

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

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IN THE MATTER OF

THEODORE VAN DAM

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: No. NE92-45  
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STIPULATION AND CONSENT TO ISSUANCE OF  
CEASE & DESIST ORDER, ORDER OF PROHIBITION  
AND ORDER FOR RESTITUTION

The Office of Thrift Supervision ("OTS"), and Theodore Van Dam ("Van Dam") 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 proceeding against Van Dam pursuant to the Federal Deposit Insurance Act, §§ 8(b) and (e), 12 U.S.C.A. § 1818(b) and (e) (West 1989). Van Dam desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without either admitting or denying that such grounds exist, hereby stipulates and consents to the issuance of the accompanying Cease and Desist Order, Order of Prohibition and Order for Restitution, attached hereto as Exhibit A (the "Order") in consideration for OTS hereby forever remising, releasing and discharging Van Dam of and from all debts, obligations, liabilities, reckonings, bonds, specialities, controversies, suits, actions, causes of action, claims or demands with respect

to any matter (i) reported in the OTS Reports of Examination of Polifly for the years 1982 up to that Examination Report commencing on December 18, 1989, and concluding on April 27, 1990, or (ii) discovered by the OTS as a result of its investigative proceeding commenced pursuant to Resolution NY-90-18, dated July 13, 1990.

2. Jurisdiction.

(a) Polifly Savings and Loan Association is a "savings association" and an "insured depository institution" as defined by 12 U.S.C.A. §§ 1462 and 1813 (West 1989).

(b) Van Dam is an institution-affiliated party as defined by 12 U.S.C.A. §§ 1813(u) (West 1989).

(c) The Director of the OTS is the "appropriate Federal Banking agency" to maintain administrative proceedings against Van Dam pursuant to 12 U.S.C.A. §§ 1818(b)(e) (West 1989).

3. Consent. Van Dam consents to the issuance by the OTS of the Order. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under 12 U.S.C.A. §§ 1818(b) and (e) (West 1989). Upon its issuance, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C.A. § 1818(i) (West 1989).

5. Waivers. Van Dam waives an administrative hearing provided by 12 U.S.C.A. § 1818(b) (West 1989), and further waives his right to seek judicial review of the Order, including any

such right provided by 12 U.S.C.A. § 1818(h) (West 1989) or otherwise to challenge the validity of the Order.

6. This Stipulation and Consent to Issuance of Consent Cease and Desist Order, Order of Prohibition and Order for Restitution, the Order and the payment by Van Dam of any monies or providing any other financial relief as contemplated by the Order, does not compromise, settle, dismiss, resolve, or in any way affect any civil actions, criminal charges against, or liability of Van Dam that arise pursuant to this action or otherwise and that may be or has been brought by the Resolution Trust Corporation or any other governmental entity other than the OTS.

WHEREFORE, in consideration of the foregoing, the OTS, and Van Dam execute this Stipulation and Consent.

OFFICE OF THRIFT SUPERVISION

THEODORE VAN DAM

/S/

/S/

By: \_\_\_\_\_

Angelo Vigna  
Regional Director  
Northeast Region

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CEASE AND DESIST ORDER, ORDER OF PROHIBITION  
AND ORDER FOR RESTITUTION

WHEREAS, Theodore Van Dam ("Van Dam") has executed a stipulation between Van Dam and the Regional Director of the New York Regional Office (the "Regional Director") of the Office of Thrift Supervision ("OTS") attached hereto as Exhibit A and incorporated herein by this reference (the "Stipulation"); and

WHEREAS, without admitting or denying the violation of any law, rule or regulation, he stipulates and consents to the issuance of this Order.

NOW, THEREFORE, the Regional Director as duly designated by the Director of OTS, pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), as amended<sup>1</sup>, HEREBY ORDERS as follows:

1. (a) Except as otherwise provided by this Order or

1. Section 8 of the FDIA was most recently amended on August 9, 1989, upon enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183.

Section 8 of the FDIA, Van Dam shall not hold any office at or otherwise participate in any manner in the conduct of the affairs of (i) Polifly Savings and Loan Association (the "Bank"), New Milford, New Jersey, including but not limited to the solicitation, transfer or exercise of any voting rights with respect to any securities issued by the Bank, and/or (ii) the following institutions (the "(e)(7)(A) Institutions") for a period of ten years from the date of execution by the Regional Director of this Order: any insured depository institutions within the meaning of section 3(c)(2) of the FDIA, as amended; any institution treated as an insured bank under subsections (b)(3) or (b)(4) of FDIA Section 8, or as a savings association under subsection (b)(8) of FDIA Section 8; any insured credit union under the Federal Credit Union Act; any institution chartered under the Farm Credit Act of 1971; any appropriate Federal depository institution regulatory agency, within the meaning of Section 3(q) of the FDIA; the Federal Housing Finance Board and any Federal Home Loan Bank; and the Resolution Trust Corporation. This paragraph is issued by the Regional Director pursuant to Section 8(e) of the FDIA, 12 U.S.C.A. § 1818(e) (West 1989).

(b) Notwithstanding the foregoing limitations, after three years from the date of execution by the Regional Director of this Order, this Order shall not have the effect of prohibiting Van Dam from participating in the conduct of the affairs of the (e)(7)(A) Institutions only after the receipt by Van Dam of a written waiver (the "OTS Waiver") from the Regional Director permitting Van Dam to participate in the

conduct of the affairs of an (e)(7)(A) Institution subject to the following restrictions:

2. The OTS Waiver may only be issued by the Regional Director in response from Van Dam of a written, signed and notarized application (the "Application"), with a copy of this Order attached thereto. An Application must be submitted by Van Dam for each (e)(7)(A) Institution at which he seeks employment, and which expressly provides the following information:

(i) the name of the (e)(7)(A) Institution for which Van Dam seeks the OTS Waiver;

(ii) a description of Van Dam's anticipated duties and responsibilities at the (e)(7)(A) Institution for which Van Dam seeks the OTS Waiver;

(iii) a representation from Van Dam that he has caused a copy of this Order to be shown to the Board of Directors of the (e)(7)(A) Institution for which Van Dam seeks the OTS Waiver; and

(iv) any other information the Regional Director in his sole discretion deems appropriate.

3. The Regional Director shall, within thirty (30) days of receipt of the Application, either issue the OTS Waiver, or deny the Application, and such denial shall not be made on an arbitrary and capricious basis. Failure by the Regional Director to respond within thirty (30) days shall be deemed a denial of the Application.

4. Should the Regional Director deny the Application for any reason, Van Dam shall have ten (10) business days to appeal

(the "Appeal") from the date the application was denied, requesting a written explanation for such a denial. Van Dam shall not challenge the denial of the Application except by filing the Appeal. The Appeal shall be written, signed and notarized and shall have attached to it a copy of the denied Application and any written denial issued by the Regional Director should one exist.

5. Within 30 days of receipt of the Appeal, the Regional Director shall issue a written rationale (the "Regional Director's Rationale") for the denial. The mere issuance of the Regional Director's Rationale shall mean that the denial was not arbitrary and capricious and it is not subject to any administrative or judicial review. Failure of the Regional Director to issue the Regional Director's Rationale within thirty (30) days shall mean that the OTS Waiver has been granted.

6. Contemporaneously with the execution of the Stipulation, Van Dam shall make a payment to the Bank in the amount of \$10,000.00 in cash or its equivalent in immediately available funds. This payment obligation is ordered pursuant to Section 8(b) of the FDIA, 12 U.S.C.A. § 1818(b) (West 1989).

7. Van Dam acknowledges and agrees that his consent to the entry of this Order is for the purposes of resolving only those matters (i) reported in the OTS Reports of Examination of Polifly for the years 1982 up to that Examination Report commencing on December 18, 1989, and concluding on April 27, 1990, or (ii) discovered by the OTS as a result of its investigative proceeding commenced pursuant to Resolution

NY-90-18, dated July 13, 1990, and do not resolve, affect or preclude any other civil or criminal proceeding which may be brought against said Respondents by the OTS or another government entity.

8. All technical words or phrases used in this Order, for which meanings are not otherwise specified or otherwise provided by the provisions of this Order, shall insofar as applicable, have the meanings set forth in one or more of the following laws and regulations: the Home Owners' Loan Act, as amended by FIRREA; the FDIA, as amended by FIRREA; and the regulations of the OTS, as codified in the Code of Federal Regulations, Title 12, Chapter V (or currently published in the Federal Register). Any technical words or phrases not subject to definition in the foregoing laws and regulations shall have meanings that accord with the best custom and usage in the savings association industry.

9. This Order shall be and is effective and enforceable upon service on counsel of record for Van Dam.

IT IS SO ORDERED on this 1st day of May, 1992.

OFFICE OF THRIFT SUPERVISION

By:

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Angelo Vigna/  
Regional Director  
Northeast Region