

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
DON HENDERSON, A Former Director)
and Current Advisory Director of)
First Savings Bank, A)
Federal Savings Bank,)
Arlington, Texas)
)

Resolution No.: DAL-92-35

Dated: April 1, 1992

STIPULATION AND CONSENT TO THE ENTRY
OF A CEASE AND DESIST ORDER

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office of OTS, Dallas, Texas, and Don Henderson ("Respondent"), former Director of First Savings Bank, A Federal Savings Bank, Arlington, Texas ("First Savings Bank"), 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 cease-and-desist proceeding against Respondent pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b) (1988 & Supp. I 1989) as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"). 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 cease-and-desist litigation against Respondent with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. JURISDICTION

- (a) First Savings Bank is a "savings association" within the meaning of Section 3(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(b)), and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. §1462(4) (Supp. I 1989). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(c)).
- (b) Pursuant to Section 3(q) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(q) (1988 & Supp. I 1989), the Director of the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against such Respondent.
- (c) Respondent at all times relevant to the allegations set forth herein was an institution-affiliated party of First Savings Bank as defined in Section 3(u) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(u)) in that Don Henderson served as a director of First Savings Bank.

Therefore, Respondent 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, 12 U.S.C. § 1818(b) (1988 & Supp. I 1989).

3. CONSENT

- (a) Respondent consents to the issuance by the OTS of the

Order and further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

- (b) Respondent acknowledges that the debt owed pursuant to the Order is not dischargeable under the Bankruptcy Code, in accordance with 11 U.S.C. § 523(a)(11) and (12), as amended by Section 2522 of the Comprehensive Thrift and Bank Fraud Protection and Taxpayer Recovery Act of 1990, Pub. L. No. 101-647, November 29, 1990.

4. FINALITY

The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b) (1988 & Supp. I 1989). Upon its issuance by the Regional Director for the Midwest Regional Office, OTS, Dallas, Texas, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (1988 & Supp. I 1989).

5. WAIVERS

- (a) Respondent waives the right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b) (1988 & Supp. I 1989), 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. § 1818(h) (1988 & Supp. I 1989), or otherwise to challenge the validity of the Order.

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ORDER TO CEASE AND DESIST

WHEREAS, Don Henderson ("Henderson") has executed a Stipulation and Consent to the Entry of a Cease and Desist Order, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the Midwest Regional Office; and

WHEREAS, Henderson, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act, ("FDIA"), 12 U.S.C. § 1818(b) (1988 & Supp. I 1989) as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA").

NOW THEREFORE, IT IS ORDERED that:

1. Henderson shall make restitution to First Savings Bank, A Federal Savings Bank ("First Savings Bank"), Arlington, Texas in the amount of eight thousand, five hundred twenty-five dollars (\$8,525). This sum represents one-eighth of sixty-eight thousand, two-hundred dollars (\$68,200), which amount includes a \$50,000 bonus, with interest computed thereon, paid by First Savings Bank, to former President Rick Powell.

2. Henderson shall comply with Paragraph 1 by making a payment of One Thousand Four Hundred Twenty-one Dollars (\$1,421.00) by March 19, 1992, and thereafter, monthly installments of One Thousand Four Hundred Twenty-one Dollars (\$1,421.00) by the 10th day of each calendar month until the entire amount is paid. If Henderson fails to make a payment when due, and fails to cure such deficiency by the 30th day of the month when such payment was due, then the entire outstanding balance shall become immediately due and payable.
3. Henderson shall make payment by tendering one or more certified checks (or money orders) made payable to the order of First Savings Bank, FSB, Arlington, Texas, and mailed to the Regional Director, OTS Midwest Regional Office in Dallas, Texas.
4. Until Henderson shall have completely satisfied his obligation to pay the amount provided under this Order, Henderson shall submit to the OTS's Regional Deputy Director (or his designee or successor) the following:

On a quarterly basis, a detailed statement of financial condition, as of the last day of the fiscal quarter (each March 31, June 30, September 30, and December 31) that sets forth the value (both historical cost and estimated market value) of all assets, liabilities, and net worth in which Henderson and/or his spouse has an interest.

