

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	Re: Resolution No. <u>DAL-91-232</u>
)	
LOUIS DUNGAN, former President)	Dated: <u>December 30, 1991</u>
of First City Federal Bank)	
for Savings,)	
Lucedale, Mississippi)	
)	

STIPULATION AND CONSENT TO ENTRY OF
ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

The Office of Thrift Supervision ("OTS"), by and through the Regional Director for the Midwest Region, and Louis Dungan ("Respondent") 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 civil money penalty assessment proceeding against the Respondent pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"). The Respondent 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 civil money penalty assessment proceeding against the Respondent with respect to the failure of Respondent, former President of First City

Federal Bank for Savings, Lucedale, Mississippi ("First City"), to attempt to cause First City to comply with the provisions of a consent agreement and a supervisory agreement entered into with the OTS.

2. JURISDICTION

- (a) First City is a "savings association" within the meaning of Section 3(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(b)) and Section 2(4) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1462(4) (Supp. I 1989). 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) Respondent was, at all times relevant to the allegations set forth herein, an institution affiliated party, of First City within the meaning of Section 3(u) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(u)), in that he served as a director of First City from August 9, 1989 to . Dec. 31, 1989
- (c) Pursuant to Section 3(q) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(q)), the OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such savings association and its institution affiliated party. Therefore, the Respondent is subject to the authority of OTS to initiate and maintain the assessment of a civil money penalty pursuant to Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989).

3. CONSENT

- (a) Respondent consents to the issuance by the OTS of the accompanying Order of Civil Money Penalty Assessment ("Order") and further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.
- (b) The Respondent acknowledges that the debt owed pursuant to the Order is not dischargeable under the Bankruptcy Code, in accordance with 11 U.S.C. § 523(a)(11) and (12), as amended by Section 2522 of the Comprehensive Thrift and Bank Fraud Protection and Taxpayer Recovery Act of 1990, Pub. L. No. 101-647, November 29, 1990.

4. FINALITY

The Order is issued under Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989). Upon its issuance by the Regional Director for the Midwest Region, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (1988 & Supp. I 1989).

5. WAIVERS

- (a) Respondent waives the right to a Notice of Assessment of Civil Money Penalties provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (1988 & Supp. I 1989) and the administrative hearing provided by Section 8(i)(2)(H) of the FDIA, 12 U.S.C. § 1818(i)(2)(H) (1988 & Supp. I 1989), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h)

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In the Matter of)
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LOUIS DUNGAN, former President)
of First City Federal Bank)
for Savings,)
Lucedale, Mississippi)

Re: Resolution No. DAL-91-232
Dated: December 30, 1991

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES

WHEREAS, Louis Dungan ("Dungan") has executed a Stipulation and Consent to Entry of Order of Assessment of Civil Money Penalty, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the Midwest Region; and

WHEREAS, Louis Dungan, in the Stipulation, has consented to the entry of this Order of Assessment of Civil Money Penalty pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA");

NOW THEREFORE, IT IS ORDERED that:

- (1) Dungan shall pay to the OTS the sum of \$10,000; and
- (2) Dungan may comply with Paragraph (1) of this Order by making an initial One Thousand Dollar (\$1,000) payment by January 15, 1992, and thereafter monthly installments of Two Hundred Dollars (\$200) commencing on March 1, 1992, which shall be due and payable on the first day of each calendar month until the entire amount assessed has been paid.

If Dungan fails to make a payment when due, and fails to cure such deficiency by the tenth (10th) day of the month when such payment was due, then the entire outstanding amount of the unpaid civil money penalty assessment shall become immediately due and payable.

- (3) Dungan shall make payment of the civil money penalty assessment by tendering one or more certified checks (or money orders) made payable to the the order of the Treasurer of the United States, and mailed to the Regional Director, OTS Midwest Regional Office.
- (4) Until Dungan shall have completely satisfied his obligation to pay the civil money penalties provided under this Order, Dungan shall submit to the OTS's Regional Deputy Director (or his designee or successor) the following:
 - (a) On a quarterly basis, a detailed statement of financial condition, as of the last day of the fiscal quarter (each March 31, June 30, September 30, and December 31) that sets forth the value (both historical cost and estimated market value) of all assets, liabilities, and net worth in which Dungan and/or his spouse has an interest. Dungan shall attach to each such financial statement a sworn affidavit wherein he states that the accompanying financial disclosures are true and correct, and acknowledging that the affidavit is subject to the penalties for false statements and perjury under 18 U.S.C. §§ 1001 and 1621. Dungan shall submit each quarterly financial statement no later than the first day of the second calendar month next following the close of the calendar quarter, i.e., no later than each February 1, May 1, August 1, November 1; and

