

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
First Federal Savings and Loan Association)
Pascagoula, Mississippi)
OTS Docket No. 05957)
_____)

Order No.: MWR-06-14
Dated: November 21, 2006

STIPULATION AND CONSENT TO THE ISSUANCE OF
AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, has informed First Federal Savings and Loan Association, Pascagoula, Mississippi (the Association), OTS Docket No. 05957, that grounds exist to initiate administrative civil money penalty assessment proceedings against the Association pursuant to Section 8(i) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1818(i), and Section 102(f) of the Flood Disaster Protection Act of 1973 (FDPA), 42 U.S.C. § 4012a(f)¹.

WHEREAS, the Association desires to cooperate with OTS and to avoid the time and expense of such administrative enforcement proceedings. Without any adjudication on the merits, the Association neither admits nor denies that grounds exist for any administrative enforcement proceedings and neither admits nor denies the Findings of Fact or opinions and conclusions of OTS, as set forth in Paragraph 2 below. The Association admits the jurisdiction of OTS as set forth in Paragraph 1 below. The Association hereby stipulates and agrees to the following:

1. Jurisdiction

- A. The Association, at all times relevant hereto, 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 (HOLA), 12 U.S.C. § 1462(4). Accordingly, the Association is an “insured depository institution”, as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).
- B. Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an enforcement proceeding against such an institution. Therefore, the Association is subject to OTS’s authority to initiate and maintain civil money penalty assessment proceedings against it pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i). The Deputy Director of OTS, pursuant to delegated authority, has delegated to the Regional Director of the Midwest Region of

¹ All references to the United States Code (U.S.C.) are as amended.

OTS (Regional Director) the authority to issue orders where the institution subject to the Order has consented to its issuance.

- C. The Association is a “regulated lending institution” within the meaning of Section 3(a)(10) of the FDPA, 42 U.S.C. § 4003(a)(10).
- D. OTS is the “appropriate Federal entity for lending regulation” within the meaning of Section 3(a)(5) of the FDPA, 42 U.S.C. § 4003(a)(5). For purposes of enforcing Section 102 of the FDPA, 42 U.S.C. § 4012a, against such an institution, OTS has jurisdiction over the Association and the subject matter of this administrative enforcement proceeding.

2. **OTS Findings of Fact**

The Association failed to comply with the FDPA, 42 U.S.C. §§ 4001-4129, and OTS implementing regulations, 12 C.F.R. Part 572. Specifically, OTS finds that the Association failed to purchase or force-place flood insurance on eight (8) loans as required by, and under the circumstances set forth in, Section 102(e) of the FDPA, 42 U.S.C. § 4012a(e), and 12 C.F.R. § 572.7. All of the aforementioned violations occurred within a four-year period of the effective date of the accompanying Order of Assessment of Civil Money Penalties (Order). OTS finds that such behavior created a systemic problem at the Association and constituted a pattern or practice of violations under Sections 102(f)(1) of the FDPA, 42 U.S.C. § 4012a(f)(1). Accordingly, OTS determined to assess the Association Three Hundred Eighty-five Dollars (\$385.00) for each of these loans, or a total of Three Thousand, Eighty Dollars (\$3,080.00).

3. **Consent**

The Association consents to OTS’s issuance of the accompanying Order. The Association 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**

OTS issues this Order pursuant to Sections 102(f)(1) and 102(f)(5) of the FDPA, 42 U.S.C. §§ 4012a(f)(1) and 4012a(f)(5). Upon its issuance by the Regional Director or designee for the Midwest Region, OTS, this Order shall be a final Order, effective and fully enforceable by OTS under the provisions of Section 102(f) of the FDPA, 42 U.S.C. § 4012a(f), and to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. §§ 1818(h) and (i).

5. **Waivers**

The Association waives the following:

- A. The right to service of a written notice of OTS's assessment of civil money penalties against it, (see Section 8(i) of the FDIA, 12 U.S.C. § 1818(i); Section 102(f)(4) of the FDPA, 42 U.S.C. § 4012a(f)(4); and 12 C.F.R. Part 509);
- B. The right to an administrative hearing of OTS's charges against it, (see Section 8(i) of the FDIA, 12 U.S.C. § 1818(i); Section 102(f)(4) of the FDPA, 42 U.S.C. § 4012a(f)(4); and 12 C.F.R. Part 509);
- C. The right to seek judicial review of the Order, including, without limitation, any such right provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), or otherwise to challenge the validity of the Order;
- D. The right to assert this proceeding, this consent to issuance of the Order, and/or the issuance of the Order, the payment of any monies, or the provision of any other financial relief as contemplated by the Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- E. All claims against OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS administrative enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412.

6. Scope of Release: Other Governmental Actions Not Affected

- A. Upon OTS's issuance of the accompanying Order following OTS's acceptance of this Stipulation executed by the Association, OTS does release and discharge the Association from all potential claims and charges that OTS has asserted or may have asserted, based on the alleged violations described in the Findings of Fact set forth in Paragraph 2 of this Stipulation, to the extent known to OTS as of the effective date of the accompanying Order. This release shall not preclude or affect any right of OTS to determine and ensure compliance with the terms and provisions of this Stipulation and the accompanying Order.
- B. The Association acknowledges and agrees that its consent to the issuance of the accompanying Order (1) is solely for the purpose of resolving certain potential OTS administrative enforcement charges as provided by Paragraph 6.A above, and (2) does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, liability, or other administrative, civil, or criminal proceeding that may arise pursuant to this action or otherwise, and that another government entity may bring or has brought against the Association.
- C. Nothing in this Stipulation or the accompanying Order shall in any way limit or restrict OTS or any other federal agency, in its sole discretion, from bringing additional actions, charges, or proceedings against the Association or any institution-affiliated party thereof for violations other than those cited in the Findings of Fact set forth in Paragraph 2.

7. **Miscellaneous**

- A. The laws of the United States of America shall govern the construction and validity of this Stipulation and the Order.
- B. In case any court of competent jurisdiction rules any provision of this Stipulation and the Order to be invalid, illegal, or unenforceable, such ruling shall not in any way affect or impair the validity, legality, and enforceability of the remaining provisions hereof unless the Regional Director in his or her sole discretion determines otherwise.
- C. All technical words or terms used in this Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in the FDIA, the HOLA, or the FDPA. Any such technical words or terms used in this Order and the Stipulation and undefined in the FDIA, the HOLA, or the FDPA shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.
- D. Reference in this Order and the Stipulation to provisions of statutes or regulations shall include references to all amendments to such provisions made as of the effective date of this Order, and references to successor provisions as they become applicable.
- E. The section and paragraph headings in this Stipulation and the Order are for convenience only. Such headings shall not affect the interpretation of this Stipulation or the Order.
- F. The term of this Stipulation and the Order represent the final agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.
- G. This Stipulation and the Order shall remain in effect until OTS, acting through its Director, Deputy Director, Regional Director, or other authorized representative, terminates, modifies, or suspends the Stipulation and the Order.

8. **Signature of Directors**

Each Director signing this Stipulation attests that s/he voted in favor of a Board Resolution authorizing execution of the Stipulation.

WHEREFORE, the Association, by a majority of its directors, executes this Stipulation and Consent to the Issuance of an Order of Assessment of Civil Money Penalties, intending to be legally bound hereby.

**FIRST FEDERAL SAVINGS AND LOAN ASSOCIATION
Pascagoula, Mississippi**

By a majority of its directors

By: / S /
Ray Ford, Director

 / S /
Dorothy McKinnon, Director

 / S /
Stewart Ramsay, Director

 / S /
H.H. Robinson, Director

 / S /
Clyde H. Gunn, Jr., Director

 / S /
Jim Robinson, Director

 / S /
Larry A. Smith, Director

**ACCEPTED ON THE DATE OF THE ORDER BY
OFFICE OF THRIFT SUPERVISION**

By: / S /
Frederick R. Casteel
Regional Director
Midwest Region

Date: 11-21-06

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ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, First Federal Savings and Loan Association, Pascagoula, Mississippi (the Association), OTS Docket No. 05957, by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of Assessment of Civil Money Penalties (Stipulation); and

WHEREAS, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order of Assessment of Civil Money Penalties (Order) by the Office of Thrift Supervision (OTS), pursuant to Section 102(f) of the Flood Disaster Protection Act of 1973, 42 U.S.C. § 4012a(f)¹; and

WHEREAS, the Deputy Director of OTS, pursuant to delegated authority, has delegated to the Regional Directors of OTS the authority to issue Orders of Assessment of Civil Money Penalties on behalf of OTS where the savings association that is the subject of the Order has consented to the issuance of the Order.

NOW, THEREFORE, IT IS ORDERED that:

1. Within fifteen (15) calendar days of the date of this Order, the Association shall pay the sum of Three Thousand, Eighty Dollars (\$3,080.00) in the form of a certified check or bank draft, made payable to the order of the National Flood Insurance Program – Mitigation Fund, together with a copy of the executed Order and a cover letter referencing First Federal Savings and Loan Association, Pascagoula, Mississippi, OTS Docket No. 05957, to the following address: 7700 Hubble Drive, Lanham, Maryland 20706. The Association also shall submit a copy of the check or bank draft and the cover letter by U.S. Mail to David W. Dixon, Senior Attorney, Office of Thrift Supervision, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062-2326.
2. The Stipulation is made a part hereof and is incorporated herein by this reference.

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