

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of

DENNY F. ROUSE
Former
Institution-Affiliated
Party of:

First Federal Savings and
Loan Association of Englewood
Englewood, Florida

Order No.: DAL-96-05
Dated: February 12, 1996

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

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Denny F. Rouse ("Rouse"), former institution-affiliated party of First Federal Savings and Loan Association of Englewood, Englewood, Florida, OTS No. 6304 ("Englewood" or the "Institution"), that OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against Rouse pursuant to Section 8(i) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i).¹

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue Orders of

1. All references to the U.S.C. are as amended.

Assessments of Civil Money Penalties where the respondent has consented to the issuance of the Order;

WHEREAS, Rouse 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, or the statements and conclusions of the OTS, but admitting the statements and conclusions in Paragraph 1 below, hereby stipulates and agrees to the following terms:

1. Jurisdiction. (a) At all times relevant to the allegations set forth herein, Englewood 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 ("HOLA"), 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, 12 U.S.C. § 1813(c).

(b) Rouse is deemed to be an "institution-affiliated party" of the Institution as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u) having filed a Notice of Change in Control ("Notice") for Englewood with the OTS on or about December 2, 1992.

(c) Pursuant to Section 3(q) of the FDIA, 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking agency" with jurisdiction over the Institution and persons participating in the conduct of the affairs thereof.

(d) The Director of the OTS has the authority to bring an administrative proceeding for a civil money penalty against persons participating in the conduct of the affairs of the

Institution and institution affiliated parties pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

(e) Rouse is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to Section 8(i) of the FDIA, 12 U.S.C. § 1818(i).

2. OTS Bases of Proceeding. The OTS is of the opinion that: on or about December 2, 1992, Rouse, among others, filed the Notice with the OTS. Rouse made two false certification in the Notice, failing to disclose that he had been subject to a Stipulation and Consent Order for a \$10,000 civil money penalty by the Office of the Comptroller of the Currency on December 28, 1987. Rouse also failed to disclose in the Notice that consulting fees from one of his co-applicants had been a significant source of income for him beginning in 1991 and for the entire year 1992.

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

4. Finality. The Order is issued under Section 8(i) of the FDIA, 12 U.S.C. § 1818(i). Upon its issuance by the Regional Director or designee for the Central Region, OTS, 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).

5. Waivers. Rouse waives his right to a notice of Assessment of Civil Money Penalty provided by Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and the administrative hearing provided for by 12 U.S.C. §1818(i)(2)(H), and further waives any 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.

6. Indemnification. Rouse shall neither cause or permit Englewood, its predecessors or successors in interest (or any subsidiary thereof) to incur, directly or indirectly, any expense for the amount of the civil money penalties assessed under the Order or any legal (or other professional expenses) incurred relative to the negotiation and issuance of the Order, nor obtain any indemnification (or other reimbursement) from Englewood, its predecessors or successors in interest (or any subsidiary thereof) with respect to such amounts. Any payments received by or on behalf of Rouse in connection with this action shall be returned to Englewood, or any of its successors in interest.

7. Other Actions, Proceedings and Parties. This Stipulation and the accompanying Order are issued solely to settle this proceeding. By entering into this Stipulation and Consent, Rouse acknowledges and agrees explicitly to the following provisions:

a. Rouse acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and Rouse's consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only. By signing this document Rouse agrees that he will not assert the assessment or payment of this penalty as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

b. The OTS and Rouse acknowledge and agree that the imposition of the civil money penalty by the OTS, and the payment of such civil money penalty, are for the purpose of resolving the administrative civil money penalty assessment proceeding and all other potential administrative actions within the jurisdiction of OTS concerning Rouse relating to matters known or discovered by OTS concerning the facts set forth in paragraph 2 above, up to the date of entry of the Order.

c. This Stipulation, the Order and the payment by Rouse of any monies or providing any other financial relief as contemplated by the Order, does not release, discharge, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Rouse that arise pursuant to this action or otherwise, and that may be or have been brought by any other governmental entity other than the OTS.

d. Respondent's obligation to pay civil money penalties pursuant to this Stipulation and Consent and the Order shall not be dischargeable in bankruptcy under any circumstances.

WHEREFORE, Rouse executes this Stipulation and Consent to Issuance of an Order of Assessment Civil Money Penalty, intending to be legally bound hereby.

By:



Denny F. Rouse

Accepted by:

Office of Thrift Supervision



Frederick R. Casteel
Midwest Regional Director

Date: February 7, 1996

Date: 2-12-96

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First Federal Savings and)
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Englewood, Florida)

Order No.: DAL-96-05
Dated: February 12, 1996

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, Denny F. Rouse ("Rouse") has executed a Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty ("Stipulation"); and,

WHEREAS, Rouse, in the Stipulation, has consented to the issuance of this Order Assessment of Civil Money Penalty pursuant to 12 U.S.C. § 1818(i).¹

NOW, THEREFORE, IT IS ORDERED that within fourteen (14) days of the effective date of this Order, Rouse shall pay to the OTS the sum of \$15,000 by tendering a certified check to the OTS in that amount made payable to the Treasurer of the United States. The check shall be sent, together with a cover letter stating the name of the association and the OTS Order Number, and a copy of the Order, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington,

1. All references to the U.S.C. are as amended.

OZR
02/07/96

D.C. 20552. A copy of the cover letter to the Controller's Division, and a photocopy of the check shall be sent to Joseph Griffin, Esq., Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

OFFICE OF THRIFT SUPERVISION

By: *F. Casteel*
Frederick R. Casteel
Midwest Regional Director

DFR
02/07/94