

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

_____)
In the Matter of)

John Michael Capozzoli)
Former Vice President of)
Commonwealth Savings)
Association, Houston, Texas)
_____)

Re: Resolution No. 90-2
Dated: March 19, 1990

STIPULATION AND CONSENT TO ISSUANCE OF
ORDER OF PROHIBITION

The Office of Thrift Supervision ("OTS"), by and through its District Director for the Dallas District Office, and John Michael Capozzoli, a former vice president of Commonwealth Savings Association, Houston, Texas ("Commonwealth"), 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 John Michael Capozzoli 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)). John Michael Capozzoli denies that such grounds exist, but desires to avoid the time, cost and expense of such administrative litigation and, without admitting that such grounds exist, hereby stipulates and agrees to the following terms in consideration of

the forbearance of OTS from initiating such administrative prohibition litigation against him.

2. Jurisdiction.

(a) Commonwealth 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) John Michael Capozzoli, as a former vice president of Commonwealth, is 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)).

(c) Pursuant to Section 3 of the FDIA as amended by FIRREA, the OTS is the "appropriate Federal banking agency" to maintain enforcement proceedings against such a savings association or its institution-affiliated parties. Therefore, John Michael Capozzoli is subject to the authority of the OTS to initiate and maintain a prohibition proceeding against him pursuant to Section 8(e) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(e)).

3. Consent. John Michael Capozzoli consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). He further agrees to comply with its terms upon issuance and stipulates that the order complies with all requirements of law.

4. Certain Activities. The OTS will not consider the phrase "participating in the conduct of the affairs" of a financial

institution, as utilized in this Stipulation and the accompanying Order, as precluding Mr. Capozzoli from obtaining a line of credit from a financial institution or from performing real estate services for a financial institution solely as an independent contractor so long as both activities are conducted on an arms length, case-by-case basis, provided, however, that such activities may not be performed in a manner that would make Mr. Capozzoli an "institution-affiliated party" as that term is defined at 12 U.S.C. § 1813(u), as amended by section 204(f) of the FIRREA.

5. Finality. The Order is issued under Section 8(e) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(e)). Upon its issuance by the ERC, 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 (to be codified at 12 U.S.C. § 1818(i)).

6. Waivers. John Michael Capozzoli waives his right to a notice of intention to prohibit and the administrative hearing provided by Section 8(e) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(e)), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(h)), or otherwise to challenge the validity of the Order. Nothing in this Stipulation or the accompanying Order shall in any way impinge upon the right of John Michael Capozzoli to request an alteration, amendment or rescission of said Order pursuant to the provisions of the FDIA,

as amended by FIRREA.

7. Use of Stipulation and/or Order. Except in connection with such proceedings as may be necessary to enforce the terms and provisions of the Order or the Stipulation, it is the intent of the Office of Thrift Supervision that the content and agreement of Mr. Capozzoli to the Order or the Stipulation shall not be used as an admission of any sort of liability by him, and, subject to the provision set forth at the beginning of this sentence, that neither the Order nor the Stipulation shall be admissible in any subsequent proceeding as an admission against interest or of liability of any kind.

WHEREFORE, in consideration of the foregoing, the District Director for the Dallas District Office, on behalf of the OTS, and John Michael Capozzoli execute this Stipulation and Consent to Issuance of Order of Prohibition.

OFFICE OF THRIFT SUPERVISION

By:

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Billy C. Wood
District Director
Dallas District Office

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John Michael Capozzoli

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Re: Resolution No. 90-2

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ORDER OF PROHIBITION

WHEREAS, John Michael Capozzoli 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 District Director for the Dallas District Office; and

WHEREAS, John Michael Capozzoli, 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. John Michael Capozzoli is prohibited from further participation, in any manner, in the conduct of the affairs of Commonwealth Savings Association, Houston, Texas ("Commonwealth"), its holding company(ies), or service corporation(s).

2. Without the prior written approval of the District Director for the Dallas District Office and, if appropriate, another Federal financial institutions regulatory agency, John Michael Capozzoli may not hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) or other entity as set forth in Section 8(e)(7)(A) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(e)(7)(A)). Pursuant to Section 8(e)(6) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(e)(6)), conduct prohibited by this Order includes, inter alia, the solicitation, transfer, or exercise of any voting rights with respect to any securities issued by any insured depository institution.

3. The Stipulation is made a part hereof and is incorporated herein by this reference.

4. This Order is subject to the provisions of Section 8(j) of the FDIA, as amended by FIRREA (to be codified at § 1818(j)), and shall become effective on the date it is issued.

THE OFFICE OF THRIFT SUPERVISION

By:

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Billy C. Wood
District Director
Dallas District Office