

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

BRUCE L. RIPPER)
Former Executive Vice President of)
Fidelity Federal Bank, a)
Federal Savings Bank,)
Los Angeles, California)
and)
President and Owner of the)
Thomas Bearden Company,)
Houston, Texas, a Consultant with)
Fidelity Federal Bank, a)
Federal Savings Bank,)
Los Angeles, California)
_____)

Order No. SF-98-007

Date: October 15, 1998

**STIPULATION AND CONSENT TO THE ISSUANCE OF
AN ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF;
AND AN ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, the Office of Thrift Supervision ("OTS"), based upon information derived from the exercise of its regulatory responsibilities, has informed BRUCE L. RIPPER ("RIPPER"), the former Executive Vice President of Fidelity Federal Bank, a Federal Savings Bank, Los Angeles, California ("Fidelity") and President and Owner of the Thomas Bearden Company, a consultant to Fidelity, that grounds exist to initiate an administrative cease and desist and civil money penalty assessment proceedings against him, pursuant to 12 U.S.C. § 1818(b) and (i); and



WHEREAS, RIPPER desires to cooperate with the OTS to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of the OTS, except as to Jurisdiction, paragraph I, below, which is admitted, hereby stipulates and agrees to the following:

I. Jurisdiction.

A. At all pertinent times, Fidelity was a federally chartered savings and loan association within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, it is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c);

B. RIPPER was an officer of Fidelity from and after November 1, 1992, and a consultant for Fidelity from August 1, 1992 through October 31, 1992, by and through the Thomas Bearden Company, wholly owned by RIPPER. Therefore, RIPPER was an "institution-affiliated party" of Fidelity as that term is defined by 12 U.S.C. § 1813(u), having served in such capacity within six years of the date hereof (*see* 12 U.S.C. § 1818(i)(3)); and

C. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal Banking Agency" to maintain administrative proceedings for orders to cease and desist and for assessment of civil money penalties against such a savings association or its institution-affiliated parties. The Director of the OTS has delegated to the Regional Director of the West Region of the OTS or his/her designee ("Regional Director") the authority to issue orders to cease and desist and for assessment of civil money penalties when the individual has consented to the issuance of the Order. Therefore, RIPPER is subject to the jurisdiction of the OTS to initiate and maintain administrative enforcement proceedings against him pursuant to 12 U.S.C. § 1818(b) and (i).

II. OTS Findings of Fact. The OTS finds that:

A. While serving as a consultant to Fidelity, by and through the Thomas Bearden Company, and after he had accepted a position as Fidelity's Executive Vice President, Real Estate & Appraisal, RIPPER caused the Thomas Bearden Company to inflate certain subcontractors' bills to Fidelity. The Thomas Bearden Company submitted these inflated bills to Fidelity for payment both before and after RIPPER became an officer and employee of Fidelity. Fidelity paid these inflated bills as submitted by the Thomas Bearden Company. Pursuant to prior instructions from RIPPER and his company, the subcontractors rebated or kicked back these monies to the Thomas Bearden Company and RIPPER. The net result was an overpayment by Fidelity to The Thomas Bearden Company of \$5,931.

B. After his termination by Fidelity, RIPPER instructed one of the subcontractors to submit another invoice to the Thomas Bearden Company and Fidelity, to inflate the bill by \$7,500, and to remit those monies to the Thomas Bearden Company and RIPPER. The subcontractor refused to comply.

III. Consent. RIPPER consents to the issuance by the OTS of the accompanying Order to Cease and Desist for Affirmative Relief and for Assessment of Civil Money Penalties ("Order"). RIPPER further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

IV. Finality. The Order is issued under 12 U.S.C. § 1818(b) and (i). Upon its issuance by the OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).



V. Waivers. RIPPER waives the following:

- A. the right to be served with a written notice of the OTS's charges against him as provided by 12 U.S.C. § 1818(b);
- B. the right to be served with a written notice of assessment as provided by 12 U.S.C. § 1818(i);
- C. the right to an administrative hearing of the OTS's charges against him as provided by 12 U.S.C. § 1818(b) and (i);
- D. the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;
- E. 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 related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412;
- F. the right to assert this proceeding, his consent to issuance of the Order, the issuance of the Order, the payment of any monies, or the provision of any other financial relief as contemplated by the Order 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; and
- G. RIPPER acknowledges and agrees that pursuant to 11 U.S.C. § 523(a)(11), his restitution obligation under the Order is not a dischargeable debt, and he waives any right to seek discharge of such obligation in any bankruptcy proceeding.



VI. Other Governmental Actions Not Affected. RIPPER acknowledges and agrees that the consent to issuance of the Order is for the purpose of resolving this OTS enforcement matter only, as set forth in Section II above, and does not release, compromise, settle, dismiss, resolve, preclude, or in any way affect any actions, charges against, or liability of RIPPER that arises pursuant to this action or otherwise and that may or has been brought against him by the OTS or any other governmental agency.

VII. Miscellaneous.

- A. The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.
- B. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.
- C. The section and paragraph headings in this Stipulation and in the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation and Order.
- D. This Stipulation and the Order represent the final written agreement of the parties with respect to the subject matters hereof and constitute the sole agreement of the parties with respect to such subject matters, and
- E. This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.



WHEREFORE, BRUCE RIPPER executes this Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and an Order of Assessment of Civil Money Penalties, intending to be legally bound thereby.

By:


Bruce L. Ripper

Oct 14 1998
Date

Accepted by:


Charles A. Deardorff
Regional Director
West Region
Office of Thrift Supervision

Oct 15 1998
Date

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UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION
DEPARTMENT OF THE TREASURY

In the Matter of)
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BRUCE L. RIPPER)
Former Executive Vice President of)
Fidelity Federal Bank, a)
Federal Savings Bank,)
Los Angeles, California)
and)
President and Owner of)
the Thomas Bearden Company,)
Houston, Texas, a Consultant with)
Fidelity Federal Bank, a)
Federal Savings Bank,)
Los Angeles, California)
_____)

Re: Order No. SF-98-007

Date: October 15, 1998

**CONSENT ORDER TO CEASE AND DESIST
FOR AFFIRMATIVE RELIEF AND
FOR ORDER OF ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, BRUCE L. RIPPER ("RIPPER"), an Institution-Affiliated Party of Fidelity Federal Bank, a Federal Savings Bank, Los Angeles, California, ("Fidelity"), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief and an Order of Assessment of Civil Money Penalties ("Stipulation"); and

WHEREAS, RIPPER, by his execution of the Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist for Affirmative Relief and for Order of

Cease and Desist Order: B. Ripper



Assessment of Civil Money Penalties ("Order"), pursuant to 12 U.S.C. § 1818(b) and (i)¹; and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue Orders to Cease and Desist and for Assessment of Civil Money Penalties on behalf of the OTS where respondents have consented to the issuance of the Order;

NOW, THEREFORE, IT IS ORDERED that:

1. Federal Banking Law and Regulation. RIPPER shall cease and desist from participating in any violation, or aiding and abetting any violation, of any Federal banking law or regulation, including but not limited to 12 C.F.R. § 563.200 (Conflicts of Interest)(1997).

2. Conflicts of Interest. At any and all times in which RIPPER serves as an officer, director, employee, agent, or consultant of a Banking Institution (as defined at paragraph 8), or otherwise owes a fiduciary duty to a Banking Institution, and is uncertain regarding his compliance with 12 C.F.R. § 563.200, he shall:

- a. obtain, at his own expense, the written advice of Independent Counsel (as defined at paragraph 8) regarding his duties and responsibilities with respect to the matter. RIPPER shall abide by the written advice of Independent Counsel in such matter(s);
- b. provide the board of directors of the Banking Institution with a copy of the written advice he has obtained from counsel promptly after receipt and in no case later than five days following receipt of said written advice;

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise stated.

Cease and Desist Order: B. Ripper

- c. obtain and read all of the Banking Institution's policies and procedures concerning conflicts of interest, ethics, and usurpation of corporation opportunity; and
- d. provide the Banking Institution with his written acknowledgment that he has read and will comply with those policies and procedures.

3. Expense Reports and Billing Statements. RIPPER shall cease and desist from participating, directly or indirectly, in the submission of any false, misleading, or inflated billing statements or requests for payment of funds from a Banking Institution.

4. Unsafe and Unsound Practices and Fiduciary Duty. RIPPER shall cease and desist from committing, or aiding and abetting the commitment of, any unsafe or unsound practice, breach of fiduciary duty, or condition imposed in writing by a Federal regulatory bank agency in connection with the conduct of the business of any federally insured Banking Institution.

5. Restitution. RIPPER shall pay or cause to be paid restitution in the amount of \$5,931 to Fidelity in accordance with the following schedule:

- a. \$1,000 (One Thousand Dollars) payable on or before October 15, 1998;
- b. \$3,000 (Three Thousand Dollars) payable on or before April 15, 1999; and
- c. \$1,931 (One Thousand Nine Hundred and Thirty-one Dollars) payable on or before October 15, 1999.

Each of the above Restitution payments shall be forwarded to Fidelity in care of General Counsel, Fidelity Federal Bank, 4565 Colorado Blvd., Los Angeles, CA 90039. Ripper shall

Cease and Desist Order: B. Ripper

forward a copy, by U. S. Mail or Facsimile, of his check in payment of each of the above installments of restitution to the Office of Thrift Supervision, c/o Suzanne Elkins, Special Counsel OTS-West, 1551 No. Tustin Avenue, Suite 1050, Santa Ana, CA 92705-8635, facsimile no. (714) 796-4710.

The entire unpaid balance of the restitution obligation imposed by this paragraph shall become immediately due and payable in the event that Ripper fails to make a required payment within 10 (ten) days of the due dates specified here.

6. Assessment of Civil Money Penalties. RIPPER shall pay \$4,000 in Civil Money Penalties to the Office of Thrift Supervision in accordance with the following schedule:

- a. \$1,000 (One Thousand Dollars) payable on or before October 15, 1998;
- b. \$2,000 (Two Thousand Dollars) payable on or before April 15, 1999; and
- c. \$1,000 (One Thousand Dollars) payable on or before October 15, 1999.

Each of the above Penalty payments shall be made by tendering a certified check or bank draft made payable to the order of the Treasurer of the United States. The check or bank draft and a copy of this Order shall be delivered, together with a cover letter stating the name of the association and the resolution number, to the following address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552. Ripper shall forward a copy of his check and cover letter for each installment, by U.S. Mail or facsimile, to Suzanne Elkins, Special Counsel OTS-West, 1551 No. Tustin Avenue, Suite 1050, Santa Ana, CA 92705-8635, facsimile no. (714) 796-4710.

Cease and Desist Order: B. Ripper

The entire unpaid balance of the civil money penalty obligation imposed by this paragraph shall become immediately due and payable in the event that Ripper fails to make a required payment within 10 (ten) days of the due dates specified here.

7. Responses to Requests. RIPPER shall promptly and appropriately respond, without the need for a subpoena, to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

8. Definitions. For purposes of this Order:

- (a) "Affiliate," as used in this Order, shall have the meaning set forth at 12 C.F.R. § 574.2(d);
- (b) "Appropriate Federal Banking Agency," as used in this Order, shall have the meaning set forth at 12 U.S.C. § 1813(q);
- (c) "Banking Institution" refers to any and all of the following: any "insured depository institution" as that term is defined at 12 U.S.C. § 1813(c) (including but not limited to banks and savings associations); any direct or indirect subsidiary of an insured depository institution, whether wholly or partly owned; any "insured credit union" within the meaning of 12 U.S.C. § 1752(7); any "savings and loan holding company" within the meaning of 12 U.S.C. § 1467a(a)(1); any "bank holding company" within the meaning of 12 U.S.C. § 1841; and any direct or indirect subsidiary of any such holding companies, whether wholly or partly owned;
- (d) "Conflict of Interest," as used in this Order, shall have the meaning set forth

Cease and Desist Order: B. Ripper

at 12 C.F.R. § 563.200 (1997);

- (e) "Employee, or service in a similar capacity," as used in paragraphs 5 and 6 of this Order shall not require Ripper to provide notice when his services to an insured Banking Institution are limited to providing real estate appraisal services as an independent contractor.
- (e) "Institution-Affiliated Party," as used in this Order, shall have the meaning set forth at 12 U.S.C. § 1813(u);
- (f) Any terms used herein that are defined in other paragraphs of this Order (including the Stipulation incorporated herein) shall have the meanings ascribed to them in such paragraphs; and
- (g) Except as otherwise expressly provided in this Order, any terms used herein that are defined in the Home Owners' Loan Act or the Federal Deposit Insurance Act shall have the meanings ascribed to them in said statutes. See, e.g., 12 U.S.C. § 1813.

9. Notice. Any notice to the OTS required under this Order shall be provided to the following address:

Regional Director, West Region
Office of Thrift Supervision
One Montgomery Street, Suite 400
San Francisco, CA 94104

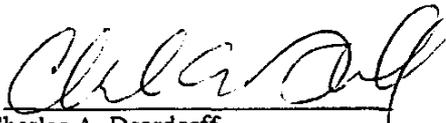
Telephone No.: (415) 616-1500
Facsimile No.: (415) 616-1752 or 1753

Cease and Desist Order: B. Ripper

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

11. Effectiveness of Order. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The Stipulation and Order shall remain in effect until terminated, modified, or suspended, in writing by the OTS, acting by and through its Director, Regional Director, or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: 
Charles A. Deardorff
Regional Director
West Region

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Cease and Desist Order: B. Ripper

