

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
WILLIAM L. LLOYD)
)
Appraiser who provided)
appraisals and related)
valuation advice to:)
)
First Federal Savings Bank)
and Trust,)
Pontiac, Michigan)
_____)

Re: Resolution No. CHI-92-26

Dated: June 26, 1992

STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND
DESIST FOR RESTITUTION AND OTHER AFFIRMATIVE RELIEF,
AND ORDER OF REVOCATION TO PRACTICE BEFORE
THE OFFICE OF THRIFT SUPERVISION

The Office of Thrift Supervision ("OTS"), by and through its Director, and William L. Lloyd ("Lloyd"), an appraiser who provided appraisal services to First Federal Savings Bank and Trust, Pontiac, Michigan (the "Institution"), hereby 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 Lloyd, pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989). The OTS is of the further opinion that grounds exist to initiate an administrative

proceeding to revoke the privilege of Lloyd to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq. Lloyd desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying the allegations herein, Lloyd hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease and desist or revocation litigation. Lloyd, without trial, presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of the Stipulation. The OTS has determined that it is appropriate, and in the best interest of the public to execute the Stipulation and the attached Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Revocation to Practice before the Office of Thrift Supervision ("Order"). This Stipulation, the Order and the payment by Lloyd 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 Lloyd 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.

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, 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, 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 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 Bank Board ("FHLBB"), was the regulatory agency with jurisdiction over the Institution and persons participating in the conduct of its affairs, including Lloyd, pursuant to Section 5 of the HOLA, 12 U.S.C. § 1464.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, 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 administrative cease and desist proceedings directing reimbursement against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties, pursuant to Section 5(d)(1)(A) of the HOLA, 12 U.S.C. § 1464(d)(1)(A), and Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

(g) The Director of the OTS further has the authority to bring an administrative proceeding to suspend or permanently revoke the privilege of any person or entity to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq.

(h) OTS further alleges that Lloyd provided the Institution with an appraisal of a project known as Island Harbor, with a valuation date of April 30, 1990 (the "Lloyd Appraisal"). Over 28 pages of the Lloyd Appraisal were plagiarized from another appraisal which had been done on the same property approximately one year before. Lloyd not only copied this material verbatim from the earlier appraisal, he also incorporated incorrect assumptions and mathematical errors taken directly from the earlier appraisal into the Lloyd Appraisal.

(i) OTS further alleges that as a result of Lloyd's plagiarism, the Institution was denied the independent appraisal judgment to which it was entitled. This constituted an unsafe and unsound banking practice and exposed the Institution to an improper risk of loss.

(j) OTS further alleges that Lloyd was at all times relevant hereto an appraiser who performed appraisals for and rendered appraisal services to the Institution. Based upon the foregoing, Lloyd's actions were either knowing or reckless. Accordingly, Lloyd is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), and as such, is subject to the authority of the OTS to maintain cease and desist proceedings pursuant to Section 8(b) of the FDIA, 12 U.S.C. § 1818(b). Lloyd is further subject to censure by the OTS pursuant to 12 C.F.R. § 513.4(a).

3. Consent. Without admitting or denying the foregoing allegations, Lloyd consents to the issuance by the OTS of the Order, a copy of which is attached hereto and incorporated as Exhibit A. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of 12 U.S.C. § 1818(b) and 12 C.F.R. Part 513.

4. Finality. The Order is issued under Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and Part 513 of the Rules and Regulations, of the OTS. Upon its issuance, 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).

5. Waivers. Lloyd waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b), and 12 C.F.R. § 513.4(a), and further

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Re: Resolution No. CHI-92-26

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ORDER TO CEASE AND DESIST FOR RESTITUTION AND OTHER
AFFIRMATIVE RELIEF, AND ORDER OF REVOCATION
TO PRACTICE BEFORE THE OFFICE OF THRIFT SUPERVISION

WHEREAS, William L. Lloyd ("Lloyd") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist for Restitution and Other Affirmative Relief, and Order of Revocation to Practice Before The Office of Thrift Supervision ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director; and

WHEREAS, without admitting or denying that the grounds exist therefor, Lloyd has consented and agreed in the Stipulation to the issuance of this Order to Cease and Desist for Restitution and Other Affirmative Relief, and Order of Revocation to Practice Before The Office of Thrift Supervision ("Order"), pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989) and 12 C.F.R. Part 513;

NOW THEREFORE, IT IS ORDERED THAT:

1. Lloyd shall make restitution to the Resolution Trust Corporation, as Receiver for First Federal Savings Bank and Trust, Pontiac, Michigan (the "Institution") in the amount of \$1,600.00 on or before July 15, 1992. This sum represents the amount of fees paid to Lloyd by the Institution for his appraisal of the Island Harbor project, valued as of April 30, 1990.

2. Lloyd's privilege to practice before the OTS, as defined at 12 C.F.R. § 513.2(e), is hereby revoked. From and after the effective date of this Order, Lloyd shall not, directly or indirectly, engage in the following activities:

(a) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the OTS, or a presiding officer or staff of the OTS, including, inter alia, those proceedings covered in 12 C.F.R. Parts 508, 509, 510 and 512;

(b) The preparation of any appraisal report, statement, estimate, opinion, or other document concerning the nature, quality, value, or utility of specified interests in or aspects of identified real estate with the knowledge, consent, understanding or reason to believe that said document or communication will be filed with or submitted to the OTS or a presiding officer or staff of the OTS;

(c) The participation in, or consultation with, any person in estimating the market value, fair value, net realizable value, business value, special financing value, syndication value, or investment value of any identified real estate with the knowledge, consent, understanding or reason to believe that said estimate of value will be filed with or submitted to the OTS or a presiding officer or staff of the OTS;

(d) The presentation to the OTS or a presiding officer or staff of the OTS at a conference or meeting relating to an entity's or other person's rights, privileges or liabilities under the laws administered by the OTS and the rules and regulations promulgated thereunder;

(e) Any business correspondence or communication with the OTS or a presiding officer or staff of the OTS; and

(f) The transaction of any other formal business with the OTS on behalf of another, in the capacity of an appraiser.

3. From and after the effective date of this Order, except with respect to 1-4 family residential appraisals, or as provided below in Paragraph 4, Lloyd shall not, directly or indirectly, prepare or participate in the preparation of any appraisal report, accept any appraisal assignment, or perform other appraisal services for, or on behalf of, any institution(s) or other entity as defined in Section 8(e)(7)(A) of the FDIA, as amended by FIRREA, 12 U.S.C. §1818(e)(7)(A), or any subsidiary or holding

company thereof (collectively referred to hereafter as "insured financial institution(s)"). Nothing in this Paragraph shall in any way alter or limit the restrictions contained in Paragraph 2 of this Order.

4. Nothing in this Order shall preclude Lloyd from affiliating with another appraiser solely for the purpose of obtaining his membership in the Appraisal Institute ("M.A.I."). Provided, however, that Lloyd may not sign, execute, or be primarily responsible for any appraisal report, except for 1-4 family residential appraisal reports. Furthermore, prior to beginning any affiliation with another appraiser, Lloyd shall provide a copy of this Order to any such appraiser and provide the OTS with written evidence of compliance with this provision. While this Paragraph 4 remains in effect, Lloyd shall file a sworn statement with the Regional Director for the Central Regional Office of the OTS, within 10 days of the end of each calendar quarter, commencing with the calendar quarter ending June 1992, listing every appraisal report (other than 1-4 family residential appraisal reports) issued to or relied upon by an insured financial institution on which Lloyd worked or for which Lloyd provided appraisal services. Pursuant to this paragraph, the listing for each such appraisal report shall include the name of the insured financial institution, a description of the property appraised and the name and address of the appraiser who signed or executed the appraisal report. At any time after Lloyd has

obtained an M.A.I., but in no event less than three (3) years from the effective date of the Order, the restrictions contained in Paragraphs 3 and 4 of the Order shall cease to be operative.

5. Lloyd shall comply with Paragraph 1 of this Order by sending a certified check to the Regional Director of the Central Regional Office, in the amount of \$1,600.00, payable to the Resolution Trust Corporation, as Receiver for First Federal Savings Bank and Trust, Pontiac, Michigan, on or before July 15, 1992.

6. Nothing contained in this Order shall be interpreted to prohibit Lloyd from responding in any manner to any charges, inquiries or other contacts initiated by the OTS and/or by any other regulatory agency concerning Lloyd, or from making inquiries or other contacts initiated by the OTS and/or by any other regulatory agency concerning Lloyd.

7. For purposes of this Order, the following definitions shall apply:

(a) The term "person" shall mean an individual or organization, including any firm, partnership, company, corporation, trust, or similar organization;

(b) The term "appraisal report" shall mean any communication, written or oral, of an opinion as to the nature, quality, value or utility of specified interests in or aspects of identified real property;

(c) The term "real estate" shall mean an identified parcel or tract of land, including improvements, if any;

(d) The term "real property" shall mean one or more defined interests in a parcel of real estate, whether an unencumbered fee or a lesser estate;

(e) The term "appraisal assignment" shall mean a person's employment or retention to act (or which would be perceived by third parties or the public as acting) as a disinterested third party to render an estimate or opinion of the nature, quality, value or utility of specified interests in or aspects of identified real estate; and

(f) The term "appraisal services" shall mean services that are not encompassed within the definition of "appraisal assignment" but which relate in any way to the performance of, or consultation concerning, investment analyses, valuation reports, highest and best use studies, specialized marketing reports/studies, or market demand and economic feasibility studies; as well as any analyses, opinions and/or conclusions given in connection with real estate brokerage, mortgage banking, real estate counseling, or real estate tax counseling.

8. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided for by the provisions of this Order, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, FDIA, or the Home Owners' Loan Act ("HOLA"),

or as such definition is amended after the execution of this Order, and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, FDIA, or HOLA, shall have meanings that accord with their best custom and usage in the savings and loan industry.

9. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors and heirs in interest.

OFFICE OF THRIFT SUPERVISION

By: 15/

Ronald N. Karr
Regional Director
Central Regional Office

Dated: 6-26-82