

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of
Union Federal Savings Bank
Brea, California

Re: Resolution No. SF-91-014

Dated: April 15, 1991

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the West Region, OTS, and Union Federal Savings Bank, Brea, California, ("Union Federal"), 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 Union Federal pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (to be codified at 12 U.S.C. § 1818(e)). Union Federal 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 Union Federal with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) Union Federal 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 (to be codified at 12 U.S.C. § 1813(c)).

(b) Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Union Federal is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against it pursuant to Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)).

3. Consent. Union Federal consents to the issuance by the OTS of the Order. It 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, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)). Upon its issuance by the Regional Director for the West Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)).

5. Waivers. Union Federal waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the West Region, OTS, and Union Federal, by a majority of its directors, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

Union Federal Savings Bank
by a majority of its directors

By:

/S/

Michael A. Patriarca
Regional Director
West Region

/S/

David S. Engelman
Chairman of the Board

/S/

Wm. E. Wiley, Jr., Esq.
Director

/S/

Robert M. Klosterman
Director

/S/

Donald L. Criswell
Director

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Re: Resolution No. SF-91-014

Dated: April 15, 1991

ORDER TO CEASE AND DESIST

WHEREAS, Union Federal Savings Bank, Brea, California, ("Union Federal"), through its directors, 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 West Region; and

WHEREAS, Union Federal, 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, as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (to be codified at 12 U.S.C. Section 1818(b)).

NOW THEREFORE, IT IS ORDERED that Union Federal and its directors, officers, employees, agents and service corporations shall cease and desist from any violation of, or the aiding and abetting of any violation of 12 C.F.R. Section 563.93, 12 C.F.R. Section 563.160, 12 C.F.R. Section 563.161, and 12 C.F.R. Section 563.170, and 12 C.F.R. Section 564.

IT IS FURTHER ORDERED that:

1. Within 60 days of the effective date of this Order, the Board shall adopt and implement an amended Internal Asset Review Policy and Procedures (IAR Policy) that complies with 12 C.F.R. Section 563.160. At a minimum, in addition to the existing policy and procedures, the IAR Policy will provide for: (a) maintenance in the institution's files of the identity, by name and title, of all members of the Internal Asset Review Committee (IARC) along with documentation of the qualifications of the members of the IARC; (b) reports by the IARC directly to the Board or to a committee of the Board on at least a quarterly basis; (c) reports of the IARC to the Board or to a committee of the Board to be included in the minutes of the Board meetings; (d) IARC members to be independent from the loan solicitation and origination functions; (e) line personnel to provide the IARC with all pertinent information as identified in the IAR Policy on a timely basis and require line personnel to notify the IARC of all known potential problems with asset quality; (f) procedures which provide that timely and accurate information is submitted to and reviewed by the IARC; (g) classification recommendations to be based upon criteria in the regulations, regulatory policy statement and the IAR Policy.

2. Within 60 days of the effective date of this Order, the Board shall develop, adopt and implement an amended Appraisal Policy and Procedures (Appraisal Policy) that is designed to comply with the requirements of 12 C.F.R. Section 564. The Appraisal Policy will also require feasibility studies

except for proposed single-family developments consisting of four or less units and prior to the modification of loans involving development or construction of the security property except for proposed single-family developments consisting of four or less units. In addition, within 60 days of the effective date of this Order, the Board will take appropriate action to provide for the following:

- a. An evaluation will be conducted of all employees whose responsibilities include either the appraisal of properties other than one-to-four-family residences or the review or assessment of appraisal reports of properties other than one-to-four-family residences. This evaluation will include all review appraisers, loan officers, Senior Loan Committee members and IARC members. This evaluation will be made in writing and maintained at the institution. At that time, any directors, officers and employees found deficient will be removed from their responsibilities in this area. Alternatively, a training program to bring the employee up to the appropriate level of competence will be implemented, and until such time as the training is complete, their assessment or review of appraisal reports will be closely reviewed by a competent institution employee as identified by the evaluation;
- b. A review by management will be conducted of all independent appraisers on the Board's approved appraisers list who are approved to appraise property other than one-to-four-family residences. Written documentation will be maintained at the institution which demonstrates that only qualified appraisers are employed to appraise properties securing loans granted by the institution or service corporation, and properties owned by the institution or service corporations.

3. All appraisal reports ordered after the effective date of this Order will include:
- a. a feasibility study if the property is a proposed project except for proposed single-family developments consisting of four or less units;
 - b. a supportable highest and best use statement, addressing at a minimum:
a delineation of the market area, population and housing trends; the quality, quantity and stability of prospective users of the property; stability of the local economy; accessibility of the property and analysis of competing similar properties;
 - c. a supported capitalization rate including at a minimum, market comparable sales, a fully supported reconciliation of the derived market capitalization rate, and a verification of the appropriateness of this rate with a rate derived by the mortgage-equity method or other generally accepted method of deriving a capitalization rate;
 - d. a supported absorption rate which addresses supply and demand over the projected absorption period and details of recent historical absorption rates experienced by comparable projects;
 - e. complete itemization of all adjustments to comparable sales and support for each adjustment. At a minimum, the appraisal report should address all adjustments that have a potential effect on the value of the subject

property including, but not limited to, size, quantity, quality, topography, condition, location, accessibility, marketability, vacancy rates, estimated net income and source, cash price or terms of financing and sales price expressed as a cash equivalent;

f. a detailed explanation for the omission of any of the three required approaches to value.

4. Within 60 days of the effective date of this Order, the Board shall review and adopt any necessary amendments or document why amendments are not necessary to provide that the Lending Policy and Procedures (Lending Policy) for all areas of lending comply with the requirements of 12 C.F.R. Section 563.170. In addition, the Board shall take appropriate action to provide that:

- a. The appropriate level(s) of approval as defined in the Lending Policy is obtained before the institution or any of its employees commit the institution to any loan or loan modification;
- b. The required approvals delineated in the Lending Policy are conveyed to all employees and committees with loan approval authority;

- c. Specific procedures for the completion of written financial analysis of loan applicants are implemented and that weaknesses in the financial condition of applicants will be specifically presented in writing to the officer or committee with approval authority prior to the approval of any loan or loan modification;
- d. The primary and secondary sources of repayment will be noted in writing and presented to the Senior Loan Committee prior to approval of any loan or loan modification;
- e. After the effective date of this Order, prior to the approval of any application for a loan in excess of \$1,000,000, Union Federal will:
 - (1) Obtain, analyze, and document the analysis of: (a) current operating statements on the proposed security property and operating statements for the preceding three fiscal years, or a proforma statement if the property is not yet in operation; (b) current financial statements on the borrower(s), principal(s) and guarantor(s); (c) current credit reports on the borrower(s), principal(s) and guarantor(s) and, d) three years tax returns on the borrower(s), principal(s) and guarantor(s);
 - (2) Submit a written financial analysis to the committee with approval authority. At a minimum the written analysis shall include: an estimate of the current and projected net cash flow of the security property; the debt service coverage ratio of the security property;

the estimated net cash flow of the borrower(s), principal(s) and guarantor(s); estimated marketable net worth of the borrower(s), principal(s) and guarantor(s) on a historical cost and estimated market value basis; and, a summary of all adverse information revealed by the credit reports;

- (3) Use its best efforts to obtain audited financial information. If such information is not available, Union Federal will review and make inquiries of borrowers and third parties regarding significant assets and liabilities on financial statements obtained and utilized in the loan approval process and maintain documentation of such review and inquiries;

- (4) At a minimum, obtain and analyze the following financial information within 120 days of the end of the fiscal year of the borrower(s), principal(s) or guarantor(s), as applicable, and within 60 days of the end of each quarter, obtain the following financial information: annual operating statements on security property; financial statements on the borrower(s), principal(s) and guarantor(s); quarterly operating statements on all security properties at least until cash flow exceeds debt service requirements by five (5) percent for at least two consecutive quarters; and, quarterly operating statements on properties securing all such loans which are or become criticized assets. In addition, for any loan that the borrower(s), principal(s) or guarantor(s) fail to provide the requested information, the loan file will contain documentation of the institution's efforts to obtain such information.

5. Within 60 days of the effective date of this Order, the Board shall develop, adopt and implement a Loans-to-One-Borrower Policy designed to ensure that its directors, officers and employees comply with 12 C.F.R. Section 563.93. All loans approved after the effective date of this Order will comply with 12 C.F.R. Section 563.93.

6. Within 60 days of the effective date of this Order, the Board shall develop, adopt and implement Construction Lending Disbursement Policy and Procedures designed to ensure that its directors, officers and employees comply with 12 C.F.R. Section 563.161. In addition, at a minimum, for each construction loan, Union Federal will provide that:
 - a. Within 60 days of the effective date of this Order and at least annually thereafter, an evaluation of the qualifications of all directors, officers, employees and agents conducting property inspections is made and documented in writing, to determine that the persons conducting property inspections are qualified;

 - b. For all loans that are not overdisbursed as of the effective date of this Order, no further disbursements shall be made unless undisbursed loan funds and/or deposits by the borrower which are under institution control are sufficient at all times to complete the construction of the property securing the loan to the extent that such action is consistent with the terms of existing loan agreements, any other loan documentation

and the course of dealing with the borrower. In the event a determination is made to disburse funds because of legal obligations and/or course of dealing, Union Federal shall notify and provide the basis for its determination to the Assistant Regional Director within three business days of making such determination. For all loans that are overdisbursed as of the effective date of this Order and for loans identified pursuant to the plan developed as required by Section 7 of this Order the procedures set forth in that Section will be followed. Within 30 days of the effective date of this Order, Union Federal will submit a list to the Assistant Regional Director of all outstanding construction loans for which undisbursed loan funds and/or deposits by the borrower under institution control are not sufficient to complete the construction of the property securing the loan;

- c. A property inspection is conducted and documented each calendar month, and Union Federal will not disburse funds for payment of a voucher prior to the completion of the work related to the voucher and the property inspection documents completion of the work;
- d. A responsible officer or employee, independent from the inspection function, reviews each property inspection prior to each disbursement. The officer or employee shall document his review by initialing the inspection report and shall approve each disbursement in writing. The approval shall document whether sufficient undisbursed loan funds remain to complete construction;

7. Within 60 days of the effective date of this Order, the Board will develop a specific plan to help detect in a timely manner and to provide that for any construction loan wherein the remaining loans in process are insufficient to complete construction, the borrower immediately deposit sufficient funds to makeup any shortfall. In the event that this is not possible, the Board will provide the Assistant Regional Director prior to further disbursement of loan funds with its plans to minimize the exposure to the institution during the development or construction period and to avoid loss to the institution on the transactions involved.

8. Within 60 days of the effective date of this Order, the Board shall conduct a review of the institution's organizational structure, document the findings of that review and implement changes required in order to demonstrate that the appraisal, appraisal review, internal asset review, and construction inspection and disbursement functions are separate and independent from the loan origination, loan approval, loan collection and loan workout functions.

9. Within 45 days from the the effective date of this Order, the Board shall develop, adopt and implement an Internal Control Policy and Procedures to be used by the institution to monitor compliance with the provisions of this Order. At a minimum these policies and procedures shall address those deficiencies noted in the Office of Thrift Supervision Report of Federal Regular Examination of Union Federal commenced on August 9, 1990. The institution's Audit Committee shall provide the Board with monthly status reports, commencing March 31, 1991, detailing the condition of the institution's internal control system as instituted by the Policy and Procedures and shall include in its reports a detailed explanation for each noted deficiency or violation.

10. For good cause shown, the Assistant Regional Director may extend the time to complete any act required by this Order, specifically,
 - a. If the Assistant Regional Director disapproves any policy, plan, or act under the terms of this Order, the institution shall revise the policy, plan, or act within 15 days after receiving written notice of disapproval. Any notice of disapproval shall state the basis and reasons for disapproving the policy, plan, or act;

- b. No policy, plan, or act approved by the Assistant Regional Director may be amended, suspended, or revoked without the prior written approval of the Assistant Regional Director. However, the Assistant Regional Director may terminate any requirement imposed on the institution by this Order after receiving a written request to do so and if the institution has been in substantial compliance with the provision.
11. All technical words or terms used in this Order, for which meanings are not defined or otherwise provided by the provisions of this Order, shall, insofar as applicable, have the meanings set forth in Chapter V of Title 12 of the Code of Federal Regulations and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings and loan industry.
12. This Order shall remain in effect until terminated by the Office of Thrift Supervision. All requests for termination of the Order shall be submitted to the Assistant Regional Director. Upon review of any such request, the Assistant Regional Director may make a recommendation to the Regional Director for denial or approval of the request. The Regional Director may grant a written request for termination or modification of the Order if, in his opinion, Union Federal has satisfactorily complied with the terms of this Order for an appropriate period of time. The Regional Director's grant of such written request shall only be evidenced by the issuance of a written amendment to this Order executed by a duly authorized representative of the Office of Thrift Supervision.

