

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

In the Matter of)
William F. Malloy, Jr.)
A Former Director of)
Charter Federal Savings)
and Loan Association)
Stamford, Connecticut)

Re: Resolution No. NE92-69
Dated: July 16, 1992

STIPULATION AND CONSENT TO ISSUANCE OF
ORDER TO CEASE AND DESIST AND
ORDER OF PROHIBITION

The Office of Thrift Supervision ("OTS"), by and through its Director, Timothy Ryan, and William F. Malloy, Jr. ("RESPONDENT"), hereby stipulate and agree as follows:

CONSIDERATION

1. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate administrative proceedings seeking the prohibition of William F. Malloy, Jr., from participation in the conduct of the affairs of any federally insured depository institution and an Order to Cease and Desist directing restitution and other affirmative corrective action against William F. Malloy, Jr., in connection with his participation in the conduct of the affairs of Charter Federal Savings and Loan Association, Stamford, Connecticut ("Charter Federal"). See Section 5(d)(1)(A) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1464(d)(1)(A) (Supp. I 1989), and Sections

8(b) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §§ 1818(b) and (e) (Supp. I 1989). More specifically, information obtained by OTS indicates that **RESPONDENT** breached his fiduciary duty to Charter Federal, and its service corporation, Bedford Equities Corporation ("BEC"), engaged in conflicts of interest and other unsafe and unsound practices and violated law, rules and regulations with regard to Charter Federal and BEC, and was unjustly enriched and caused loss and damage to BEC in the amount of \$200,000, which he received as a commission on the sale of an office building located at 30 Buxton Farms Road, Stamford, Connecticut. BEC made the \$200,000 payment to a third party nominee for **RESPONDENT** under the guise of payments for services ostensibly rendered by the third party nominee in connection with the sale of another property at 159 Franklin Street, Stamford, Connecticut, by BEC.

2. **RESPONDENT** desires to avoid the time and expense of defending administrative enforcement proceedings which could be commenced by the OTS. Although **RESPONDENT** neither admits nor denies the assertions of fact and allegations of unsafe and unsound practices and violations of law, rules and regulations, as described above, and as they apply to **RESPONDENT**, **RESPONDENT** hereby stipulates and agrees to the provisions, terms, and conditions set forth herein, and in the accompanying Order to Cease and Desist and Order of Prohibition ("ORDER"), in consideration of the forbearance of OTS from initiating administrative proceedings seeking restitution, prohibition and other appropriate affirmative

corrective action against **RESPONDENT**, as set forth in paragraph 10 herein.

3. **RESPONDENT** will cooperate fully and completely, and to the maximum extent practicable, with **OTS** in its investigation into the affairs of Charter Federal. Such cooperation shall include **RESPONDENT's** making himself available for interview by representatives of **OTS** as needed, as well as appearing to testify in any administrative proceeding as may be required.

JURISDICTION

4. Charter Federal was a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the HOLA, 12 U.S.C. §§ 1813(b) and 1462 (Supp I, 1989), as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73. Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

5. **RESPONDENT**, as a former director of Charter Federal, is an "institution-affiliated party", as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u) (Supp. I 1989).

6. Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q) (Supp. I. 1989), the **OTS** is the "appropriate Federal banking agency" to maintain enforcement proceedings against such a savings association or its institution-affiliated parties. Therefore, **RESPONDENT** is subject to the authority of the **OTS** to initiate and maintain administrative cease and desist and prohibition proceedings against **RESPONDENT**, pursuant to Section

5(d)(1)(A) of the HOLA, 12 U.S.C. § 1464(d)(1)(A) (Supp. I 1989), and Sections 8(b) and 8(e) of the FDIA, 12 U.S.C. § 1818(b) and (e) (Supp. I 1989).

CONSENT

7. **RESPONDENT** consents to the issuance by **OTS** of the accompanying **ORDER**. Further, **RESPONDENT** agrees to comply with the terms, provisions, and conditions of the **ORDER** upon its issuance, and **RESPONDENT** stipulates that the **ORDER** complies with all applicable requirements of law.

FINALITY

8. The **ORDER** is issued pursuant to Sections 8(b) and 8(e) of the FDIA, 12 U.S.C. §§ 1818(b) and (e) (Supp. I 1989). Upon its issuance by **OTS**, the **ORDER** shall be a final order, effective and fully enforceable by **OTS**, its successor(s), or an appropriate Federal banking agency pursuant to the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (Supp. I. 1989).

WAIVERS

9. **RESPONDENT** waives the right to a notice of charges and hearing for an order to cease and desist and to direct restitution and other affirmative corrective action and notice of intention to prohibit and the administrative hearing provided by Sections 8(b) and 8(e) of the FDIA, 12 U.S.C. §§ 1818 (b) and (e), and further waives his 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 otherwise to challenge the validity of the **ORDER**.

OTHER ACTIONS, PROCEEDINGS AND PARTIES

10. This **STIPULATION** and **CONSENT**, the **ORDER**, **RESPONDENT'S** payment of restitution contemplated as part of the **ORDER**, **RESPONDENT'S** compliance with the **ORDER**, and the forbearance of the **OTS** to initiate and maintain administrative proceedings against **RESPONDENT**, settle only potential charges that **OTS** could bring against **RESPONDENT** based upon, or arising from, those transactions described in paragraph 1 above, as they pertain to **RESPONDENT**.

11. This **STIPULATION** and **CONSENT**, the **ORDER**, and **RESPONDENT'S** compliance with the **ORDER**, do not compromise, settle, dismiss, resolve, or in any way affect:

a. any charges or potential actions based upon or arising from the transactions described in paragraph 1 above, or any other transactions, as they might pertain to any entity or person other than **RESPONDENT**, against whom **OTS** expressly reserves its rights to initiate and maintain administrative proceedings;

b. any other claims, actions, or charges not based upon or arising from those transactions described in paragraph 1 above that may be brought by **OTS** against **RESPONDENT**.

c. any civil or criminal claims, actions, or charges against or liability of **RESPONDENT** or any other individual or entity asserted by any governmental entity other than **OTS**;

d. any claims or actions that may be brought against **RESPONDENT** by any individual or entity other than **OTS**, or any claims or actions that may be brought against **RESPONDENT** by an

individual or entity named as a party, respondent, or defendant in an action brought by any governmental entity.

12. Solely in any bankruptcy proceeding in which **RESPONDENT'S** obligation to make the payment of restitution pursuant to this **Stipulation and Consent** and the **Order** is subject to discharge, the **RESPONDENT** will in no manner contest the **OTS'** assertions that (a) the obligation is for and (b) the **ORDER** arises out of, defalcation while acting in a fiduciary capacity and therefore that the obligation to make the payment of restitution is not dischargeable under 11 U.S.C. §§ 523(a)(4) and (11).

13. **OTS** agrees that in the event it should bring an action on the unpaid balance of the promissory note more particularly identified in subparagraph 3.b of the **ORDER** and obtain a judgment thereon, that in the execution of said judgment, **OTS** shall not seek foreclosure upon real property and improvements that constitute a primary residence of **RESPONDENT** or any member of **RESPONDENT'S** immediate family.

WHEREFORE, in consideration of the foregoing and intending to be legally bound hereby, the OFFICE OF THRIFT SUPERVISION, by and through its Director, Timothy Ryan, and RESPONDENT intentionally and knowingly execute this STIPULATION and CONSENT.

Approved as to form
and content:

/S/

Phillip Russell, Esq.
Attorney

/S/

William Malloy, Jr.
RESPONDENT

Signed this ___ day of ___, 1992

OFFICE OF THRIFT SUPERVISION

/S/

BY:

ANGELO A. VIGNA
Regional Director
Northeast Region
OFFICE OF THRIFT SUPERVISION
Pursuant to Delegated Authority

Signed this 16 day of July, 1992

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

In the Matter of
William F. Malloy, Jr.

A Former Director
of Charter Federal
Savings and Loan
Association
Stanford, Connecticut

Re: Resolution No. NE92-69
Dated: July 16, 1992

ORDER TO CEASE AND DESIST AND
ORDER OF PROHIBITION

WHEREAS, William F. Malloy, Jr., ("RESPONDENT") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist and Order of Prohibition ("STIPULATION and CONSENT"), which is accepted and approved by the Office of Thrift Supervision ("OTS"), acting by and through its Director, Timothy Ryan; and

WHEREAS, RESPONDENT, in the STIPULATION AND CONSENT, has agreed and consented to the issuance of this Order to Cease and Desist and Order of Prohibition pursuant to Sections 8(b) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. §§ 1818(b) and (e) (Supp. I 1989);

WHEREAS, the OTS, based upon information reported to it, is of the opinion that grounds exist to initiate and maintain against RESPONDENT a Notice of Charges and Hearing to Direct Restitution and Other Appropriate Relief and Notice of Intention to Prohibit

RESPONDENT from participating in the conduct of the affairs of federally insured depository institutions;

WHEREAS, RESPONDENT neither admits nor denies the assertions of fact or allegations of unsafe and unsound practices and violations of law, rules and regulations set forth in the **STIPULATION and CONSENT** as such pertain and apply to **RESPONDENT**;

NOW, THEREFORE, IT IS ORDERED that:

1. The **STIPULATION and CONSENT**, attached hereto, is made a part hereof and is incorporated herein by reference.

2. **RESPONDENT** shall cease and desist from:

a. Committing, or aiding and abetting the commitment of, the violations of law, regulations and rules alleged against **RESPONDENT** in the **STIPULATION and CONSENT**; and

b. Committing, or aiding and abetting the commitment of, the unsafe and unsound practices alleged against **RESPONDENT** in the **STIPULATION and CONSENT**.

3. Based, upon his sworn statement of financial condition and other relevant factors, including his willingness to cooperate with **OTS, RESPONDENT** shall pay restitution in the total amount of \$200,000. The terms of payment shall be as follows:

a. **RESPONDENT** shall remit \$25,000 in the form of a cashier's check payable to the order of the **Office of Thrift Supervision** by no later than July 1, 1992. **RESPONDENT's** check shall be sent to the address set forth in paragraph 5 below.

b. **RESPONDENT** shall tender the **Office of Thrift**

Supervision a promissory note in the amount of \$175,000 with simple interest at the rate of the Wall Street Journal Prime, as in effect from time to time, plus two (2) percentage points, due and payable on the fifth anniversary this ORDER becomes final for the balance of his indebtedness.

4. **RESPONDENT** shall not hold any office in or participate in any manner in the conduct of the affairs of institution(s) or other entity(ies) as set forth in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) (Supp. I 1989), without the prior written approval of the Director of **OTS**, or his designee, and, if appropriate, the approval of other Federal financial institutions regulatory agency(ies). Pursuant to Section 8(e)(6) of the FDIA, 12 U.S.C. § 1818(e)(6) (Supp. I 1989), conduct prohibited by this ORDER includes, inter alia, the solicitation, transfer, or exercise of any voting rights with respect to any securities issued by any insured depository institution or voting for a director of an insured depository institution or acting as an institution-affiliated party.

5. Solely in any bankruptcy proceeding in which **RESPONDENT's** obligation to make the payment of restitution provided for in paragraph 3 of this ORDER is subject to discharge, the **RESPONDENT** will no manner contest the **OTS'** assertions that (a) the obligation is for and (b) the ORDER arises out of, defalcation while acting in a fiduciary capacity and therefore that the obligation to make the payment of restitution is not dischargeable under 11 U.S.C. §§ 523(a)(4) and (11).

6. All payments by **RESPONDENT** provided for in paragraph 3 of this **ORDER** shall be delivered to:

Senior Deputy Chief Counsel for Enforcement
and Litigation c/o Kenneth Cureton
Washington Enforcement
Office of Thrift Supervision
U.S. Treasury Department
1700 G Street, N.W.
Washington, D.C. 20552

or as otherwise directed by **OTS** or its successor in interest.

7. **OTS** stipulates and agrees that **RESPONDENT's** obligation to make the payments provided in paragraph 3 of the **ORDER** shall not be enforced by any execution of judgment or other process which would result in the foreclosure upon **RESPONDENT's** primary residence for himself or any member of **RESPONDENT's** immediate family.

8. The **STIPULATION and CONSENT**, this **ORDER**, the payments contemplated as part of this **ORDER**, and the forbearance of **OTS** to initiate and maintain administrative proceedings against **RESPONDENT** settle only potential charges that **OTS** could bring against **RESPONDENT** based upon and arising from those transactions described in paragraph 1 of the **STIPULATION and CONSENT**, as they pertain to **RESPONDENT**.

9. The **STIPULATION and CONSENT**, this **ORDER**, and **RESPONDENT's** compliance with this **ORDER** do not compromise, settle, dismiss, resolve, or in any way affect:

a. any charges or potential actions based or arising from the transactions described in paragraph 1 of the **STIPULATION and CONSENT** or any other transactions as they might pertain to any entity or person other than **RESPONDENT**, against whom **OTS** expressly

reserves its rights to initiate and maintain administrative proceedings;

b. any other claims, actions, or charges not based upon or arising from those transactions described in paragraph 1 of the **STIPULATION** and **CONSENT** that may be brought by **OTS** against **RESPONDENT**.

c. any civil or criminal claims, actions, or charges against or liability of **RESPONDENT** or any other individual or entity asserted by any governmental entity other than **OTS**;

d. any claims or actions that may be brought ~~against~~ **RESPONDENT** by any individual or entity other than **OTS**, or any claims or actions that may be brought against **RESPONDENT** by an individual or entity named as a party, respondent, or defendant in an action brought by any governmental entity.

10. This **ORDER** is subject to the provisions of Section 8(j) of the **FDIA**, 12 U.S.C. § 1818(j) (Supp. I. 1989).

11. This **ORDER** shall become effective on the date it is issued.

Approved as to form
and ~~content~~,

/S/

~~Phillip Russell, Esq.~~
~~Attorney for RESPONDENT~~
~~William F. Malloy, Jr.~~

THE OFFICE OF THRIFT SUPERVISION

BY:

/S/

~~ANGELO A. VIGNA~~
Regional Director
Northeast Region
OFFICE OF THRIFT SUPERVISION
Pursuant to Delegated Authority