

UNITED STATES OF AMERICA  
Before The  
OFFICE OF THRIFT SUPERVISION

In the Matter of	)	
	)	
FRANCESCA DEVIVO,	)	OTS Order No.: <u>SF-98-008</u>
	)	
A former Employee and	)	Date: <u>December 2, 1998</u>
Institution-Affiliated	)	
Party of	)	
	)	
Coast Federal Bank,	)	
Federal Savings Bank,	)	
Los Angeles, California.	)	
	)	

**STIPULATION AND CONSENT  
TO ISSUANCE 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 Francesca Devivo ("DEVIVO"), a former employee of Coast Federal Bank, Federal Savings Bank, Los Angeles, California ("Coast Federal"), that the OTS is of the opinion that the grounds exist to initiate prohibition proceedings against DEVIVO pursuant to 12 U.S.C. § 1818(e);<sup>1</sup> and

WHEREAS, DEVIVO 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) Coast Federal, at all times relevant hereto, was a "savings association" within the meaning of 12 U.S.C. § 1813(b),

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

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 12 U.S.C. § 1813(c).

(b) DEVIVO, as a former employee of Coast Federal, is deemed to be an "institution-affiliated party" as that term is defined in 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)).

(c) Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate Federal banking agency" to maintain an enforcement proceeding against institution-affiliated parties. Therefore, DEVIVO is subject to the authority of the OTS to initiate and maintain prohibition proceedings against her pursuant to 12 U.S.C. § 1818(e).

2. OTS Findings of Fact. The OTS finds that while employed at Coast Federal, DEVIVO misused her position as an Accounting Unit Supervisor when she forged the signature of an employee and falsified an official check of Coast Federal in the amount of \$10,321.54 to purchase computers from the Gateway Computer Company for her personal benefit. As a result of these actions, (1) DEVIVO engaged in a violation of the law or breached her fiduciary duty of honesty to Coast Federal; (2) Coast Federal suffered a financial loss and/or DEVIVO received a financial benefit or other gain (regardless of whether or not restitution was subsequently made); and (3) the violation of law or breach of fiduciary duty involved personal dishonesty.

3. Consent. DEVIVO 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 12 U.S.C. § 1818(e). 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 12 U.S.C. § 1818(i).

5. Waivers. DEVIVO waives the following:

(a) the right to be served with a written notice of the OTS's charges against her (referred to as Notice of Intention to Prohibit, see 12 U.S.C. § 1818(e));

(b) the right to an administrative hearing of the OTS's charges against her as provided by 12 U.S.C. § 1818(e);

(c) 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;

(d) 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; and

(e) the right to assert this proceeding, her consent to issuance of the Order, and/or the issuance of 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.

6. Other Government Actions Not Affected. DEVIVO

acknowledges and agrees that the consent to the entry of the Orders 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 DEVIVO 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.

7. Acknowledgment of Criminal Sanctions. DEVIVO

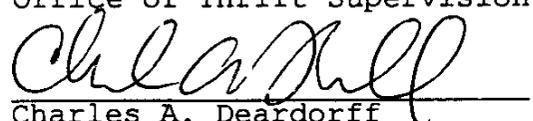
acknowledges that 12 U.S.C. § 1818(j), sets forth criminal penalties for knowing violations of this Order.

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

By:

  
\_\_\_\_\_  
Francesca Devivo

Accepted by:

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

Date: 11-22-98

Date: 12-2-98

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A former Employee and )	Date: <u>December 2, 1998</u>
Institution-Affiliated )	
Party of )	
Coast Federal Bank, )	
Federal Savings Bank, )	
Los Angeles, California. )	
_____ )	

CONSENT ORDER OF PROHIBITION

WHEREAS, Francesca Devivo ("DEVIVO") has executed a Stipulation and Consent to Entry of an Order of Prohibition ("Stipulation") on November 22, 1998; and

WHEREAS, DEVIVO, by his 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 12 U.S.C. § 1818(e); and

NOW THEREFORE, IT IS ORDERED that:

1. DEVIVO is prohibited from further participation, in any manner, in the conduct of the affairs of Coast Federal Bank, Federal Savings Bank ("Coast Federal"), and any successor institution, holding company, subsidiary, and/or service corporation thereof.

2. DEVIVO is and shall be subject to the statutory prohibitions provided by 12 U.S.C. § 1818(e), except upon the prior written consent of the OTS (acting through its Director or an authorized representative thereof) and any other "appropriate Federal financial institution's regulatory agency," for purposes of 12 U.S.C. § 1818(e) (7) (B) (ii), shall not:

(a) hold any office in, or participate in any manner in the conduct of the affairs of, any institution or agency specified in 12 U.S.C. § 1818(e) (7) (A), including, but not limited to:

- (i) any insured depository institution, e.g., savings and loan associations, savings banks, national banks, trust companies, and other banking institutions;
- (ii) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b) (3) and 1818(b) (4), or as a savings association under 12 U.S.C. § 1818(b) (9), e.g., subsidiaries and holding companies of banks or savings associations;
- (iii) any insured credit union under the Federal Credit Union Act, 12 U.S.C. § 1781 et seq.;
- (iv) any institution chartered under the Farm Credit Act of 1971, 12 U.S.C. § 2001 et seq.;
- (v) any appropriate Federal depository institution regulatory agency, within the meaning of 12 U.S.C. § 1818(e) (7) (A) (v); and

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

(b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in 12 U.S.C. § 1818(e)(7)(A);

(c) violate any voting agreement previously approved by the "appropriate Federal banking agency" within the meaning of 12 U.S.C. § 1813(q); or

(d) vote for a director, or serve or act as an "institution-affiliated party," as that term is defined at 12 U.S.C. § 1813(u), e.g., a director, officer, employee, controlling stockholder of, or agent for, an insured depository institution.

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

4. This Order is subject to the provisions of 12 U.S.C. § 1818(j).

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

6. This Order is and shall become effective on the date it is issued, as shown in the caption hereof. The 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.

OFFICE OF THRIFT SUPERVISION

By:   
Charles Deardorff  
Regional Director  
West Region

(devivo proh ord jah/17)