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[¶10,625A] In the Matter of Cato W. Jones, Joel N. Keesee, Floy Floyd, and C.W. Hill, Security State Bank of Wewoka, Wewoka, Oklahoma, Docket No. 92-216k (8-20-92)

Respondents agree to pay civil money penalties assessed by the FDIC. This was an uncontested notice and became a final order by operation of law.

**In the Matter of
CATO W. JONES,
JOEL N. KEESEE,
FLOY FLOYD, and C.W. HILL,
individually and as institution-affiliated parties of
SECURITY STATE BANK OF WEWOKA
WEWOKA, OKLAHOMA
(Insured State Nonmember Bank)
NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTIES, FINDINGS OF FACT AND
CONCLUSIONS OF LAW, ORDER TO PAY AND NOTICE OF HEARING**

FDIC-92-216k

NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTIES

The Federal Deposit Insurance Corporation ("FDIC") is of the opinion that Cato W. Jones, Joel N. Keesee, Floy Floyd, and C.W. Hill (hereinafter collectively referred to as "Respondents"), individually and as institution-affiliated parties of Security State Bank of Wewoka, Wewoka, Oklahoma ("Bank"), each has violated certain provisions of section 22(h) of the Federal Reserve Act, 12 U.S.C. § 375b, and Regulation O of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 215, promulgated thereunder and made applicable to insured State nonmember banks by section 18(j)(2) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1828(j)(2), and section 337.3 of the FDIC Rules and Regulations, 12 C.F.R. § 337.3.

Wherefore, the FDIC hereby issues this NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTIES, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY and NOTICE OF HEARING ("NOTICE OF ASSESSMENT"), pursuant to section 18(j) (4)(A) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1828(j)(4)(A) (1989), and the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308. In support thereof, the FDIC finds and concludes as follows:

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Bank is a corporation existing and doing business under the laws of the State of Oklahoma and having its principal place of business at Wewoka, Oklahoma.

2. The Bank was, at all times pertinent to the charges herein, an insured State nonmember bank, subject to the provisions of the Act, 12 U.S.C. §§ 1811-1831t, the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III, and the laws of the State of Oklahoma.

3. At all times pertinent to the charges herein, Cato W. Jones was a director of the Bank and was an "institution-affiliated party" of the Bank as that term is defined in section 3(u) of the Act 12 U.S.C. § 1813(u).

4. At all times pertinent to the charges herein, Joel N. Keesee, Floy Floyd, and C.W. Hill were directors of the Bank, and Respondent Floyd was an officer of the Bank. Also, Respondents Keesee, Floyd, and Hill were "institution-affiliated parties" of the Bank as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u).

5. The FDIC has jurisdiction over the Bank, the Respondents, and subject matter of this proceeding.

6. Following the FDIC examination of the Bank on May 16, 1990, Regional Director Walker of the FDIC sent a letter dated July 20, 1990 to the Bank's board of directors disclosing chronic infractions involving overdrafts to the demand deposit account of Respondent Cato Jones.

7. The Bank's board of directors responded in a letter dated August 17, 1990. The board's response contained assurances of Respondent Cato Jones' future compliance.

8. On or about August 16, 1990, an overdraft in the amount of \$1,390.88 occurred in the demand deposit account (No. 0211-017) of Respondent Cato Jones. A check in this amount was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

9. On or about September 21, 1990, an overdraft occurred in said account because a debit item in the amount \$1,090.36 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

10. On or about November 22, 1990, an overdraft occurred in said account because a debit item in the amount of \$1,090.36 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

11. On or about January 23, 1991, an overdraft occurred in said account because a debit item in the amount of \$1,051 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to the item.

12. On or about February 7, 1991, an overdraft occurred in said account because a debit item in the amount of \$4,325 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

13. On or about February 26, 1991, an overdraft occurred in said account because a debit item in the amount of \$1,051 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

14. On or about March 22, 1991, an overdraft occurred in said account because a debit item in the amount of \$1,051 drawn upon the demand deposit account of Respondent Cato Jones was maintained as an unposted debit in the Bank's "Demand Deposit Unposted Listing" due to insufficient funds in the account to pay the item.

15. In each and every one of the instances cited in Paragraphs 8 through 14, above, the Bank became obligated to pay the check or debit item in question due to the length of time the item was held, thereby creating an overdraft.

16. During the period covered by the dates cited in Paragraphs 8 through 14, above, Respondent Cato Jones did not have a written, pre-authorized, interest-bearing extension credit plan with the Bank that specified a method of repayment for such overdrafts, nor did he have a written, pre-authorized [{{10-31-00 p.C-2656.2}}](#) plan for transfer of funds from another account at the Bank.

17. Each of the overdrafts listed in Paragraphs 8 through 14 is a violation of section 215.4(d) of Regulation O, 12 C.F.R. § 215.4(d), in that Respondent Cato Jones did not have a written, pre-authorized, interest-bearing extension credit plan with the Bank that specified a method of repayment for such overdrafts, nor did he have a written, pre-authorized plan for transfer of funds from another account at the Bank. Additionally, each overdraft exceeded \$1,000.

18. Respondent Cato Jones has chronically violated the overdraft prohibitions of Regulation O over an extended period, which has been noted in the Oklahoma Banking Department's Report of Examination of March 22, 1991 and in the FDIC Report of Examination of July 5, 1991. By virtue of the foregoing facts, the FDIC concludes that each of the other named Respondents, as members of the board of directors of the Bank, violated Regulation O by failing to take timely and effective steps to remedy this chronic

situation and that a civil money penalty should be assessed against each Respondent pursuant to section 18(j)(4)(A) of the Act, 12 U.S.C. § 1828(j)(4)(A) (1989).

19. As used herein, pursuant to section 3(v) of the Act, 12 U.S.C. § 1813(v) (1989), and section 308.3(r) of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.3(r), the term "violation" includes, without limitation, any action (alone or with another or others) for toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

ORDER TO PAY

By reason of the violations set forth in the NOTICE OF ASSESSMENT, the FDIC has concluded that civil money penalties should be assessed against each Respondent pursuant to section 18(j)(4) of the Act, 12 U.S.C. § 1828(j)(4) (1989). After taking into account the appropriateness of each penalty with respect to the financial resources and good faith of each Respondent, the gravity of the violation of each Respondent, the history of previous violations of each Respondent and such other matters as justice may require, it is:

ORDERED, that, by reason of the violations set forth above pursuant to section 18(j)(4)(A) of the Act, 12 U.S.C. § 1828(j) (4)(A) (1989), a penalty of \$2,500 be, and hereby is, assessed against Respondent Cato W. Jones; a penalty of \$1,000 be, and hereby is, assessed against Respondent Joe N. Keesee; a penalty of \$1,000 be, and hereby is, assessed against Respondent Floy Floyd; a penalty of \$1,000 be, and hereby is, assessed against Respondent C.W. Hill, all pursuant to section 18(j)(4) of the Act, 12 U.S.C. § 1828(j)(4) (1989) for failure to achieve and maintain compliance with the prohibition against overdrafts as required by 12 C.F.R. § 215.4.

FURTHER ORDERED, that the effective date of this ORDER TO PAY be, and hereby is, stayed with respect to each Respondent until 20 days after the date of receipt of the NOTICE OF ASSESSMENT by Respondents, during which time each Respondent may file an answer and request a hearing pursuant to section 8(i)(2)(H) of the Act, 12 U.S.C. § 1818(i)(2)(H) (1989), and section 308.19 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.19. An original and one copy of the answer, any such request for a hearing, and all other documents in this proceeding must be filed in writing with the Office of Financial Institution Adjudication, 1700 G Street, N.W., Washington, D.C. 20552, pursuant to section 308.10 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.10. Also, copies of all papers filed in this proceeding shall be served upon the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; Arthur L. Beamon, Associate General Counsel, Compliance and Enforcement, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; and Judith K. Sinclair, Regional Counsel (Supervision), Federal Deposit Insurance Corporation, 1910 Pacific Avenue, Suite 1900, Dallas, Texas 75201.

If any Respondent fails to file a request for a hearing within 20 days from the date of receipt of this NOTICE OF ASSESSMENT, the penalty assessed against that Respondent, pursuant to this ORDER TO PAY, shall be final and unappealable and shall be paid within 60 days after the date of receipt of this NOTICE OF ASSESSMENT.

NOTICE OF HEARING

IT IS FURTHER ORDERED, that if any Respondent requests a hearing with respect to the charges in the NOTICE OF ASSESSMENT, the hearing shall commence 120 days [{{10-31-00 p.C-2656.3}}](#) from the date of receipt of this NOTICE OF ASSESSMENT at Dallas, Texas, or on such other date or place as the parties to this proceeding and the Administrative Law Judge mutually agree.

The hearing will be public, and in all respects will be conducted in accordance with the provisions of the Act, 12 U.S.C. §§ 1811-1831t, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308. The hearing will be held before an Administrative Law Judge to be appointed by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The exact time and location of the hearing will be determined by the Administrative Law Judge.

In the event any Respondent requests a hearing, such Respondent shall file an answer to the charges in this NOTICE OF ASSESSMENT within 20 days after the date of receipt of the NOTICE OF HEARING in accordance with section 308.19 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.19.

Failure to request a hearing shall render the civil money penalties assessed in this NOTICE OF ASSESSMENT final and unappealable pursuant to section 8(i)(2)(E)(ii) of the Act, 12 U.S.C. § 1818(i)(2)(E)(ii), and section 308.19(c)(2) of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.19(c)(2).

Pursuant to delegated authority.

Dated at Washington, D.C., this 4th day of September, 1992.

Last Updated 6/6/2003

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