

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

\_\_\_\_\_  
In the Matter of )  
Ben Fernandez, )  
a Former Director of )  
Amador Valley Savings )  
and Loan Association, )  
Pleasanton, California )  
\_\_\_\_\_ )

Re: Order No. SF-94-031

Dated: June 28, 1994

ORDER OF ASSESSMENT OF CIVIL MONEY PENALTY

WHEREAS, Ben Fernandez ("FERNANDEZ") has executed a Stipulation and Consent to Issuance of an Order of Assessment ("Stipulation"), the terms of which are incorporated by reference herein; and

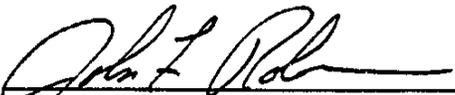
WHEREAS, FERNANDEZ, in the Stipulation, has consented to the issuance of this Order ("Order") of Civil Money Penalty pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2).

NOW, THEREFORE, IT IS ORDERED that FERNANDEZ shall pay to the OTS the sum of \$12,000, on the following schedule set forth as an accomodation to FERNANDEZ:

By: June 30, 1994	\$ 5,000
July 10, 1994	1,000
August 10, 1994	1,000
September 10, 1994	1,000
October 10, 1994	1,000
November 10, 1994	1,000
December 10, 1994	1,000
January 10, 1995	<u>1,000</u>
 Total	 <u>\$12,000</u>

The payments are to be made by tendering a certified check in each instance. The certified check must be made payable to the Treasurer of the United States. Each 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 address: Controller's Division, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C., 20552. Each copy of the cover letter to the Controller's Division, and a photocopy of each check shall be sent to Meenu Kapai, Pacific Telesis Tower, One Montgomery Street, Suite 400, San Francisco, California, 94014.

OFFICE OF THRIFT SUPERVISION

By:   
 John F. Robinson  
 Regional Director  
 West Region

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Re: Order No. SF-94-031

Dated: June 28, 1994

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 Ben Fernandez ("FERNANDEZ"), a former director of Amador Valley Savings and Loan Association, Pleasanton, California, that the OTS is of the opinion that grounds exist to initiate an administrative civil money penalty assessment proceeding against FERNANDEZ pursuant to Section 8(i)(2) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(i)(2); and

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

WHEREAS, FERNANDEZ desires to cooperate with the OTS 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) Amador Valley Savings and Loan Association ("AMADOR") 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, 12 U.S.C. § 1462(4). Accordingly, it was an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. § 1813(c). AMADOR was taken over by the Resolution Trust Corporation ("RTC") in a liquidating receivership on or about September 10, 1993.

(b) FERNANDEZ was a director 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 a civil money penalty against persons participating in the conduct of the affairs of the Institution and institution-affiliated parties pursuant to 12 U.S.C. § 1818(i)(2).

(e) FERNANDEZ is subject to the authority of OTS to initiate and maintain administrative proceedings pursuant to 12 U.S.C. § 1818(i)(2).

2. OTS Findings of Fact.

The OTS finds that FERNANDEZ engaged in unsafe and unsound practices and failed to fulfill his duties and responsibilities as a director by:

(a) Approving a contract between AMADOR and Echelon Mortgage Acceptance Corporation ("EMAC") in August 1992 without any review, and where the contractual terms did not provide adequate safeguards of AMADOR's interests; and

(b) Failing to monitor AMADOR's correspondent receivable from EMAC over several months, despite clear indication in the monthly board reports that the receivable was rising steadily, until by November 1992, the outstanding correspondent receivable stood at over \$7,000,000 and threatened the viability and the liquidity of the association.

3. Consent.

FERNANDEZ consents to the issuance by the OTS of the accompanying Order of Assessment of Civil Money Penalty ("Order"). FERNANDEZ further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of the law.

4. Finality.

The Order is issued under 12 U.S.C. § 1818(i)(2). Upon its issuance by the Regional Director or designee for the West 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.

FERNANDEZ 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 further waives any right to seek judicial review of the Order, including, within limitation, any such right provided by Section 8(h) of the FDIC, 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;

6. Indemnification.

FERNANDEZ shall neither cause or permit AMADOR or any successor-in-interest 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 AMADOR, or any successor in interest thereof. Any payments received by or on behalf of FERNANDEZ in connection with this action shall be returned to AMADOR, or its successor in interest.

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, FERNANDEZ acknowledges and agrees explicitly to the following provisions:

(a) FERNANDEZ acknowledges and agrees that this proceeding, the assessment or payment of the penalty contemplated as part of the order thereof, and Respondent's consent to the entry of the Order are for the purposes of resolving this OTS enforcement matter only. By signing this document, FERNANDEZ 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 FERNANDEZ of any monies or providing any other financial relief as contemplated by the Order, does not discharge, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of FERNANDEZ that arise pursuant to this action or otherwise, and that may be or have been brought by the RTC or any other governmental entity other than the OTS; and

(c) Respondent'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, FERNANDEZ executes this Stipulation and Consent to Issuance of an Order of Assessment of Civil Money Penalty, intending to be legally bound hereby.

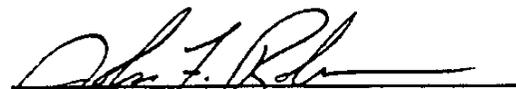
By:



Ben Fernandez

Accepted by:

OFFICE OF THRIFT SUPERVISION



John F. Robinson  
Regional Director  
West Region