

amount of approximately \$209 million. The note, which was approved by OTS as required by law, was secured by collateral maintained in a collateral account and subject to a collateral pledge agreement between the parties. Under the terms of the agreement, the note had to be secured by collateral with a value of at least 120% of the note balance, which was a condition of OTS approval, and American and OTS had to approve any new or substituted collateral.

In May and June of 1990, certain senior officers and directors of American and Enstar, including Friedman and Richard Grassgreen, devised and implemented a plan ("The Collateral Substitution Plan") to substitute collateral of uncertain value, namely stock of a retail subsidiary of Enstar, for cash held in the collateral pool securing the note from Enstar to American. The Collateral Substitution Plan was devised to provide up to \$45 million of capital needed by the retail subsidiary of Enstar.

On June 8, 1990, Enstar convened a special telephonic Board of Directors meeting. Friedman attended the Board meeting by telephone. At the meeting, Richard Grassgreen, the Board's Chairman and Chief Executive Officer discussed, among other things, the Collateral Substitution Plan, which was then approved. However, despite the material amount involved and the risk posed to American by the Collateral Substitution Plan, it was never formally presented to the American Board of Directors.

Enstar's General Counsel drafted minutes of the June 8th Board meeting that described the purpose and general outline of

the Collateral Substitution Plan. He thereafter requested Alan J. Berkeley ("Berkeley"), an attorney representing American and Enstar, to review the draft minutes. Berkeley's edits stated that the pledge of the retail subsidiary stock was intended to provide adequate collateral in the event of the future sale of Enstar's insurance subsidiary. Berkeley's edited version eliminated the description of the Collateral Substitution Plan contained in the original draft and did not disclose any intention by Enstar to pledge the retail subsidiary's stock to enable Enstar to withdraw "excess collateral" to finance the retail subsidiary. Such withdrawals were thereafter effected by Enstar for that purpose. Berkeley sent the edited minutes to Friedman who acquiesced in the changes.

Friedman also consulted Berkeley concerning whether OTS approval was required for the pledge of the Enstar retail subsidiary stock to the collateral account. Berkeley advised Friedman that OTS approval was required and understood that Friedman would seek that approval. Friedman subsequently caused a draft of a letter to OTS to be prepared seeking OTS approval for the retail subsidiary stock as collateral under the collateral pledge agreement. The draft did not disclose the purpose of the pledge of the retail subsidiary stock and did not state that excess collateral would be withdrawn from the collateral account. Berkeley subsequently reviewed a copy of the draft letter and did not advise that the letter was incomplete or misleading or counsel against its delivery. Friedman also did not advise American's Board of Directors that the draft was incomplete or misleading nor did he take steps to

fully inform OTS of all the material facts regarding the transaction.

American requested OTS approval for American to accept the stock of the retail subsidiary not as a substitute for cash, but only as additional collateral for the promissory note, as described in the letter reviewed by Friedman. On June 22, 1990, the same day that the letter seeking OTS approval was first sent, Enstar, with Friedman's approval, withdrew \$29,000,000 in cash from the collateral account. In August 1990, OTS advised American that the stock of the retail subsidiary was not acceptable as collateral. In August and September, Enstar, with Friedman's knowledge, made additional withdrawals of \$9,281,000 from the account, for a total of more than \$38 million. American has lost more than \$23 million as a result.

WHEREAS, Friedman neither admits nor denies the allegations arising from the OTS investigation.

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

NOW, THEREFORE, the the Director of OTS, pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), as amended, HEREBY ORDERS as follows:

1. Friedman is hereby permanently prohibited from holding any office in, or any further participation, in any manner, in the conduct of the affairs of any insured depository institution pursuant to 12 U.S.C. Sc1818(e).

2. Friedman is hereby ordered to pay \$700,000 in restitution to American Savings of Florida, FSB, formerly known as American Savings & Loan Association of Florida, Miami, Florida ("American"). Friedman shall pay \$200,000 within five days of receipt of written notification to counsel for Friedman by OTS that the Stipulation and Order have been executed by the Director and the balance of \$500,000 shall be paid within ninety days of such notification. Such payment shall be made in the form of cash, money order or bank check.

3. Friedman agrees to cooperate fully with OTS by, among other things, providing full and truthful testimony in connection with any administrative hearing or other proceeding arising out of OTS's investigation into the affairs of American authorized by Resolution ATL 90-17, dated November 30, 1990.

4. Friedman acknowledges and agrees that his consent to the entry of this Order is for the purposes of resolving only those matters discovered, or could have reasonably been discovered, by the OTS as a result of its investigative proceeding commenced pursuant to Resolution ATL 90-17, dated November 30, 1990.

5. 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.

6. This Order shall be and is effective and enforceable upon service on counsel for Freidman.

IT IS SO ORDERED on this 4th day of October, 1992.

OFFICE OF THRIFT SUPERVISION
By:

/S/

Timothy Ryan
Director