

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
)
James A. Tatum,)
Former Director)
First Guaranty)
Bank for Savings)
Hattiesburg, Mississippi)
_____)

Re: Resolution No. DAL-91-11

Dated: March 12, 1991

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

The Office of Thrift Supervision ("OTS"), by and through the Regional Director for the Midwest Regional Office of the OTS, and James A. Tatum ("Tatum") 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 civil money penalty assessment proceeding against Tatum pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), as amended by Section 907(a)(2)(A) of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Pub. L. No. 101-73, 103 Stat. 183 (to be codified at 12 U.S.C. § 1818(i)(2)). Tatum desires to cooperate with 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 civil money penalty assessment proceeding against Tatum with respect to the following matters:

On or about May 17, 1989, the Institution through its wholly

owned subsidiary, Guaranty Service Corporation, entered an agreement with Unemployment Compensation Control Systems, Inc. ("UCCS"), and the Institution transferred assets including \$2 million in cash, to UCCS in exchange for stock. The \$2 million was deposited at the Institution in a certificate of deposit in the name of UCCS ("the CD").

On July 14, 1989, Joel Kielborn, OTS Caseload Manager, notified the Institution that the investment in UCCS had been made without required prior regulatory approval. The Institution was directed to unwind the transactions relating to this investment that had been consummated, and to take no further action to consummate the pending aspects of the investment.

Minutes of the meeting of the Executive Committee of the Institution on September 6, 1989, reflect that Tatum voted to approve the transfer of the CD to another depository institution "agreeable to both parties and under the joint control of both parties." On September 27, 1989, the board of directors of the Institution ratified this action, although the CD had been transferred to a UCCS corporate account on or about September 7, 1989, over which the Institution had no control. The funds were subsequently withdrawn by UCCS on or about October 3, 1989, resulting in more than minimal financial loss to the Institution.

Although certain other aspects of the UCCS transaction have been reversed, the \$2 million has not been returned to the Institution. The continued violation of the equity risk investment regulation, 12 C.F.R. § 563.98, since August 9, 1989, and the transfer of the CD

provide the basis for the proposed action.

2. Jurisdiction.

(a) The Institution, at all times relevant to the allegations set forth herein, was a "savings association" within the meaning of Section 3(b) of the FDIA (12 U.S.C. § 1813(b)), and Section 2(4) of the Home Owners' Loan Act of 1933, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(c)). Accordingly it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(c)).

(b) Until August 9, 1989, the accounts of the Institution were insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") pursuant to Section 403(b) of the National Housing Act of 1934 ("NHA"), 12 U.S.C. § 1726(b), by reason of which it was an "insured institution" within the meaning of the NHA.

(c) As of August 9, 1989, pursuant to the provisions of FIRREA, the insurance of the accounts of the Institution was transferred to the Federal Deposit Insurance Corporation.

(d) Until August 9, 1989, the Federal Home Loan Bank Board, as operating head of the FSLIC, was the regulatory agency with jurisdiction over the Institution and its directors and officers, including Tatum, pursuant to Sections 403 and 407 of the NHA, 12 U.S.C. §§ 1726 and 1730.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of the FIRREA (to be codified at 12 U.S.C.

§ 1813(q)), the OTS succeeded to the interests of the FSLIC with respect to the supervision and regulation of all savings associations,

and thus became the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against the Institution and institution-affiliated parties of the Institution.

(f) Tatum, at all times relevant hereto, was a director of the Institution and as such is an "institution-affiliated party" within the meaning of Section 3(u) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(u)).

(g) As an institution-affiliated party, Tatum is subject to the authority of OTS to initiate and maintain the assessment of a civil money penalty pursuant to Section 8(i)(2) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)(2)).

3. Consent.

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

4. Finality.

The Order is issued under Section 8(i)(2) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)(2)). Upon its issuance by the Regional Director for the Midwest Regional Office of OTS, it shall be a final order, effective and fully enforceable by OTS under the provisions of Section 8(i)(2) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)(2)).

5. Waivers

Tatum waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i)(2) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)(2)), and the administrative

hearing provided by Section 8(1)(2)(H) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(1)(2)(H)), and further waives his right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(h)) or to otherwise challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the Regional Director for the Midwest Regional Office of OTS, and Tatum execute this Stipulation and Consent to Issuance of Order of Civil Money Penalty Assessment.

OFFICE OF THRIFT SUPERVISION

By:

/S/

Billy C. Wood
Regional Director
Midwest Regional Office

/S/

James A. Tatum

