

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

In the Matter of:

ROBERT R. BURGER,
Former Chairman of the Board of
Directors, President, Chief
Executive Officer, Member of
the Executive and Loan Committee,

First Federal Savings and Loan
Association, Las Vegas, New
Mexico,

RESPONDENT.

OTS ORDER NO.: AP-93-93

DATED: October 29, 1993

STIPULATION AND CONSENT TO ISSUANCE OF AN
ORDER OF PROHIBITION AND ORDER TO CEASE
AND DESIST FOR AFFIRMATIVE RELIEF

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Regional Office ("Regional Director"), and Robert R. Burger ("BURGER"), former officer, director and institution-affiliated party of First Federal Savings and Loan Association, Las Vegas, New Mexico ("FIRST FEDERAL" or the "INSTITUTION") hereby stipulate and agree as follows:

1. Consideration. The OTS, pursuant to Sections 8(b) and (e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. §§ 1818(b) and (e) (West 1989 & Supp. 1992), commenced an administrative proceeding against BURGER in the cause entitled, In

the Matter of: Robert R. Burger, Former Chairman of the Board of Directors, President, Chief Executive Officer, Member of the Executive and Loan Committee, First Federal Savings and Loan Association, Las Vegas, New Mexico, OTS AP 93-36, dated May 4, 1993 ("Notice of Charges"). The Notice of Charges is incorporated herein by this reference as if fully set forth.

Without admitting or denying the statements and conclusions of the OTS, BURGER desires to settle the said administrative proceedings and to avoid the time and expense of such administrative litigation. BURGER hereby stipulates and agrees to the following terms in consideration of the dismissal by the OTS of the Notice of Charges, and the further agreement of the OTS to forbear from initiating any other civil or administrative proceeding against BURGER arising out of BURGER's actions, known or discovered by the OTS prior to the issuance of the attached ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Orders"). Specifically, this STIPULATION AND CONSENT TO ENTRY OF ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Consent") and the Orders do not constitute admissions by BURGER that his actions as described herein, meet the definitions contained in Section 523(a)(11) of the U.S. Bankruptcy Code, 11 U.S.C. § 523(a)(11); provided however, that nothing herein is intended to or shall preclude the OTS from making such claim in any subsequent bankruptcy proceeding in which BURGER contends that his

obligation to pay restitution pursuant to the Consent and the Orders is subject to discharge.

BURGER, without trial or findings of fact pursuant to an administrative hearing, has consented to the terms of this Consent.

The OTS has determined that it is appropriate, and in the best interest of the public, to execute this Consent and the attached Orders. The OTS determination is based upon available evidence and testimony and, in part, is based in reliance upon the Statement of Financial Affairs dated February 1, 1992, and filed by BURGER in response to an OTS formal examination subpoena duces tecum, which reflects BURGER's financial condition. The OTS has further determined that there is sufficient evidence, in its opinion, to prove the allegations of the Notice of Charges filed against BURGER.

This Consent and the Orders compromise, settle, dismiss, and resolve the Notice of Charges, but do not in any way affect any civil actions, charges against, or liability of BURGER (including any that may arise pursuant to the Notice of Charges or otherwise), that may be or have been brought by the Resolution Trust Corporation or any other governmental entity other than the OTS.

2. Jurisdiction

(a) FIRST FEDERAL was a "savings association" within the meaning of Section 3(b) of the FDIA, 12 U.S.C.A. § 1813(b) (West 1989 & Supp. 1992) and Section 2(4) of the Home Owners' Loan Act

("HOLA"), 12 U.S.C.A. § 1462(4) (West Supp. 1992). Accordingly, it is an "Insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C.A. § 1813(c), as amended.

(b) Until August 9, 1989, the Federal Home Loan Bank Board ("FHLBB") was the regulatory agency with jurisdiction over FIRST FEDERAL and persons participating in the conduct of the affairs thereof, including BURGER, pursuant to Section 5 of the HOLA, 12 U.S.C.A. § 1464.

(c) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C.A. § 1813(q), the OTS succeeded to the interests of the FHLBB with respect to the supervision and regulation of all savings associations.

(d) At all times relevant hereto, BURGER was variously an officer, director and person participating in the conduct of the affairs of FIRST FEDERAL and an institution-affiliated party of FIRST FEDERAL, as defined at 12 U.S.C.A. § 1813(u), having served in such capacities within the six (6) years prior to the date of this Consent.

(e) Pursuant to Section 3 of the FDIA, as amended, the OTS is the "appropriate Federal banking agency" to maintain cease and desist proceedings against institution-affiliated parties of FIRST FEDERAL. Therefore, BURGER is subject to the authority of

the OTS to initiate and maintain prohibition and cease and desist proceedings against him, pursuant to Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e).

3. Consent. Without admitting or denying the allegations set forth in the Notice of Charges, BURGER consents to the issuance by the OTS of the Orders, a copy of which is attached hereto. BURGER further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all the requirements of Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e).

4. Finality. The Orders are issued under Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e). Upon its issuance, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C.A. § 1818(i), and subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C.A. § 1818(j).

5. Waivers. BURGER waives his right to the administrative hearing provided by Sections 8(b) and (e) of the FDIA, 12 U.S.C.A. §§ 1818(b) and (e), and further waives any right to seek judicial review of the Orders, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C.A. § 1818(h), or otherwise to challenge the validity of the Orders. BURGER waives any claim for attorney's fees or expenses under the Equal Access to Justice Act, 5 U.S.C.A. § 504.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Midwest Regional Director, and Robert R. Burger execute this Stipulation and Consent to Entry of an Order to Cease and Desist for Affirmative Relief.

OFFICE OF THRIFT SUPERVISION

By: /S/
Frederick R. Casteel
Midwest Regional Director

/S/
Robert R. Burger

Date: 10-29-93

Date: 9/15/93

* * * * *

ACKNOWLEDGMENT:

State of NEW MEXICO)
County of SAN MIGUEL)

On this 15th day of September, 1993, before me the undersigned notary public, personally appeared Robert R. Burger and acknowledged his execution of the foregoing STIPULATION AND CONSENT TO ENTRY OF ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF.

/S/
Notary Public

My Commission expires:

7-27-94

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

In the Matter of:

ROBERT R. BURGER,
Former Chairman of the Board of
Directors, President, Chief
Executive Officer, Member of
the Executive and Loan Committee,

First Federal Savings and Loan
Association, Las Vegas, New
Mexico,

RESPONDENT.

OTS ORDER NO.: AP-93-93

DATED: October 29, 1993

ORDER OF PROHIBITION AND ORDER
TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, Robert R. Burger ("BURGER") has executed a
STIPULATION AND CONSENT TO ENTRY OF AN ORDER OF PROHIBITION AND
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF ("Consent"), which
is incorporated herein by reference and is accepted and approved by
the Office of Thrift Supervision ("OTS"), acting by and through its
Midwest Regional Director ("Regional Director"); and

WHEREAS, BURGER has consented and agreed in the Consent to the
issuance of this ORDER OF PROHIBITION AND ORDER TO CEASE AND DESIST
FOR AFFIRMATIVE RELIEF ("Order");

NOW THEREFORE, THE OTS ORDERS AS FOLLOWS:

ORDER OF PROHIBITION

1. BURGER is prohibited from further participation, in any manner, in the conduct of the affairs of First Federal Savings and Loan Association, Las Vegas, New Mexico or any of its subsidiaries ("FIRST FEDERAL" or the "INSTITUTION.")

2. Without the prior written approval of the Regional Director and, if appropriate, another federal financial institutions regulatory agency, BURGER may not hold any office in, or participate in any manner in the conduct of the affairs of any institution(s) or other entity as set forth in Section 8(e)(7)(A) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C.A. § 1818(e)(7)(A) (West 1989 and Supp. 1992). Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C.A. § 1818(e)(6), conduct prohibited by this Order includes, inter alia, the solicitation, the transfer or the exercise of any voting rights with respect to any securities issued by any insured depository institution.

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

3. From and after the date of issuance of this Order, BURGER shall be individually obligated, and ORDERED, to make restitution to First Federal Savings and Loan Association, Las Vegas, New Mexico, its successors and assigns in the amount of \$156,348.00,

without interest. This restitution, and the prohibition contained in Paragraphs Nos. 1 and 2 of this Order settle the administrative proceeding in the cause entitled, In the Matter of: Robert R. Burger, Former Chairman of the Board of Directors, President, Chief Executive Officer, Member of the Executive and Loan Committee, First Federal Savings and Loan Association, Las Vegas, New Mexico, OTS AP 93-36, dated May 4, 1993.

4. BURGER's obligation to make restitution pursuant to this Order is his sole and separate obligation and will not be reduced by payments made to any entity, other than the OTS or its successor, by or on behalf of BURGER, and will not be reduced by or subject to an offset as a result of any payment made by or on behalf of any other person or entity.

5. Any payments made by BURGER in full or partial satisfaction of Paragraph No. 3 of this Order shall be made by certified or cashiers check, payable to the Resolution Trust Corporation, as receiver for First Federal Savings and Loan Association, Las Vegas, New Mexico, and shall be delivered to:

Midwest Regional Director
Office of Thrift Supervision
122 West John Carpenter Freeway
P. O. Box 619027
Irving, Texas 75039

or such other United States agency or department as BURGER shall be instructed, in writing, to deliver payment to in the future by the Regional Director or his successor or assigns.

6. All words or terms used in this Order, for which meanings are not specified or otherwise provided for by the provisions of this Order, shall have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act, FDIA and FIRREA.

7. This Order shall become effective on the date of its issuance by the Midwest Regional Director of the OTS, and shall remain in effect until modified or terminated by the OTS.

OFFICE OF THRIFT SUPERVISION

BY: /S/
Frederick R. Casteel
Midwest Regional Director

Date: 10-29-93