

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of:)

DON JONES, Former)
Advisory Director and a Person)
Participating in the Conduct)
the Affairs of Davy Crockett)
Federal Savings Bank,)
Crockett, Texas)

RE: Resolution No. DAL-91-45

DATED: May 30, 1991

STIPULATION AND CONSENT TO
ISSUANCE OF ORDER OF PROHIBITION

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office, and Don Jones ("Jones"), former advisory director and a person participating in the affairs of Davy Crockett Federal Savings Bank, Crockett, Texas (the "Institution"), hereby 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 prohibition proceeding against Jones pursuant to Section 8(e) 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)). Jones desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting that grounds exist, Jones hereby stipulates and agrees to the following terms in consideration of the forbearance of OTS from initiating such administrative prohibition litigation against Jones.

2. Jurisdiction.

(a) The Institution is 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 of 1933, as amended by Section 301 of FIRREA (to be codified at 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, as amended by FIRREA (to be codified at 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 National Housing Act of 1934 ("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"), as operating head of the FSLIC, was the regulatory agency with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof, including Jones, 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, as amended by Section 204 of the FIRREA (to be codified at 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 an administrative prohibition proceedings against Jones pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA (to be codified at 12 U.S.C. § 1464(d)(1)(A)), and Section 8 of the FDIA, as amended by the FIRREA (to be codified at 12 U.S.C. § 1818).

(g) Jones was an advisory director of the Institution from approximately July 1987 to March 1990, and from January 31, 1988 until on or about March 31, 1990, received advisory director fees of \$100 per month, during which time he was not properly appointed as an advisory director in accordance with the provisions of 12 C.F.R. § 545.123.

(h) Jones was at all times relevant to the allegations set forth herein, an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(u)), and therefore is subject to the OTS's authority to maintain prohibition proceedings.

3. Consent. Jones consents without admitting that grounds exists therefor, to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). He further agrees without admitting that grounds for the order exist, to comply with

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ORDER OF PROHIBITION

WHEREAS, Don Jones ("Jones") has executed a Stipulation and Consent to Issuance of Order of Prohibition ("Stipulation"), which is accepted and approved by the Office of Thrift Supervision ("OTS") acting through its Regional Director for the Midwest Regional Office; and

WHEREAS, Jones in the Stipulation has consented and agreed to the issuance of this Order of Prohibition ("Order") pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183;

NOW THEREFORE, IT IS ORDERED that:

1. Jones is prohibited from further participation, in any manner, in the conduct of the affairs of Davy Crockett Federal Savings Bank, Crockett, Texas and its service corporations.

2. Without the prior written approval of the Regional Director for the Midwest Regional Office and, if appropriate, another federal financial

Section 3(u) of the FDIA , 12 U.S.C. 1813(u), that defines "institution-affiliated party."

- (u) Institution-affiliated party.** The term "institution-affiliated party" means—
- (1) any director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, an insured depository institution;
 - (2) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under section 1818(j) of this title;
 - (3) any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case-by-case) who participates in the conduct of the affairs of an insured depository institution; and
 - (4) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in—
 - (A) any violation of any law or regulation;
 - (B) any breach of fiduciary duty; or
 - (C) any unsafe or unsound practice,which caused or is likely to cause more than a minimal financial loss to, or a significant adverse effect on, the insured depository institution.