

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
)
RONALD T. NISHIMURA)
)
Former Officer of)
)
Unical Financial Services, Inc.,)
a Wholly-Owned Subsidiary of)
Union Federal Bank, F.S.B.,)
Brea, California.)
)

OTS Order No. SF-96-010

Dated: August 8, 1996

STIPULATION AND CONSENT TO ISSUANCE
OF AN ORDER OF PROHIBITION

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed Ronald T. Nishimura ("Nishimura"), former officer and institution-affiliated party of Unical Financial Services, Inc. ("Unical"), a wholly-owned subsidiary of Union Federal Bank, F.S.B., Brea, California ("Union Federal"), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against him pursuant to Section 8 of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818.¹

WHEREAS, Nishimura desires to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, but admitting the Jurisdiction of the

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

OTS as set forth in Paragraph 1 below, hereby stipulates and agrees to the following terms:

1. Jurisdiction. (a) Union Federal, at all times relevant hereto, 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, Union Federal was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) Unical Financial Services, Inc. ("Unical"), was at all relevant times a wholly-owned subsidiary of Union Federal.

(c) Nishimura, as a former officer of Unical, is deemed to be an "institution-affiliated party" as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), having served in such capacity within six (6) years of the date hereof (see 12 U.S.C. § 1818(i)(3)).

(d) Pursuant to Section 3(q) of the FDIA 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain an enforcement proceeding against institution-affiliated parties of savings associations. Therefore, Nishimura is subject to the authority of the OTS to initiate and maintain a prohibition proceeding against him pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

2. Findings. The OTS, based upon information derived from a formal investigation into Union Federal and its subsidiaries as

authorized by OTS Resolution SF-191-008, dated March 8, 1991, finds as follows:

(a) that from approximately March 1987 through December 1990, Nishimura violated OTS regulations, engaged in unsafe and unsound conduct, and breached duties owed to Union Federal while serving in a fiduciary capacity, in connection with transactions between Unical and/or Union Federal and a borrower/developer (or one of his affiliated entities) who served as a Unical joint venture partner during the period 1985-1990 relating to certain development projects in Key West, Florida, including but not limited to participating in consideration or and approval of a series of unsafe and unsound commercial loan transactions in Key West, Florida and authorizing and/or approving major loans, extensions of credit, forbearance agreements, loan modifications, loan guarantees, and/or releases of collateral that he knew or should have known had the effect of masking millions of dollars of losses or misrepresenting the financial condition of the borrower and the status of development projects for which the loans were made.

(b) By reason of Nishimura's violations, practices and breaches, Union Federal suffered substantial financial loss, and Nishimura's conduct demonstrated willful or continuing disregard for the safety and soundness of Union Federal.

3. Consent. Nishimura consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). Nishimura

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 by the OTS under the authority of Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Upon its issuance by the Regional Director for the West Region, or his designee, 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. Nishimura waives the following:

(a) the right to be served with a written notice of the OTS's charges against him as provided by Section 8(e) of the FDIA, 12 U.S.C. § 1818(e);

(b) the right to an administrative hearing of the OTS's charges against him as provided by Section 8(e) of the FDIA, 12 U.S.C. 1818(e);

(c) the right to seek judicial review of the Order, including, without limitation, 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; and

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses arising under the common law or under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

6. Indemnification. Nishimura represents that he has not received, directly or indirectly, any sums from Union Federal for

the purpose of indemnifying or reimbursing him for any expenses incurred by him in connection with the OTS investigation. Nishimura shall neither cause nor permit Union Federal (or any successor institution, holding company, subsidiary or service corporation thereof) to incur, directly or indirectly, any expense for any legal (or other professional expenses) incurred relative to the negotiation and issuance of the Order of Prohibition, nor obtain any indemnification (or other reimbursement) from the Institution (or any successor institution, holding company, subsidiary or service corporation thereof) with respect to such expenses. In the event that any such payments are received by or on behalf of Nishimura in connection with this action, Nishimura agrees to promptly notify the OTS of the receipt of such payments and to return such payments without delay to Union Federal (or the successor institution, holding company, subsidiary or service corporation thereof).

7. Other Government Actions Not Affected. Nishimura acknowledges and agrees that the consent to the entry of the Order is for the purpose of resolving this prohibition action only, and does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of Nishimura that arise pursuant to this action or otherwise and that may be or have been brought by any other government entity other than the OTS.

8. Representation As To Assets. It is understood that, as part of this settlement, the OTS has relied in part on Nishimura's representations concerning his current financial condition, as set forth in a written statement of financial condition dated July 9, 1996 (on OTS Form 1571, "Statement of Financial Condition"), which has been signed by Nishimura. In the event that any information included in the Statement of Financial Condition is found to be false or misleading with respect to any material fact (including but not limited to the failure to identify and/or value any material asset), the OTS reserves the right to take any action authorized by law, in the exercise of its discretion, including assessing civil money penalties under 12 U.S.C. 1818(i), or to void this Stipulation and the Order, or to take any other legal action.

9. Acknowledgment of Criminal Sanctions. Nishimura acknowledges that Section 8(j) of the FDIA, 12 U.S.C § 1818(j), sets forth criminal penalties for knowing violations of the Order.

10. Miscellaneous. The terms of this Stipulation and the accompanying Order represent that full and final written agreement of the parties with respect to the subject matter hereof and is the sole agreement between the parties concerning the matters addressed. The terms of the Stipulation and Order may not be modified except in writing as provided for in the Order or by separate written agreement of the parties.

WHEREFORE, Nishimura executes this Stipulation and Consent to Entry of an Order of Prohibition, intending to be legally bound hereby.

By:



RONALD T. NISHIMURA

Dated: 7/26/86

Accepted by:

OFFICE OF THRIFT SUPERVISION,



JOHN F. ROBINSON
Regional Director
West Region

Dated: August 8, 1986

By Charles A. Deardorff,
Deputy Regional Director,
acting as designee of
the Regional Director under
Order No. SF-93-044

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
RONALD T. NISHIMURA)
Former Officer of)
Unical Financial Services, Inc.,)
a Wholly-Owned Subsidiary of)
Union Federal Bank, F.S.B.,)
Brea, California.)

OTS Order No. SF-96-010

Dated: August 8, 1996

ORDER OF PROHIBITION

WHEREAS, Ronald T. Nishimura ("Nishimura") has executed a Stipulation and Consent to Issuance of an Order of Prohibition ("Stipulation"); and

WHEREAS, Nishimura by his execution of the Stipulation, has consented and agreed to the issuance of this Order of Prohibition ("Order") by the Office of Thrift Supervision ("OTS"), pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e).

NOW THEREFORE, IT IS ORDERED that:

1. In accordance with 12 U.S.C. § 1818(e)(6), Nishimura is prohibited from further participation, in any manner, in the conduct of the affairs of Union Federal Bank, F.S.B., Brea, California ("Union Federal"), and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. Due to and without limitation on the operation of 12

Nishimura
Order

U.S.C. §§ 1818(e)(6) and 1818(e)(7), Nishimura, except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other "appropriate Federal financial institutions regulatory agency", for purposes of 12 U.S.C. § 1818(e)(7)(B)(ii), shall not:

(A) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or agency specified in 12 U.S.C. § 1818(e)(7)(A) (the "Paragraph (7)(A) Institutions"), including, but not limited to:

- (i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, trust companies, and other banking institutions;
- (ii) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9), e.g., subsidiaries and holding companies of banks or savings associations;
- (iii) any insured credit union under the Federal Credit Union Act, 12 U.S.C. § 1781 et seq.;
- (iv) any institution chartered under the Farm Credit Act or 1971, 12 U.S.C. §§ 2001 et seq.;
- (v) any appropriate Federal financial institutions regulatory agency, within the meaning of 12 U.S.C. § 1818(e)(7)(D);
- (vi) the Federal Housing Finance Board and any Federal

Home Loan Bank.

(B) solicit, procure, transfer, attempt to transfer, vote or attempt to vote any proxy, consent or authorization with respect to any voting rights in any Paragraph (7) (A) Institution;

(C) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of 12 U.S.C. § 1813(q); or

(D) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

3. The Stipulation is made a part hereof and is incorporated herein by this reference.

4. This Order is subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. § 1818(j), and shall become effective on the date it is issued, as shown in the caption above.

5. Nishimura shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

6. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. This Order shall remain in effect until it is terminated, modified or suspended which may

occur only by formal action of the OTS, acting by and through its Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By:



JOHN F. ROBINSON
Regional Director
West Region

By Charles A. Deardorff,
Deputy Regional Director,
acting as designee of
the Regional Director under
Order No. SF-93-044