

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	
ENTERPRISE SAVINGS AND	)	Enforcement Review Committee
LOAN ASSOCIATION	)	Resolution No. SF-90-002
Long Beach, California,	)	Dated: 4/13/90
	)	
and	)	
	)	
CORNELL R. KIRKLAND, SR.,	)	
JESSE ROBINSON,	)	
FOSTER M. RICARDO, and	)	
PHILLIP M. SMITH,	)	
Directors of said Association.	)	

STIPULATION AND CONSENT TO ISSUANCE
OF ORDER TO CEASE AND DESIST

The Office of Thrift Supervision ("OTS"), by and through its Enforcement Review Committee ("ERC") and Enterprise Savings and Loan Association, Long Beach, California ("Enterprise Savings" or "Association"), its subsidiaries and service corporations, through its directors, and Cornell R. Kirkland, Sr., Jesse Robinson, Foster M. Ricardo, and Phillip M. Smith ("Individual Respondents"), stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate administrative cease and desist proceedings against Enterprise Savings and the Individual Respondents, pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), as amended by the Financial Institutions Reform, Recovery, and

Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183 ("FIRREA") (to be codified at 12 U.S.C. § 1818(b)).

Enterprise Savings and the Individual Respondents, desire to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulate and agree to the following terms in consideration of the forbearance by the OTS from initiating such administrative cease-and-desist litigation against Enterprise Savings and the Individual Respondents, with respect to the sale of automobiles made to affiliated persons, Mercedes Hornsby, Cornell Kirkland, Sr., and Cornell Kirkland, Jr., and the granting of interest free loans in connection therewith to Cornell Kirkland, Sr. and Mercedes Hornsby.

2. Jurisdiction.

a. Enterprise Savings is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act of 1933, as amended by FIRREA. 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. Pursuant to Section 3 of the FDIA, as amended by FIRREA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, Enterprise Savings and the Individual Respondents are subject to the

authority of the OTS to initiate and maintain cease and desist proceedings against them pursuant to Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)).

3. Consent. Enterprise Savings and the Individual Respondents consent to the issuance by the OTS of the Order to Cease and Desist ("Order"). Enterprise Savings and the Individual Respondents further agree to comply with the terms of the Order upon issuance and stipulate that the Order complies with all requirements of law.

4. Finality. The Order is issued under Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)). Upon issuance by the ERC, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(i)).

5. Waivers. Enterprise Savings and the Individual Respondents waive the right to notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, as amended by FIRREA (to be codified at 12 U.S.C. § 1818(b)), and further waive any 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 otherwise to challenge the validity of the Order.

6. Other Regulatory Action. By executing this Agreement, the OTS does not relinquish the right to take any additional regulatory action. Enterprise Savings and the Individual Respondents hereby stipulate that they have not

received any oral or written representations from the OTS, its agents or employees, that the OTS has relinquished any other rights it may have to pursue other regulatory actions.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its ERC, and Enterprise Savings, by a majority of its directors, and the Individual Respondents, execute this Stipulation and Consent to Issuance of Order to Cease and Desist.

OFFICE OF THRIFT SUPERVISION

ENTERPRISE SAVINGS AND LOAN
ASSOCIATION, by a majority
of its directors, and
CORNELL R. KIRKLAND, SR.,
JESSE ROBINSON, FOSTER M.
RICARDO, and PHILLIP M.
SMITH, Directors of said
Association

By: 15/
~~Rosemary Stewart~~
~~Secretary, Enforcement~~
~~Review Committee and~~
~~Director of Enforcement~~

for Michael Patriarca
District Director, Eleventh
District of Office of
Thrift Supervision

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In the Matter of
ENTERPRISE SAVINGS AND
LOAN ASSOCIATION
Long Beach, California,

and

CORNELL R. KIRKLAND, SR.,
JESSE ROBINSON,
FOSTER M. RICARDO, and
PHILLIP M. SMITH,
Directors of said Association

SF-90-002
4/13/90

ORDER TO CEASE AND DESIST

WHEREAS, Enterprise Savings and Loan Association, Long Beach, California ("Enterprise Savings" or "Association"), its subsidiaries and service corporations, through its directors, and Cornell R. Kirkland, Sr., Jesse Robinson, Foster M. Ricardo, and Phillip M. Smith ("Individual Respondents"), have executed a Stipulation and Consent to Issuance of Order to Cease and Desist, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through the Eleventh District Director, or his designee ("District Director"); and

WHEREAS, Enterprise Savings and the Individual Respondents, in the Stipulation, have consented and agreed to the issuance of this Order to Cease and Desist ("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, Pub.

L. No. 101-73, 103 Stat. 183 ("FIRREA") (to be codified at 12 U.S.C. § 1818(b)).

NOW THEREFORE, IT IS ORDERED that Enterprise Savings and its directors, officers, employees, agents, subsidiaries, service corporations, and the Individual Respondents, shall cease and desist from any violation of, or the aiding and abetting of any violation of: 12 C.F.R. Sections 566.2, 563.161, 563.170, 563.41, 563.43, 563.233, 571.7, and 571.9.

IT IS FURTHER ORDERED that:

BOARD PLAN

1. Within 60 days after the effective date of this Order, Enterprise Savings shall submit to the Assistant District Director of the Eleventh District of OTS ("Assistant District Director") for review and approval of a plan to structure the number and the qualifications of the board of directors ("Board Plan"). Specifically the plan shall include:

a. Number. The Board Plan shall include provisions for increasing the number of new directors by four (4). At all times hereafter, the Board shall be composed of a minimum of five (5) directors. Each proposed director shall be subject to prior approval by the Assistant District Director. Any director proposed to be appointed pursuant to the Board Plan shall submit to the Assistant District Director a:

- (1) "Financial and Biographical Report" (FHLBB Form No. 1393.)

- (2) Resume.
- (3) Stockholder Affidavit.
- (4) Certification regarding Violation of Civil of Criminal Law.
- (5) Certification regarding securities underwriting and/or market-making.
- (6) Finger print card.

Unless previously submitted to the Assistant District Director, any current director that the Board Plan proposes to retain shall submit the same documents listed in 2(a) 1-7 above and attached at Exhibit 1, at the time the Board plan is delivered to the Assistant District Director for approval.

b. Qualifications. The Board Plan shall require all directors to possess relevant financial or business experience, education, competence, and integrity, so as to provide adequate oversight regarding the Association's operations, proposed business activities, and other policy decisions. The qualified new directors shall have diversified business experience outside of the financial services industry, or have extensive savings and loan and/or financial institution-related experience. No new directors shall have any familial relationship with any director, officer, employee or shareholder.

c. Policies and Procedures. The Board Plan shall

establish written policies and procedures that require each current and future director or officer of Enterprise Savings to:

- (1) Review and understand applicable OTS regulations, policy statements, and/or memoranda concerning transactions with affiliates and affiliated persons, conflicts of interest, and usurpation of corporate opportunity, including but not limited to, knowledge of the Insurance Regulations found at 12 C.F.R. §§ 561.4, 561.5, 563.161, 563.41, 563.43, and 571.7, 571.9, and OTS (formerly FHLBB) Memoranda R 19a and § 62;
- (2) Review and understand the Association's Conflicts of Interest Policy; and
- (3) Review and sign a statement certifying his/her understanding of the Board Plan, regulations, policy statements and memoranda.

d. Timing. The Board Plan shall require the Board of Directors to complete the review of the aforementioned rules and regulations, and the required certifications, within 45 days following the Board Plan's approval by the Assistant District Director. The board of directors shall use its best efforts to locate

and submit for approval to the Assistant District Director the additional directors contemplated by Paragraph 1(a) hereof. The failure to obtain such additional directors despite the best efforts of the board of directors, or the failure of any individual proposed as a director to agree to so serve, to meet any qualification approved or established by the Assistant District Director, or to file any document or take any action required under this Paragraph 1, shall not constitute non-compliance by the Association or its board of directors with the provisions of this Order. However, the Assistant District Director shall have the authority to nominate to the board of directors candidates to serve as additional directors, and upon such nomination, the board of directors and shareholders shall take all actions necessary to elect any such nominated candidates to be members of the Board of Directors. The failure of the Board of Directors and shareholders to take such action shall constitute non-compliance with this Order.

MANAGEMENT PLAN

2. Within 60 days after the effective date of this Order, Enterprise Savings shall submit to the Assistant District Director, for review and approval, a plan for assessing the strengths and weaknesses of senior management and improving the managerial function of Enterprise Savings ("Management Plan"). As its goal

the Management Plan shall strengthen and enhance management by providing it, either by supplementing or replacing existing senior management, with persons who are experienced in or have knowledge of the savings and loan or banking industry or related businesses.

The Management Plan shall contain:

- a. The identity of all current officers with a description of their respective responsibilities, qualifications, and authority levels;
- b. An analysis of the strengths and weaknesses of the Association's current management team and structure;
- c. An organizational chart of the proposed management of the Association;
- d. The specific qualifications of each new officer;
- e. A Biographical and Financial Report (FHLBB Form 1393) completed by each current and proposed officer;
- f. A set of procedures that require each current and future officer of the Association to review and become familiar with the applicable OTS rules, regulations, policy statements and memoranda pertaining to transactions with affiliates, affiliated persons, conflicts of interest, and usurpation of corporate opportunity, including, but not limited to Insurance Regulation §§ 561.4, 561.5, 561.161, 563.41, 563.43, 571.7, and 571.9, and OTS (formerly FHLBB) Memoranda R 19a and R 62; and
- g. A concise narrative description of how the

Management Plan addresses the strengths and weaknesses identified in the current management structure. Each proposed officer shall be subject to prior approval by the Assistant District Director. The board of directors shall submit to the Assistant District Director a monthly status report detailing the Association's progress toward the completion of the Management Plan beginning thirty (30) days after approval by the Assistant District Director.

AFFILIATED PERSON TRANSACTIONS

3. Within 60 days from the effective date of this Order, the Board shall develop, adopt, and submit to the Assistant District Director, for review and approval, a Conflict of Interest Policy to be used by the Association to insure that its directors, officers, and employees, comply with Insurance Regulations §§ 563.41, 563.43-44, 571.7 and 571.9. The Association shall not engage or participate in any transaction with any "affiliate" or "affiliated person" of the Association as defined in Insurance Regulation 12 C.F.R. § 561.4 and § 561.5, except for:

- a. The issuance of deposit accounts to such affiliates or affiliated persons at a rate not exceeding the rates paid by the Association to persons who are not affiliates or affiliated persons;
- b. The Association submitting a written legal opinion to the Assistant District Director that states that the Association is legally bound to complete any agreement

that may have been entered into by Enterprise Savings prior to the date of this Order;

c. The agreement between the Association's service corporations and Mr. Cornell Kirkland, Sr., for the lease of the office space located at 4923 West Adams Boulevard, Los Angeles, California, which was approved by the Assistant District Director on February 13, 1989.

UNDERWRITING STANDARDS

4. Within 45 days after the effective date of this Order, the Association shall submit to the Assistant District Director for review and approval, specific loan and investment policies and procedures ("Underwriting Standards") that shall govern all loans made or purchased by the Association. At a minimum, the Underwriting Standards shall require that prior to making, purchasing, or committing to make or purchase any loan, extension of credit, and investments, the Association shall have obtained full and adequate documentation, as required by Insurance Regulation 563.170 and OTS (formerly FHLBB) Memorandum T 18-5, to ensure prudent and sound underwriting and investment decisions. Enterprise Savings shall implement the Underwriting Standards immediately after approval by the Assistant District Director, and shall not materially deviate from or otherwise amend the Underwriting Standards without prior written approval of the Assistant District Director.

5. Without prior written approval of the Assistant District Director, the Association and its service corporations shall not

make, refinance, disburse, modify, or commit to make, refinance, disburse, and/or modify, any residential, personal, business, or commercial loan, or participations in any loans or investments except:

- a. Loans not in excess of \$250,000 in principal amount to any one borrower secured by a first lien on a single one-to-four-unit, owner-occupied, residential property;
- b. Secured or unsecured consumer loans not in excess of \$10,000 in principal amount in the aggregate to any one borrower;
- c. Investments that qualify as liquid assets under 12 C.F.R. § 566.1;
- d. Loans pursuant to legally binding commitments existing as of the date of this Order.

Within 45 days from the effective date of this Order, Enterprise Savings shall deliver to the Assistant District Director a written list of all legally binding commitments, by borrower/project, loan type, and loan amount, including the commitment date of the loan, and any evidence of such commitment. Within 45 days from the effective date of this Order, Enterprise Savings shall deliver to the Assistant District Director a written opinion from independent counsel that the Association is compelled to complete its legally binding commitment as a matter of law, and the date each loan commitment shall be funded.

APPRAISAL POLICIES AND PROCEDURES

- 6. Within 45 days from the effective date of this Order,

the board of directors shall develop, adopt, and submit to the Assistant District Director, for review and approval, policies and procedures in accordance with Insurance Regulation 12 C.F.R. § 563.171.

INTERNAL CONTROL POLICY

7. Within 60 days from the effective date of this Order, the board of directors shall develop, adopt, and submit to the Assistant District Director, for review and approval, policies and procedures to be used by the Association to monitor and ensure compliance with all laws, rules, regulations, Enterprise Savings' internal policies and procedures, and provisions of this Order ("Internal Control Policy"). The Association's audit committee shall provide the board of directors and the Assistant District Director with monthly status reports detailing the condition of the Association's internal control system instituted by the Internal Control Policy and shall include in its reports a detailed explanation for each noted deficiency or violation. The Internal Control Policy shall provide for:

- a. An organization plan that ensures no overlap of management's functions;
- b. The preparation of comprehensive minutes of all board of director and committee meetings;
- c. The development and maintenance of such accounting systems, records, and controls, as are necessary to provide an accurate and complete record of all business transactions; and

d. The preparation of books and records that accurately reflect the Association's past and present financial condition. Section 7(c) and (d) shall be prepared in accordance with generally accepted accounting principles, except as regulatory accounting principles permit variation therefrom.

INTERNAL ASSET REVIEW POLICY

8. Within 60 days from the effective date of this Order, the Association shall develop, adopt, and submit to the Assistant District Director for review and approval, specific policies and procedures to ensure that the Association has an efficient internal asset review system. The internal asset review system shall, at a minimum, monitor potential loss, provide information for determining the adequacy of valuation allowances, and monitor compliance with applicable policies, procedures, laws, and regulations.

BUSINESS PLAN

9. Within 60 days from the effective date of this Order, the board of directors ("Board") shall file a Board approved comprehensive one year Business Plan with the Assistant District Director. The Business Plan shall be subject to review and approval by the Assistant District Director prior to implementation. Once implemented, the Assistant District Director shall monitor the Business Plan on a continuing basis. Any material changes from the Business Plan shall require prior written approval by the Assistant District Director. The Business Plan

shall include, but is not limited to:

- a. An analysis of the strengths and weakness of the Association's historical operations;
- b. The Association's proposed operating strategy for the next 12 months based on the analysis conducted in 9(a); and
- c. The Association filing pro forma financial statements which reflect the operating strategy of the Association during the interim period in which the board of directors attempt to sell the Association.

Not later than 30 days after the first complete calendar month in which the Business Plan is approved by the Assistant District Director, and 30 days following each month thereafter, the Board shall file with the Assistant District Director a written report documenting its review of the Association's year-to-date operating results through the end of the preceding calendar month. Such report shall include a comparison of actual results against the projections made in the Business Plan. If the actual results show a significant difference from the projections in the Business Plan, the report shall include an explanation of the difference and include a specific description of the measures implemented to correct or stop the differences.

10. Enterprise Savings shall not pay any dividends (other than stock dividends) to any of its stockholders without the prior written approval of the Assistant District Director unless, after the payment of such dividend, the Association will be in compliance

with its fully phased-in capital requirement, as established by Section 5(t) of the Home Owners' Loan Act of 1933, as amended by FIRREA.

11. For good cause shown, the Assistant District Director may extend the time to complete any act required by this Order, specifically;

a. If the Assistant District Director disapproves any policy, plan, or act submitted for approval under the terms of this Order, the Association shall submit a revision of the policy, plan, or act, to the Assistant District Director within 15 days after it receives written notice of disapproval;

b. No policy, plan, or act, approved by the Assistant District Director may be amended, suspended, or revoked without the prior written approval of the Assistant District Director. However, the Assistant District Director may terminate any requirement imposed on the Association by this Order after receiving a written request to do so and if the Association has been in substantial compliance with the provision.

12. All technical words or terms used in this Order, for which meanings are not defined or otherwise provided by the provisions of this Order, shall, insofar as applicable, have the meanings set forth in Chapter V of Title 12 of the Code of Federal Regulations and any such technical words or terms used in this Order and undefined in said Code of Federal Regulations shall have

meanings that accord with the best custom and usage in the savings and loan industry.

13. This Order shall remain in effect until terminated by the OTS. All requests for termination of the Order shall be submitted to the Assistant District Director. Upon review of any such request, the Assistant District Director shall make a recommendation to the District Director for denial or approval of the request. The District Director may grant a written request for termination or modification of the Order if, in his opinion, Enterprise Savings and the Individual Respondents have satisfactorily complied with the terms of this Order for an appropriate period of time. The District Director's grant of such written request shall only be evidenced by the issuance of a written amendment to this Order executed by a duly authorized representative of the Office of Thrift Supervision.

14. The Assistant District Director may extend time frames in all applicable provisions of this Order for good cause shown.

15. This Order shall be effective as of the date it is issued by the Office of Thrift Supervision.

THE OFFICE OF THRIFT SUPERVISION

By: 151
Michael Patriarca
District Director, Eleventh
District of Office of
Thrift Supervision