

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____))
In the Matter of))
))
NORTHWESTERN SAVINGS BANK))
F.S.B., FARGO, NORTH DAKOTA))
))
_____))

Re: Resolution No. DM 91- 10
Dated: August 5, 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 Midwest Regional Office, OTS, and Northwestern Savings Bank, F.S.B., Fargo, North Dakota ("Northwestern" or "Institution"), 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 cease and desist proceeding against Northwestern 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(b)). Northwestern 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 Northwestern with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) Northwestern Savings Bank, F.S.B., Fargo, North Dakota, 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 enforcement proceedings against such a savings association. Therefore, Northwestern 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)).

(c) In the opinion of the OTS, a basis exists for initiating an administrative C&D proceeding against Northwestern as a result of excessive overdraft lines of credit and waiver of overdraft fees to certain executive officers and directors in violation of 12 C.F.R. § 563.43, imprudent loan underwriting practices, and loan record-keeping deficiencies.

3. Consent. Northwestern 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 Midwest Regional Office, OTS, it

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Re: Resolution No. DM 91-10
Dated: August 5, 1991

ORDER TO CEASE AND DESIST

WHEREAS, Northwestern Savings Bank, F.S.B., Fargo, North Dakota ("Institution" or "Northwestern"), 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 District Director for the Des Moines District Office; and

WHEREAS, Northwestern, 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 ("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(b)).

NOW THEREFORE, IT IS ORDERED that Northwestern 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. § 563.43, 12 U.S.C. § 1468, 12 U.S.C. § 375b, 12 C.F.R. § 563.170.

IT IS FURTHER ORDERED THAT:

- A. Conflict of Interest Policy. Within forty-five (45) days of the date of this Order, the Institution shall revise its conflict of interest policy to comply with the requirements of 12 C.F.R. §§ 215.4 and 563.43. Such revisions shall include, but not be limited to, a prohibition on the waiver of overdraft and nonsufficient funds fees for executive officers or directors. This policy and any subsequent modification thereto shall be submitted to the Regional Deputy Director for review and comment. Within thirty (30) days from receipt of any comment, and after consideration of such comment, the board of directors shall approve such policy, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Institution and its directors, officers, and employees shall implement and follow such policy and any modifications thereto.
- B. Expenses.
1. The Institution shall not pay or reimburse any expense incurred by any officer, director, or employee that is not directly related to the business of the Institution or which is not fully documented in the Institution's records pursuant to 12 C.F.R. § 563.170(c).
 2. Until such time as the Institution, in the opinion of the Regional Deputy Director, meets its fully-phased-in capital requirement, the Institution shall not pay country club dues for or on behalf of any Institution officer, director, or employee.

3. The board of directors of Northwestern shall conduct a detailed monthly review of the previous month's expenditures for travel, meals, and entertainment, which review shall be documented in the minutes of the meetings of the board of directors.

C. Commercial Loan Underwriting. Before making, extending, or modifying any loan for commercial purposes, whether secured or unsecured, the Institution shall:

1. Obtain current borrower or guarantor financial statements, copies of which shall be contained in the Institution's loan file;
2. Analyze the financial strength and repayment capacity of the borrower-guarantor, which analysis shall be documented in the Institution's loan files;
3. Perform collateral inspection and valuation to ascertain the existence, condition, and value of the security, which inspection and valuation shall be documented in the Institution's loan files; and
4. Evaluate the history and stability of the business to be financed, which evaluation shall be documented in the Institution's loan files.

D. Loan Record-keeping. The Institution shall comply with the record-keeping requirements of 12 C.F.R. § 563.170. Within sixty (60) days of the date of this Order, the Institution shall correct each of the record-keeping deficiencies identified at pages A-26.2 to A-26.4 in the January 14, 1991, OTS Report of Examination.

- E. Loan Coding. Within forty-five (45) days of the date of this Order, the Institution shall develop a system to ensure that loans are properly coded. This system shall be submitted to the Regional Deputy Director for review and comment. Within thirty (30) days from receipt of any comment, and after consideration of such comment, the board of directors shall approve such system, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Institution and its directors, officers, and employees shall implement and follow such system and any modifications thereto.
- F. Consumer Loan Underwriting. Before approving, making, extending, or modifying any consumer loan or loan secured by a single family dwelling, the Institution shall analyze the borrower debt-to-income ratios as required by its lending policies and procedures, which analysis shall be documented in the Institution's loan files.
- G. Director Responsibility.
1. Each member of the board of directors owes fiduciary duties to the Institution and its depositors. Notwithstanding that certain provisions of this Order require the board of directors to submit various matters to the Regional Deputy Director for the purpose of review and comment, such regulatory oversight does not derogate or supplant the fiduciary duties owed by the members of the board of directors of the Institution. The board of directors, at all times,

shall have the ultimate responsibility for overseeing the safe and sound operation of the Institution.

2. In connection with its oversight of the Institution, the board of directors shall, at a minimum, obtain and consider all applicable information suggested in the Director Information Guidelines, published by the OTS in December of 1989.
3. The board of directors of the Institution shall take immediate action for the purpose of causing the Institution to comply with this Order.

H. Board Review of Compliance with Order. The board of directors, and each director individually, shall, at each regular meeting, formally resolve that, to the best of his/her knowledge and belief, and based on a prudent review, during the previous calendar month, the Institution and all its subsidiaries complied with each provision of this Order currently in effect, except as otherwise stated. The resolution shall specify in detail how, if at all, full compliance was found to be lacking. Within twenty (20) days of each regular board of directors' meeting, the Institution shall submit to the Regional Deputy Director a copy of the minutes of each board of directors' meeting, and the aforementioned resolution.

I. Successor Regulation, Guidance, Amendments. Reference in this Order to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the effective date of this

Order and references to successor provisions as they become applicable.

- J. All other technical words or terms used in this Order, for which meanings are not specified or otherwise provided 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, HOLA, or Federal Deposit Insurance Act, as amended ("FDIA"). Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

K. Miscellaneous

1. In the instance that any provision of this Order shall be declared invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
2. Nothing in this Order shall be construed as permitting the Institution to violate any law, rule, regulation, or policy statement to which it is subject.
3. Except as otherwise noted, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Order to be made upon, given or furnished to, delivered to, or filed with either the Regional Deputy Director or the Institution shall be made in writing, mailed, first class, airmail postage prepaid or physically delivered, or telecopied, telexed or sent by other means of electronic

