

UNITED STATES OF AMERICA
BEFORE THE
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
PHILLIP J. DEWALD, Former)
President, Chief Executive)
Officer and Director of)
)
Security Federal Savings and)
Loan Association of Albuquerque)
Albuquerque, New Mexico)
)

Resolution No.: DAL-93-20

Dated: July 29, 1993

STIPULATION AND CONSENT TO THE
ENTRY OF A CEASE AND DESIST ORDER

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office, OTS, and Phillip J. DeWald ("Respondent"), former President, Chief Executive Officer and Director of Security Federal Savings and Loan Association of Albuquerque, Albuquerque, New Mexico ("Institution"), stipulate and agree as follows:

1. CONSIDERATION

The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against Respondent pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.S. § 1818(b) (Supp. 1992). Respondent desires to cooperate with the OTS and 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 in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist litigation against Respondent with respect

to his failure, in his role as chief executive officer of the Institution, and in his role as a director of the Institution, to take appropriate action to prevent, or sufficiently attempt to prevent, such association from violating 12 C.F.R. § 563.172 in failing to obtain appraisals on real estate owned at the earlier of in-substance foreclosure or at the time of acquisition of such property with regard to properties obtained through foreclosure or in-substance foreclosure from Don W. Hedges.

2. JURISDICTION

- (a) Before being placed in receivership on May 3, 1991, the Institution was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C.S. § 1813(b) (Supp. 1992), and Section 2 of the Home Owners' Loan Act of 1933, 12 U.S.C.S. § 1462 (Supp. 1992). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C.S. § 1813(c) (Supp. 1992).
- (b) Respondent was an institution-affiliated party within the meaning of Section 3(u) of the FDIA, 12 U.S.C.S. § 1813(u) (Supp. 1992).
- (c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C.S. § 1813(q) (Supp. 1992), the OTS is the "appropriate Federal banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof. Therefore, Respondent is subject to the authority of OTS to initiate and maintain a cease and desist proceeding against him pursuant to Section 8(b) of the FDIA, 12 U.S.C.S. § 1818(b) (Supp. 1992).

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ORDER TO CEASE AND DESIST

WHEREAS, Phillip J. DeWald ("Respondent"), former President, Chief Executive Officer, and Director of Security Federal Savings and Loan Association of Albuquerque, Albuquerque, New Mexico ("Institution"), has executed a Stipulation and Consent to the Entry of a Cease and Desist Order, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the Midwest Regional Office ("Regional Director"); and

WHEREAS, Respondent, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act, 12 U.S.C.S. § 1818(b) (Supp. 1992).

NOW THEREFORE, IT IS ORDERED that Respondent shall cease and desist from any violation of, or the aiding and abetting of any violation of, 12 C.F.R. § 563.172.

IT IS FURTHER ORDERED that:

1. As used in this Order, the term "savings association" shall have the meaning as set forth in Section 2(4) of the Home Owners' Loan Act, 12 U.S.C.S. § 1462(4) (Supp. 1992).
2. Reference in this Order to provisions of statutes and regulations shall be deemed to include references to all amendments to such provisions as have been made as of the effective date of this Order and references to successor provisions as they become applicable.
3. This Order shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through the Regional Director or his successor or designee. The Regional Director or his successor or designee may suspend, in his or her discretion, any or all provisions of this Order.
4. In case any provision in 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 or his successor or designee, in his or her sole discretion, determines otherwise.
5. To the extent that any provision of the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. No. 102-242, 105 Stat. 2236 (December 19, 1991) ("FDICIA") or any regulation(s) promulgated thereunder imposes more restrictive requirements than

any provision contained in this Agreement (either expressly or through OTS interpretive Bulletins or policy statements), such provision(s) of the FDICIA or such regulation(s) shall be controlling.

6. All technical words or terms used in this Order and accompanying Stipulation, for which meanings are not specified or otherwise provided by the provisions of this Order and accompanying Stipulation, shall, insofar as applicable, have meanings as defined in the rules and regulations adopted by the OTS (including, without limitation, 12 C.F.R. § 500.1 et seq., § 541.1 et seq., and § 561.1 et seq.). Any such technical words or terms used in this Order and accompanying Stipulation and undefined in said rules and regulations shall have meanings that accord with the best custom and usage in the thrift industry.

THE OFFICE OF THRIFT SUPERVISION

By: ^{/S/}
~~Frederick R. Casteel~~
Frederick R. Casteel
Regional Director
Midwest Regional Office