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UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)	Re: 90-1367
Richard D. Barbieri,)	
Richard D. Barbieri, Jr.,)	
and)	Dated: July 12, 1990
Security Savings and Loan)	TEMPORARY ENFORCEMENT ORDER &
Association, Waterbury,)	NOTICE OF ASSESSMENT OF CIVIL
Connecticut)	MONEY PENALTIES

I. INTRODUCTION

The Office of Thrift Supervision ("OTS"), a bureau within the United States Department of the Treasury, issues this Temporary Enforcement Order and Notice of Assessment of Civil Money Penalties ("Enforcement Order"), pursuant to Section 8 of the Federal Deposit Insurance Act, as amended (the "FDIA"),¹ in connection with its administrative enforcement proceeding commenced on this day against the following respondents: (1) Richard D. Barbieri ("Barbieri Senior"), an institution-affiliated party of Security Savings and Loan Association ("Security"), Waterbury, Connecticut; (2) Richard D. Barbieri, Jr. ("Barbieri Junior" and collectively with Barbieri Senior the "Individual Respondents"), an institution-affiliated party of Security; and

1. The FDIA was most recently amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183 (enacted on Aug. 9, 1989). The FDIA is codified at 12 U.S.C.A. §§ 1811 et seq. (1989), and Section 8 is at 12 U.S.C.A. § 1818 (1989).

(3) Security (collectively with the Individual Respondents the "Respondents").

This Enforcement Order constitutes the following: (1) an order of suspension against each of the Individual Respondents, pursuant to FDIA Section 8(e)(3); (2) a temporary cease-and-desist order (with affirmative corrective action provisions) against each of the Individual Respondents, pursuant to FDIA Section 8(c); (3) a notice of assessment of civil money penalties to Barbieri Junior, pursuant FDIA Section 8(i); and (4) a temporary cease-and-desist order to Security, pursuant to FDIA Section 8(c).

On the date hereof the OTS has issued to each of the Respondents a written notice of its charges against them, pursuant to FDIA Section 8.

II. BACKGROUND

The OTS is the primary regulator of savings associations, as provided by the Home Owners' Loan Act, as amended ("HOLA").² Security is a state-chartered, stock-form savings association, the deposits of which are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation ("FDIC"). Accordingly, Security is subject to the jurisdiction of the OTS. Barbieri Senior is the President and Chairman of the Board of Security. Barbieri Junior, the son of Barbieri Senior, is a vice president of Security, and is a member of its loan committee. Each of the Individual Respondents therefore is an institution-

2. The HOLA was amended by FIRREA, and it is codified at 12 U.S.C.A. §§ 1461 et seq. (1989).

affiliated party of Security, within the meaning of FDIA Sections 3(u) and 8. In light of the foregoing, the OTS has jurisdiction to exercise its FDIA enforcement powers against each of the Respondents.

The staff of the OTS currently is conducting an examination concerning Security and its affiliates. Based on findings of the examiners the OTS found it appropriate to enhance its fact-finding activities by commencing an investigative proceeding (involving investigative subpoenas) regarding suspected improprieties by institution-affiliated partys of Security. See 12 U.S.C.A. §§ 1464(d)(1)(B), 1818(n), 1820(c) (1989); also see OTS District Director Resolution No. BOS 90-6. The staff's findings, as of this date, have been presented to the OTS, and the OTS has reviewed and considered such findings and the Notice relating thereto.

Upon review of the Notice and of the entire record herein, the OTS has determined that, unless remedied by this Enforcement Order prior to the completion of the administrative litigation, the violations and unsafe or unsound practices specified in the Notice are likely to (i) cause significant dissipation of the assets or earnings of Security, and/or (ii) weaken the condition of Security, and/or (iii) otherwise prejudice the interests of Security's depositors. See 12 U.S.C.A. § 1818(b)(1) (1989). Moreover, the OTS has determined that the issuance of the suspension provisions of this Enforcement Order are necessary for the protection of Security and/or the interests of the depositors thereof. See 12 U.S.C.A. § 1818(e)(3) (1989).

In light of the foregoing, the OTS believes that it is appropriate and in the public interest to commence the aforementioned administrative litigation and to issue this Enforcement Order for the protection of Security, its depositors, stockholders, and the Federal Deposit Insurance Corporation.

III. ORDERING PROVISIONS

Pursuant to authority conferred by Section 8 of the FDIA, the OTS hereby orders as follows:

1. Suspension Under FDIA Section 8(e)(3). Effective immediately both Richard D. Barbieri and Richard D. Barbieri, Jr., are suspended from any and all offices and positions they may hold at Security, and they further are prohibited from further participation in any manner in the conduct of the affairs of Security and any affiliate thereof.

2. Temporary C&D Under FDIA Sections 8(b) and 8(c).

(a) Except with the prior written consent of the OTS upon written application submitted to it at its Boston District Office, (i) Richard D. Barbieri, Jr., shall not, directly or indirectly, withdraw or attempt to withdraw funds from any deposit account at Security in which he has a legal or beneficial interest (including but not limited to Security "NOW" account no. 01-40-17636), and (ii) Security shall not, directly or indirectly, disburse or permit a disbursement from any such account to any party or entity. The requirements of this Ordering paragraph 2(a) shall automatically expire at 11:59 p.m. on September 30, 1990, unless such term is extended in writing by the OTS.

(b) By no later than 5:00 p.m. on Friday, July 27, 1990,

Richard D. Barbieri, Jr., shall submit to the OTS's Boston District Director a written accounting relative to the \$150,000 disbursement by Security to him on or about July 3, 1990.

(c)(1) Both Richard D. Barbieri and Richard D. Barbieri, Jr., are determined to be jointly and severally liable for making restitution and repayment of said \$150,000 (with interest at 11.50 percent) to Security by no later than 5:00 p.m. on Thursday, July 19, 1990.

(2) Said repayment shall be made by one or more certified or cashiers checks.

(3) By no later than 5:00 p.m. on Friday, July 27, 1990, Richard D. Barbieri and Richard D. Barbieri, Jr., shall submit to the OTS's Boston District Director a written and detailed accounting identifying the source(s) of any and all funds used by either and/or both of them to make the payment required by this Ordering Paragraph 2(c).

(3) By no later than 5:00 p.m. on Friday, July 13, 1990, Richard D. Barbieri shall provide to an officer of Security, approved by the OTS's Boston District Director (or his nominee) the following: (i) physical custody of the 1984 Ferrarri 512BBI automobile in which he has a direct or indirect legal or beneficial interest; (ii) the keys to said automobile; (iii) said automobile's title certificate (or any other similar document that may be subject to his custody or control); and (iv) an appropriate UCC Financing Statement signed by him (and any other persons with an ownership interest in said automobile) conveying to Security a valid first lien interest in said automobile.

(d)(1) Richard D. Barbieri is determined to be jointly and severally liable with Francis R. Wihbey to Security for repayment of the \$112,500 loan made by Security to Francis R. Wihbey on or about June 13, 1990.

(2) By no later than 5:00 p.m. on Thursday, July 19, 1990, Richard D. Barbieri, Jr., shall make restitution and repayment to Security of said \$112,500 (with interest at 11.50%), and said payment shall be in the form of one or more certified or cashiers checks.

(3) By no later than 5:00 p.m. on Friday, July 27, 1990, Richard D. Barbieri, Jr., shall submit to the OTS's Boston District Director a written detailed accounting that identifies the source(s) of any and all funds used by him to make the restitution and repayment required to be made by him under this ordering paragraph 2(d).

(e) Security shall not, directly or indirectly, indemnify the Individual Respondents for any expenses incurred (or to be incurred) by either or both of them (or members of their families) that relate in any manner to the instant administrative proceedings and/or any related judicial proceedings.

(f) Security immediately shall take any and all appropriate action (legal or otherwise) to promptly facilitate its recovery from Richard D. Barbieri and Richard D. Barbieri, Jr., any and all sums they are required to pay to Security as restitution and reimbursement under this Order.

3. Effectiveness. This Enforcement Order is effective immediately, and shall remain effective and enforceable pending

completion of the aforementioned administrative proceedings and until the effective date of any order that may be issued at the conclusion of such administrative proceedings.

IV. NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY

1. This Notice of Assessment is made in accordance with FDIA Section 8(i) and Part 509B of the OTS's Rules of Practice and Procedure (the "Procedural Rules"), 12 C.F.R. §§ 509.33 et seq.

2. (a) Notice is hereby made of the OTS's assessment against Richard D. Barbieri, Jr., of a tier-two civil money penalty of \$25,000 for each day since June 13, 1990. That is the date on which he improperly authorized a \$112,500 loan to Francis R. Wihbey, which loan directly or indirectly redounds to the personal benefit of Richard D. Barbieri. Said civil money penalty shall accrue at a rate of \$25,000 per day until such date as it is paid over to the OTS.

(b) By no later than 5:00 p.m. on Friday, July 13, 1990, Richard D. Barbieri, Jr., shall remit and pay to the OTS said civil money penalty by tendering to OTS Senior Deputy Chief Counsel Faith S. Hochberg one or more certified or cashiers checks made payable to the order of the Treasurer of the United States.

3. The grounds for the aforesaid assessment are set forth in the Notice of Charges related hereto, and the Director of OTS hereby finds the charges set forth therein establish the basis for this assessment under FDIA Section 8(i)(B), 12 U.S.C.A. § 1818(i)(B). This is because Richard D. Barbieri, an institution-affiliated party of Security, did the following: (i) caused violations of law and regulations and/or recklessly engaged in one

than a minimal loss to such depository institution and/or resulted in pecuniary gain or other benefit to Richard D. Barbieri, Jr.

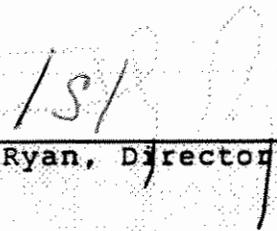
4. (a) Further notice is hereby made that, pursuant to FDIA Section 8(i)(2)(H) and Part 509B of the Procedural Rules, Richard D. Barbieri may request a hearing to challenge the aforesaid assessment of civil money penalties by filing with the OTS a written request therefor.

(b) Any such written request for a hearing must be filed with the OTS within 10 days following service on Richard D. Barbieri of this Notice of Assessment.

(c) The requirements of any such filing and the consequences of failure to so file are set forth in FDIA Section 8(i) and Part 509B of the Procedural Rules.

IT IS SO ORDERED on this 12th day of July 1990.

OFFICE OF THRIFT SUPERVISION



Timothy Ryan, Director

Faith S. Hochberg,
Senior Deputy Chief Counsel

Steven A. Rosenberg,
Senior Trial Attorney

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UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)

) Re: 90-1367

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Richard D. Barbieri,)
Richard D. Barbieri, Jr.,)

) Dated: July 12, 1990

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and)

)
Security Savings and Loan)
Association, Waterbury,)
Connecticut)
_____)

) NOTICE OF CHARGES

I. INTRODUCTION

The Office of Thrift Supervision ("OTS"), a bureau within the United States Department of the Treasury, issues this written Notice of Charges ("Notice"), pursuant to Section 8 of the Federal Deposit Insurance Act, as amended (the "FDIA").¹ By issuing this Notice the OTS is commencing an administrative enforcement proceeding against three respondents, namely: (1) Richard D.

1. The FDIA was most recently amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183 (enacted on Aug. 9, 1989). The FDIA is codified at 12 U.S.C.A. §§ 1811 et seq. (1989), and Section 8 is at 12 U.S.C.A. § 1818 (1989).

Barbieri ("Barbieri Senior"), an institution-affiliated party of Security Savings and Loan Association ("Security"), Waterbury, Connecticut; (2) Richard D. Barbieri, Jr. ("Barbieri Junior" and collectively with Barbieri Senior the "Individual Respondents"), an institution-affiliated person of Security; and (3) Security, an OTS-regulated savings association.

This Notice constitutes a written notice of the OTS's intention to remove and prohibit each of the Individual Respondents, and constitutes a written notice of the OTS's charges for a proposed cease-and-desist order. This Notice sets forth the charges with respect to a proceeding to determine whether the OTS should issue the following types of final administrative orders: (1) an order of removal and prohibition ("R&P Order") to each of the Individual Respondents, pursuant to FDIA Section 8(e)²; (2) a cease-and-desist order (including affirmative corrective action provisions) ("C&D Order") to the Individual Respondents, pursuant to FDIA Section 8(b); and (3) a related limited C&D Order to Security.³

2. On the date of the issuance hereof the OTS has issued a related Enforcement Order that includes, inter alia, a temporary order of suspension against each of the Individual Respondents.

3. In addition, the violations and unsafe or unsound practices charged herein relate to OTS's notice of assessment of civil money penalties that is included in the related Enforcement Order. However, such assessment will not be the subject of an administrative hearing except as provided by FDIA Section 8(i).

II. OTS DECLARATIONS UNDER FDIA SECTION 8

A. Declarations under FDIA Section 8(e). The OTS, upon consideration of information made available to it, has reason to believe the following:

(A) the Individual Respondents, each being an institution-affiliated party of Security, has, directly or indirectly, --

- (i) violated laws and regulations or participated in causing Security to violate laws and regulations; and/or
 - (ii) engaged or participated in unsafe or unsound practices in connection with Security; and/or
 - (iii) committed or engaged in one or more acts, omissions, or practices constituting a breach of their fiduciary duties owed to Security and its depositors and stockholders;
- (B) by reason of such violations, practices, and/or breaches--
- (i) Security will probably suffer financial loss or other damage; and/or
 - (ii) the interests of Security's depositors have been or could be prejudiced; and/or
 - (iii) the Individual Respondents singly and collectively have received financial gain or other benefit by reason of such violations, practices, or breaches; and

(C) such violations, practices, and/or breaches --

- (i) involve personal dishonesty on the part of the Individual Respondents; and/or

- (ii) demonstrate willful or continuing disregard by the Individual Respondents for the safety or soundness of Security.

B. Declarations Under FDIA Section 8(b)

The OTS, upon consideration of information made available to it, is of the opinion that each of the Individual Respondents, acting singly and/or in concert, (1) has violated or has participated in causing Security to violate Federal law and applicable regulations, and/or (b) has participated (and is participating) in, and has caused Security to engage in, unsafe or unsound practices in connection with the conduct of its business.

III. STATEMENT OF FACTS AND ALLEGATIONS

Jurisdiction and Parties

1. (a) Security is a stock-form savings and loan association, chartered by the State of Connecticut, and having its principal office in Waterbury, Connecticut.

(b) Security is a "savings association" and an "insured depository institution" as those terms are used in the Home Owners' Loan Act ("HOLA") and the FDIA, each as amended by FIRREA.

2. The deposit accounts at Security currently are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation, pursuant to the FDIA. Until the enactment on August 9, 1989, of FIRREA, the deposit accounts at Security had been insured by the Federal Savings and Loan Insurance Corporation, pursuant to Title IV of the National Housing Act.

3. (a) Security is subject to examination, supervision, and regulation by the OTS pursuant to the HOLA.

(b) Security and its institution-affiliated parties are subject to the requirements of various Federal laws and regulations, including (but not limited to) the following: the HOLA, the FDIA, provisions of the Federal Reserve Act, and the regulations of the OTS.

4. (a) Barbieri Senior currently serves, and at all relevant times served, as the Chairman of the Board of Directors and the President of Security with responsibilities related to, inter alia, lending. Barbieri Senior is an "affiliated person" and an "executive officer" of Security as those terms are used in the OTS's Regulations and Section 22(h) of the Federal Reserve Act.

(b) In or about July 1990, Barbieri Senior served, and currently serves, as a member of Security's Loan Committee. Barbieri Senior is the de facto chairman of such committee.

(c) With respect to Security Barbieri Senior currently is an "institution-affiliated party," within the meaning of Sections 3(u) and 8 of the FDIA.

5. (a) Barbieri Junior, the son of Barbieri Senior, currently serves, and at all relevant times served, as a Vice President of Security with responsibilities related to lending. Barbieri Junior is an "affiliated person" and an "executive officer" of Security as those terms are used in the OTS's Regulations and Section 22(h) of the Federal Reserve Act.

(b) Barbieri Junior currently is an "institution-affiliated party," within the meaning of Sections 3(u) and 8 of the FDIA.

The Illegal Barbieri Loan

6. On or about July 3, 1990, the Individual Respondents, acting singly and in concert, engaged in acts and/or omissions that caused the Loan Committee of Security to cause Security to make and fund an illegal loan (the "Barbieri Loan"), in the principal amount of \$150,000, for the benefit of Barbieri Junior. According to alleged draft minutes of the meeting of the Loan Committee, which were prepared by Security on or about July 11, 1990, the Barbieri Loan allegedly was to be made to refinance Barbieri Junior's loan for a Ferrarri automobile.

7. Barbieri Senior presented the proposed Barbieri Loan to the Loan Committee, and due to his relationships with the members of the Loan Committee was able to and did use his influence with such members to cause them to authorize Security to make and fund the illegal Barbieri Loan.

8. The Loan Committee of Security authorized Security to make and fund the illegal Barbieri Loan notwithstanding that it was not presented with adequate financial and other pertinent information to prudently underwrite the credit risk related to the making of the illegal Barbieri Loan.

9. At no time prior to the funding of the illegal Barbieri Loan had the loan proposal been reviewed and approved by Security's Board of Directors at a meeting thereof, duly called and held at which a quorum was present.

10. (a) As late as July 11, 1990, Security was unable and/or unwilling to comply with repeated requests by OTS examiners for a loan file regarding the illegal Barbieri Loan.

(b) As as of July 11, 1990, the lending staff of Security did not have in its possession (1) a loan file regarding the illegal Barbieri Loan, nor (2) any documents in support of the illegal Barbieri Loan, including (but not limited to) the documents and records that should be in the possession of a savings association at the time it makes a loan if its lending practices are to conform with safe and sound lending practices, e.g., a written loan application signed by the applicant, a promissory note, and financial statements regarding the loan applicant.

(c) The Loan Committee Minutes fail to identify material terms of the illegal Barbieri Loan, e.g., interest rate and term.

(d) As late as July 11, 1990, Security was unable and/or unwilling to provide OTS examiners with any documentation showing whether or not Security had made proper arrangements to collateralize the illegal Barbieri Loan with a lien against Barbieri Junior's Ferrarri.

(e) Security neither applied to, nor received from, the OTS approval (or non-objection) to the making of the Barbieri Loan.

11. On or about July 3, 1990, the check representing the proceeds of the illegal Barbieri Loan were deposited by Barbieri Junior in his NOW-checking account maintained at Security (Account No. 01-40-17636)(the "Barbieri Checking Account").

12. (a) Barbieri Junior was the obligor on an outstanding commercial loan (the "Liberty National Loan") made by Liberty National Bank ("Liberty National"), Danbury, Connecticut. The

Liberty National Loan had been made to Barbieri Junior and Francis R. Wihbey for the purpose of acquiring, reconditioning, and selling a Ferrarri automobile.

(b) Liberty National extended the maturity date on the Liberty National Loan three times.

(c) Barbieri Junior's mother serves as a member of the Board of Directors of Liberty National.

13. (a) On or about July 2, 1990, Barbieri Junior presented Liberty National with a check, dated July 2, 1990, drawn against the Barbieri Checking Account in the amount of \$113,173.86, at a time when Barbieri Junior had insufficient funds on deposit in said account to make payment on said check.

(b) A significant portion of the proceeds of the illegal Barbieri Loan were used to cover the check for \$113,173.86, which was used to pay off the Liberty National Loan.

(c) By issuing the aforesaid check without sufficient funds to honor it and thereafter covering it with the proceeds of the illegal Barbieri Loan, Barbieri Junior engaged in an improper "kiting" scheme.

14. The OTS, upon information and belief, has reasonable cause to believe that, as a result of the making of the illegal Barbieri Loan, (1) Security will probably suffer financial loss or other damage and/or (2) the interests of Security's depositors have been or could be prejudiced.

The Illegal Wihbey Loan

15. (a) On or about June 13, 1990, Barbieri participated in causing Security to make and fund a \$112,500 loan to Wihbey (the "Wihbey Loan"), which loan was used to pay down part of the Liberty National Loan.

(b) The proceeds of the Wihbey Loan directly or indirectly provided personal benefit to Barbieri Junior.

(c) Barbieri Junior exceeded his authority in causing Security to make the Wihbey Loan.

(d) Barbieri Junior failed to disclose and/or actively concealed from Security's Board of Directors and the OTS that the proceeds of the Wihbey Loan would be used in connection with his commercial venture with Wihbey involving the Ferrarri automobile.

Related Allegations

16. By causing Security to make and fund the illegal Barbieri Loan and the Wihbey Loan, the Individual Respondents, acting singly and in concert, participated in causing Security to do the following:

- (1) violate provisions of the OTS's Regulations, including (but not limited to) Sections 563.43 and 563.170 of the such Regulations, 12 C.F.R. §§ 563.43, 563.170 (1990);
- (2) violate Section 11 of the HOLA, 12 U.S.C.A. § 1468 (1989), and Section 22(h) of the Federal Reserve Act, 12 U.S.C.A. § 375b; and
- (3) engage in one or more unsafe or unsound practices in connection with its business, as, inter alia,

the activity is contrary to the OTS's Policy Statement at 12 C.F.R. § 571.7 (1990).

17. By engaging in acts and omissions relative to their causing Security to make and fund the illegal Barbieri Loan and the Wihbey Loan, the Individual Respondents (1) participated in one or more unsafe or unsound practices with respect to the business of Security, and (2) engaged in breaches of their fiduciary duties owed to Security and its depositors and stockholders.

18. The acts, omissions, and/or practices of each of the Individual Respondents, acting singly and in concert, involve personal dishonesty and/or demonstrate willful or continuing disregard for the safety or soundness of Security.

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IV. NOTICE OF HEARING

A. Administrative Litigation

1. Notice is hereby given that, pursuant to Sections 8 of the FDIA, an administrative hearing will be held to determine whether the Director of the OTS should issue one or more final administrative enforcement orders to Barbieri Senior, Barbieri Junior, and Security. It is contemplated that the types of final orders that could be issued are as follows: (1) an order to the Individual Respondents removing them from their positions at Security and directing affirmative corrective action, e.g., restitution, reimbursement, or guaranty against loss; and (2) a final cease-and-desist order against Security relating to the above-described violations and practices, which could include provisions of affirmative corrective action.

2. The hearing will be held at a location within the Federal judicial district for the State of Connecticut, and will commence on or before September 10, 1990. The exact date, time of day, and location will be identified in a later order.

3. The evidentiary phase of the administrative proceeding will be conducted before an Administrative Law Judge. The administrative proceeding will be conducted in accordance with the requirements of the FDIA, the adjudicatory provisions of the Administrative Procedure Act, 5 U.S.C.A. §§ 554-57, and the OTS's Rules of Practice and Procedure (the "Procedural Rules"), 12 C.F.R. Part 509 (1990).

4. Any Answers to this Notice of Charges to be filed by any

of the respondents herein must be filed with the OTS no later than 5:00 p.m., on the 20th day following service on the respondent of this Notice of Charges. See 12 C.F.R. § 509.14 (1990). The requirements of an Answer and the consequences of failure to file an Answer are set forth in the Procedural Rules.

OFFICE OF THRIFT SUPERVISION
By:

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