

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

IN THE MATTER OF

ROGER C. PASTORE,
Former Vice Chairman,
Chief Financial Officer and
Institution-Affiliated Party of
American Savings of Florida, FSB,
Miami, Florida

No. ATL-93-8

Dated: January 28, 1993

STIPULATION AND CONSENT TO THE ENTRY OF A
CEASE & DESIST ORDER FOR AFFIRMATIVE RELIEF
AND ORDER OF ASSESSMENT OF CIVIL MONEY
PENALTIES

The Office of Thrift Supervision ("OTS"), acting by and through its Regional Director of the Southeast Region ("Regional Director") and Roger C. Pastore ("Pastore") 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 proceeding against Pastore pursuant to the Federal Deposit Insurance Act, §§ 8(b) and (i), 12 U.S.C. §§ 1818(b) and (i) (West 1989). Pastore desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without either admitting or denying that such grounds exist, hereby stipulates and consents to the issuance of the accompanying Cease and Desist Order For Affirmative Relief and Order of Order of Assessment of Civil Money Penalties

attached hereto as Exhibit A (the "Order") in consideration for OTS hereby forever remising, releasing and discharging Pastore of and from all debts, obligations, liabilities, reckonings, bonds, specialities, controversies, suits, actions, causes of action, claims or demands with respect to any matter discovered, or that could have reasonably been discovered, by the OTS as a result of its investigative proceeding commenced pursuant to Resolution ATL 90-17, dated November 30, 1990.

2. Jurisdiction.

(a) American is a "savings association" and an "insured depository institution" as defined by 12 U.S.C. §§ 1462 and 1813 (West 1989).

(b) Pastore is an institution-affiliated party as defined by 12 U.S.C. §§ 1813(u) (West 1989).

(c) The Director of the OTS is the "appropriate Federal Banking agency" to maintain administrative proceedings against Pastore pursuant to 12 U.S.C. §§ 1818(b)(i) (West 1989).

3. Consent. Pastore without admitting or denying any violation of law or regulation, and solely for the purpose of resolving all matters encompassed by Resolution ATL 90-17, consents to the issuance by the OTS of the Order. He further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. Finality. The Order is issued under 12 U.S.C. §§ 1818(b) and (i) (West 1989). Upon its issuance, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i) (West 1989).

5. Waivers. Pastore waives an administrative hearing provided by 12 U.S.C. §§ 1818(b) and (i) (West 1989), and further waives his right to seek judicial review of the Order, including any such right provided by 12 U.S.C. § 1818(h) (West 1989) or otherwise to challenge the validity of the Order.

6. This Stipulation and the Order are not intended to, nor shall they have the effect of, limiting the right or authority of any other governmental agency to initiate or pursue any other action, civil or otherwise, against Pastore.

WHEREFORE, in consideration of the foregoing, the OTS, acting by and through its Regional Director and Pastore execute this Stipulation and Consent.

OFFICE OF THRIFT SUPERVISION

ROGER C. PASTORE

By: /S/
John E. Ryan
Regional Director
Southeast Regional Office

/S/

1/15/93

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IN THE MATTER OF:

ROGER C. PASTORE,

No. ATL-93-8

Former Vice Chairman, Chief
Financial Officer and an
Institution-Affiliated Party of
American Savings of Florida, FSB,
Miami, Florida

Dated: January 28, 1993

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE
RELIEF AND ORDER OF ASSESSMENT OF
CIVIL MONEY PENALTIES

WHEREAS, the Office of Thrift Supervision ("OTS") has conducted an investigation pursuant to Resolution ATL 90-17, dated November 30, 1990, into affairs and ownership of American Savings of Florida, FSB, Miami, Florida ("American") and its holding company, the Enstar Group, Inc. ("Enstar") that uncovered evidence of the following:

Roger C. Pastore ("Pastore") from June 1989 until December of 1990 was the vice chairman and chief financial officer of American. During the period relevant hereto, American was a fifty-percent owned subsidiary of Enstar.

In December 1989, pursuant to the provision of Financial Institutions Reform, Recovery and Enforcement Act ("FIRREA"), American transferred its junk bond securities to an affiliate of Enstar in exchange for a promissory note in the principal amount of approximately \$209 million. The note, which was

approved by OTS as required by law, was secured by collateral maintained in a collateral account and subject to a collateral pledge agreement between the parties. Under the terms of the agreement, the note had to be secured by collateral with a value of at least 120% of the note balance, which was a condition of OTS approval, and American and OTS had to approve any new or substituted collateral.

Pastore read the note and collateral pledge agreement and was familiar with its terms. A senior officer on Pastore's staff, Scott Bailey ("Bailey"), was assigned responsibility for administering the note and collateral pledge agreement.

In the Summer of 1990, certain senior officers and directors of American and Enstar, including Harris Friedman and Richard Grassgreen, devised a plan ("The Collateral Substitution Plan") to pledge as collateral stock of a retail subsidiary of Enstar, in order to create "excess collateral" in the collateral account. In effect this was a plan to substitute stock of uncertain value for cash that would be withdrawn from the collateral pool securing the note from Enstar to American.

On August 6, 1990, at a time when the ratio of collateral to the principal balance of the note had fallen below the required 120%, Pastore, on behalf of American and at the request of Enstar, authorized the transfer of \$281,000 from the collateral account to Enstar. Again on September 4, 1990, Pastore, on behalf of American and at the request of

Enstar, authorized the transfer of an additional \$9,000,000 from the collateral account to Enstar. The Collateral Substitution Plan ultimately caused an estimated \$23 million loss to American.

WHEREAS, Pastore neither admits nor denies the allegations arising from the OTS investigation.

WHEREAS, Pastore has executed a stipulation between Pastore and the OTS, acting by and through its Regional Director for the Southeast Regional Office, attached hereto and incorporated herein by this reference (the "Stipulation"); and

NOW THEREFORE, the OTS, pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), as amended, HEREBY ORDERS as follows:

1. Pastore shall not seek nor accept any office, directorship or employment in, or participate in any manner in the conduct of the affairs of, any insured depository institution without obtaining the prior written consent of the appropriate Federal Banking Agency and/or other primary regulator, after disclosure of this Order. After the expiration of three years from the date of this Order Pastore may apply to the Regional Director of the Southeast Regional Office of OTS to amend, modify or terminate this Order and approval of such application will not be unreasonably withheld on a showing by Pastore of good conduct in the intervening period.

2. Pastore shall pay a civil money penalty of \$2500 to

the OTS within ten days of the effective date of this Order by tendering to the OTS a check made payable to the Treasurer of the United States.

3. Pastore is ordered to pay restitution to American in the amount of \$22,500. Pastore shall pay such restitution by making a payment to American of \$7500 within ten days of the effective date of this Order. The balance of the restitution shall be paid in four installments of \$3750 each, payable on February 1, 1993, May 1, 1993, August 1, 1993, and November 1, 1993.

4. Pastore acknowledges and agrees that his consent to the entry of this Order is for the purposes of resolving only those matters discovered, or could have reasonably been discovered, by the OTS as a result of its investigative proceeding commenced pursuant to Resolution ATL 90-17, dated November 30, 1990.

5. All technical words or phrases used in this Order, for which meanings are not otherwise specified or otherwise provided by the provisions of this Order, shall insofar as applicable, have the meanings set forth in one or more of the following laws and regulations: the Home Owners' Loan Act, as amended by FIRREA; the FDIA, as amended by FIRREA; and the regulations of the OTS, as codified in the Code of Federal Regulations, Title 12, Chapter V (or currently published in the Federal Register). Any technical words or phrases not subject to definition in the foregoing laws and regulations shall have meanings that accord with the best custom and

usage in the savings association industry.

6. This Order shall be and is effective and enforceable upon service on counsel for Pastore.

IT IS SO ORDERED on this 28th day of January,
1993.

OFFICE OF THRIFT SUPERVISION

By:

/S/

John E. Ryan
Regional Director
Southeast Regional Office