

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)
C. Robert Nicolls.)
a Former Officer of)
St. Paul Federal)
Bank for Savings,)
Chicago, Illinois)

Re: Resolution No. CHI-92-29
Dated: July 21, 1992

STIPULATION AND CONSENT TO ISSUANCE OF
ORDER OF CIVIL MONEY PENALTY ASSESSMENT

The Office of Thrift Supervision ("OTS"), by and through
the Regional Director for the Central Region and C. Robert
Nicolls ("Nicolls") 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 civil
money penalty assessment proceeding against Nicolls pursuant to
12 U.S.C. § 1818(i)(2)(B). Nicolls 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 civil money penalty assessment proceeding against
Nicolls with respect to the following matters:

(a) The Report of Examination, dated March 18, 1991, of St. Paul Federal Bank for Savings, Chicago, Illinois ("Report") indicated numerous problems with Nicolls' expense reports including double billing for airfare, inadequate documentation supporting these expenditures, and expense reports for trips where the apparent primary purpose was pleasure rather than business. The identifiable expense report irregularities which were classified by the OTS examiners totaled \$8,206.

(b) Based on the findings of the examiners as detailed in the Report, St. Paul Federal Bank for Savings, Chicago, Illinois ("St. Paul") engaged an independent auditor to review Nicolls' department, the nationwide loan servicing department. The results of this special audit ("special audit") concluded that Nicolls may have diverted more than \$118,000 for his personal use through expense reporting which involved double billings, expenses not supported by adequate or accurate documentation, expenses without a valid business purpose, expenses incurred by persons other than Nicolls, and failure to credit expenses charged but not incurred. The special audit indicated that Nicolls apparently used St. Paul funds for non-business related personal travel, and to make payments on his personal credit cards. The special audit also concluded that in two instances Nicolls apparently endorsed checks drawn on St. Paul accounts to payees other than himself, and deposited such checks into his

personal cash accounts. The audit report found numerous expenditures by the nationwide loan servicing department lacking adequate supporting documentation, in many instances because the disbursement was processed as a "teller transaction" on the sole authority of Nicolls.

(c) Subsequent to the special audit, Nicolls and St. Paul settled the disputed irregularities in the amount of \$68,980.11.

(d) The alleged conduct indicates violations of 12 C.F.R. § 563.161(a), 12 C.F.R. § 563.170(c), breaches of fiduciary duty, and unsafe and unsound practices.

2. Jurisdiction.

(a) St. Paul is a "savings association" within the meaning of Section 3(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1462(4). 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).

(b) Nicolls is an institution-affiliated party within the meaning of Section 3(u) of the FDIA, 12 U.S.C. § 1813(u).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such an institution-affiliated party. Therefore, Nicolls is subject to the authority of the OTS to initiate and maintain the assessment of a civil money penalty pursuant to 12 U.S.C. § 1818(i)(2)(B).

3. Consent.

(a) Nicolls consents to the issuance by the OTS of the accompanying Order and further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

(b) Nicolls acknowledges and agrees that this proceeding, the assessment or payment of the civil money penalty contemplated as part of the resolution thereof, and Nicolls' consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only, are not retributive or deterrent actions that could constitute punishment of Nicolls for the purposes of double jeopardy, and do not not resolve,

affect, or preclude any other civil or criminal proceeding which may be brought against Nicolls by the OTS or another governmental entity.

(c) By signing this document Nicolls agrees that he will not assert the assessment or payment of this civil money penalty as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity, and that the government does not waive any rights or responsibilities to investigate or bring actions pursuant to its lawful authority, including the right of the United States Department of Justice to bring any criminal or civil action.

4. Finality.

The Order is issued under 12 U.S.C. § 1818(i)(2)(B). Upon its issuance by the Regional Director for the Central Region, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i)(1) of the FDIA, 12 U.S.C. § 1818(i)(1).

5. Waivers.

Nicolls waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and the administrative hearing provided by 12 U.S.C. § 1818(i)(2)(H), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h), or to otherwise challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the Regional Director for the Central Region on behalf of the OTS, and Nicolls execute this Stipulation and Consent to Issuance of Order of Civil Money Penalty Assessment.

OFFICE OF THRIFT SUPERVISION

By:

15/
Ronald N. Karr
Regional Director
Central Region

15/
C. Robert Nicolls

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Re: Resolution No. CHI-92-29
Dated: July 21, 1992

ORDER OF CIVIL MONEY PENALTY ASSESSMENT

WHEREAS, C. Robert Nicolls ("Nicolls") has executed a Stipulation and Consent to Issuance of Order of Civil Money Penalty Assessment, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the Central Region; and

WHEREAS, Nicolls has consented to the issuance of this Order of Civil Money Penalty Assessment pursuant to 12 U.S.C. § 1818(i)(2)(B).

NOW THEREFORE, IT IS ORDERED THAT:

(1) Nicolls shall pay the sum of \$15,000 which payment shall be made in five (5) installments as set forth below:

- (a) Within thirty (30) days of the effective date of this Order, Nicolls shall pay the first installment in the sum of \$5000 by tendering a check to the OTS in that amount made payable to the Treasurer of the United States;

- (b) On or before September 30, 1992, Nicolls shall pay the second installment in the sum of \$2,500 by tendering a check to the OTS in that amount made payable to the Treasurer of the United States;

- (c) On or before December 31, 1992, Nicolls shall pay the third installment in the sum of \$2,500 by tendering a check to the OTS in that amount made payable to the Treasurer of the United States;

- (d) On or before March 31, 1993, Nicolls shall pay the fourth installment in the sum of \$2,500 by tendering a check to the OTS in that amount made payable to the Treasurer of the United States;
and

(e) On or before June 30, 1993, Nicolls shall pay the fifth installment in the sum of \$2,500 by tendering a check to the OTS in that amount made payable to the Treasurer of the United States.

(2) If any installment payment described above is not tendered to the OTS by its prescribed due date, the remaining outstanding balance of the Civil Money Penalty Assessment shall immediately become due and payable to the OTS.

OFFICE OF THRIFT SUPERVISION

By: RS

Ronald N. Karr
Regional Director
Central Region