

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
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ROBERT E. FISHBACK,)
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President and Director of Home)
Trust Savings and Loan Association)
Vermillion, South Dakota)
)
)
_____)

Re: Resolution No. DM 92-14 _____

Dated: June 5, 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, OTS, and Robert E. Fishback, as an individual ("Fishback"), 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 cease and desist proceeding against Fishback pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA") (12 U.S.C. § 1818(b) (1988 and Supp. I 1989)). Fishback 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 Fishback with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) Home Trust Savings and Loan Association of Vermillion, South Dakota 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 (12 U.S.C. § 1813(c) (1988 and Supp. I 1989)).

(b) Robert E. Fishback, as President and Director of Home Trust, is an "institution-affiliated party" of Home Trust as that term is defined in Section 3(u) of the FDIA (12 U.S.C. § 1813(u) (1988 and Supp. I 1989)).

(c) Pursuant to Section 3 of the FDIA as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain enforcement proceedings against institution-affiliated parties of such a savings association. Therefore, Fishback 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 and Supp. I 1989)).

(d) In the opinion of OTS, a basis exists for initiating an administrative cease and desist proceeding against Fishback for violations of conflict of interest statutes and regulations and unsafe unsound levels of classified assets.

3. Consent. Fishback 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 Section 8(b) of the FDIA (12 U.S.C. § 1818(b) (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

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President and Director of Home)
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Re: Resolution No. DM 92- 14

Dated: June 5, 1992

ORDER TO CEASE AND DESIST

WHEREAS, Robert E. Fishback, as an individual, has executed a Stipulation and Consent to Issuance of Order to Cease and Desist, 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, Robert E. Fishback, 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"), codified at 12 U.S.C. § 1818(b) (1988 & Supp. I 1989));

NOW THEREFORE, IT IS ORDERED that Robert E. Fishback shall cease and desist from any violation of, or the aiding and abetting of any violation of: 12 U.S.C. § 1468(a)(1) or (b)(1), and 12 C.F.R. §§ 563.41 or 563.42.

IT IS FURTHER ORDERED THAT:

1. Noninterference with Management.

Robert E. Fishback agrees not to interfere with, impede, usurp or otherwise hinder in any manner the authority and ability of the duly elected officers of Home Trust Savings and Loan Association, Vermillion, South Dakota ("Institution"), from carrying out their

properly assigned duties and responsibilities and from complying with all of the terms and provisions of any and all orders issued by the OTS pursuant to 12 U.S.C. § 1818(b). Robert E. Fishback further agrees that, except with prior approval of the OTS, his participation in the activities of the Institution shall be limited to the duties, functions and responsibilities normally attributable to an outside director.

2. Definitions.

For all purposes of this Order, except as otherwise expressly provided or unless the context otherwise requires: (a) the terms used in this Order have the meanings assigned to them in this Paragraph 2; (b) all accounting terms not otherwise defined have the meanings assigned to them in accordance with generally accepted accounting principles, except that if such terms are defined in the Rules and Regulations of the OTS, such regulatory definitions shall control; (c) all terms not otherwise defined herein that are defined in the HOLA, the FDIA, and FIRREA, the Rules and Regulations of the OTS (including, without limitation, 12 C.F.R. §§ 500.1 et seq., 541.1, et seq., and 561.1, et seq. (1991)) or its publicly available Bulletins and Advisory Memoranda shall have the meanings assigned to them in such statutes, rules and regulations, Bulletins, and Advisory Memoranda; and (d) all technical words or terms not subject to a definition in this Order shall have the meanings that accord with the best custom and usage in the thrift and banking industries. As used in this Agreement:

- a. "HOLA" means the Home Owners' Loan Act, as amended, 12 U.S.C. § 1464, et seq. (Supp. I 1989).
- b. "FDIA" means the Federal Deposit Insurance Act, as amended.

