

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____)
)
In the Matter of)
)
WAYNE LEINER,)
)
Officer and Director of)
First Federal Savings Bank)
Watertown, South Dakota)
_____)

Re: Resolution No. DM 92-10

Dated: June 5, 1992

STIPULATION AND CONSENT TO THE ENTRY OF AN
ORDER OF CIVIL MONEY PENALTY ASSESSMENT

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office, and Wayne Leiner ("Leiner"), Officer and Director, First Federal Savings Bank, Watertown, South Dakota ("First Federal"), hereby stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that Leiner, as an officer and director of First Federal, has violated 12 C.F.R. Sections 563.43(b)(2), 563.170(c)(1), 563.37(a), and 563.74(b)(1) (1991), thereby providing grounds to initiate an administrative civil money penalty assessment proceeding against Leiner, pursuant to Sections 8(i)(2) and 18(j)(4) 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) and 1828(j)(4) (1988 and Supp. I 1989).

Leiner desires to cooperate with the OTS and to avoid the time and expense of an administrative proceeding. Without admitting or denying the statements, conclusions, or terms herein, Leiner hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS

from initiating administrative civil money penalty assessment proceedings against him with respect to the findings of the Institution's October 3, 1991, Report of Examination.

2. Jurisdiction.

a. First Federal Savings Bank is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act, as amended by FIRREA. Accordingly, it is 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) (1988 and Supp. I 1989).

b. Leiner, as an officer and director of First Federal, is 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) (1988 and Supp. I 1989).

c. As an institution-affiliated party, Leiner is subject to the authority of OTS to initiate and maintain the assessment of a civil money penalty pursuant to Sections 8(i)(2) and 18(j)(4) of the FDIA, as amended by FIRREA, 12 U.S.C. §§ 1818(i)(2), 1828(j)(4) (1988 and Supp. I 1989).

d. Pursuant to Section 3 of the FDIA, as amended by FIRREA, the OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such an institution affiliated party.

3. Consent. Without admitting or denying the need or basis therefor, Leiner consents to the issuance by OTS of the accompanying Order of Civil Money Penalty Assessment ("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 Sections 8(i)(2) and 18(j)(4) of the FDIA, as amended by FIRREA, 12 U.S.C. §§ 1818(i)(2), 1828(j)(4) (1988 and

Supp. I 1989). Upon its issuance by the Regional Director for the Midwest Regional Office, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Sections 8(i)(1) and (2) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(i)(1), (2) (1988 and Supp. I 1989).

5. Waivers. Leiner waives his right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i)(2) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(i)(2) (1988 and Supp. I 1989), and the administrative hearing provided by Sections 8(i)(2)(H) and 18(j)(4)(F) of the FDIA, as amended by FIRREA, 12 U.S.C. §§ 1818(i)(2)(H), 1828(j)(4)(F) (1988 and Supp. I 1989), 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) (1988 and Supp. I 1989), or to otherwise challenge the validity of the Order.

This Stipulation and Consent, the Order, and the payment by Leiner 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, charges against, or liability of Leiner 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.

Leiner acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Leiner's consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only, and do not resolve, affect or preclude any other civil or criminal proceeding which may be or has been brought against Leiner by the OTS or another governmental entity.

