

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)	
)	
LOUIS N. SCHOLNIK)	
)	OTS ORDER NO. KC-95- <u>03</u>
Chairman of the Board and)	
Institution-Affiliated Party of)	DATED: <u>May 12, 1995</u>
COLORADO FEDERAL SAVINGS BANK)	
Sterling, Colorado)	

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 Louis N. Scholnik ("SCHOLNIK"), Chairman of the Board of Directors of Colorado Federal Savings Bank (the "Institution"), 122 West Main Street, Sterling, Colorado (OTS No. 08876), that OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against SCHOLNIK pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2)¹;

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue Orders of Assessment of Civil Money Penalties where the respondent has consented to the issuance of the Order;

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

WHEREAS, **SCHOLNIK** 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, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) Colorado Federal Savings Bank is 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, 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c).

(b) **SCHOLNIK** is the Chairman of the Board of Directors of the Institution and is 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).

(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)(2) of the FDIA, 12 U.S.C. § 1818(i)(2).

(e) **SCHOLNIK** is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2).

2. OTS Findings of Fact. The OTS finds that: The Institution failed to file its June 30, 1993 annual audit within the established regulatory timeframe, in violation of 12 C.F.R. § 563.170(a)(2) (1993). **SCHOLNIK**, in his capacity as Chairman of the Board of Directors, failed to ensure that the Institution subsequently complied with the subject regulation, as the Institution failed to file its June 30, 1994 annual audit within the required timeframe, again in violation of 12 C.F.R. Section 563.170(a)(2) (1994).

3. Consent. **SCHOLNIK** consents to the issuance by the OTS of the accompanying Order. **SCHOLNIK** 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)(2) of the FDIA, 12 U.S.C. § 1818(i)(2). Upon its issuance by the Regional Director or designee for the Midwest 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.

(a) SCHOLNIK waives his right to a Notice of Assessment of Civil Money Penalty provided by Section 8(i)(2) of the FDIA, 12 U.S.C. § 1818(i)(2), and the administrative hearing provided by Section 8(i)(2)(H) of the FDIA, 12 U.S.C. § 1818(i)(2)(H).

(b) SCHOLNIK further waives any 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.

(c) SCHOLNIK waives any claim for attorney's fees or expenses under the Equal Access to Justice Act, 5 U.S.C. § 504.

6. Indemnification. SCHOLNIK shall neither cause or permit the Institution (or any subsidiary thereof) to incur, directly or indirectly, any expense for the amount of the civil money penalties assessed under the CMP Order or any legal (or other professional expenses) incurred relative to the negotiation and issuance of the CMP Order, nor obtain any indemnification (or other reimbursement) from the Institution (or any subsidiary thereof) with respect to such amounts. Any payments received by

or on behalf of SCHOLNIK in connection with his action shall be returned to the Institution.

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, SCHOLNIK acknowledges and agrees explicitly to the following provisions:

(a) SCHOLNIK acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the resolution thereof, and SCHOLNIK's consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only. By signing this document, SCHOLNIK 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) This Stipulation, the Order and the payment by SCHOLNIK 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 SCHOLNIK that arise pursuant to this action or otherwise, and that may be or have been brought by the Resolution Trust Corporation or any other governmental entity other than the OTS.

(c) **SCHOLNIK'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, Louis N. Scholnik executes this Stipulation and Consent to Issuance of an Order of Assessment Civil Money Penalty, intending to be legally bound hereby.

By:



Louis N. Scholnik

Date:

4-27-95

Accepted by:

Office of Thrift Supervision



Frederick R. Casteel
Regional Director
Midwest Region

Date:

5-12-95

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Chairman of the Board and)
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COLORADO FEDERAL SAVINGS BANK)
Sterling, Colorado)

OTS ORDER NO. KC-95- 03

DATED: May 12, 1995

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, Louis N. Scholnik ("SCHOLNIK") has executed a Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty ("Stipulation"); and,

WHEREAS, SCHOLNIK, in the Stipulation, has consented to the issuance of this Order of Assessment of Civil Money Penalty pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2)¹;

NOW THEREFORE, IT IS ORDERED that within ten (10) days of the effective date of this Order, SCHOLNIK shall pay to the OTS the sum of One Thousand and Five Hundred Dollars (\$1,500.00) 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 order number, and a copy of the Order, to the following

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

address: Controller's Division, Office of Thrift Supervision,
1700 G Street, N.W., Washington, D.C. 20552. A copy of the cover
letter to the Controller's Division, and a photocopy of the check
shall be sent to Roger L. Bainbridge, Office of Thrift
Supervision, 8500 West 110th Street, Suite 400, Overland Park,
Kansas 66210.

OFFICE OF THRIFT SUPERVISION

By: *FR Casteel*
Frederick R. Casteel
Regional Director
Midwest Region