

UNITED STATES OF AMERICA

Before The

OFFICE OF THRIFT SUPERVISION

In the Matter of	)	Re: Resolution No. <u>DAL-91-125</u>
	)	
ODIE MALONE, former Director	)	Dated: <u>August 28, 1991</u>
of First City Federal	)	
Bank for Savings,	)	
Lucedale, Mississippi	)	

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 Region, and Odie Malone ("Respondent") stipulate and agree as follows:

1. Consideration.

The OTS, based upon information reporter to it, is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against the Respondent pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA"). The Respondent desires to cooperate with the OTS and to avoid the time and expenses 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 the Respondent with respect to any acts or omissions of Respondent, as a former Director of First City Federal Bank for Savings, Lucedale, Mississippi ("First City").

2. Jurisdiction.

(a) First City is a savings association" within the meaning of Section 3(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(b)) and Section 2(4) of the Home Owners' Loan Act of 1933, 12 U.S.C. § 1462(4) (Supp. I 1989). 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) Respondent was, at all times relevant to the allegations set forth herein, an institution affiliated party, of First City within the meaning of Section 3(u) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813(u)), in that he served as a director of First City until September 7, 1990.

(c) Pursuant to Section 3 (q) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1813 (q)), the OTS is the "appropriate Federal banking agency" to maintain civil money penalty assessment proceedings against such savings association and its institution affiliated party. Therefore, the Respondent 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, 12 U.S.C. § 1818(i) (2) (1988 & Supp. I 1989).

3. Consent.

(a) Respondent consents to the issuance by the OTS of the accompanying Order of Civil Money Penalty Assessment ("Order") and further agrees to comply

with its terms upon issuance and stipulates that the Order complies with all requirements of law.

(b) The Respondent acknowledges that the debt owed pursuant to the Order is not dischargeable under the Bankruptcy Code, in accordance with 11 U.S.C. § 523(a)(11) and (12), as amended by Section 2522 of the Comprehensive Thrift and Bank Fraud Protection and Taxpayer Recovery Act of 1990, Pub. L. No. 101-647, November 29, 1990.

4. Finality.

The Order is issued under Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989). Upon its issuance by the Regional Director for the Midwest Region, 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. § 1818(i) (1988 & Supp. I 1989).

5. Waivers.

(a) Respondent waives the right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i) (1988 & Supp. I 1989) and the administrative hearing provided by Section 8(i)(2)(H) of the FDIA, 12 U.S.C. § 1818(i)(2)(H) (1988 & Supp. I 1989), 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) (1988 & Supp. I 1989) or to otherwise challenge the validity of the Order.

(b) Respondent acknowledges and agrees that this proceeding, the payment of the civil money penalty contemplated as part of the resolution thereof, and Respondent's consent to the entry of the Order are for the purposes of resolving

Stipulation and Consent to Issuance
of Order of CMP Assessment
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all OTS civil proceedings and administrative civil money penalty assessment proceedings only, and do not resolve, affect or preclude any other civil or criminal proceeding which may be brought against Respondent.

(c) By signing this document, Respondent agrees that he will not assert the payment of this civil money penalty as the basis for a claim of double jeopardy in any future proceeding brought by another governmental entity.

WHEREFORE, in consideration of the foregoing, the Regional Director for the Midwest Region, on behalf of OTS, and the Respondent executes 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 Region

By: /S/
ODIE MALONE

UNITED STATES OF AMERICA
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of First City Federal Bank	)	
for Savings,	)	
Lucedale, Mississippi	)	
	)	

ORDER OF CIVIL MONEY PENALTY ASSESSMENT

WHEREAS, Odie Malone has executed a Stipulation and Consent to Issuance of Order of Civil Money Penalty Assessment, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS") acting through the Regional Director for the Midwest Region; and

WHEREAS, Odie Malone, in the Stipulation, has consented to the issuance of this Order of Civil Money Penalty Assessment pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2) (1988 & Supp. I 1989), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA");

NOW THEREFORE, IT IS ORDERED that:

- (1) Odie Malone shall pay to the OTS the sum of \$1,000, and
- (2) Odie Malone shall comply with Paragraph (1) by sending a certified check in such specified amount, made payable to the Treasurer of the United States, and mailed to the Regional Director, OTS Midwest Regional Office,

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Dallas, Texas, within thirty (30) days after the effective date of this Order of Civil Money Penalty Assessment.

OFFICE OF THRIFT SUPERVISION

By: /S/
Billy C. Wood
Regional Director
Midwest Region