

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
J. C. STOLTE, Former)
Director and Institution-)
Affiliated Party of:)
)
Executive Banc Savings)
Association,)
New Braunfels, Texas)
)

Re: Resolution No. DAL-92-38

Dated: April 8, 1992

STIPULATION AND CONSENT TO
ISSUANCE OF ORDER OF PROHIBITION

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office, and J. C. Stolte ("Stolte"), former director of Executive Banc Savings Association, New Braunfels, Texas (the "Institution"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that the grounds exist to initiate an administrative prohibition proceeding against Stolte pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, ("FIRREA"), 12 U.S.C. § 1818(e). Stolte desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting, and specifically disputing the statements, opinions of the OTS,

conclusions or terms herein, Stolte hereby stipulates and agrees to the following terms in consideration of: (a) the forbearance of OTS from initiating such administrative prohibition litigation against Stolte; and (b) the agreement by the OTS to refrain from seeking the issuance of additional enforcement orders against Stolte with respect to any matters (i) reported or otherwise addressed in the OTS Reports of Examination of the Institution (whether conducted by the FHLB or the OTS), for the examinations commenced June 6, 1988 and July 10, 1989, or (ii) discovered by the OTS as a result of its investigative proceeding, commenced pursuant to OTS Resolution No. DAL-91-16, dated March 14, 1991, including but not limited to anything discovered by the OTS during the taking of Mr. Stolte's sworn statement on July 31, 1991, or (iii) any other matters known to the OTS as of the date of issuance of the Order of Prohibition. Stolte, without trial, presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of the Stipulation for the sole purpose of resolving the issues in this proceeding without significant legal cost and expense. The OTS has determined that it is appropriate, and in the best interest of the public to execute the Stipulation and the attached Order of Prohibition ("Order"). This Stipulation and the attached Order are issued solely to settle this proceeding and are not the result of factual findings.

9/27
ATTACHED
^

2. Jurisdiction. The OTS is of the opinion that:

(a) The Institution at all times relevant to the allegations set forth herein, was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act of 1933, as amended by Section 301 of FIRREA, 12 U.S.C. § 1462(4). Accordingly, it was 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) Until August 9, 1989, the accounts of the Institution were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") pursuant to Section 403(b) of the National Housing Act of 1934 ("NHA"), 12 U.S.C. § 1726(b), by reason of which it was an "insured institution" within the meaning of the NHA.

(c) As of August 9, 1989, pursuant to the provisions of FIRREA, the insurance of the accounts of the Institution was transferred to the Federal Deposit Insurance Corporation.

(d) Until August 9, 1989, the Federal Home Loan Banc Board ("FHLBB"), as operating head of the FSLIC, was the regulatory agency with jurisdiction over the Institution and its directors and officers, including Stolte, pursuant to Sections 403 and 407 of the NHA, 12 U.S.C. §§ 1726 and 1730.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of the FIRREA, 12 U.S.C. § 1813(q), the OTS succeeded to the interests of the FHLBB with respect to the

supervision and regulation of all savings associations, and thus became the "appropriate Federal banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(f) The Director of the OTS has the authority to bring an administrative prohibition proceedings against Stolte pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA, 12 U.S.C. § 1464(d)(1)(A), and Section 8 of the FDIA, as amended by the FIRREA, 12 U.S.C. § 1818.

(g) Stolte was a director of the Institution and its wholly-owned service corporation, Dargan Corporation ("Dargan"), from 1986 to approximately November, 1990. Therefore, Stolte was at all times relevant to the allegations set forth herein, an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1813(u), and as such, is subject to the OTS's authority to maintain prohibition proceedings.

(h) During the period June 1986 through August 1989, Stolte as a director of the Institution and of Dargan, approved various transactions with affiliated persons that were in violation of 12 C.F.R. §§ 563.40 and 563.41, and in violation of the Institution's Plan for the Avoidance of Conflicts of Interest, which Stolte had signed. It is the opinion of the OTS that these transactions have resulted in significant loss to the Institution, which opinion

is specifically disputed by Stolte.

3. Consent. Without admitting, and specifically disputing the need or basis therefor, Stolte consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). He 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(e) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(e). Upon its issuance by the Regional Director for the Midwest Regional Office, 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, 12 U.S.C. § 1818(i).

5. Waivers. Stolte waives his right to a notice of intention to prohibit and the administrative hearing provided by Section 8(e) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(e), 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 otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the Regional Director for the Midwest

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
J. C. STOLTE, Former)
Director and Institution-)
Affiliated Party of:)
)
Executive Banc Savings)
Association,)
New Braunfels, Texas)
)

Re: Resolution No. DAL-92-38

Dated: April 8, 1992

ORDER OF PROHIBITION

WHEREAS, J. C. Stolte ("Stolte") has executed a Stipulation and Consent to Issuance of Order of Prohibition ("Stipulation"), which is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Regional Director for the Midwest Regional Office; and

WHEREAS, without admitting, and specifically disputing that the grounds exist therefor, Stolte has consented and agreed in the Stipulation to the issuance of this Order of Prohibition ("Order"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1818(i)(2) (1988 and Supp I. 1989);

NOW THEREFORE, IT IS ORDERED that:

1. Stolte is prohibited from further participation, in any manner, in the conduct of the affairs of Executive Banc Savings Association, New Braunfels, Texas and its service corporations.

2. Without the prior written approval of the Regional Director for the Midwest Regional Office of the OTS and, if appropriate, another Federal regulatory agency for financial institutions, Stolte may not act as a director for, hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) 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), hereinafter referred to as a "Covered Institution." Pursuant to Section 8(e)(6) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(e)(6)), conduct prohibited by this Order includes, inter alia, the solicitation, the transfer or the exercise of any voting rights with respect to any securities issued by any insured depository institution.

3. Nothing in this Order, however, prohibits Stolte from the following activities, even though such activities may involve or relate to a Covered Institution:

- (a) being a customer, as a depositor or borrower;
- (b) owning stock in a Covered Institution; or
- (c) providing tax services for a Covered Institution, solely as an independent contractor on an arm's length, case-by-case basis.

Provided that, the activities permitted by this Paragraph 3, may not be performed in a manner that would make Stolte an

