

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

In the Matter of)

W. CARROLL KELLY, JR.)

Former Majority Shareholder,)
Former President and)
Former Director, of)

Continental Savings)
Association,)
Bellaire, Texas.)

Re: OTS AP 93-59

Dated: July 8, 1993

STIPULATION AND CONSENT TO
ISSUANCE OF ORDER OF PROHIBITION

W. Carroll Kelly, Jr. ("Kelly"), Former Majority Shareholder, Former President and Former Director of Continental Savings Association, Bellaire, Texas ("Continental"), hereby submits this Stipulation and Consent to Issuance of Order of Prohibition ("Consent") to the Office of Thrift Supervision of the United States Department of the Treasury ("OTS") for the purposes of settlement in consideration of the OTS's forbearance from initiating administrative proceedings on the matters covered in the accompanying Order of Prohibition ("Order").

The OTS, on the basis of current information, is of the opinion, as set forth in the Order, that grounds exist to initiate an administrative prohibition against Kelly pursuant to Section 407(g) of the National Housing Act ("NHA") (12 U.S.C. § 1730(g)(1) (1988)), and Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. § 1818(e) (1988 & Supp. II 1990)). Without admitting or denying that such grounds exist, except those allegations set forth in paragraphs 1 and 2 below, which are admitted, Kelly consents to the entry of the attached Order.

1. Kelly admits that for purposes of this consent, the OTS is the successor in interest to, and is exercising the rights of the Federal Home Loan Bank Board, pursuant to Section 401(g) of FIRREA (12 U.S.C. § 1437 note (1988 & Supp. II 1990)).

2. Kelly admits the jurisdiction of the OTS over him and over the subject matter of this action pursuant to Section 407(g) of NHA (12 U.S.C. §§ 1730(g)(1) (1988)), and Section 8(e) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(e) (1988 & Supp. II 1990)), and admits that he was at all time pertinent hereto a director, officer, employee, agent or person participating in the conduct of the affairs of Continental.

3. Kelly consents to the issuance of the accompanying Order, agrees to comply with its terms upon issuance, and stipulates that the Order complies with all the requirements of law. Kelly neither agrees nor disagrees with the facts stated in the accompanying Order.

4. Kelly, while neither admitting nor denying he has violated any laws or regulations or engaged in any unsafe or unsound practices, and wishing to settle this matter with the OTS, acknowledges and states that he enters into this Consent knowingly, willingly and voluntarily, with full opportunity to consult counsel of his choice, and without coercion or promises of any kind from the OTS or any officer, attorney, agent or employee thereof.

5. Kelly hereby waives his rights to a hearing, all post-hearing proceedings, and the entry of findings of fact and conclusions of law under the Administrative Procedure Act (5 U.S.C. §§ 554-557); Section 407(j) of the NHA (12 U.S.C. § 1730(j) (1988)), and Section 8(h) of FDIA, as amended by FIRREA, (12 U.S.C. § 1818(h) (1988 & Supp. II 1990); and the OTS Rules of Practice and Procedure in Adjudicatory Proceedings (12 C.F.R. § 509, et seq.); or any other applicable provision of law.

6. Kelly hereby waives his right to appeal the Order pursuant to Section 407(j) of the NHA (12 U.S.C. § 1730(j) (1988)) and Section 8(h) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(h) (1988 & Supp. II 1990)), or any other applicable provision of law.

7. Kelly agrees to cooperate with the OTS by providing truthful and complete information, in conformity with subpoena or administrative process issued by the OTS, concerning matters relating to the OTS's investigation of Continental including, but not limited to, cooperation in any subsequent administrative enforcement action concerning Continental.

8. Kelly agrees that this Consent and the Order do not compromise, settle, dismiss, resolve, or in any way affect any civil actions, or charges against, or liability of Kelly that arise pursuant to this action or otherwise, and that may be or have been brought by the Federal Deposit Insurance Corporation, the Resolution Trust Corporation or any other governmental entity other than the OTS. This action resolves, as to Kelly, enforcement matters involving the OTS arising in connection with the OTS's formal investigation of Continental, Resolution No. WA 92-03, dated March 19, 1992.

WHEREFORE, in consideration of the foregoing, Kelly executes this Stipulation and Consent to Issuance of Order of Prohibition.

By: /S/
W. Carroll Kelly, Jr.

Dated: 5/18/93

Approved: /S/
Frederick Casteel
Midwest Regional Director
Office of Thrift Supervision

Dated: 7-1-93

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Re: OTS AP 93- 59

Dated: July 8, 1993

ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS") is of the opinion that W. Carroll Kelly, Jr. ("Kelly"), Former Majority Shareholder, Former President and Former Director of Continental Savings Association, Bellaire, Texas ("Continental"), during the period of at least 1984 through 1986, has engaged or participated in the following conduct:

(1) The approval of significant loans by Continental that were made without proper underwriting or adequate security, and that resulted in substantial losses to Continental;

(2) The approval of loans by Continental that concealed loan losses at Continental and artificially created income so that Continental could declare dividends for Kelly's personal benefit; and

(3) The failure to disclose to Continental's Board of Directors material information regarding significant prospective loans that ultimately failed and caused substantial losses to Continental.

WHEREAS, the OTS is of the opinion that as a result of the aforementioned actions Kelly has engaged in an unsafe or unsound practice, or has violated a law, rule or regulation in conducting the business of Continental; and

WHEREAS, the OTS is of the opinion that as a result of the aforementioned actions Kelly has violated laws, rules and regulations, or engaged or participated in unsafe or unsound practices in connection with Continental or has engaged in an act, omission, or practice which constitutes a breach of his fiduciary duty as a director or officer, and Continental has suffered substantial financial loss or other damage or Kelly has received financial gain by reason of such violation, practice or breach and that such violation, practice or breach involved personal dishonesty on the part of Kelly or which demonstrates a willful or

continuing disregard for the safety or soundness of Continental;
and

WHEREAS, the OTS is of the opinion that as a result of the
aforementioned actions Kelly should be prohibited from further
participation, in any manner, in the conduct of the affairs of any
insured depository institution; and

WHEREAS, Kelly has submitted signed tax returns and a signed
financial statement concerning his personal financial situation,
and that financial information indicates that Kelly is without
sufficient assets to pay restitution or take other affirmative
corrective action to correct the conditions resulting from his
violations or practice; and

WHEREAS, Kelly has executed a Stipulation and Consent to the
Issuance of Order of Prohibition, which is incorporated herein by
reference ("Consent") and is accepted and approved by the OTS,
acting through its Midwest Regional Director; and

WHEREAS, Kelly in the Consent has consented and agreed to the
issuance of this Order of Prohibition pursuant to Section 407(g)
of the National Housing Act ("NHA") (12 U.S.C. § 1730(g)(1))

(1988)), and Sections 8(e) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") (12 U.S.C. § 1818(e) (1988 & Supp. II 1990)).

NOW THEREFORE, IT IS ORDERED that Kelly is prohibited from any further participation, in any manner, in the conduct of the affairs of any insured depository institution, except as set forth in Section 8(e)(7) of the FDIA, as amended by FIRREA (12 U.S.C. § 1818(e)(7) (1988 & Supp. II 1990)).

IT IS FURTHER ORDERED that if it is discovered that the financial information provided and signed by Kelly are materially inaccurate, then the OTS may institute a formal administrative cease and desist action against Kelly seeking affirmative corrective action to correct the conditions resulting from Kelly's violations or practices.

IT IS FURTHER ORDERED that all technical words or terms used in this Order, for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meaning as defined in the Code of Federal Regulations, Title 12, Chapter V, or as defined in NHA, Federal Deposit Insurance Act, the Home Owners' Loan Act, or FIRREA, and

any such words or terms undefined in the foregoing shall have meanings that accord with the best customs and usage in the thrift industry. This Order is effective on the date it is issued.

By: ^{/S/}
~~Frederick Casteel~~
Midwest Regional Director
Office of Thrift Supervision