

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	
	)	
JEAN M. PEREZ,	)	OTS Order No.: <u>SF-01-003</u>
	)	
A former Employee and	)	Date: <u>February 6, 2001</u>
Institution-Affiliated Party of	)	
	)	
California Federal Bank,	)	
a Federal Savings Bank,	)	
San Francisco, California.	)	
(OTS No. 05099)	)	
	)	

STIPULATION AND CONSENT TO
ISSUANCE OF AN ORDER OF PROHIBITION AND TO
CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, has informed Jean M. Perez (Perez), a former employee of California Federal Bank, a FSB, San Francisco, California (CalFed), that the OTS is of the opinion that the grounds exist to initiate administrative cease and desist and prohibition proceedings against Perez pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. §§ 1818(b) and (e);¹ and

WHEREAS, Perez desires to cooperate with the OTS 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: ,

¹All references in this Stipulation and Consent are to the U.S.C. as amended.

1. Jurisdiction.

(a) CalFed, at all times relevant hereto, was a "savings association" within the meaning of 12 U.S.C. § 1813(b), and Section 2(4) of the Home Owners' Loan Act, 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Perez, as a former employee of CalFed is deemed to be an "institution-affiliated party" as that term is defined in 12 U.S.C. § 1813(u) having served in such capacity within six years of the date hereof (see 12 U.S.C. § 1818(i)(3)).

(c) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against institution-affiliated parties. Therefore, Perez is subject to the authority of the OTS to initiate and maintain prohibition proceedings against her pursuant to 12 U.S.C. § 1818(e).

2. OTS Findings of Fact. The OTS finds that while employed at CalFed, Perez misused her position as a Bank Teller when she misapplied approximately \$32,525 of funds of CalFed for her personal benefit. As a result of these actions, (1) Perez engaged in a violation of the law or breached her fiduciary duty of honesty to CalFed; and (2) CalFed suffered a financial loss and/or Perez received a financial benefit or other gain (regardless of whether or not restitution was subsequently made); and (3) the violation of law or breach of fiduciary duty involved personal dishonesty.

3. Consent. Perez consents to the issuance by the OTS of the accompanying Order of Prohibition and Order to Cease and Desist for Affirmative Relief (Orders). She further agrees to comply with their terms upon issuance and stipulates that the Orders comply with all requirements of law.

4. Finality. The Orders are issued by the OTS under the authority of 12 U.S.C. §§ 1818(b) and (e). Upon their issuance by the Regional Director or designee for the West Region, OTS, they shall be a final orders, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. Waivers. Perez waives the following:

- (a) the right to be served with a written notice of the OTS's charges against her (see 12 U.S.C. §§ 1818(b) and (e));
- (b) the right to an administrative hearing of the OTS's charges against her as provided by 12 U.S.C. §§ 1818(b) and (e);
- (c) the right to seek judicial review of the Orders, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Orders; and
- (d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Orders, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504 or 28 U.S.C. § 2412.

6. Indemnification. Perez shall neither cause nor permit CalFed (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 Orders. Nor shall Perez 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 Perez in connection with this action shall be returned to CalFed or the successor institution, holding company, subsidiary, or service corporation thereof).

7. Other Government Actions Not Affected.

(a) Perez acknowledges and agrees that the consent to the entry of the Orders is for the purpose of resolving the cease and desist and prohibition actions only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Perez 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 Issuance of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief, Perez agrees that she will not assert this proceeding, her consent to the entry of the Orders, and/or the entry of the Orders, as the basis for a claim of double jeopardy in any pending or future proceeding by the United States Department of Justice or any other Federal or state governmental entity.

8. Acknowledgment of Criminal Sanctions. Perez acknowledges that 12 U.S.C. § 1818(j), sets forth criminal penalties for knowing violations of these Orders.

9. Agreement for Continuing Cooperation. Perez agrees that, at the OTS's request, on reasonable notice and without service of a subpoena, she will provide 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 CalFed, its holding companies, its subsidiaries, and its institution-affiliated parties, except that Perez does not waive any privilege against self-incrimination under the Fifth Amendment of the United States Constitution. If Perez invokes a privilege against self-incrimination under the Fifth Amendment of the United States Constitution with respect to any other 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., Perez agrees, consistent with any such

grant of immunity, to provide discovery and testify truthfully at any deposition and at any judicial, administrative, or investigative proceeding on the matter for which immunity is given.

WHEREFORE, Perez executes this Stipulation and Consent to Issuance of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief, intending to be legally bound hereby.

By:

Jean M. Perez
/s/

Accepted by:

Office of Thrift Supervision

Charles A. Deardorff
/s/
Regional Director
West Region

Date: Jan. 30, 2001

Date: Feb. 6, 2001

* * * * *

State of California

County of Los Angeles

On this 30th day of January, 2001, before me, the undersigned notary public, personally appeared Jean M. Perez and acknowledged her execution of the foregoing STIPULATION AND CONSENT TO ISSUANCE OF AN ORDER OF PROHIBITION AND CEASE AND DESIST ORDER FOR AFFIRMATIVE RELIEF.

Patricia Kofman
Notary Public

My commission expires: Jan. 7, 2005



UNITED STATES OF AMERICA
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JEAN M. PEREZ,	)	OTS Order No.: <u>SF-01-003</u>
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A Former Employee and	)	Date: <u>February 6, 2001</u>
Institution-Affiliated Party of	)	
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California Federal Bank,	)	
a Federal Savings Bank,	)	
San Francisco, California.	)	
(OTS No. 05099)	)	
_____	)	

**CONSENT ORDER OF PROHIBITION
AND
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF**

WHEREAS, Jean M. Perez (Perez) has executed a Stipulation and Consent to Entry of an Order of Prohibition and Order to Cease and Desist for Affirmative Relief (Stipulation) on January 30, 2001; and

WHEREAS, Perez, by her execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition and Order to Cease and Desist for Affirmative Relief (Orders) by the Office of Thrift Supervision (OTS), pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. §§ 1818(b) and (e);¹ and

¹ All references in this Order of Prohibition and Order to Cease and Desist for Affirmative Relief are to the U.S.C. as amended.

NOW THEREFORE, IT IS ORDERED that:

1. Perez is prohibited from further participation, in any manner, in the conduct of the affairs of California Federal Bank, a Federal Savings Bank (CalFed), and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. Perez is and shall be subject to the statutory prohibitions provided by 12 U.S.C. § 1818(e), and 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 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 agency specified in 12 U.S.C. § 1818(e)(7)(A), including, but not limited to:

- (i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, trust companies, and other banking institutions;
- (ii) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3) and 1818(b)(4), or as a savings association under 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 institution described in 12 U.S.C. § 1818(e)(7)(A);

(c) violate any voting agreement previously approved by the “appropriate Federal banking agency” within the meaning of 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 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 12 U.S.C. § 1818(j).

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

6. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended, in writing by the OTS, acting through its Director, Regional Director or other authorized representative.

IT IS FURTHER ORDERED that:

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

7. Perez is and shall be subject to the statutory requirements provided by Section 8(b) of the FDIA, 12 U.S.C. § 1818(b).

8. Perez shall pay restitution to CalFed in the amount of \$32,525. To date, Perez has paid \$24,885 to CalFed. Perez shall immediately pay the remaining restitution in the amount of \$7,640.

CalFed and forwarded to the OTS West Regional Enforcement/Litigation Department by U.S.

James Hendriksen
Regional Enforcement Counsel
Office Thrift Supervision
Post Office Box 7165
San Francisco, CA 94120

11. This order is subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C.

12. Perez shall promptly respond to any request from the OTS for documents that the Commission reasonably requests to demonstrate compliance with this Order.

OFFICE OF THRIFT SUPERVISION

Jean M. Perez
Order of Prohibition and C&D