

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

RENE A. LAVERGNE, President,)
Chief Executive Officer and a)
Director of)

Fajardo Federal Savings Bank)
Fajardo, Puerto Rico)

Re: Resolution No. ATL-93-20
Dated: June 1, 1993

**STIPULATION AND CONSENT TO ISSUANCE OF AN
ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY**

The Office of Thrift Supervision ("OTS"), by and through the Regional Director for the Southeast Region ("Regional Director") and Rene A. Lavergne ("Lavergne"), President, Chief Executive Officer and a Director of Fajardo Federal Savings Bank, Fajardo, Puerto Rico, OTS Docket Number 7283 ("Fajardo" or "Institution"), stipulate and agree as follows:

CONSIDERATION

 1. The OTS, based upon information derived from the exercise of its supervisory and regulatory powers, is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against Lavergne pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2)¹.

2. Lavergne desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the forbearance by the OTS from initiating such administrative civil money penalty assessment proceeding against Lavergne with respect to the matters covered in Paragraph 8 of this Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalties ("Stipulation") for so long as he is in compliance with the accompanying Order of Assessment of Civil Money Penalty ("Order").

1. All references to the U.S.C. are as amended.

3. The OTS is willing to forbear from the initiation of civil money penalty assessment proceedings against Lavergne to require the actions referred to in the Order for so long as Lavergne is in compliance with the provisions of the Order.

JURISDICTION AND FACTS

4. Fajardo is a "savings association" within the meaning of Section 3(b)(1) of the FDIA, 12 U.S.C. § 1813(b)(1) and Section 2(4) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c)(2) of the FDIA, 12 U.S.C. § 1813(c)(2).

5. Lavergne, in his capacity as President, Chief Executive Officer and a Director of Fajardo, is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u).

6. Pursuant to Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2), the appropriate Federal banking agency may initiate an administrative civil money penalty assessment proceeding against any institution-affiliated party who violates any law or regulation.

7. Pursuant to Section 3(q)(4) of the FDIA, 12 U.S.C. § 1813(q)(4), the Director of the OTS is the "appropriate Federal banking agency" in the case of any savings association and its institution-affiliated parties. Therefore, Lavergne is subject to the authority of the OTS to initiate and maintain civil money penalty assessment proceedings against him pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1828(i).

8. The factual basis for the Order includes violations of regulations regarding compensation to officers and directors and conflicts of interest, specifically 12 C.F.R. §§ 563.161(b) and 571.7, in that Lavergne used the Institution's assets for personal benefit and engaged in other expense abuses.

CONSENT

9. Lavergne consents to the issuance by OTS of the accompanying Order. Lavergne further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

FINALITY

10. The Order is issued under Section 8(i) of the FDIA, 12 U.S.C. § 1818(i). Upon its issuance by the Regional Director, it shall be a final order, effective and fully

enforceable by OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

WAIVERS

11. Lavergne waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) and the administrative hearing provided by 12 U.S.C. § 1818(i)(2)(H), and further waives the right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. § 1818(h) or to otherwise challenge the validity of the Order.

OTHER ACTIONS, PROCEEDINGS AND PARTIES

12. This Stipulation and the accompanying Order are issued solely to settle this proceeding. By entering into this Stipulation, Lavergne acknowledges and agrees to the following provisions:

(a) Lavergne acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Lavergne's consent to the entry of the Order are for the purpose of resolving this OTS enforcement matter only and do not resolve, affect or preclude any other civil or criminal proceeding that may be brought against him by the OTS or another governmental entity.

(b) By signing this Stipulation, Lavergne agrees that he will not assert the assessment or payment of the civil money penalty assessed under 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 governmental entity.

(c) This Stipulation, the Order, and the payment by Lavergne of any monies or providing any other financial relief as contemplated by the Order, do not compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Lavergne that arise pursuant to this action or otherwise, and that may be or have been brought by the Resolution Trust Corporation or any other governmental entity other than the OTS.

(d) Lavergne's obligation to pay civil money penalties pursuant to this Stipulation and the Order shall not be dischargeable in bankruptcy under any circumstances.

INDEMNIFICATION

13. Lavergne shall neither cause or permit Fajardo, or any subsidiary thereof, to incur, directly or indirectly, any expense for the amount of the civil money penalties assessed

under the Order or any legal or other professional expenses incurred relative to the negotiation and issuance of the Order, nor obtain any indemnification or other reimbursement from Fajardo, or any subsidiary thereof, with respect to such amounts. Any payments received by or on behalf of Lavergne in connection with this Stipulation and the Order shall be returned to Fajardo within 5 days of the date of the Order.

WHEREFORE, in consideration of the foregoing, the Regional Director, on behalf of the OTS, and Lavergne execute this Stipulation.

OFFICE OF THRIFT SUPERVISION

/S/

John E. Ryan
Regional Director
Southeast Region

/S/

Rene A. Lavergne

UNITED STATES OF AMERICA
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In the Matter of)

RENE A. LAVERGNE, President,)
Chief Executive Officer and a)
Director of)

Fajardo Federal Savings Bank)
Fajardo, Puerto Rico)

Re: Resolution No. ATL-93-20
Dated: June 1, 1993

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, Rene A. Lavergne ("Lavergne"), President, Chief Executive Officer and a Director of Fajardo Federal Savings Bank, Fajardo, Puerto Rico, OTS Docket Number 7283 ("Fajardo" or "Institution") has executed a Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the Southeast Region ("Regional Director"); and,

WHEREAS, Lavergne, in the Stipulation, has consented to the issuance of this Order of Assessment of Civil Money Penalty Assessment ("Order") pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2)¹.

NOW THEREFORE, IT IS ORDERED that:

1. Within 10 days of the effective date of this Order, Lavergne shall pay to the OTS the sum of \$1,500, by tendering a certified check to the OTS in that amount made payable to the Treasurer of the United States. The check shall be sent, together with a cover letter stating the name of the Institution and the resolution number, and a copy of the Order to the following address: Office of Thrift Supervision, Controller's Division, 1700 G. Street N.W., Washington D.C. 20552. A copy of the cover letter to the Controller's Division, and a photocopy of the check shall be sent to A. Patricia Marcucci, Attorney, Southeast Region, Office of Thrift Supervision, 1475 Peachtree Street, Atlanta, Georgia 30309.

1. All references to the U.S.C. are as amended.

SUCCESSOR STATUTES, REGULATIONS, GUIDANCE, AMENDMENTS

2. Reference in this Order and the Stipulation to provisions of statutes, regulations, and OTS Memoranda, bulletins and publications shall include references to all amendments to such provisions as have been made as of the date of this Order and references to successor provisions as they become applicable.

DURATION, TERMINATION OR SUSPENSION OF ORDER

3. The provisions of this Order shall become effective on the date it is issued, as shown in the caption above, and shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through the Regional Director. The Regional Director in his sole discretion, may, by written notice, suspend any or all provisions of this Order.

EFFECT OF HEADINGS

4. The section headings used in this Order and the Stipulation are for convenience of reference only and are not to affect the construction of or be taken into consideration in the interpretation of this Order.

SEPARABILITY CLAUSE

5. In the event any provision of this Order is ruled to be invalid, illegal or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his sole discretion determines otherwise.

NO VIOLATIONS OF LAW, RULE, REGULATION OR POLICY STATEMENT AUTHORIZED; OTS NOT RESTRICTED

6. Nothing in this Order shall be construed as: (i) allowing Lavergne to violate any law, rule, regulation, or policy statement to which he is subject or (ii) restricting, in any way, the OTS from taking any action that it believes is appropriate in fulfilling the responsibilities placed upon it by law.

SUCCESSORS IN INTEREST/BENEFIT

7. 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. Nothing in this Order, express or implied, shall give to any person or entity, other than the parties hereto, the Resolution Trust Corporation, and the Federal Deposit Insurance Corporation and their

successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Order.

TIME LIMITS

8. Any time limitations imposed by this Order or the Stipulation shall begin to run from the date of this Order, unless otherwise provided for in this Order. Such time limitations may be extended by the Regional Director in his sole discretion upon written application by Lavergne.

DEFINITIONS

9. All technical words or terms used in this Order and the Stipulation for which meanings are not specified or otherwise provided by the provisions of this Order, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations shall have meanings that accord with the best custom and usage in the savings and loan industry.

OFFICE OF THRIFT SUPERVISION

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