

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

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In the Matter of: )

ALBERT BREWER, III, Former )  
Director and Institution- )  
Affiliated Party of: )

Davy Crockett Federal Savings )  
Bank, Crockett, Texas )  
\_\_\_\_\_ )

RE: Resolution No. DAL-91-201

DATED: November 5, 1991

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

The Office of Thrift Supervision ("OTS"), by and through its Director, and Albert Brewer, III ("Brewer"), former director of Davy Crockett Federal Savings Bank, Crockett, Texas (the "Institution"), hereby 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 Brewer, pursuant to Section 407(g) of the National Housing Act of 1934 ("HOLA"), 12 U.S.C. § 1730(e), and Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989). Brewer desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting, and specifically disputing the statements, conclusions or terms herein, Brewer

hereby stipulates and agrees to the following terms in consideration of: (1) the forbearance by the OTS from initiating such administrative litigation; and (2) the agreement by the OTS to refrain from seeking the issuance of additional enforcement orders against Brewer with respect to any matters (a) reported or otherwise addressed in the OTS Reports of Examination of the Institution for the examinations commenced as of April 16, 1990, and July 8, 1991, or (b) discovered by the OTS as a result of its investigative proceeding, commenced pursuant to OTS Resolution No. DAL-91-14, March 11, 1991. Brewer, without trial, presentation of any evidence, or findings of fact pursuant to an administrative judicial hearing, has consented to the terms of the Stipulation for the sole purpose of resolving the issues in this proceeding without significant legal cost and expense. The OTS has determined that it is appropriate, and in the best interest of the public to execute the Stipulation and the attached Order to Cease and Desist for Affirmative Relief ("Order"). This Stipulation and the attached Order are issued solely to settle this proceeding, and are not the result of factual findings.

2. Jurisdiction. The OTS is of the opinion that:

(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

Section 301 of FIRREA, 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, as amended by FIRREA, 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 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 ("FHLBB"), as operating head of the FSLIC, was the regulatory agency with jurisdiction over the Institution and persons participating in the conduct of its affairs, including Brewer, pursuant to Section 5 of the HOLA, 12 U.S.C. § 1464.

(e) As of August 9, 1989, pursuant to Section 3(q) of the FDIA, as amended by Section 204 of FIRREA, 12 U.S.C. § 1813(q), the OTS succeeded to the interests of the FHLBB with respect to the supervision and regulation of all savings associations, and thus became the "appropriate Federal banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(f) The Director of the OTS has the authority to bring administrative cease and desist proceedings directing restitution against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties, pursuant to Section 5(d)(1)(A) of the HOLA, as amended by Section 301 of the FIRREA, 12 U.S.C. § 1464(d)(1)(A), and Section 8(b) of the FDIA, as amended by the FIRREA, 12 U.S.C. § 1818(b).

(g) Brewer was a director of the Institution from July 20, 1987 to June 19, 1989. Through March 31, 1989, Brewer as a director of the Institution approved or allowed fees in the amount of \$49,200.00 to be paid to advisory directors when said advisory directors were not properly appointed as required by 12 C.F.R. § 545.123. Brewer received \$600.00 as advisory director fees, although he was never appointed pursuant to 12 C.F.R. § 545.123.

(h) Brewer is an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1813(u), and as such, is subject to the authority of the OTS to maintain cease and desist proceedings pursuant to Section 8(b) of the FDIA, as amended by FIRREA, 12 U.S.C. § 1818(b).

3. Consent. Without admitting, and specifically disputing the need or basis therefor, Brewer consents to the issuance by the OTS of the Order, a copy of which is attached hereto and incorporated as Exhibit A. He further agrees to comply with the



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RE: Resolution No. DAL-91-201

DATED: November 5, 1991

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, Albert Brewer, III ("Brewer") has executed a Stipulation and Consent to Issuance of Order to Cease and Desist for Affirmative Relief ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Director;

WHEREAS, without admitting that the grounds exist therefor, Brewer has consented and agreed in the Stipulation to the issuance of this Order to Cease and Desist for Affirmative Relief ("Order"), pursuant to Section 8(b) of the Federal Deposit Insurance Act, as amended by the Financial Institutions Reform, Recovery and Enforcement Act of 1989, ("FIRREA"), 12 U.S.C. § 1818(b) (1988 and Supp. I 1989);

WHEREAS, affirmative relief is required to correct the conditions which resulted from Davy Crockett Federal Savings Bank of Crockett, Texas ("the Institution") paying \$49,200.00 from July 27, 1987 through March 31, 1989, in fees to advisory directors who

