

UNITED STATES OF AMERICA  
Before the  
OFFICE OF THRIFT SUPERVISION

In the Matter of: )  
 )  
RICHARD D. CARLSON )  
 )  
Former Shareholder and )  
Institution-Affiliated Party of )  
PROVIDENT BANCSHARES, INC. )  
St. Joseph, Missouri )  
- and - )  
Institution-Affiliated )  
Party of )  
PROVIDENT SAVINGS BANK, a FSB )  
St. Joseph, Missouri )

RE: OTS ORDER NO. KC-95-07

DATED: June 8, 1995

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

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Midwest Region ("Regional Director"), and Richard D. Carlson ("Carlson"), a former shareholder of Provident Bancshares, Inc. (PBI), a unitary, non-diversified holding company, and an institution affiliated party of PBI and of its wholly-owned subsidiary, Provident Savings Bank, a FSB, 4305 Frederick Boulevard, St. Joseph, Missouri, hereby stipulate and agree as follows:

The OTS, based upon evidence derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate administrative proceedings against Carlson pursuant to



Sections 7(j)(16) and 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1817(j)(16) and § 1818(e).<sup>1</sup> Carlson desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation. Without admitting or denying that such grounds exist, except those contained in Paragraph 1 below, which are admitted, Carlson hereby stipulates and agrees to the terms of this Stipulation and Consent to Issuance of an Order of Prohibition and an Order of Assessment of Civil Money Penalty ("Stipulation") and to the issuance of the attached Order of Prohibition and Order of Assessment of Civil Money Penalty ("Orders").

The OTS, based on available evidence, has determined that it is appropriate and in the best interest of the public to execute this Stipulation and the attached Orders.

This Stipulation and the Orders do not compromise, settle, dismiss, resolve, or in any way affect any civil actions, charges against, or liability of Carlson that may be or have been brought by any governmental entity other than the OTS.

1. Jurisdiction.

(a) PBI is a "savings and loan holding company" within the meaning of section 10 of the Home Owner's Loan Act ("HOLA"), 12 U.S.C § 1467a(a)(1)(D).

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<sup>1</sup>All references to U.S.C. are as amended.

(b) The Institution 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 HOLA, 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).

(c) At all times relevant hereto, Carlson was a shareholder and "institution-affiliated party" of PBI and 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 been so within six (6) years prior to the date of this Stipulation.

(d) 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 PBI, the Institution, and institution-affiliated parties, including persons participating in the conduct of the affairs of PBI and the Institution.

(e) 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 PBI and the Institution and institution-affiliated parties pursuant to Section 7(j)(16) of the FDIA, 12 U.S.C. & 1817(j)(16); and to bring an action for prohibition against such persons pursuant to Section 8(e) of the FOIA, 12 U.S.C. § 1818(e).

(f) Carlson is subject to the authority of OTS to initiate and maintain administrative proceedings against him, pursuant to Section 7(j) and 8(e) of the FDIA, 12 U.S.C. § 1817(j)(16) and § 1818(e).

2. Consent. Carlson consents to the issuance by the OTS of the Orders, copies of which are attached hereto. Carlson further agrees to comply with the terms of the Orders upon issuance and stipulates that the Orders comply with all the requirements of law.

3. Finality. The Orders are issued under Sections 7(j)16 and 8(e) of the FDIA, 12 U.S.C. § 1817(j)(16) and § 1818(e). Upon issuance, they shall be final orders, effective and fully enforceable by the OTS or its successor under the provisions of Section 8(i) of the FDIA, 12 U.S.C. § 1818(i), and subject to the provisions of Section 8(j) of the FDIA, 12 U.S.C. § 1818(j).

4. Waivers.

(a) Carlson waives his right to a Notice of Assessment of Civil Money Penalty and right to an administrative hearing, as provided by Section 7(j)(16) of the FOIA, 12 U.S.C. § 1817(j)(16). He also waives his right to a Notice of Charges and right to an administrative hearing as provided by Section 8(e), 12 U.S.C. § 1818(e) of the FDIA.

(b) Carlson further waives any right to seek judicial review of the Orders, 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 Orders.

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

5. Indemnification. Carlson shall neither cause nor permit PBI, the Institution or any subsidiary or PBI or the Institution, to incur, directly or indirectly, any expense for the amount of the civil money penalty assessed under the Order of Assessment of Civil Money Penalty, or any legal or other professional expenses incurred relative to the negotiation and issuance of the Orders, nor obtain any indemnification or other reimbursement from PBI, the Institution, or any subsidiary or parent corporation thereof, with respect to such amounts. Any such payments already received by or on behalf of Carlson in connection with his actions shall be returned to PBI, the Institution, or any subsidiary or either that may have made such payments, in the amounts paid by each entity.

6. Other Actions, Proceedings and Parties. This Stipulation and the accompanying Orders are issued solely to settle this proceeding. By entering into this Stipulation, Carlson acknowledges and agrees that:

RICHARD C. CARLSON  
STIPULATION AND CONSENT

(a) The assessment or payment of the penalty contemplated as part of the resolution thereof, and Carlson's consent to the entry of the Orders, are for the purposes of resolving this enforcement matter only.

(b) Carlson will not assert the assessment or payment of the 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.

(c) Carlson's obligation to pay a civil money penalty shall not be dischargeable in bankruptcy under any circumstances.

WHEREFORE, Carlson executes this Stipulation, intending to be legally bound hereby.

By:

  
RICHARD D. CARLSON

Date: 5-31-95

Accepted by:

  
FREDERICK R. CASTEEL  
Midwest Regional Director  
Office of Thrift Supervision

Date: 6-8-95



UNITED STATES OF AMERICA  
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In the Matter of:  
  
RICHARD D. CARLSON  
  
Former Shareholder and  
Institution-Affiliated Party of  
PROVIDENT BANCSHARES, INC.  
St. Joseph, Missouri  
- and -  
Institution-Affiliated  
Party of  
PROVIDENT SAVINGS BANK, a FSB  
St. Joseph, Missouri

RE: OTS ORDER NO. KC-95-07

DATED: June 8, 1995

ORDER OF PROHIBITION AND ORDER OF  
ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, the Office of Thrift Supervision ("OTS") has conducted an investigation pursuant to OTS Resolution NO. DM 93-1, dated March 30, 1991, concerning Provident Bancshares, Inc. (PBI), a unitary, non-diversified holding company, and Provident Savings Bank, a FSB, St. Joseph, Missouri ("Provident"), its wholly-owned subsidiary and, as a result of that investigation, has concluded that:

1. OTS Findings of Fact.

Richard D. Carlson, Leroy A. Seele and Scott M. Pugh willfully acted in concert to acquire control of PBI, in violation of the Change in Bank Control Act (the "Control Act"), 12 U.S.C. §

1817(j), the OTS's Acquisition of Control of Savings Association regulations (the "Control Regulations"), 12 C.F.R. Part 574, and the terms and conditions of the January 29, 1992, OTS approval relating to the voluntary supervisory conversion of the Institution, resulting in pecuniary gain or other benefit to themselves.

(a) Richard D. Carlson, Leroy A. Seele and Scott M. Pugh Have Engaged in Concerted Activity

On January 29, 1992 OTS approved the voluntary supervisory conversion of Provident to a federally chartered stock savings bank in conjunction with the approval of the holding company application of PBI. The conversion had been undertaken as a means of recapitalizing the Institution, which had been reporting insolvency and was operating under a consent agreement. In addition to various standard conditions of approval, OTS also imposed specific limitations on certain shareholders. Specifically, Richard D. Carlson was not to serve as an officer or director or hold a controlling interest in Provident or PBI. Accordingly, Richard D. Carlson's proposed ownership interest in PBI was reduced from 14 percent to 2.34 percent and the interests in PBI of two other shareholders, Leroy Seele and his son-in-law, Scott Pugh, were increased by a corresponding amount.

(i) Financial Interdependence

On or about March 30, 1992, Richard D. Carlson provided credit to Leroy A. Seele and Scott M. Pugh by engaging in sham real estate purchases with them, which credit enabled Leroy A. Seele and Scott M. Pugh to purchase additional stock in PBI. The nature and underlying terms of such transactions were not fully disclosed to the OTS.

The two real estate purchases by Richard D. Carlson are deemed to constitute a partial financing of the purchase of 95 shares of PBI stock by Leroy A. Seele and Scott M. Pugh and create a presumption of concerted action among Richard D. Carlson, Leroy A. Seele and Scott M. Pugh pursuant to 12 C.F.R. § 574.4(d)(3)(ii) of the Control Regulations.

(ii) Family Relationships

Pursuant to 12 C.F.R. § 574.4(d)(2) of the Control Regulations, Richard D. Carlson, his brother, Carl L. Carlson, Leroy A. Seele, Scott M. Pugh and any person with whom their stock is held jointly are each presumed to be acting in concert with members of his or her immediate family, as defined at 12 C.F.R. § 574.2(j) of the Control Regulations.

(iii) Other Evidence of Concerted Activities

Richard D. Carlson, Leroy A. Seele and Scott M. Pugh engaged in concerted action during an annual Shareholder Meeting in October 1992, by acting together with each other and with other members of their immediate families to amend the Articles of Incorporation and gain a majority of the seats on the Board of Directors and control of PBI. Following the annual meeting, these individuals and members of their immediate families also maintained a pattern of voting together as a bloc on all substantive matters.

(b) Such Concerted Actions Have Resulted in the Acquisition of Control of PBI

These family relationships and presumptions of concerted action resulted in the aggregation of stock held individually or jointly by Richard D. Carlson, Carl L. Carlson, Leroy A. Seele and Scott M. Pugh. The aggregated shares owned by such parties totalled 50.4% of the total outstanding voting stock of PBI. As a result, Richard D. Carlson, Leroy A. Seele, Scott M. Pugh are deemed to have acquired control of Provident Bancshares, Inc., pursuant to 12 C.F.R. § 574.4(a)(2)(i) of the Control Regulations, as they collectively hold with their immediate families in excess of 25% of the outstanding voting stock of PBI.

WHEREAS, the OTS has concluded that the requirements of Section 7(j)(16) and 8(e) of the Federal Deposit Insurance Act, 12 U.S.C. § 1817(j)(16) and § 1818(e), having been fulfilled, an Order of Assessment of Civil Money Penalty and an Order of Prohibition may issue against Richard D. Carlson;

WHEREAS, Richard D. Carlson has executed a Stipulation and Consent to Issuance of an Order of Prohibition and Order for Assessment of Civil Money Penalty ("Stipulation"), which is incorporated herein by reference and is accepted and approved by the OTS, acting by and through its Midwest Regional Director; and

WHEREAS, without admitting or denying the statements, conclusions and opinion of the OTS contained herein, Richard D. Carlson has consented and agreed in the Stipulation to the issuance of this Order of Prohibition and Order of Assessment of Civil Money Penalty; and

WHEREAS, the Director of the OTS has delegated to the Regional Directors of the OTS the authority to issue Orders of Prohibition and Orders Assessing Civil Money Penalties where the respondent has consented to the issuance of the orders;

NOW, THEREFORE, THE OTS ORDERS AS FOLLOWS:

ORDER OF PROHIBITION

1. Richard D. Carlson is prohibited from further participation, in any manner, in the conduct of the affairs of PBI, Provident or any of Provident's subsidiaries.

2. Without the prior written approval of the OTS or its successor and, if appropriate, another Federal financial institutions regulatory agency, Richard D. Carlson may not hold any office in, or participate in any manner in the conduct of the affairs of any institutions(s) or other entity as set forth in Section 8(e)(7)(A) of the Federal Deposit Insurance Act, as amended ("FDIA"), 12 U.S.C. § 1818(e)(7)(A) (Supp. V 1993). Pursuant to Section 8(e)(6) of the FDIA, as amended, 12 U.S.C. § 1818(e)(6) (Supp. V 1993), conduct prohibited by this Order includes, inter alia, (a) soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent or authorization with respect to any voting rights in any institution described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A) (Supp. V 1992); and (b) voting for a director, or serving or acting as an institution-affiliated party.

**ORDER OF ASSESSMENT OF  
CIVIL MONEY PENALTY**

3. Within ten (10) days of the date of this Order, Richard D. Carlson shall pay a civil money penalty in the amount of \$50,000. The amount shall be paid by tendering a certified or cashier's check, payable to the Treasurer of the United States, and sending the check, together with a cover letter stating the name of the savings association, the resolution number and a copy of this Order, to the following address:

Controller's Division  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, D.C. 20552

A copy of the cover letter and a copy of the check shall also be sent to Stephen E. Hart, Office of Thrift Supervision, 1700 G Street, N.W., Fifth Floor, Washington, D.C. 20552.

**GENERAL PROVISIONS**

4. All words or terms used in these orders, for which meanings are not specified or otherwise provided for by the provisions of these Orders, shall have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act and the FDIA, as amended.

5. These Orders shall become effective on the date of issuance by the Midwest Regional Director of the OTS, and shall remain in effect until modified by agreement between the OTS or its successor and Richard D. Carlson, or terminated by the OTS or its successor.

**OFFICE OF THRIFT SUPERVISION**

By: *F. Casteel*  
Frederick R. Casteel  
Midwest Regional Director  
Office of Thrift Supervision

Date: 6-8 95