

In the Matter of:	)	
	)	
Jason Pleggenkuhle,	)	OTS Order No. MWR-00-9
	)	
Former Employee and	)	D a t e d : August 21, 2000
Institution-Affiliated Party	)	
Of:	)	
	)	
Commercial Federal Bank, A FSB	)	
Omaha, Nebraska	)	

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Jason Pleggenkuhle ("PLEGGENKUHLE"), former employee and institution-affiliated party of Commercial Federal Bank, A FSB, Omaha, Nebraska, OTS No. 5 198 ("Commercial Federal") or the "Institution") that the OTS is of the opinion that grounds exist to initiate an administrative prohibition proceedings against PLEGGENKUHLE pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e).'

'All references in this Stipulation and Consent and in the Order of Prohibition are to the U.S.C. as amended.

stipulates and agrees to the following terms:

1. Jurisdiction.

(a) **Commercial Federal**, at all times relevant hereto, 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 (“HOLA”), 12 U.S.C. § 1462(4). Accordingly, **Commercial Federal** was an “insured depository institution” as ~~that~~ term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) **PLEGGENKUHLE**, as a former employee of **Commercial Federal**, is deemed to be an “institution-affiliated party” as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity ~~within~~ six (6) years of ~~the~~ date hereof (see 12 U.S.C. § 1818(i)(3)).

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an enforcement proceeding against institution-affiliated parties. Therefore, **PLEGGENKUHLE** is subject to the authority of the OTS to initiate and maintain prohibition proceedings against him pursuant to Section 8(e) of ~~the~~ FDIA, 12 U.S.C. § 1818(e).

2. OTS Findings of Fact.

The OTS finds that during the period from August 7, 1999, to December 8, 1999, **PLEGGENKUHLE**, without authorization, misapplied \$6,350.00 of the funds of **Commercial Federal** to his own use. As a result of his actions, **PLEGGENKUHLE** (1) engaged in a violation of the law or breached his fiduciary duty of honesty to **Commercial Federal**; and (2) **Commercial Federal** suffered a financial loss or he received a **financial** benefit or other gain; and (3) the violation of law or breach of fiduciary duty demonstrates willful and/or continuing disregard by **PLEGGENKUHLE** for the safety and soundness of **Commercial Federal**.

3. Consent.

PLEGGENKUHLE 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. Finality.

The Order is issued by the OTS under the authority of Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Upon its issuance by the Regional Director or designee for the Midwest Region, OTS, 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).

5. Waivers.

PLEGGENKUHLE waives the following:

(a) **the** right to be served with a written notice of the **OTS's** charges against him (referred to as a Notice of Intention to Prohibit) (see Section 8(e) of the FDIA);

(b) **the** right to an administrative hearing of the **OTS's** charges against him (see Section 8(e) of the FDIA); and

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by Section **8(h)** of the FDIA, 12 U.S.C. § **1818(h)**, or otherwise to challenge the validity of the Order.

6. Indemnification.

PLEGGENKUHLE shall neither cause nor permit **Commercial Federal** (or any successor institution, holding company, subsidiary, or service corporation thereof) to incur, directly or indirectly, any expense for any legal or other professional expenses incurred relative to the negotiation and issuance of the Order of Prohibition. Nor shall **PLEGGENKUHLE** obtain any indemnification (or other reimbursement) **from** the Institution (or any successor institution, holding company, subsidiary, or service corporation thereof) with respect to such amounts. Any such payments received by or on behalf of **PLEGGENKUHLE** in connection with this action shall be returned to **Commercial Federal** (or the successor institution, holding company, subsidiary, or service corporation thereof).

7. Other Government Actions Not Affected.

(a) **PLEGGENKUHLE** acknowledges and agrees that the consent to the entry of the Order is for the purpose of resolving this prohibition action only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of **PLEGGENKUHLE** that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS.

(b) By signing this Stipulation and Consent to Entry of an Order of Prohibition, **PLEGGENKUHLE** agrees that he will not assert this proceeding, his consent to the entry of the Order, and/or the entry of 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 Federal or state governmental entity.

8. Acknowledgment of Criminal Sanctions.

PLEGGENKUHLE acknowledges that Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), sets forth criminal penalties for knowing violations of the Order.

9. Agreement for Continuing Cooperation.

PLEGGENKUHLE agrees that, at the OTS's request, on reasonable notice and without service of a subpoena, he will provide whatever discovery and testify truthfully at any deposition and at any judicial or administrative proceeding related to any investigation, litigation, or other proceeding maintained by the OTS relating to **Commercial Federal**, its holding companies, its subsidiaries, and its institution-affiliated parties, except that **PLEGGENKUHLE** does not waive any privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If **PLEGGENKUHLE** invokes a privilege against self-incrimination under the Fifth Amendment of the United States Constitution with respect to any matter about which the OTS inquires or the production of any document requested by the OTS and the OTS obtains a grant of immunity pursuant to 18 U.S.C. § 6001 et seq., **PLEGGENKUHLE** agrees, consistent with any such grant of immunity, to provide discovery and **testify** truthfully at any deposition

(C) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of Section 3(q) of the FDIA, 12 U.S.C. §§ 1813(q); or

(D) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an 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, 12 U.S.C. § 1818(j), and shall become effective on the date it is issued.

5. **PLEGGENKUHL** shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

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

THE OFFICE OF THRIFT SUPERVISION

By:

/s/

Frederick R. Casteel
Midwest Regional Director

**UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION**

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	)	
Jason Pleggenkuhle,	)	OTS Order No. MWR-00-9
	)	
Former Employee and	)	Dated: August 21, 2000
Institution-Affiliated Party	)	
of:	)	
	)	
Commercial Federal Bank, A FSB	)	
Omaha, Nebraska	)	
	)	

ORDER OF PROHIBITION

WHEREAS, Jason Pleggenkuhle ("PLEGGENKUHLE") has executed a Stipulation and Consent to Entry of an Order of Prohibition ("Stipulation"); and

WHEREAS, PLEGGENKUHLE, by his execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §1818(e).

NOW THEREFORE, IT IS ORDERED that:

1. **PLEGGENKUHLE** is prohibited from further participation, in any manner, in the conduct of the affairs of Commercial Federal Bank, A FSB, Omaha, Nebraska, and any successor

institution, holding company, subsidiary, and/or service corporation thereof.

2. PLEGGENKUHLE is and shall be subject to the statutory prohibitions provided by Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Due to and without limitation on the operation of Sections 8(e)(6) and 8(e)(7) of the FDIA, 12 U.S.C. §§ 1818(e)(6) and 1818(e)(7), PLEGGENKUHLE, except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other “appropriate Federal financial institutions regulatory agency,” for purposes of Section 8(e)(7)(B)(ii) of the FDIA, 12 U.S.C. § 1818(e)(7)(B)(ii), shall not:

(A) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or any agency specified in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) (“Covered Institution”), including:

(i) **any** insured depository institution, e.g., savings and loan associations, savings banks, national banks, state banks, trust companies, and other banking institutions;

(ii) **any** institution treated as an insured bank under Sections 8(b)(3) and 8(b)(4) of the FDIA, 12 U.S.C. §§ 1818(b)(3) and 1818(b)(4), or as a savings association under Section 8(b)(9) of the FDIA, 12 U.S.C. § 1818(b)(9), e.g., subsidiaries and holding companies of banks or savings associations;

(iii) **any** insured credit union under the Federal Credit Union Act, 12 U.S.C. §§ 1781 et seq.;

(iv) **any** institution chartered under the Farm Credit Act of 1971, 12 U.S.C. §§ 2001 et seq.;

(v) any appropriate Federal depository institution regulatory agency, within the meaning of 12 U.S.C. § 1818(e)(7)(A)(v); and

(vi) **the** Federal Housing Finance Board and any Federal Home Loan **Bank**;

(B) solicit, procure, transfer, attempt to transfer, vote or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any Covered Institution;

(C) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of Section 3(q) of the FDIA, 12 U.S.C. §§ 1813(q); or

(D) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

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

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5. **PLEGGENKUHL** shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

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

THE OFFICE OF THRIFT SUPERVISION

By:

/s/

Frederick R. Casteel
Midwest Regional Director