRREA (12 U.S.C. §

1818(j) (1988 & Supp. I 1889)), and shall become effective on the date it is issued.

The Office of Thrift Supervision

By: /S/

Acting
~~Michael Patriarca,~~
Regional Director, West Region