

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

In the Matter of:)
)
Thelma A. Smith)
)
Former Employee and)
Institution-Affiliated Party)
of Metropolitan Federal Bank,)
fsb, Fargo, North Dakota)

OTS Order No. KC-94-09
Dated: September 29, 1994

ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon based upon information derived from the exercise of its regulatory responsibilities, finds that from March through May 1994, Thelma A. Smith, ("SMITH"), former employee and institution-affiliated party of Metropolitan Federal Bank, fsb, Fargo, North Dakota ("Metropolitan Federal Bank"), made unauthorized entries in the book and records of Metropolitan Federal Bank including raising her personal checking account overdraft limitation. In addition, SMITH made unauthorized refunds of insufficient check charges back to her personal checking account.

The OTS further finds that SMITH's conduct constituted unsafe and unsound practices and a breach of SMITH's duty of honesty to Metropolitan Federal Bank and further constituted personal dishonesty on the part of SMITH;

WHEREAS, SMITH has executed a Stipulation and Consent to the Entry of an Order of Prohibition ("Stipulation") on Sept. 26, 1994;

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WHEREAS, SMITH by her execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition ("Order") by the OTS, pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e)¹; and

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue orders of prohibition where the respondent has consented to the issuance of the order.

NOW THEREFORE, IT IS ORDERED that:

1. SMITH is prohibited from further participation, in any manner, in the conduct of the affairs of Metropolitan Federal Bank and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. SMITH shall not hold any office in, or participate in any manner in the conduct of the affairs of any Federally regulated depository institution or any of the other entities that are described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written approval of OTS (acting through its Director or an authorized representative thereof) and, the "appropriate Federal financial institutions regulatory agency" for the Federally regulated depository institution which is involved. Due to the operation of Section 8(e)(6) of the FDIA, 12 U.S.C. § 1818(e)(6), conduct prohibited by this Order, without the said prior written approval of the OTS and the "appropriate Federal banking agency", also includes, without limitation: (1) soliciting, procuring, transferring, attempting to transfer, voting, or the attempting to vote any proxy, consent, or authorization with

1. All references to the United States Code in this Order of Prohibition are as amended.

respect to any voting rights in any institution described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A); and (2) voting for a director, or serving as an institution-affiliated party.

3. 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, as shown in the caption above.

4. All technical words or terms used in the Order, for which meanings are not specified or otherwise provided for by the provisions of the Order, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, FDIA, or the Home Owners' Loan Act ("HOLA"), or as such definition is amended after the execution of the Order, and any such technical words or terms used in the Order and undefined in said Code of Federal Regulations, FDIA, or HOLA, shall have meanings that accord with their best custom and usage in the savings and loan industry.

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

6. The Order shall remain in effect until terminated, modified or amended by the OTS.

THE OFFICE OF THRIFT SUPERVISION
By:



Frederick R. Casteel
Midwest Regional Director

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Thelma A. Smith)
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OTS Order No. KC-94-09
Dated: September 29, 1994

STIPULATION AND CONSENT TO THE ENTRY
OF AN ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Thelma A. Smith ("SMITH"), former employee and institution-affiliated party of Metropolitan Federal Bank, fsb, Fargo, North Dakota ("Metropolitan Federal Bank" or the "Institution") that the OTS is of the opinion that grounds exist to initiate an administrative prohibition proceeding against SMITH pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e);¹ and

WHEREAS, SMITH 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, but admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

1. All references to the United States Code in this Stipulation and Consent and the Entry of an Order of Prohibition are as amended.

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1. Jurisdiction.

(a) Metropolitan Federal Bank, 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, Metropolitan Federal Bank was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) SMITH, as a former employee of Metropolitan Federal Bank, 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, SMITH is subject to the authority of the OTS to initiate and maintain prohibition proceeding against her pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

2. SMITH consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). She further agrees to comply with its terms upon issuance and stipulates that the Order complies with all requirements of law.

3. 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, the Order shall be final, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

4. Waivers. SMITH waives the following:

(a) the right to be served with a written notice of the OTS's charges against her (see Section 8(e) of the FDIA);

(b) the right to an administrative hearing of the OTS's charges against her (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.

5. Indemnification. SMITH shall neither cause nor permit Metropolitan Federal Bank (or any successor institution, holding company, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense relative to the negotiation and issuance of the Order, nor 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 SMITH in connection with this action shall be returned to Metropolitan Federal Bank (or the successor institution, holding company, subsidiary or service corporation thereof).

6. Other Government Actions Not Affected.

(a) SMITH 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 SMITH that arise pursuant to these actions 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 the Entry of an Order of Prohibition, SMITH agrees that she will not assert this proceeding, her 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.

7. Acknowledgment of Criminal Sanctions. SMITH acknowledges that Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), sets forth criminal penalties for knowing violations of this Order.

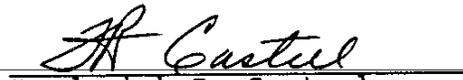
WHEREFORE, SMITH executes this Stipulation and Consent to the Entry of an Order of Prohibition, intending to be legally bound hereby.

By:

Accepted by:
Office of Thrift Supervision



Thelma A. Smith



Frederick R. Casteel
Midwest Regional Director

Dated: 9-26-94

Dated: 10-6-94