

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:)
DONNA K. ORT)
Former Employee and)
Institution-Affiliated Party)
of:)
PERMANENT FEDERAL SAVINGS BANK)
EVANSVILLE, INDIANA (#00214))

OTS Order No. CHI-96-09

Dated: September 23, 1996

STIPULATION AND CONSENT TO ENTRY
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 Donna K. Ort ("ORT"), former employee and institution-affiliated party of Permanent Federal Savings Bank, Evansville, Indiana ("the Association"), that the OTS is of the opinion that grounds exist to initiate an administrative prohibition proceeding against ORT pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C § 1818(e)¹; and

WHEREAS, ORT desires to cooperate with the OTS to avoid the time and expense of such administrative litigation

1. All references in this Stipulation and Consent and the Order of Prohibition to the U.S.C. are as amended.

and, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) The Association 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) ORT, as a former employee of the Association 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)).

(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" to maintain an enforcement proceeding against such a savings association and/or its institution-affiliated parties. The Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue an order of prohibition where the respondent has consented to the issuance of the order. Therefore, ORT is subject to the authority of the OTS to initiate and maintain a prohibition proceeding against her pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

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

(a) From June 20, 1989 and continuing on until December 28, 1994, ORT, an employee of the Association, acting without authority, did knowingly and with intent to injure and defraud the

Association, embezzle monies, funds, assets or securities in excess of \$100.00 entrusted to the care or custody of the Association for her own personal use, in violation of 18 U.S.C. § 656.

Furthermore, as a result of her actions, ORT: (1) engaged in a violation of law and/or breached her fiduciary duty of honesty to the Association; (2) the Association suffered a financial loss and/or ORT received a financial gain; and (3) the violation of law and/or breach of fiduciary duty demonstrated willful and/or continuing disregard by ORT for the safety and soundness of the Association.

(b) On or about August 28, 1996, ORT pled guilty to one count of embezzlement, in violation of 18 U.S.C. § 656. Prior to entering a plea of guilty, ORT made restitution directly to the Association in the amount of \$68,506.41.

3. Consent. ORT consents to the issuance by the OTS of the accompanying Order of Prohibition ("Order"). She 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 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. ORT waives the following:

(a) the right to be served with a written notice of the OTS's

charges against her (referred to as a Notice of Intention to Prohibit) (see Section 8(e) of the FDIA);

(b) the right to an administrative hearing of the OTS's charges against her (see Section 8(e) of the FDIA); and

(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 for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law or under the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

6. Indemnification. ORT shall neither cause nor permit the Association (or any subsidiary 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 Association (or any subsidiary thereof) with respect to such amounts. Any such payments received by or on behalf of ORT in connection with this action shall be returned to the Association.

7. Other Government Actions Not Affected. ORT acknowledges and agrees that the consent to the entry of the Order are for the purposes 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 ORT 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.

By signing this Stipulation and Consent to Entry of an Order of Prohibition, ORT agrees that she will not assert this proceeding, her consent to the entry of the Order, and/or the entry of the Order, as a basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other Federal or State governmental entity.

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

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

By:

Donna K. Ort
DONNA K. ORT

Accepted By:
Office of Thrift Supervision

Ronald N. Karr
RONALD N. KARR
REGIONAL DIRECTOR
CENTRAL REGIONAL OFFICE

Dated: April 18 1976

Dated: 9-23-96

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of:
DONNA K. ORT
Former Employee and
Institution-Affiliated Party
of:
PERMANENT FEDERAL SAVINGS BANK
EVANSVILLE, INDIANA (#00214)

OTS Order No. CHI-96-09

Dated: September 23, 1996

ORDER OF PROHIBITION

WHEREAS, Donna K. Ort ("ORT") has executed a Stipulation and Consent to Entry of an Order of Prohibition ("Stipulation") on April 18, 1996 ; and

WHEREAS, ORT, by her 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); and

WHEREAS, the Director of the OTS has delegated to the Regional Director of the OTS the authority to issue Orders on behalf of the OTS where there has been consent of the Respondent.

NOW THEREFORE, IT IS ORDERED that:

1. Due to the operation of Section 8(e)(6) of the FDIA, 12 U.S.C. § 1818(e)(6), ORT shall not:

(a) participate in any manner in the conduct of the affairs of the institutions and agencies set forth in paragraph 2 of this Order;

(b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights with respect to the institutions and agencies set forth in paragraph 2 of this Order;

(c) violate any voting agreement previously approved by the "appropriate Federal banking agency" as defined in Section 3(q) of the FDIA, 12 U.S.C. § 1813(q); or

(d) vote for a director, or serve or act as an "institution-affiliated party", as defined in section 3(u) of the FDIA, 12 U.S.C. § 1813(u).

2. Due to the operation of Section 8(e)(7) of the FDIA, 12 U.S.C. § 1818(e)(7), ORT shall not continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of:

(a) any insured depository institution, as defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c);

(b) any institution treated as an insured bank under Sections 8(b)(3) or (b)(4) of the FDIA, 12 U.S.C. § 1818(b)(3) or (b)(4);

(c) any institution treated as a savings association under Section 8(b)(9) of the FDIA, 12 U.S.C. § 1818(b)(9), including:

- (i) any savings and loan holding company,
- (ii) any subsidiary of a savings and loan holding company,
- (iii) any service corporation of a savings association, or,
- (iv) any subsidiary of a service corporation, whether wholly or partly owned;

(d) any insured credit union under the Federal Credit Union Act (12 U.S.C. § 1751 et seq.);

(e) any institution chartered under the Farm Credit Act of 1971 (12 U.S.C. § 2001 et. seq.);

(f) any appropriate Federal depository institution regulatory agency; or

(g) the Federal Housing Finance Board and any Federal Home Loan Bank.

3. Pursuant to Section 8(e)(7)(B) of the FDIA, 12 U.S.C. § 1818(e)(7)(B), the prohibitions of paragraphs 1 and 2 of this Order shall cease to apply with respect to a particular institution if ORT obtains the prior written consent of the OTS; the institution's "appropriate Federal financial institutions regulatory agency," as defined in Section 8(e)(7)(D) of the FDIA, 12 U.S.C. § 1818(e)(7)(D); and the FDIC pursuant to Section 19 of the FDIA, 12 U.S.C. § 1829.

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

5. Notice is hereby provided that a violation of this Order could subject ORT to the penalties specified in Section 8(j) of the FDIA, 12 U.S.C. § 1818(j).

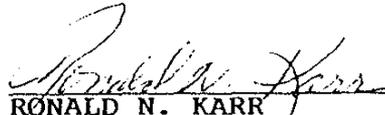
6. ORT shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

7. The OTS does not intend to, and nothing in the Order shall be interpreted to limit, in any manner, the full scope of the prohibition prescribed by Section 8(e) of the FDIA, 12 U.S.C. § 1818(e).

8. This Order shall become effective on the date it is issued, as shown in the caption above.

THE OFFICE OF THRIFT SUPERVISION

By:



RONALD N. KARR
REGIONAL DIRECTOR
CENTRAL REGIONAL OFFICE