

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of: )  
JON R. BAUGHMAN )  
Former Chief Financial )  
Officer, Director and )  
Institution Affiliated Party )  
of: )  
American Federal Bank, a )  
Federal Savings Bank, )  
Ada, Oklahoma )

Re: Resolution No. OTS AP-91-46

Dated: August 7, 1991

STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND  
DESIST FOR RESTITUTION AND OTHER AFFIRMATIVE RELIEF,  
AND ORDER OF REVOCATION OF THE PRIVILEGE TO PRACTICE  
BEFORE THE OFFICE OF THRIFT SUPERVISION

The Office of Thrift Supervision ("OTS"), by and through its Director, and Jon R. Baughan ("Baughman"), a former Director and Chief Financial Officer of American Federal Bank, a Federal Savings Bank, Ada, Oklahoma, hereby 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 Baughman, pursuant to Section 407(g) of the National Housing Act of 1934 ("HOLA"), 12 U.S.C. § 1730(e), and Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989

("FIRREA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989). The OTS is of the further opinion that grounds exist to initiate an administrative proceeding to revoke the privilege of Baughman to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq. Baughman desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying the statements, conclusions or terms herein, Baughman hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating administrative cease and desist or revocation litigation on the matters covered in the attached Order. Baughman, without trial, presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of the Stipulation for the sole purpose of resolving the issues in this proceeding without significant legal cost and expense. The OTS has determined that it is appropriate, and in the best interest of the public to execute the Stipulation and the attached Order to Cease and Desist for Restitution and Other Affirmative Relief, and Order of Suspension of the Privilege to Practice before the Office of Thrift Supervision ("Order"). This Stipulation and the attached Order are issued solely to settle the matters covered in the Order, and are not the result of factual findings.

2. Jurisdiction. The OTS is of the opinion that:

(a) The Institution at all times relevant to the allegations set forth herein, was 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, 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA, 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 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 its affairs, including Baughman, pursuant to Sections 403 and 407 of the NHA, 12 U.S.C. §§ 1726 and 1730.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of FIRREA, 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 administrative cease and desist proceedings directing affirmative relief against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties, pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA, 12 U.S.C. § 1464(d)(1)(A), and Section 8(b) of the FDIA, as amended by the FIRREA, 12 U.S.C. § 1818(b).

(g) The Director of the OTS further has the authority to bring an administrative proceeding to suspend or permanently revoke the privilege of any person or entity to practice before it, pursuant to Part 513 of the Rules and Regulations of the Office of Thrift Supervision, 12 C.F.R. § 513 et seq.

(h) Baughman was at all times relevant hereto a certified public accountant and the Chief Financial Officer of the Institution, and; a senior officer of Lenders Service Incorporated ("LSI"), a wholly-owned subsidiary of the Institution. Accordingly, Baughman is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1813(u), and as such, is subject to the authority of the OTS to maintain cease and desist proceedings pursuant to Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b). Baughman is further subject to censure by the OTS pursuant to 12 C.F.R. 513.4(a).

(i) At all times relevant hereto, the Institution failed to meet the minimum regulatory capital requirements set forth in 12 C.F.R. § 567.2.

(j) At all times relevant hereto, 12 C.F.R. § 563.98 provided that an institution that was failing to meet the minimum regulatory capital requirements, as set forth in 12 C.F.R. § 567.2, was required to obtain the prior written approval of the OTS before engaging in any equity risk investment.

(k) On or about January 6, 1991, Baughman, acting in his capacity as Chief Financial Officer of the Institution, caused the Institution to make an unsecured advance in the amount of \$1.5 million to LSI, the Institution's wholly-owned subsidiary, for unspecified purposes. The advance was undertaken by Baughman without the prior written approval of the OTS, in violation of 12 C.F.R. § 563.98, and the express terms of a then outstanding Operating Agreement with the OTS; and was accomplished without the prior knowledge, approval or authorization of the board of directors of the Institution.

(l) At various times throughout January 1991, Baughman, acting in his capacity as President of LSI, caused the proceeds from the \$1.5 million advance from the Institution to be fully disbursed. Baughman failed to adequately and appropriately document and account for these disbursements in accordance with generally accepted accounting principles and 12 C.F.R. § 563.233.

3. Consent. Without admitting or denying the need or basis therefor, Baughman consents to the issuance by the OTS of the Order, a copy of which is attached hereto and incorporated as Exhibit A. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of 12 U.S.C. § 1818(b) and Section 407(e) of the NHA, 12 U.S.C. § 1730(e), and 12 C.F.R. Part 513.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b), and Part 513 of the Rules and Regulations of the OTS. Upon its issuance, 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, 12 U.S.C. § 1818(i).

5. Waivers. Baughman waives his right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b), and 12 C.F.R. § 513.4(a), 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, 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 Director, and Jon R. Baughman execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

\_\_\_\_\_/S/\_\_\_\_\_  
By: Timothy Ryan  
Director

\_\_\_\_\_/S/\_\_\_\_\_  
Jon R. Baughman

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of: )  
JON R. BAUGHMAN )  
Former Chief Financial )  
Officer, Director and )  
Institution Affiliated Party )  
of: )  
American Federal Bank, a )  
Federal Savings Bank, )  
Ada, Oklahoma )

Re: Resolution No.OTS AP-91-45

Dated: August 7, 1991

ORDER TO CEASE AND DESIST FOR REIMBURSEMENT AND OTHER  
AFFIRMATIVE RELIEF, AND ORDER OF REVOCATION OF THE PRIVILEGE  
TO PRACTICE BEFORE THE OFFICE OF THRIFT SUPERVISION

WHEREAS, Jon R. Baughman ("Baughman") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Suspension of the Privilege to Practice Before The Office of Thrift Supervision ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Director; and

WHEREAS, without admitting or denying that the grounds exist therefor, Baughman has consented and agreed in the Stipulation to the issuance of this Order to Cease and Desist for Reimbursement and Other Affirmative Relief, and Order of Suspension of the Privilege to Practice Before The Office of Thrift Supervision ("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, ("FIRREA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989), and 12 C.F.R. Part 513;

NOW THEREFORE, IT IS ORDERED that:

1. Baughman's privilege to practice as an accountant before the OTS, as defined at 12 C.F.R. § 513.2(e), is hereby revoked. From and after the date of this Order, Baughman shall not, directly or indirectly, engage in the following activities:

(a) The preparation of any statement, opinion, financial statement, report or other document on behalf of another person that will be filed in, or used with the knowledge or consent of Baughman at, any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the OTS, or a presiding officer or staff of the OTS, including inter alia, those proceedings covered in 12 C.F.R. Parts 508, 509, 510 and 512;

(b) The preparation of any statement, opinion, financial statement, report or other document that will be filed with or submitted to the OTS with the knowledge or consent of Baughman in connection with any application or filing with the OTS;

(c) Any business correspondence or communication with the OTS or a presiding officer or staff of the OTS; and

(d) The transaction of any other formal business with the OTS on behalf of another, in the capacity of an accountant.

2. From and after the effective date of this Order, Baughman, in the capacity of an accountant, shall not, directly or indirectly, prepare or participate in the preparation of any statement, opinion, financial statement, or audit report, or perform other accounting services for, or on behalf of, any institution(s) or other entity as set forth in Section 8(e)(7)(A) of the FDIA, as amended by FIRREA, 12 U.S.C. §1818(e)(7)(A), or any subsidiary or holding company thereof.

3. Baughman shall successfully complete a minimum of forty (40) hours of continuing professional education ("CPE") in one or more subjects relevant to financial accounting or auditing of insured depository institutions within two (2) years from the effective date of this Order. Baughman shall furnish the Regional Director of the Midwest Regional Office proof of compliance with this provision.

4. Two (2) years from and after the effective date of this Order, Baughman may apply to the OTS for reinstatement of the privilege to practice before the OTS, as provided in 12 C.F.R. § 513.5, and termination of paragraph 2 of this Order; provided, that Baughman has maintained full compliance with all terms and conditions of this Order. The Director of OTS shall be under no obligation to approve, or otherwise act favorably upon, any such application filed by Baughman.

5. Within thirty (30) days from the effective date of this Order, Baughman shall make restitution to American Federal Savings,

a Federal Savings Bank, Ada, Oklahoma (the "Institution") in the amount of \$39,700, or such amount which remains due and payable to Lenders Service Corporation ("LSI") by Boman Plaza, an Oklahoma Partnership (the "Partnership"), whichever is less. This sum represents the unsecured advance made to the Partnership by LSI in March 1990.

6. Baughman shall comply with paragraph 3 of this Order by sending a certified check to the Regional Director of the Midwest Regional Office, in the required amount, payable to the Institution.

7. Within thirty (30) days from the effective date of this Order, Baughman shall transfer and convey, by Quit Claim Deed, any and all of his right, title and interest, however denominated, in and to the real property commonly described as the Boman Plaza Building located at 6539 East 31st Street, Tulsa, Oklahoma, and all improvements thereon; all as more fully described on attached Exhibit A.

8. Baughman shall indemnify and reimburse the Institution for the unsecured advance made by the Institution in the amount of \$1.5 million to LSI in January 1991 to the extent that any disbursements of said advance were, directly or indirectly, paid over to or utilized for the benefit of any officer, director or shareholder of the Institution, or any immediate family member or affiliate thereof. Within ten (10) days from the date of issuance of this Order, Baughman shall execute and deliver the Indemnification and

Reimbursement Agreement attached hereto as Exhibit B and incorporated herein by this reference.

9. Nothing contained in this Order shall be interpreted to prohibit Baughman from responding in any manner to any charges, inquiries or other contacts initiated by the OTS and/or by any other regulatory agency concerning Baughman. This Order applies only to Baughman as an individual, and does not apply to any corporation, firm or other business with which Baughman is or may become affiliated.

10. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided for 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, FDIA, or the Home Owners' Loan Act ("HOLA"), or as such definition is amended after the execution of this Order, and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, FDIA, or HOLA, shall have meanings that accord with their best custom and usage in the savings and loan industry.

11. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors and heirs in interest.

OFFICE OF THRIFT SUPERVISION

By: \_\_\_\_\_

Timothy Ryan  
Director

/S/

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**EXHIBIT A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

The following real estate, situated in the County of Tulsa, State of Oklahoma, to-wit:

TRACT 1: Beginning at a point 849.5 feet East of the Southwest Corner of the Southwest Quarter of the Southwest Quarter (SW/4 SW/4) of Section 14, Township 19 North, Range 13 East, Tulsa County, Oklahoma, thence due North a distance of 308.31 feet to a point on the South line of Section 14, thence East along the South line of Section 14, a distance of 100 feet to the point of beginning, less all road right-of-way thereof.

TRACT 2: All of Block Three (3), South Sheridan Acres Extended Addition, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

EXHIBIT B

INDEMNIFICATION AND REIMBURSEMENT AGREEMENT

This Indemnification and Reimbursement Agreement ("Agreement") is entered into this \_\_\_\_\_ day of July, 1991, by and between Jon R. Baughman ("Baughman") and American Federal Savings, a Federal Savings Bank, Ada, Oklahoma (the "Institution"), collectively called the Parties.

WHEREAS, Baughman executed a Stipulation and Consent to Issuance of Order to Cease and Desist ("Stipulation") stipulating and consenting to the issuance of an Order to Cease and Desist ("Order"); and

WHEREAS, pursuant to Paragraph No. 8 of the Order, Baughman is required to enter into an agreement to indemnify and reimburse the Institution for certain losses and expenses more fully set forth therein and herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. REIMBURSEMENT AND INDEMNIFICATION BY BAUGHMAN.

Baughman agrees to reimburse the Institution, and/or its wholly-owned service corporation, Lenders Service Incorporated ("LSI"), for any and all disbursements of monies made from the \$1.5 million advance by the Institution to LSI, to the extent that any disbursements of said advance were, directly or indirectly, paid over to or utilized for the benefit of any officer, director or shareholder of the Institution, or any immediate family member

or affiliate thereof. Baughman further agrees to indemnify and hold harmless the Institution and LSI against any liabilities, losses and damages recognized, and costs and expenses incurred (including legal fees) resulting from said disbursements.

The indemnification obligations provided for herein shall apply whether or not the basis of the liability, loss, damage, cost or expense occurred before or after the execution of this Agreement. Additionally, this Agreement and the indemnity provided for herein, shall remain in full force and effect, irrespective of whether the liability, loss, damage, cost or expense indemnified resulted from actions taken or omitted in either good or bad faith or whether such actions or omissions were unlawful.

2. **PROOF REQUIRED FOR REIMBURSEMENT.** In the event any disbursement made from the \$1.5 million advance is determined to have been directly or indirectly paid over to, or utilized for the benefit of, any person or entity outlined in Paragraph No. 1 above an itemized statement thereof, sworn to by an officer or officers of the Institution, shall be prima facie evidence of the fact and extent of Baughman's liability hereunder. Within seven (7) days following receipt of any such itemized statement, Baughman shall remit the full amount set forth in the itemized statement, in cash or certified check, to the Institution.

3. **PROOF REQUIRED FOR INDEMNIFICATION.** In the event any liability, loss, damage, cost or expense is recognized or

incurred by the Institution or LSI as a result of any disbursements of the \$1.5 million advance as outlined above, an itemized statement thereof, sworn to by an officer or officers of the Institution, shall be prima facie evidence of the fact and extent of Baughman's indemnification obligation hereunder. Within seven (7) days following receipt of any such itemized statement, Baughman shall remit the full amount set forth in the itemized statement, in cash or certified check, to the Institution.

4. **DEFINITIONS.** All capitalized terms and names used herein, and not otherwise defined, shall have the meaning as set forth in the Order.

5. **GOVERNING LAW.** This Reimbursement and Indemnity Agreement shall be construed in accordance with the laws of the State of Oklahoma and of the United States. In the event of any conflict between the laws of the State of Oklahoma and the laws of the United States, the laws of the United States shall control.

6. **SUCCESSORS.** This Agreement shall be binding upon and inure to the benefit of any successor, by merger, acquisition of assets, conservator, receiver, trustee in bankruptcy or otherwise, to either of the Parties hereto.

7. **TERMINATION.** The Parties hereto agree that this Agreement shall remain in full force and effect for a period of five years from the date first above written.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement on the day and year first above written.

\_\_\_\_\_  
/S/

Jon R. Baughman

AMERICAN FEDERAL SAVINGS, A FEDERAL SAVINGS BANK, ADA, OKLAHOMA

By: \_\_\_\_\_

Its: \_\_\_\_\_