

THE SEMIANNUAL REPORT OF THE RESOLUTION
TRUST CORPORATION THRIFT DEPOSITOR
PROTECTION OVERSIGHT BOARD—1994

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The Semiannual Report of the Resolu... **RING**
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCE-
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FROM ASSET SALES. NO. 6, POTENTIAL SOURCES OF ADDITIONAL
FUNDS FOR THE RTC. NO. 7, THE ESTIMATED REMAINING EXPOSURE
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FEBRUARY 24, 1994

Printed for the use of the Committee on Banking, Housing, and Urban Affairs

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THURSDAY, FEBRUARY 24, 1994

**U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
*Washington, DC.***

The Committee met in room 538, of the Dirksen Senate Office Building at 10:05 a.m., Senator Donald W. Riegle, Jr. (Chairman of the Committee) presiding.

OPENING STATEMENT OF CHAIRMAN DONALD W. RIEGLE, JR.

The CHAIRMAN. The Committee will come to order.

Let me welcome all those in attendance this morning. I want to say again to my colleagues how much I appreciate the cooperation yesterday in reporting out the Interstate Banking Bill. I think the fact that we were able to act unanimously and the cooperation back and forth across both sides of the Committee dais was a very important statement of how good that piece of legislation is.

This morning we welcome the RTC Thrift Depositor Protection Oversight Board. They are here to discuss with us their semi-annual report regarding the activities and the operations of the RTC.

Treasury Secretary Lloyd Bentsen, our former colleague, who serves as Chairperson of the Oversight Board, and Deputy Secretary of the Treasury, Roger Altman, who serves as Acting Chief Executive Officer of the RTC, will be the ones testifying directly today.

The other members of the Board are also here today and are available for your questions, and we will have some for them.

They are Alan Greenspan, Chairman of the Federal Reserve; Andrew Hove, who is the Acting Chairperson of the FDIC; and Jonathan Fiechter, who is the Acting Director of the Office of Thrift Supervision.

The FIRREA legislation required that the Oversight Board make semiannual appearances before this Committee. This now is the seventh such semiannual appearance here. At all these hearings, the Oversight Board has been required to update the Committee on the progress that the RTC has made in resolving thrifts under its control and its efforts to sell assets of failed thrifts.

The RTC currently has 63 conservatorships that remain to be resolved. As of year end, the RTC had assets in those conserva-

torships and in receiverships with original book values of \$63.5 billion. Two-thirds of that amount is in what the RTC calls "hard-to-sell" categories. The RTC has so far disposed of more than \$393 billion in assets, or approximately 90 percent of their book value. Lately, progress appears to have slowed markedly in selling RTC assets.

Despite the provision by Congress last fall of ample funding to permit the RTC to complete its task for resolving failed thrifts, and a financial plan that calls for the resolution of 43 institutions in the first quarter of this year, the RTC has resolved no conservatorships since early December. Furthermore, sales of hard-to-sell assets in the second half of last year fell to a rate less than half that of the previous year. So we hope and expect that our witnesses today will be able to advise us as to when we can expect resolution activity to resume, and whether the slower pace of asset sales simply reflects the fact that they are now down to the point of selling very difficult to sell assets, and if so, we need to have that explained to us.

The RTC is, of course, scheduled under present law to terminate on December 31, 1995. Any assets that the RTC is unable to dispose of by that date will be transferred to the FDIC. At the same time, the FDIC will have to reabsorb up to 1,600 RTC employees who have the right to return to the FDIC.

Obviously, managing that transition alone will be a difficult task. We will want to hear what progress has been made in planning for the transition to the FDIC, and how large a pool of assets the RTC expects to leave when it goes out of business for ultimate disposition by the FDIC.

The RTC has been criticized extensively for the way it has conducted its operations over the years. We have had numerous GAO reports pointing out problems and have heard testimony from many witnesses detailing past mistakes.

Here, last March, Secretary Bentsen promised this Committee that he would undertake a series of management reforms at the RTC to address issues of waste, fraud, abuse, and mismanagement. Congress incorporated the requirement for those reforms and a number of others into last year's final funding legislation, so we are very interested in learning what changes have been made and how successful those changes appear to be.

Finally, the Committee held a hearing last September where a large panel of impressive and credible whistleblowers testified. Based on that, I asked the RTC to investigate their claims and I want to hear today what has been done to evaluate those claims and what collective actions have been taken. These whistleblowers testified about waste and mismanagement involving, among other things, contracting oversight, professional liability activities, and asset disposition efforts of the agency.

So we look forward to the Oversight Board's testimony on this matter, as well as its presentation on the progress made by the RTC at this time.

I might add one other thought to put everything into context. Over the years, since we began this process of dealing with the failed thrifts, we have provided a considerable sum of money. In August 1989, we provided \$50 billion. In March 1991, \$30 billion;

December 1991, another \$25 billion; but only \$7 billion of that was actually spent by the April 1992 deadline. And then in December 1993, we approved what we understand to be the final funding leg which carries with it unspent funds previously provided, a total of \$18 billion, which brings us, if you add up all those numbers and do the offsets, to a figure of \$105 billion.

My understanding is that there is roughly about \$24 billion of that total that is available to complete this job. And if that number is not correct, I would appreciate having you give for us today as accurate an assessment of those numbers as you can.

Now, I am going to call on Senator D'Amato, and because I know there are going to be questions that Members want to ask, I want to reserve as much time as I can today for questions. So after Senator D'Amato makes his opening statement, I will call on other Members, but I would like to ask Members on both sides in the opening statements today if they could be brief in what they say, so that we can get into the presentations and the questions.

Senator D'Amato.

OPENING STATEMENT OF SENATOR ALFONSE M. D'AMATO

Senator D'AMATO. Thank you very much, Mr. Chairman.

Mr. Chairman, let me first, at the outset, thank you for your cooperation in calling this hearing, and for also joining with me and other of our colleagues in informational requests that we have made of the RTC.

I think it is fair to say that without you joining with us, some of the information that was made available and some responses that we received would never have come.

We may question the adequacy of those responses but, were it not for your help, we would not have had any.

I am going to depart from my prepared remarks for a moment because something quite unusual took place last evening. I call it the "midnight delivery."

Boxes of material began arriving at our Banking Committee office after hours. One delivery was made close to 10 p.m. The most interesting of them, I found, was the RTC's conflict of interest analysis of the Rose Law Firm. I was not even aware that there had been such an analysis, and, of course, we have been asking, through staff and through letters, for quite a while. What has been taking place? What are you doing? What action is taking place?

I must say that if this constitutes the bulk of the response to our requests, it is quite deplorable.

I must say that this document is dated, Mr. Chairman, February 8, 1994. Yet we get it, as I call it, in that midnight delivery last evening, along with 200 pages of attachments. Even if you took that Evelyn Wood speed reading course, I think you would have difficulty getting through it all. This and other documents were delivered last evening well after office hours. The staff just really had an opportunity to read it for the first time, and I have just seen it. We will make it available to the Committee Members.

Mr. Chairman, were it not for a media report, I believe it was in the Washington Times, we had no inkling, no idea, before we actually asked specifically for this report, that it existed. We certainly

didn't know, and the RTC didn't tell us, it was available since February 8, 1994.

I will just refer to it. The first time, literally, that I saw it was at 10 minutes to 10 a.m. when I had an opportunity to look at it:

"Scope of the Investigation: This investigation focused only on whether or not the Rose Law Firm disclosed its previous representations of Madison to the FDIC and the RTC." I underlined a little part. I think it is quite fascinating and interesting, and I hope my staff has been able to pass it out to my colleagues, any colleagues interested in it:

"Interviews of current or former Rose Law Firm attorneys who may be knowledgeable on this matter were not conducted."

This is really one heck of a thorough report. I mean, interviews of those people who were knowledgeable were not conducted.

It goes on at the end summary, "Rose represented Madison prior to its failure." It does talk about the fact that there are some very interesting—and I leave it for the media and others and some of the lawyers to analyze what they knew and what they did not know—the accounting firm that they had used and were called upon to sue before State regulatory agencies.

If there is no conflict here, certainly in the utilization of that law firm to sue these people who they had hired and settle the suit for considerably less than it was initiated on, certainly raises questions with this Senator. That is known as the Frost matter.

It concludes by saying that "this report is provided to the Office of General Counsel for any action it deems appropriate." That was sent on the February 8, 1994.

I am going to give you a little time, Mr. Altman. You called me last night, the Deputy Secretary, to ask me what questions I was going to ask you. So let me tell you again, I am going to ask you what has taken place, what action is taking place, and who's reviewing this, because I have to tell you I find this unacceptable. This is the kind of thing that just does not square up.

Then the RTC report goes on. It says "this investigation was coordinated with the FDIC who conducted a separate and independent investigation of this matter." The FDIC attorney is John Downing. And, of course, I saw his report which I think leaves a lot to be desired.

So, Mr. Chairman, I am sorry to have to open the hearing in this manner, but when documents this important are dropped on us at midnight, that is not fair to us. It is not fair to the American people. It is not fair to the good work and the hard work that has been done by lots of people at the RTC in resolving many of the disputes because I think we have come a long way toward meeting many of the RTC's goals.

I am going to ask that the rest of my statement be placed in the record as if read in its entirety.

But I will say this. I have been troubled about the manner in which the Madison/Whitewater situation has been handled. I have been criticized about it, and accused of playing politics. I believe that we should not play politics with an RTC investigation. We do not ask for any special treatment, nor do we expect that people who come from high places or powerful positions should receive

special treatment. We say that the law should be applied equally to everyone.

Were it not for Senator Metzenbaum and Senator Murkowski and our amendment that extended the statute of limitations until December 31, 1995, that was approved overwhelmingly in the Senate and in the House, why, the original statute of limitations of February 28, 1994, would have been upon us.

The RTC had no way of knowing that Congress would extend the statute of limitations. They never anticipated it. And so when I asked the RTC what, if anything, was being done by way of a lawsuit, I now see what was being done: nothing. I see what we had—a superficial analysis as it relates to any possible conflict, and I see a referral over to General Counsel. I can only say that it was fortuitous that we were able to at least extend that statute to 1995.

I know we want to get to some questions, and I know that my other colleagues have questions to raise, but I will be asking members of the RTC Oversight Board, many of the same questions I have raised in my letters and on the floor of the Senate.

As I have indicated, last evening I had a very brief discussion with the Acting Chairman who is, by the way, I think placed in a very difficult position through no fault of his own.

I think Mr. Altman finds himself in a position where here he is, a Presidential appointee, running the RTC. I do not know how he handles the situations which put him into possible conflict where he has to be making decisions as to what to do, what actions to take or not to take, as it relates to the Whitewater matter specifically.

I know he's indicated to me that his term is up March 30, and he cannot wait for that to take place, for it to end. I do not blame him. But I have to tell you, I would like to know who is supervising this and what is taking place.

Mr. Chairman, I would also like to put forth to you a request. Again, you have been extremely fair. It seems to me that this Committee has an obligation to find out, to get out all of the facts without impeding the special prosecutor and/or his undertaking.

I would hope, Mr. Chairman, that you would, in a bipartisan fashion, as you have moved forward, see to it that the documentation of the facts, as it relates to this case, are made available to the Committee, to the Committee and/or its staff, so that we can see to it that what should be done is actually being done.

There are just too many questions that are unanswered in this situation to date. There are not satisfactory explanations. I believe the Committee should see to it that all the documentation that can and should be provided to the appropriate authorities is available to us, certainly on the civil side. The criminal side, that is another matter.

So later on, I will have a formal request to put forward to you, Mr. Chairman, but I would hope that we could join and do this in a bipartisan fashion.

I thank the Chair.

The CHAIRMAN. Well, we will take that up later when you present that point.

Let me just, for completeness of the record, ask unanimous consent to insert the letter that you sent over to the RTC dated Feb-

ruary 18, 1994, requesting these documents that arrived last evening. I think it is important to note that this request, which will be in the record, was made last Friday, and Members here can account for why the documents arrived last evening.

But I do think it is important to note that the request you made was not all that long ago, and the materials that they have assembled are now here.

But—

Senator D'AMATO. Well, Mr. Chairman, for point of amplification, let me say that my staff has also been requesting this and making inquiry by telephone, by way of talking to staff over a period of time.

We did not even learn of the existence, and I do not know if anybody else knew of the existence, of this report, as it relates to the RTC and the possible conflict, until February 17, 1994. We only learned about that, I think, as a result of an article that appeared in the media.

Now it is one heck of a thing, that when we are asking for information, and get little, if any, that we have to learn of the possible existence of this through the media. That is what prompted us to then formally request this by way of a letter. And I have to tell you something. If they had this report, they could have sent it over on Friday. They could have sent the report over on Tuesday morning. You certainly do not wait until the end of business on Wednesday evening and send the report over at 9 or 9:30 p.m.; that is wrong. That is simply wrong.

If you want to talk about stonewalling, that is what has been going on. Obfuscation, that is what has been going on.

I am asked if I have any faith in terms of how this matter is being pursued, the answer is absolutely not.

The CHAIRMAN. Senator Murray.

OPENING STATEMENT OF SENATOR PATTY MURRAY

Senator MURRAY. Thank you.

Mr. Chairman, almost a year ago, we sat in this very room and considered the Thrift Depositor Protection Act of 1993.

Deciding on the program and funding for the Resolution Trust Corporation was not an easy process nor one without pain. And along with you and other Members of this Committee, I insisted on increased accountability for all RTC spending.

I did that with the hope that we could put the RTC out of business as soon as possible, save the taxpayers a significant amount of money, and get on with other important national needs and goals.

I am disappointed that, in spite of assurances which this Committee was given last March, that there is still no permanent head of the RTC.

Mr. Chairman, I have a great deal of respect for Roger Altman, but I cannot understand how he can possibly have the time or energy to undertake two of the most demanding positions in our Government: Deputy Secretary of the Treasury and the interim Chief Executive Officer of the RTC. Management reforms start with a permanent manager.

Along with my colleagues, Senator Boxer and Senator Moseley-Braun, I wrote to President Clinton, December 16, 1993, urging him to appoint a new head of the RTC. We want the President to make this a top priority. And I will be very interested today to learn, in detail, the progress of the search and the Administration's commitment to that.

Another issue of great concern to my constituents is the effect that rising interest rates will have on the recovering S&L industry. I am very interested to hear Chairman Greenspan's thoughts in that area.

The kinds of activities that resulted in the creation of the RTC were generally not found in financial institutions in my home State of Washington. Every banker in my State brings to me regulatory problems which she or he blames on the S&L crisis.

Mr. Chairman, relatively few thrifts failed in my State. Washington's financial institutions are among the most community-minded in this Nation. CRA ratings for our banks are among the highest in the Nation. The people in the Pacific Northwest feel they did not cause this problem, but they surely know that they are paying for it. Most of the problems associated with the RTC occurred during the two previous Administrations. Much of the anger which people feel about RTC, however, has not subsided.

Mr. Chairman, people want us to put this sorry chapter in American financial history behind us. I know there is a lot of work being done, but the public wants to know what has been achieved. I urge the Administration once again to make closing the RTC a top priority.

Thank you.

The CHAIRMAN. Senator Bond.

OPENING STATEMENT OF SENATOR CHRISTOPHER S. BOND

Senator BOND. Thank you, Mr. Chairman.

In probably a man-bites-dog reversal of fortunes around here, when we have people from the financial regulatory institutions before us, I want to congratulate you and thank you for the good jobs that you have done.

We are seeing a significantly lower deficit because of the successful resolution of many of the savings and loans. The men and women who have worked all these years, they have not just sprung to life in the last few years, or in the last year, they have done a good job. We are resolving thrifts, failed thrifts more successively.

We have benefited from low interest rates, and I appreciate the dedicated work of our independent Federal Reserve. In doing that, the FDIC premium fund has built up and we are in better shape and there is much praise that should be attributed to a lot of hard-working folks who normally only get the blame.

In my questions, I am, however, going to focus on one particular issue, and that is the position of the control retention of documents in the Madison Guarantee case because, frankly, there are a lot of us who have grave concerns about what has happened to the documents.

First, we heard Whitewater documents, now we did not have any, they disappeared, no, they were not there. Then the tragedy

that befell Mr. Foster, everything was accounted for. And Mr. Nussbaum said that he had a list of all the documents.

The press brought to our attention, after months of hard work, that Whitewater files were in Mr. Foster's office. A search occurred the night of his death and files were taken out by White House political aids. Then we hear the White House was voluntarily sending documents to the Justice, and the White House had asked for a subpoena. Then the White House had heard about the subpoena, and it called Justice to negotiate the terms.

We have heard about shredding documents. We have heard many stories that raise grave concerns about whether the facts will be available for the special prosecutor and others.

And in my question time, I will address some specific questions on that matter.

Thank you.

The CHAIRMAN. Thank you.

Senator Kerry.

OPENING STATEMENT OF SENATOR JOHN F. KERRY

Senator KERRY. Thank you very much, Mr. Chairman.

I guess our colleagues on the other side of the aisle have signaled an intent, which they have been signaling for some days, to turn a review of the RTC into a dialog, if that is the word that can be used, on Whitewater. I will reserve a few comments on that.

I want to first address some of the RTC issues and then mix it in a little bit, perhaps with some of where we are going here.

A year ago, when the Secretary appeared before this Committee with a nine-point plan to reform the Resolution Trust, I remember then expressing my concern that the Treasury did not have an adequate picture of the magnitude of the RTC's problems, including the massive fraud, waste, abuse, et cetera. I did not hear my colleague from New York suggesting it at that time; I did not hear my colleague from Missouri suggesting it at that time.

I was especially concerned because the Administration had very few of its own people in place. And in handling RTC matters, the Administration was forced to rely on the very people who were responsible for the catastrophe of the RTC, a catastrophe which came to us during the last 12 years of non-regulation. Because the Administration was relying on the old guard, I then expressed my concern that it would be very difficult, practically, to carry out reforms that the RTC needed.

Now, a year later, despite, I think, heroic efforts by Secretary Altman, the Secretary and others, some real improvements have taken place, and some good people have been appointed by the Administration, but I believe because of the depth of problems which existed at the RTC during the previous 12 years, without adequate regulation, that this Administration has not had time to get a handle on the full measure of shortcomings that existed.

Over the past year, my staff has talked to literally dozens of employees and managers, none of whom have been talked to by my colleagues across the aisle who today express such concern about one institution. These people told us of reports of disarray at the RTC that have only scratched the surface. And that, in reality, for regional offices in the fields, the situation remains worse, some-

thing that my colleagues on the other side of the aisle have not seen fit to concern themselves about.

So when my colleague comes here today suggesting that we have got to proceed in a bipartisan fashion on what is very clearly a partisan singling out of one institution, it is very hard for me to really take it that seriously. And I hope the members of the press and the members of the public, who are watching, understand specifically what is happening here.

On September 23, 1993, last fall, this Committee took the testimony of some 13 whistleblowers for 5 hours, and they described a shocking array of problems at the RTC, potentially costing the taxpayers billions of dollars.

Not one of the chairs across the aisle had a Senator sitting in it. Not one Republican saw fit to come and care about the RTC when those whistleblowers were here talking to us. But today we are concerned about one institution.

Now we have heard allegations of steering of contracts by RTC personnel to former and future employers. We heard of major accounting firms receiving huge RTC contracts and then hiring inexperienced people off the street, and padding the bills after they did incompetent work. We were told about faulty computer systems for legal billing, thousands of lost invoices, so the RTC could not even determine whether a bill was legitimate or not. We were told about sexual discrimination and physical harassment.

We were told about RTC employees being asked by RTC managers to fabricate data for Congress when the real data was unavailable, because it would not look good. We heard allegations of the RTC Inspector General being viewed by employees as in bed with management or incompetent. And we heard particularly disturbing evidence of the Government taking a dive in prosecuting cases against S&L wrongdoers in Colorado and Texas.

No hue and cry across the aisle from my colleagues suggesting we ought to extend the statute of limitations. No hue and cry suggesting that we ought to have a special prosecutor for Texas.

Following the hearing, the Treasury promised to respond to the allegations made by these whistleblowers. I still have questions about it but they are working at it; something that never happened in the prior 12 years.

Now, despite the hiring of some good people in Washington, I still think there are serious questions today about these abuses and what is happening there. But I think you have to stop and take a hard look at what is happening here with respect to Whitewater.

We have a special prosecutor, a Republican. I believe he contributed to the campaign of Senator D'Amato. He was nominated by President Bush to be a Deputy Attorney General in 1989, but because he was not absolutely in line with all of President Reagan's appointees to the judiciary, he finally withdrew. He was the Chief Prosecutor in Manhattan, appointed by President Ford. He is President of the American Bar Association, and he is investigating this case.

I do not think you could find a prosecutor in the United States who comes to this with better credentials of impartiality and of substance and capacity.

It seems to me Congress has learned something about invading the prerogatives of special prosecutors and ruining cases by virtue of our intrusion: witness what happened in Iran Contra.

But leaving that aside, I hope the press will be very, very clear. Madison, if you look down the list of cases, this is the list of cases and the cost of bailouts, is the only institution being questioned. I would like my colleagues to look at this.

Here is the first page of major bailouts in the United States, beginning with Lincoln Savings, going down. We have First Savings of Arkansas, Little Rock-based. It is number 20, but not a question has been asked about that, obviously. It is worth about \$847 million. You go down to number 34, you have the Savers in Little Rock, but not a question's been asked about that, nor was it ever questioned by our colleagues.

Then you go for several other pages and there are no other institutions. There are a lot of other big institutions, many of them in Texas, I might add; some of them elsewhere. Independence Federal Loan in Batesville, Arkansas, but they are not asking about that.

You can go down through the hundreds. They are still not asking any questions. You go down through 137, but they are not asking any questions. You do down through 160, but they are not asking any questions. You go down through 183, but they are not asking any questions. Then you have a couple more. And one of them, finally, number 194 is Madison, and that is the only one they are asking questions about.

Now we tried four successive times——

Senator D'AMATO. Did they figure out why?

Senator KERRY. It is very easy to understand why. It is because the President of the United States——

Senator D'AMATO. —and his wife represented the firm. And we talk about cover up. We talk about looking at the facts. All we are saying is, let's see the facts here. You want to know why? Because today, we have not had the facts. We have had obfuscation.

Senator KERRY. Mr. Chairman?

Senator D'AMATO. Well, you asked why.

Senator KERRY. Mr. Chairman, I believe I have the floor.

The CHAIRMAN. The gentleman from Massachusetts has the floor.

Senator KERRY. Now, let me point out to my friend from New York, that is the obvious rejoinder and we knew it would come to that. But do not come here and suggest, therefore, that this is somehow bipartisan. This has nothing to do with Federal policy on savings and loans. It has to do only with the question of whether or not the President might have done something wrong.

Senator D'AMATO. No, I did not say that.

Senator KERRY. Then you come——

Senator D'AMATO. Maybe you said that. I did not say that he did anything wrong. Let's understand that, so do not put words in my mouth.

Senator KERRY. Then if he did not do anything wrong, and it has to do with the question of policy, you have to ask the question: Why are those other institutions, why are the Texas institutions not of this significance?

In fact, maybe we ought to be——

Senator D'AMATO. No one ever suggested that, and the only reason I am asking is because you are putting it in a way that would require a response. So, Mr. Chairman, I will try to withhold, but I will tell you, I reserve the right to answer my colleague when he puts forth charges and challenges me as to my motivation. All I want are the facts.

Senator KERRY. Well, I want the facts.

Senator D'AMATO. If you do not want the facts to come out, that is your business. And if you want to ask facts on any other banking institution, and that is our responsibility, then we should do it. But do not hold me accountable because I did not ask about something in Texas.

If somebody comes forward and says to me they want to learn about something that is an incredible conflict, I say we should look at it.

Senator KERRY. I believe I have the floor.

Well, you see, I want people to understand.

Senator D'AMATO. They understand.

Senator KERRY. I want them to understand the double standard.

Senator D'AMATO. I do not see a double standard. Yes, I do see a double standard. I would say to my friend, I see a double standard. I see a cover up here. I see a whitewash here.

Senator KERRY. Mr. Chairman, do I have the floor.

The CHAIRMAN. Senator D'Amato, Senator Kerry has the floor.

Senator KERRY. This Senator came to this Committee and tried to get this Committee to investigate BCCI, and the response of the Senator from New York and others was this Committee should not be involved in investigations. We could not even get a subpoena.

This Senator—

Senator D'AMATO. I was helpful to you in BCCI.

Senator KERRY. Let me finish.

Senator D'AMATO. OK.

Senator KERRY. This Senator came to the floor and suggested, as did the Senator from Colorado previously, Senator Wirth, and he sat right here and we fought in this Committee again and again to get full disclosure with respect. But this Committee could not proceed forward.

Four times we voted on the floor of the United States Senate in an effort to try to extend the statute. The Senator from New York voted against it. Finally turned around—

Senator D'AMATO. That is absolutely incorrect, Senator.

Senator KERRY. He voted against it twice, and he finally—

Senator D'AMATO. No, we voted for a clean bill, and you know that. And I supported language, and as a matter of fact, if it were not for my effort, we would not have extended the statute of limitations.

Let's get the record straight.

Senator KERRY. I have the record right in front of me, Senator. It is right here.

Senator D'AMATO. And I will read it too, and I will read it with the quotations in it.

Senator KERRY. Is the Senator saying he never voted against an extension?

Senator D'AMATO. I did not say that. I did not say that.

Senator KERRY. Correct. The Senator voted against an extension.

Senator D'AMATO. Not four times.

Senator KERRY. I did not say four times. I said four times we tried to get it, and four times we failed because it was stripped in conference.

Senator GRAMM. Mr. Chairman, are we doing opening statements or is this a debate? We have got people here that are important that have jobs to go to.

Senator KERRY. I just want to lay out very clearly, I am willing to have any facts laid out but if we are going to come at this, then I also want Columbia Savings, I want the full measure of Texas, and I want all of them laid out which is what we tried to do since I have been in the United States Senate. Let's go the full distance and let's have a clause, let's have whatever we vote on ultimately reflect the full investigative effort that we tried to get previously.

Senator D'AMATO. I would support the Senator. If there is any institution that we feel, or any Senator or this Committee feels, has not been handled properly by the RTC, I tell you now I would join in an effort to see to it that we get the proper oversight. I have no problem with that.

The CHAIRMAN. We have eight additional Members here that may or may not want to make opening comments and we did get into something of a debate during that one.

Senator Mack, you are next. Do you have an opening comment you want to make?

OPENING COMMENT OF SENATOR CONNIE MACK

Senator MACK. No, I do not.

The CHAIRMAN. Thank you.

Senator Braun.

OPENING STATEMENT OF SENATOR CAROL MOSELEY-BRAUN

Senator MOSELEY-BRAUN. Thank you very much, Mr. Chairman. I hesitate to get embroiled in a brawl, but I could not help but think, listening to the comments of Reverend Jesse Jackson's statement that a text out of context is a pretext. Now only Reverend Jackson could come up with something like that.

But I think, in this context, it points exactly to what Senator Kerry has pointed out to the Committee and to the people here assembled.

We are looking at and dealing with a huge mess, and I think we have to take a look at the context in which all of these issues arise to give these witnesses an opportunity, this distinguished panel of witnesses an opportunity to respond to what has happened to the taxpayers' interest, to the country's interest in regard to the larger question of depositor protection and oversight by the RTC.

The failing of the S&L's cost this country in the neighborhood of \$125 to \$150 billion. I think that it is fair that we give these witnesses an opportunity to address the large issues pertaining to these questions having to do with current management reforms, what are the goals for the agency, how far have we gone to recapture funds that the taxpayers have had to shell out, and where there has been wrongdoing, and particularly Senator Kerry's lists of the S&L's, I mean, the failed S&L's. I think we have an obliga-

tion to hear how the agency has responded to those challenges and those questions and what is being done now to clean up the house that was inherited by this Administration, to fix the problem that was inherited by this Administration, and what this distinguished panel has to say about the general climate in which this cleanup is taking place.

Secretary Greenspan and I would very much like to hear from him on the issue of interest rates and where we are going. Secretary Bentsen is here to talk about the overview of Treasury's initiatives in this regard, and I congratulate Secretary Bentsen because he was here at the beginning.

I guess I date my service on this Committee with the first hearing that we had at which Secretary Bentsen testified and talked about the initiatives to clean up this agency.

But I do say that it seems to me to be a lost opportunity and unfortunate to engage in a brawl about a house that was inherited in dire condition, that was messed up and for us to get into an argument over whether there are doilies on the dining room table.

We have to put this in context. We, I think, have an obligation to hear from these witnesses regarding the issues that this hearing was convened for.

The CHAIRMAN. Well, we are moving toward hearing the witnesses and the more economy we can get in the opening statements, the quicker we will get to them, I say to all the remaining Members.

Senator Domenici.

OPENING STATEMENT OF SENATOR PETE V. DOMENICI

Senator DOMENICI. Mr. Chairman, I have a statement that I want to give, because I want to talk a little bit today about equal justice and treating everybody fairly.

But first, Senator Kerry, when I hear you talk about Republicans using this hearing for the purpose that you describe, I would like to make two points. If they are, that is not untoward or out of the ordinary around here. We do it all the time.

And second, I think every Republican that has learned about this from Representative Leach through our leadership, through Senator D'Amato, have all said that this Madison failure demands an investigation.

Now frankly, we would not be doing it this way if this Senate, controlled by your party, would do what it has done on many occasions with reference to other politicians that happen to be Republican, and had a hearing on the subject.

It does not go unnoticed that the President's son had a detailed investigation public in the United States House about his activities and Silverado.

Frankly, if you look at what was in the newspapers about Silverado versus what is in the newspapers about this, you could just take 25 American citizens and say, is there any difference in terms of having a full blown hearing on it, where witnesses are called and evidence is taken? I trust them. I would think an overwhelming majority would say, why not do it.

So my response to you is, why don't we have a Committee appointed in the United States Senate to investigate this, and then we will not have to ask questions about it here.

Now, having said that—

Senator KERRY. Would my colleague just yield for a moment? I do not want to get into a thing. But, I mean, this is important dialog and I do not want to dismiss it.

I do not believe there was a special prosecutor.

Now the distinction is that we have learned that when you have a special prosecutor, Congress tends to screw it up. I do not know what is wrong with waiting the few months to see if the special prosecutor comes forward adequately, and then proceed. Let me just finish.

Second, the second distinction is, you had, at that time, a major breaking. I mean, we also had a major investigation, and the Senator, who is the Chairman, will tell you all about it, that involved Democrats, too, in the Senate. And that was because we were at the cusp of the savings and loan crisis. We were dealing with the most significant institutions; in fact, the number one institution.

Now we are talking about an institution where you have no evidence of Federal action, no evidence of Federal involvement. It is, in fact, a series of State involvements with a State official, at the time he was a State official, involving State personnel. We do not really have a nexus to this. And we are doing this in the aftermath of a whole host of other institutions that were treated differently; namely, Texas and elsewhere, because the statute was allowed to run. Now we have extended it, and the Senator from New York deserves congratulations. I joined him in that.

I am fully prepared to have this institution fully investigate this if we are not satisfied, but I truly believe that what we are doing now is piling on in a clearly partisan fashion.

Senator DOMENICI. Thank you very much.

Might I finish my remarks?

The CHAIRMAN. Yes, indeed.

Senator DOMENICI. And if anybody thinks I am addressing their issue, just interrupt me and I will yield to you. I do not really have any reason to hog the floor here.

But let me make two more points and then give you a little analogy that I think is terribly relevant and deserves a little bit of consideration by the Committee.

First of all, in the Bush situation, there was an investigation, he was fined, and there was a full blown hearing in the Congress also.

Second, I understand the prosecutor is exclusively a criminal prosecutor. In fact, I have not seen his—

The CHAIRMAN. That is not correct.

Senator DOMENICI. Not true?

Maybe you could bring us the charge some time.

The CHAIRMAN. Yes, I will do that.

Senator DOMENICI. Fine.

The CHAIRMAN. Let me let you finish your comment, and then I will read that into the record now.

Senator DOMENICI. But let me say, it sounds strange to me that while the Members of the Senate and House were calling for an investigation, the majority party here responded that no investiga-

tion was in order. They stonewalled it. In fact, look at Representative Leach in the House. What did he have to do? He did not have any authority to get any information. He went on his own and did it.

Well, we are asking for that. The leadership here says no. Then the push comes for a special prosecutor and that takes forever. Now we are told the special prosecutor ought to preclude us from inquiring.

Frankly, I think you can work out some agreements to have oversight up here.

And my last one goes——

The CHAIRMAN. Senator Domenici, would you, at that point, before you move on, just so I can——

Senator DOMENICI. Let me finish this thought because I think it is very much related. And I say it to all these people at this table, many of whom are very good friends of the President; one's a cabinet member.

I think a mistake is being made over and over again by not putting the facts on the table. If there is nothing to hide, this President, his wife, and this Administration would have been better off in the beginning to put it on the table.

Look how many of these we have had that started small. Then everybody says, if they just would have put the facts on the table, it would have resulted in a little investigation and everybody would have understood it. Instead, here we are faced with evidence that is out there, that the media are printing, we do not know if it is true or false, and we are forced into this situation to try to get to the facts.

And then, when we are, we are accused because this is not deserving of this kind of hearing. There are so many others that are in Texas, and there is one in New Mexico up there. Maybe there is. Maybe they are not big enough. Who knows?

In any event, I want to yield to you at this point, Mr. Chairman.

The CHAIRMAN. Well, let me respond to a couple of the points that you made.

First of all, just with respect to the charter of the independent special counsel, and I will send you down a copy of this after I read the citation into the record.

This is from the Federal Register of February 4, 1994, which lays out the full text of the legal charter, the empowerment charter of Independent Special Counsel Fiske. It cites here in four different places that he has full authority to proceed to act upon any violation that he finds of either the criminal or the civil law; specified that he has both available to him.

Now that does not set aside any responsibility of existing agencies to proceed with respect to their charter regarding civil actions. But the point is, he is very clearly given that specified authority to proceed, not just on any criminal matter that he may find, but also on any civil matter.

Second, he has spoken on this issue. And I think Senator Kerry makes a very important point as to who this man is, what his background is, and his certifiable independence.

If you will recall what he stated the day that he undertook this assignment and his actions since, including those that he has taken

as recently as yesterday, I think this is an Independent Counsel that is clearly at work on all aspects of this issue.

But he was asked to comment on this very issue of the Congress, starting down the track of a parallel investigation, now that he is charged with doing this work as in independent special counsel. And this is what he said, when asked if he thought this would interfere with his work, and I quote him directly. He said:

I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a Congressional investigation is going on. The decision whether to have such an investigation, obviously, is not mine, but I think just looking back at the past, we can all see that it is not an easy relationship.

Now reference has been made of other Congressional investigations where people were actually found to have committed crimes and then were never punished for them as a result of the fact that the criminal charges were later thrown out in a court of law because of the Congressional investigation that happened earlier on. I have very carefully weighed the requests that have come from your side of the aisle with respect to the questions that have been raised. And I have said, and I repeat here again today, when the special counsel completes his work, if there are any questions remaining that require action by this Committee or oversight on this Committee, we will get into them.

But something else also should be said, and I have said this other times, and I do not know, Senator Domenici, whether you were in the room or not at that time. You have cited things that the House has done in the past. This Committee, by its structure and nature and definition within the Senate, is not an investigative committee. We do not employ any investigators on this Committee. The Senate does have Committees that do have that authority. Government Affairs Committee does and the Judiciary Committee does, but we do not. Any effort to try to undertake a full blown investigation, not just a hearing or inquiry, means you need investigators to do this job right. You need to bring witnesses in that may want to come and they may not. You might have to subpoena witnesses and you become involved in a very time-consuming and very careful legal process that would run directly into the work that the special counsel now has underway.

And I do not think we can justify doing that. I do not care what the case is.

It would be a different matter if there were not an independent special counsel who, in this case, is a Republican himself by his background and he has been complimented highly, not the least of which by my friend and colleague, Senator D'Amato, who at the time gave this guy the Good Housekeeping Seal as a person who would conduct a thorough and fair impartial investigation.

I think we have got to let him do that. Obviously, under the law that was spelled out in FIRREA, you have certain rights which you are exercising today to ask questions about certain cases up to the point at which it may interfere with the on-going work of the special counsel. We will have to address that as we go. But that is why we have these witnesses here today, so they can answer questions.

I want to move on now, if I can, because we have other Members and I want to get to our witnesses as soon as possible.

So, Senator Domenici, had you finished?

Senator DOMENICI. Well, Mr. Chairman, I really had not, but I was merely using most of my remarks to respond to Senator Kerry thus far. I have a detailed statement that I am going to put in the record, but I want to just tell you the essence of it.

The CHAIRMAN. Without objection, so ordered.

Senator DOMENICI. This is the essence of it.

Yesterday we got a call from a crying New Mexican whose business was going to be foreclosed by the RTC. The woman was saying, if I were a big shot in Washington, this would not be happening to me.

I have told most of the Members of this Committee, who were here at various oversight hearings, about a doctor in the State of New Mexico who ultimately settled a case because he was so harassed by the RTC.

And frankly, Mr. Chairman and Members, it is very, very interesting, because many of the things that this S&L did wrong are reported in the last 2 months in the Washington Post, the New York Times, and the Chicago Tribune, as exactly the kind of things that went wrong at Madison.

I mean, the analogy is incredible. Even to the extent of buying property that perhaps was over-valued. He had nothing to do with it, but they accused him of negligence per se, just because he was a member of the Board.

I think the essence of this case, this situation, and I am not the least bit reluctant to say to my friend from Massachusetts, this is about Madison, this hearing. It should be about it. We do not have an opportunity to do it another way.

We ought to be bringing to the attention of the American public what we can under proper rules right here today. It will not get very far because we do not have enough information.

Second, I think the situation cries out for a total disclosure of why the appearance is so strong that those who dealt with Madison as insiders, as incorporators, as lenders to a campaign, and all the other facts alleged, I think those ought to be brought out. Sooner rather than later.

I do believe, in my closing remarks, so there will be no doubt to friends of this Republican, that there is no doubt in my mind. And I say this to my friend, Senator Bentsen, who I worked with here forever and whom was the chairman of a big committee. If these facts were out on a Republican with the Democrats controlling this Congress, there would already be a special investigation going.

So if there is frustration, I believe it is real. I believe we really feel it. We cannot think for a minute that there would not be a special team here in the United States Congress investigating this if the shoe were on the other foot.

Thank you for yielding.

The CHAIRMAN. Senator Boxer.

OPENING STATEMENT OF SENATOR BARBARA BOXER

Senator BOXER. Mr. Chairman, first I say to my colleagues, I know I missed some opening arguments, if you will. I was marking up the Clean Water Act and was trying to protect the oceans, rivers, and streams for everyone, and I hope I did part of the job. I hope I took care of Boston, took care of everything.

But, in any event, Mr. Chairman, as one of the people on this Committee, and it was all Democrats that really called for this kind of oversight, we are the ones who said we want to oversee the performance of the RTC. And we made an amendment, some of us down on this end, to make sure we would have this kind of oversight.

It is not about one institution; it is about all the institutions. So for this Senator, maybe I am at the wrong hearing, but I thought this was what we are supposed to do to ensure better performance of the RTC.

Now we called for a number of things.

Stronger internal controls against waste, fraud, and abuse, a better RTC response to problems highlighted by the auditors, a plan to wrap up the cleanup process, expanded opportunities for small business women and minorities, stronger oversight of contractors, improved financial management and accountability of the RTC, an increase in recoveries from asset sales, greater protection of whistleblowers, and aggressive pursuit of those whose fraud and abuse cost the American taxpayers billions and billions of dollars.

Whether those fraudulent actors are in California or Texas or New York or Arkansas, we want to go after them. So all the outrage that we have seen on the Senate floor about one institution, I want to tell you, I share that outrage about many institutions. And I am looking to you to tell me how you are fixing it.

That is the purpose of this hearing today. We have had a financial tragedy. I can never forget the looks on the faces of these older people in California when they bought those instruments they thought were protected by the FDIC and found out they had lost everything.

That is the image that I bring to this hearing, that is what I care about. And I hope that in the course of the questioning about many of these S&L's and the actors that are behind them, we can make sure, with confidence, that you are moving in the right direction.

So thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Bennett.

OPENING COMMENTS OF SENATOR ROBERT F. BENNETT

Senator BENNETT. Thank you, Mr. Chairman.

I do not want to prolong what has been going on but I must make a few quick comments on the main topic of the debate that has proceeded.

I must agree with my colleague from New Mexico that if the shoe were on the other foot, we would be seeing the same kind of thing going on with posturing in other ways.

Neil Bush did have all of his relevant material made public by the RTC. I do not see a double standard in a call for Madison to have all of its public records made public by the RTC.

I just pose this rhetorical question.

If the lawyer for the Rose Law Firm who had handled this matter was named Ed Meese, rather than Hillary Clinton, would we be having the same discussion in the same way?

Ed Meese is an acquaintance of mine. I will not call him a close friend. He went through much of the same kind of thing, and I think if you were to make a chart of the number of Ed Meese's cli-

ents in terms of their importance dollar-wise, you would find far many more pages prior to Ed Meese's name than we have seen pages here today.

The CHAIRMAN. Senator Bennett, would you just yield to me at that point for a question?

Senator BENNETT. Surely.

The CHAIRMAN. I have thought about that. And I think there is a very substantial difference, with all due respect.

Senator BENNETT. I would like to hear it.

The CHAIRMAN. The difference is that in the case you cited, the Neil Bush case, let us just take that case or any comparable case. There was no special counsel established at that time. That case was prosecuted or carried forward by regulatory officials who were within an Administration that had been appointed by that Administration. And that creates, on the face of it at least, if somebody wants to challenge it, an appearance of conflict.

The same thing could be said here in the absence of an independent special counsel. There was no independent special counsel in the Silverado-Neil Bush case. And if there were none here, with respect to Madison, then I think you would have parallel situations.

That is not what we have. We have a profoundly different situation. And the independent special counsel obviously is aggressively at work. His reports today say that he plans to bring his first case within 30 days. He has hired teams of lawyers that are being set up in different places.

I have every confidence, based on what I have seen thus far, that this independent special counsel means to turn all the cards face up before this is done. That was not done in other situations. And so when you try to make that parallel comparison, you have to take that into account. If you were to subtract the independent special counsel from today's situation, then you have an argument to make. That makes it profoundly different.

Senator KERRY. Mr. Chairman, if I could just add to that, there is no instance of President Reagan or President Bush appointing a Democratic special prosecutor to investigate, as President Clinton has appointed a Republican special prosecutor. It's totally different.

Senator BENNETT. If I might respond. I am not sure that it is acceptable to say that it is totally different. I am not talking about these kinds of details, which I will allow those who have been here before to argue about. I am talking about the rhetoric, and I know the kind of rhetoric around Ed Meese's supposed misdeeds, which clearly would not have arisen if he were not a close friend of the President of the United States.

Ed Meese did, in fact, nothing criminal, but he was pilloried on the floor of the Senate and in Committees of the Senate and in hearings when he came to testify in circumstances because of the fact that he was a close friend of the President of the United States. An argument could be made that he was sloppy in some of his financial activities.

I will not defend that. I am just making the point that I think Harry Truman was talking about when he talked about heat and kitchen.

When the President of the United States has a problem with close associations, and in this case, an associate so close that he

has married her, he had better expect this kind of partisan shooting, and I do not think we should say, well, it is inappropriate for it to come up. Because it always comes up, regardless of who controls the Presidency and who controls the Congress, and it is a single standard that all of us in public life have to live by. Usually, to our sorrow, we discover it, but it goes on. I think we should recognize that is what is going on.

The CHAIRMAN. Senator Bennett, would you just—

Senator GRAMM. If we are going to debate each other, we are never going to be able to finish this hearing. I would suggest that we go on, let people make opening statements, go to our panel, and let us ask them the questions.

If we go back and forth, we are going to tie up a third of the Government on the panel here before us. Maybe some will say the country will be better off if they were here rather than doing their tasks, but we are paying them to do their jobs.

The CHAIRMAN. Well, we are moving as quickly as we can.

Senator Bennett, let me just say I think your last point, in a sense, makes my point. Ed Meese did come under, eventually, the jurisdiction of a special counsel, and that is when his name was cleared.

I think what you are saying is, in that situation, as I listen to what you say, if the Congress had not come in and bounced him around, and if he had the chance to have the facts laid out as they eventually were with special counsel, that that was a proper and fair way for it to be done. That is precisely the point we are making.

Senator BENNETT. I thank the Chair.

Let me go to the issue that Senator Boxer raised about outrage and what we are supposedly doing here at this hearing.

I share her sense of outrage about people like Mr. Keating who ultimately went to prison and deserved to. The thing I would hope we would pursue, however, is an outrage on the other side of the circumstance, with which I have personal experience. And that is, S&L's in my State that were being properly run, appropriately managed, the assets were being well guarded, and the depositors were being taken care of, that nonetheless were forced out of business by a very aggressive RTC that was determined not only to shut down the bad apples, but were determined to close down the industry. Anybody who had an S&L was immediately suspect. And more than suspect, ultimately destroyed.

It is the flip side of what Senator Boxer talked about, people who had invested in good faith in a sound business that was soundly managed, who saw the depositors taken care of because of the bailout, and the shareholders lose their life savings because of very aggressive governmental activity.

Now I do not expect that we can salvage that for those people who went through that circumstance. It happened during the infamous 12 years to which my colleague from Massachusetts keeps referring.

I do not carry any brief for those Administrators who did that during that period, but I would hope we could address the question of whether or not now in the present Administration there is an awareness of the fact that that mentality, that I would compare to

that that existed in Paris during the terror toward certain members of the aristocracy whether they had anything wrong to do toward the peasantry or not, existed in the management of the RTC, and whether that has been addressed, and whether there's been some attempt to cool that off.

Finally, Mr. Chairman, I would submit, for the record, a comment that appeared in the Denver Post that I find quite disturbing. It is signed by a John B. Cavanaugh who is listed as the Oversight Manager in the Denver Office of the RTC. I do not, by any means, say that I agree with Mr. Cavanaugh and the accusations that he made, but it is a very inflammatory thing coming from an RTC official and I would hope it would go in the record and that there would be some kind of response.

The CHAIRMAN. Without objection, we will place it in the record. I would like to see it.

Senator Faircloth.

OPENING STATEMENT OF SENATOR LAUCH FAIRCLOTH

Senator FAIRCLOTH. Thank you, Mr. Chairman.

I will attempt to cut through this quickly.

I feel an apology is almost in order to our guests today, particularly those that did not come here for a Whitewater hearing.

But the truth of it is the Administration had attempted to lock and limit the investigation into Whitewater and the opportunities that we have had to ask and to inquire into it have been extremely limited. We have been eating ice cream with a knitting needle and it has come out very slowly.

[Laughter.]

And I readily agree that the Administration would have been better served if they had brought it out early.

We recently had the two reports from Mr. Hove's group, the FDIC, on the role of the Rose Law Firm and the Madison Guarantee Savings and Loan. This is not an outside group. It wasn't even a report by the Inspector General. It was a report by employees whose career path is going to be determined by the investigation. It is a report by the legal division that retained the Rose Law Firm in the first place.

The Rose Law Firm, Madison Guarantee Savings and Loan, and FDIC have, and will continue to be staffed with personal friends of individuals who have been implicated in Whitewater-related conduct. Some of the implicated individuals are part of the Administration themselves, as is the case with Webster Hubbell.

The FDIC legal division offered a report on the relationship of the Rose Law Firm and its client, Madison Guarantee Savings and Loan, which attempts to exonerate the Rose Law Firm and Webster Hubbell in particular. It attempts to exonerate the FDIC from any wrongdoing or conflict of interest. However, once again, we have career Government employees who are investigating their appointed superiors.

What the report does, and I assume you've read it, Mr. Hove, is list eight pages of memory lapses of Webster Hubbell, FDIC employees, legalese quotations from the Arkansas Bar Association, and apologies for not having or not following procedures. It is an eight-page plea of insanity.

[Laughter.]

What the report does not do is change the fact that Hillary Clinton and Webster Hubbell, as partners in the Rose Law Firm, profited on both ends of the Madison deal. They got it going and coming.

It does not change the fact that Hillary and Rose intervened with her husband's political appointee in Arkansas to keep Madison in business. It does not touch or talk on that.

It does not change the fact that Hillary Clinton was in a 50/50 partnership with James McDougal whose savings and loan failure caused the FDIC action against Frost & Company.

It does not change the fact that Webster Hubbell was hired by the FDIC to represent what was left of Madison, despite the fact that it was being sued by a member of his family; his father-in-law.

Now if you haven't read it, you ought to. It is really funny. The report says there was a conflict because Webster Hubbell had built a firewall inside the Rose Law Firm between him and his in-laws, an Arkansas firewall. You could strike a match behind it and hear the scratch, see the glow, and feel the heat of his firewall.

[Laughter.]

Of course, we now learn that in the case of Hillary Clinton, Vince Foster, and Dan Lassiter, the FDIC has exonerated Ms. Clinton from a conflict of interest without her even being interviewed. I do not know how you do that, but it worked out, without issuing a report. Totally, she was exonerated. No report, no interview.

We do not know how much money the Rose Law Firm earned or she earned for the firm because it was a confidential settlement with Dan Lassiter. Hillary Clinton's husband was bankrolled by Lassiter who's brother-in-law had his drug debts paid by Lassiter, and both of them were flown around Arkansas by Lassiter, and were hired by the Government to represent the taxpayers against Lassiter.

If that isn't a conflict, I do not know how you would design one.

The FDIC decides that she had no conflict of interest and exonerates her. This, after the person at the Chicago Tribune, I assume they're right, reported that Dan Lassiter's power of attorney, was sent to the White House to move the Whitewater files of Vince Foster, a Ms. Thompson. She was sent in to remove the files from Vince Foster's office. She had Dan Lassiter's power of attorney.

Now if this isn't a cozy arrangement, I would like to hear one.

Mr. Chairman, you cannot tell the people of America who work hard, pay their taxes, and play by the rules, that these insiders who use connections, profit on both ends of deal after deal, ultimately at taxpayers' expense, do not have a conflict.

Mr. Hove, the FDIC report means absolutely nothing. I hope the search for the truth will go on.

The CHAIRMAN. Senator Shelby.

OPENING STATEMENT OF SENATOR RICHARD C. SHELBY

Senator SHELBY. Thank you, Mr. Chairman.

I have been in another Committee hearing, but I do have a statement.

Mr. Chairman, thank you. I want to thank you as others have for scheduling this morning's hearing. This Committee has been

very busy, but you are to be commended for finding an early date to hear from the RTC Oversight Board. It is very important.

I would also like to welcome the witnesses today before this Committee. I am glad for the opportunity to hear from the Oversight Board on the progress of the Resolution Trust Corporation since the last oversight hearing.

At the last hearing, at which this panel was present, you were a new team which had just taken over the responsibility of the RTC. In the intervening year, you've had an opportunity to become familiar with the inner workings of the agency and presumably to make any necessary changes. I am very interested in your progress. However, I have a couple of concerns. It is my understanding that fewer thrifts than anticipated are likely to fail before the middle of next year. That is good news.

It is highly likely that Congress appropriated—maybe, I hope so—too much money for the remainder of the resolution process. This excess funding could encourage the RTC to be less aggressive in its efforts to obtain the maximum recovery for the taxpayers. I hope that this will not be the case, and that the RTC will pursue vigorously the best value for the taxpayers.

Further, I understand that resolutions are currently being delayed while the RTC completes regulations concerning the minority- and women-owned business program. This delay is unfortunate. I urge you to see that these regulations are completed quickly so that the RTC can proceed with the resolution process and complete its business before the middle of next year.

I am sure there are few others who will be more pleased to see the lights turned off at the RTC than the five of you.

And on another subject, I make the following remarks only because I know it has been discussed already here today, and I wanted to make my position known.

On the issue of the Madison Savings and Loan, there are unanswered questions that bear further scrutiny. We all know this. I believe that it is in the best interest of the President and Mrs. Clinton and the right of the American people to have a full and fair review of the facts surrounding the failure of Madison Savings and Loan, Whitewater Development Corporation, and the Rose Law Firm by the FDIC.

However, Mr. Chairman, I strongly believe this investigation is most properly handled by the Independent Counsel appointed by the Justice Department. Should Mr. Fiske uncover violations that warrant prosecution or other things, these efforts may be jeopardized, I would think, by concurrent Congressional investigation. We know the history of this. I believe the Chairman has defined appropriately the role that this Committee should play at this time.

The public interest I believe will be best served by the RTC's utmost cooperation with the special counsel as he conducts this investigation.

I again appreciate the Board's appearance before this Committee, and I look forward to your testimony.

The CHAIRMAN. Thank you very much, Senator Shelby.

I want to say to my witnesses, we are getting close.

Senator Gramm.

OPENING STATEMENT OF SENATOR PHIL GRAMM

Senator GRAMM. Thank you, Mr. Chairman.

Mr. Chairman, first let me go back to the reason why we are here and why, as we all know, this hearing is about Madison Savings and Loan and the related issues.

First of all, we have a mandate under law to hold an oversight hearing every 6 months. We have flexibility within that mandate, but the bottom line is that this is the first hearing we have held in a year.

The primary focus of attention in this hearing today is not the general oversight of the RTC, though clearly focus on that is worthy of our time and our energy. We all know why we are here. We are all here this morning because there are a lot of unanswered questions that ultimately will be answered. The American public will demand that they are answered.

As long as they're not answered, we are going to end up spending our time and the use of our energies in mornings like this. Many of you on the panel are going to end up spending your time in a similar pursuit.

The first point I would like to make, Mr. Chairman, is that the President could do us all a favor by giving the American public the relevant facts in these cases, in Whitewater and Madison Savings and Loan. Give the public the information that clearly the public desperately wants in order to clear the air on this matter. I believe that if the President did that then he could free himself of a very heavy burden, and I think he could free us.

If I had wanted to be a prosecutor, I would have gone to law school and I would have gone into the criminal justice system. This is not my line of work, it is not something I feel I have any gift at, and, quite frankly, it is not something that I am interested in.

But we can't very well act as if a hearing of this nature is not a normal mode of operation in the United States Congress. I just was jotting down here, given my poor old memory, examples of where we have had criminal investigations underway and at the same time we have had Congressional hearings.

Silverado, BNL, Penn Square, BCCI, Bank of New England, Empire Savings, and in the case of BNL, we had an Independent Counsel. So I think everybody knows that whether we want to be drawn into this thing or not, whether it is a good use of our time and energy or not, whether we are specifically charged with it or not, until the President clears the air by giving the American people the facts, we are going to be here.

I hope that he will do that. There is nothing I would rather do than to get on with the Balanced Budget Amendment debate, which is on the floor, or to get on with the debate about health care.

The idea that somehow we can prevent the Congress from demanding that information be provided, I think, clearly, is something that is not going to go away. We all know that there is no knowledgeable person in America that believes for a moment that if Ronald Reagan were President, if an aide to Ronald Reagan had died, if the personal papers of that aide had been gone through by President Ronald Reagan's political operatives, if all of these questions were out there about Ronald Reagan, surely no one can be-

lieve that the Congress of the United States would not be setting up special committees, that it would not be the primary focus of what we are doing.

Because the President's party is in power in both Houses of Congress, clearly that is not happening. I am not eager to see it happen. What I would like to see happen, Mr. Chairman, is for the President to present to the American people all of the facts, answer the questions, clear the air, get this business over with so we can go on about our business, which is the people's business.

The CHAIRMAN. Secretary Bentsen, you have been very patient this morning, and we look forward to your report on the status of the RTC, and where we stand at this point, and we would like to hear from you now.

STATEMENT OF LLOYD BENTSEN, CHAIRMAN, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; SECRETARY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Secretary BENTSEN. Mr. Chairman, Members of the Committee, I have the Oversight Board members with me here.

Alan Greenspan, Chairman of the Board of Federal Reserve; Roger C. Altman, who is the Interim CEO of the RTC; Jonathan L. Fiechter, who is the Acting Director of the Office of Thrift Supervision; and Andrew C. Hove, Jr. is the Acting Chairman of the Federal Deposit Insurance Corporation.

Also accompanying us is Dietra Ford, who is the Executive Director of the Oversight Board.

I have a longer version of my testimony for the record, but I would like to summarize it, particularly with the lateness of the hour, if I might.

The CHAIRMAN. We will make your full report a part of the record, and we would like your summary.

Secretary BENTSEN. Before I begin, in listening to the partisan exchange, let me thank the Members of this Committee for their bipartisan support last year, in the last session, to obtain the funding to finish the RTC job. I am quite appreciative of that.

Let me tell you something you do not hear very often. We are not here to ask for more money.

[Laughter.]

[Applause.]

The funding provided through the RTC Completion Act should be sufficient. In fact, they tell me this is the first time that the Oversight Board has been before you that it wasn't asking for additional money and funding. And I am just very pleased to be able to inherit that honor.

I am also happy to report that few S&L's are failing, and 99 percent of private sector thrifts are well or adequately capitalized. Let me review some of the numbers for you.

Since the RTC was created in 1989, it has taken over 743 failed institutions and it has closed or sold 680 of them. In the process, it protected nearly 23 million deposit accounts with an average balance of \$9,000. RTC made good on the Government's guarantee of deposit insurance to millions of Americans nationwide, and, I might add, it did it with minimum disruptions. A lot of the customers did not even know that the RTC had taken over their S&L.

The RTC also undertook the greatest liquidation in history, so far disposing of \$393 billion in assets for about 90 percent of their book value. Frankly, I couldn't believe that one. I made them go back and check it again for me.

The RTC has sold, since its inception, nearly 80,000 units as affordable housing, so at least tens of thousands of lower-income families have benefited as this problem is being solved.

Crime is at the top of our agenda these days. We talk about violent crimes. Well, this scandal had criminals, white collar criminals. More than 1,500 persons were charged with major crimes involving S&L's. Nearly 1,250 were convicted, and of those sentenced, more than 75 percent went to prison. RTC has pursued civil recoveries from wrongdoers with all involved agencies collecting nearly \$2 billion.

Mr. Chairman, when this Administration took office, the total cost of resolving the S&L problem was estimated to be between \$100 and \$160 billion. When I testified, just last March, we thought as much as \$45 billion in additional funding would be needed. That was on top of the nearly \$87 billion already appropriated. A lot of people agreed with us. The Congressional Budget Office estimated \$50 billion. The General Accounting Office had us around that level. And so did the House and the Senate Budget Committees.

As RTC funding legislation moved through the Congress last year, constantly improving economic conditions resulted in record earnings for the S&L and the banking industries. By mid-November, after lengthy deliberations in both Houses, the funding bill provided \$18.3 billion. And, that brought the total amount that was provided by Congress for the cleanup to \$105 billion, a figure on the low end of the estimate when this Administration took office.

I know the results could easily have been different. Depositors could have lost all their savings. The loss to the Government could have been far greater. Resolution of the problem could have taken much longer. But, to the credit of a great many people, including many seated in this Committee, the problem is near resolution.

I would like to give some credit to the management of the RTC. And I think we sure better credit the economy. Deficit reduction has helped interest rates fall.

We have taken steps to increase the availability of credit. Tackling unnecessary regulations and reporting requirements that discourage lenders from making loans to small business. And we will continue to propose changes that will result in greater credit availability and efficiencies in the banking industry. This is why we want to settle a number of issues, including passage of the Community Development Financial Institutions legislation, which includes a balanced reduction and regulatory reform.

I will be before this Committee next week with specifics on the Administration's proposal to reform and simplify the regulatory structure for depository institutions. Our proposal will not only eliminate unnecessary regulatory expenses, which could result in the availability of greater credit, but just as importantly, it can help avoid new crises by putting a stop to inconsistent and confused regulation.

We will talk more about that next week.

The point I want to make on deficit reduction is that the market responded. The economy responded. Housing starts and home sales are up, and that is sure good news when you're the RTC and you're trying to close a property.

I can't help but think back. What a dramatic difference interest rates make. I used to chair a savings and loan. I am sure glad I sold it when I came to the Senate.

[Laughter.]

Not smart, just lucky. But I will tell you, when you have your mortgages at one rate, and all of a sudden long-term interest rates go substantially above that, you have got yourself a real problem in an S&L. You see savings and loans, who are honestly trying to compete, and what a hole it puts them in. Fortunately, we now are seeing things go the other way with the substantial reduction in interest rates.

And, I want to say to you, Senator Bennett, I have seen some of what you're talking about too. But sometimes they were the result of oversights, and that balances, in part, with the concerns Senator Boxer has of pursuing institutions that have been ill-used and individuals guilty of malfeasance.

Lower interest rates and increased credit activity have brought about increased earnings for all types of financial institutions.

Many S&L's that may have been at risk are now making profits. You and I know we can't predict what is going to happen between now and 1995 when the RTC goes out of business. Nobody foresaw the floods and the earthquakes and they had their economic consequences.

We are not done yet. Through 1995, RTC must continue to protect depositors, must dispose of some very-hard-to-sell assets, and it must ensure its operations are run effectively. It must work toward an orderly transition of its responsibilities to the FDIC and it must never lose sight of its mandates to provide affordable housing and ensure maximum minority participation, including implementation of the provisions in the RTC Completion Act.

I have urged the RTC to work aggressively on the issue of minority participation. It is imperative that minority- and women-owned businesses have an ample opportunity to win contracts, to purchase assets, and to acquire failed thrifts. In fact, the RTC is taking special care to meet the requirements of the Completion Act to provide preferences to minority institutions and apply the least cost test.

Let me be more specific about some of those things I mentioned.

The RTC has begun resolving 63 insolvent institutions now operating in conservatorship, which have about 2.3 million deposit accounts. Some additional institutions may be transferred this year. If so, the RTC will make good on the Government's guarantee to those insured depositors and any others who might yet fall under its jurisdiction.

Insofar as the remaining inventory of nearly \$64 billion in assets, these, as you said earlier, Mr. Chairman, are the most hard to sell properties that are left. They are real property and non-performing mortgages.

While the improved economy helps sales, the potential loss to the taxpayers can be reduced if these assets are managed and sold efficiently. The RTC is working on improving its marketing and sales

strategies. It is seeking creative, yet sound techniques to maximize returns.

To fulfill its remaining mission, the RTC will benefit from good managers. Jack Ryan of the OTS was appointed Deputy CEO. Ellen Kulka of the OTS has been appointed General Counsel. And, Tom Horton has been promoted to Acting Senior Vice President for Asset Management and Sales. I can tell you today that the Administration expects to submit its nomination for a permanent chief executive shortly.

I thank Roger Altman for the service that he has done as the interim CEO. His term expires at the end of March, and we hope by then to have a candidate. In line with the RTC Completion Act, Jack Ryan will serve as the interim CEO between the time Mr. Altman's term expires and the permanent CEO is confirmed.

The Oversight Board will also complete appointments to the Audit Committee which will be in operation soon. I have asked Frank Raines, Vice Chairman of Fannie Mae, to chair that one. And to serve as members, we asked Jonathan Fiechter of the OTS, and Robert Larson, Vice Chairman of the Taubman Company and a former member of the Oversight Board. Mr. Larson has also been renominated to serve on the Oversight Board and I hope you will be able to approve his nomination soon.

The RTC will close down on December 31, 1995, 1 year earlier than originally thought, and planning for that is well underway. I expect the new management to work with the people at the FDIC in a cooperative way to carry out the transition of the RTC to the FDIC.

This past year, the Oversight Board has also strengthened our staff reviews.

I was being reminded of my testimony of last year, the recommendations and the improvements that we sought to bring about. We have done a number of them; we have not completed them all. We are obviously still working at it and we are scrutinizing some. For instance, our staff has been monitoring the RTC's efforts to improve its contracting systems and its oversight. The review is being conducted to make sure policies are applied uniformly to all contractors, and that contract oversight procedures provide effective review of performance.

The Board's staff has also focused on the RTC's financial operating plan, its operating budget, and all of its borrowing activity.

Our advisory boards are taking hard looks at the RTC's policies governing asset sales.

Late last year, Ira Hall of IBM USA was named Chairperson of the National Advisory Board, bringing considerable financial expertise and private sector expertise to that process.

These Boards meet regularly at sites nationwide. They discuss progress and they hear testimony from witnesses on how these regulations and procedures affect different parts of the country. The RTC listens to their advice, and the Advisory Boards have been instrumental in helping to advance affordable housing opportunities.

Our advisory board structure will change this year. The Completion Act created a new Affordable Housing Advisory Board to replace the National Housing Advisory Board. The new Board will be made up of nine members, including the Secretary of HUD. They

will provide advice on affordable housing programs and how to merge RTC programs with the FDIC programs after the shutdown, and we are looking forward to working with them.

Now, last year at this hearing, I announced ten management goals aimed at improving or reforming RTC management. Things like putting in place a system to ensure prompt followup on findings of the Inspector General and the General Accounting Office, strengthening the contracting system, oversight of private sector contractors, and appointing a chief financial officer.

The RTC Completion Act mandated and expanded on those reforms and RTC is moving to meet the standards that Congress determined and set. I am pleased with the results.

In a minute, I would like Roger Altman to discuss them with you, one by one. I hope you especially note what has been done on opportunities for minority- and women-owned businesses and in strengthening the RTC's internal accounting and administrative control systems.

I personally believe that these programs are an important part of the RTC's duties and that this is an area it must continue to focus on to ensure legislative mandates are carried out.

Mr. Chairman, let me end on this. I believe that the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns that you folks in the Congress raised, concerns by the GAO and by the Oversight Board.

You bet there have been a lot of problems but the organization has been relatively free from partisan conflict. Republicans and Democrats alike have been committed to fulfilling the Government's obligations to protect depositors at the least cost to the taxpayers. In 1994 we will keep working at that one.

Looking to 1995, well, I believe the RTC will be more than happy to be out of business. I sure will be happy.

Thank you.

Now let me turn it over to Mr. Altman.

The CHAIRMAN. Mr. Altman, we would like to hear from you now.

STATEMENT OF ROGER C. ALTMAN, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; DEPUTY SECRETARY, DEPARTMENT OF THE TREASURY; INTERIM CEO, RESOLUTION TRUST CORPORATION, WASHINGTON, DC

Mr. ALTMAN. Thank you, Mr. Chairman.

I, too, have a longer statement which, with your permission, could be entered into the record.

The CHAIRMAN. Without objection.

Mr. ALTMAN. And I will summarize it here.

This is probably the final time I will appear before the Congress in RTC capacity. Under the terms of the Vacancy Act, my appointment would expire on March 30, 1994. There are limited circumstances under which that could be extended, but I do not believe they will apply.

As Secretary Bentsen said, it is our intention to nominate a permanent chief executive as soon as possible. Last year, we chose, I think, a fine candidate, Fanley Tate. He withdrew, which was not at our urging. And I believe he would have done a good job.

I want to join with Secretary Bentsen in thanking the entire Committee for its bipartisan efforts to secure funding through the Completion Act passed late last year.

I would also like to note that the RTC has taken special efforts to be responsive relative to the California earthquake. Foreclosures in those effective areas have been delayed. Homeowners are being helped to avoid delinquencies on mortgages held by the RTC. And we notified FEMA of 54 multi-family units and 47 single-family residences that can be made available for temporary housing.

Now onto the status report.

Mr. Chairman, the S&L collapse required the biggest financial rescue probably in world history. Including money spent by the FSLIC, beginning in 1988, it is expected to cost the American taxpayers the staggering sum of about \$150 billion.

To put that into perspective, at today's budget levels, that is equivalent to about 45 years of Head Start, or about 9 years of aid to families with dependent children. At a time when we all struggle to finance Federal support of vital activities, from national security to education, these are sobering comparisons. I am sure all of us would agree, on a bipartisan basis, to make every effort to ensure that such a fiasco is never repeated.

When we inherited responsibility for this agency, it was not in sound condition. It was one of the largest contracting organizations of all time. But it had poor contracting procedures. It was selling assets in massive blocks, denying local investors a shot at local properties which they knew best.

Despite being larger than almost any American financial institution in the private sector, any bank or any securities firm, it had no full time chief financial officer, no permanent General Counsel, and it had no business plan. So we determined to concentrate on repairing the organization. And when Secretary Bentsen first testified before this Committee, almost exactly a year ago, he outlined a series of management reforms to which we committed ourselves.

I would like to very quickly just review some of those. A full-fledged review of all 21 of them is appended to my statement.

CONTRACTING. We found that the agency's contract award procedures had often been violated in the past, and our first action there was to mandate compliance. Some of the compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them.

Obviously, in the event of a compliance problem, the employee then had little incentive to draw attention to it. So the Office of Contracts has been reorganized into two separate units; one for contract solicitation and award, and another for contract administration to avoid conflict.

The scope of contracting oversight has been substantially expanded. Among other things, the staff there has been more than doubled, and reviews of nearly 500 outstanding contracts were undertaken last year.

AUDITS. A new reporting system has been implemented to ensure that management responds to the concerns raised by auditors, and that system now tracks and updates the status of all Inspector General, GAO, and internal RTC findings and recommendations.

And I am pleased to say that the RTC today is current in following up on almost all GAO and OIG findings.

BUSINESS PLAN. We completed a comprehensive business plan. We provided copies of that to this Committee. It is a highly detailed, and, I think, objectively speaking, a good piece of work. It is intended to be a living document, and we are going to update it regularly as conditions warrant.

CHIEF FINANCIAL OFFICER. Donna Cunninghame, our chief financial officer, has been on board for about 8 months. She's taken that helm very ably, as reflected in a series of improvements in the internal controls in the organization.

THE PROFESSIONAL LIABILITY SECTION. This has been a particularly troubled area of RTC operations. There have been complaints from both sides of the spectrum, as the comments already here today illustrate. Complaints that the RTC was unfairly pursuing former S&L directors who had no real roles in those organizations, and on the other side, complaints that the RTC was not sufficiently zealous in pursuing the real crooks.

As GAO recognized in its mid-1993 report, the primary problems have involved inadequate staffing and an overall lack of experienced attorneys. And the temporary nature of the RTC has made it particularly difficult from a recruiting point of view.

We have worked hard to increase the size and the training of the staff in this area. We currently have the highest total of attorneys on board in the agency's history. Moreover, senior RTC and FDIC officials are planning to merge the RTC unit here, the PLS unit with its counterpart in the FDIC, recognizing that the FDIC is a source of experienced attorneys in this area.

I also want to say that effective prosecution of PLS claims continues to be one of the RTC's highest priorities.

Secretary Bentsen referred to our having formed an Audit Committee and appointed its members. We have also established a Joint Coordinating Committee with the FDIC for purposes of planning the transition of portions of the RTC back into the FDIC by the end of 1995.

I would like to make a special set of comments about expanded opportunities for minorities and women. That has been one of our highest priorities, as Secretary Bentsen said.

First of all, we elevated the minority and women's program to the divisional level, and put the head of it on the Executive Committee reporting directly to the CEO.

We took action to expand the number of minority- and women-owned businesses receiving RTC contract solicitations. And there are now more than 1,100 of them in our database.

Let me say a couple of words about the record.

On a cumulative basis, since inception of the \$3.7 billion awarded in non-legal fees, \$800 million has been awarded to minority- and women-owned businesses, 21 percent. Take a look at last year. We paid non-legal fees of \$500 million, and minority- and women-owned businesses received 31 percent of those.

We also continued efforts to encourage the use of minority- and women-owned law firms on the legal side, as far as legal fees are concerned. Last year, such firms received \$54 million or 13 percent of all legal fees from us, a big increase from the 1992 level. And

within the category of minority- and women-owned law firms, minority-owned law firms received \$36 million, far above the \$23 million of a year before.

I think the entire RTC is quite proud of the sharply increased levels of minority and women's participation in all of the fee generating activities of the agency. And details on that are also appended to my statement.

Turning briefly to operations and financial issues, Secretary Bentsen cited a series of statistics relative to the amounts of institutions which have been resolved since inception, to me the most important statistic is \$9,000. Nine thousand dollars is the average balance in institutions which have been resolved. And for those who think this has been a bailout of the rich and famous, I think that is a pretty telling number.

We have 63 institutions under conservatorship today, \$18 billion of deposit. Now that the Completion Act is law, we are in the process of marketing these remaining conservatorships. We think these 63 will be resolved, Mr. Chairman, by the summer of this year. And that it should cost \$9 to \$11 billion to do that.

On the asset sales side, we exceeded the targets we initially set last year. Book value reductions, \$63 billion; cash proceeds, 76 percent of that. That is a recovery rate below previous years because now we are down to poorer quality assets, hard-to-sell assets. For this year, 1994, we expected to reduce the book value of our inventory by \$43 billion, cash proceeds, \$29 billion, projected recovery rate, 66 percent.

Now, on this asset sales side, one of the things we did was to put in place a small investor program. Because if I heard anything in this past year in this capacity, it was that local investors did not have a shot at local properties which they knew best. So we took steps to ensure that assets would be available for sale individually to small investors with moderate levels of capital.

Under this program, individual offerings of real estate properties have been emphasized. Underscore individual. Auctions and sealed bid sales have become more frequent and geographically focused. Smaller loan pools are being offered to allow buyers to purchase smaller, more geographically segmented groups of loans.

And I am pleased to say that at the most recent non-performing loan auction in August of last year, a third of the winners were new buyers who had not participated before. The new bidders, overall bidders were, for the most part, smaller companies with a much higher preference for smaller loan pools and were most interested in buying geographically focused loan packages located in their own areas.

AFFORDABLE HOUSING. Secretary Bentsen noted this. Since inception, we have sold over 77,000 units for a total of \$1.2 billion. The average annual income of households purchasing in that program has been about \$24,000, which, by the way, is 61 percent of the national median family income.

Finally, Mr. Chairman, the issue of whistleblowing.

As was noted earlier, last September, this Committee held oversight hearings where a variety of allegations were made, including retaliation against whistleblowers.

Let me emphasize, in the strongest terms, we support protections for whistleblowers and have taken several actions to address those allegations. I issued a memorandum on October 4, 1993, to all RTC employees strongly reiterating our policy of prohibiting retaliation against whistleblowers.

We established an Employee Ombudsman Program to augment the efforts of the Inspector General in gathering all types of employee allegations. That Ombudsman reports directly to the CEO on a weekly basis.

I think that program's working pretty well because as of February 15, 1994, we have received 116 inquiries, 96 of which have been closed and 20 of which are still pending.

We also had conversations, in person and by telephone, with six of the individuals who testified here before this Committee. And during these interviews, we solicited comments, feedback, and suggestions from them on how best to remedy the problems which they raised. A number of those interviews were insightful and have been taken into account in our efforts to remedy some of the management problems at the RTC.

I just want to underscore how seriously we have taken these allegations, and that hundreds of hours have been spent working to understand and resolve them.

In closing, the Completion Act requires the RTC to terminate on December 31, 1995. We will make that. There is no question we will make that, and I think it will be a happy day for all concerned, especially the American taxpayer.

Thank you.

The CHAIRMAN. Thank you very much.

We are now going to proceed with the questions, and we will go with normal 5-minute time periods.

Chairman Greenspan, let me start with you. The Federal Reserve, of course, has raised interest rates earlier this month, and you have just indicated publicly again that further increases are likely. And we know in the past that rising interest rates have the effect of causing significant problems for thrifts. Now obviously the amount is highly relevant. But my question to you would be what effect are these higher interest rates likely to have on the RTC, and for that matter, on the future health of the thrift industry, which is still trying to work its way back?

ALAN GREENSPAN, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE BOARD, WASHINGTON, DC

Chairman GREENSPAN. Mr. Chairman, I think you raise a very important question because one of the lessons of this whole experience has been that we have, we put into place in the early post-war years, an institution which was a specialized institution, one which could not function in a period of significant inflationary imbalances, an institution which had long-term assets and short-term liabilities.

And, as the Secretary indicated, when interest rates generally go up, that institution is pressed, as indeed we saw in an extraordinary sense in the period 1979-1980.

One of the things that is very important that we not allow to happen again is that extraordinary type of inflationary imbalance which was so destructive to those types of institutions. To be sure, savings and loans, as a consequence of that, have restructured their balance sheets to a significant extent, and then maturity mismatch is not the size that it was previously.

Nonetheless, should interest rates rise significantly, then I think it does put those institutions in a very difficult position. It has been the concern of the Federal Reserve that we endeavor to fend off any such types of inflationary instabilities, and the actions that we took on February 4, 1994, and the general discussion, which I outlined to the House Banking Committee Subcommittee in trying to comprehend the types of problems that may be out there, were put forward precisely to prevent the types of difficulties which so debilitated the savings and loans.

To date, the affects on these institutions, of course, have been minimal and we do not expect to see any particular problems emerge on that. But I would like to ask my colleague, Jon Fiechter, what he sees. He is looking at these institutions in a much more detailed way than I.

JONATHAN L. FIECHTER, MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; ACTING DIRECTOR, OFFICE OF THRIFT SUPERVISION, WASHINGTON, DC

Mr. FIECHTER. I would echo what Chairman Greenspan said.

First, clearly a major risk in the thrift industry, given the nature of the business, is interest rates. A real difference between the thrift today versus the thrift of the late 1970's that ran into so much difficulty when there was the rate spike in the early 1980's is that restructuring, both of assets and liabilities. There are a lot of thrifts now that will not hold fixed rate mortgages any longer because they went through the early 1980's. Also, as a consequence of removal of rate Q, institutions are much better able to manage their liabilities.

As you know, Mr. Chairman, as a consequence of FDICA, OTS has spent a lot of time on interest rate risk. We have a fairly extensive model.

In anticipation of this, I asked the staff, based on the information that thrifts now provide, what would be the effect of a 200 basis point increase in interest rates if it were to happen as an across the board increase. And I do not think we are talking about that type of change.

Only ten institutions would fail their current capital requirements. None of them would go below 2 percent capital, however. And while it is a very uncertain world we live in, the analysis that we have done has suggested that at least in the numbers that we are talking about today, the thrift industry is much better positioned to handle rate increases going forward.

The CHAIRMAN. I think that is an important response because it shows, as well, that our re-engineering efforts in FIRREA and then in FDICA appear to be working now. If we get overtaken by events that drive interest rates up by more than 200 basis points, we are into a different zone. But let us hope we are not going to deal with that.

Chairman Greenspan, let me ask you one other question. This issue has obviously gotten a lot of attention here this morning. Are you satisfied with the way that the Madison Guaranty issue has been handled by the RTC?

Chairman GREENSPAN. The Oversight Board has, as far as I am concerned, had no relationship with the Madison issue, because that is a special case which is handled by the RTC directly. And I must say I have not followed it in any manner which would enable me to address the question in a useful manner for you.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Hove, on August 10, 1989, there was a letter written to Mr. John O'Donnell by Ken K. Schenck, a credit specialist. I do not know whether you have seen this letter in your reviews of this whole matter. Just let me read you the last paragraph.

"In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in their day to day operations. We are making this information available, in detail, to Mr. Hubbell."

Now listen to this sentence.

"To believe that none of this information will make it back to his family is naive. I do not know whether or not any information upcoming will be damaging. However, I would like someone with a lighter scope of authority to review the situation and possibly eliminate this conflict."

Here is a credit specialist who is telling you what the real world is about. He was there.

Now, let me go on.

In the report released by the FDIC, the 8 pages are what I think is the most incredible whitewash of Whitewater gate that I have seen. This is incredible. Incredible. And I have spoken to you just briefly before and told you what I am going to ask.

On page 6, at the bottom, it says, "In addition, we have found no evidence that the firm had a close relationship with the S&L which might call into question its independence."

I mean, I have to tell you, given the information that your people were reporting back to Mr. O'Donnell, FDIC S&L project area coordinator, August 10, 1989, given this, I would question how the FDIC can make an assertion that the Rose Law Firm did not maintain a close relationship with Madison Guaranty. That is incredible in light of the fact that they had a monthly retainer with them for 15 months several years earlier. I mean how do you come to this conclusion?

Let me ask you one other thing. Is it true that no documents were reviewed as part of the FDIC's internal review, which was conducted by your law department? Is that true? Do you know?

ANDREW C. HOVE, JR., MEMBER, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD; ACTING CHAIRMAN, FEDERAL DEPOSIT INSURANCE CORPORATION, WASHINGTON, DC

Mr. HOVE. Let me respond to your questions in the order that you gave them.

You first talked about Mr. Hubbell and his relationship with the suit with the Frost accounting firm.

Senator D'AMATO. Have you seen this memo?

Mr. HOVE. I have not seen that memo.

Senator D'AMATO. Will the staff give a copy of this memo to Mr. Hove, please.

Take a look at that last paragraph and let me know whether or not your people, in conducting this review, have seen this, going back to 1989. The person who sent it said it would be naive to think that Mr. Hubbell would not pass this information onto his family.

Mr. HOVE. Let me respond by saying that even if he had, the issue between Mr. Ward, who is Mr. Hubbell's father-in-law, and Madison Guaranty had been already decided and Mr. Ward had a judgment at that time against Madison. That case was on appeal, therefore, any information that Mr. Hubbell could obtain, even if he would obtain it and give it to his father-in-law, would not be admissible, and would not be in the appeal process even if he had the information to give him.

Senator D'AMATO. Mr. Hove, let me ask you, did you read page 6, the bottom of your report, because we do not have much time? It says we find no evidence that the firm had a close relationship with the S&L. Do you really believe that to be the case? Do you really believe that a monthly retainer that Hillary Rodham Clinton had did not establish a close relationship? Are you really suggesting that there was none? Is that credible in light of what you know?

Mr. HOVE. Her relationship with Madison was on an issue that was in a State agency and not with the FDIC, and our case was not against Madison. Our case was against the Frost accounting firm.

Senator D'AMATO. In addition, we find no evidence that the firm had a close relationship with the S&L, which might call into question its independence. I mean, are you serious? I mean that is the conclusion that was drawn. Now let me tell you, it was made by your legal department.

Let's go on to something else. You have an Inspector General. Was the FDIC Inspector General involved in this review?

Mr. HOVE. No, sir. I indicated to you, in my confirmation hearing, that we were undergoing a review by our legal division as to what was the conflict policy that may be in effect between the Rose Law Firm and the FDIC in the lawsuit that Rose was doing for the FDIC against the Frost accounting firm.

Senator D'AMATO. Let me ask you this. Do you plan to ask the Inspector General's office to analyze the procedures used by the FDIC legal staff in conducting this internal review and in essence to review this matter?

Mr. HOVE. I would do that if the Committee requested that.

Senator D'AMATO. Well, I am requesting it, and I would suggest that you would not need the Committee to ask you to do this. I suggest to you that it is your job to do it. I would suggest to you that when you have such obvious areas of conflict as are described in this report, and you are saying that there was no close relationship, when you are suggesting that Mr. Hubbell was not in a posi-

tion to give any information to his father-in-law, then your conclusions are incredible.

If you do not have an Inspector General look into something like this, then what do you have him for? And what do you have? Do you have staff people who make this kind of determination?

Now, I have to tell you, you will be doing yourself and the FDIC, I think, great, great damage if you just think that you can let it rest on these 8 pages of sophomoric, legalistic mumbo-jumbo that does not hold water. And I just looked at this report. I have seen references to it in the newspaper. This is the first time I had an opportunity to review it personally this morning, and it is shockingly inept.

Now, I have this question. Do you intend, not by way of this Committee instructing you, to put this matter before the Inspector General? Yes or no?

Mr. HOVE. Senator, we have been reviewing this matter in order to review our procedures with respect to conflicts—with conflicts not only with the Rose Law Firm but every law firm that we deal with. Our procedure is to deal not only with the actual conflicts but also to deal with the appearance of conflicts. In this case, had we done that, had we dealt with the appearance of conflicts, it is likely the conclusion would have been different.

Senator, this has been several years ago. At that time, we had many cases coming into us as a result of the savings and loan failures, and the case, under the rules that we were dealing with at that time, did not present any conflict of interest from the Rose Law Firm suing the Frost accounting firm.

Senator D'AMATO. What we are doing today. Today you are saying there may have been a conflict back then because they did not have clear rules spelled out.

Now let me tell you, whether or not it smells today, it smelled then. I do not want to get into legalese that it may be a conflict. I want to know if you are going to ask the Inspector General to review this matter? That is the question.

Mr. HOVE. I will do that if the Committee requests it.

Senator D'AMATO. Well, Mr. Chairman, I would, at this point in time, move that we ask that this matter be reviewed by the Inspector General.

This is not going to interfere with any Federal prosecution that is taking place. It is a question of ascertaining whether or not we are getting the facts. It is a question of whether or not legal counsel has analyzed all of the documents. I do not know. I read one news account that says that no documents were received as part of the FDIC's internal review. I do not know whether that is true or not, but that is certainly something I intend to pursue.

The CHAIRMAN. Let me just respond to your question, because the time is up, and I want to stay within these time periods, or we will not be able to move in an efficient way.

Let me take your request under review. I am not sure that a request from a single Senator is sufficient in asking for an Inspector General review. I do not know without looking at our past practices and precedents.

Senator D'AMATO. Mr. Chairman, let me thank you for the manner in which you have handled this.

But I have to tell you something. I wonder why, when I asked you a question, the fellow behind you with the glasses, and all his hair that I wish I had, came up and told you what to say.

Now, can I ask your title and your responsibility?

Mr. JONES. I am Douglas Jones and I am Acting General Counsel.

Senator D'AMATO. You are the Acting General Counsel. Well, you would know whether or not you are going to ask, it seems to me, for this to be reviewed.

It is a matter of you seeing that the propriety of this report, the integrity, the correctness of it can be substantiated. It would seem to me that you would want to do that.

It would seem to me that, without counsel coming to you and saying, well, you know, you can wiggle-out by saying that the Committee has to ask.

I appreciate the Chairman's response, I really do.

I just make that observation, Mr. Hove, that I find your response totally unacceptable.

Senator BOXER. Mr. Chairman.

The CHAIRMAN. I want to move ahead to Senator Kerry who is next. If you want to make a response, please do.

Mr. HOVE. Yes, I would like to.

First of all, all of the documents, everything that we have discovered, is available to the Special Counsel, and we will make that available to the Special Counsel. I will commit to you that I will ask the Inspector General to undertake an investigation.

Senator D'AMATO. Thank you. Thank you, very much. I think you have done the Administration a service, yourself, and the FDIC, and I applaud you for that.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Mr. Hove, you were originally appointed to your position by President Bush, were you not?

Mr. HOVE. That is correct.

Senator KERRY. So you are a holdover from the Bush Administration. There is no special affiliation you have with President Clinton? Is that correct?

Mr. HOVE. Correct.

Senator KERRY. I think it is a fair issue always as to what the level of review is as to any institution, if it takes place, and I have certainly shared a public expression of concern about what the Inspector Generals have done or have not done. But I would like to see if it is going to be done as to Madison, I really want to see it done as to Columbia and as to some of the others. I just think we ought to cover the board here.

Second, I would want to point out the distinction here which we keep missing. One of my colleagues earlier said that if this was President Reagan who did this and it was Silverado and so forth, we would be screaming.

Those were sitting Presidents who made sitting decisions regarding a policy, at that moment in time, that cost the taxpayers a lot of money. There is no sitting Presidential decision here. There is no issue of Presidential policy here. There is no issue of taxpayers being cost money by an action taken by the President of the United

States at this time. This happened in 1982 and 1986, before he became President.

Now an individual died, and there is an investigation into the death of that individual, and what may or may not have happened is a fair question with respect to the death. That is being investigated by the first Special Prosecutor of an opposing party that I can think of in my public memory in public office that has been appointed.

That is the clear distinction here, and it is a very real distinction. No taxpayer money. No public issue of policy. No decision of a sitting President of the United States with respect to what this Committee has oversight on and is here for today.

The question is legitimate: What took place? Were there relationships previously? These are important as to all these banks. It is fair for the Special Prosecutor to proceed on that, and it is even more important that this Committee guarantee, down the road, we investigate everything.

I am not sitting here saying something may not have taken place. In point of fact, there may be some indication that some folks outside of the White House may have some questions to answer, but there is no evidence whatsoever, with respect to policy or taxpayer money, of any decision made by the President of the United States that warrants this kind of inquiry.

Now let me ask you, if I may, Mr. Altman and Mr. Secretary, perhaps you can share with me, because one of our concerns is not just Madison but a whole lot of other institutions. I think 42 percent of the total losses fall in Texas alone. There is a serious question about professional liability with respect to those institutions.

I would like to know, to date, what is the total amount of money recovered from directors or officers of these institutions nationally?

Mr. ALTMAN. \$640 million, Senator.

Senator KERRY. \$640 million?

Mr. ALTMAN. I meant from institutions. From institutions.

Senator KERRY. And that is recovered through liability cases?

Mr. ALTMAN. Those are criminally related recoveries.

Senator KERRY. What about civil? Is there any at this point?

Mr. ALTMAN. In addition to that figure I gave you, about \$745 million from civil-related recoveries.

Senator KERRY. So we have, in fact, recovered to date \$1.3 billion? Is that correct?

Mr. ALTMAN. [Nods in the affirmative.]

Senator KERRY. It is not insignificant.

Can you break down where that has taken place? It is my understanding that 42 percent of the total cost of bailout was Texas. Is there a corresponding recovery rate, or any kind of rate you could give us as to where the most money came from?

Mr. ALTMAN. I do not have information with me, Senator, on State-by-State breakouts.

Senator KERRY. Would it be possible just to get that at some point in time?

Mr. ALTMAN. We would be happy to do our best to do so.

Senator KERRY. I think it would be good to have a sense of that.

It is my understanding that you were going to take a look at this question of why the recovery rate may or may not have been low. Have you been able to draw any conclusions as to that?

One of the things I heard is that a lot of the attorneys who came on believing that they were going to be able to engage in recovery grew so frustrated at not being able to do so in the early years that they left. I do not know if that is legitimate, or if you have found other reasons, but could you share with the Committee what, if anything, you may have discovered with respect to the recovery process?

Mr. ALTMAN. As I said in my opening comments, the entire PLS area has been a troubled one. There have been complaints from both ends of the spectrum about over-zealousness and about inadequate pursuit.

We have had, as GAO in its report noted, a high degree of turnover and difficulty recruiting and retaining experienced attorneys because of the temporary nature of the RTC. After all, here we are with less than 2 years to go.

Senator KERRY. Currently, that is true. What about in the late 1980's?

Mr. ALTMAN. Of course, the RTC has always been intended to be a temporary agency. I just refer you to the GAO report which concluded that that was a particular problem. As I mentioned, we have made a series of efforts to strengthen that—the most important of which is to hire a very good and a very strong General Counsel.

When we inherited responsibility for the RTC, despite its being such a large institution—as I said, larger than almost any private financial institution in the country—it did not have a full-time General Counsel. That is a very important step we took.

We also have more PLS attorneys on board today than ever before in the history of the organization. So we are making every effort to try to fulfill all the responsibilities we have in this area.

I do not think there is any way to know, Senator—or if there is, I do not know—whether, or what percentage of recoveries have been made compared to the potential that an ideal effort, or a perfect effort would have obtained. I do not know the answer to that.

Senator KERRY. My time is up. Thank you very much.

The CHAIRMAN. Thank you very much, Senator Kerry.

Senator Bond is next.

Senator BOND. Thank you very much, Mr. Chairman.

Mr. Altman, are there special measures taken in the resolution of a failed thrift when you find it to be affiliated with a high-profile individual? Someone in Government, for example?

Mr. ALTMAN. The procedures, Senator, which the RTC follows are intended to be identical in each case; and they certainly have been identical in the case discussed this morning.

Senator BOND. After you discovered that the President of the United States' name might be mentioned in a criminal referral being made by your agency, did you take any steps to ensure that documents created in the case were protected and preserved?

Mr. ALTMAN. When the possibility of a criminal referral was brought to me, I took one step. That was to instruct all of the relevant RTC personnel to handle any judgments about criminal re-

ferral in the same exact fashion that they would be handled in any other PLS matter with no deviation whatsoever. As far as documents are concerned, the same thing applied.

Senator BOND. You instructed them to handle the documents in the same way?

Mr. ALTMAN. That is correct.

Senator BOND. Were there any instructions received by you or, to your knowledge, anyone in your agency from the Department of Justice, the White House, or Special Counsel with respect to the retention of documents?

Mr. ALTMAN. To the best of my knowledge, and I believe I know this, there were no requests or conversations with the White House whatsoever on that.

With regard to Justice and Special Counsel, I am advised there have been conversations, the essence of which is with each party reminding the other not to take steps or release information which could jeopardize either party's investigation.

Senator BOND. Given the facts I set out in my opening statement, we are concerned about whether all the documents are there. Can you assure the Committee that no one has issued any instructions to you or your agency to retrieve, relocate, destroy, or tamper with any documents dealing with Madison, its affiliated enterprises, directors, owners, or business partners?

Mr. ALTMAN. I have no knowledge whatsoever of any such effort.

Senator BOND. Has anyone in your agency—specifically the Department of Records Management—indicated to you there are any missing documents? Or has anybody discovered any files missing or unaccounted for?

Mr. ALTMAN. No.

Senator BOND. You are absolutely sure—

Mr. ALTMAN. No. Your question was: Has anybody indicated to me.

Senator BOND. All right.

Mr. ALTMAN. The answer is, "no."

Senator BOND. Would you inquire of your Records Management Agency whether they have either been given instructions about the handling of documents from somebody outside; or, if they have found any evidence of missing documents, or find that there are documents apparently missing? Would you inquire of that and advise us if you do find that there is such information?

Mr. ALTMAN. [Nods in the affirmative.]

The CHAIRMAN. I think the stenographer should note that he is nodding in the affirmative.

Mr. ALTMAN. "Yes."

Senator BOND. Finally, will the RTC release copies of the initial September 1992 referral and copies of the second referral in October 1993 to the Department of Justice?

Mr. ALTMAN. Senator, we are not in a position to release any documents that could have a negative impact on the investigation. I do not think you would want us to do that. Documents of the type that you are talking about fall into that category.

Senator BOND. Allegations were made by Susan McDougal that many of the Whitewater files were actually delivered to Mrs. Clin-

ton in 1987. What steps have been taken by your agency to recover those files, or to ascertain where those files might exist?

Mr. ALTMAN. I have no knowledge of that matter.

Senator BOND. Have you heard of the allegation?

Mr. ALTMAN. Actually, no.

Senator BOND. Mr. Altman, I know there are many aspects to it. I was just reading one of the stories appearing in Commentary which referred to those allegations. We do not know if they are true or not, but I would suggest that someone should make inquiry to ascertain whether there is any truth to the allegations and, if so, to take appropriate steps to recover such documents.

Finally, where are the documents being kept? And have they been thoroughly catalogued?

Mr. ALTMAN. Well, I can assure you that all proper procedures relative to safeguarding of documents are being followed.

We also have a responsibility, in regard to any case, to obtain all the necessary materials for purposes of making a litigation decision. So any documents that the legal staff at the RTC believes would pertain, or would help it reach a conclusion on a litigation decision on this or any other matter, it makes a maximum effort to obtain.

Senator BOND. But on that, you have no knowledge of the specific question I asked about the records potentially in the possession of Mrs. Clinton?

Mr. ALTMAN. None whatsoever.

Senator BOND. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman.

I want to pick up where Senator D'Amato left off with Mr. Hove.

Mr. Hove, a Bush appointee, you were familiar, obviously, with the laws in those days regarding conflicts of interest, and you said that at that time there had to be a direct conflict of interest, and the appearance of a conflict of interest now is considered important; but at that time, that is not the way things were done? Is that correct?

Mr. HOVE. That is correct, Senator.

Senator BOXER. So the law was strengthened, and now you have to look at the appearance of a conflict of interest?

Mr. HOVE. It is not a law; it is a procedure that we have at the FDIC.

At that time, we were looking only at the conflict of interest. Now we look not only at the conflict, but also at the appearance of any conflict.

Senator BOXER. Right.

Well, Mr. Chairman, I think this is a very important point. What I would like to suggest is this: My colleague, Senator D'Amato, is very interested in this one particular S&L which, as I understand it, on the list of failures is the 194th largest in the country.

I am also interested in seeing if there were conflicts when lawyers were hired in some of the bigger closers. For example, there were, as I understand it, 14 S&L closures that cost the taxpayers more than \$1 billion each. Of these mega-failures, six were located in Texas, two in California, two in Arizona, one in New Jersey, one in New York, one in Florida, and one in Pennsylvania.

I would like to ask you—and since the Chairman said a Senator can make a request—that in these mega-failures, these six, I would like you to go back and take a look at the law firms that we used at that time to see if there were conflicts of interest and, at the same time that you issue this to Senator D'Amato, I would very much appreciate knowing that. I have a big concern about the scams that were going on at that time.

Mr. HOVE. Senator, many of these cases probably were RTC cases and not FDIC cases. The reason that we had this case was that we inherited the FSLIC cases in late 1988 or early 1989. This one came to us at a window of time prior to RTC's being created. So I think that your request might better be directed toward the RTC.

Senator BOXER. Well, then I will make that request to the RTC and ask that we have that report. Would I make that to Mr. Altman, or Secretary Bentsen?

Mr. Chairman, who do you think would be the appropriate person?

The CHAIRMAN. They both are hearing it.

Mr. ALTMAN. Yes.

Senator BOXER. I will assume that will be done because, as I say, what I find most incredible is that there is this outrage directed at one particular situation, and it is so obvious why.

You know, Mr. Chairman, I just want to say this, if I might, and I will get back. I just have to say this, if I might.

We all bring our experiences to the table, to our Committees, to our work. As I sat through this, I had the sense that this reminded me of something, the dynamics here. It comes back to my being a mother and my experience in raising two kids.

When they wanted something, they made a pretty strong case. When they really wanted something, they stamped their feet. And if I gave them what they wanted, I expected them to be happy because I acceded to their request. If they kept on stamping their feet, I would tell them: You are unreasonable. And if they kept it up, I would take further action.

But I think what I see going on here is that there was a demand for the best and most impartial person to look at a situation that, obviously, had a lot of political overtones. In an attempt to handle it fairly, that request was granted. And we do not know the end result. But what I see happening here, Mr. Chairman, is that the people are still stamping their feet as if nothing has been done.

Something very important has been done. A lease has been taken on offices for something like 4 years. Eight attorneys are looking at this whole situation. Every question that has been asked by my colleagues is being looked at, not by a Democratic prosecutor, as Senator Kerry has pointed out, but by a Republican prosecutor and someone who, I believe, has the faith of the American people, if not some of the Senators here today who seem to want to interfere in that investigation.

The CHAIRMAN. Senator Boxer, I might just say that you may or may not have seen this in this morning's Washington Post, but there have been 25 FBI agents assigned to work with the Special Counsel, in addition to that legal staff that you cite.

Senator BOXER. Yes.

And, Mr. Chairman, I have to say that gives me great comfort. As much as I respect my colleagues' skill at questioning and badgering, I would rather have this matter handled by someone who is so well respected and cannot be accused of partisanship as my colleagues on the Republican side here could be, or I could be, or Senator Kerry could be.

So let us stop stamping our feet, and let us say this is good; that this investigation is going forward. I really do have faith that we will find out what the problems were, and we do not know where it all will lead, but I do not think that turning this hearing into a brow-beating of witnesses here does any good at all.

I have some written questions I would like to submit, but I would have to say, overall, I am pleased with the report that we are getting. It seems to me we are moving along, perhaps hopefully under budget, moving forward with women and minorities and the things that many of us care about, and going after these crooks.

Thank you.

The CHAIRMAN. Did you want to say something?

Mr. ALTMAN. No, no. I just wanted to note to Senator Boxer we would respond to that question you were asking.

Senator BOXER. Thank you. I really look forward to seeing that for those six institutions.

Thank you.

Secretary BENTSEN. I might want—

The CHAIRMAN. Senator Bennett—Excuse me.

Secretary BENTSEN. —to respond, too.

My responsibility as Chairman of the Oversight Board is in oversight, and I am specifically precluded from intervening in individual cases. That is the function of the RTC.

Senator BOXER. But the RTC will do that. Thank you.

The CHAIRMAN. Senator Bennett.

Senator BENNETT. Thank you, Mr. Chairman.

I agree with Senator Boxer. We all bring our personal experiences to this. I will try to stop stamping my feet. I think that is an appropriate response.

Senator BOXER. You have just been tapping your toe.

[Laughter.]

Senator BENNETT. I have just been tapping my toe.

I just, however, out of my own experience, share with you the number of times that I, as a loyal Republican, went to the White House in the Nixon Administration and kept saying: "You have got to get this out. You have got to find out who is behind this and tell the truth."

And I kept getting told: "This is a third-rate burglary that nobody cares about." I am sure on a list of breaking and entering this would have—the Watergate breaking and entering would have been considered very, very minor.

People kept saying to me: "No, no, it will all blow over." Well, it was Members of your party, Senator Boxer, who kept stamping their feet and kept the thing up.

A Special Prosecutor was appointed whom, in my recollection, was a Democrat. I think Mr. Cox did not have very good Republican credentials when he was appointed to that circumstance.

Senator KERRY. He was a Republican, one of the good ones from Massachusetts, but he was a Republican.

Senator BENNETT. He was a Republican? I knew his law partner. He was a Democrat.

[Laughter.]

We need not beat this further, but I do hope everybody understands that when there is an allegation of wrongdoing, the smartest thing any politician can do is get all the facts out on the table.

I have tried to do that when I have been accused of making mistakes. I have discovered that the very best thing you can do, politically, is not try to cover it up, and that is the only advice I give my friends in this circumstance having lived through the Watergate thing on the other side of it.

Senator KERRY. Can I just take 30 seconds to say to my colleague, that is exactly what we did. Senator Moynihan, national television; Senator Bradley, Senator Bob Kerrey, myself, and others said: appoint a Special Prosecutor, and indeed the White House turned around and did it while the President was in Europe.

Senator BENNETT. I understand all that, but I also understand that the stamping of the feet that went on prior to that probably had something to do with that decision. I do not think it was entirely sound public policy on the minds of the people on the other side.

Let us get back to the RTC, if I can.

I do want you to refer carefully to the article that I put in my opening statement. You have talked a great deal about minorities, and women, and I yield to no one in my desire to see to it that there is fairness done.

The allegations that were made by the gentleman from Denver, however, is that there is serious reverse discrimination going on in the RTC; and that anyone who does not fall in that category cannot get a job and cannot get a promotion. If that is true, this is something, I think, you should pay attention to. I would ask you to review that.

Now, I make reference to continuing sales. Again, this is a personal circumstance. I have had a number of people come to me in Utah and say: "Here is a marvelous investment opportunity to pick up, at fire sale prices, properties that can be enormously valuable." I have decided, finally, to divorce myself from having to make any investment decisions, and I have put all of my assets in a managed trust and trust the trustees of that trust to make those kinds of decisions.

I said to them, "I cannot personally invest in this because I sit on the Banking Committee and it is involved in oversight of the RTC, and these are RTC properties." I did, prior to creating the managed trust for my assets, go through the process of looking at them. As a businessman, I can say you really are moving them very rapidly because it struck me that some of the prices were indeed unduly low, and that the RTC could, in fact, have gotten a better price almost as quickly, if not just as quickly, as they were getting for some of these properties.

Do you have a sense on that issue? I am not accusing you of anything. I simply want you to talk about it.

Mr. ALTMAN. Well, first of all, Senator, we have a statutory responsibility to maximize recovery for the taxpayer. We must pursue sale techniques which respond to that goal.

Second, all RTC assets, for practical purposes, are sold at auction, an auction of one kind or another. So rather by definition, the price which the market establishes on that day is the price.

It is always possible to look back on any transaction and say you should have done it later, or you should have done it earlier, but, fundamentally, all of our sales are on an auction style basis.

I think the only other point I would make is that we are now in—our inventory today is of the harder-to-sell variety as we are getting down toward the end. So our recovery rates, as I mentioned in my statement, are lower. Last year we recovered at a rate of 76 percent of book value, and this year it will be in the mid-60's.

Senator BENNETT. Let me just go back to your earlier statement.

I understand what you are saying here, and I do not want to be argumentative about it.

In one instance I was told, that while it was technically an auction, the RTC had determined the price; and that if I would simply submit a bid for this price, I would be guaranteed to get it; that the RTC would not entertain any other requests. I turned it down, as I say, for the reasons I have described, although I will say to my colleagues that the Ethics Committee told me I need not have done that, I could have made the investment.

I decided to avoid the stamping of feet later on in some future campaign in Utah. I would not run the risk. It was my understanding that the people who did ultimately pick up the property did it for the price we were told was the price. We were told, yes, this is technically an auction. There will be a sealed bid, but this is the sealed bid we want. If you submit it at that price, we can guarantee that you will get it.

Mr. ALTMAN. I would like to make two points. First: That is not how it is supposed to work. If it worked that way, taking your comments in their entirety, it should not have. Second: The RTC does reserve the right to reject bids and to establish, in effect, reserve prices, or floors. So it is not the case—it is not always the case, that whatever the high bid is, it is accepted. But there should never be an auction where any such indication or any such knowledge is provided beforehand. If it was, it was a mistake and should not have happened.

Senator BENNETT. I will just assume that it was a mistake at that particular circumstance, and I am grateful to you for your response.

The CHAIRMAN. Perhaps a look could be taken at what was going on there. Let us not have it happen again.

Senator Sarbanes was not given a chance, or was not here in the sequence to give an opening statement and has asked to do so, and I am going to acknowledge that, as I do with everyone. Then, after he has done that, we will start his time clock on questions.

Senator Sarbanes.

OPENING STATEMENT OF SENATOR PAUL S. SARBANES

Senator SARBANES. Mr. Chairman, I will be brief. I do not want to impose on my colleagues, but I cannot forego the opportunity,

with Chairman Greenspan here before us, not to talk about interest rates just briefly, since I think they are so essentially involved with where the economy may be going. I just want to make a statement about that.

I have met with the Chairman from time to time, both privately and, of course, in public sessions, and I have raised with him the concern that a hike in short-term rates would raise long-term rates.

The Chairman's position has been, as I understand it, that when short-term rates go up, long-term rates would initially rise but that within a few weeks or so they would settle back down to a level near where they had been when short-term rates were raised.

We then contacted the Fed for the analysis that, in effect, was the underpinning for this statement. We have had difficulty getting that analysis, but it has finally been forthcoming.

The Fed says, and I quote: "As you have noted, short- and long-term rates do tend to move together."

They then go on to make a rather subtle argument that, to the extent that the Fed is ahead of the curve, the response of long-term rates is less than when the Fed is moving too little too late in responding to a buildup of inflationary pressure. So, in a sense, they are shifting, as I understand it, the position that was asserted to me by the Chairman.

On the morning of February 4, 1994, when the Federal Open Market Committee raised the Fed fund rate from 3 to 3.25 percent, the 30-year bond rate stood at 6.30 percent. Since that time, long-term rates have risen steadily.

As of the close of business yesterday, the 30-year bond rate was 6.65 percent. Thus, since Fed funds were raised, long-term rates have risen by 35 basis points—in other words, more than the 25 basis-point increase in short-term rates.

Now, last summer at a hearing with Henry Kaufmann and Paul Samuelson, copies of which testimony were sent to the Fed with a request that it be distributed to members of the Open Market Committee, Henry Kaufmann argued that raising short-term rates could lead to higher long-term rates.

In other words, the contrary of this position that was asserted that if you take up short-term rates you can bring down long-term rates, and I quote Kaufmann.

I also take issue with the assertion that a small increase in the Fed funds rate this summer would be welcome by the financial markets and would accordingly lead to a decline in bond yields.

Perhaps.

But equally likely is that the bond market would interpret such a rise in the Federal funds rate as the first in a number of future increases, and market participants might easily react by pushing bond yields higher. Under that scenario, the rise in the Federal funds rate could magnify inflationary expectations, precipitating a sell-off of bonds.

Just today, Hobart Rowen, one of our Nation's most perceptive economic commentators, has an article in the Washington Post headed "The Fed Meddles," and I just want to quote from it briefly:

As it has many times in the past, the Federal Reserve Board is taking the country down the wrong road by raising interest rates. It has violated the dictum, "if it ain't

broke, don't fix it,' and as a consequence the smooth recovery from recession that has cheered business and consumers over the past year is being threatened. Fed Chairman Alan Greenspan told the Joint Economic Committee in widely analyzed testimony January 31 that the Central Bank which had allowed interest rates to fall to record lows would not change policy to slow economic growth. But 4 days later on February 4, the Fed raised short-term interest rates by one-quarter of a point in a 'preemptive strike' against future inflation. To make sure there was no doubt in the markets that the Fed had decided to interrupt the easy money pattern, Greenspan publicly announced the move. In new testimony this week, Greenspan failed to justify the Fed's action. He admitted that there was no discernible inflation; that wages are not moving up; that there is virtually no fear that the economy is growing fast enough to make over-heating a danger.

Now, the whole problem here—and this is to close this statement and then I just have a couple of questions to put to Mr. Altman. I will not take anywhere near my question time—is all encapsulated in this cartoon.

[A cartoon board is displayed.]

The cartoon shows this truck moving down the road that says "economy." And the economy has been moving down the road, and we all want to see that.

The driver here has got his hands up to his head in horror. He is slamming on the brakes, as you can see, "Brakkkk," "screeeech," bringing this truck labeled "The Economy" to a halt. The reason he is doing it is because out here in the middle of the street is a man labeled "Greenspan"—

[Laughter.]

—and he is bending over here. He is out in the middle of the road, out in front of the truck, obviously forcing it to come to a screeching halt.

He is bending over to pick up these papers here that say "interest rates" and he is saying: "Let's see. We'll just pick these up."

Now—

Chairman GREENSPAN. You know, Senator, I pulled a muscle in my back and I am now just realizing how I did it.

[Laughter.]

Senator SARBANES. Well, I am glad we found the explanation for it, Mr. Chairman.

Senator KERRY. You know, Mr. Chairman, if you said something really interesting now about interest rates, you could functionally terminate this hearing and relieve us all.

[Laughter.]

Senator SARBANES. Mr. Chairman, I know that is not the focus of today's hearings, but I think this matter is of such importance.

The Fed, of course, is urging the Congress to stay the course on fiscal policy. I happen to agree with that. I think we ought to stay within the constraints of the agreement that was reached last year, and I expect that we will. But, by the same token, it is my own view that the Fed should have stayed the course on monetary policy certainly until we had greater assurances that real growth was taking place in some lasting and permanent way, and some evidence that one can look to that indicates that we are beginning to get some kind of an inflationary problem.

Now, Mr. Altman, I just want to put a couple of questions to you.

Earlier you were questioned by one of my colleagues on the other side who went, I thought, through a list of have-you-stopped-beating-your-wife type questions. So let me try to turn it around and

get it. I want to be sure. Do I understand that the cases to which they are making such reference were handled in the same way that all other cases were handled? In other words, according to regular procedures?

Mr. ALTMAN. Yes.

Senator SARBANES. Was anything unusual done in these cases? Or was the procedure that was followed consistent with what was followed in any cases where references were made?

Mr. ALTMAN. Senator, the instructions that I gave were that all procedures, normal procedures, should be followed in this manner without any deviation.

Senator SARBANES. And to the best of your knowledge, that is the case? Is that correct?

Mr. ALTMAN. Yes.

Of course, I am commenting as to the handling of the case under my responsibility. I am not making a comment about matters that I have no knowledge of of 3 or 4 years ago.

Senator SARBANES. I understand that. But, as I understood the questions that were put to you, it was with respect to your own responsibilities. I do not know how you could be expected to assume the responsibilities of others, so to speak.

Mr. ALTMAN. [Nods in the affirmative.]

Senator SARBANES. Mr. Chairman, I just have one comment about the constant reference here to Madison, and Whitewater, and so forth. That is, that an Independent Counsel has now been selected. I read the transcript of his press conference with the Attorney General when it was announced.

Actually, as I understand it, or as he said, he defined the scope of the investigation. In fact, he says:

I am totally satisfied that I will have the independence and complete authority to do this job right.

And then the resolution by which his jurisdiction is defined—this is Robert Fiske I am talking about now:

This resolution has been drafted broadly. It was drafted by me to give me the total authority to look into all appropriate matters relating to the events that bring us all here today.

And he then goes on to specify that.

Now, of course, I think Fiske is regarded highly. In fact, Senator D'Amato called him "a man of unflinching and uncompromising integrity. He is the kind of person who will bring out the truth for the American people so there will be no question as to the thoroughness and objectivity of this investigation." I do not differ with that evaluation, I say to my distinguished colleague from New York. From what I know about Mr. Fiske and what has been told to me about him, I think that is an accurate evaluation.

Now, the other point I want to address is, he was asked in that conference: "Do you think that a Congressional hearing of any kind at this point might hamper your investigation?" This was a question put to Fiske at that press conference when he assumed his responsibilities. And this was Independent Counsel Robert Fiske's response, and I am quoting:

I think the history of these situations is that it is difficult to conduct this kind of investigation at the same time a Congressional investigation is going on. The decision whether to have such an investigation, obviously, is not mine, but I think, just looking back at the past, we can all see that that is not an easy relationship.

End of quote.

I just wanted to put that on the record, because I think it is very important to understand that an Independent Counsel now has been selected. The Independent Counsel has been given a grant of authority. Actually, according to his own testimony, he defined, in effect, the grant of authority.

I have not quoted it, but the Attorney General is very clear here in her statements that he has a full scope to proceed as he deems necessary, and to call upon any resources that he thinks are advisable. It seems to me that we have put the matter where it ought to be put.

Now there was some delay in getting to that point. I understand that. But that is the point we are at now, and it seems to me that that ought to be reassuring to the American people, that this matter will be looked into thoroughly and comprehensively, and that Mr. Fiske and his associates—he is now in the process of putting together, I understand, a rather large and first-rate staff—will get to the bottom of this matter.

I think it is very important that that be put in the record.

I thank the Chair.

The CHAIRMAN. Thank you, Senator Sarbanes.

I made reference earlier—I will just take one moment before calling on Senator Faircloth—I made reference earlier to the actual legal charter of the Independent Special Counsel Fiske which was published in the Federal Register on Friday, February 4, 1994, and I have read it.

I will just hold it up here. We will put it in the record so that it is there in the context of this discussion—but this is about as broad and as firm a legal mandate as anyone could have.

I notice here that, under the Department of Justice, the action to accord him that kind of operating latitude was in the form of a final rule. So this locks it in. This Independent Counsel, I think, is highly regarded across the board as indicated by Senator D'Amato's comments and others that have been made by other people who know him well. He has the authority to go anywhere he thinks it is necessary to go.

I again make reference to that article today in the Washington Post because he is obviously setting up subsidiary investigative efforts where he is putting together teams to go down each and every issue, so that there are no questions left at the end of his work.

In any event, I urge my colleagues to take a look at this because I think it is instructive.

Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman, and I want to thank you for the manner in which you have conducted the hearing. It has not been easy.

I had one or two quick one-liners, and then I had some questions.

[Laughter.]

This is in sympathy with Mr. Altman.

I have bought and sold many a piece of land in my life. I never bought one that somebody did not tell me I paid way too much for, and I have never sold one that somebody did not come immediately and tell me I should have gotten a lot more for. But I survived.

[Laughter.]

Mr. ALTMAN. And you probably did very well.

[Laughter.]

Senator FAIRCLOTH. Chairman Greenspan, I think two things. If we get nothing else out of all of this conversation, I believe it will demonstrate to the American people, and maybe to the Congress as a whole, that we need to keep the Federal Reserve, the Comptroller of the Currency, the Office of Thrift Supervision, and the FDIC as separate entities. It is well-spent money to have them separate, well spent taxpayers' money, to keep it as it is and not be consolidating it into a political position. I hope that is it.

As Senator Sarbanes mentioned on your increase in interest rates and inflation, I have observed over the years that inflation is somewhat like Alzheimer's Disease. You have had it 3 or 4 years before you find out you really have it. And inflation moves before we—it goes underground a long time.

So I think you are absolutely right in increasing interest rates in anticipation of what might happen. I have found that inflation—that a recession will scare you—in business a recession will scare you to death, but inflation will kill you.

I have a question for Mr. Hove.

Mr. Hove, it is my understanding that Webster Hubbell in his current position as Associate Attorney General and, in his words, "Chief Operating Officer at the Justice Department," has formally recused himself from matters regarding Madison Guaranty. Would you agree with me that it would be improper for Mr. Hubbell to seek to involve himself in the FDIC investigation beyond what he was asked by the Legal Division? And if you will, since that light is looking at me, I would like 'yes' or 'no' answers.

Mr. HOVE. I think the issue of Mr. Hubbell recusing himself is an issue that Mr. Hubbell has to deal with.

Senator FAIRCLOTH. Have you had any communication with Webster Hubbell concerning the Legal Division's report?

Mr. HOVE. I have not.

Senator FAIRCLOTH. Are you aware of any communication between Webster Hubbell and an FDIC official in the General Counsel's office regarding Mr. Hubbell's role in the Legal Division's then-pending investigation and report?

Mr. HOVE. Yes. Our Legal Division has had conversations with Mr. Hubbell.

Senator FAIRCLOTH. Are you aware of any communication between an official in the General Counsel's office in Washington and the FDIC official in the Kansas City, Missouri field office regarding Webster Hubbell's role in the then-pending investigation and report?

Mr. HOVE. No, I am not aware of that.

Senator FAIRCLOTH. Would you be willing to let the General Counsel's office release their telephone records for the week of January 24 through January 31?

Mr. HOVE. Senator, we are willing to release any non-confidential information that would be generally available to the public. As you might know, many of these things would be privacy concerns, and we would be concerned about releasing those without redacting.

Senator FAIRCLOTH. So you would not release them?

Mr. HOVE. No, sir, we will release them. We will release any non-confidential—

Senator FAIRCLOTH. Who decides whether it is confidential or not?

Mr. HOVE. Well, does it deal with privacy of the individual?

Senator FAIRCLOTH. Yes it does, but we need—Yes. Sure it does. That is what we want them for.

[Laughter.]

Will you?

Mr. HOVE. We will release anything that is publicly available, yes, sir.

Senator GRAMM. Not “publicly available” or we would not be asking for it to be released.

Senator FAIRCLOTH. That is right. If it were in the Want Ad section, I would automatically get it.

[Pause.]

Mr. HOVE. We have a log of everyone that we have contacted—everyone we have talked to on the phone, and we will release that.

Senator FAIRCLOTH. All right. That is what we need.

I see in The Wall Street Journal and the Chicago Tribune that you found no conflict of interest between Mrs. Clinton and her work in the Dan Lassiter and First American Savings & Loan, that you found her completely innocent.

Mr. HOVE. Senator, let me talk about that issue, because that was not an FDIC issue. That was not an investigation or a review that the FDIC has done. That was an issue that happened before FDIC ever became involved. That was an issue between the old FSLIC, the old Federal Savings and Loan Insurance Corporation, and the failed Savings & Loan, First American, in Illinois.

They had filed a suit against Lassiter. They had settled that suit before FDIC ever became involved in that. It was an issue that had happened way before FDIC ever became involved in it. We have not reviewed that.

We have looked at—

Senator FAIRCLOTH. Excuse me. May I ask one quick question?

Mr. HOVE. Yes, sir.

Senator FAIRCLOTH. Who settled it? Mrs. Clinton and Foster? It was settled? You say it was settled by Mrs. Clinton and Foster?

Mr. HOVE. I am not sure that it was settled by Mrs. Clinton. Mrs. Clinton’s involvement was to sign an amended complaint for Mr. Foster that amended the complaint from the Savings & Loan against Lassiter. That was her only involvement in that case.

Senator FAIRCLOTH. All right. Go ahead. I am sorry I interrupted you.

Mr. HOVE. That case was settled over 6 years ago by the Conservator. The Conservator for that Savings & Loan had hired a law firm in Chicago. The law firm in Chicago subcontracted with the Rose Law Firm to work on this case for them as the Conservator.

The law suit was settled before we ever got it. Normally, these facts would not trigger an investigation for us, but because of the increasing public interest, and if you choose we will conduct an IG investigation to determine that, but again the records are scattered all over because it is the old FSLIC records and they were not compiled in any one location. So it is a very difficult issue.

There is no single repository of these records. We would be willing to assist your staff in locating any of these records that may be available, and to make some determination as to what the involvement was.

Senator FAIRCLOTH. So this clearing of Mrs. Clinton in any involvement with the American Savings & Loan and Dan Lassiter was not done by the FDIC, it was done by the——

Mr. HOVE. We have not cleared it.

The only contact we have had on the First American Savings & Loan and the Lassiter case was a press contact that came as a result of an article that appeared first in the Chicago Tribune. We responded to that, saying exactly what I have told you, that this was not an FDIC issue, that it was, in fact, an FSLIC issue that occurred before FDIC ever became involved in any FSLIC issue.

The issue was settled. The settlement was made before FDIC ever became involved in this issue.

Senator FAIRCLOTH. All right. But would the statute run on it? Could it be opened by the Special Counsel?

Mr. HOVE. I have no idea. That is a question I guess I would have to ask my attorney.

Senator FAIRCLOTH. Ask him.

Mr. HOVE. I do not know.

Senator FAIRCLOTH. Thank you.

The CHAIRMAN. I will repeat again, and you will read it from this Federal Registry: The Independent Special Counsel has two authorities. One authority is for criminal prosecutions. The other authority is to proceed with civil actions.

Now the civil authority does not relieve any other regulatory body of whatever civil action they might appropriately take. The point is that the Special Counsel has the specific grant of authority to proceed down both tracks. It is laid out four different times in this charter of responsibility, and that is a very important point.

Senator D'AMATO. Would the Chairman yield just on that point. To be quite candid with you, until the Chairman read the grant of authority, I was given to believe that the Special Counsel would confine himself to the criminal side.

I am not suggesting to you that the grant may not give him broader powers. I would think it would behoove us, and I am now attempting to get the exact language determined, but if we cannot, then it would behoove us to send a letter from this Committee and ascertain whether, indeed, he will undertake a review of the various civil matters, such as the one brought up, as it relates to this last matter that Senator Faircloth raised, and there are some others.

I think that would at least set the record straight. You might want to put that to him and again have our counsel work together to put forth the appropriate question. I think we should determine if, indeed, that is the case.

Second, I make a quick point, and I beg the indulgence of my colleagues, by stating that I think that if you notice at least where I, and I believe some of my colleagues, have been attempting to take this, is to ascertain what, if anything, the RTC and the FDIC did in connection with these matters?

That is not at variance with the charge of the Special Counsel. We are not, in attempting to find out what was done and what was not done, in any way disturbing his investigation. I think we have an absolute right to know what was done. We have an absolute right to know the appropriateness of the actions.

Senator BOXER. Mr. Chairman, may I have a point of procedure?

Senator D'AMATO. I would like to finish—

Senator BOXER. Whose time are we on now? I have lost track.

Senator D'AMATO. I am going to say it, one way or the other—

Senator BOXER. I do not have any objection to your doing it; I am just confused. Is this Mr. Faircloth's time that you are on?

Senator DOMENICI. He had no time left.

Senator BOXER. Or is this added time, so we can all get added time?

Senator D'AMATO. I asked the Chairman if he would indulge—

The CHAIRMAN. He asked the indulgence of the Chair, and I am going to let him finish his point here, and then we will move to the next person.

Senator BOXER. OK. Fine.

Senator D'AMATO. So again, this is not an attempt to do anything other than to see what has been done to date by those various agencies that have the collective and the individual responsibility to deal with these matters. That is one.

Second, it would seem to me that it might be helpful, to clarify the issue, certainly I was led to believe, and maybe incorrectly so, that the Special Counsel was not going to look into civil matters.

I think it is important for us to ascertain that. So I put that to the Chairman, that possibly we review that matter. I am not looking for an answer at this time.

The CHAIRMAN. Well, I am just going to take a minute and just read the official charter into the record. This is from page 5321 of the Federal Register of February 4, 1994, and I am just going to read three or four different lines here that appear at different places.

Here is the first one:

The Attorney General has appointed this Independent Counsel to investigate whether any individuals or entities have committed a violation of any Federal criminal or civil law.

And it goes on in that vein.

Then over on the next page it says again:

. . . have committed a violation of any Federal criminal or civil law relating to.

And then it says:

. . . a violation of any Federal criminal or civil law.

And it says it one more time further on down the line here.

So it is clear. My interpretation of this is that it does not relieve any regulatory body of any proper actual efforts that it should properly undertake and determine to undertake, but it says that the Special Counsel clearly has the authority to move down both tracks if, in his judgment, he should find that that is warranted—and it is a very important fact.

Senator DOMENICI. Mr. Chairman.

The CHAIRMAN. Senator Domenici, let me just say that we are at the point now where either you or Senator Gramm will get to ask questions. You are both here, and I do not know if either of you

have—one will follow the other, but do either of you have a time problem as to who goes first?

Senator DOMENICI. Well, I just wanted to ask you a question on your charter interpretation there.

The CHAIRMAN. It is not an "interpretation." It is the final rule that was laid down.

Senator DOMENICI. What is the Special Prosecutor supposed to do if they find a civil law violation?

The CHAIRMAN. He has the full legal empowerment to take whatever actions he deems necessary, and all the investigative and prosecutorial authority to do so. I mean, this is an absolute charter. Take a look at it.

Senator DOMENICI. Thank you, very much.

Senator Gramm, I have a little bit of time, although I am late for an event, but if you want to go I will let you go now and I will follow.

Will there be another one from the other side that has not inquired yet?

The CHAIRMAN. You are the last two that have a chance to question, so we will go back and forth.

Senator DOMENICI. Well, go ahead. Are you going to keep it brief, Senator, and short?

Senator GRAMM. No.

[Laughter.]

The CHAIRMAN. Senator Gramm.

Senator GRAMM. I have a simple question that I want to ask of most of the members of the panel, and let me just read it.

Mr. Altman, I want to ask you first. Have you or any member of your staff had any communication with the President, the First Lady, or any of their representatives, including their legal counsel, or any member of their White House staff, concerning Whitewater or the Madison Savings & Loan?

Mr. ALTMAN. I have had one substantive contact with White House staff, and I want to tell you about it.

Senator GRAMM. Let me, if I may, just given that "yes," I would like to know what the substance of the communication was, when it occurred, who initiated it, and what you were asked to do.

Mr. ALTMAN. First of all, I initiated it.

About 3 weeks ago, Jean Hansen, who is Treasury's General Counsel, and I requested a meeting with Mr. Nussbaum—he is the White House Counsel. The purpose of that meeting was to describe the procedural reasons for the—the procedural reasons for the then-impending—then-impending—February 28 deadline as far as the then-statute of limitations was concerned.

I am sure you know that that statute of limitations has subsequently been retroactively reinstated for certain types of civil claims.

And we explained the process which the RTC would follow in reaching a decision before that February 8 [sic] deadline; that it would be exactly identical to procedures used in any other case, any other PLS case, and that the RTC fundamentally would come to a conclusion as to whether or not there existed the basis for a claim, or whether there did not.

In the event a basis for a claim existed, then it would pursue either a tolling agreement—which is the equivalent of a voluntary extension of the statute of limitations from the parties at interest—or it would file that claim in court.

That was the whole conversation. I was asked one question. That question was whether we intended to provide the same briefing to attorneys for the parties at interest. I said, I assume so.

I went back. Jean Hansen checked with the RTC General Counsel. The answer was: In due course. I said, fine, that was it.

I have not had any contact with the President of the United States or the First Lady on any matter like this.

Senator GRAMM. If I may, let me pose the same question to Mr. Hove. Have you or any member of your staff had any communication—

The CHAIRMAN. Mr. Hove, let me just—I do not know if you know this question is being addressed to you.

Senator GRAMM. Have you or any member of your staff had any communication with the President, with the First Lady, with their representatives, including legal counsel, or with members of their White House staff, concerning Whitewater or Madison Savings & Loan?

Mr. HOVE. Our Director of the Office of Communications at the FDIC had received a call from a press person at the White House after the second article appeared in the Chicago Tribune regarding the First American issue. They asked, did we have any statement? And the response given to the White House was, no, we did not have any statement.

Senator GRAMM. So they were asking you to respond to the press statement?

Mr. HOVE. Pardon me, please, it was Mrs. Clinton's attorney.

Senator GRAMM. Mrs. Clinton's attorney called you?

Mr. HOVE. I'm sorry. It was Mrs. Clinton's attorney that called the FDIC Office of Communications.

Senator GRAMM. So Mrs. Clinton's attorney called the FDIC and asked you to respond to a press statement?

The CHAIRMAN. No, that is not what he said.

Senator GRAMM. Well, I am asking him what he said. I am not trying to speak for you. What did Mrs. Clinton's attorney ask you to do?

Mr. HOVE. They asked, did we have any statement, and we responded, no, we do not have a statement.

Senator GRAMM. Would it be normal that someone's attorney—did this attorney work for the Federal Government?

Mr. HOVE. No. This was Mrs. Clinton's attorney.

Senator GRAMM. When did this call occur? Do you know?

Mr. HOVE. After the second article appeared in the Chicago Tribune, and I cannot tell you the date of that. It has been in the last, what, two weeks or so? I do not know.

Senator GRAMM. You were asked if you had a response that you were going to put out on it, and you said, no?

Mr. HOVE. That is correct. We responded to the first statement, the first article that appeared in the Chicago Tribune. We pointed out the errors of that article, that it was not an FDIC matter, exactly the same thing that I responded to Senator Faircloth.

Senator GRAMM. And to the best of your knowledge, you have had no other communication? You and your staff have had no other communication with all the people that I listed?

Mr. HOVE. That is correct.

Senator GRAMM. Let me pose the same question to Mr. Fiechter and to Ms. Ford.

Mr. FIECHTER. To the best of my knowledge, I know I haven't, and OTS staff has had no communication, whatsoever, with anyone from the White House about this, or that list that you included in your question.

DIETRA FORD, EXECUTIVE DIRECTOR, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD, WASHINGTON, DC

Ms. FORD. Neither the Oversight Board staff nor I have had any involvement in this matter.

Senator GRAMM. Let me raise a second question. It is a thing that I have tried to understand in looking at where we are and what we need to do to get on with finishing this matter. Part of the problem that we have had in the past, with regard to Congressional hearings and Congressional involvement, involves two things. One has been the granting of immunity by Congressional panels for people who would testify. The other is that under the Constitution, the testimony of a Member of Congress is a privileged matter that is given special treatment.

In this case, I am not aware that anyone, in holding a Congressional hearing or looking into this matter, would be talking about—I do not know of a committee that would be empowered to grant immunity. No such resolution has passed the Congress.

Neither are we talking about a Member of Congress where there is a special Constitutional provision. I would just like to pose the question: What would be wrong with letting Members of this Committee, which has oversight responsibility, look at the records in this case, or any other case, where we have oversight responsibilities?

Mr. Hove, let me pose that to you and Mr. Altman, and, since I see my time is up, I will stop.

Mr. HOVE. Our position is that we will make access available, and we have, to Congressman Leach, to all information that is, again, non-confidential.

Senator GRAMM. How would you define what is "confidential"?

Mr. HOVE. Again, those that would involve privacy information that would be non-germane to this issue.

Senator GRAMM. And you would make that judgment?

Mr. HOVE. Yes.

Senator GRAMM. Mr. Altman?

Mr. ALTMAN. First of all, Senator, we have already provided volumes of documents to the Congress. Senator D'Amato referred, at the very beginning, to documents he received last evening. I would have liked him to receive them sooner, but we only got the request last Friday.

But in terms of—and Congressman Leach has also received those documents. He has had them for some time. If my memory serves, there are 6,500 pages.

The RTC has been asked not to make information about criminal referrals in the Madison matter public. It is standard practice not to release information of that kind, or any other, which might compromise a criminal investigation. And, of course, we are cooperating with the Independent Counsel to try to assure that we do not release any information which would jeopardize his investigation.

As I said earlier, I would think you would not want us to do that in order that that investigation should proceed as it should.

Senator GRAMM. Mr. Chairman, if I could have your indulgence, I have here a text of a newspaper article in Phoenix that may contradict something that Mr. Hove said, and I am sure he does not want to let it stand.

I have got a response, apparently after the second article, where the agency, the FDIC, did, in fact, make a statement. It says:

The agency says Mrs. Clinton's involvement in the case was not extensive enough to constitute a conflict of interest under rules governing Federal regulation of savings and loans.

I have this if you would like to see it.

Mr. HOVE. Was that after the second article? We made a public comment after the first article appeared.

Senator GRAMM. This is 2/16/94.

Mr. HOVE. And I do not know when those articles appeared.

The CHAIRMAN. Why do you not take a look at it, and let us go to Senator Domenici.

Mr. HOVE. Senator, we commented after the first article appeared to correct any inaccuracies that were in the report.

The involvement that Mrs. Clinton had in that case was again, as I mentioned to Senator Faircloth, that she signed an amended complaint for her partner, Vince Foster, who was the attorney who was involved in the case.

That involved 2 hours that was billed on Mrs. Clinton's part on that case in which she signed the amended complaint.

As far as we can determine from the records we had, that was the involvement that she had had, and that is what we released at the time.

Senator GRAMM. If you would take a look at this and just let us know in writing if this was the second one, how the response was made, who made it, and why they made it, that would be fine.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. Mr. Altman, Stanley Tate was nominated by President Clinton to head the RTC and, while preparing for that confirmation, he was at the RTC in a consulting capacity. That is all true, is it not?

Mr. ALTMAN. Yes, sir.

Senator DOMENICI. When he withdrew his nomination, he attempted to release to the public materials he had prepared concerning the RTC operations. Are you and the Board familiar with the document that I refer to?

Mr. ALTMAN. Generally, sir, yes.

Senator DOMENICI. Why did the Oversight Board prevent Mr. Tate from releasing that document?

Mr. ALTMAN. Well, first of all, it was released.

Senator DOMENICI. You released it? When he left, it was not released, and you claimed it should not be released. But then eventually you provided the document to Senator D'Amato, I believe, or to my office, but that was on December 23, 1993. Why was it not released when he wanted to release it?

Mr. ALTMAN. Senator, my recollection is it was released rather promptly. Maybe not the day after he submitted it, but as a Federal employee and a consultant, the materials properly were reviewed by his superiors before being released. But I think the point is they were released in short order.

Senator DOMENICI. Did the RTC or the Oversight Board alter, edit, or sanitize this document before releasing it? And let me say, if not, why did Dietra Ford, Oversight Board Executive Director, send a memo, and I have that, dated November 30, 1994, to you about these materials which included the following sentence:

I am forwarding the enclosed so that you can see the original materials and fully understand the disaster we narrowly avoided.

That last sentence is a quote.

What was the "disaster" that Mrs. Ford was referring to? Was this a reference to Madison? If it was not, fine. If it was, I think maybe we ought to know about it.

Mr. ALTMAN. Senator, you should ask Mrs. Ford that question.

Senator KERRY. You may not like the answer, but—

Senator DOMENICI. Well, I just got this letter and it deserves an answer. If it is not what I want, that is fine. That is why we are here.

Ms. FORD. We received the 200-page document the morning of his press conference, and we had only a quick time to take a look at it at the Oversight Board. The Deputy General Counsel of the Oversight Board and I advised—

The CHAIRMAN. Would you pull the microphone up, please?

Ms. FORD. We advised Mr. Tate that the material should be reviewed by the Oversight Board staff, myself, as well as the interim CEO, Mr. Altman before it is released to the public, and that as a special Federal Government employee, he was subject to the rules that apply in terms of ethics, pursuant to the Office of Government Ethics. Those rules also applied to the release of documents which he obtained during his tenure as a Federal Government employee.

Senator DOMENICI. That is what your letter says.

Ms. FORD. That is right.

Senator DOMENICI. What was the "disaster" that we narrowly avoided?

Ms. FORD. It was my opinion that to release those documents before anyone on the Oversight Board staff, the attorneys involved, or the attorneys who advised us, had a chance to look at them would be inappropriate, and that was my choice of words, "disaster." I think it is inappropriate to release documents before we know what they contain.

Senator DOMENICI. I thank you.

Let me quickly move to a couple of other ones, if I might.

Mr. Altman, I think you told Senator Bond that you would not make available any documents that "would have a negative impact on the investigation"?

Mr. ALTMAN. No, I do not think so. I think I said that we would try not to release any documents that would have a prejudicial effect on the investigation.

Senator DOMENICI. Well, this Committee held hearings on the failure of the Bank of New England in the context of an unsuccessful confirmation hearing on Bob Clark.

This Committee explored, in detail, transactions related to that bank. Voluminous documents were made available. Maybe this is distinguishable, but it seems to me that the same question could be asked here. Why can you not release all of these documents for this kind of hearing?

Mr. ALTMAN. Senator, we have had—or I am advised we have had a couple of conversations with Mr. Fiske, the Independent Counsel. He has asked us not to release any documents that could jeopardize his investigation. I do not know why you would want us to do that, to jeopardize his investigation—

Senator DOMENICI. I do not want to.

Mr. ALTMAN. —and we certainly do not want to, and we are respecting his request.

Senator DOMENICI. But if the Special Prosecutor has no objection to the Committee being provided copies of documents, can the Committee then count on the RTC's full cooperation in providing them?

Mr. ALTMAN. You should direct that question to Mr. Fiske.

Senator DOMENICI. No. If he has no objection, then can we count on you to release them?

Mr. ALTMAN. I think the answer is "yes."

Senator DOMENICI. Does the RTC have an Inspector General?

Mr. ALTMAN. Yes, sir.

Senator DOMENICI. Has the Inspector General investigated the conflict of interest allegations regarding the Rose firm?

Mr. ALTMAN. I do not know the answer to that. I am nearly certain it is "no," because, as you know, it was not the RTC that ever had any retainer relationship or other relationship with the Rose firm.

Senator DOMENICI. But you are kind of the natural successor to what went on there. I think when you took over you began some investigation of that, and we will show you that in a minute, but my question is: If the FDIC agreed to have its IG look into Madison, would there be any reason why you would not?

Mr. ALTMAN. I have no objection to the IG's looking into any matter that he sees fit to look into, or that he is requested, on an official basis, to look into. That is what he is there for.

The CHAIRMAN. Senator Domenici, I do not want to be arbitrary, but I do want to try to stay on the time clock if I can and go back and forth. We will continue until everybody has had a chance to cover what they wished to cover today.

Senator DOMENICI. Thank you very much, Mr. Chairman.

The CHAIRMAN. Chairman Greenspan, I want to come back to the interest rate situation. We had an opportunity to talk the day that the Fed took its first step in tightening interest rates. I am concerned about the question of what has happened since, and just your own expectations of what might happen.

You have made further public comments in a hearing recently. I am just wondering, as you watch market reactions to the tighten-

ing move that the Fed made, are you seeing essentially what you expected? Or have you seen something, particularly in terms of the uptick on the long rates, that maybe you would not have expected?

In other words, where are we now? How do you read what seems to be taking place as a reaction to the Fed's policy adjustment?

Chairman GREENSPAN. Mr. Chairman, as Senator Sarbanes indicated, my expectation was on the basis of what has historically tended to be the case, that the type of increase that we have had would initially lead to some small increase in long-term rates followed by some edging off.

That has basically been the history, other things equal, and that is essentially what one endeavors to use so far as a forecast is concerned.

What occurred in the interim was, as I indicated to the Subcommittee of the House the other day, a growing concern that after the torrid pace of economic growth in the fourth quarter, which is apparently in the process of being revised up, that the possibility that we would not be moving to a much more moderate rate of growth was rising.

The first evidence that that was affecting market perceptions was when the Philadelphia Federal Reserve Bank released its monthly survey which showed a significant increase in prices paid by manufacturers for the month, early—I suspect it is early February. At the point at which that release was made, the long-term rates were very slightly above where they had been previous to the February 4, 1994, move. But what occurred following that was a general belief that the pace of economic activity may turn out to be somewhat stronger than most of the people in the market had anticipated.

To repeat what I said at the House Banking Subcommittee, that change in view in the market's perception led to a significant backing up of long-term rates, which is what typically happens when those types of expectations change.

As I said then, my impression of how one should interpret that Philadelphia report is more an indication of a pickup in economic activity, because commodity prices tend to be reasonably good proxies for new orders, and, indeed, I think that is what essentially that particular report was showing.

It is not a particularly good forecaster of inflation. As I said at the House Committee, we seem to be lacking the financial tender that usually is associated with inflation accelerating when you get a significant pickup in economic activity.

I am agnostic at this stage. I think it is too soon to make a judgment, but we will learn a good deal more as the data begin to come forward.

The CHAIRMAN. As I listened carefully to what you were saying, it seems to me when you say you do not see the inflationary tinder, and that you are an agnostic, I gather you are saying you do not see yet a broad evidence of a build-up of inflationary pressure that really worries you? Or is that not—I mean, put it in your words.

Chairman GREENSPAN. That is substantially correct.

The reason that we moved on February 4, 1994, and the reason I said we may have to move again, rests on the issue of having deliberately put through a significant degree of accommodation in the

money markets after 1989 because we perceived that there were special balance-sheet factors and other headwinds which required that we move the short-term interest rates below where they normally would reside.

When it became apparent that the adjustments that we thought would occur, and, in fact, have been occurring in the balance sheets, got to a point where the economy could start to regain its momentum and gain a degree of expansion which seemed to be well entrenched, at that point the need to have excessive accommodative policies no longer exists.

The issue is not do we see inflationary pressures emerging, but what is the reason why we would want to keep the level of accommodation at a point where history tells us, if extended indefinitely, eventually does engender inflationary pressures?

So it is the issue—I would reverse the question. Not, do we see inflationary pressures; but what reason would we have, once the recovery seems well entrenched—as, indeed, I believe it is—would we wish to keep an excessively accommodative stance?

That is not a statement which says we are seeing inflationary pressures emerging.

Indeed, as I said in my prepared remarks to the House Committee, when we actually see inflationary forces emerging in the way of price changes which are clearly evident, the one thing that is sure at that point is we are very far advanced in the process. History tells us that that type of policy, which we engaged in much too often, is wholly inappropriate to maintaining long-term economic stability.

The CHAIRMAN. Well, let me just say to you I find that a very important clarification and point that you have just made. I think it puts this in a somewhat different light than some of the commentary has given to it, because what I hear you saying is that you have had a monetary policy that has been overly accommodative in order to try to get the engine going again, and that you over-corrected in a sense—

Chairman GREENSPAN. Deliberately.

The CHAIRMAN. —deliberately.

And now that the economy has gotten the traction that it needs to have, and as far as you can tell you are taking back some of that over-correction, but not for reasons of the fact that you see this inflationary tinder building up here.

Chairman GREENSPAN. Precisely. In fact, I have tried to make that point every time I have stated this and I somehow do not seem to get it across as well as I think I would like to.

The CHAIRMAN. I think you got it across pretty well right now, and we have got a pretty good size press table that I hope will have gotten it down, even though it is 1:40 p.m., which is a late hour for us to all be meeting here, but I thank you for that.

I think that is a very important distinction, and I think it is important for the economic system and the markets to understand what you have just said.

Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, I have to say to Mr. Altman that I would like to go back to a question that Senator Gramm brought up as it relates to any meetings with White House staff or counsel.

Mr. Altman, I think you said that you and an official from Treasury sought out Mr. Nussbaum? Is that correct?

Mr. ALTMAN. Yes, I did.

Senator D'AMATO. Could you tell us why? In other words, I have difficulty understanding why it is you felt compelled to seek out the White House counsel.

Mr. ALTMAN. Solely to ensure——

Senator D'AMATO. Solely to?

Mr. ALTMAN. Solely to be sure that he understood the legal and procedural framework within which the RTC was working.

If you recall, as I said, at that time there was a February 28, 1994, date which was the subject of major attention in the Congress and in the press. It is not uncommon of meetings of that type to take place. And I describe it as a "heads-up" and a very stiff conversation.

Senator D'AMATO. A heads-up? In what connection would that heads-up be? Do you mean that the statute of limitations was running?

Mr. ALTMAN. No, that they should be aware of the internal processes and the types of criteria which the RTC was going to be following in order to reach a decision by February 28, 1994.

Senator D'AMATO. Were any representatives of the President or Mrs. Clinton, or any legal counsel, which I think would be appropriate, speaking to the counsel for the RTC, or people handling this particular matter? I mean, was there any legal representation going on? Was this you just called them? Did they have any representatives or any counsel who may have been meeting with staff people, or talking to staff people?

Mr. ALTMAN. I was accompanied by our General Counsel, Treasury General Counsel. Mr. Nussbaum had his assistant with him. And Mr. Ickes and Margaret Williams were both at the——

Senator D'AMATO. Oh? Ickes is in it, huh?

Let me ask you this. Prior to this meeting, was there any representation, was there any counsel, that was representing the President's interests or Mrs. Clinton's interests, or anyone else that you were aware of, as it relates to the matter that you went to brief them on?

Mr. ALTMAN. No. Not to my knowledge. Nor were there any substantive conversations——subsequent conversations.

Senator D'AMATO. Did anyone request this meeting?

Mr. ALTMAN. I requested the meeting.

Senator D'AMATO. Was there any other meeting that may have been requested?

Mr. ALTMAN. No.

Senator D'AMATO. There was no other meeting that you were aware of that the White House counsel requested?

Mr. ALTMAN. No.

Senator D'AMATO. Or anyone else from the White House?

Mr. ALTMAN. No.

Senator D'AMATO. Mr. Ickes?

Mr. ALTMAN. I had no subsequent—I received no subsequent requests for meetings.

Senator D'AMATO. What about private counsel? Did private counsel—I find it hard to believe that there was no private counsel. Are you saying to me that there was not even private counsel meeting with staff lawyers at some level?

Mr. ALTMAN. Not to my knowledge, Senator.

Senator D'AMATO. Ms. Ford, do you know of any?

Ms. FORD. No. I have had no involvement.

Senator D'AMATO. Let me turn to the RTC Report which was dated February 8, 1994, which we received last evening about 9 p.m., "Resolution Trust Corporation."

I say to you that in reviewing this document, that I think it goes a little further and does a little better job than the one that came out of the FDIC. But I found it interesting that in its conclusion on page 5 and 6, in the summary—in this summary before it reaches the disposition—it says:

(a) Rose represented Madison prior to its failure; (b) —and I am not reading the whole sentence— (b) Rose represented the FDIC/RTC subsequent to the failure of Madison; (c) Rose did not disclose its representation of Madison before the Arkansas Securities Department, to the FDIC, or to the RTC. Further, it did not report possible conflicts involving the brother-in-law and father-in-law of Webb Hubbell—

And by the way, Mr. Hove, I am going to read something to you that is quite illuminating. You had better have your lawyers take a look at this.

When it is done, it says:

Based on the factual conclusions in the RTC Conflicts Report, it says, we send it to counsel.

Now I have to tell you, I am going to ask—because you have no conclusion. It just says these are the facts. End of the facts, fellows. You do with it what you want and send it to counsel, General Counsel.

I am going to ask that this report and any other relevant material that was gathered by those who were working on it be submitted to the Inspector General. As you have indicated before, you certainly would not see—I do not see how that would impede anybody or anything, but I certainly would feel more comfortable that it goes to the Inspector General as opposed to the General Counsel. I think it would guarantee the integrity of the review, certainly in this Senator's mind, and I think in others.

Mr. ALTMAN. Fine.

Senator D'AMATO. Thank you, very much. I see that my time has expired.

I have another observation to make, and I will do that afterward at the appropriate time.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Well, let me ask my colleague: Is that going to be the last? Or is there an intention of colleagues to go another round?

Senator D'AMATO. I think some colleagues have some other questions they will raise.

The CHAIRMAN. We will have one more go-around here with those that are left who want to do so, and then I think we are probably done here.

Senator KERRY. It was my understanding that we were going to have another hearing here in 10 minutes, which I am also supposed to participate in. I am just curious what the plans of the Chairman are.

The CHAIRMAN. They have a different room that they are meeting in, so we will not run into a room conflict, but we are late in the day and the witnesses have been here a long time, so my intention would be to finish up around here after everybody gets one more round.

Senator KERRY. Well maybe I could ask just procedurally, I do not really want to use my time at this point, but it seems to me that maybe we could ask if anybody has any more questions to ask of the Chairman of the Federal Reserve, because it seems not a great use of his time to sit here if all we are going to do is talk about another subject.

Senator DOMENICI. Is my turn eminent here, or do I have a long wait?

The CHAIRMAN. Let me get my batting order here.

Senator BOXER. You have a long wait.

Senator DOMENICI. I do not want to keep him a long time, but I wanted to—

The CHAIRMAN. Actually, you follow Senator Bond, who will come after Senator Kerry, and then we will come back to Senator Boxer. So actually there are—

Senator FAIRCLOTH. How long is your question? Maybe they would let you—

Senator DOMENICI. I do not have a question of Mr. Greenspan. I just want to state for the record that, frankly, I believe the actions you took over the last 3 or 4 years have a great deal to do with the status of the American economy.

Frankly, I believe you were subject to some undue criticism, but if we have a solid recovery I think it is very significantly related to the conduct of the Federal Reserve over the last 3½ or 4 years.

Maybe President Bush would have liked it differently, and maybe Dick Darman would have liked it, if it all could have happened earlier, but, nonetheless, I think you are somewhat responsible so I trust you at least on what you are doing now.

Thank you.

The CHAIRMAN. That reminds me a little bit of watching some of that Olympic Skating Competition last night when they throw the bouquets out on the ice. You just threw a nice one to the Chairman.

Senator DOMENICI. Thank you.

The CHAIRMAN. Senator Kerry.

[Laughter.]

Senator DOMENICI. I remember you were critical of him. You wanted him to loosen up even more.

The CHAIRMAN. Well, I think my comments the other day were comments that reflected some understanding as to what the Chairman is trying to do, and I think he has put additional light on that today.

I do not think this Chairman wants to strangle the economy, and I am speaking of Chairman Greenspan. Sometimes you can do that

and not intend to, but I think he is trying to be as prudent as he can be.

Senator Kerry.

Chairman GREENSPAN. Excuse me, Mr. Chairman? Is that—

The CHAIRMAN. Can you be liberated now? Can you take your bouquet and go?

[Laughter.]

Chairman GREENSPAN. Yes.

The CHAIRMAN. Yes, you can.

Senator Kerry—Senator Boxer gave you a 5.9.

[Laughter.]

Senator BOXER. A 6.0.

[Laughter.]

The CHAIRMAN. Especially on the technical portion of the program.

[Laughter.]

Senator BOND. With the market today, maybe we should have let him out earlier.

The CHAIRMAN. Senator Kerry.

Senator KERRY. Mr. Chairman, I am not sure I have time to stay through the whole process here, so I am reviewing the bidding here a little bit, but just speaking as a former prosecutor: One of my colleagues over here was questioning the duality. I can tell you, as a person who has presented evidence to grand juries and who has spent some time putting cases together, that there is nothing worse than having dual tracks, witness confusion, various statements appearing in public, and multiple copies of documents moving around.

I would be very surprised if Special Prosecutor Fiske decided to do it. It certainly would not be a judgment that I made things public in the middle of an investigation because it inevitably taints somebody's something, and it creates a very hard process for pursuing a track.

What astonishes me here a little bit—and I want to reiterate it—is we have a \$150 billion problem here which taxpayers are paying for. They are already angry enough about us wasting their time in duplicitous process, and here we are, frankly, with very important people in front of us having spent a morning not really examining where that \$150 billion went, not talking about it, but dealing instead with politics. And that is what this really comes down to. It is politics. It is totally unnecessary in the context of the gentleman who has been made Special Prosecutor—a Republican appointed by a Democrat.

Let me just share with colleagues again, quickly, something about Mr. Fiske. This is an article from the New York Times right after he was appointed:

Robert Fiske's reputation for integrity and thoroughness is so entrenched that if he finds no wrongdoing during his investigation of the Whitewater affair, his findings could put rumors about Bill and Hillary Clinton's business dealings to rest.

The choice is one that you simply can't argue with.

Said former Treasury Secretary Nicholas Brady, a close friend of former President George Bush, and a college classmate of Mr. Fiske more than 40 years ago:

He is one of those guys who has always conducted himself with integrity.

The article goes on to say that:

Mr. Fiske, a 63-year-old Wall Street lawyer, earned his reputation by being an aggressive prosecutor. If the Clintons have something to hide, he could pose a formidable problem. If he lives up to his billing, at the very least his investigation will disrupt the lives of the First Family.

Now if that is not enough, if we do not have the patience to allow him to do his job and sit here and ask relevant questions about \$150 billion, we ought to ask what we are doing here.

This is why the taxpayers get so fed up, because all we do is dig into politics. There is a huge distinction between this case and prior cases because we are not looking at a current situation where the President is currently making decisions about current money being spent or current policy.

This is something that happened when he was Governor—if whatever happened happened—and I suggest that this Prosecutor has the ability to get at it. If he does not, I will join with Senator D'Amato. I will be one of the first people. I think I have a good reputation here, on the basis of BCCI and Noriega and other investigative efforts, in pursuing things.

But I think back to the time I was trying to do that, and I did not have any help from the other side of the aisle. We did not get subpoena power. We did not have the ability to have a full-fledged investigation in this Committee on that.

I sat here with Tim Wirth and we tried again and again to get an extension of the liability. We also tried to get a Special Prosecutor. Most of my colleagues making a lot of noise about this now were opposed to getting the Special Prosecutor.

So I just think fair is fair at some point in this business. We all understand the game. We all understand what happens. But it seems to me that to take a \$150 billion fiasco and relegate it to a second tier for this 194th State-run—

Who was the primary regulator of this institution, originally?

Mr. HOVE. Originally, it was the Federal Savings & Loan Insurance Corporation, and later OTS.

Senator KERRY. Fine. So it came to the Federal Government secondarily. And, I might add, for 2 years this case was closed. It was not until 6 weeks before the election—and we ought to ask some questions about this—that suddenly when Bill Clinton was the nominee for President of the United States that there was a criminal referral to the RTC. Not until 6 weeks before the election.

For 2 years, while my friends controlled the elements of regulation, nobody was asking the questions that are being asked here today. So I am not saying questions should not be asked. I am saying we absolutely ought to get to the bottom of whatever took place. We ought to understand all these institutions, because it is a sorry chapter in American politics.

But that is going to happen with 25 FBI agents, and depositions, and documents being made available, and the taxpayers of this country do not need us jumping all over each other for political purposes avoiding the real issues that they would like us to dig into. I do not think much more needs to be said beyond that.

The CHAIRMAN. Senator Bond.

Mr. HOVE. Mr. Chairman, may I make a correction.

The CHAIRMAN. Yes.

Mr. HOVE. I think Senator Kerry asked who was the primary regulator. The primary regulator was the State of Arkansas.

Senator KERRY. That is what I was getting at. The primary regulator was the State.

Mr. HOVE. Exactly. And the primary Federal regulator was FSLIC, or OTS.

Senator KERRY. Correct. So the issue of Federal nexus here, in terms of decisionmaking, is only by transfer, not by original jurisdiction. So what we are doing is secondary to the third tier.

The CHAIRMAN. Senator Bond.

Senator BOND. Mr. Chairman, for the benefit of my friend from Massachusetts, I am going to submit a chronology and some questions for the record to the RTC to answer.

I recall it was Jerry Brown of California who first raised the question during the 1992 campaign, but we all will be able to benefit from these questions which are along the lines that Senator Kerry raised.

I also have a series of questions for the FDIC and for the RTC which follow up on these other questions.

But in the time remaining, I do want to pursue a couple of items.

When we last talked, Mr. Altman, you said that normal procedure would be for the RTC to seek out and acquire records wherever they were. Now, if the RTC, under your direction, were requesting records from the First Lady at the White House, a rather high-profile event, would it not be customary for them to advise you that they were requesting records in the possession of the First Lady?

Mr. ALTMAN. Senator, I do not get involved in any substantive aspects of any PLS case, particularly or including documents that they may seek, so they have never brought that to my attention since I have been in this job and that goes right through to today.

Senator BOND. So you would not expect them to tell you?

Mr. ALTMAN. No, I would not.

Senator BOND. I find that remarkable.

In a normal criminal referral case, the RTC creates and retains an inventory of pertinent documents used to make the case. As I understand it, at least one version of the inventory has been provided to some Members of Congress. Could you furnish to this Committee the latest, most up-to-date inventory, and provide it for the hearing record along with the previous versions? Would you make that available?

Mr. ALTMAN. Last evening we supplied the 6,500 pages of information to Senator D'Amato's office, as we had sometime earlier to Congressman Leach.

Senator BOND. And is that the entire inventory? Are those all the documents?

What did you—You give new challenge to Federal Express and Overnight Postal Service to get the delivery of such a substantial stack of documents at this particular time. It is a new standard for delivery in the package express.

Mr. ALTMAN. I have here a list of the documents.

Senator BOND. Is that the latest version?

Mr. ALTMAN. This is just a list of what the documents are. There are 6,500 in total pages. This is a list of the documents we provided.

Senator BOND. If you could make one available for the record, we would like to have it.

Mr. ALTMAN. I would be delighted.

Senator BOND. We would appreciate it.

Next, when did you become aware of the RTC recommendations that further criminal prosecution be taken against Madison?

Mr. ALTMAN. Last fall. I was advised that the question of a referral to the Justice Department was under consideration at the RTC. And as other members of the RTC staff will attest, I said that normal procedures with no deviations whatsoever should be pursued, including chain of command procedures, in terms of reaching that conclusion. I might tell you that typically decisions like that are made at the Regional Office level, and it was in this case.

Senator BOND. Were you aware that the Regional Office had asked the National Office to make a determination as to whether the Clintons' name should be in the new expanded referral?

Mr. ALTMAN. No.

Senator BOND. You did not know they were asking for the National Office to make a determination?

Mr. ALTMAN. No. I was simply informed that this issue was on the table, and my reaction was—and I had only one conversation about it—that normal procedure should be followed. That is the way we are going to handle this thing from beginning to end.

Senator BOND. How was the White House notified of the referral?

Mr. ALTMAN. They were not notified by the RTC, to the best of my knowledge.

Senator BOND. Nobody in your agency, to your knowledge, advised the White House staff that this was going to be a major—this could be a major source of concern?

Mr. ALTMAN. Not to my knowledge.

Senator BOND. Mrs. Ford, do you know if the White House was notified by the RTC?

Ms. FORD. No. We have had no involvement at the Oversight Board whatsoever.

Senator BOND. When was the firm of Madison & Pillsbury put on retainer by the RTC? Do you know? For how long, and at what cost?

Mr. ALTMAN. I do not know that. I am aware that that firm has been retained as outside counsel on this matter, but I am not aware of the date on which it was retained nor the retainer arrangements.

Senator BOND. Will they review the potential of suing the various law firms who represented Madison, or the Board of Directors?

Mr. ALTMAN. I do not know the answer to that question.

Senator BOND. We would appreciate knowing that, if you could, later. And if there are other outside counsel or consultants hired in conjunction with the case, we would like to know that.

Finally, I am advised that the list you have there is just an inventory of the documents provided to Senator D'Amato. It is not the complete inventory of the documents pertaining to Madison. If I am mistaken, or in either event we would appreciate receiving a copy of the inventory of the entire documents.

Mr. ALTMAN. Well, Senator, I am not sure I fully understand your question. What we have released amounts to what we have

been asked for, less any documents that in our judgment could prejudice the investigation.

I told you earlier that we had had a couple of conversations—I have not had them—I am advised that there were a couple of conversations with Mr. Fiske, with each side asking the other not to release information or take any other steps which would prejudice either side's investigation, and we are trying to adhere to that.

Senator BOND. As I understand it, you have prepared an inventory. I am not asking for the documents themselves, but I understand that you had prepared an inventory and had furnished perhaps Members of the House side or others with the inventory—not the contents of the documents.

Mr. ALTMAN. Any information, I assure you, that we have supplied to Congressman Leach, or anyone elsewhere in the Congress, we are delighted to supply to you or anyone else here that would like it.

Senator BOND. Would that include an inventory, a cataloguing—not the contents but a cataloguing—of the documents in the Madison case?

Mr. ALTMAN. We will supply you with any information, to the extent that we can, which does not get into areas that we think would prejudice the investigation.

Senator BOND. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Boxer.

Senator BOXER. Mr. Chairman, I am still working.

The CHAIRMAN. All right. Senator Domenici, you are next in the order.

Senator DOMENICI. Mr. Altman, you spoke a while ago of your one contact with the White House regarding this, and you and your counsel went up to talk to the White House counsel.

Mr. ALTMAN. One substantive contact.

Senator DOMENICI. Please?

Mr. ALTMAN. One substantive or meaningful contact.

Senator DOMENICI. Well, I assume we are not arguing there that you had—you are not suggesting you had more than one are you?

Mr. ALTMAN. No. I am just saying that if you run into someone in the hall, if you see that thing in the paper this morning, I am not including that.

Senator DOMENICI. You said you were there to give a heads-up.

What I understand the situation to be for average folks, like a couple of folks in my State that were bordering up alongside of a statute of limitations becoming a defense, was that they were presented with a tolling agreement. If they did not sign it, the suit was filed so as to toll the statute. Is that a rather fair assessment of the way business is done?

Mr. ALTMAN. I think I would have to know the details of the matter, Senator.

Senator DOMENICI. I guess what I am wondering is are we getting the right perspective of why you did this?

Did you go there because you wanted them to know that, clearly, they might be asked to sign a tolling agreement? Or, to know that the normal process was that the statute is going to toll. If there were reasonable grounds to suspect something, they might expect a lawsuit? Why else would you give them a heads-up?

Mr. ALTMAN. The difference between this and a matter like the one you referred to is I had been receiving—I had begun to receive a lot of inquiries, including inquiries in writing, from Congress as to what procedures the RTC was going to follow. I wanted to give them the same sense of those procedures that I was giving Members of Congress. I said to them nothing different than I have said to Members of Congress.

Senator DOMENICI. I understand that, but I guess what I am getting at is there must have been a reason for telling them that.

Congress was just saying "the statute is going to run, what are you going to do." So, you went over there to tell them we are going to apply the same thing we do in any other case? That is the "heads-up" that you were giving them?

Mr. ALTMAN. That is right.

Senator DOMENICI. Was it serious enough that you wanted them to know because there might be something that they would be confronted with that was untoward as you applied your rules, like asking for a tolling agreement, or filing a lawsuit?

Mr. ALTMAN. Again, the essence of what we said was that the statute of limitations which then applied was scheduled to expire on February 28, 1994. The RTC was going to make every effort to make a decision by that date.

It could fundamentally reach only one of two decisions: That there was the basis for a claim, or that there was not.

If there was a basis for a claim, then we would either seek a tolling agreement to permit more discovery and more preparation, or we would file that claim in court.

Senator DOMENICI. Well, the passage of the statute of limitations extension eliminates that problem, as you have already indicated.

I guess, Mr. Chairman, I am having a little difficulty with the explanation. One way of looking at it was that it was not a very meaningful or important meeting; that he was just doing this so that he would be able to tell Congress he had told them he is going to treat them the same way as others.

I do not think a man—I know you fairly well. I do not think you would be going over there to just be able to send this letter to Senator D'Amato that says I have told the White House that they are going to be treated the same way as other people.

Mr. ALTMAN. Senator, I did not know whether they knew of such procedures which, as I say, I was then communicating to Members of Congress. It just seemed to me a little odd to explain to a Member of Congress that we are going to follow X, Y, Z procedures and not have them ever be made aware of what those were.

Senator DOMENICI. I want to close on this remark by thanking you, Mr. Chairman, for holding these hearings. I hope the public understands the Republican response to Senator Kerry that it is almost an insult to accuse us of not being concerned about oversight, and that somehow or other the other side is more interested in how the RTC turned out.

Frankly, that just borders on being a joke.

At this hearing we have all your statements. We are going to read them. We are going to know what you were going to say. If you sent it to us yesterday, our staff has probably read it already and they will brief us. So we are going to know.

My last observation would be that it is inconceivable to me, Mr. Altman, that you would really be concerned that people involved in the investigation, whomever they are, whether it be people in Arkansas, whether it be confidants of the President, or whomever, that they would not know that the statute of limitations was going to toll, and that that presented a situation where you had to advise somebody. I just do not think anybody involved in this would not have known that.

Mr. ALTMAN. Well, Senator, I also—I would agree with you. I cannot say for sure. I cannot say what was in their minds. I doubt very much that they did not know about the statute of limitations.

Senator DOMENICI. Right.

Mr. ALTMAN. What I was saying was not that. What I was saying is I did not know if they knew, and, frankly, my impression is, as a result of that meeting, that they had not previously known what procedures the RTC would be following. By that I mean that you have to choose between—you have to reach a conclusion as to whether there is a claim or there is not, and then determine what you have to do if you reach a conclusion that there is.

Senator DOMENICI. Thank you, very much.

The CHAIRMAN. Thank you.

Senator Faircloth.

Senator FAIRCLOTH. Thank you, Mr. Chairman.

I will echo Senator Domenici. You have done a superb job of conducting, and I will be very brief. My questions are to Mr. Hove.

Mr. Hove, we keep coming back—you said the FSLIC issued this report, who had long been out of business, and did the investigation on Mrs. Clinton and her relationship?

Mr. HOVE. No, sir, I did not say the FSLIC. I said that the agency that handled the closing of First American was the FSLIC, and that occurred before the FDIC had any involvement in it.

Senator FAIRCLOTH. All right. But who did the investigation—I assume there was one done—to determine that Mrs. Clinton had no involvement whatsoever that was worthy of looking at?

Mr. HOVE. We did not do an investigation. We did not do a review because we do not have all the records. The records are the old FSLIC records that are not in one central repository. All we did was review the records that we had available at the FDIC. The records that we had at the FDIC only indicated that Mrs. Clinton's involvement, from the records that we could review, was the 2 hours that she spent filing the amended complaint for her partner Vincent Foster.

Senator FAIRCLOTH. So what you are saying, really, is that you did a very incomplete and surface investigation—

Mr. HOVE. We did not—we simply looked at the records that we had, and we did not make an investigation any further than the records that we had available to us at the FDIC.

Senator FAIRCLOTH. Well, I would say that Mr. Whitney, issuing such a clearance for Mrs. Clinton in the name of the FDIC, does not lend a lot of credibility to an FDIC investigation when he makes his statements, and when you did not really have the records to make an investigation from what you are telling me.

Mr. HOVE. What we were doing was correcting the information that was erroneous in the Chicago Tribune report, because the Chi-

Chicago Tribune said that it was an FDIC case and we said it was not an FDIC case. We also said that from our records this was the only involvement that she could have.

Senator FAIRCLOTH. Do you not think it would be a good idea to hunt up the old FSLIC records and see whether they might lead you farther?

I have a question, and then I will be done. The original suit was \$3.3 million. They settled it for 6 cents on the dollar, or \$200,000. What I want to know is how much was Mrs. Clinton or the Rose Law Firm paid?

Mr. HOVE. I cannot tell you. I do not know.

Senator FAIRCLOTH. Can you find out?

Mr. HOVE. We can try.

Senator FAIRCLOTH. I would like for you to let me know as quickly as possible how much the Rose Law Firm was paid, and also their work records to indicate who did the work to earn the money.

You say she worked 2 hours—

Mr. HOVE. I did not say that. I said the only thing that we can ascertain from the records we have was that she worked 2 hours.

Let me remind you, Senator, that these records are dispersed from wherever the FSLIC had the records. We did not take possession of those records when the FSLIC was closed down.

Senator FAIRCLOTH. Are those records still available?

Mr. HOVE. I do not know.

Senator FAIRCLOTH. If she settled the lawsuit, the amount of hours she worked—it is just impossible for me to believe she settled the lawsuit against Lassiter, she signed the amended return which was the settlement, the amended complaint which was the settlement against Lassiter at a very favorable rate. Then, we turn around and find that Lassiter is the person whose power of attorney is back in the White House working.

Mr. HOVE. Senator, the amended complaint reduced the complaint from \$3.3 million to \$1.3 million. The settlement was some 6 months later. I do not know whether Mrs. Clinton had any involvement after that period of time in which she amended the complaint from \$3.3 million down to \$1.3 million.

Senator FAIRCLOTH. Well, we have no idea whether Mrs. Clinton made the final settlement totally.

Mr. HOVE. I have no idea from our records and what we have seen.

Senator FAIRCLOTH. This 2-hour thing, she could have worked 200 hours.

Mr. HOVE. What I have told you is what we have available at the FDIC.

Senator FAIRCLOTH. She could have worked 200 hours on it.

Mr. HOVE. All I am telling you is that the records that we have indicated she worked 2 hours. The only records we have is that she billed the FSLIC for only those 2 hours.

Senator FAIRCLOTH. Billed who?

Mr. HOVE. F-S-L-I-C.

Senator FAIRCLOTH. How about getting the total records from the FSLIC and finding out how much the total bill was, and whose time was billed? I would like to see them.

Thank you.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. You know, Mr. Hove, I have difficulty believing that you really have trouble figuring this out. When a claim is lodged for \$3 million, and then it is reduced and you say, well, the law firm or this partner—in this case Mrs. Clinton—only billed for 2 hours, but the nature of the work was such as to reduce that lawsuit and the potential liability of Mr. Lassiter who has a definite relationship with the Clintons. I mean, are we really to believe you do not understand that?

Now do not give me this 2-hour stuff. I mean, the fact is that that claim was reduced. The potential of the claim was \$3 million. It was reduced to \$1 million some odd, and therefore a settlement of \$200,000 is much more reasonable in appearance when the suit is only asking for \$1.3 million as opposed to \$3 million. Now does that not make sense?

Do you see why a Senator or anyone else would make an inquiry and say: Look, what is the situation here? Are you telling us there is no conflict there?

Mr. HOVE. But, Senator, you are asking the FDIC, and the FDIC did not have any involvement in that suit at that time.

Senator D'AMATO. I am not suggesting that. What I am suggesting to you is that in a period of time it came to you for review, if you look at this—do not keep telling us that the FDIC did not have anything at that time. We are not suggesting that you did anything wrong.

We are suggesting you take a look at the facts. Take a look at the record. You can be a school boy and you will come to an inescapable conclusion that someone was retained to bring the lawsuit that had a relationship with the person they brought the suit against.

And, as a matter of fact, whether it was 2 hours or 1 hour, their determination was made to reduce the claim that might be the potential liability from \$3 million down to \$1 million, and eventually settle for \$200,000. Now we do not know who was responsible for the settlement?

But the fact of the matter is that the partner who reduced and amended that complaint is Mrs. Clinton. That is obvious. I am not going to spend my time going back and forth with you.

I am going to tell you something else, though. When we talk about the potential for conflict before, as it related to the Madison Guaranty and Mr. Hubbell, I am going to refer you to a letter of June 8, 1989.

Mr. Hove, you stated that since the Rose Law Firm, when I first brought this up to you, was suing Frost, it was not relevant that Web Hubbell's brother-in-law and father-in-law were suing Madison.

Now, if you take a look at that letter—and I am going to suggest to you that you are wrong, and that is why you had better have the IG look at this—June 8, 1989, and it is written to April Breslaw, Attorney, Federal Deposit Insurance Corporation—I am reading part of it:

Mr. Hubbell is the son-in-law of Seth Ward, a Madison insider who was able to obtain a judgment against Madison of approximately \$447,000.

Skipping to the next sentence and going down:

Since the conservatorship, the case has been removed and later remanded back to the State Court of Appeals. After appeal, a new trial will be sought. Whether in State or Federal court, at a minimum.

It goes on to state:

The State judgment will be attacked under various special FDIC defenses on its general inappropriateness. Ms. Styrohorn has informed me that the information contained in the audit files could be damaging to our case, especially if a new trial is granted.

It goes on, and it concludes:

I offer this information because there appears to be a conflict in representation and a question of loyalties. Mr. Hubbell may or may not be able to compromise our interest in the Seth Ward matter.

Now, look, I am not suggesting that at that time you knew of it. Here it is. That is why, if you do not refer something to the IG to clarify whether or not there was a conflict, you cannot be doing the right thing.

For you to maintain, well, you were not there at the time, it was the FSLIC? Well, maybe the rules were a little vague. I mean, for God's sake, you had lowly auditors saying, wake up, fellows!

You had an auditor in another letter saying: "It is impossible to think that he is not going to tell his in-laws what is going on." So that is the kind of thing that brings about maybe the stamping that one of my colleagues alluded to.

Mr. Chairman, notwithstanding—first of all, I am going to ask that we be permitted to submit some documents for the record, that have been referred to, so we can keep an orderly proceeding.

The CHAIRMAN. Without objection, so ordered.

Senator D'AMATO. Second, I want to say, before I conclude, that you could not have been fairer in making available this opportunity and according the Members the opportunity to make their presentations and to ask their questions under very difficult circumstances.

I want you to know that, and I think I speak for all the Republicans on the Committee in relationship to the manner in which you have conducted this proceeding. It is not easy for you, and I just want to commend you for your impartiality.

Let me conclude. Again, I think what we are interested in seeing, as I think Senator Domenici said, is that the process move forward without there being interference and without there being a question as to what documents have been made available to the appropriate people, and what has been taken.

I see Mr. Altman. He is placed in a very difficult position. I have said that publicly, as well. It is a very, very difficult situation and certainly it leads to us raising the kinds of questions we have.

But I tell you that this Senator wants to see that what was supposed to be done, what was done, and that which should be done is carried out in a manner in which everyone can say that the right thing was done. Then, let the chips fall where they may.

So, Mr. Chairman, again, thank you for providing us an opportunity to put forth our concerns. Hopefully, this will move us a step closer to resolving this matter.

Thank you.

The CHAIRMAN. Thank you, very much. We will give you some questions for the record, and we would ask you to respond to them. The Committee stands in recess.

Senator BOXER. Mr. Chairman, I want to make a comment.

The CHAIRMAN. Oh, I beg your pardon, Senator Boxer.

Senator BOXER. I was really waiting to hear what Senator D'Amato had to say. If you do not mind—

The CHAIRMAN. Excuse me.

Senator BOXER. I just want to make sure I understand where this is all going. So, Mr. Hove, you have agreed that you are going to take a look at—you are going to ask the IG to take a look at this potential conflict of interest? Is that correct?

Mr. HOVE. I have committed to make the IG, or request the IG make an investigation of both the FDIC's involvement with the Rose Law Firm and their suit with Frost.

I have also made a commitment that we will have the IG investigate the issue of First American's failure when that happened back in 1985 or 1986, or whenever that was.

Senator BOXER. And Mr. Altman has agreed to have the IG take a look at the largest S&L failures, the six that I noted in New York, Texas, California, and other places, and do the same thing. So we have that coming.

Mr. ALTMAN. That is right.

Senator BOXER. I think, Mr. Chairman, I guess we have made a lot of noise here today. I do not think that we have raised any issue that will not be raised by this very Independent Counsel.

The fact that our colleagues have raised them again I am sure will lead the Independent Counsel to look even harder at these issues. But to me, what is important for the American people to know is that after the biggest financial disaster in history we are getting on our feet.

We do not see these S&L's going under. We have, in the Senate, extended the statute of limitations I am happy to say. I voted to do it twice. Some others voted to do it once. I am glad it got done.

We can look at many more of these issues that are unresolved, because we want to make sure we go after the bad people.

I am very convinced that, as we have learned today through the Chairman, by looking at the scope that this Independent Counsel has in front of him, that every single question that was raised here is going to be answered.

Frankly, I think the American people know that, Mr. Chairman. That is why, when the polls are taken day after day, after more and more stamping of feet, they still say, yes, I know that is being looked at, and that is OK. They are more interested in the bread and butter of their lives, getting jobs which they are getting more of under this Administration, and seeing the deficit go down which they are getting under this Administration, seeing interest rates remain relatively low which they are seeing because of deficit reduction, and they are seeing opportunity again.

Now, there are those that try to distract from this. That is a political game. But I think there are enough of us here today that called it in that fashion, and I thank you, Mr. Chairman, for your great patience today.

The CHAIRMAN. Thank you, Senator Boxer.

Thank the witnesses.

The Committee stands in recess.

[Whereupon, at 2:30 p.m., the Committee was recessed, subject to the call of the Chair.]

[Prepared statements, response to written questions, and additional material supplied for the record follow:]

MEMORANDUM

TO: Members and Staff of the Senate Banking Committee
 FROM: Pat Lawler, Tim McTaggart, and Tim Mitchell
 DATE: February 18, 1994
 RE: RTC Thrift Depositor Protection Oversight Board Semi-annual Hearing
 on February 24, 1994

SEMI-ANNUAL HEARING ON THE RTC

At 10:00 a.m. on February 24, 1994, the Committee will hold a hearing pursuant to the Committee's statutory mandate to review the progress of the Resolution Trust Corporation (RTC) in resolving cases and selling assets of failed institutions. The members of the RTC Thrift Depositor Protection Oversight Board will appear before the Committee.

The statutory language concerning the RTC's semi-annual reports and hearings is attached, as well as a summary of prior Banking Committee hearings on the RTC. Due to the press of Committee business relating to the RTC funding bill and its management reforms, the Committee omitted the semi-annual Oversight Board hearing that would normally have been scheduled in the latter part of last year.

The RTC is the Federal entity established by Congress in 1989 to resolve failed thrifts and to protect insured depositors at those thrifts. The RTC has the responsibility to resolve thrifts that fail up to a date between January 1 and July 1, 1995, as determined by the Chairperson of the Oversight Board. Thereafter, the Savings Association Insurance Fund (SAIF) administered by the FDIC will have the responsibility for resolving failed thrifts. The RTC terminates on December 31, 1995, and will be selling assets from its inventory until that time. Remaining assets and liabilities of the RTC will be transferred to the FSLIC Resolution Fund of the FDIC.

RTC'S OVERSIGHT BOARD STRUCTURE AND RESPONSIBILITY

The RTC Thrift Depositor Protection Oversight Board has the following members: Treasury Secretary Bentsen, who is the Chairman; Roger Altman, the Acting RTC CEO; Andrew C. ("Skip") Hove, Jr., the Acting FDIC Chairman; Jonathan Fiechter, the Acting OTS Director; and Alan Greenspan, the Federal Reserve Chairman. The terms of the two independent members, Robert Larson and Philip Jackson, expired last April. Robert Larson has been renominated by the President, but the Committee has not yet received his questionnaire. Dietra Ford serves as the Executive Director of the Oversight Board's staff.

The Oversight Board reviews the RTC's overall strategies, policies, and goals for the resolution of failed thrifts and the disposition of their assets. Additionally, the Oversight Board reviews the RTC's financial plans, budgets, and financing requests.

RTC'S MANAGEMENT PERSONNEL AND ADVISORY BOARD PERSONNEL

Albert Casey resigned as Presidentially-appointed RTC CEO effective March 15, 1993. He was replaced on an acting basis by Roger Altman, who is also Deputy Secretary of the Treasury. Under the terms of the Vacancies Act, an official may only serve in an acting capacity for 120 days if there is no nomination pending. Stanley Tate withdrew his nomination last November 30, so Mr. Altman's authority would run out on March 30, unless a new CEO has been nominated by then.

There have been significant changes in top management personnel. Day-to-day operations are being overseen by Jack Ryan, Deputy CEO, who is on loan from the OTS. Following Lamar Kelly's departure, Tom Horton has assumed responsibility for asset sales. Bill Roelle has also left, and Paul Ramey is now in charge of resolutions. Other members of the Executive Committee include Donna Cunninghame, the new Chief Financial Officer; Ellen Kulka, the new General Counsel; Johnnie Booker, who is in charge of minority and women programs; and Barry Kolatch, head of planning and research. Jack Adair remains the RTC Inspector General. Ira Hall has recently become Chairman of the National Advisory Board to the Oversight Board.

REVIEW OF RTC FUNDING LEGISLATION

In the 1989 savings and loan legislation, at the request of the Bush Administration, Congress provided \$50 billion to the RTC for closing savings and loans and protecting insured depositors. Of that \$50 billion, only \$40 billion was anticipated to be used for RTC losses and the other \$10 billion was to be used as working capital and a backup source of funds. The \$50 billion was to last until August of 1992 when the RTC would be finished with its job of resolving the failed S&Ls. However, the \$50 billion only lasted until the fall of 1990. The Senate passed a bill for new funding at that time, but it did not succeed in the House.

In March of 1991, Congress authorized an additional \$30 billion for the RTC to resolve failed thrifts and protect insured depositors. That money was quickly exhausted. In the spring of 1991, the Bush Administration asked for an additional \$80 billion for the RTC, and the authority for the RTC to extend its resolution of the S&L's until September 1993. On November 27, 1991, Congress extended the RTC's resolution authority and provided an additional \$25 billion to the RTC, but restricted its availability to the period before April 1, 1992.

At that time, the RTC had used only about \$7 billion of the \$25 billion, but still had conservatorships that remained unresolved. Prior to the statutory deadline, the Senate passed legislation to restore the remaining \$18.3 billion and provide an additional \$25 billion in new funding to the RTC. But again the House was unable to pass funding legislation. Last November 22, Congress reappropriated the funds that were unused from the previous appropriation.

RTC'S CURRENT FINANCIAL CONDITION

The legislation passed last year provided \$18.3 billion. In addition, reserve balances from earlier appropriations were augmented by lower re-estimates of losses on previous resolutions, owing largely to improved financial and real estate market conditions. Together, these balances amounted to \$6.8 billion at the time the legislation was passed, making a total of \$25.1 billion in loss funds available to the RTC. To date, \$1.4 billion has been spent, leaving \$23.7 billion.

The RTC currently has 63 thrifts in conservatorship. These institutions are expected to cost \$7 billion to \$8 billion to resolve. With the savings and loan industry earning record profits, relatively few institutions are expected to fail during the remaining 16½ months in which the RTC has resolution authority. The President's 1995 budget indicates that the Administration estimates the RTC's total losses on resolutions and administrative expenses in FY94 and FY95 will be about \$13 billion. That compares with a CBO estimate of \$15 billion. If those estimates and RTC's asset sales projections are on target, RTC would terminate without using \$10 to \$12 billion of appropriated funds available to it.

Considerable uncertainty remains, however. As of the end of last year's third quarter, 119 thrifts with \$84 billion in assets had MACRO supervisory ratings of 4 or 5 and were therefore "troubled." An unexpected deterioration of business conditions or an increase in interest rates could increase the number of failures significantly and lower the sales proceeds on assets acquired as a result of previous resolutions.

RTC ASSETS

As of year-end, the RTC had assets with original book-values of \$63.5 billion to dispose of, \$23.2 billion in conservatorship and \$40.3 billion in receivership. The receivership assets were funded with \$24 billion in working capital borrowings from the Federal Financing Bank. (An additional \$7 billion in working capital provides financing for advances to conservatorships.) As more conservatorships are resolved, assets acquired in those resolutions will add to working capital needs, but reduced needs owing to asset sales should be more than offsetting. The Administration expects the RTC to sell enough assets from the receiverships, current conservatorships, and new thrift failures to reduce its working capital borrowings to \$17 billion by the end of FY95. The RTC is more optimistic. It expects to reduce those borrowings to \$5 billion by the end of calendar 1995.

At that time, any remaining assets and working capital debt will be transferred to the FSLIC Resolution Fund at the FDIC. If asset sales yield less than the debt to the Federal Financing Bank, the FSLIC Resolution Fund may draw down unused RTC appropriations. If they yield more, the proceeds will be transferred to the RTC Funding Corporation (REFCORP) to defer some of its interest expenses.

OTHER REMAINING CLEANUP COSTS

The FSLIC Resolution Fund was created in FIRREA (1989) to meet obligations incurred by the FSLIC's thrift resolutions, including the 1988 deals. Those resolutions cost approximately \$60 billion, of which only about \$2 billion remains to be spent. Combined with the RTC's expected total, that yields a total cleanup cost of \$150 billion to \$155 billion. Of that, approximately \$25 billion on a present value basis has or will come from industry sources, leaving taxpayers responsible for \$125 billion to \$130 billion.

Two off-budget agencies, the Financing Corporation (FICO) and REFCORP, will continue to make interest payments for many years into the future. (Only their original borrowing is included in the figures above.) FICO issued \$8.1 billion of 30-year debt which will mature in 2017-2019. Interest amounting to \$0.8 billion per year is paid out of thrift deposit insurance provisions. The principal was deferred with investments made by Federal Home Loan Banks. REFCORP issued \$30 billion

of 30-year and 40-year debt maturing in 2019–2030. Interest amounting to \$2.6 billion is paid primarily by the U.S. Treasury. Federal Home Loan Banks pay \$300 million per year, and they provided funds sufficient to defer the principal.

ASSET SALES AND INVENTORY

To date, the RTC has paid off or otherwise protected 22.9 million depositor accounts with an aggregate balance of \$203.8 billion. In doing so, it has resolved 680 conservatorships with assets (at the time of takeover) of \$341 billion at a loss of \$81.3 billion. The additional 63 thrifts still in conservatorship originally had \$61 billion in assets. New loans and asset purchases by institutions under the RTC's control has swelled the cumulative volume of RTC assets on a book-value basis to \$457 billion. Through December 31, the RTC's proceeds from asset sales and principal collections amounted to \$353 billion. These assets had original book values of \$393 billion, so the average discount was 10 percent. Of the hard-to-sell assets (total assets less cash, securities, and 1–4 family mortgages), the RTC has disposed of ¾ of its cumulative holdings.

On December 31, original book values of the RTC's conservatorship and receiver-ship assets were distributed as follows:

Cast and securities	\$11.0 billion
Performing 1–4 family mortgages	7.6
Other performing loans	9.6
Delinquent loans	14.0
Real Estate Owed	6.0
Subsidiaries	6.5
Other Assets	8.8
Total	\$63.5 billion

The RTC expects to collect nearly full value on liquid assets (cash, securities, and performing 1–4 family mortgages) and about ½ of book-value on other assets for an average of 63 percent.

BUSINESS PLAN

In compliance with the 1993 RTC Completion Act, the RTC has prepared a business plan for its remaining 2-year life.

Resolutions

The RTC hopes to resolve 43 of its current conservatorships by the end of March and all 63 by mid-year. However, there have been no resolutions since early December. Last year's legislation required RTC to identify institutions and branches of institutions located in predominately minority neighborhoods and make special efforts to encourage minority institution bidders. The RTC has not yet written the necessary regulations and so cannot yet determine if a conservatorship has branches in minority neighborhoods.

Asset Sales

Asset sales slowed significantly last year. Sales proceeds of the harder-to-sell assets dropped off from \$33 billion in 1992, to \$24 billion (annual rate) in the first half of last year, to a \$14 billion rate in the second half. Earlier, the RTC had been planning to complete its asset sales by the end of this year, but the current strategy appears likely to stretch that out by at least a year. The delay in providing funding accounts for part of the stretch out.

But a decision last year (now required by law) to provide more opportunities for smaller investors by selling individual assets and smaller packages has also been a factor. In addition, all assets (except those that are too small to justify the cost or those in highly liquid markets) are subject to an independent assessment of value prior to marketing. The RTC anticipates that future sales will be distributed as follows:

Securities transactions	\$7.3 billion
Securitization	5.2
Equity Partnerships	8.7
Portfolio sales	2.0
Auctions	10.3
Sealed Bids	11.4
Individual REO Sales	3.1
Settlements	1.4
Total	\$50.9 billion

This pattern is very similar to 1993's, but places somewhat more emphasis on sealed bids and somewhat less on portfolio sales.

Among the least liquid of the RTC's assets are its residual holdings on its securitized debt issues that serve as reserves or collateral for the higher rated tranches it has sold. The RTC has indicated that it will make increased efforts to sell these residuals. It may also seek to have the rating agencies (e.g., Moody's) reduce the amount of reserves they require the RTC to maintain in order to retain its ratings. Excess reserves could be paid to the RTC as income. The RTC has issued \$20.9 billion in residential mortgage-backed securities with cash reserves ranging from 12 percent to 21 percent of collateral. In some cases, reserves on securities issued in 1991 have increased to 30 percent and 40 percent of the outstanding balance, as mortgage prepayments have lowered those balances. However, according to Moody's, their experience with securitization transactions is that delinquencies start to appear 18 months after issuance and most losses occur in the third and fourth years after issuance. Indeed, in September 1993, Fitch Investors Service placed the RTC's MBS 1991-9 on its watchlist because of high delinquency rates and foreclosures. Fitch also expressed concerns about appraisals on the California properties and the loan-to-value ratios of the loans.

Minorities and Women Programs

The RTC plans to get its minorities and women programs division more actively involved in all stages of the contracting process, including those occurring at field offices and subcontracting arrangements made by prime contractors. In addition to recruiting minority-owned and women-owned law firms: (MWOLF's) to serve as outside counsel, RTC also plans to organize conferences and seminars designed to educate and train minority and women attorneys in non-MWOLF's concerning the RTC's program. The RTC's Small Investor Program (SIP) will focus some of its efforts specifically on attracting minority and women investors. In resolutions, RTC hopes to attract more minority institution purchasers by selling branches individually or in small clusters, and by offering interim capital assistance. In the first 10 months of last year, 34 percent of the fee amount of non-legal contracts were accorded to MWOB firms. That compares to 20 percent in the preceding 3-plus years of the RTC's life.

Waste, Fraud, and Mismanagement

The RTC has initiated and largely completed a thorough review of its internal controls. Over the past 2 years, internal reviews and those by its Inspector General and GAO have identified 1,560 needed corrective actions. As of December 7, 1,403 were completed. A Chief Financial Officer has been hired and made responsible for implementing these actions. The RTC has reorganized its contracting operations office and claims to have made substantial progress in standardizing procedures for contracting legal services and implementing automated invoice processing. Contractor oversight has also been stepped up. Last year the RTC initiated audits, using public accounting firms, of nearly 500 outstanding contracts at 200 contractors (mostly property managers).

Professional Liability Cases

In order to address GAO criticisms of its PLS unit, RTC has sought to stabilize staffing by negotiating a merger of RTC and FDIC PLS units. RTC recommends an overall increase in PLS staff with improved employment security. RTC has improved collections on PLS settlements, collecting \$336 million through November last year, compared with a total of \$332 million in previous years.

Transition

The RTC Completion Act requires the FDIC and RTC to establish a transition task force with reports due January 1 and July 1, 1995, and January 1, 1996. That task force has been appointed. At year-end, RTC had 6,705 employees of which 1,600 have the right to return to the FDIC when the RTC terminates. At year-end, 690 had already returned. In addition, the RTC and FDIC must coordinate their records, asset management, and legal systems sufficiently for those functions to be transferred smoothly.

GAO AUDITS

Last June, the GAO released its audit conclusions for the RTC 1992 year-end financial statements. The GAO gave those statements a relatively clean bill of health, finding for the first time that recordkeeping standards at the RTC were sufficient to permit a full evaluation, but stated that internal controls were not adequate to assure the avoidance of material misstatements in the financial data. Indeed GAO found several examples that were subsequently corrected. The GAO found individ-

ual computational errors of \$1.5 billion and \$500 million, missing documents necessary to establish value for 13 percent of RTC assets, and many posting errors and defunct account reconciliation systems.

The audit also pointed to weaknesses in contractor oversight as a source of unnecessary losses. Deficiencies of cash management practices at property subcontractors make RTC funds subject to unauthorized use. Another policy error resulted in hundreds of thousands of dollars of lost interest income.

Additionally, the GAO in a December 1993 report criticized the RTC for its poor internal controls over loan servicing costs resulting in greater cost to the agency. The GAO reported on wide variations in the types and amounts of loan servicing fees for similar contracts paid by the RTC's regional offices. For example, monthly fees for servicing performing loans ranged from \$5.62 to \$150 per loan for commercial loans, from \$4.25 to \$13.50 for consumer loans, and from \$2.98 to \$7.50 for residential loans. The GAO concluded that allowing each regional office to operate independently in competitively bidding and awarding its own loan servicing contracts increased RTC's total loan servicing costs. As of April 1993, 23 loan servicing contractors under 34 contracts were servicing about 193,000 mortgages and loans with over \$18 billion in total book value.

The GAO also reported that fee structures in some contracts conflicted with RTC's asset disposition strategies. For example, one unnamed loan servicer was paid \$9 million in disposition fees on loans that the RTC disposed of through securitization. These added costs increase the total cost of RTC's asset disposition efforts. In response to the GAO's findings, the RTC has undertaken to coordinate a national oversight program of loan servicing contracts and to develop a standard loan servicing agreement. The GAO, however, has not reported whether the agency actions have addressed the problem.

In a separate February 1994 report, the GAO criticized the RTC for not having sufficient information from its SAMDA asset contractors to ascertain the holding costs and recovery rates for the sale of the agency's assets. As of January 1993, RTC had awarded 236 SAMDA contracts to manage and dispose of assets with total book value of \$37.2 billion. The GAO found that although the RTC contractors were required to report on the income and expenses for their assets, these data were not readily available or were unreliable for 3,502 of the 5,156 assets reviewed. As a result, the GAO could not determine the net holding costs and revenues, holding periods, and net recovery rates for these assets. In response to GAO's report, the RTC has endeavored to change its procedures to establish a uniform reporting system. The GAO has not reported whether the agency actions have addressed the problem, however, the GAO previously reported on problems with the computer system that the agency would employ to establish this new procedure.

Minority-owned Financial Institutions

A November 1993 GAO report made certain suggestions for the RTC, FDIC, OTS, and the Treasury Department to carry out the legal requirements contained in FIRREA and the 1991 RTC Refinancing, Restructuring, and Improvement Act to preserve minority ownership of financial institutions and provide assistance for minority-owned institutions and minority investors to acquire failed financial institutions. The GAO report did not review the 1993 RTC Completion Act requirements in this area which became effective in December 1993.

The GAO concluded that the regulatory agencies had taken steps to preserve the minority ownership of financial institutions, but they had not assessed whether the steps were effective. The GAO reported that since its inception in August 1989 through May 18, 1993, the RTC had resolved 26 of 29 failed minority-owned thrifts. Minority ownership was preserved in 12 of the 26 resolutions. The RTC closed 5 minority-owned thrifts because no qualified minority or non-minority group expressed an interest in acquiring them. By comparison, from August 1989 to July 2, 1993, 11 minority-owned banks had failed under the FDIC's control. The FDIC resolved each of them by preserving the minority ownership of 2, selling 6 to non-minorities and closing and paying off the depositors of 3. Minority-owned banks, however, acquired 5 non-minority-owned banks under the FDIC's control.

The GAO recommended that the Treasury Secretary consult with FDIC, OTS, and RTC to systematically assess the effectiveness of their approaches to preserve minority-owned financial institutions. GAO indicated its belief that a key component of this effort should be surveys of minority-owned financial institutions to obtain their views on the efforts that are employed to preserve their institutions.

RTC AFFORDABLE HOUSING

The 1989 legislation creating the RTC required the agency to implement an affordable housing disposition program. By October 31, 1993, the affordable housing

disposition program had sold almost 76,000 housing dwellings for \$1.2 billion. This includes almost 20,000 single-family dwellings and over 52,000 multi-family units. From its inception in 1990 to date:

- 19,600 single-family dwellings have been sold (23,446 units) and closed for \$537 million.
- 52,450 multi-family units (21,985 solely for low- and very low-income tenants) in 564 properties have been sold and closed for \$616 million.

Additionally, nearly 100 nonprofit entities (36 public agencies and 62 nonprofit organizations) have purchased over 150 multi-family properties with 11,000 units; 63 public agencies and 262 nonprofit organizations have bought almost 1,500 single-family homes.

The average income of purchasers of single-family homes is \$21,860 or 61 percent of national median income; the average purchase price is \$27,405. A survey of the RTC buyers at nationwide auctions shows that 37 percent are minorities, 72 percent are first-time buyers, and 13 percent are veterans. The RTC has achieved approximately 74 percent of appraised value for the homes sold.

The 1993 RTC Completion Act requires the RTC and the FDIC to enter into an agreement on the orderly unification of both agencies affordable housing programs and to merge both programs by August of this year. The RTC and the FDIC have begun discussion to merge the two programs. The 1993 RTC Completion Act states that the unified program "shall take into consideration the substantial experience of the RTC regarding: seller financing, technical assistance, marketing skill and relationships with public and nonprofit entities, and staff resources."

RTC WHISTLEBLOWERS

On September 23, 1993, the Committee held an oversight hearing at which 13 witnesses, both current and former employees of the RTC, testified regarding waste, fraud, and abuse that they had knowledge of due to their employment at the RTC. As a result of the hearing, the RTC reiterated its policy of prohibiting retaliation against whistleblowers as well as undertook steps to address the allegations presented. The RTC has informed the Committee that it is not finished with reviewing all of the allegations and formulating its response and work will continue on this.

The RTC has made a number of changes in the contracting area to address some of the concerns raised at the hearing. For example, the Office of Contracts was split into two separate divisions, Contract Solicitation and Award and Contract Administration and more resources were devoted to these tasks. Additionally, all contract proposals with anticipated fees in excess of \$25,000 must be reviewed by the Office of Ethics and any contractors who violate RTC policies or procedures will face contract termination as well as debarment. Also, the Office of Contractor Oversight and Surveillance has been authorized to increase its staff by 147 people in order to improve the quality and frequency of oversight. In addition, a Contractor Performance Tracking System has been established to more objectively evaluate contractor performance and to maintain continuous contact with Accounts Payable to ensure compliance with regulatory and other legal requirements.

The RTC also has made followup visits to its offices in Newport Beach and Atlanta to review sexual harassment issues reported in those offices. An employee in the Newport Beach office was dismissed as a result of these incidents and additional training was provided. The RTC also has undertaken educational and certain other managerial efforts aimed at eliminating discriminatory practices in its field offices.

Additionally, the RTC created a "Dallas Professional Liability Review Team" to pursue the concerns raised at the hearing about the results of investigations of failed Texas thrifts and their officers and directors. This team, comprised of attorneys from the Department of Treasury, investigators from the Secret Service and one investigator and one attorney from the RTC, made two separate trips to Dallas and interviewed more than 50 current and former RTC officials in Dallas and in Washington. The review team has provided their initial findings to Interim CEO Altman who has indicated that after reviewing their findings, he will implement any necessary and appropriate changes in personnel or policy.

PRIOR SENATE BANKING COMMITTEE HEARINGS ON THE RTC

Since the RTC was created, the Committee has been active in its oversight of the RTC. The full Committee has held 24 hearings on the RTC, some general oversight, some confirmation, and others involving specific statutory topics.

On October 4, 1989, the Committee heard from Chairman Seidman and Oversight Board members Brady, Greenspan, and Kemp on their plans for beginning the operations of the RTC. It was at this hearing that Chairman Seidman first indicated that the RTC might not have sufficient funding to complete its statutory functions.

On January 31, 1990, the Committee heard from the members of the Oversight Board on the strategic plan that was adopted for the RTC. At this hearing, the Administration officials outlined their plans to raise working capital for the RTC through the Federal Financing Bank.

On April 3, 1990, the Committee held a hearing regarding the appointments of Robert Larson and Philip Jackson as the independent members of the Oversight Board. Both nominees testified that in their experience with troubled real estate, it is generally best to take your losses and sell the property as quickly as possible.

On May 23, 1990, the Committee received the first semi-annual report from the Oversight Board. At that hearing, Secretary Brady testified that it would take additional funding for the RTC to complete its task because thrifts were failing faster than anticipated. Secretary Brady estimated an additional \$39 billion to \$82 billion would be needed to close thrifts that failed by August 1992. William Taylor, then the acting President of the Oversight Board, stated that from the enactment of FIRREA going forward, it appeared that approximately 1,000 thrifts could fail.

On September 13, 1990, the Committee heard from RTC staff and a number of private sector witnesses on the RTC's asset sales and low-income housing program. The head of RTC's asset management division, Lamar Kelly, testified that even though the RTC had sold billions of dollars of assets, that the RTC's inventory would continue to grow because of the large influx of assets from additional failing thrifts.

On September 20, 1990, Chairman Seidman presented the first report on the RTC's estimated cost of the so-called 1988 deals. The FSLIC had first estimated that \$49 billion in assistance payments would be made to the assisted thrifts. Chairman Seidman testified that he estimated the cost to be \$70 billion, with several billion of potential cost savings if some of the transactions were restructured according to their terms.

On January 23, 1991, the Committee held its second semi-annual hearing on the RTC with the members of the Oversight Board. At that hearing, Secretary Brady stressed the need for additional funding for the RTC to continue closing thrifts and selling assets.

On February 5, 1991, the Committee held a mark-up hearing on the RTC Funding Act of 1991. This legislation provided the RTC with \$30 billion in funds to use while Congress studied proposals to reform and restructure the RTC.

On April 9, 1991, the Committee held hearings on the structure of the RTC, and proposals to reform the RTC. At that hearing, Senator Kerrey and Congressman Vento testified about their legislative proposals. The Committee also heard from a panel including Postmaster General Frank, financial author Martin Meyer, and Administrative Conference Chairman Breger.

On June 11, 1991, the Committee held another hearing on restructuring and reforming the RTC. In addition to testimony from Comptroller General Bowsher, the Committee heard from John Harshaw, President of the American League of Financial Institutions, Anthony Robson, President of the Minority Business Enterprise Legal Defense and Education Fund, Evelyn Reeves of the National Association of Real Estate Brokers, and the Reverend Jesse Jackson of the National Rainbow Coalition, Inc.

On June 21, 1991, the Committee heard from Chairman Seidman of the RTC on reforming and restructuring the RTC. Mr. Seidman also testified about the need for additional funding.

On June 26, 1991, the members of the Oversight Board testified at its statutory semi-annual appearance. At that hearing, Secretary Brady testified in opposition to merging the two boards (the Oversight Board and the Board of Directors), but stated that he and Chairman Seidman agreed that a new search should be made for a new staff person to be designated the CEO of the RTC. This new staff person would be delegated such powers as the RTC Board of Directors thought necessary.

On October 24, 1991, the Committee heard from witnesses on the RTC's asset sales efforts. A number of private sector witnesses criticized the RTC for its efforts in working with borrowers. Former Chairman Bill Seidman also testified.

On January 22, 1992, the Committee held the confirmation hearing for Mr. Albert Casey to be Chief Executive Officer of the RTC. Mr. Casey testified about his experience as the Chief Executive Officer of the RTC under the prior structure (he had served under the RTC Board of Directors since November 1991), and his plans for the RTC under the new structure.

On February 26, 1992, the Committee held the first statutorily required semi-annual appearance with the newly reconstituted Oversight Board.

On March 5, 1992, Comptroller General Bowsher testified about the operations of the RTC. While the GAO found improvements in many aspects of the RTC's operations, the GAO was still very critical about the RTC's information systems. Also

testifying about the affordable housing program were HUD Deputy Secretary Dellibovi, Conrad Egan from the National Corporation for Housing Partnership, and Bart Harvey from the Enterprise Foundation.

On March 11, 1992, Bill Roelle, the CFO from the RTC testified about the preliminary results of his investigation into the problems of the RTC's Western Regional office in Denver in implementing project "Western Storm." Project "Western Storm" was an attempt by the RTC to reconcile a multi-billion dollar imbalance in the records of 93 failed thrifts. The project had a multi-million dollar cost overrun, and was awarded to a firm that had key employees who may not have satisfied the RTC's ethical standards. Also at that hearing, the following private parties testified about the RTC's asset disposition activities: Peter Aldrich, Aldrich, Eastman & Waltch, Inc.; Bennett Brown, Enterprise National Bank; and Blake Eagle of the Frank Russell Company.

On March 26, 1992, the Committee held a mark-up hearing on RTC funding legislation in which it approved \$25 billion in additional funding and extended the deadline on the \$18 billion the RTC was unable to utilize before the expiration of the statutory deadline.

On August 5, 1992, the Committee held its semi-annual hearing on the RTC with the members of the Oversight Board. At that hearing, Secretary Brady stressed the need for additional funding for the RTC to continue closing thrifts.

On August 11, 1992, the Committee held a hearing on the Consolidation of the Professional Liability Section of the RTC Legal Division.

On October 1, 1992, the Committee held a followup hearing on the Consolidation of the Professional Liability Section of the RTC Legal Division.

On March 17, 1993, the Committee held its semi-annual hearing on the RTC with the members of the Oversight Board. At this hearing, Secretary Bentsen unveiled the Administration's funding request along with a nine-point management reform plan for the RTC.

On March 25, 1993, the Committee held a mark-up hearing on S.714, the "Thrift Depositor Protection Act of 1993." By a vote of 16 yeas to 3 nays, the Committee passed legislation which would have provided the RTC with \$28 billion and also would have provided \$17 billion for the SAIF to the extent that its assets, derived from thrift industry premiums, are otherwise insufficient to protect insured depositors.

On September 23, 1993, the Committee held a hearing on the operations of the RTC, which focused on allegations of waste, fraud, and mismanagement raised by current and former RTC employees.

PREPARED STATEMENT OF SENATOR ALFONSE M. D'AMATO

Mr. Chairman, I join you in welcoming the distinguished members of the RTC Oversight Board.

Much has happened since our last Oversight Board hearing almost one year ago. In the last year, the RTC received its final funding package, was directed to implement management and operational changes, and started the process of winding-down its operations. All of these actions occurred with my support and with bipartisan cooperation.

Lately however, the RTC is a lightning rod for controversy—most recently, because of its involvement in, and mishandling of, the Whitewater-Madison affair. Like most people, when I first read news reports of the Madison/Whitewater controversy, I had some basic questions. Looking only for information, I made repeated inquiries to the RTC. What I wanted then—and what I will pursue today—is the *facts* about the RTC's activities concerning the complete and timely investigation of the Madison failure. The American people are entitled to this information—to the facts. Surely, this Committee and its Members—even the Republican Members—are entitled to receive responses to requests for basic information. No matter *who* may be involved.

I must say that I have lost confidence in the RTC. I am disappointed in its footdragging. And I am very troubled about its handling of this matter and its attitude toward the Committee and Congress. I want to make this much clear—this is not about *politics*; it's about the *facts*—facts that the American people have a right to know. Does the RTC think that there is a special category of people who are above the law? With its funding secured, does it think it can flaunt Congress? The RTC must investigate and *publicly* disclose the facts.

This was the clear message sent by the Senate when it passed by a 95-to-0 vote an amendment that Senators Metzenbaum, Murkowski, and I sponsored to extend the statute of limitations for RTC action. *This vote is a strong statement that the RTC and the taxpayers have a right to know all the facts.*

I asked the RTC countless times about the running of the statute of limitations; the responses I received were delayed, evasive and cryptic—an exercise in bureaucratic obfuscation. I raised this factual issue for only one reason—to preserve the rights of the American people to a public hearing, and to preserve RTC's opportunity to conduct a thorough civil investigation to recover taxpayer money. We could not get a straight answer. We received a general reply only after the Chairman intervened.

Faced with the RTC's stonewall and the imminent expiration of the statute of limitations, Congress extended the statute of limitations as part of the emergency appropriations bill. The RTC will now have until December 31, 1995, to investigate possible fraud at Madison and 35 other failed savings and loans that the RTC estimates will cost taxpayers about \$3 billion to clean up.

To repeat, this amendment was not motivated by politics, but out of my concern that the taxpayers must have confidence in the RTC's fairness. No special handling, no preferential treatment, nothing but the pursuit of the facts and the even application of the law.

The RTC now has additional time to conduct a thorough inquiry regarding these institutions, including Madison. But the RTC's continual stonewalling raises serious doubts about its *determination*.

I am not demanding that the RTC, or anyone else, reach particular conclusions in this or any other case. I am not prejudging anyone. I am only asking for the facts and for a serious inquiry to discover them, as the RTC has done in hundreds of similar cases. It may be that in the end, everyone involved will be cleared.

But right now, I am less concerned about any outcome than I am about the integrity and fairness of the RTC process and the public's skepticism and doubts. The RTC can not be seen as dispensing justice on a selective basis, or for political reasons. But the taxpayers, who have spent almost \$200 billion on the S&L bailout, see the RTC in this light and so do I. This is unfortunate.

This RTC Oversight hearing provides an opportunity—perhaps our only opportunity—to raise questions that need to be asked. I realize that the integrity of the special counsel's criminal investigation must be preserved. We simply want the RTC to provide this Committee and the American people with facts.

As a result, this morning I will ask members of the RTC Oversight Board many of the same questions I have raised in my letters and on the floor of the Senate.

- What is the status of RTC's investigation into the Madison/Whitewater matter?
- Has an RTC civil task force been at work, and when will it be done?
- Have top political appointees been keeping a watchful eye on the RTC's review of this matter? Is this proper and appropriate?

- Are RTC investigators being subject to political pressures or impeded in their investigation of this case?
- Is Mr. Altman in an untenable position as a result of dual responsibilities within the Administration? Will Mr. Altman's permanent replacement at the RTC helm be announced soon? In the interim, will Mr. Altman recuse himself from any involvement in Madison?
- Has the RTC completed a conflict-of-interest analysis? And, as reported, does the RTC analysis conflict with the FDIC's analysis described by the *Wall Street Journal* as a "Whitewash?"

I hope we can get answers and not more obfuscation. The American people deserve the truth.

Finally, I would like to thank the Chairman for moving so quickly to hold this hearing. He was asked to convene RTC Oversight Board hearings, he pledged to do so, and with today's hearing he is fulfilling his commitment. The Members of this Committee appreciate that. He is a man of his word and an effective Chairman.

ADDITIONAL COMMENT OF SENATOR ALFONSE M. D'AMATO

THE STATUTE OF LIMITATIONS

It has been alleged by some that I did not support extending the statute of limitations when it previously came up.

The record demonstrates that this is incorrect.

The statute of limitations issue came up for a floor vote twice in 1992, both times on the HUD, VA, independent agencies authorization bill.

On September 8, I voted in favor of passing the Wirth amendment to extend the statute of limitations. This amendment passed on the Senate side (78-10), but was stripped from the bill during the House-Senate conference.

On September 25, I voted against a motion to table this same amendment, when it was offered to the conference report.

While the tabling motion failed, the amendment was eventually withdrawn, and thus did not become law.

These were the only two votes in 1992 directly on the amendment.

On March 26, 1992, there was an amendment before the Senate to strike Titles II through IV of the RTC funding bill.

If the amendment passed, the result would have been to remove all extraneous matters out of the RTC bill, and leave it as a simple funding bill.

Some of the provisions that the amendment would have struck were quite controversial. Meanwhile, the RTC was scheduled to run out of funds in only 6 days.

The purpose of the amendment was to remove all controversial issues and thus ease speedy passage of the funding measure. Some of these provisions were opposed by the bank regulatory agencies.

I voted for a clean bill, because I believed that would be the best way to ease passage of the necessary funding. The amendment was tabled by a vote of 58-36.

My vote on this amendment, to strip all non-funding provisions from the bill, was clearly not a referendum on the statute of limitations issue. To claim that it was misrepresents the record and is unfair to me and all others who voted for that amendment.

In 1993, the statute of limitations issue came up once again. However, before the vote, the new Administration changed its position on this issue.

Roger Altman, Acting CEO of the RTC, wrote me stating that the RTC no longer supported extending the statute of limitations.

Nevertheless, and despite Mr. Altman's letter, I still supported extending the statute of limitations, but wanted to limit it to cases of fraud and intentional misconduct. Let me quote from the record. On May 13, 1993, I stated on the floor of the Senate:

" . . . Mr. Altman does not support and is not asking for this extension . . .

I would ask the author of this legislation if we could limit it to the egregious instances—to fraud. Let us limit the net. Let us only go after real wrongdoers.

So I pose that as a question to my distinguished colleague from Ohio. I would be glad to support legislation that more carefully defined who the wrongdoers are, instead of using a standard that is too broad.

Negligence can encompass just about anything and anybody. . . . I think we can do the business of the people, go after the wrongdoers, go after the people who covered up situations, and not unintentionally encumber thousands of good, decent people."

The House-Senate essentially adopted my position. As reported by the conference, the statute of limitations was only extended for cases of fraud, intentional misconduct, and gross negligence.

PREPARED STATEMENT OF SENATOR PETE V. DOMENICI

I am very pleased that we are having this RTC oversight hearing. Even though we passed the RTC Completion Act last year, we don't seem to be able to keep the RTC off the front pages of America's newspapers.

The Office of Thrift Supervision released its third quarter 1993 call report data for the Nation's 1,788 savings associations. It includes 69 failed institutions, which, as of 9/30/93 had been seized by the Government and placed under the RTC's control. According to VERIBANK, it is estimated that the S&L bailout direct costs to taxpayers, excluding interest and other financing costs has been \$187.1 billion.

VERIBANK also calculated \$344.6 billion in indirect costs, for a total of \$531.7 billion in direct and estimated indirect costs. That is a lot of money. The regulators responsible for that huge sum of taxpayer funds should strive for an unblemished reputation for cost effectiveness, fairness, and diligence. They should not only always act responsibly but should also cultivate the *perception* that they are doing the people's business in a professional, impartial, efficient, and responsive way.

Unfortunately, that has not always been the opinion people have when they deal with the RTC and to a lesser extent with the FDIC.

The constitutionally mandated responsibility of Congress to engage in oversight of the executive branch is an important function of Congress.

It is an important feature of our system of checks and balances. If Congress spent more time doing oversight, I think we would have better Government. This year's Federal budget is nearly \$1.5 trillion. This is a lot of money. Frankly, it is difficult to spend \$1.5 trillion wisely. For this reason I believe Congress should spend more time on its oversight responsibilities.

I am aware that there is a legitimate need to protect people's right of privacy in RTC matters. I am aware that documents should be treated carefully so as not to jeopardize legal proceedings.

However, the *Madison* case has direct relevance to this Committee's legislative responsibilities. Our jurisdiction includes protection of federally insured deposits, regulatory restructuring, early intervention, agency contracting procedures and institutional recordkeeping, independence of regulators, and the adequacy of prohibitions against insider loans, just to name a few.

This Committee and the American people have the right to know how comprehensive and evenhanded the RTC investigations on Madison Guaranty have been to date.

I have constituents, as I am sure each Member of this Committee does, who want to make sure that the RTC treats everyone the same.

Just last night, because of an RTC action, I had a constituent call in tears. Her question to me was, "Why is the RTC foreclosing on my business when I have a ready and willing seller. I can pay off my loan if they will only give me a little more time. If I were a big shot in Washington, the RTC wouldn't treat me this way."

This isn't the first time I have heard, "If I were a big shot in Washington, the RTC wouldn't treat me this way" sentiment expressed. **For that reason, my main focus today is equal justice for all.**

The RTC, the OTS, the FDIC, and the Justice Department all have a responsibility to make sure that justice for one person, is the same justice for others similarly situated.

All of you on the Committee have heard me talk about my constituent who has made his experiences with the RTC a cause celebre. He is a New Mexican who thought he was doing his civic duty by serving on the board of the local S&L. He didn't commit fraud. He didn't approve loans to friends, family members, or business associates. He didn't buy land at twice its fair market value, churn it, and then leave taxpayers with the bill. But the RTC made him pay dearly.

The facts of these cases are always complicated. My constituent's facts are these: There were five questionable transactions that were authorized before he joined the board of directors. The other was approved at a meeting he missed. The loans were subsequently modified and these modifications were the basis of the RTC's lawsuit against my board member constituent.

There were allegations of loans to insiders—but not to my constituent. There was a loan to a questionable project. Cash was paid to the limited partners, who included several insiders and several of the thrifts lawyers.

This sounds familiar. Maybe I have been reading about a similar situation in the *Washington Post*, the *New York Times*, and the *Chicago Tribune* recently.

My constituent was sued by the RTC because during the board meeting he missed, a loan was approved for a real estate transaction. The loan was criticized by the regulators as an *investment* and not a loan. The RTC alleged that approving this loan was *per se* gross negligence and a breach of fiduciary duty.

Another transaction was a compensation contract which the RTC labeled as an unlawful employment contract in its pleadings against my constituent. I think the person receiving the compensation was a lawyer with a conflict of interest—but I can't tell from the documentation that I was provided. Approving this contract and allowing this person to draw fees according to the RTC supported its claim of negligence *per se*, gross negligence and breach of fiduciary duty against my constituent.

Another transaction was a loan that was repeatedly modified, allowing substantial loan increases, property purchases, sales, new financing, and other modifications. My constituent was sued because he approved doubling an existing construction loan of \$850,000 and increasing it by another \$700,000. From the little information in the press reports this sounds a little like buying land for \$840 an acre that the week before sold for \$440 an acre at Whitewater. Interestingly, in both instances the property was waterfront property. The RTC's position in my constituent's case was that the transaction was negligence *per se*, gross negligence and breach of fiduciary duty.

The last transaction involving my constituent was a condominium development loan. The original loan was issued before my constituent was on the board. But the thrift issued new loans, approved loan increases, accepted deeds in lieu of foreclosure, and permitted property sales. The thrift invested millions in a project, in an already saturated market. There were 111 units out of 1,134 units unsold at the time of foreclosure. This project wasn't in Whitewater—but the facts are similar. The RTC's position was that these transactions supported the RTC's claims of negligence, negligence *per se*, gross negligence and breach of fiduciary duty.

I am talking about Valley Federal in Roswell, New Mexico, but I could be talking about Madison Guaranty and the Whitewater Development in Little Rock, Arkansas.

The RTC filed more than 800 motions against my constituent. They went after all of his assets. They named his wife in the law suit just in case he proved too stubborn to settle and they needed a judgment against the marital community property. This was added pressure to settle.

My constituent finally settled. The RTC got just about everything my constituent had. His settlement was much higher than another director who had the same tenure and who approved the same transactions. My constituent is a doctor so the RTC lawyers made him pay more.

The RTC ran this man's life and investigated him to the maximum extent under the law, and ruined him financially. He didn't gain from the insider loans. The RTC was extremely vigorous.

When I asked for the facts of my constituent's case as part of my job as a U.S. Senator the agencies involved provided them.

Senator D'Amato and I are merely asking for the facts in the Madison Guaranty/Whitewater situation.

We are merely asking for the same justice system that vigorously prosecuted my constituent to vigorously investigate those involved in Madison/Whitewater and all of the various other institutions involved in this much more complicated web of transactions.

These are serious questions that need answers:

- Whether Administration officials, when they were private sector lawyers made material omissions, or false or misleading statements to the regulators which may carry criminal penalties;
- What policies exist to insure that law firms hired by the RTC do not have conflicts of interest; that they maintain accurate records; that they make those records available when called upon to do so; and are prosecuted when there are violations of these policies;
- Whether lawyers at the Rose Law Firm misled the FDIC when seeking a contract to sue Madison's accountants;
- Whether the owner of a failed thrift used Government insured deposits to help fund political campaigns; and
- Whether SBA loans were put to the same use.

PREPARED STATEMENT OF LLOYD BENTSEN

CHAIRMAN, RTC THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Mr. Chairman, Members of the Committee, good morning. Before I begin my formal report, I want to thank you, Mr. Chairman, and the other Members who worked with you, for your successful efforts last session to obtain the funding for the RTC to finish its job.

The good news is we are not here to ask for more money. The RTC funding should be sufficient. And, as you will hear in our testimony, the S&L industry is sound and the U.S. economy continues to improve. I am pleased to report that, due in large part to the strong economy and improved supervision, few savings and loan institutions are failing and 99 percent of private-sector thrifts are well or adequately capitalized. As a result, this is the *first time* the Oversight Board has been before you that it will not be asking for additional funding. I am certain you agree that this is good news for everyone concerned, especially for the American taxpayer.

I appear before you today as Chairman of the Thrift Depositor Protection Oversight Board. The Oversight Board, as you know, reviews overall strategies, policies, and goals established by the Resolution Trust Corporation. It also approves the RTC's financial plans, budgets, and periodic financing requests.

With me today are Board members Alan Greenspan, Chairman of the Federal Reserve Board; Roger Altman, Interim CEO of the Resolution Trust Corporation; Jonathan Fiechter, Acting Director of the Office of Thrift Supervision, and Andrew Hove, Acting Chairman of the Federal Deposit Insurance Corporation. Accompanying us is Dietra Ford, Executive Director of the Oversight Board.

In my testimony, I will report on the RTC's progress since its inception. I also will discuss the current improvements in the national economy. Finally, I will review the tasks remaining for the RTC, and the Oversight Board's activities and management reforms.

There are a number of specific issues with which the Oversight Board has been concerned, and I have asked Mr. Altman to discuss those matters in his testimony. They include reforms instituted by this Administration; the Affordable Housing Disposition and the Small Investor Programs; the implementation of the RTC Completion Act; and plans to transfer RTC responsibilities to the FDIC by the end of 1995.

RTC PROGRESS

I will begin with a brief summary of the RTC's progress to date.

When the RTC was created in 1989, it *immediately* became responsible for 262 failed institutions with *\$114 billion* in assets. Since that time, the RTC has taken responsibility for a total of 743 *failed institutions* with *\$457 billion* in assets—and it has closed or sold 680 of them.

In the process, it has protected nearly 23 *million deposit accounts*, with average balances of *\$9,000*. In other words, the RTC fulfilled the Government's guarantee of deposit insurance to millions of Americans nationwide. And, I might add, it did this in a manner that was so nondisruptive that many of those whose accounts were protected never even knew that the RTC had taken control of their institution and made good on the deposit guarantees.

Also, in the process, the RTC undertook what has been called the greatest liquidation in our history—so far disposing of more than *\$393 billion* in assets for approximately 90 percent of their book value.

Working to meet legislative mandates for its residential sales, the RTC has sold nearly 80,000 units as affordable housing. Thus tens of thousands of lower-income families across the country have benefited directly as this national problem is resolved.

Through its referrals to the Justice Department, the RTC also has helped pursue the criminals who helped create the savings and loan crisis. More than 1,500 persons were charged with major crimes involving S&L's as of June of last year; nearly 1,250 were convicted. Of those sentenced, more than 75 percent went to prison. In addition, the RTC has pursued civil recoveries from wrongdoers, with all involved agencies collecting nearly *\$2 billion* to date.

Mr. Chairman, when this Administration took office, the estimated total cost of resolving the problems caused by failed S&L's was estimated at between *\$100 billion* and *\$160 billion*.

When I appeared before this Committee last March, we estimated that as much as *\$45 billion* in additional funding could be needed beyond the nearly *\$87 billion* already appropriated to resolve this problem. Of that *\$45 billion*, up to *\$28 billion* would be for use by the RTC and *\$17 billion* for the Savings Association Insurance Fund (SAIF), which eventually will assume the RTC's deposit protection obligations. The Congressional Budget Office estimated that *\$50 billion* could be necessary. The

General Accounting Office stated that, with economic uncertainties, the RTC reasonably could be expected to require that level of funding. Both the House and Senate Budget Committee reports included \$50 billion for the cleanup.

As RTC funding legislation moved through the Congress in 1993, constantly improving economic conditions resulted in record earnings for the S&L and banking industries. By mid-November, lengthy deliberations in both Houses of Congress culminated in a funding bill that provided \$18.3 billion in loss funds for the RTC. That brought total approved loss funds provided to protect depositors in failed S&L's to \$105 billion, a figure barely over the low end of our estimated range of expected losses reported to you a year ago.

In addition, the RTC has estimated in its 1994 Operating Plan that \$9 billion in additional loss funds will be used in 1994. The Oversight Board has approved the expenditure of that amount. Since the RTC had \$5 billion in reserves at year-end 1993, the Oversight Board released to the RTC \$4 billion of the amount provided by the RTC Completion Act. If more is needed, the Oversight Board will authorize further release.

This is prudent financial management, made possible by a strengthened economy, management improvements at the RTC, and effective oversight.

Mr. Chairman, the figures I cited earlier demonstrate that the RTC took on, and is rapidly completing, a monumental task. The results easily could have been vastly different. Depositors could have lost their savings; losses to the Government could have been far greater; and resolution of the problem could have taken much longer. But to the credit of a great number of people, including many of you sitting here today, the problem is near resolution.

It is important to keep this overall success of the program in mind even as we consider needed improvements to the process.

ECONOMIC PROGRESS

Mr. Chairman, when President Clinton took office, one of his top priorities was to improve the economy. One positive benefit of the strong growth in our Nation's economy and having inflation under control is that the estimated cost of resolving the crisis that resulted in hundreds of savings and loan failures should be significantly lower than initially estimated.

The Administration is very pleased that the Gross Domestic Product grew in real terms at a 2.9 percent rate in the third quarter of 1993 and at a 5.9 percent rate in the fourth quarter.

That stronger economic performance can be traced directly to deficit reduction, which caused interest rates to tumble. Despite recent slight increases in rates, the interest rate on 30-year mortgages is still relatively low and below last year's level.

However, lower interest rates aren't enough if financial institutions don't lend. That is why this Administration also took on the lack of credit availability, tackling unnecessary regulations and reporting requirements that discouraged lenders from making loans to small businesses and other worthy borrowers.

All of these factors together contributed to increased housing starts and home sales. And the economic growth has spread to building supplies and home furnishings. There also has been an increase in the production of automobiles and other durable goods. This is also good news for the RTC, as economic growth cannot help but improve the RTC's ability to market even its more difficult to sell assets, as businesses gain more confidence in their futures and become more willing to invest in growth.

Lower interest rates and increased credit activity also, of course, have brought about increased earnings and profits for all types of financial institutions. Consequently, many savings and loans that may have been at risk now are making profits and experiencing capital growth. As a result, we expect fewer savings and loan and bank failures, less need for Government intervention and a reduced cost to taxpayers over the next year.

We are confident the good news will continue throughout this year and throughout the economy for a number of reasons, but mostly because we have shown the American people that Government can take tough actions to cut costs.

Despite these advances, though, it still is not possible to predict with precision events that may impact the S&L industry through 1995, when the RTC goes out of business. The earthquake in Los Angeles is an example of unforeseen occurrences that can have long-term economic consequences on institutions, as well as individuals.

THE TASK AHEAD

While we clearly are nearing completion of the RTC's role in resolving the savings and loan crisis, what remains is substantial.

To that end, a new management team is being put in place at the RTC. Jack Ryan, who has been the Regional Director of the Southeast Region for the OTS since 1989, has been appointed as Deputy CEO. Ellen Kulka, who previously served as Northeast Regional Counsel of the OTS, has been appointed RTC General Counsel. In addition, Tom Horton has been promoted to Acting Senior Vice President for Asset Management and Sales. The Administration expects to announce a nominee for Chief Executive Officer of the RTC shortly.

As you know, Deputy Secretary Altman has been serving as interim CEO of the RTC, while a permanent leader was being sought. Roger's term will end on March 30. If a nominee is not confirmed by that time, Jack Ryan, as Deputy CEO, will serve in his stead. I would like to take this opportunity to thank Roger for taking on this tremendous task in addition to his other many duties and for the excellent leadership he has given the RTC for almost a year now. The reforms he helped put in place at the RTC will provide it with a firm foundation for moving forward through the remainder—and to the end—of its resolution of the S&L crisis.

Through 1995, the RTC must continue to protect depositors. It must dispose of some very difficult to sell assets. It must ensure that its operations are being run effectively, efficiently, and at the least cost to taxpayers. It must work toward an orderly transition of its responsibilities to the FDIC. And it must never lose sight of its mandates to provide affordable housing and maximize minority participation, including implementation of provisions of the RTC Completion Act.

Having received Congressional funding, the RTC has begun to resolve the 63 insolvent institutions now operating in conservatorship. These institutions have about 2.3 million deposit accounts. The OTS has stated that an additional five institutions with about 60,000 deposit accounts possibly may be transferred to the RTC this year. The RTC will make good on the Government's guarantee to these insured depositors—and any others who may yet fall under the RTC's jurisdiction.

Another key task is the sale of remaining assets. The RTC has achieved an impressive record in asset sales to date. But the remaining inventory of nearly \$64 billion consists substantially of hard-to-sell land, other real property, and non-performing mortgages. While the improved economy certainly is helping with sales, the potential loss to the taxpayer may be further reduced if these assets are managed, marketed, and sold as efficiently as possible. To this end, the RTC is working continuously to revise and improve its marketing and sales strategies and to seek creative, yet sound, techniques to maximize returns.

Another major task for the RTC is cooperating with the FDIC to plan and carry out the transition of the RTC to the FDIC. Under the Completion Act, the RTC will close down December 31, 1995, one year earlier than under FIRREA. This accelerated deadline, of course, has given added impetus to transition planning. Workload and other analyses already are underway to gather the necessary information to make sound management decisions to guide this transition period.

Also, as the RTC moves toward completion of its task, it must continue to carry out its responsibilities to ensure maximum availability of affordable housing and of opportunities for minority- and women-owned businesses.

In addition, Interim CEO Altman and I have urged the RTC to work aggressively to achieve the goals for the affordable housing and minority- and women-owned business programs as mandated by the Completion Act. It is imperative that minority- and women-owned businesses have ample opportunity to win contracts, to purchase assets, and to acquire failed thrift institutions. Regarding acquisitions of failed thrifts and their branches, the RTC is taking special care to meet requirements of the Completion Act to provide preference to minority institutions, while applying the least-cost test.

The Oversight Board believes that the RTC has made great strides to put in place the management reforms we proposed and Congress mandated in the RTC Completion Act. In addition, it is moving to put in place other reforms contained in the legislation that should help reduce the final cost to taxpayers.

I believe we have seen the benefits of improvements made and that we soon will be seeing more.

OVERSIGHT BOARD ACTIVITIES

The Oversight Board has strengthened its staff reviews of the RTC's programs, policies, and management practices and will continue to work closely with the RTC and the Congress to ensure that improvements continue. Let me give you a few examples.

A key undertaking of the Board's staff has been its monitoring of the RTC's efforts to improve its contracting systems and oversight. As part of ongoing activity, a review is being conducted to ensure that RTC policies and procedures are applied uni-

formly to all contractors and that contract oversight procedures provide effective and efficient review of contractor performance.

Board staff also has focused on the RTC's Financial Operating Plan, reviewing the status of that detailed plan, all borrowing activity of the RTC from the Federal Financing Bank, and the RTC's Operating Budget. Our staff also directs attention to the RTC's internal controls process and reviews the performance indicators designed to measure progress in achieving the organizational goals of the RTC.

In addition to the Oversight Board's scrutiny of the RTC, our Regional and National Advisory Boards are taking hard looks at the policies and procedures governing RTC asset sales. Late last year, Ira Hall, IBM USA Director for International Operations, was named to lead the Advisory Boards as the National Advisory Board Chairperson. Mr. Hall, who is the former treasurer of IBM USA, is a tremendous addition to our boards, bringing considerable financial and private-sector expertise to the process. The advisory boards meet regularly at sites nationwide to discuss the RTC's progress and hear testimony from witnesses. These boards have been instrumental in advancing affordable housing opportunities and in assessing the success of RTC sales techniques and their impact on local markets.

The RTC has responded to the advisory boards' advice. A recent example involves the selection of the appropriate RTC offices to manage its properties. Witnesses before the Regional Advisory Boards have recommended that properties be administered by the RTC regional office closest to the asset—not by the office closest to the thrift that once held it. In response to the National Advisory Board's subsequent recommendation to that effect, the RTC has authorized its Regional Vice Presidents to make such transfers of responsibility when appropriate.

Our advisory board structure will change this year, as the RTC Completion Act created a new Affordable Housing Advisory Board, which will replace the former National Housing Advisory Board. The new board will be made up of nine members, including the Secretary of the Department of Housing and Urban Development, the Chairpersons of the FDIC and Thrift Depositor Protection Oversight Board, four private sector members, and two members from the former housing advisory board. This new board will advise the FDIC, as well as the RTC, on their affordable housing programs. It also will help merge the two agencies' programs and continue after the RTC closes. The first meeting of the Affordable Housing Advisory Board will take place during the next few weeks.

RTC MANAGEMENT REFORMS

Let me turn now to the RTC's actions to carry out the 10-point management reform program that I announced at our last hearing, as well as the 11 additional reforms provided in the Completion Act.

To demonstrate this Administration's dedication to improving RTC efficiency—and reducing the ultimate cost to taxpayers—I asked Interim CEO, Roger Altman, to achieve a number of management reforms. I am pleased to report that great progress has been made in putting these reforms into place.

The Oversight Board, with the passage of needed legislation, has begun to make appointments to the Audit Committee that we proposed as part of our management reform package and which is mandated by the RTC Completion Act. We have asked Frank Raines, who is vice chairman of Fannie Mae, to chair the Audit Committee. Two persons have been asked to serve as members of the Committee: Jonathan Fiechter, Acting Director of the OTS, and Robert C. Larson, who is Vice Chairman of the Taubman Company, Inc., a former independent member of the Oversight Board and a nominee to serve on this Board once again. We expect the Audit Committee to be in operation soon, and we look forward to its reports on its findings at future Oversight Board meetings. The RTC's management, of course, must make every effort possible to ensure that concerns raised by this Committee are addressed and handled properly.

For the record, I would like to remind you that the goals of our 10-point management reform program were to:

First, thoroughly evaluate and strengthen the RTC's internal accounting and administrative control systems.

Second, put in place a system to ensure prompt, systematic, and effective followup on the findings and recommendations contained in the reports issued by the GAO and the RTC's own Inspector General.

Third, develop a comprehensive business plan. I want to take a moment here to commend the RTC for completing a business plan that will serve as a living document to guide its activities as it moves toward completion of its job and through the transition of its responsibilities to the FDIC. It also is clear from the business plan that the RTC has put a great deal of effort into reviewing its sales methods.

Fourth, provide more opportunities for minority- and women-owned businesses in the management and disposition of RTC assets. I personally believe these programs are an important part of the RTC's duties and that this is an area on which it must continue to focus attention to ensure legislative mandates are attained.

Fifth, review and recommend improvements in the adequacy and organization of the staff of the RTC Professional Liability Section.

Sixth, review and recommend improvements in RTC management information systems.

Seventh, review and strengthen the RTC's contracting system and the oversight of its private-sector contractors.

Eighth, appoint an RTC Chief Financial Officer, who is independent of other program responsibilities.

Ninth, appoint an Audit Committee.

And tenth, create a transition task force to plan and implement the transition of RTC's responsibilities to the FDIC.

The reform program we had proposed was very ambitious. The Oversight Board receives periodic updates on the status of implementation of these reforms, and our staff has been monitoring and analyzing the progress made. I am pleased with the results thus far. I believe the RTC has taken significant steps in the past year to place itself on a sound management footing and maximize savings to the taxpayer. The RTC Completion Act mandated and expanded on these reforms, and the RTC is moving to meet the standards that Congress has set. However, there is still much to accomplish, and the Board, along with the RTC, will continuously review and improve as needed.

CONCLUSION

Mr. Chairman, I believe the RTC has made significant progress in the past year in achieving its mandates and in addressing the concerns raised by the Congress, the GAO, the Oversight Board, and others.

As I said, however, much remains to be done before the S&L crisis and the RTC's responsibilities are completed. I expect that in this next year the RTC will continue to review its programs and policies and utilize the reforms it now has in place to improve its systems, procedures, processes, and results. I also expect that the RTC and the FDIC will continue with an effective and orderly transition. And, of course, the Oversight Board and advisory boards will continue to monitor the RTC's progress and bring to its attention areas that may need improvements or modifications.

Looking on to 1995, I believe the RTC is well on its way to closing the doors on one of this Nation's greatest financial crises and to handing over the keys of a corporation that has done its job.

Mr. Chairman, this concludes my prepared remarks. Responses to the questions required by FIRREA to be addressed at these appearances are contained in Attachment I to the statement.

Attachment I

Requirements Established in FIRREA for
Semi-Annual Appearance

Comments

- I. Report on the progress made during the 6-month period covered by the semi-annual report in resolving institutions insured by the FSLIC prior to FIRREA, and for which a conservator or receiver has been appointed after 12/31/88 and before 10/1/93. These institutions are referenced below as those described in subsection (b)(3)(A).
- II. Provide an estimate of the short-term and long-term cost to the United States Government of obligations issued or incurred during such period.

During the six month period, the RTC resolved 21 institutions with \$3 billion of assets. On September 30, 1993, there were 68 conservatorships with \$30 billion of assets waiting for resolution. During the six month period, conservatorship and receivership assets decreased \$17.5 billion in book value.

We interpret this requirement to address RTC short-term borrowings from the Federal Financing Bank ("FFB") and long-term borrowings from Resolution Funding Corporations ("REFCORP").

During the reporting period, the RTC decreased issued and outstanding obligations from \$35 to \$32 billion in the form of short-term working capital borrowings from the FFB. Approximately \$0.5 billion in interest expense were incurred in connection with the issuance of these obligations during such period. Repayment of these obligations will come from the proceeds from the disposition of assets and recoveries from receiverships. If these recoveries are not sufficient to repay FFB, loss funds will be used to make up the difference. We expect that proceeds from the disposition of RTC assets will be sufficient to repay these short-term obligations.

Requirements Established in FIRREA for
Semi-Annual Appearance

Comments

REFCORP issued its last obligation in January, 1991. The total amount outstanding is the full \$30 billion of obligations authorized by FIRREA, with average maturities of 33 years and average yield of 8.76%.

Total interest on REFCORP obligations is expected to be a nominal \$87.9 billion. The Treasury share of this interest is expected to be about a nominal \$76 billion.

III. Report on the progress made during such period in selling assets of institutions described in subsection (b)(3)(A) and the impact such sales are having on the local markets in which such assets are located.

As of September 30, 1993, the RTC had sold and collected approximately \$282 billion (book value) of assets which was 84% of assets seized by that date. The proceeds from these asset reductions totaled \$345 billion. To date, there is no evidence that RTC sales have had an adverse impact on local real estate markets. A survey conducted by RTC's National Advisory Board concluded that the RTC does not appear to affect real estate prices, but that RTC activities may create a "psychological overhang" in the markets, causing local buyers to delay decisions. This observation is consistent with independent reports. The RTC will continue however, to monitor the impact of its sales activity in local markets through the input of its Regional Advisory Boards.

IV. Describe the costs incurred by the Corporation in issuing obligations, managing and selling assets acquired by the Corporation.

We have interpreted this requirement to address the assets of receiverships and conservatorships which are under the management of the RTC.

Requirements Established in FIRREA for
Semi-Annual Appearance

Comments

The total amount paid to private contractors during the April-September period was \$963 million, of which \$627 million represents fees paid under receiver-ship management contracts and \$108 million represents issuance costs incurred in connection with the securitization program and other equity transactions.

After the appointment of RTC as conservator, association employees continue to perform asset management functions under the supervision of the RTC Managing Agent. These staff are already supplemented by outside contractors hired and paid for by the institution for services for which the institution would typically contract in the normal course of business. Accordingly, we have excluded such costs for the purposes of this calculation.

V. Provide an estimate of income of the Corporation from assets acquired by the

In its corporation capacity, the RTC's only substantial source of "income" is interest on advances made by the Corporation to conservatorships and receiver-ships. The RTC accrued \$183 million of interest income on advances and loans to conservatorships and receiver-ships in the six months ended September 30, 1993. Dividends are not included in income because they are a reduction in RTC's claims against the assets of the receiver-ships, thus a return of

Requirements Established in FIRREA for
Semi-Annual Appearance

Comments

capital, and not income. Dividends received by the RTC during the period totalled \$10.0 billion and repayments of advances totalled \$1.6 billion.

- VI. Provide an assessment of any potential source of additional funds for the Corporation.

The Corporation may borrow on a secured basis working capital from the FRB and up to \$5 billion from a line of credit from the Treasury provided in FIRREA. The RTC Completion Act appropriated \$18.3 billion, \$10 billion of which is available immediately, and \$8.3 billion is available after certain certifications by the Chairman of the Oversight Board. Additionally, as of September 30, 1993, the RTC had \$6.8 billion of unused loss funds from prior Congressional appropriations.

- VII. Provide an estimate of the remaining exposure of the United States Government in connection with institutions described in subsection (b)(3)(A) which, in the Oversight Board's estimation, will require assistance or liquidation after the end of such period.

The estimate of the total resolution cost to be borne by the RTC in connection with those institutions described in subsection (b)(3)(A) is projected to be up to \$104 billion. The RTC recognized approximately \$80 billion for estimated losses from inception through September 30, 1993.

PREPARED STATEMENT OF ROGER C. ALTMAN

INTERIM CHIEF EXECUTIVE OFFICER OF THE RESOLUTION TRUST CORPORATION

Good morning, Mr. Chairman and Members of the Committee. This is the final time I will appear before Congress in my RTC capacity. Under the terms of the Vacancy Act, my appointment expires on March 30, 1994.

It is the intention of the Administration to nominate a permanent CEO for this agency as soon as possible. As the Chairman knows, we are quite far down the road in that selection process, and it won't take much longer. Once a nomination is forwarded to you, we hope that this Committee will act expeditiously. The RTC needs a full time chief executive, as I've said many times.

Last year, we chose a fine candidate, Stanley Tate, and we regret that he withdrew his nomination, 4½ months after it was announced, and after Congress recessed for the remainder of 1993. He withdrew on his own, not at our urging, and he would have done a good job.

Let me also thank the Chairman and Members of the Committee for your efforts to secure funding for the RTC. With your help, the RTC Completion Act was enacted last December. That will make it possible for the RTC to complete its mission, close its doors, and bring the S&L cleanup to a close.

Here at the outset, I'd also like to note the RTC's activities in response to the earthquake in California. Foreclosures in the affected area have been delayed, and staff and loan services have been directed to help homeowners avoid delinquencies on mortgages held by the RTC. We also have searched our inventory for properties that can be made available to FEMA for shelter. So far, we have notified FEMA of 54 multi-family units and 47 single-family residences that can be made available. Additional suitable properties will be directed to FEMA as they are identified. There also is a temporary moratorium on new sales of properties in the earthquake area until full assessments of damages are made and the potential for such properties as shelter is evaluated.

Let me turn now to a status report on the RTC. As you know, we are now in the last lap of this thrift cleanup, which everyone hopes will never happen again.

The S&L collapse required the biggest financial rescue in recent history. Including monies spent by the FSLIC in 1988, the thrift cleanup is expected to cost the American taxpayer approximately \$150 billion. Putting this into perspective, at present budget levels, this is equivalent to 9 years of AFDC payments or 45 years of Head Start. At a time when we all struggle to finance Federal support of vital activities—from national security to education—these are sobering comparisons. We must strive to ensure that such a fiasco is never repeated.

Mr. Chairman, when we inherited responsibility for this agency, it was not in a sound condition. During the 1991 and 1992 period, it had been run with only one goal: resolve institutions and sell the related assets as fast as possible and close its doors as soon as possible. There was little interest or attention either to the internal soundness of the organization or to opportunities for women and minorities which could be created by its operations.

In addition, the RTC became one of the largest contracting organizations of all time, yet its contracting procedures were poor. It was charged with auditing major contractors, but had inadequate audit followup systems. It was selling assets in huge blocks, denying local investors a shot at local properties they knew best. Despite being larger than almost any American bank or securities firm, it had no full time chief financial officer, nor a permanent General Counsel, nor a business plan of any kind. Typifying this rush, a whole series of RTC offices were closed in 1992, in effect, at the height of the agency's activities. This contributed to severe staff turnover and weakened efforts in certain crucial areas, like the pursuit of those with liability in thrift failures. And, these weaknesses had turned the RTC into an object of much controversy.

We determined, Mr. Chairman, to concentrate on repairing the organization, not just shoveling assets out the front door. This didn't require us to postpone the RTC's closing date. Indeed, the agency will be out of business one year earlier than foreseen in the original RTC statute. But, when Secretary Bentsen first testified on the RTC before this Committee, almost exactly one year ago, he outlined management reforms to which we committed ourselves. Most of these reforms were subsequently incorporated in the 21 management reforms required by the RTC Completion Act. As indicated below, the reforms originally called for by Secretary Bentsen have largely been completed. RTC's progress to date on all 21 reforms prescribed by the recently enacted RTC Completion Act is summarized in Exhibit 1. Let me point out a few areas which we particularly emphasized.

MANAGEMENT REFORMS

1. *Strengthened Contracting Procedures*

The agency's contract award procedures had often been violated in the past and our first action here was to mandate compliance. Every RTC contractor and employee was advised that contracts could only be secured through proper channels, which include only Warranted Contracting Officers and Managing Agents for conservatorship institutions.

Some of these compliance problems reflected weak organizing principles. Contracts were often let by the same employees responsible for overseeing them. Obviously, in the event of a compliance problem, the employee had little incentive to draw attention to it. To correct this, the Office of Contracts has been re-organized into two separate units, one for contract solicitation and awards and another for contract administration.

Background investigation procedures for prospective contractors have also been beefed up, training sessions have been conducted for contracting staff on improved contract oversight, a monthly reporting system has been developed to monitor progress in promoting competition by RTC offices, and the scope of contracting oversight has been substantially expanded, along with more stringent contract controls. Contractor Oversight staffing has more than doubled, from 118 to 265, and reviews of nearly 500 outstanding contracts were initiated in 1993.

Contracting Performance Compliance Reviews are performed on a regular basis, and contracting procedures are again being reviewed as part of the 21 management reforms found in the RTC Completion Act.

2. *Audit Followup*

A new reporting system has been implemented to ensure that management responds to the concerns expressed by auditors. The system now tracks and updates the status of all Inspector General, GAO, and internal RTC findings and recommendations, including corrective actions.

Procedures and time requirements for resolving audit findings are also in place. Management responsibility is assigned and certifications are required attesting to the completion of planned management actions. I am pleased to say that the RTC is current in following up on almost all GAO and OIG findings and is placing increased emphasis on responding to internal RTC reviews.

3. *Comprehensive Business Plan*

The RTC has completed a comprehensive Business Plan and copies have been sent to this Committee. It is a highly detailed and, in my view, an impressive piece of work. The Business Plan is intended to be a living document, and it will be updated as circumstances warrant.

4. *A True Chief Financial Officer*

A Chief Financial Officer has been on board since June 1993. Ms. Donna Cunningham has taken that helm very ably, as reflected in the improvement in internal controls at RTC.

5. *Expand Opportunities for Minorities and Women*

Mr. Chairman, one of our highest priorities has been to increase participation for minorities and women in RTC activities, particularly contracting of all kinds and asset sales. I am very pleased by the record we have built in this area.

Our first step was to elevate, in 1993, the Minority and Women's Program (MWP) to the Divisional level, and require that its head report to the CEO and serve on the Executive Committee.

Then, we insisted that the MWP program be involved fully in the contracting process. It now participates in virtually every phase of contract operations, including pre-solicitation, solicitation, evaluation, selection, contract administration, and post-award activity.

We have taken action to expand the number of minority- and women-owned businesses (MWOB's) receiving RTC contract solicitations. Source Selection Plans developed by the contracting offices are reviewed to ensure equitable inclusion of MWOB's. An MWOB database has been developed which centralizes the listing of certified firms. It has significantly improved the process of developing source lists and there are now more than 1,100 certified MWOB's in the database.

During the proposal evaluation phase of the contracting process, MWP reviews joint venture proposals and subcontracting plans submitted by prime contractors to determine if they meet eligibility requirements.

To further improve contracting opportunities, the Division actively participates in Technical Evaluation Panels (TEP's) for contracts over \$50,000. And, it maintains

effective communication with the Contracting Officers and Contract Oversight Managers to assure MWOB participation in smaller cases where fees are estimated to be below \$50,000. The MWP Division also has increased efforts to encourage SAMDA contractors to utilize MWOB's as subcontractors.

Let's look at the record. First, on a cumulative basis since inception, the RTC has awarded 126,939 non-legal contracts nationwide, with 41,267 or 33 percent being awarded to MWOB's (Exhibit 2). Of the \$3.7 billion awarded in non-legal fees, \$786 million (21 percent) has been awarded to MWOB's. Non-minority women received fees of \$399 million, or 11 percent of total fees. Ethnic minorities received \$387 million, or 10 percent of fees.

Now, let's look at last year. In 1993, RTC paid non-legal fees of \$500 million, with MWOB's receiving \$155 million (31 percent). Non-minority women were awarded fees of \$54 million (11 percent). Ethnic minorities received \$101 million in fees (20 percent).

Our commitment to maximizing opportunities for minorities and women is reflected in these rising totals. The proportion of non-legal contracts awarded to MWOB's rose from 35 percent in 1992 to 43 percent in 1993. Over the same period, the proportion of fees going to MWOB's rose from 22 to 31 percent.

The RTC also has continued efforts to encourage the use of minority- and women-owned law firms (MWOLF's) as outside counsel. And, there have been significantly increased levels of MWOLF participation. As of December 31, 1993, 1,083 MWOLF's were on the RTC Legal Information System (RLIS), including 450 women-owned firms. MWOLF's represented 35 percent of all law firms on this system. Last year, MWOLF's received \$53.8 million or 13 percent of all legal fees from the RTC, a big increase over the \$37.6 million paid in 1992. Minority-owned law firms received \$35.7 million in 1993, way above the \$23.1 million of 1992. Women-owned law firms received \$18.1 million in fees in 1993, up from the \$14.5 million received in 1992.

And, in 1993, 24 percent of all legal fees were billed by minority and women attorneys in non-MWOLF's.

Beyond contracting, MWP also worked to improve asset acquisition opportunities for minorities, women, and small investors. During 1993, it participated in the Small Investor Program (SIP), and the Judgments, Deficiencies, and Charge-Offs (JDC's) initiative, which had MWOB equity or MWOB subcontracting participation in about 80 percent of its bidders. MWP also participated in activities to support the Affordable Housing Disposition Program.

On the resolution side, RTC will implement the provision of the RTC Completion Act relating to acquisition of institutions or branches in predominantly minority neighborhoods. Our interim rule defines the term "predominantly minority neighborhood" as any postal zip code area in which 50 percent or more of the residents are minorities, unless the RTC has determined that other reasonably reliable and readily accessible data indicate more accurate neighborhood boundaries.

There will be a directive to implement this provision. It probably will define an institution in a predominantly minority neighborhood as one whose home office is located in such a neighborhood if deposits are taken and operations are directed from that office, or one that has 50 percent or more of its offices in predominantly minority neighborhoods. The directive will also spell out bidding procedures for institutions or branches in such neighborhoods. These are likely to include a provision that, in bidding for institutions or branches in such a neighborhood, if a minority bidder has bid within 10 percent of the high bid (which has been made by a majority bidder), both the high majority bidder and the high minority bidder shall have an opportunity to submit one more best and final bid (which can be no lower than the high bid). This is within the spirit of the requirement in the Act that minority bidders receive a meaningful preference while still maximizing return to the taxpayer. Finally, minority bidders for institutions or branches in predominantly minority neighborhoods will be offered interim capital assistance, will have an option to purchase RTC assets at market values, and may be able to occupy branch offices owned by the failed institutions and located within a predominantly minority neighborhood on a rent-free basis for 5 years.

6. Improve RTC's Professional Liability Section (PLS)

PLS has been a particularly troubled area of RTC operations. There have been complaints that the RTC was unfairly pursuing former S&L directors who had no real role in the organization. There also have been criticisms at the other end of the spectrum, i.e. that the RTC was not sufficiently zealous in its pursuit of the "real crooks." As GAO recognized in its mid-1993 report on this program, the primary problems have involved inadequate staffing levels and an overall lack of experienced attorneys. The temporary nature of this agency has made recruiting efforts more difficult. But, we have worked hard to increase the size and training of PLS

staff. Currently, there are 83 attorneys on staff, the largest total in the history of the program. Additional PLS managerial positions were recently authorized to improve oversight in this area.

Senior RTC and FDIC officials also are planning an accelerated merger of the RTC PLS unit with its counterpart in the FDIC. This recognizes that the FDIC is a source of experienced attorneys in this highly specialized area. Such a merger would help restore a needed sense of stability to the program.

Let me briefly review the record of recoveries in this area. As of the end of 1993, RTC PLS had obtained over \$744 million in settlements and judgments, with total collections amounting to just over \$680 million. Legal fees and expenses through December 1993 totaled \$259 million. Since a substantial portion of these expenses have been incurred in connection with matters that have not yet been resolved, the ratio of recoveries to expenses will continue to improve in the future. In 1993, for example, recoveries exceeded \$348 million, over 50 percent of the total for the entire history of the program.

PLS has also been a leader in utilizing the services of MWOLF's. During a six month period in 1993, for example, the headquarters Legal Services Committee studied MWOLF hiring performance by the various Legal Division departments in the Washington office. The headquarters PLS unit, which oversees the largest and most complex matters in the program, made 60 percent of its total referrals during this period to MWOLF's, with some 39 percent of total fees budgeted for these referrals allocated to these MWOLF's.

Finally, the effective prosecution of PLS claims continues to be one of the RTC's highest priorities. Both the GAO and the OIG, investigating charges that the program had been weakened by political influence and management efforts to undermine its effectiveness, found no evidence that such forces were at work.

7. Improved Management Information Systems

Systems have been another troubled area. One weakness in RTC's management information systems has been the accuracy of the data contained in these systems. RTC has instituted a corporate-wide data quality program that focuses on the verification of the data in all of RTC's systems with an initial focus on RTC's 17 major information systems. To date, data quality programs for seven of these systems have been developed, with the remaining ten underway.

Another weakness has been that RTC management information systems have inadequately met the business needs of the RTC. To address this problem, the RTC has created system user groups to better identify its requirements, has allocated resources to better connect the user groups with the builders of systems, and has established an Information Resources Management Steering Committee to better communicate and coordinate information management issues.

Finally, in light of the limited remaining life of the RTC, emphasis has shifted from systems development and enhancement to the consolidation of resources and maintenance of the main application systems with a view toward the eventual transition of systems to the FDIC.

8. Appoint an Audit Committee

As discussed in Secretary Bentsen's testimony, an Audit Committee is in the process of being formed, and is expected to begin its work shortly. It was necessary to await passage of the Completion Act before this could be finalized.

9. Establish an RTC/FDIC Transition Task Force

The RTC and FDIC developed a joint Consolidation Coordinating Committee that met throughout the year. The recently-enacted RTC Completion Act mandates a RTC/FDIC Transition Task Force that will assume the functions of this Committee. Current RTC transition planning activity is discussed at the end of this statement.

THE OPERATIONS AND FINANCIAL REPORT

Depositor Protection and Resolutions Activity

Since its inception in August 1989, the RTC has resolved 680 institutions, more than 90 percent of those taken over (Exhibit 3). Resolution of these failed thrifts provided protection for 23 million deposit accounts, with \$204 billion in deposits and an average balance of about \$9,000. Although the final cost will not be known until the last asset is sold, the current estimate is that these resolutions will cost the American taxpayer \$81 billion.

The remaining 63 institutions continue to operate under conservatorship and held \$18 billion in deposits at the end of 1993. Enactment of the RTC Completion Act has now made it possible to resume resolutions. As a result, the RTC is in the proc-

ess of marketing these remaining conservatorships. Resolution of these thrifts will occur by the summer of 1994 and is expected to cost \$9 billion to \$11 billion.

The RTC is also responsible for resolving any institutions that fail through a date before July 1, 1995. That deadline will be determined by the Chairperson of the Oversight Board. How many additional thrift failures may occur will depend on many factors including the course of the economy. In the current favorable climate of low interest rates and low inflation, the number of failures is likely to be small. Any which do occur should be able to be resolved expeditiously. Any authorized funds not needed for resolutions will not be used.

Asset Sales in 1993

In early 1993, we shifted the RTC's overall strategy from one of "speed at all cost" in regard to resolutions and asset sales to a greater emphasis on ensuring that proper contracting procedures are followed, that internal controls are tightened, and that small investors have greater opportunities to compete for assets controlled by the RTC. As a result of these policy changes, the original 1993 sales goals were scaled back. The 1993 goals were lowered from book value sales and principal collections of \$70 billion, with expected cash proceeds of \$55 billion, to book value sales and collections of \$56 billion, with expected proceeds of \$42 billion.

We actually exceeded those targets. Book value sales and principal collections totaled \$63 billion, and cash proceeds totaled \$48 billion. Cash proceeds represented 76 percent of book value reductions. This recovery rate was below previous years because the RTC's inventory is increasingly dominated by poorer-quality assets.

Exhibits 4-8 provide historical perspective for these 1993 results.

From inception through December 1993, the staggering sum of \$457 billion in book value of assets have come under RTC control, as shown in Exhibit 4. The RTC has disposed of \$393 billion (book value), or 86 percent of the total, through sales or other collections. This left \$63 billion of book value assets under RTC management as of the end of 1993. As shown in Exhibit 5, assets under RTC management at any one time peaked at \$186 billion at the end of May 1990 and reached their lowest level, \$63 billion, at the end of December 1993.

Through December 1993, the RTC disposed of 93 percent of all securities received, 92 percent of 1-4 family mortgages, 78 percent of other mortgages, 87 percent of other loans, 81 percent of real estate, and 62 percent of other assets (Exhibit 6).

Proceeds reached \$353 billion on the \$393 billion in book value reductions through the end of December, or an average 90 percent of book value. Different types of assets received very different recovery rates of return. Securities, for instance, received on average 98 percent of their book value while real estate received on average 56 percent of its original book value (Exhibit 7).

Recovery rates have declined over time as the better quality assets were sold off. Cash proceeds of sales and principal collections represented 97 percent of book value reductions in 1989-90, 93 percent in 1991, 85 percent in 1992, and 76 percent in 1993 (Exhibit 8).

Remaining Asset Inventory

Assets remaining under RTC management totaled \$63 billion as of December 31, 1993. Seventy-one percent of this inventory represents hard-to-sell assets—delinquent loans, performing commercial mortgages, real estate, subsidiaries, and other assets (Exhibit 9).

Projected 1994 Asset Sales

As detailed in our business plan, at book value amounts, projected sales and principal collections for 1994 total \$43 billion. Cash proceeds from these sales and principal collections are expected to total \$29 billion. The projected recovery rate in 1994 is 66 percent, lower than the 76 percent experienced in 1993 because of the growing proportion of lower quality assets in RTC's inventory.

The asset disposition strategies that will be employed by RTC to achieve these goals are discussed later in this statement. In implementing these strategies, a major role will be played by the Small Investor Program.

Small Investor Program

The Small Investor Program (SIP) was established in April 1993 to ensure that assets are available for sale individually to small investors with moderate levels of capital. SIP offices have been established in the RTC's Washington, DC headquarters and in each of the RTC's field offices.

Under the SIP, individual offerings of real estate properties have been emphasized. Auctions and sealed bid sales have become more frequent and geographically focused. Smaller loan pools are being offered to allow buyers to purchase smaller,

more geographically segmented groups of loans. Minimum deposits on loan sales have also been lowered to increase the participation of small investors.

The small investor, as defined by the RTC, is an individual or group of investors with the capacity to purchase:

- Real estate assets valued up to \$5 million;
- Loan pools up to \$10 million (book value);
- Subsidiaries valued from \$5 thousand to \$30 million; or
- Equity investments from \$4 to \$9 million in joint venture transactions.

The RTC has aggressively expanded its outreach program to attract small investor participation in virtually all of the agency's asset offerings. The SIP has sponsored "How To Buy" seminars with all major real estate and loan offerings to ensure that local and regional investors are informed of RTC purchasing and investment opportunities. More than 16,000 investors have participated in these seminars so far.

SIP has worked with the Department of Asset Marketing to expand the investor database for direct mail marketing of RTC sales initiatives based on an investor's stated interest in asset type and geographic location. At the end of December, more than 4,000 investors had completed the RTC Investor Profile and were registered in the Small Investor Database. Of those, 969 investors identified themselves as minorities and 799 investors indicated that they were women or from women-owned firms.

Three national initiatives have been sponsored by the SIP, including:

- the non-performing loan auction of August 24-25, 1993;
- the S-series; and
- the judgments, deficiencies, charge-offs, and small balance assets (JDC's) program.

The non-performing loan auction held in August 1993 achieved the highest collection ever for an RTC non-performing loan auction. The auction resulted in the sale of 306 loan packages, composed of 11,200 loans, for \$335 million. There were 155 registered bidders compared with 103 for the March 1993 auction. More importantly, one-third of the winners were new buyers who had not participated in a prior RTC national non-performing loan auction. The new bidders at that auction: (a) were for the most part smaller companies (with a net worth of \$2 million or less or with five or fewer employees); (b) had a much higher preference for small loan pools—those under \$1 million, and; (c) were more interested in buying geographically focused loan packages—located in their own State or a bordering State. In addition, 14 percent of the registered bidders surveyed identified their firms as either minority- or woman-owned.

Affordable Housing

The RTC's Affordable Housing Disposition (AHD) Program has made it possible for many low- and moderate-income families to acquire housing. From inception through December 31, 1993, the Program sold over 77,500 units for a total \$1.17 billion. This includes 20,500 1-4 family properties (containing 24,200 units) sold to low- and moderate-income households as well as nonprofit agencies and public agencies that rent and resell the units to low-income families. It also includes 575 multi-family properties (containing 53,300 units) sold to entities that rent at least 35 percent of the units in each property to low- and very-low-income households at restricted rents for the remaining useful life of the property. Recoveries under the AHD Program, since inception, have averaged 73 percent of appraised value. As of the end of 1993, the AHD Program had about 4,000 single-family and 386 multi-family properties remaining in its inventory.

Most AHD single-family properties have been sold through the 235 affordable housing sales events targeted to first-time homebuyers held in 32 States. The RTC also uses a network of 66 community-based nonprofit housing organizations to provide an array of marketing strategies to reach low-income families and minorities that are often by-passed by traditional marketing methods. Approximately 40 percent of buyers at recent sales events were minorities and 74 percent were first-time homebuyers. The average annual income of households purchasing in the program was about \$23,800, representing 61 percent of national median family income.

With respect to the multi-family housing program, these properties are currently marketed first to public agencies, next to nonprofit organizations, and then to all other interested buyers. This is in contrast to the program's earlier strategy of offering multi-family properties on a competitive sealed bid basis. Nonprofit and public agencies are now eligible for low down payment financing. Buyers are evaluated, in part, on the degree to which they can provide support services for their low-income residents. The RTC has sold 175 multi-family properties to nonprofit and public

agencies and provided \$82 million of seller financing to these types of organizations. In addition, 325 nonprofit and public agencies have purchased over 1,500 single-family properties which are rented or resold to low-income households.

Plans are currently underway for unifying the RTC's and FDIC's Affordable Housing Disposition Programs as required by the RTC Completion Act. A joint working group has been convened to develop this plan which is expected to be completed by mid-April 1994 and implemented by mid-August 1994. The RTC is currently working with the Federal Home Loan Banks and the Department of Housing and Urban Development to implement the RTC Completion Act provision which expands the Housing Opportunity Hotline.

Other Asset Sales Strategies

The RTC has undertaken significant changes in its asset sales strategies beyond the Small Investor and Affordable Housing Programs.

The RTC continues, where appropriate, to pursue bulk or portfolio sales, securitization, and Joint Venture Initiatives. When choosing the best disposition strategy, the RTC considers the following factors: asset characteristics, recovery experience, current market conditions, and the volume of assets to be sold.

Portfolio Sales: In portfolio sales, RTC bundles large quantities of lower quality assets, generally non-performing commercial mortgages. This permits the RTC to sell a large quantity of assets quickly and shift management and maintenance costs to the private sector. There is, however, a restricted number of large investors with the resources necessary for this type of transaction.

Auctions: Auctions are used to sell smaller assets of all types and quality with a regional geographic focus. The primary advantage of auctions is quick sale and hence reduced holding costs. A disadvantage is that only a limited volume of assets can be disposed of through this method. The RTC is holding open-cry auctions more frequently. These are used to sell a wide variety of real estate and most types of smaller balance non-performing loans. Smaller, geographically focused, local events are being planned instead of large national initiatives.

Individual Asset Sales: Individual asset sales are best suited to real property or very complex assets with limited marketability. Individual real estate properties are offered through real estate brokers as well as in auctions and sealed bids. As required by the RTC Completion Act, real estate is being marketed on an individual property basis for at least 120 days before being placed in a multi-asset sales initiative.

Securitization: Securitization is a sales technique whereby securities are issued, backed by assets. Securitization is RTC's primary method for selling performing residential mortgage loans. More recently, RTC has also securitized sub-performing and non-performing loans. The primary benefits of securitization are quick disposition of assets and superior prices compared to whole loan sales. In addition, securitization requires minimal RTC staffing, and the securities are attractive to a very broad investor base. From 1991 when the securitization program began through December 1993, the RTC had completed 67 securitized performing mortgage loan transactions disposing of \$36.5 billion in book value assets. RTC's securitization program has been studied by the Congressional Budget Office, which stated in a report in July 1992 that "securitization may be the option most consistent with the RTC's conflicting objectives."

OTHER MATTERS

"Whistleblowing" and Complaints

In September of last year, the Senate Banking Committee held oversight hearings where a variety of allegations were made, including retaliation against whistleblowers. We strongly support protection for whistleblowers.

I have taken several actions to address the allegations made by the individuals who testified before the Committee. I issued a memorandum on October 4, 1993, to all RTC employees strongly reiterating the RTC's policy prohibiting retaliation against whistleblowers. I also established an Employee Ombudsman Program to, among other things, augment the efforts of the Inspector General in gathering all types of employee allegations. The Employee Ombudsman reports directly to me on a weekly basis on the activities of the office. The Employee Ombudsman Program appears to be well received by RTC personnel. As of February 15, the program had received 116 inquiries, 96 inquiries had been closed and 20 were still pending. Additionally, the Office of the Inspector General has revised its internal procedures for handling employee allegations of retaliation against whistleblowers by encouraging employees to step forward and by protecting the identity of such employees.

As a means of supplementing the information revealed at the September hearings, we have had conversations in person and by telephone with six of the individuals

who testified before the Committee. Two additional individuals were contacted, but declined interviews. During these interviews we solicited comments, feedback, and suggestions from the individuals on how best to remedy the problems raised in their testimony. Some of these interviews were insightful and have been useful in our efforts to remedy some of the management problems at the RTC.

I want to underscore how seriously we have taken these allegations. Hundreds of hours have been spent working to understand and resolve them. Our work on the allegations raised by the people who testified, and others complaining of unfair treatment, continues. We have given this a very high priority and I believe that we have made significant progress in this regard.

TRANSITION TO THE FDIC

The RTC Completion Act requires the RTC to terminate on December 31, 1995. The Act also requires the RTC and the FDIC to establish an interagency transition task force to facilitate the transfer of assets, personnel, and operations from the RTC to the FDIC or the FSLIC Resolution Fund in a coordinated manner. It must recommend which of the management, resolution, and asset disposition systems, and which of the management reforms of the RTC should be preserved for the FDIC. It is required to submit its recommendations to the Senate and House Banking Committees in January and July of 1995. These will serve as a basis for decisions by the Secretary of the Treasury to transfer systems and personal property used to operate the systems to the FDIC.

The RTC contingent of this joint group is John E. Ryan, Deputy Chief Executive Officer and Ellen B. Kulka, General Counsel. The FDIC contingent is John F. Bovenzi, Director of Depositor and Asset Services and Dennis F. Geer, Deputy Chief Operating Officer. This joint Committee has begun its work and now meets once a week.

This concludes my prepared statement. I would be happy to answer any questions.

EXHIBIT 1

STATUS REPORT RTC COMPLETION ACT MANAGEMENT REFORMS SECTION 3(a)

	<i>Organizational Changes</i>
<i>Objective:</i>	Create a division of Minority and Women's Programs whose head is a vice president and serves on the RTC's Executive Committee. (Reform 4)
<i>Status:</i>	CEO resolution 93-CEO-21 created the position of Vice President of Minority and Women's Programs on April 13, 1993. Johnnie Booker was appointed as Vice President of MWP on April 13, 1993, via CEO resolution 93-CEO-22. CEO resolution 93-CEO-23 dated April 13, 1993, appointed the Vice President of MWP to the RTC Executive Committee. CEO resolution 94-CEO-29 dated January 13, 1994, provided a position description for the Vice President for MWP.
<i>Objective:</i>	Appoint a Chief Financial Officer reporting directly to the CEO with no operating responsibilities other than as CFO as determined appropriate by the Oversight Board. (Reform 5)
<i>Status:</i>	Interim CEO Altman signed 93-CEO-24 creating the position of CFO on July 13, 1993. CEO resolution 93-CEO-25 appointed Donna Cunninghame as the RTC's Chief Financial Officer on July 13, 1993. CEO resolution 93-CEO-26 dated July 13, 1993, delegated specific authorities to the CFO. Corporate accounting, financial management, and control functions and appropriate Headquarters and field organizations have been assigned to the Chief Financial Officer.
<i>Objective:</i>	Appoint an Assistant General Counsel for Professional Liability within the Legal Division and Report to Congress semiannually (on April 30 and October 31 of each year) on litigation. (Reform 10)
<i>Status:</i>	Thomas Hindes has been selected to fill the position of Assistant General Counsel for Professional Liability.

	Reports on RTC litigation will be included in RTC's Semi-annual Report to Congress on an on-going basis.
Objective:	Appoint a Vice President for Minority and Women's Programs, a Chief Financial Officer, an Assistant General Counsel for Professional Liability, a General Counsel, and a Deputy Chief Executive Officer. Failure to make these appointments constitutes failure to comply with requirements necessary for securing funding in excess of \$10 billion. (Reform 13)
Status:	Johnnie Booker holds the position of Vice President for Minority and Women's Programs (see Reform 4). Donna Cunninghame holds the position of Chief Financial Officer (see Reform 5). Thomas Hindes holds the position of Assistant General Counsel for Professional Liability (see Reform 10). Ellen Kulka was appointed as General Counsel effective January 17, 1994. John (Jack) Ryan was appointed as Deputy Chief Executive Officer effective January 4, 1994. CEO resolution 94-CEO-29 dated January 13, 1994, created the position of Deputy CEO, consistent with the RTC Completion Act.
Objective:	Create Client Responsiveness Units in each RTC regional office reporting to the Corporation's Ombudsman. (Reform 21)
Status:	Client Responsiveness units have been established at each RTC field office, including Atlanta, California, Dallas, Denver, Kansas City, and Valley Forge. All field Vice Presidents have been contacted to assure adequate staffing of the program in each field office to assist the public. A directive will be issued clarifying the role and responsibilities of each unit and emphasizing that all RTC field offices must maintain Client Responsiveness departments at their respective sites.
<i>Asset Disposition</i>	
Objective:	Promulgate a regulation implementing a 120-day waiting period before selling real property assets on other than an individual basis and requiring that portfolio sales or sales in connection with any multi-asset sales initiative made after the 120-day waiting period be justified in writing. (Reform 2)
Status:	A policy was established on April 15, 1993 (through memo 93-AMSD-0037) implementing these provisions. The regulation required by the Completion Act is being drafted.
Objective:	Require a qualified person or entity to prepare a written management and disposition plan on an asset-by-asset basis or provide a written determination that a bulk transfer would maximize net recovery with opportunity for broad participation by MWOB's for non-performing real estate loans with a book value of at least \$1 million and real property with a book value of at least \$400,000. (Reform 3)
Status:	A directive is in process modifying current policy to comply with this requirement. A regulation will be promulgated to define "asset" and "qualified person or entity."
<i>Contracting</i>	
Objective:	Modify contracting procedures for MWOB's by: (1) reviewing and revising procedures for reviewing and qualifying applicants for Basic Ordering Agreements to ensure that MWOB's and small businesses are not inadvertently excluded; (2) reviewing existing lists of eligible contractors to ensure maximum participation by MWOB's; and (3) promulgating a regulation to implement the new requirement providing for maximum participation by MWOB's in lists of eligible contractors. (Reform 6)

<i>Status:</i>	<p>All solicitations for new contracts and renewals of existing contracts undergo, on a continual basis, an extensive review to identify any inadvertent exclusionary language. More explicit direction is forthcoming in the Contracting Policy and Procedures Manual (CPPM) revision due in March 1994.</p> <p>For each solicitation, lists are reviewed to include MWOB contractors, and MWP staff input is solicited.</p> <p>A draft Interim Final Rule (which would amend the current MWOB Interim Rule) is being amended to include the requirement of maximum participation by MWOB's in lists of eligible contractors.</p>
<i>Objective:</i>	<p>With regard to contracting systems and contractor oversight: (1) maintain procedures and uniform standards for entering into contracts with private contractors and overseeing the performance of contractors and subcontractors; (2) review contract oversight to ensure that sufficient resources are available; (3) maintain uniform procurement guidelines for procurement of basic goods and administrative services. (Reform 7)</p>
<i>Status:</i>	<p>These procedures and standards have been reviewed and strengthened and are included in the CPPM Version 5 distributed on July 21, 1993, and again in Version 6 on December 15, 1993.</p> <p>The Office of Contractor Oversight and Surveillance evaluated their staffing needs, increased staffing from 118 to 265, and conducted extensive training during 1993.</p> <p>Uniform procurement guidelines are maintained in the CPPM and version 7.0 of the CPPM is being updated to fulfill any other provisions required by the Act. Version 7 is expected to be published in March 1994.</p> <p>The CPPM sets forth the policies and procedures necessary for RTC contracting. The Warranted Contracting Officer program was implemented to ensure that only appropriate and knowledgeable staff are involved in the contracting process.</p> <p>Requirements for Warranted Contracting Officers for non-legal contracts were published in the Federal Register in January 1994.</p>
<i>Objective:</i>	<p>Establish guidelines for achieving a reasonably even distribution of contracts among subgroups of Minority- and Women-Owned Businesses.</p>
<i>Status:</i>	<p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program also sets forth the requirement for the RTC to establish guidelines to achieve a reasonably even distribution in contracting among minority subgroups.</p> <p>The CPPM is being revised to incorporate this provision of the Completion Act to establish guidelines for achieving reasonable parity.</p>
<i>Objective:</i>	<p>Establish reasonable goals for MWOB subcontracting and prohibit any contracts, with certain exceptions, of \$500,000 or more unless the contract has a subcontract with an MWOB and compensates it commensurately. (Reform 18)</p>
<i>Status:</i>	<p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program has been updated to require subcontracting of work to minority- and women-owned firms for all awards with total estimated fees equal to or greater than \$500,000.</p> <p>The CPPM is also being updated to reflect this requirement.</p>
<i>Objective:</i>	<p>Promulgate a regulation to provide sanctions for violations of MWOB subcontracting and joint venture requirements. (Reform 16)</p>
<i>Status:</i>	<p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program has been updated to outline sanctions for non-compliance with subcontracting requirements. Remedial action could result in contract suspension, exclusion, or termination.</p> <p>Contracting documents are being revised to incorporate reference to these sanctions.</p>
<i>Objective:</i>	<p>Apply competitive bidding procedures in awarding contracts that are no less stringent than those currently in effect. (Reform 19)</p>

<i>Status:</i>	The Office of Contract Policy and Major Dispute Resolution was created in December 1993. Among its duties is to assure that any change in contracting procedures does not result in any diminution in the competitive bidding process.
<i>Internal Controls</i>	
<i>Objective:</i>	The Oversight Board is directed to establish and maintain an Audit Committee to monitor RTC's internal controls, monitor audit findings and recommendations, maintain a close working relationship with the IG and GAO, report on findings and recommendations of the Committee, and monitor financial operations. (Reform 8)
<i>Status:</i>	An Audit Committee is in the process of being formed and is expected to commence its work shortly.
<i>Objective:</i>	Respond to problems identified in audits or certify to the Oversight Board that no action is necessary or appropriate. (Reform 9)
<i>Status:</i>	<p>Circular (1250.2), <i>Management Decision Process and Audit Followup</i>, which prescribes procedures and time requirements for resolving audit findings, recommendations, and corrective actions was issued on July 20, 1993.</p> <p>A management reporting system to track and update the status of all IG, GAO, and internal audit report findings was implemented on June 30, 1993.</p> <p>Status and management reports have been produced which identify aging open issues to alert senior management since October 21, 1993. Procedures have been established in the audit followup circular to require certifications from responsible program managers attesting to the completion of planned corrective actions.</p> <p>Scheduled evaluations and subsequent reviews will verify effectiveness of completed corrective actions.</p> <p>Reports have been provided and meetings held with GAO, IG, and the Oversight Board, beginning in late 1993 and continuing on an ongoing basis.</p> <p>The audit followup circular requires management to certify the rational and legal basis for not implementing an audit recommendation or an agreed upon corrective action. RTC will provide the Board with a copy of such certification statements.</p>
<i>Objective:</i>	Maintain effective internal controls against fraud, waste, and abuse. (Reform 12)
<i>Status:</i>	<p>Circular 1250.1, <i>Internal Control Systems</i> established RTC's internal control program and requires managers to:</p> <ul style="list-style-type: none"> —Identify activities or functions (Assessable Units) subject to risk. —Conduct an assessment and rate the susceptibility of the function or activity to risk (Vulnerability Assessment). —Schedule high risk functions for annual examination (Management Control Plan). —Conduct a detailed examination (Internal Control Review) of function to determine if internal controls and procedures are current, adequate, and cost effective. —Develop and implement corrective actions to resolve deficiencies and strengthen controls. <p>Field offices have redesigned and enhanced their internal control programs to provide preemptive review of high risk areas and evaluation of implemented corrective actions for effectiveness.</p> <p>Headquarters organizations conduct reviews of field offices and financial service centers operations for compliance with Corporate policies and procedures, and for effectiveness of internal control activities.</p> <p>Specialized program initiatives such as the Loan Servicer Oversight Program have been implemented to address specific management and internal control concerns.</p>

	<i>Resolutions</i>
<i>Objective:</i>	Subject to the least cost test, give a preference to offers from MWOB's in considering offers to acquire institutions or their branches, located in predominantly minority neighborhoods and give a first priority to the disposition of the performing assets to such acquirers and define by regulation a predominantly minority neighborhood. (Reform 17)
<i>Status:</i>	<p>An interim rule defining "predominantly minority neighborhood" was approved by the CEO on February 15, 1994, and will be published in the <i>Federal Register</i>. The rule generally defines predominantly minority neighborhood as a postal zip code area with more than 50 percent minority population unless the RTC has determined that other reasonably reliable and readily accessible data indicate more accurate neighborhood boundaries.</p> <p>Although not yet finalized, a directive is currently being developed to implement the minority preference in resolutions. As currently contemplated, the directive will establish procedures to:</p> <ul style="list-style-type: none"> • Define institutions in predominantly minority neighborhoods as institutions headquartered in predominantly minority neighborhoods or with 50 percent or more of its offices in predominantly minority neighborhoods; • Provide that in the event a minority bidder is within 10 percent of a high majority bid for an institution or branches in a predominantly minority neighborhood that both shall submit best and final bids; • Provide minority bidders for institutions and branches in predominantly minority neighborhoods with interim capital assistance, rent free offices for 5 years, and earning assets at market prices.
	<i>Management</i>
<i>Objective:</i>	Establish and maintain a comprehensive Business Plan. (Reform 1)
<i>Status:</i>	An RTC Business Plan was transmitted to the House and Senate Banking Committees on December 15, 1993. It will be updated as circumstances warrant.
<i>Objective:</i>	Include in the annual report to Congress an itemization of the expenditures of funds provided by the RTC Completion Act and a list of the salaries and other compensation paid to directors and senior executive officers at RTC-controlled institutions. (Reform 14)
<i>Status:</i>	This information will be included in RTC's annual report to Congress, with the first such report expected June 30, 1994.
<i>Objective:</i>	Modify existing RTC procedures for using outside counsel so that in-house counsel would be preferred, and limiting the use of outside counsel to those instances where it would provide the most practicable, efficient, and cost effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee arrangement. (Reform 20)
<i>Status:</i>	RTC is currently revising the Legal Services Committee's procedures for retention of outside counsel to comply with this provision. The revision will apply to Washington and all field offices.
<i>Objective:</i>	Maintain an effective Management Information System. (Reform 11)
<i>Status:</i>	<p>Information resources support has been prioritized to meet key goals and functions by evaluating existing systems to confirm that all essential corporate management information needs have been met and will continue to be met.</p> <p>The Department of Information Resources Management (DIRM) has established and maintains an on-going communication with RTC client offices regarding the effectiveness and quality of RTC's major automated information systems to ensure they meet management's information requirements.</p> <p>DIRM continues to work with system users to enhance information systems to adequately support business needs. Enhancements are approved through the existing management and committee structure and are implemented with the interaction of system users and management.</p>

DIRM continues to enforce its requirement that cost/benefit analyses be conducted and approved prior to initiation of new systems development and any enhancement activities. A directive outlining policies and procedures related to cost/benefit analyses is being developed.

As a major component of an on-going effort to improve data quality, a corporate-wide Data Quality Program was implemented through a directive issued on November 11, 1993.

Individual Data Quality Action Plans are being developed to assess the quality of data in each of RTC's 18 primary automated information systems and to establish initiatives to improve data where needed. To date, 10 Data Quality Plans have been completed and 8 are under development.

Information Resources Management (IRM) field reviews have been conducted in all six RTC field offices. These reviews help management assess the quality and effectiveness of IRM operations.

EXHIBIT 2
 Summary of MWOB Non-Legal Contracting
 Inception through December 31, 1993

Ethnic/Gender Identity	Awards	%	Estimated Fee Value (in millions)	%
All Contracts	126,939	100.0%	\$3,735.8	100.0%
Non-Minority Men	85,672	67.3%	\$2,949.6	79.1%
MWOB	41,267	32.6%	\$786.2	20.8%
Non-Minority Women	27,391	21.7%	\$399.1	10.6%
All Minority	13,876	10.9%	\$387.1	10.1%

EXHIBIT 2
 Summary of MWOB Non-Legal Contracting
 Calendar Year 1993

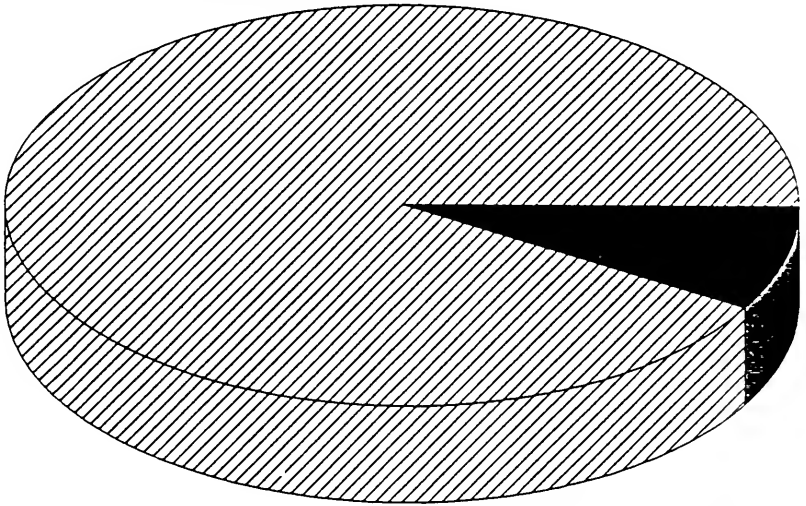
Ethnic/Gender Identity	Awards	%	Estimated Fee Value (in millions)	%
All Contracts	22,986	100.0%	\$500.3	100.0%
Non-Minority Men	12,997	56.5%	\$345.2	69.0%
MWOB	9,989	43.4%	\$155.1	30.9%
Non-Minority Women	6,617	28.8%	\$53.8	10.6%
All Minority	3,372	14.6%	\$101.3	20.3%

EXHIBIT 3

**Through February 7, 1994, RTC took over
743 thrifts, closed 680.**

Total No.: 743

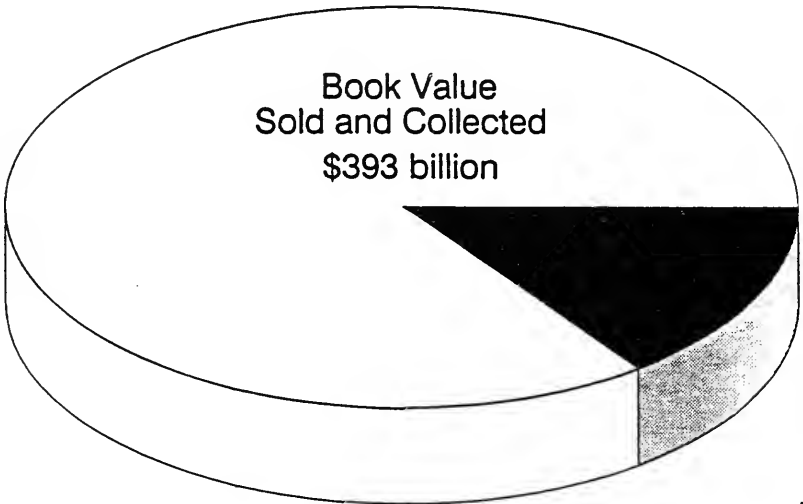
No. Closed: 680



**No. in Conservatorship:
63**

EXHIBIT 4

Through 1993, the RTC had disposed of more than three-fourths of the assets that have come under its control.



Book Value of Assets: \$457 Billion

EXHIBIT 5

Assets under RTC management peaked at the end of May 1990.

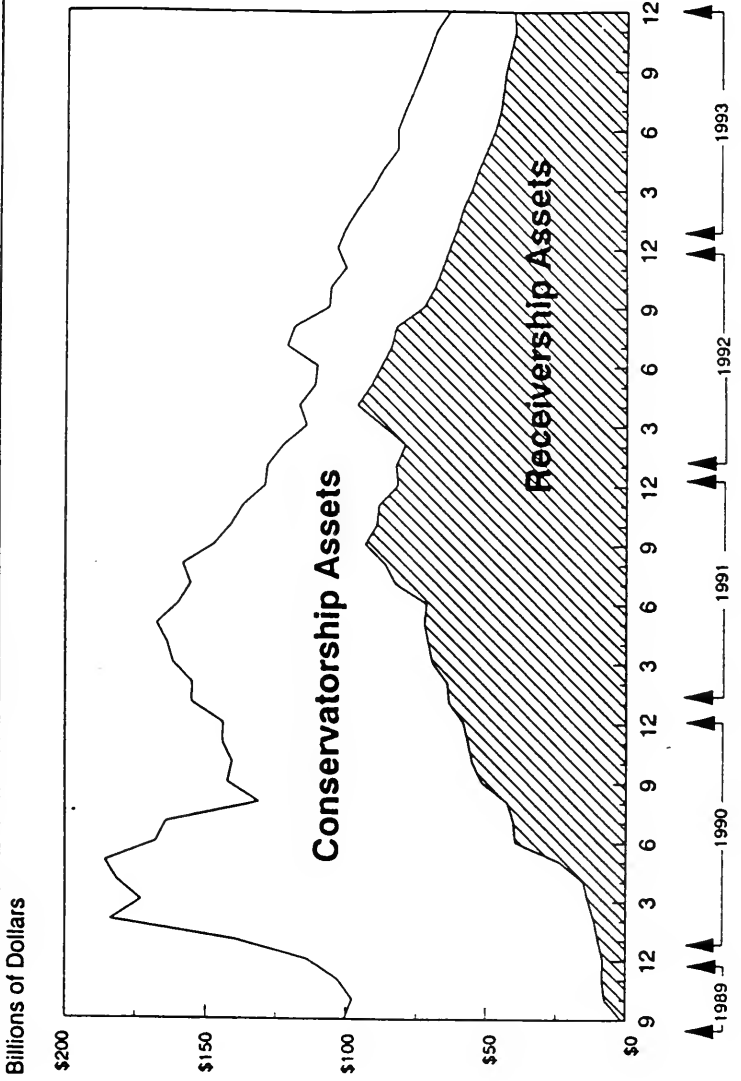
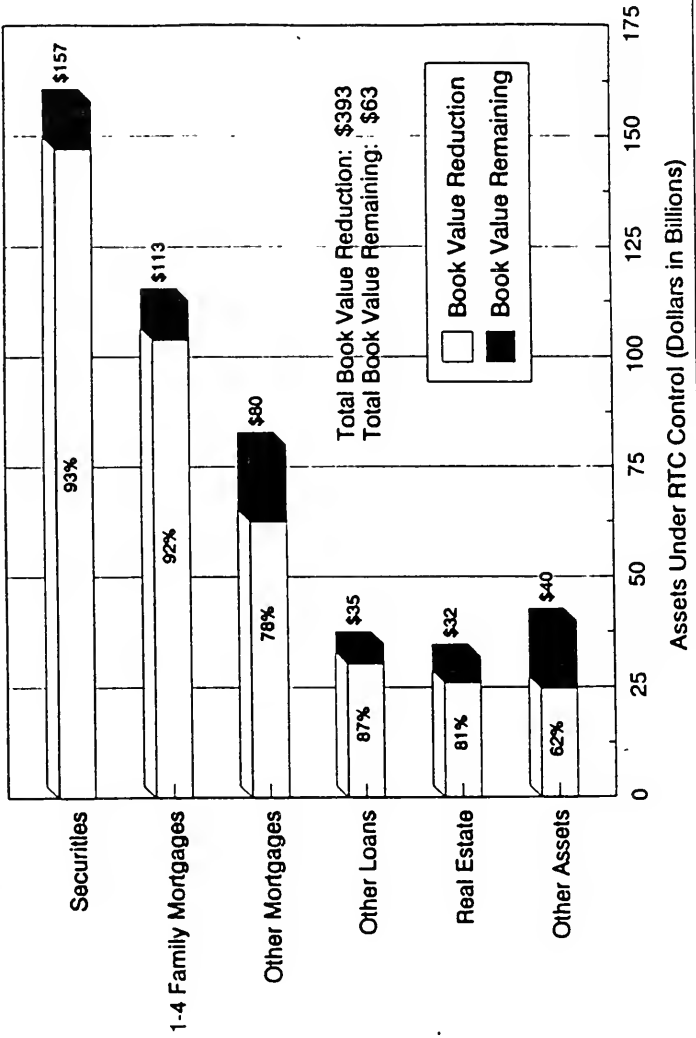


EXHIBIT 6

As of December 31, 1993, the RTC had disposed of 93% of its securities, 92% of home mortgages, and 81% of real estate owned.



Through 1993, recoveries from sales and collections have averaged 90% of original book value.

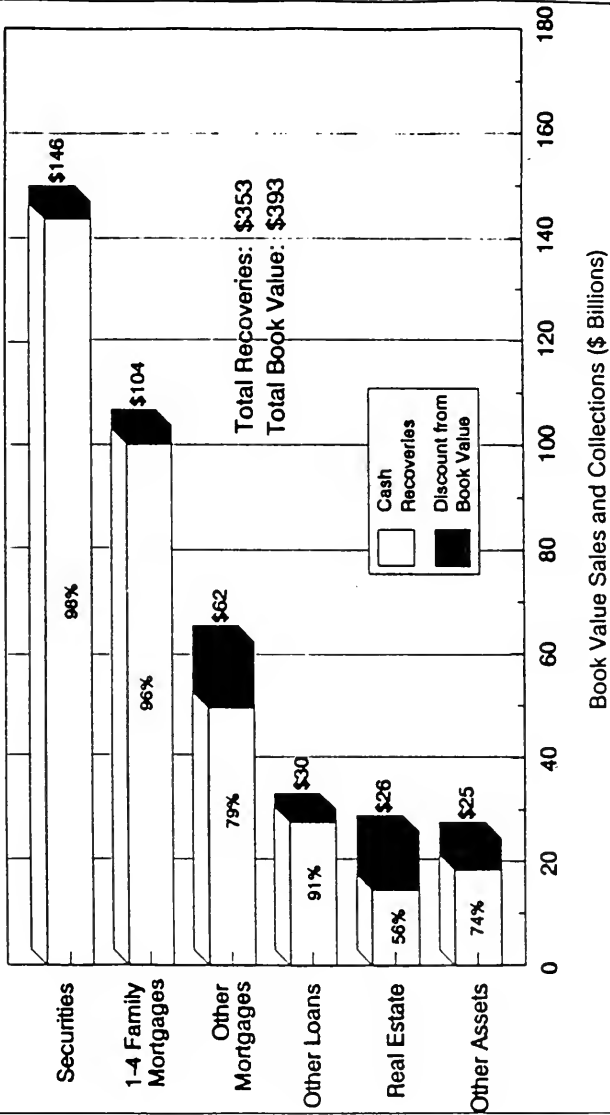
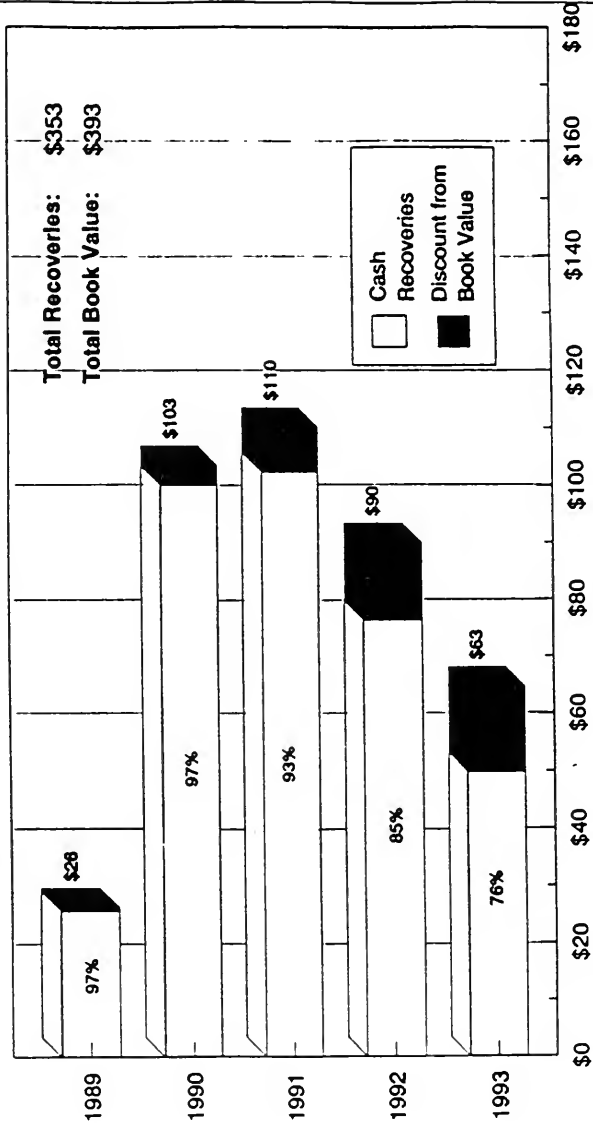


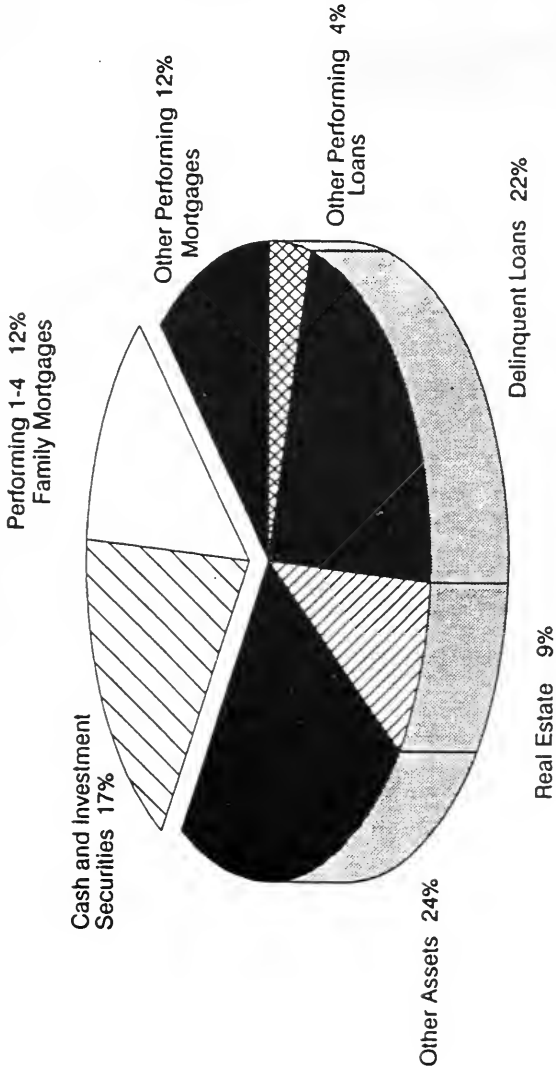
EXHIBIT 8

As the composition of RTC's inventory has changed, recovery rates have dropped from 97% in 1989 and 1990 to 76% in 1993.



Note: Dollar amounts are net of all putbacks recorded to date.

Hard-to-sell assets represented 71% of all assets under RTC control as of December 31, 1993.



Hard-to-Sell Assets: \$45 billion
 Total Assets: \$63 billion



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

April 13, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letters of March 7 and April 5, 1994, enclosing written questions in connection with your Committee's hearing held on February 24. As you are aware, the Honorable Roger C. Altman is no longer Interim Chief Executive Officer of the Resolution Trust Corporation. Therefore, in my capacity as Deputy and Acting CEO, I am pleased to enclose the RTC's responses to the questions posed in your letters for inclusion in the record of the hearing.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Ryan", written in a cursive style.

John E. Ryan
Deputy and Acting CEO

Enclosure

RTC RESPONSES

RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE

Q.1. Last September 13, former and current employees of the RTC testified to numerous instances of waste and mismanagement within the agency. According to the Government Accountability Project, many of those witnesses continue to be poorly treated by the RTC. One has been fired; another terminated by non-renewal of her temporary contract; three others have received reduced performance ratings; two others have had grievances and promotions denied; and another has been demoted and told he was a security risk because of his testimony. In your testimony, you say you strongly support protection of whistleblowers. Are these actions consistent with that position?

A.1. As a general matter, former Interim CEO Roger Altman established an Employee Ombudsman program to augment the efforts of the OIG and to provide employees with a means of gaining the CEO's personal attention. The CEO receives weekly updates on the activities of that office. By memorandum dated October 4, 1993, Mr. Altman informed all RTC employees that retaliation for whistleblowing activities would not be tolerated and that he was committed to protection of employees who had in fact "blown the whistle" on inappropriate activities. The RTC OIG in turn strengthened its policy and procedures for handling employee allegations of retaliation and further encouraged the reporting of waste, fraud, and abuse.

While certain personnel actions have been taken with respect to some of the employees that testified before the Senate on September 23, 1994, those actions were carefully reviewed to ensure that they were neither prompted, nor in any way affected by the employees' testimony before the Senate.

The following personnel actions were taken:

Michael Koszola

An Office of the Inspector General agent, Michael Koszola, was removed for misconduct based on evidence obtained through an investigation that was formally initiated in December of 1992. The employee has appealed that removal to the Merit System Protection Board, and a hearing is scheduled to be held before an Administrative Judge on May 9, 1994.

Debbie Sherrill

An employee under temporary contract in the RTC Atlanta Office, Debbie Sherrill, was non-renewed due to documented and repeated instances of poor performance occurring during the year prior to her testimony before the September 1993 Senate hearing.

Hans Mangelsdorf

Mr. Mangelsdorf from the RTC's California office has claimed that his performance rating was lowered as a result of his testimony. The RTC Office of Human Resources Management spoke with Mr. Mangelsdorf and his supervisors and was satisfied that the performance problems raised by Mr. Mangelsdorf's first line supervisor were legitimate and not motivated by Senate testimony.

Annette LePique and Sandra Crisman

Allegations regarding the lowered performance appraisals for Ms. LePique and Ms. Crisman were made prior to their Senate testimony last September and were part of their Equal Employment Opportunity complaints of sexual discrimination filed in 1992. Management took adverse action against a supervisor based on events which formed the basis of these complaints. Thereafter, both Ms. LePique and Ms. Crisman were represented by counsel and agreed to settle their respective cases with the Corporation.

Jacqueline Taylor and Bruce Pederson

Two current employees had their respective grievances denied. Mr. Altman denied grievances filed by current RTC attorneys Bruce Pederson and Jacqueline Taylor after determining that they were not subjected to retaliation as they had alleged. While there is no doubt that they raised important matters to the attention of the Congress, an independent contractor, retained as an investigator and grievance examiner, found no evidence of harassment or retaliation against either Mr. Pederson or Ms. Taylor. In fact, after interviewing 22 witnesses and reviewing relevant documents, the contractor grievance examiner found that not one witness identified by the grievants could corroborate allegations of harassment or retaliation. After reviewing all the material, including the examiners' report, Mr. Altman was satisfied that the investigation was thorough and objective. He agreed with the examiner's recommendation and denied the grievances.

John Waechter

Mr. Waechter claimed that he has been demoted and was told that he was a security risk. In fact, Mr. Waechter was rotated to another office site to perform the same work at the same grade.

Q.2. In your testimony, you indicated that the RTC was working to implement the recommendations made by the GAO regarding various operations and activities of the RTC. Attached for your reference is a summary of the 68 open GAO recommendations to the RTC, some dating back to nearly 4 years ago. Would you please provide to the Committee, and to the GAO, a status report of what the RTC is doing to respond to each of the outstanding GAO recommendations?

A.2. The RTC is aggressively pursuing not only GAO, but OIG and other audit and review findings and recommendations. The attached table provides the status, as of March 31, 1994, of RTC's response to the recommendations contained in the selected GAO reports. Of the 87 recommendations included in the selected GAO reports, the RTC has provided 76 responses to the GAO. The RTC is preparing responses to the remaining 11 recommendations. The RTC fully considers the ideas and suggestions included in GAO testimony, but does not formally respond to them.

The following descriptions will explain the meaning of the different response categories presented in the table:

- *Closed:* RTC has completed all corrective actions resolving the identified problem.

- *Actions In Process:* RTC's corrective actions are in the process of being completed.
- *Actions Not Fully Responsive:* Corrective actions have been undertaken by RTC, but GAO considers the actions as not adequately addressing the identified problem.
- *Under Review By GAO:* RTC's response has been submitted to GAO for review for potential effectiveness in resolving the identified problem.
- *RTC Preparing Response:* RTC is reviewing the audit finding and recommendation and preparing its management response.

Please contact the Director of the Office of Government Relations, Peter Knight, for information about specific recommendations.

The information in the attached table [Attachment A] has been shared with the GAO.

Q.3. In your February 10, 1994, letter to me, you stated that you had established the "Dallas Professional Liability Review Team" as a result of testimony this Committee received from Mr. Tom Burnside in which he claimed that the RTC had made efforts to recover only a fraction of the professional liability losses it could reasonably have justified. What can you tell us about the Review Team's initial findings? Will you release their findings publicly?

A.3. The report of the Review Team (which is, as former Interim CEO Roger Altman informed you by letter of February 10, 1994, comprised of attorneys from the Department of Treasury, investigators from United States Secret Service and one investigator and one attorney from the RTC, all working under the auspices of the RTC) is nearing completion. Given the fact that the Report is not yet final, it would be premature to discuss any preliminary findings or to disclose portions of the Team's work product. Upon its completion in the near future, and review by the acting CEO, a copy will be forwarded to the Committee and made public.

Q.4. What is being done to review the allegations of deficiencies identified by RTC employees?

A.4. On February 10, 1994, former Interim CEO Roger C. Altman provided you with a response to the allegations of deficiencies identified by the RTC employees. This letter is provided for the hearing record as Attachment B.

In addition to reviewing the recommendations in the letter, RTC management will be reviewing and acting upon findings and recommendations of the Dallas Professional Liability Review Team.

Q.5. Do you feel that improvement is needed in the areas of internal controls and contractor oversight?

A.5. Internal Controls—Secretary Bentsen, in March 1993, as part of his management reform initiatives, recommended that RTC strengthen its internal control systems. In response, RTC initiated a number of changes to accomplish this goal. Responsibilities for management and oversight of corporate internal control activities were consolidated and transferred to the Chief Financial Officer. Managers and senior personnel throughout the agency were trained in the importance, operation, and benefits of maintaining an effective system of internal controls. Internal reviews were re-

vised to focus more on the effectiveness of internal control systems, identify any deficiencies, and develop corrective action.

While additional internal controls could always be put into place, the RTC relies on the concepts of reasonableness and benefit/cost to reach an acceptable level of control. In addition, scheduled internal reviews test the effectiveness of existing controls and the need for any additional controls. Separately, the General Accounting Office and the RTC Office of Inspector General often include the review of internal controls in their audits of programs and activities. The recommendations these organizations make concerning ways to improve internal controls are usually implemented.

Contractor Oversight—Given the improvements outlined below, which the RTC has and is currently undertaking, we believe the RTC will be providing adequate oversight of its contractors. However, we believe that contractor oversight is an ongoing process which requires continual review to determine which areas of RTC contracting may become high risk and would require additional controls.

Currently, a major function of RTC operations is the monitoring, evaluation, and general oversight of organizations employed to provide contracting services to the RTC. Because of the magnitude of the RTC's reliance on the private sector, as envisioned by FIRREA, the oversight of private contractors is a central component of our efforts to prevent waste, fraud, and abuse. The oversight function entails conducting reviews and investigations of contractor performance and contracting irregularities; coordinating major RTC contract terminations; and initiating suspension and exclusion actions of contractors for violations of fitness and integrity regulations, fraud, and non-performance.

Secretary Bentsen's program for RTC reforms included the following directives for improving oversight of RTC contractors:

- "Exercise adequate and sufficient contract oversight to ensure that policies and procedures are followed, that the RTC receives what it pays for, and that funds and assets are not vulnerable to loss;" and
- "Increase span of control over contractors, through sufficient and adequate staffing to protect RTC's interest."

Specific steps have been taken to deal with the first mandate by increasing emphasis on the contractor oversight function through the Office of Contractor Oversight and Surveillance (OCOS). Increased resources have been allocated for background investigations of prospective RTC contractors to ensure compliance with RTC fitness and integrity regulations. Enhanced training programs have been conducted for OCOS personnel and for independent public accountants on conducting reviews and evaluations of RTC contractors.

Furthermore, the RTC has embarked on an aggressive program of contract and contractor reviews. In 1993, for example, the RTC initiated reviews of nearly 500 outstanding contracts involving about 200 organizations conducting business with the RTC, up significantly from previous years. The number and types of contract reviews initiated in 1993 are as follows:

150	Standard Asset Management Agreement contracts
15	Loan Servicer contracts
270	Property Manager contracts
53	Miscellaneous contracts
<hr/>	
488	Total

This review schedule is expected to increase significantly during the next 2 years due to RTC efforts to provide enhanced oversight. In most cases, the RTC employs the services of outside public accounting firms to conduct these audits. With respect to the second issue, the primary thrust has been the establishment of an independent invoice tracking and processing unit within the Office of Contract Operations. This unit will perform all invoice processing/tracking functions and maintain continuous interface with the Accounts Payable Office to ensure adequate financial controls and compliance with all RTC policies and procedures. AP will also ensure prompt payment of contractor claims. This system is operational at the headquarters level and the field offices are now in the process of completing implementation.

The RTC has identified four major program objectives for contractor oversight:

- Strengthen RTC internal controls against contractor waste, fraud, and abuse.
- Increase fitness and integrity background investigative coverage over RTC contractors to ensure compliance with FIRREA and contractor ethics regulations.
- Promote FIRREA's mandate of fair and open competition.
- Strengthen overall contractor oversight.

The following initiatives have been planned to achieve program objectives:

- Strengthen RTC Internal Controls Against Contractor Waste, Fraud, and Abuse.
 - Initiate nearly 700 contract reviews in 1994 and 1995 (up from 488 in 1993).
 - Revise the Contract Policies and Procedures Manual as needed and inform the staff of their oversight roles and responsibilities.
 - Prepare and present technical training conferences to all headquarters and field office staff and independent public accounting firms.
 - Assess effectiveness of policies, procedures, and guidelines over time and expand, adjust, and revise policies, procedures, and programs as necessary to ensure uniform, comprehensive reviews of contracts with RTC contractors.
- Increase Fitness and Integrity Background Investigative Coverage over RTC Contractors to Ensure Compliance with FIRREA and Contractor Ethics Regulations.
 - Develop policies and procedures for conducting background investigations on subcontractors and securitization contractors.
 - Analyze and improve the background investigations database.

- Explore the use of additional informational databases to ensure full coverage of fitness and integrity requirements.
- Conduct random reviews of the Office of Contract Operations and RTC contractors to ensure appropriate background investigations are being requested.
- Analyze, expand, and revise policies and procedures as necessary.
- Promote FIRREA's Mandate of Fair and Open Competition.
 - Initiate enhancements to the Contracting Activity Reporting System to monitor competitive contracting trends and compliance.
 - Prepare annual report providing summary of corporate actions taken to promote competitive contracting.
 - Establish a monthly reporting system for the Office of Contract Operations awards.
- Strengthen Overall Contractor Oversight.
 - Modify the Corporation's Contracting Policy and Procedures Manual (CPPM) to mandate a separate organizational structure for contract administration in each RTC office nationwide and to provide more detailed guidance on proper contract administration practices.
 - Perform site visits and monitor contractor subcontracting plans to ensure compliance with contract terms and conditions.
 - Work with the field office Contract Administration Branches to develop and implement procedures for more effective contractor oversight and ensure that the procedures are adopted and used in all field offices.
 - Develop and present training to other offices in the RTC on the contracting processes and the team concept for ensuring quality contractor performance.

With the completion of these program objectives, we believe that the RTC will have adequate oversight of RTC contracts.

Q.6. What do you plan to do to ensure corrective actions are taken by the RTC?

A.6. Another of Secretary Bentsen's reform initiatives announced last spring was to improve management responsiveness to weaknesses and deficiencies identified by both internal and external auditors.

As a result of this initiative, the RTC issued policy and procedures (Circular 1250.2, *Management Decision Process and Audit Followup*, dated July 20, 1993) to ensure that audit recommendations are resolved and management's planned corrective actions are made in a timely manner. The corrective actions, with projected completion dates, are identified and their implementation tracked. Upon implementation, the program manager certifies that corrective action has been taken. In addition, review of previously completed corrective actions is generally included in a subsequent audit or review of the activity. Further, agency executives frequently remind program managers of the importance of correcting deficiencies in program operations.

The Directive 1250.2 states the following:

4. Policy: The RTC will establish an audit followup program to ensure prompt responses to audit reports and timely implementation of management decisions addressing audit recommendations. A final management decision will be issued as soon as possible but not later than 180 days after the date of the issuance of the final audit report. Corrective actions should begin as soon as practical once the management decision process is concluded. The followup program will encompass:

- a. Maintaining records on the status of audit reports and associated recommendations.
- b. Tracking management decisions and final actions.
- c. Establishing accounting controls over amounts due the RTC as a result of costs disallowed by management.
- d. Providing periodic reports to RTC senior management and the RTC Thrift Depositor Board.

RTC managers at all levels will ensure completion of corrective actions and submission of required supporting documentation in a timely manner. Those managers responsible for taking corrective actions will complete and sign an Audit Followup Action Certification Statement (hereafter referred to as "certification" or "certification statement"), certifying that all necessary corrective actions have been taken and all necessary documentation obtained."

With these audit followup procedures we believe that there are adequate controls in place to ensure that any corrective actions related to RTC contracting are taken.

Q.7. Does the RTC provide information to potential buyers that is sufficiently reliable and complete to encourage competitive bidding for its assets?

A.7. Yes. While bidders may have experienced difficulties in the past in locating complete asset specific information needed to formulate their bid, these problems have been corrected with policy changes and stricter requirements and procedures for asset preparation.

The RTC is dedicated to providing accurate and complete information to potential purchasers of its assets. All bidders at auctions and sealed bid events receive bidder information packages which contain information about the assets, as well as the legal and financing terms of sale. This ensures open, fair, and competitive bidding since all potential purchasers have access to the same asset information and know that they are bidding on the same terms. This process also encourages participation by small investors who have the capital to participate in RTC sales but would not have the resources to perform their own due diligence of the assets or individually negotiate sale terms with the RTC.

For example, Directive #10300.34, dated August 31, 1993, provides guidelines for preparing real estate owned (REO) for sale at auction. The directive requires a complete due diligence package be prepared before the auction which includes the following items:

- (1) A preliminary title report;

- (2) An appraisal and/or broker's opinion of value for every asset above \$100,000;
- (3) All necessary environmental studies and reports;
- (4) A summary of all on-going or pending litigation; and
- (5) An accurate survey.

Executive summaries, lease summaries (if applicable), operating statements, physical, geographic, and economic summaries, and other pertinent information on each asset are also provided. Bidding instructions, a confidentiality agreement, the Terms and Conditions of Sale, RTC financing guidelines, and a draft of the sales contract are also included.

Most of the above information is also provided for REO sealed bid sales and individual brokered sales. There is currently a directive in draft form entitled, "Preparing Real Estate Owned (REO) Assets for Sale" that will officially expand the application of Directive #10300.34 to all REO sales.

Purchasers interested in acquiring mortgages and loans over \$250,000 in book value through the sealed bid and auction process are provided with bid packages and due diligence information comparable to that which is provided to purchasers of REO assets. They are also generally given access to the loan files. In addition, the RTC provides limited representations and warranties to purchasers of loans over \$250,000 where appropriate.

Furthermore, the RTC encourages competitive bidding by broad marketing of its assets. Depending on the type of initiative, marketing brochures are prepared, bidders' conferences are scheduled to answer bidders' questions on the offering, property inspections are scheduled, and the sale is advertised in *The Wall Street Journal* as well as local and regional industry publications.

Q.8. The last RTC resolution of a failed thrift was in early December 1993. Why haven't there been any resolutions since December?

Your financial plan indicates you plan to resolve 43 of your current 63 conservatorships before the end of this quarter. Do you expect to meet that schedule?

A.8. In order to provide a fair and open marketing of failed thrifts, and to obtain the legislatively-mandated least cost resolution, the RTC has developed a process of broadly advertising and soliciting potential interested parties. A bidders meeting is then held and adequate time is provided for bidders to complete due diligence. The resolution process generally takes between 60 and 120 days. The length of time will generally depend on the complexity of the transaction and the amount of acquiror interest expressed.

The current round of resolution cases was necessarily delayed until an initial determination could be made as to which institutions would or would not be affected by the minority resolution provisions of the RTC Completion Act. Only cases which did not have either the entire institution or branches designated as being located in Predominantly Minority Neighborhoods were included in the initial cases marketed. As a result, our advertisement ran in the December 23, 1993, *Wall Street Journal* and bid meetings began in early January. Three resolutions took place on February 25, 1994.

We were unable to meet the projections contained in our financial plan largely due to the delay in funding and the minority provisions of the RTC Completion Act. The plan to resolve 43 institutions by the end of the first quarter was initially prepared in early October under the assumption that the legislation would be passed soon thereafter. Since the legislation was not signed until early December it was impossible to reach this goal. In addition, at least 22 institutions have been delayed in order to develop and implement the Minority Resolution Program called for in the Act.

From December 1993 through March 31, 1994, 15 institutions have been sold or paid off and an additional 14 institutions have had bids accepted with resolutions scheduled.

Q.9. Are you aware of any significant differences in the asset disposition strategies of the RTC and FDIC? What are the differences?

A.9. The most significant differences in asset disposition strategy between the FDIC and the RTC are as follows:

(1) *Use of Securitization in the Disposition of Loans*—The RTC has relied more heavily than the FDIC on securitization as a means of disposing of both performing and non-performing loans. During the past year the FDIC has initiated a securitization program for performing commercial loans secured by real estate; however, the FDIC has not yet attempted to employ securitization for the sale of performing 1-4 family residential mortgages or non-performing loans of any type.

(2) *Use of Asset Management Contractors in the Disposition Process*—With respect to real estate and non-performing commercial loans, the RTC has generally assigned such assets to asset management contractors which have been responsible for the management and disposition of assigned assets. The FDIC has generally been inclined to manage and dispose of such assets using in-house staff. (It should be noted that the FDIC's asset portfolio has a much higher proportion of business and commercial loans not secured by real estate, and is believed to have a higher proportion of loans with balances under \$1.0 million than the RTC.)

Otherwise the liquidation strategies of the FDIC and the RTC are generally quite similar. Both attempt to expeditiously liquidate assets acquired from failed institutions so as to maximize the net present value recovery. Both dispose of real estate primarily via brokerage sales, auctions, and sealed bid sales. Both dispose of non-performing loans individually via loan modifications and compromise/sale/settlements. Neither holds assets for speculative purposes, generally believing that a policy favoring holding assets (e.g., foreclosed land) would lead to continued large inventories of unsold assets, larger staff, longer holding periods, greater holding costs, and ultimately lower net recoveries.

A comparison of the Valuation, Asset Management, and Liquidation Policies of the FDIC and the RTC was made in February 1992 for Mr. John E. Robson in the Treasury Department. See Attachment C. The comparative data in Attachment A is believed to be valid and accurate today.

Q.10. In your view, has the Office of the Inspector General at the RTC met its statutory responsibilities to independently review RTC

operations in an effort to detect and prevent fraud, waste, abuse, and mismanagement in the thrift cleanup?

A.10. The RTC Inspector General was appointed by the President with the approval of the Senate. In accordance with the Inspector General Act, he is under the general supervision of the RTC Chief Executive Officer and the Chairman, Thrift Depositor Protection Oversight Board. The Office of Inspector General consists of about 300 people nationwide, who primarily audit and investigate RTC operations and contracts to detect and prevent fraud, waste, abuse, and mismanagement.

Undoubtedly, the Office of Inspector General at the RTC faces a difficult challenge. While the RTC has strived to carry out its statutory mandate to clean up the savings and loan mess at a minimal cost to taxpayers, almost every initiative has been subject to criticism and, often, the critics are at odds with each other. The Office of Inspector General has had to perform its mission of audits and investigations in this controversial, fishbowl environment.

Since it began in 1990, the Office of Inspector General's audit reports have included over 1,000 recommendations to RTC management for improved operations. Its investigations have resulted in 267 referrals to the Department of Justice; 116 RTC employee disciplinary actions; 88 contractor actions; 127 indictments, information, and pretrial diversions; and 90 convictions. Also, the investigations resulted in fines of \$410,552, restitution of \$4.8 million, monetary recoveries (including court-ordered civil) of \$5.4 million, and assets seized valued at \$600,486.

In addition, many of Secretary Bentsen's reform initiatives at RTC originated in part from Office of Inspector General reports and recommendations. One noteworthy example has been the exposure of contracting abuses and internal control breakdowns that caused them. With the helpful advice and assistance of the Office of Inspector General, we have sought to strengthen these controls and to stop abuses.

In view of the above achievements, the Office of Inspector General has fulfilled its statutory responsibility to independently review RTC operations. The Senate Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, which is responsible for appropriating funds for the Office of Inspector General, reported last year that:

"The Committee believes the RTC Inspector General, and his office, have done an outstanding job in auditing one of the most difficult agencies to monitor in the Federal Government."

RESPONSE TO WRITTEN QUESTIONS OF SENATOR KERRY

PLS

Q.1. I have had continuing concerns about the effectiveness of RTC's investigation and prosecution of cases against S&L wrongdoers from 1992 through the present, especially in Texas. Your letter to the Committee of February 10, 1994, stated that the Professional Liability Review Team you sent to Dallas following the September 23, 1993, hearing of this Committee on the RTC interviewed over 50 people in Texas and Washington, DC in connection with the concerns raised during the hearing about Texas PLS

cases. Your letter stated that they had "provided their initial findings" to you. Please describe in detail such initial findings, and in your response, please address the following issues:

- **a.** The name, title, and location of each person interviewed and a summary of each of their statements to the review team;
- **b.** A list of all concerns or problems identified by such persons and as to each concern, state the following:
 - (i) The number of people that identified such concern or problem;
 - (ii) Whether Treasury believes that such a problem or concern existed or still exists;
 - (iii) Describe with particularity what corrective actions have been or will be taken with respect to the problems or concerns.
- **c.** Whether Treasury believes that any current RTC or FDIC manager contributed to the problem because of poor management or for other reasons, and if so, what action Treasury has taken to hold such persons accountable for their acts or omissions.

A.1. The report of the Review Team (which is, as former Interim CEO Roger Altman informed you by letter of February 10, 1994, comprised of attorneys from the Department of Treasury, investigators from United States Secret Service and one investigator and one attorney from the RTC, all working under the auspices of the RTC) is nearing completion. Upon its completion in the near future, and review by the Acting CEO, a copy will be forwarded to the Committee and made public.

In regards to your request for the specific documents prepared by the Review Team, given the fact that the Report is not yet final, it would be premature to discuss any preliminary findings or to disclose portions of the Team's work product. However, we are presently reviewing the Team's documentation for disclosure and will be able to make certain of the documents that you requested, such as the December 6, 1993, memorandum from Interim CEO Altman, available to you by the end of the week.

Your request for copies of the interviews presents an entirely different problem. The Review Team promised all interviewees total confidentiality, without which the full cooperation of the interviewees would never have been achieved.

Consequently, we must decline to make information pertaining directly to the interviews available to the Committee. At the time the Report is sent to the Committee and is made public, we will commence a review of all of the Team's work papers provided to us and promptly determine what other information may be appropriately disclosed.

PLS

Q.2. Texas accounted for over 41 percent of all S&L losses nationally. Please describe in detail the RTC's professional liability efforts on failed Texas S&L's, and in your response, address the following as to each failed S&L in Texas that was ever in RTC's control:

- **a.** The name, location, and size of the S&L and the date it failed;
- **b.** Identify each Professional Liability recovery with respect to the S&L and as to each such recovery, identify the following:
 - (i) the amount and date of recovery;

(ii) the name of the defendant and the type of claim.

- c. The number of administrative subpoenas issued by the RTC in investigating the S&L and, as to each subpoena, state the date of issuance and the attorney that issued the subpoena.
- d. Identify each Professional Liability lawsuit filed according to court, case or action number, defendant, date of filing, and status.
- e. Identify each and every Professional Liability attorney and line investigator ever assigned to the S&L and the dates of their responsibility.
- f. Identify the date of any Professional Liability investigations that were closed out by the RTC, the type of investigation closed out, and the reason for the close out.

A.2. Before responding to your questions in this area, it is important to note that while failed Texas thrifts have accounted for a large portion of loss funds expended by the RTC, they have not accounted for 41 percent of the loss. The most recent estimate of loss funds expended by the RTC in Texas is \$25.4 billion (no more Texas expenditures are anticipated). This is roughly 31 percent of the estimated \$83 billion in loss funds the RTC has expended to date, and 28 percent of the estimated \$92 billion in loss funds the RTC currently expects to expend before it sunsets.

a. See Attachment D for a list of the 137 failed thrifts under the RTC's control which are located in the State of Texas.

b. As of 2/28/94, RTC PLS has recovered more than \$156.620 million for failed Texas S&L's. See Attachment E.

c. See Attachment F for a list of the 1,006 administrative subpoenas issued by RTC PLS attorneys for failed Texas thrifts. Since this material is being made public, we have listed the attorneys responsible under a code. If the Committee would be interested in the names of the individual attorneys, we will provide them upon request.

d. See Attachment G for a list of 53 RTC PLS offensive lawsuits filed in Texas S&L's.

e. The RTC's tracking system eliminates the name of the previous attorney and investigator when a new assignment is made. Therefore, this information is not readily available.

f. We are unable to respond to this request for several reasons. The recent extension of the FIRREA statute of limitations, accompanied by the "revival" of some claims on which the original three year limitations period had expired, has caused the RTC to undertake a systematic re-review of affected claims. The release of a list of individuals or firms who were previously investigated but not sued might compromise the RTC's ability to prosecute such revived claims if they are found to be meritorious based on information now available.

The RTC is also greatly concerned about the basic unfairness associated with the release of a list that would include persons who were potential or actual subjects of an investigation. The potential damage to the reputations of individuals or firms who were "investigated," even though they did not become the focus of any civil actions initiated by the RTC, is obvious. The RTC believes that any attempt to create such a list would have the potential to cause un-

necessary public humiliation of persons and firms who were not found to have engaged in wrongdoing.

Q.3. Please identify the percentage of recovery on S&L losses from failed S&L's in Texas by the RTC, and the percentage of recovery on S&L losses from failed S&L's outside of Texas, so as to provide comparative recovery rates. In the event that there is a disparity between these recovery rates, please provide your best explanation for this difference.

A.3. As of February 28, 1994, the RTC has resolved 683 institutions; 137 of these institutions were in Texas. The Texas institutions required outlays of \$44.1 billion to meet the Government obligation to depositors. We currently estimate that these institutions will cost the taxpayers \$25.4 billion. Thus we anticipate recovering about 43 percent of our resolution outlays for Texas institutions. For the 546 institutions outside of Texas, outlays were \$153.3 billion. Anticipated losses were \$56 billion. For institutions outside of Texas, we anticipate recovering about 63 percent of the resolution outlays.

Note that these figures do not represent the recovery rate on RTC asset sales from Texas institutions. Instead they represent the total result of all items that affect the cost of resolving these institutions: net worth at takeover, asset sales and operating costs prior to resolution, restitution and other income, RTC expenses, and holding costs for the assets (allocated FFB interest). From inception through January 31, 1994, total RTC asset sales and collections for Texas institutions have been \$43.1 billion, or 76 percent of book value. For institutions outside Texas, the analogous recovery rate was 92 percent.

There are several reasons why these institutions suffered greater-than-average losses. Of the 137 Texas institutions, 90 were taken over in 1989. At that time, there was a significant backlog of bankrupt institutions that had been allowed to continue operating because the Federal Savings and Loan Insurance Corporation (FSLIC) was insolvent. By allowing these institutions to continue operating while insolvent, losses increased.

In addition, the Texas economy suffered a protracted downturn in the 1980's, and this in turn led to a serious deterioration of the real estate markets in Texas. Because thrifts were so heavily involved in real estate markets, this had a significant effect on Texas recoveries.

Recoveries From Contractors

Q.4. The GAO had repeatedly testified that the RTC's handling of contractors invited waste, fraud, and abuse. These conclusions were reiterated by the whistleblowers who testified before the Committee on September 23, 1993, and so to some extent, by the RTC's IG. Please identify the total amount of contracts that RTC has entered into to date.

A.4. During the period August 1, 1989, through March 23, 1994, RTC awarded a total of 132,408 contracts, valued at approximately \$3.97 billion. A general breakdown of these awards, by organizational entity, is as follows:

	<i>Number of Awards</i>	<i>Estimated Fees</i>
Awards by RTC Contracting Offices.	26,611	\$3,349,827,391
Awards by Conservatorships/Receiverships	55,772	\$ 311,546,492
Subcontract Awards by SAMDA's	50,025	\$ 305,999,724
<i>Total:</i>	132,408	\$3,967,373,607

Recoveries From Contractors

Q.5. Please identify the total amount of recoveries that RTC has secured from contractors who have violated RTC rules, failed to perform services, or otherwise not met the terms of their contracts with the RTC. Please include in your answer:

- a. all RTC contractors from whom the RTC has secured recoveries;
- b. the date and amount RTC paid each contractor;
- c. the date and amount of each recovery;
- d. the reason for each recovery.

A.5. Currently RTC does not have a system in place that captures recoveries from our contractors. Such a system is currently being developed, and in approximately 60 days, we will have a tracking system in place that can identify recoveries from specific contractors.

Since 1989 the RTC has awarded approximately \$3.97 billion in contracts. To date, as a result of audits and reviews completed by the Office of Contractor Oversight and Surveillance and the Office of the Inspector General (OIG), we have questioned over \$115 million in claims. There is a continuing process of assessing these claims and a process of collecting them where appropriate through contract negotiation or, if necessary, litigation. Costs were questioned for a variety of reasons, including: improper markups of subcontractor billings, improper charges, inadequate documentation to support their invoices, and in some cases fraud. All matters involving fraud were referred to the OIG. To date there have been over 60 referrals to the OIG. As several of these cases have been referred to the Department of Justice (DOJ) for criminal/civil fraud investigations, DOJ has requested that we cease collection efforts pending the outcome of their analysis. Additionally, a number of these reviews and inquiries have resulted in the RTC excluding specific contractors from doing further business with the RTC. To date there have been over 150 referrals to the RTC Office of Ethics which resulted in over 160 suspension and exclusion actions.

We expect, as a result of our current efforts to enhance our contractor review capability, that significant improvement will occur in 1994 and beyond.

Retaliation Against Whistleblowers

Q.6. Many of the RTC whistleblowers who testified here last September about problems at the Agency, have since advised us that they have suffered retaliation. These include Bruce Pederson, Jack-

ie Taylor, Debbie Sherrill, Hans Mangelsdorf, Sandra Crisman, and Michael Koszola. At the hearing you specified the steps you undertook to insure that the whistleblowers would not suffer retaliation as a result of their testimony. In practice, how effective have these steps proven to be? What additional steps might be taken? Do you believe the RTC has been generally effective in protecting whistleblowers? Please include in your answer any facts relied upon by you in responding to this question.

A.6. The RTC took steps to protect employees who testified before the Congress on September 23, 1993, from retaliation. Those steps were effective, and included the establishment of the Employee Ombudsman program which augmented the RTC OIG and provided employees with a means of gaining the CEO's personal attention. The Employee Ombudsman office maintains a hotline to accept telephone calls from employees who want to report instances of fraud, waste, abuse, and retaliation to the Employee Ombudsman. Under the program, the CEO receives weekly updates on the activities of the Employee Ombudsman office. By memorandum dated October 4, 1993, former Interim CEO Roger Altman informed all RTC employees that retaliation for whistleblowing activities would not be tolerated and that he was committed to protecting employees who had in fact "blown the whistle" on inappropriate activities. The RTC OIG in turn strengthened its policy and procedures for handling employee allegations of retaliation and further encouraged the reporting of waste, fraud, and abuse.

Generally, the RTC has been effective in protecting whistleblowers from retaliation. While certain personnel actions have been taken with respect to some of the employees that testified before the Senate on September 23, 1994, those actions were carefully reviewed to ensure that they were neither prompted, nor in any way affected by the employees' testimony before the Senate.

As to the employees you have specifically inquired about, the following personnel actions were taken for the reasons specified:

Bruce Pederson and Jackie Taylor

Mr. Altman denied grievances filed by current RTC attorneys Bruce Pederson and Jacqueline Taylor after determining that they were not subjected to retaliation as they had alleged. While there is no doubt that they raised important matters to the attention of the Congress, an independent contractor, retained as an investigator and grievance examiner, found no evidence of harassment or retaliation against either Mr. Pederson or Ms. Taylor. In fact, after interviewing 22 witnesses and reviewing relevant documents, the contractor grievance examiner found that not one witness identified by the grievants could corroborate allegations of harassment or retaliation. After reviewing all the material, including the examiners' report, Mr. Altman agreed with the examiner's recommendation and denied the grievances.

Debbie Sherrill

An employee under temporary contract in the RTC Atlanta Office, Debbie Sherrill, was non-renewed due to documented and repeated instances of poor performance occurring during the year prior to her testimony before the September 1993 Senate hearing.

Hans Mangelsdorf

Mr. Mangelsdorf from RTC's California office has claimed that his performance rating was lowered as a result of his testimony. The RTC Office of Human Resources Management spoke with Mr. Mangelsdorf and his supervisors and was satisfied that the performance problems raised by Mr. Mangelsdorf's first line supervisor were legitimate and not motivated by Senate testimony.

Sandra Crisman

Allegations regarding the lowered performance appraisals for Ms. Crisman were made prior to her Senate testimony last September and were part of her Equal Employment Opportunity complaint of sexual discrimination filed in 1992. Ms. Crisman was represented by counsel and agreed to settle her case with the Corporation.

Michael Koszola

An Office of the Inspector General agent, Michael Koszola, was removed for misconduct based on evidence obtained through an investigation that was formally initiated in December of 1992. The employee has appealed that removal to the Merit System Protection Board, and a hearing is scheduled to be held before an Administrative Judge on May 9, 1994.

Q.7. RTC whistleblowers who testified on September 23, 1993, described a pervasive environment of discrimination, harassment, and ethical and personnel violations by RTC managers at RTC regional offices in California, Colorado, Dallas, and Atlanta.

Please provide a list of EEOC complaints filed against RTC managers, including the date each such action was filed, the site of each office involved in each such action, the position of each person cited in each action, the outcome or status of each such action, and in each case in which an RTC employee was found to have engaged in discrimination, the sanctions, if any, imposed on that employee by the RTC.

A.7. See Attachment H which includes a list of EEO complaints including a summary for the requested offices.

Q.8. News reports indicate that several Federal court decisions pertaining to State doctrines of adverse domination jeopardize a significant portion of RTC and FDIC professional liability litigation. The decisions include *FDIC v. Cocks*, WL409547 (4th Cir., Oct. 15, 1993), *FDIC v. Dawson*, No. 92-2460 (5th Cir., Oct. 21, 1993), *RTC v. Everhart*, BLLR Dec. 10, 1993, and *FDIC v. Allison* (DC Ntexas, No. 6-93-CV-59, Jan. 24, 1994). There are reports that these decisions will adversely affect forty to fifty percent of the FDIC's and RTC's existing PLS caseload. Please provide the Committee with an analysis of the effect these and related decisions may have on RTC professional liability litigation; in particular, litigation in the States of Texas and Virginia. The analysis should include the percentage of existing cases, the percentage of existing potential recoveries, and the dollar amount of existing potential recoveries placed in jeopardy.

A.8. The recent decisions in *Cocks* and *Dawson* address an issue that is critical to the RTC's ability to assert claims against direc-

tors and officers who have caused damage to failed federally insured thrifts. Courts have held RTC can only sue on behalf of a failed thrift if the thrift itself could have sued immediately before the RTC was appointed. Typically, many of the misdeeds of directors and officers that cause a thrift to fail occur several years before the thrift is finally closed. Naturally, the wrongdoers who control the thrift do not allow it to file suit against themselves during the time allowed under State statutes of limitation.

Adverse domination refers to these circumstances in which the wrongdoers control the thrift's ability to assert the claims. Their interests are "adverse" to the corporation, because they do not want to be held liable. Through their "domination" of the corporation, they can serve those adverse interests, at the corporation's expense, by preventing it from filing suit.

RTC has argued that this adverse domination by wrongdoers should stop the statute of limitations from running, thereby preserving the thrift's claims until RTC is appointed. Until recently, the courts overwhelmingly agreed with this position. Applying adverse domination either as Federal law or as law the particular State would likely adopt, most courts held the statute of limitations did not begin to run until a "disinterested majority" of innocent directors was in control of the thrift, or, if that never happened, until RTC was appointed.

Last fall, two Federal appeals courts said Federal law did not apply and predicted that the relevant States would apply very restrictive adverse domination-type rules. These decisions may allow many directors and officers of failed thrifts to escape responsibility for damage they caused, on the theory that it was already too late to sue them when RTC took over.

In *FDIC v. Dawson*, 4 F.3d 1303 (5th Cir. 1993), the court held that Texas law controlled whether adverse domination preserved a national bank's claims against its directors and officers. The court said Texas law was "sparse" on the subject, but it "predicted" that Texas courts would not apply adverse domination unless a "culpable majority" of the board "have been active participants in wrongdoing or fraud." The court reserved judgment about just how culpable the majority must be, except it predicted that Texas law would hold that "mere negligence" is not "culpability," even if that negligence consisted of the majority of the board overlooking fraud or other wrongdoing by officers or other board members.

In *FDIC v. Cocke*, 7 F.3d 396 (4th Cir. 1993), the court also held that State law controlled whether adverse domination would apply to claims against a State chartered, but federally insured thrift. It predicted that under Virginia law, the running of the limitations period would not be tolled even if *all* the directors were implicated in wrongdoing, unless they actively "concealed" the wrongdoing.

The *Dawson* and *Cocke* decisions endanger nearly all of RTC's claims in Texas and Virginia. At present, RTC has pending 13 director and officer cases in Texas seeking more than \$1.1 billion in damages and 2 cases in Virginia seeking \$37 million in damages, all of which are endangered by these decisions. In addition, virtually all of RTC's potential claims arising out of failed institutions in Texas and Virginia could be affected. Finally, many other RTC claims could be affected if other Federal courts follow the approach

adopted in *Dawson and Cocke*. In addition, the same problems are posed for FDIC, and it reports that numerous FDIC cases against directors and officers of failed banks are in jeopardy.

The *Dawson and Cocke* decisions may also make it impossible to pursue claims for gross negligence and fraud under the recent amendments extending the time for RTC to file such claims until December 31, 1995. If the courts refuse to apply adverse domination, even though the wrongdoers were in charge of the thrift, in many cases they are likely to hold that the State limitations period expired before RTC was appointed, and that the limitations extender does not "revive" the claims.

Congress should establish the common-sense adverse domination rule as a matter of Federal law in the case of failed federally insured thrifts. Wrongdoers who controlled a thrift should not be able to avoid liability simply because they prevented the thrift from taking action while they controlled it. To accomplish this, Congress should amend the FIRREA statute of limitations, 12 U.S.C. § 1821(d)(14), to provide that claims against defendants who, individually or with others, control a failed thrift will be preserved for RTC (or FDIC) as receiver, regardless of State law.

Question—Attachment 1: Provide all documents created on or after September 24, 1993, referring to any of the testimony taken by the Senate Committee on Banking, Housing, and Urban Affairs on September 24, 1993.

Answer—Attachment 1: The RTC conducted an inquiry as to each identifiable allegation made during the September 24, 1993, Senate hearings. The results of those inquiries were incorporated into several formatted versions. Because those responses detail personal information about the witnesses and other third parties, some of whom are or were employed by the RTC, we do not think that it is appropriate to include these documents for the public record. However, in furtherance of the Committee's oversight role, we will make those final responses available for review by Members of the Committee staff. We hope that the staff will respect the personal nature of the information contained in the responses and keep confidential the information that is reviewed. Please have the Committee's staff contact Peter Knight, Director, Office of Governmental Relations, to set up a time convenient for this review.

In addition to the final responses prepared by the RTC, we are aware that the Department of Treasury may have responsive material. We have asked the Department of Treasury to review their files and to inform us whether they located any responsive documents. We will make the Committee's staff aware of Treasury's answer.

Question—Attachment 2: Provide the undated memorandum entitled "Dallas Professional Liability (PL) Program Review," which identifies objectives, personnel, review plan, and report plan.

Question—Attachment 3: Provide a memorandum dated December 6, 1993, from RTC Interim CEO Roger Altman to John Lomax and Arturo Vero Rojas on the subject of the visit to Dallas by Professional Liability Section Review Team.

Question—Attachment 4: Provide an undated document entitled "Questionnaire for Dallas Professional Liability Section Review

Team" and an undated document entitled "Suggested Revisions to Questionnaire for Dallas PLS Review Team."

Question—Attachment 5: Provide handwritten notes of interviews by Review Team members.

Question—Attachment 6: Provide memoranda of interviews, including any written documents provided by interviewees, plus drafts of memoranda of interviews and typewritten interview notes by Review Team members.

Question—Attachment 7: Provide any document entitled "Dallas RTC Professional Liability Program Review Preliminary Findings."

Question—Attachment 8: Provide any document entitled "Dallas PLS Policy Regarding Communications Between Investigators and Fee Counsel," with attachments.

Question—Attachment 10: Provide all drafts of the Review Team report to Mr. Altman.

Question—Attachment 11: Provide a list of institutions identified by interviewees to the Review Team as requiring additional review.

Answer—Attachments 2 through 8, 10, and 11. (See Answer to Attachment 9 below): The report of the Review Team (which is, as former Interim CEO Roger Altman informed you by letter of February 10, 1994, comprised of attorneys from the Department of Treasury, investigators from United States Secret Service and one investigator and one attorney from the RTC, all working under the auspices of the RTC) is nearing completion. Upon its completion in the near future, and review by the Acting CEO, a copy will be forwarded to the Committee and made public.

In regards to your request for the specific documents prepared by the Review Team, given the fact that the Report is not yet final, it would be premature to discuss any preliminary findings or to disclose portions of the Team's work product. However, we are presently reviewing the Team's documentation for disclosure and will be able to make certain of the documents that you requested, such as the December 6, 1993, memorandum from Interim CEO Altman, available to you by the end of the week.

Your request for copies of the interviews presents an entirely different problem. The Review Team promised all interviewees total confidentiality, without which the full cooperation of the interviewees would never have been achieved.

Consequently, we must decline to make information pertaining directly to the interviews available to the Committee. At the time the Report is sent to the Committee and is made public, we will commence a review of all of the Team's work papers provided to us and promptly determine what other information may be appropriately disclosed.

Question—Attachment 9: Provide all RTC directives on criminal referrals, including but not limited to directives dated June 17, 1993, and September 27, 1991.

Answer—Attachment 9: Attachment I includes the two directives requested above and other documents referencing criminal referrals. Please note that the September 27, 1991, directive was superseded by the January 22, 1992, publication of the Conservator's Op-

erating Manual. Relevant information from the Manual is also attached.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR D'AMATO
FROM ROGER C. ALTMAN**

Q.1. The RTC has made only sparing use of public auctions and appears to have used the services of a limited number of auction companies.

What is the RTC's experience with auctions to date? Should the RTC use more auctions and also use more auction companies, particularly smaller firms?

A.1. Since its inception, the RTC has made extensive use of auctions to dispose of a wide variety of assets encompassing all types of REO assets including land, commercial properties, residential properties, and residential affordable housing properties. Auctions are also employed to dispose of furniture, fixtures, and equipment such as office furnishings, typewriters, and computers. In addition, auctions are also used to dispose of most types of non-performing loans including mortgages secured by residential properties, home equity loans, construction and land loans, and commercial mortgages as well as unsecured loans such as credit card loans. Auctions have also been used to sell judgments and charge-offs.

Through year end 1993, the RTC has held approximately 435 real estate auctions representing a book value reduction of approximately \$3.8 billion and the sale of approximately 20,000 pieces of real estate. Over 80,000 bidders have attended our real estate auctions.

Furthermore, RTC has held 16 nationally advertised auctions of non-performing loans representing a book value reduction of over \$2.7 billion. Over 750 bidders have attended our loan auctions. In addition, RTC has held 338 auctions of furniture, fixtures, and equipment ("FF&E"). Unfortunately, detailed statistics on FF&E auctions are not maintained because of the small book value of the asset sold.

The RTC is dedicated to continuing its auction programs. This is reflected in its policies, procedures, and staffing. Field offices are encouraged to employ auctions to dispose of real estate and FF&E wherever it would maximize the net value return to the RTC. Furthermore, the RTC business plan identifies the National Loan Auction Program as the most desirable method to dispose of non-performing single-family mortgages.

The RTC's dedication to auctions is also evidenced by its corporate chart and staffing. In January 1991, the RTC established an auction department in the National Sales Center for auction policies, procedures, and staff training. Furthermore, each field office is staffed with a real estate and loan auction coordinator.

Nevertheless, even though the RTC is dedicated to the use of auctions to dispose of assets, it is necessary to recognize that as the number of assets diminish, so will the number of auctions and, therefore, the requirement to contract with auctioneers. For example, in 1992, RTC had 225 auctions representing a book value reduction of \$1.6 billion while in 1993 RTC had only 86 auctions representing a book value reduction of \$720 million. There simply is

less work for auctioneers than there was 2 years ago as the asset base diminishes.

Our efforts to encourage the use of smaller local auctioneers have been concentrated in two areas: maintaining lists of smaller, local auctioneers on a field office basis, particularly for auctions of furniture, fixtures, and equipment (FF&E); and encouraging larger, more experienced firms to employ minority- and women-owned businesses through special outreach programs and bonus point systems in RTC's contracting process.

While the RTC encourages the use of smaller, local auction companies, it must also follow established contracting policies and procedures as well as internal control guidelines.

The RTC has utilized many local auction firms in the past. Each field office maintains contractor source lists for expediting contracting services which have an overall fee of less than \$50,000. Many smaller auctions, especially auctions of FF&E, are contracted in this manner. Persons who are interested in participating are directed to the appropriate personnel in the field offices.

In addition, in order to facilitate the contracting process, the RTC has instituted Task Order Agreements ("TOA's") whereby pre-approved firms can submit proposals for specific task orders. These firms were selected through an open, competitive Solicitations of Services. There are several national TOA's that can be utilized by any RTC office. There are ten firms which have been approved under this system to perform auctions for assets under \$1.5 million and residential product, which is not part of the Affordable Housing Program. There are three other TOA's which include lists of contractors pre-approved to sell affordable housing (11 firms); commercial real estate over \$1.5 million (13 firms); and financial instruments (11 firms).

Certain field offices have also instituted their own TOA system. For example, the Atlanta office has contracts with fourteen firms to perform real estate auctions on a task order basis in eight States. Half of the firms have been approved for sales under \$2.5 million while the other firms have been pre-approved for real estate sales over \$2.5 million.

Recent requests for task order solicitations have been advertised for a minimum of five days in the *Commerce Business Daily* ("CBD"). This is a daily publication which announces inquiries and solicitations for Government contracts. The announcements include a brief description of the services to be delivered and the qualifications necessary to be able to deliver the services. This is a public journal available by subscription and is also available at many public libraries. Any interested party may respond to a solicitation advertised in the CBD.

In addition to specific contracting programs, staff members of both the RTC's National Auction Department and Small Investor Program have met with representatives of the National Auction Association (NAA) to outline what steps could be developed to include as many qualified auction contractors as possible in RTC work. These discussions have focused on such items as the employment of local auction contractors who have an office within the general location of the sale and determining appropriate qualification standards. As an example, the RTC would prefer to use only State

sanctioned firms, but only 26 States even require auctioneers to be licensed.

Finally, as new solicitations are being conducted, we encourage larger firms to joint venture or sub-contract with smaller firms. This is particularly true in the area of minority- and women-owned businesses (MWOB's). The RTC is committed to modifying new contracts which would include MWOB participation with larger experienced firms, especially for larger, more complex auctions. In evaluating proposals, additional consideration is given to firms who submit their sub-contracting plan with MWOB participation. RTC also coordinates with the National Auction Association (NAA) to ensure that smaller auction companies are aware of these opportunities.

The RTC makes extensive use of auctions to dispose of many hard-to-sell assets including real estate, non-performing loans, and FF&E. Based on the RTC Business Plan, which included an analysis of the best execution for assets, the RTC is making proper use of auctions. Furthermore, as discussed above, the RTC has encouraged the use of smaller, local auctioneers, wherever appropriate, through advertisements, maintaining lists of local auctioneers for local auctions, and outreach through the NAA and RTC's Minority- and Women-Owned Business Program.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOND

FDIC and RTC Procedures

Q.1.A. Mr. Altman, the FDIC and RTC have a stated duty to each receivership and conservatorship and to the taxpayers to maximize recoveries from any viable source, including directors and officers, accountants, legal counsel, appraisers, and insurance policies covering their professional conduct. As I understand it, both the FDIC and RTC conduct an investigation into *every institution* in its case-load to determine potential civil recoveries and whether criminal conduct contributed to the failure. Moreover, an investigator will conduct a preliminary review of financial records, and then will submit a post-closing report within 90 days of the failure of the institution. The purpose of the report is to determine which potential claims can be terminated and which merit further investigative resources. If termination is recommended, written reasons for the termination must be given and approved. If a recommendation to sue is made, the investigator must prepare an "authority to sue" memorandum. A referral is then made to the relevant agency, such as the U.S. Attorney for the Department of Justice.

A.1.A. Before addressing specific questions on the Professional Liability Section, it is helpful to review and clarify the processes employed by the RTC. First, the general process used to identify, investigate, negotiate, and settle professional liability actions involves RTC investigators, RTC attorneys, and their outside counsel reviewing the records accumulated by a failed institution, talking with witnesses, voluntarily and under subpoena; examining reports of thrift examiners, auditors, and attorneys employed by the failed thrift and, where appropriate, retaining experts to examine transactions and documents. The RTC increasingly is utilizing its administrative subpoena powers to discover information from and about targeted individuals in order to obtain more information

about their activities and financial resources. Ultimately, all of this information is evaluated in a variety of ways.

Litigation risk analysis is performed by outside counsel and in-house attorneys in order to assess the strength of the RTC's claims and the likelihood that a successful outcome can be achieved. Potential damage recoveries are assessed and compared with available resources in order to determine whether actual recovery is likely if claims are successfully asserted. The costs and expenses of pursuing the claims are estimated and reviewed by the RTC staff.

If, after all of these investigations, estimates, and calculations, the staff attorney and investigators believe that there is a substantial likelihood that a claim may be asserted, successfully and cost-effectively, a formal recommendation is made by the RTC attorney. This recommendation is reviewed by senior officials in the Division of Legal Services and the business side of the RTC. If all concur in the analysis and recommendation, a civil action is approved.

Contrary to the assertion made in the above statement, there is no requirement that preliminary review of possible claims be completed within 90 days although in some offices that became a general goal when the pace of institution closings slowed to a more manageable level and backlogs were reduced. Over 272 institutions, eventually placed under RTC control, failed before RTC came into existence. Madison Guaranty was, of course, one among this group.

The other misconceptions in the statement are the process for recommending suit and the notion that such suits are referred to the Department of Justice. As stated above, all recommendations to pursue claims through litigation are prepared by Professional Liability Section attorneys and their supervisors; they are not written or prepared by investigators. Professional liability cases, if approved, are referred in virtually every case to outside counsel retained by the RTC, not the Department of Justice. On only two occasions has the RTC, acting through a Memorandum of Understanding with the Department of Justice, Civil Division, referred professional liability matters to the Department of Justice. Neither of these matters is currently in litigation.

The primary mission of the RTC is to obtain recoveries for the American taxpayer by pursuing, in a cost-effective manner, civil claims possessed by institutions under its control. The RTC does not enforce or prosecute criminal laws. If, however, in the course of conducting its civil claim investigations, information is uncovered which raises a reasonable suspicion that criminal misconduct occurred, that information is placed into a criminal referral and forwarded to appropriate law enforcement authorities.

Whenever an investigator, attorney, or contractor performing work for the RTC discovers "suspected criminal activity," that person must prepare a criminal referral, using the standard Criminal Referral Form, in accordance with the instructions on that form and RTC guidelines. For purposes of making a referral, "suspected criminal activity" means that there is a reasonable basis to believe that a crime has or may have been committed, i.e., there is evidence of wrongdoing or a factual basis for the belief. Once prepared in draft form, criminal referrals are reviewed by RTC Investigations and Legal Division Criminal Coordinators ("RTC Criminal

Coordinators") after which they are delivered to the U.S. Attorney, FBI, or other appropriate criminal law enforcement agency.¹

Copies of significant criminal referrals are sent to the Office of Investigations in Washington, DC. Significant referrals are those which qualify as "major" cases under DOJ guidelines: (1) loss due to apparent criminal conduct is \$100,000 or more; (2) the apparent criminal conduct involves a director, officer, professional (i.e., attorney), or shareholder of the institution; and (3) any other compelling reasons (e.g., the apparent misconduct is part of a pattern or practice involving other financial institutions or the scheme or suspects pose a threat to operating financial institutions). Official file copies of all referrals are retained in the field office. All referrals are considered sensitive and must be handled with appropriate confidentiality and care.

The RTC's Criminal Coordinator Program serves as the agency's liaison with criminal law enforcement agencies. Filing the criminal referral is just the first step for the RTC. After criminal referrals are made, the RTC's Criminal Coordinators communicate on a regular basis with local U.S. Attorney's Offices, the FBI, or other law enforcement agencies to determine the status of the referral and to ensure that supporting documentation and other information has been provided. For example, RTC staff frequently assists the Department of Justice in calculating damages caused to failed financial institutions. RTC Criminal Coordinators remain active in the process through the sentencing process, at which time RTC requests criminal restitution in appropriate cases.

RTC Investigations personnel in some offices did conduct additional investigations into possible fraud or civil forfeiture claims at institutions which were not a part of the professional liability investigation described. This was not a program which affected every RTC institution, and it has resulted in additional criminal referrals.

Q.1.B. Was this the procedure followed by the RTC with regard to Madison Guaranty?

A.1.B. The Madison Guaranty civil claim investigation and the prosecution of a claim against the institution's auditors were initially conducted by the FDIC Legal Division and FDIC Investigations. These matters were concluded before there was a separate RTC Legal Division, but it appears that the procedures described above were followed. There was a subsequent investigation into possible fraud claims by RTC Investigators. For additional information, see Attachment J "Madison Guaranty Savings & Loan: Chronology of Significant Events."

Q.1.C. Are these referrals maintained as records at the RTC? If so, will you authorize the release of these memoranda to this Committee?

A.1.C. As stated, copies of all criminal referrals prepared by RTC personnel are retained by the agency.

¹Each RTC field office has a designated Legal and Investigations Criminal Coordinator who has been trained in criminal issues which the RTC frequently encounters. RTC policy requires the Coordinators to work closely together to ensure that the appropriate law enforcement agencies receive maximum cooperation from RTC in pursuing the investigation of the criminal referrals.

It has been the standard policy of the RTC not to release criminal referrals to Congress.

Q.1.D. What records will you provide to this Committee and under what circumstances?

A.1.D. It is difficult to answer such a broad, general question. Suffice it to say that the RTC has supplied this Committee and its staff with thousands of pages of material over its lifespan. These records have touched on virtually every area of the RTC's work, including professional liability civil investigations and cases. Included within these submissions have been numerous privileged and confidential matters which have been reviewed with Committee staff under agreements that their contents would remain confidential. Criminal referrals, however, involving possible investigations into matters which have become the responsibility of the Department of Justice are not among the documents we have released.

Q.1.E. I would like you to provide a legal opinion for the record describing fully the jurisdiction of the Committee with regard to RTC records, such as criminal referrals. For example, are there special waivers available for the Committee of jurisdiction?

A.1.E. As stated, it is the policy of RTC not to disclose criminal referrals or information about their preparation on an institution-specific basis. There are a number of reasons for this practice:

It is of critical importance to protect the integrity of an ongoing investigation. The disclosure of any information concerning a criminal referral (*e.g.*, the name of the suspect, the transaction at issue, sometimes even the name of the institution) may serve to alert a suspect that an investigation may be pending, and enable the suspect to conceal or destroy evidence, conceal or dissipate the proceeds of the crime, fabricate evidence, or otherwise impede the investigation. For this reason, RTC generally asks that inquiries concerning criminal investigations be directed to the Department of Justice.

It is the policy of RTC and of the supervisory agencies to strongly encourage the early detection and reporting of suspected criminal activity. For that reason, open institutions are required to file a report of suspected criminal activity even when the ground for suspicion is much less than "probable cause" or any other ground for judicial action. Open savings associations are required to make criminal referrals in respect of "all matters, including unexplained losses, for which there is a known factual basis or a *belief* that a crime has been or *may have been* committed." 12 CFR § 563.180(d) (emphasis added).² Also see 12 CFR § 21.11(b) (Federal Reserve Board; known or suspected violation or potential violation) and § 208.20 *as amended*, 58 Fed. Reg. 47208 (September 8, 1993)

² At the end of October 1992, Congress enacted amendments to the Bank Secrecy Act under which the Secretary of the Treasury might "require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation." Pub. L. No. 102-550, § 1517(b), *codified at* 31 U.S.C. § 5318(g)(1). However, this statute does not provide the basis for the regulations requiring general criminal referrals, which predate this statute by a number of years. See, *e.g.*, 12 CFR § 563.18(d) (1986) (Federal Home Loan Bank Board; criminal referrals). The Treasury Department does not appear to have adopted regulations implementing this provision, although there are regulations requiring reports to be made under the Bank Secrecy Act, see 31 CFR §§ 103.21-103.29 (currency transaction reports, reports of foreign financial accounts, etc.).

(FRB; unexplained losses or known or suspected criminal acts); 12 CFR § 353.0 *as amended*, 58 Fed. Reg. 28774 (May 17, 1993) (FDIC; "reasonable basis for believing that a crime has occurred, is occurring, or may occur"); 12 CFR § 748.1(c) *as amended*, 58 Fed. Reg. 17492 (April 5, 1993) (NCUA; crime or suspected crime).³ This policy has two consequences:

- Criminal referrals may be based on the sketchiest of information, fleshed out by inferences and suspicion. Disclosure of referrals could lead to severe damage to an individual's reputation—which could prove, in the end, to be unwarranted. On the other hand, to the extent that the referral is supplemented by more substantial evidence, disclosure could impede an ongoing investigation or impair a prosecution, as described more fully above.
- Because of the harm that could result to personal reputations and business prospects if criminal referrals were disclosed, it can be anticipated that disclosure would result in suit for defamation, deprivation of civil rights under color of Federal law, etc. The chilling effect on the free flow of ideas and the encouragement of such reports that would flow from such litigation supports the same kind of exemption from disclosure that is accorded to predecisional, deliberative documents by the deliberative process privilege.⁴

Both because of the potential damage to an innocent person's reputation and because of the risk of exposure to litigation for wrongful referrals, failure adequately to protect the confidentiality of criminal referrals could severely impair the usefulness of criminal referrals by sharply diminishing the willingness of industry and Government personnel to make referrals.

Q.1.F. Also, how do the rights of private citizens differ from those of the Committee for purposes of reviewing documents? How could the release of the criminal referrals prejudice an ongoing investigation?

A.1.F. The RTC understands that the position that an official Committee request requires the agency to turn over a much broader range of documents than would be available to a private citizen under a FOIA request. The types of materials which have been provided in the past with respect to personnel matters and ongoing investigations and litigation are good examples. As a general proposition, FOIA exemptions, in and of themselves, are not applicable to a request from the Committee.

Please refer to our response to Question 1.E for further information.

Q.1.G. Does the White House or any employees of the White House or the Clintons have copies of the criminal referrals? If so, how were these referrals obtained?

³By contrast, a grand jury may indict only if it finds probable cause to believe that a crime was committed and that prosecution of the individual is warranted. *United States v. Calandra*, 414 U.S. 338, 343 (1974); *Branzburg v. Hayes*, 408 U.S. 665, 686–87 (1972).

⁴Late in 1992, Congress enacted an amendment to the Bank Secrecy Act that provides immunity to suit for "[a]ny financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority." Pub. L. No. 102-550, § 1517(b), 106 Stat. 4055, 4058–59, *codified at* 31 U.S.C. § 5318(g)(3). We know of no case interpreting this provision or applying it to a conservatorship, receivership, or Government corporation.

A.1.G. The RTC has no knowledge that any of those identified have copies of any criminal referrals.

RTC's Relationship With the Department of Justice

Q.2.A. Mr. Altman, I understand that regional RTC offices originate and refer the "authority to sue" memorandum to, in general, U.S. Attorneys working for the Department of Justice. I assume that specific Justice attorneys work thereafter in conjunction with the RTC attorneys on particular cases. Nevertheless, the Madison case resulted in two separate referrals. Assuming that the RTC and Justice work together closely on referrals, how did two referrals come about in the Madison case?

How common is it for RTC headquarters staff in Washington to review and make a determination on a referral?

What is the RTC's procedure on referrals when a prominent public figure is mentioned in a referral? Does the procedure differ from other referrals?

A.2.A. There is no specific procedure relevant to the referral of a "prominent public figure." See the answer to Question 1 with respect to the types of matters which are referred to the Department of Justice and the nature of any continuing involvement by RTC employees with Department of Justice investigations and prosecutions.

Q.2.B. Has the Madison Guaranty referral been handled differently from other referrals? In what way?

A.2.B. The Madison Guaranty referrals were handled pursuant to procedures previously discussed in our response to Question 1.

Q.2.C. Who is the White House liaison on the Madison Guaranty issues? Has this liaison or any other White House staff made any special requests concerning the Madison Guaranty probe?

A.2.C. The RTC has no liaison with the White House on this matter. Former CEO Roger Altman has responded to the Committee regarding his contacts with the White House.

Other RTC Referral Issues

Q.3.A. Mr. Altman, it appears that the first criminal referral in the Madison Guaranty probe was initiated in the fall of 1992. Apparently without any discussion with Justice concerning the first criminal referral, the RTC then sent another team of investigators to Little Rock in January of 1993 to more fully examine the issues surrounding Madison Guaranty. By October 1993, the RTC had drafted an expanded referral.

Is this normally how referrals are handled?

A.3.A. RTC will not comment on the Madison criminal referral process beyond the answers provided to Questions 1 and 2.

Q.3.B. I am particularly troubled by the fact that it took over a year for the RTC to receive an official response on the initial criminal referral. Also, is it normal RTC practice to send additional investigators for further investigation on a matter before hearing the status of the first referral?

A.3.B. There is no standardized procedure in this regard. Any questions concerning responses from the Department of Justice in this matter should be directed to the Department of Justice.

Q.3.C. In particular, were there special factors which warranted an additional investigation? If so, what were these factors?

A.3.C. For the reasons previously stated, the RTC will not respond to this question.

Q.3.D. I am also interested in getting a timeline and explanation of all criminal referrals and related responses and memorandums in the Madison Guaranty probe. By this I mean, I would like the dates of all referrals and responses to these referrals, including the names of all Justice and RTC employees involved. If these issues are considered confidential, how so? Also, how could release of this information prejudice an ongoing investigation?

A.3.D. For the reasons previously stated, RTC will not respond to this question.

The public release of information pertaining to suspected criminal conduct could lead to the concealment of evidence or other activities that would make the investigation difficult to complete. Criminal investigations are never conducted in a public forum.

Justice Memo—Criminal Investigation Unwarranted

Q.4. Mr. Altman, a March 19, 1993, memo from the criminal division of Justice apparently concluded that the initial RTC criminal referral on the Madison Guaranty probe "did not appear to warrant initiation of criminal investigation." How was this decision made in terms of the decisionmaking procedure and the underlying legal theory? Who is responsible for communicating these decisions?

A.4. These questions should be directed to the Department of Justice.

Document Inventory

Q.5. Mr. Altman, I would like a complete copy of the current inventory of all documents relevant to the Madison Guaranty and Whitewater probe. I would also like a list of all prior document inventories and dates of these inventories. I would also like a list of where all documents were obtained from and when. This information may be provided confidentially to the Committee. If you refuse to provide this information, I would like a legal opinion on how the release of this information could prejudice an ongoing investigation.

A.5. Inventories maintained by RTC investigators are working documents that are material to the investigation itself and cannot be released at this time. The RTC has provided to the Committee and individual Members of Congress copies of Madison Guaranty document inventories.

For RTC Acting Director Altman

Q.6. Another area of concern is the seeming lack of coordination between the RTC and the Department of Justice.

In March of 1992, the *New York Times* reports on the Whitewater/Madison situation with allegations of sweetheart deals in return for lenient regulatory treatment, and the issue suddenly

became part of the 1992 Presidential campaign. RTC then sends a new team of investigators to Arkansas to look more closely at connections to local politicians.

Is this an accurate portrayal of the reason/reasons that the RTC became involved again in the Madison case? If not, what did occur? Who made the decision to begin the investigation of Madison? Did the RTC regional office notify the national office or the Department of Justice that they were opening a potential case against Madison? If so, who was informed?

A.6. For the reasons previously stated, RTC will not respond to these questions.

Q.7. In September 1992, regional RTC forwards a criminal complaint dealing with Madison Guaranty to the Department of Justice. According to press reports the local Federal attorney in Little Rock is concerned that because Bill Clinton is included in the referral, that the decision to pursue the case should be made in Washington. He sends an urgent letter on October 7, 1992, asking for assistance.

Are the press reports accurate? Please provide a copy of that letter for the record.

A.7. This question should be directed to the Department of Justice. For the reasons previously stated, RTC will not respond to this question.

Q.8. Then Attorney General Barr is apparently concerned that pursuing the case one month before the election will look as if the Justice Department was being politicized, and so sends the referral to career people with DOJ with instructions that it be treated no different than any other referral.

Is this the RTC's understanding of events? If not, what is your understanding?

A.8. These questions should be directed to the Department of Justice. For the reasons previously stated, RTC will not respond to these questions.

Q.9. March of 1993 the DOJ reports their recommendation that no action is "warranted," referral and recommendation is then forwarded to the new Federal attorney in Little Rock, Paula Casey.

Meanwhile, the RTC has decided to send investigators back to Little Rock in January of 1993, and they begin working on a second, broader referral.

Is this description of the chronology correct? If not, what did occur?

A.9. For the reasons previously stated, RTC will not respond to this question.

Q.10. In September of 1993 the KC regional office of the RTC, now again concerned that their referral will mention the President's name—not to accuse him of any specific crime, but noting he may have benefited from crimes that had been committed, asks the National office for assistance in determining whether the President's name is to be part of the referral.

Mr. Altman has testified that he knew nothing of this request. Who in the National office was aware of the request, and who then

made the decision to not inform the acting director of the RTC of the request?

A.10. For the reasons previously stated, the RTC will not respond to this question. The general matter is under investigation by Independent Counsel Robert Fiske and the RTC is cooperating fully with this investigation.

Q.11. The new referral is sent to DOJ, and arrives in Little Rock a short time before Little Rock Federal prosecutor Paula Casey finally makes a decision on the original RTC referral—saying she “concurrs” that no further action is “warranted.” But she doesn’t act on the second referral.

Is this accurate? Specifically note for the record when the second (October 1993) referral was sent, to whom, and when it was received.

A.11. For the reasons previously stated, the RTC will not respond to this question.

Q.12. Was there any communication from the field or regional office re: status of the first (September 1992) referral? Did they ask the National office for assistance in moving the process along? If so, who asked whom? What was Washington’s response? If possible, please provide copies of all correspondence relating to moving the referral along.

A.12. For the reasons previously stated, the RTC will not respond to these questions.

Q.13. Did Washington follow up by contacting the Department of Justice? If so, who contacted who? What was the response, and who was it from? Again please provide any correspondence pertaining to this issue.

A.13. For the reasons previously stated, the RTC will not respond to these questions.

Q.14. Did RTC officials contact the Little Rock attorney’s office to check on the status of the referral? If so, who made the contacts and when? And what was the response? And who was it from? Again, please provide any correspondence pertaining to this issue.

A.14. For the reasons previously stated, the RTC will not respond to these questions.

Q.15. What is the standard operating procedure when the field seeks answers on referrals? Is it SOP [Standard Operating Procedure] that the RTC would not hear for a year the status of their referral? Is it SOP that while waiting, the RTC field office would send additional investigators to continue digging—and then send up an expanded referral, even before hearing on the first?

A.15. Procedures regarding methods of tracking disposition of criminal referrals by enforcement agencies are not standardized. It is our understanding that there are no standard operating procedures regarding referrals in the various U.S. Attorneys’ offices or the FBI and that procedures vary from office to office throughout the country. Criminal coordinators do maintain contact with the DOJ and FBI to ascertain the status and disposition of referrals. Information about dispositions is tracked by the RTC and may be used to obtain additional recoveries as a result of convictions.

Q.16. Specifically, who decided to send RTC investigators back to Little Rock in January of 1993? Was Washington informed? Did the local or regional office ask permission to proceed, given that no answers had been forthcoming from Justice on the first referral? Was Justice informed of this action? If so, who was informed and when?

Again, please provide any correspondence pertaining to this issue.

A.16. For the reasons previously stated, the RTC will not respond to these questions.

Q.17. What was the reason for the decision to send personnel back to Little Rock in January 1993? What happened between September 1992, when the RTC sent up its criminal referral, and January when they sent investigators back to Little Rock?

A.17. For the reasons previously stated, the RTC will not respond to these questions.

Q.18. Was the RTC—either local, regional, or DC—informed of the March 19, 1993, memo by the Department of Justice that the RTC referral “did not appear to warrant initiation of criminal action?” Why not? Who is responsible for communicating these decisions?

A.18. For the reasons previously stated, the RTC will not respond to these questions.

Q.19. When the second stronger, broader referral was sent up in October of 1993, did the RTC make a specific push to Justice saying we have more information; please make a decision? Was the RTC informed that the decision was at that point resting in the hands of the Little Rock Federal prosecutor? Did they send in the referral directly there, or a copy directly there, knowing of the delays of the past?

A.19. For the reasons previously stated, the RTC will not respond to these questions.

Q.20. What is the holding period before sale of multi-family housing in the RTC Affordable Housing Program? What is the per day cost to the RTC for this holding period?

A.20. On average, 385 days elapse from the date the RTC begins marketing a multi-family property in the Affordable Housing Disposition (AHD) Program and the date the RTC transfers title to a buyer.

The RTC assumes that average holding costs for all real estate (which includes multi-family housing), range from 10 percent to 15 percent of market value per year. This range results from the sum of the following components of holding cost: (1) one to two percent for real estate taxes and insurance; (2) three to six percent for maintenance of the property and its entitlements; (3) one to two percent for asset management contract fees; and (4) five percent for the cost of capital. This data is based on a detailed review of a representative sample of real estate properties in the RTC’s inventory. The RTC keeps these costs to a minimum by commencing the Affordable Housing Disposition (AHD) Program marketing process as soon as properties are available for sale.

Q.21. What percentage of the appraised value does the RTC receive on multi-family housing in the Affordable Housing Program? How

is this determined? How recent are the appraisals, and how are the appraisals conducted?

A.21. Through January 31, 1994, the RTC has sold 568 multi-family properties under the Affordable Housing Disposition (AHD) Program and has recovered 73 percent of appraised value. On these 568 sales, the RTC received \$639.2 million in sales proceeds. These 568 properties were appraised at \$872.0 million. This appraised value figure represents these assets' valuation assuming no affordable housing use restrictions (the "unencumbered appraised value"). This data was extracted from the RTC's Real Estate Owned Management System.

The RTC's appraisal requirements for multi-family properties are as follows. For properties valued below \$100,000, an appraisal is recommended but not required. For properties valued between \$100,000 and \$2.5 million, at least one appraisal is required. For properties valued at \$2.5 million and above, the RTC requires that either: (1) two appraisals be performed, or (2) one appraisal be comprehensively reviewed and concurred with by a second appraiser. These appraisals are performed with the appraiser assuming no affordable housing use restrictions ("unencumbered appraised value"). Appraisers may also be asked to provide an additional value conclusion, which should represent an estimate of the "as encumbered market value" of the property assuming it were placed into the RTC's Affordable Housing Program and subject to the RTC's land-use restriction agreement.

It should be noted that these are minimum appraisal requirements and additional appraisals and/or reviews can be obtained in addition to required appraisals. Also, if any appraisal fails an initial RTC compliance checklist, the appraisal must be corrected, or a second appraisal must be obtained. Appraisals on owned real estate can generally be relied upon for up to 24 months but can be ordered earlier if market conditions have significantly changed (note this is a guideline and not a regulation).

All RTC contract appraisers are asked to prepare their appraisals in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) which in essence are now industry-wide standards. Per Federal law, all individuals providing appraisal services to the RTC must be properly licensed.

Q.22. How many single-family and multi-family properties in the Affordable Housing Program are sold with purchase money mortgages? What percentage of the properties in the Affordable Housing Program are sold with purchase money mortgages? What is the rate of default for these properties? What steps does the RTC take to avoid default?

A.22. Through January 31, 1994, RTC has provided purchase money mortgages on 4,398 single-family properties (\$130.9 million total loan amount) and 188 multi-family properties (\$134.2 million total loan amount) sold through the AHD Program. Purchase money mortgages have been provided on 21.56 percent of the single-family properties and 30.87 percent of the multi-family properties sold under the AHD Program.

The RTC still owns and continues to service 4,179 of the single-family loans made under the program. Of the 4,179 loans, 144

loans with an original principal balance of \$5.06 million are currently over 60 days delinquent and 53 loans with a principal balance of \$2.0 million are in foreclosure. Based on outstanding principal balance of loans, 4.08 percent are currently over 60 days delinquent and 1.61 percent are currently in foreclosure.

The RTC still owns and continues to service 188 of the multi-family loans made under the program. Of the 188 loans, 3 loans with a principal balance of \$1.5 million are currently over 60 days delinquent. No loans are currently in foreclosure. Based on outstanding principal balance of loans, 1.11 percent are currently over 60 days delinquent.

The RTC's primary means of avoiding default is careful underwriting at the time a loan is made. The RTC has developed two comprehensive manuals for underwriting single-family (Manual 10150.10) and commercial properties (Manual 10100.20). Underwriting is performed by firms under contract to the RTC that have expertise in commercial and residential loan underwriting. The recommendations of the fee underwriters are made to an independent loan review authority within the RTC that operates outside the sales process that makes the ultimate underwriting decision.

When a single-family loan becomes delinquent, various steps are taken by the RTC's loan servicer to work with the borrower to develop a plan for bringing the loan current. The procedures which are pursued with the borrower are outlined in the excerpt from the RTC's Single Family Seller Financing Manual (Manual 10150.10). See Attachment K.

When a multi-family affordable housing loan becomes delinquent, the RTC's loan servicer also contacts the borrower to understand the financial condition of the borrower in an effort to see if the loans can be brought current. In situations where the loan cannot be brought current, various loan workout arrangements are pursued as outlined in the attached excerpt from the RTC's Asset Management and Disposition Manual (Manual 10100.1).

Q.23. What is the status of the consolidation of the RTC and FDIC Affordable Housing Programs? What are the outstanding issues?

A.23. The RTC Completion Act requires that the RTC and the FDIC develop a plan for creating a unified Affordable Housing Program by April 17, 1994. This unification plan must be implemented by August 17, 1994. The FDIC and the RTC developed an outline for unifying the two programs which was approved by the Affordable Housing Advisory Board on March 16, 1994. The plan is currently being finalized and is expected to be approved by April 17, 1994. The transition to the FDIC is expected to take place by October 31, 1995.

Q.24. There is a proposal to transfer 50 HUD-owned multi-family housing properties to the RTC for sale to determine the effectiveness of using rent restrictions for low-income use as opposed to Section 8 deep subsidies. Does the RTC support this proposal since it scheduled to go out of business at the end of 1995? Would this proposal interfere with the ability of the RTC to manage and sell its own affordable housing inventory?

A.24. The Administration's legislative proposal to conduct this initiative was not included in H.R. 4067, the Multi-family Housing

Property Disposition Reform Act of 1994. Consequently, the RTC and the Department of Housing and Urban Development do not plan to conduct this initiative.

Q.25. What steps has the RTC taken to improve its management capacity with regard to the requirements of the RTC Completion Act?

A.25. See Attachment L which is a status report on the RTC's implementation of the management reform requirements of the RTC Completion Act.

RESPONSE TO VERBAL QUESTIONS OF SENATOR BENNETT

Q.1. What is the RTC's response to RTC Denver Oversight Manager, Mr. John B. Kavanaugh's, comments that appeared in the *Denver Post*?

A.1. All Federal agencies are required by Federal regulations to implement an affirmative action program for minorities and women. This includes a review of the work force of the agency and the establishment of goals or guidelines, not quotas, to achieve a work force that more closely reflects the civilian labor work force (CLF) statistics, especially at the senior levels. This does not constitute discrimination based on race and sex (white male) as alleged by Mr. Kavanaugh, but signals a commitment to diversify the work force by targeting recruitment to groups that were historically excluded from the process. Targeting recruitment helps create diverse applicant pools of qualified minorities and women from which selections can be made. The Resolution Trust Corporation (RTC) established an Affirmative Action Program and is working with managers to increase the representation of minorities and women in grades 13 and above in our work force.

The Department of EEO and Affirmative Action (DEEO/AA) is working with managers to recruit diversified applicant pools, and hire and promote qualified minorities and women at the senior levels. This includes monitoring work force profiles, new hires, and promotions. Based on our review of 1993 hiring and promotions, there is no evidence that non-minority men are not being selected or promoted within the Corporation.

The following statistics show the percentage of hires and promotions at grades 13 and above for 1993:

<i>Group</i>	<i>Corporation %</i>	<i>Denver Field & Denver FSC %</i>
Non-Minority Men	52.1	47.2
Non-Minority Women	32.1	42.2
Minorities	15.8	10.6

For both the Corporation and Denver, the highest percentage of hires and promotions at the senior levels were for non-minority men.

In addition, the work force profiles at grades 13 and above for both the Corporation and Denver as of February 19, 1994, show

that continued affirmative action efforts are necessary to diversify the work force.

<i>Group</i>	<i>Corporation %</i>	<i>Denver & FSC %</i>	<i>1990 CLF %</i>
Non-Minority Men	62.6	58.7	47.2
Non-Minority Women	25.2	32.2	40.4
Minorities	12.2	9.0	17.5

Based on this information, the DEEO/AA is continuing to work with managers to update goals and diversify the work force.

RESPONSE TO VERBAL QUESTIONS OF SENATOR KERRY

Q.1. Please provide the Committee with a Listing of PLS Recoveries by State.

A.1. See Attachment M for a list of all RTC PLS recoveries, by State, received as of March 15, 1994.

RESPONSE TO VERBAL QUESTIONS OF SENATOR BOND

Q.1. Has the records management department been given instructions about the handling of Madison documents from somebody outside? Have they found any evidence of missing documents, or have they found that any documents are apparently missing?

A.1. The records management department in Kansas City and in Washington has not been given any instructions regarding the handling of Madison documents from outside the Corporation. The records have been managed using our standard procedures with the exception that the Kansas City records management department has established a central point of contact for all inquiries relating to Madison records. In addition, the Kansas City records management department has found no evidence of any missing documents from the collection of Madison records under its control.

Q.2. Will Pillsbury & Madison, as outside counsel for RTC on Madison, review the potential of suing various other law firms who represented Madison, or even the Board of Directors? Are there other outside counsel or consultants hired in conjunction with Madison?

A.2. Pillsbury, Madison & Sutro, as outside counsel for the RTC, is working under the direction of the RTC Professional Liability Section staff. At this point, there are no other counsel hired by the RTC in connection with this investigation. While we are seeking to engage other professionals in this case, they have not yet been engaged.

RESPONSE TO VERBAL QUESTIONS OF SENATOR BOXER

Q.1. Please provide a list of RTC outside counsel that the RTC has found have undisclosed conflicts of interest (and conflicts not timely disclosed) retained in the fourteen "mega" thrifts controlled by RTC.

A.1. For the time period for which RTC data is available (from June 1992 to March 1994), we have surveyed those matters in

which the RTC has considered conflicts of interest (both representational conflicts as well as non-representational fitness and integrity issues pursuant to 12 CFR Part 1606) which were not disclosed by outside counsel, but which were brought to its attention by other means (for example, due to discovery by RTC/FDIC personnel or other outside representing the RTC/FDIC in the matter).

Of the 45 decisions concerning such conflicts of interest, 21 involved law firms which have performed legal work for the RTC arising from its 14 largest failed financial institutions (those having an estimated cost of resolution in excess of \$1 billion). See Attachment N.

RESPONSE TO VERBAL QUESTIONS OF SENATOR DOMENICI

Q.1. I would like an investigation of the Rose Law Firm by the Inspector General.

A.1. On March 2, 1994, Mr. Jack Ryan, Acting Chief Executive Officer and Deputy Chief Executive Officer, sent a memorandum to Mr. John Adair, RTC's Inspector General, requesting an investigation of the OCOS report and an audit of the Rose Law Firm billings. See Attachment O.

RESPONSE TO FOLLOWUP QUESTIONS OF SENATOR KERRY

Q.1. Has the Office of Thrift Supervision ("OTS") considered or taken any enforcement action against any officer, director, or institution-affiliated party of United Savings Association of Texas ("USAT") since the institution's failure in 1988? If so, provide the date that any investigation pertaining to USAT began, and any actions taken in connection with the investigation; the statute of limitations with respect to USAT; any enforcement action the OTS is considering or may undertake with respect to USAT; and any related information that may properly be made available to the Committee in its oversight capacity.

A.1. As a matter of established policy, OTS is unable to confirm or deny that it has undertaken any investigation pertaining to USAT or considered any enforcement action against any officer, director, or institution-affiliated party of USAT since the institution's failure in 1988. To date, there have been no final agency orders entered against any officer, director, or institution-affiliated party of USAT.

The only statute of limitations applicable to OTS enforcement actions is paragraph 8(i)(3) of the Federal Deposit Insurance Act, which provides for a six year limitation period, which begins to run when an institution-affiliated party resigns or is terminated from an insured depository institution. See 12 U.S.C. 1818(i)(3).

STATUS OF RTC'S RESPONSE TO SELECTED GAO RECOMMENDATIONS
(as of March 31, 1994)

ATTACHMENT A

REPORT NUMBER	REPORT DATE	RESPONSE TO GAO REPORT	SENATE MARK COM. (2/23/94)	RECOM IN REPORT	CLOSED	ACTIONS IN PROCESS	ACTIONS NOT FULLY RESPONSIVE*	ACTIONS NOT YET TAKEN**	UNDER REVIEW BY GAO	RTC PREPARING RESPONSE
GCD-93-7	10/20/92	05/11/93 05/04/93	1	2	1			1		
GCD-93-76	4/28/93	09/08/93 06/22/93	2	4	2	2				
GCD-93-107	9/13/93	02/17/94	2	2			2			
GCD-93-80	4/8/93	09/08/93 06/28/93	4	4		4				
GCD-93-115	7/7/93	08/31/93	3	3		3				
GCD-93-116	7/23/93	02/28/93	6	6		6				
GCD-93-127	7/26/93	09/24/93	2	2		2				
GCD-93-139	9/27/93	05/28/94	1	1					1	
GCD-94-5	10/30/93		2	2						2
GCD-94-19	10/28/93	03/08/94	4	4					6	
GCD-94-41	12/22/93		4	4						4

* GAO has indicated that the actions proposed by RTC, to date will not effectively implement the recommendations.

** Corrective Action has not yet been initiated, trigger event has not yet occurred.

STATUS OF RTC'S RESPONSE TO SELECTED GAO RECOMMENDATIONS
(as of March 31, 1994)

REPORT NUMBER	REPORT DATE	RESPONSE TO GAO	RECORDS SERIALIZED COMM. (2/23/94)	RECORDS IN REPORT	CLOSED	ACTIONS IN PROCESS	ACTIONS NOT FULLY RESPONSIVE*	ACTIONS NOT YET TAKEN**	UNDER REVIEW BY GAO	RTC PREPARING RESPONSE
OGD-94-62	12/29/93		3	3						3
OGD-94-37	2/1/94		2	2						2
OGD-93-2	10/7/92	11/13/92 05/11/93	5	7	4		1	2		
OGD-92-137	9/29/92	09/09/93 06/22/93	1	4	3	1				
T-OGD-92-62	8/11/92		2	2		2				
OGD-92-33BR	2/1/92	02/03/94 01/25/94 11/19/93 07/23/93 06/04/93 04/13/93 09/22/92 05/26/92 05/20/92	1	3	2			1		
OGD-92-7	10/31/91	06/22/93 11/05/91	1	1			1			
T-IMTEC-91-1	10/16/91		2	3	3					
OGD-91-121	8/30/91	10/19/93 06/22/93	1	4	3		1			

* GAO has indicated that the actions proposed by RTC, to date will not effectively implement the recommendations.

** Corrective Action has not yet been initiated, trigger event has not yet occurred.

STATUS OF RTC'S RESPONSES TO SELECTED GAO RECOMMENDATIONS
(as of March 31, 1994)

REPORT NUMBER	REPORT DATE	RESPONSE TO GAO	RECOMM. SENATE BANK COMM. (2/23/94)	RECOMM. IN REPORT	CLOSED	ACTIONS IN PROCESS	ACTIONS NOT FULLY RESPONSIVE*	ACTIONS NOT YET TAKEN**	UNDER REVIEW BY GAO	RTC PREPARING RESPONSE
T-AFMD-90-15	4/6/90		1	2	2					
GCD-92-148R	11/1/91		1	0						
IMTEC-92-34	3/5/92	08/17/92	4	4	4					
AHMD-93-50	9/28/93	01/10/94	3	3		3				
GCD-93-105	6/28/93	09/17/93	3	3		3				
GCD-92-136	9/29/92	06/22/93	1	4	4					
GCD-92-1348R	9/24/92	06/22/93 11/30/92	1	1			1			
GCD-90-87	5/25/90	10/29/90	1	2	2					
GCD-92-47	3/5/92	06/22/93	3	4	4					
GCD-91-136	9/18/91	12/23/93	1	1		1				
TOTALS			68	87	34	27	6	4	5	11

* GAO has indicated that the actions proposed by RTC, to date will not effectively implement the recommendations.

** Corrective Action has not yet been initiated, trigger event has not yet occurred.

ATTACHMENT B



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

February 10, 1994

The Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Don:

This letter is an update on the status of our efforts at the RTC to address the issues raised at the Committee's September 23, 1993 hearing.

First, I am pleased to inform you that Jack Ryan has been appointed as Deputy C.E.O. and Ellen Kulka has been appointed as General Counsel (see attachment A). The addition of these two highly qualified individuals will provide strong management and leadership at the RTC. We are also well along in the process of securing a permanent chief executive officer which I look forward to discussing with you soon.

As I stated in my September 28, 1993 letter, the allegations of retaliation against whistleblowers were deeply troubling and would not be tolerated. I have taken several actions to address each of the allegations made by the individuals who testified before the Committee. I issued a memorandum on October 4, 1993 to all employees strongly reiterating the RTC's policy prohibiting retaliation against whistleblowers (see attachment B). I also established an Employee Ombudsman program to, among other things, augment the efforts of the Inspector General in gathering all types of employee allegations (see attachment C). The Employee Ombudsman reports directly to me on a weekly basis on the activities of the office. The Employee Ombudsman Program appears to be well received by RTC personnel. Additionally, the Office of the Inspector General has issued a revised rule in connection with retaliation against whistleblowers (see attachment D).

We have had ongoing, extensive discussions with the FDIC with respect to the Professional Liability Section. These discussions have focused on the recommendations of the GAO/PLS study and our goal, as set forth by Secretary Bentsen in his statement on RTC management reforms, that the program have both competent staff and adequate staffing levels. Ms. Kulka considers the continuation of these efforts one of her top priorities as she assumes the role of General Counsel.

- 2 -

I created a "Dallas Professional Liability Review Team" to pursue the concerns raised at the hearing. This team, comprised of attorneys from the Department of Treasury, investigators from the Secret Service and one investigator and one attorney from the RTC, made two separate trips to Dallas and interviewed more than 50 current and former RTC officials in Dallas and in Washington. The review team has provided their initial findings to me and I expect to receive additional information from them within the next few weeks. Upon review of their findings I will implement any necessary and appropriate changes in personnel or policy.

The RTC was aware of sexual harassment issues prior to the testimony and had taken, and was taking, action to correct the problems. Since the hearing, follow-up visits have been made to the RTC offices in Newport Beach and Atlanta locations in which incidents of sexual harassment had occurred. An employee in the Newport Beach office was dismissed as a result of these incidents and additional training was provided. The follow-up visits were designed to ensure that the earlier actions the RTC had taken were sufficient to remedy these problems. The explicit message conveyed by the visits was that sexual harassment simply will not be tolerated anywhere within the RTC.

The issues involving contracting have been addressed in multiple ways. First, the Office of Contracts was split into two separate divisions, Contract Solicitation and Award and Contract Administration, and the 1994 RTC budget provides for 42 additional people to be assigned to these two areas. Second, all contract proposals with anticipated fees in excess of \$25,000 must be reviewed by the Office of Ethics and any contractors who violate RTC policies or procedures will face contract termination as well as debarment. Third, the Office of Contractor Oversight and Surveillance has been authorized to increase its staff by 147 people in order to improve the quality and frequency of oversight. Fourth, a Contractor Performance Tracking System has been established to more objectively evaluate contractor performance and to maintain continuous contact with Accounts Payable to ensure compliance with regulatory and other legal requirements (see attachment E).

As a means of supplementing the information revealed at the hearing, we have had conversations in person and by telephone with six of the individuals who testified before the Committee. Two additional individuals were contacted, but declined interviews. During these interviews we solicited comments, feedback and suggestions from the individuals on how best to remedy the problems raised in their testimony. Some of these interviews were insightful and have been useful in our efforts to remedy some of the management problems at the RTC. For example, the meeting with Mr. Burnside provided us with the initial information which helped the Dallas Professional Liability Review Team to prepare for the Dallas visits.

- 3 -

We have spent numerous hours working to identify and address the issues raised at the hearing before the Committee. I have attached for your information an overall summary of the actions we have taken to date (see attachment F). We are not finished and the work will continue. As I stated in my previous correspondence to you, the RTC is in better shape now than when we inherited it and we are working diligently to ensure that the improvements continue. We want to work with you in accomplishing our goals and ensuring that, to the fullest extent possible, all of the problems which your witnesses illuminated are fully remedied.

Best regards.

Sincerely,



Roger C. Altman
Interim CEO

DEPARTMENT OF THE TREASURY

TREASURY  NEWS

1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
December 23, 1993

CONTACT: HOWARD SCHLOSS
(202) 622-0136

RTC ANNOUNCES NEW INTERIM DEPUTY CEO AND GENERAL COUNSEL

WASHINGTON -- Roger C. Altman, Deputy Secretary of the Treasury and Interim Chief Executive Officer of the Resolution Trust Corporation, announced today that Jack Ryan will become the interim Deputy Chief Executive Officer of the RTC and Ellen Kulka will become the General Counsel of the RTC.

Ryan's appointment will become effective January 4, 1994, and Kulka's appointment will become effective January 17, 1994.

Ryan has been Regional Director of the Southeast Region for the Office of Thrift Supervision since 1989. Before going to OTS, Ryan served as Acting President and Senior Vice President of the Federal Home Loan Bank of Boston. From 1969 until 1985, he was Director of the Division of Banking Supervision and Regulation for the Board of Governors of the Federal Reserve System.

"As interim Deputy CEO, Jack Ryan will manage the RTC on a day-to-day basis and be based at the RTC in Washington," Altman said. Ryan will serve until a permanent CEO is confirmed by the Senate and takes office, Altman said.

Kulka is currently the Northeast Regional Counsel of the OTS. Before going to OTS, she was a member of the law firm Hannoch Weisman, where she served as chairman of the corporate department. During her tenure as chairman of the corporate department at the firm, the division grew from five attorneys to 30 attorneys.

"Ellen is an exceptional attorney with a great deal of experience with laws pertaining to the thrift industry," Altman said. "For the last two years she has had the responsibility for supervising all of the OTS attorneys in the Northeast Region."



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

October 4, 1993

MEMORANDUM TO: All RTC Employees

FROM: Roger C. Altman *RCA*
President and Chief Executive Officer (Interim)

SUBJECT: Whistleblower Protections

I am deeply troubled by the allegations made by witnesses at the RTC whistleblower hearing held last Thursday, September 23 before the Senate Committee on Banking, Housing and Urban Affairs.

I want to emphasize that it is RTC policy to encourage employees to report suspected waste, fraud and abuse and mismanagement. The RTC Office of the Inspector General has a toll free hotline (800-833-3310) for this purpose. In addition, I am establishing a policy by which employees may also feel free to bring such allegations directly to the attention of Senior Management or to my office. I will ensure that any allegations raised in this manner will be promptly investigated and addressed at the most senior management levels.

Employees may use these procedures without fear of reprisal. It is strict Corporate policy that retaliation or reprisal against individuals who make such disclosures will not be tolerated. Employees who believe that they have been subject to retaliatory treatment should be aware that there are administrative as well as statutory protections available. Please be assured that allegations of wrongdoing as well as retaliation for whistleblowing activities raised through any internal procedures will be assigned the highest priority.

I realize that the vast majority of RTC employees are very professional and adhere to high professional standards, however, when there are allegations of wrongdoing by any employee it is our duty to investigate them fully and take appropriate action.



RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

November 22, 1993

Memorandum for All RTC Employees

From: Roger Altman, President and Chief Executive Officer (Interim)

Subject: Employee Ombudsman

Effective December 1, 1993, the RTC is establishing an Employee Ombudsman.

This step would facilitate addressing employee concerns by directly linking the employees to the office of the Chief Executive. It will augment established procedures already available to RTC employees.

RTC management and employees have done an outstanding job under difficult circumstances. The pressures, however, sometimes have eclipsed legitimate concerns of employees. The Employee Ombudsman Program is a means for addressing these concerns.

RTC's Executive Secretary, John Buckley, has been designated as the Employee Ombudsman. In this capacity, Mr. Buckley will report directly to the CEO. He, or a member of his staff assigned to this function, can be contacted directly Monday through Friday, 9:00 a.m. to 5:00 p.m. eastern time, by calling 202/ 416-4242. They may also be contacted through the E-Mail system by addressing messages to: "RTC Employee Ombudsman."

Employees should use this process without fear of reprisal. To that end, requests for confidentiality will be honored to the maximum extent possible. Reprisals against employees who use the Employee Ombudsman program will not be tolerated.

You may call the Employee Ombudsman's office at the above number if you have any questions regarding the program.

**RESOLUTION TRUST CORPORATION
OFFICE OF INSPECTOR GENERAL
Policies and Procedures Manual**

PART: I. Operations Policies and Procedures
SECTION: OIG-110 General Management Policies and Procedures
CHAPTER: 110.6 Handling RTC Employees' Allegations of Retaliation

1. **Purpose.** To communicate Office of Inspector General (OIG) policy and procedures for reviewing allegations of retaliation and reprisals against RTC employees who complain about RTC operations or otherwise disclose information to the OIG. This chapter also highlights procedures for protecting the identity of those RTC employees who report suspected wrongdoing to the OIG and for handling other allegations of retaliation.

2. **Background**

a. The Inspector General Act of 1978, as amended prohibits reprisals against RTC employees for reporting fraud, waste, or mismanagement to the OIG. Specifically, the Act (5 U.S.C., App.3, Section 7) states:

Any employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to an Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

b. In an October 4, 1993, memorandum from the Interim Chief Executive Officer, RTC employees are encouraged to report suspected instances of fraud, waste, abuse, and mismanagement to the OIG without fear of reprisal. The memorandum states that RTC management will not tolerate retaliation or reprisals against employees who make such disclosures and alerted employees of the availability of administrative and statutory protection. ✓

3. **Policy.** OIG policy is to encourage RTC employees to step forward and report suspected instances of fraud, waste, abuse, and mismanagement to the OIG. As allowed under the Inspector General Act of 1978, the OIG will protect the identity of the employee making the disclosure. To the fullest extent possible, the OIG will review allegations of retaliation and reprisals against RTC employees who disclose information to the OIG. Should the allegations of retaliation or reprisals be substantiated, the OIG will follow up with RTC management to see that appropriate action is taken.

December 1993

4. **Responsibility of All OIG Employees.** Any OIG employee that receives an allegation from an RTC employee regarding retaliation or reprisals for reporting information to the OIG is responsible for obtaining the pertinent information regarding the allegations and immediately (within 48 hours) alerting the most senior OIG manager within his/her chain of command (i.e., AIG, Deputy Inspector General). As necessary, the OIG manager, in consultation with the Inspector General or Deputy Inspector General, will provide any additional instructions to the OIG employee as to how to proceed.

5. **RTC Employee Defined.** For the purposes of this policy, an RTC employee is any permanent, term, or temporary employee.

6. **RTC Employees Reporting to the OIG**

a. **Ways to Report Instances to the OIG.** The OIG offers several avenues for an RTC employee to report suspected instances of fraud, waste, abuse, and mismanagement. The employee can contact the OIG Hotline either by telephone or correspondence, as outlined in our Manual chapter on the hotline (Chapter 110.2), or any OIG employee. An OIG employee receiving such allegations should follow the responsibilities outlined in paragraph 4. above.

b. **Type of Complainant.** The RTC employee receives confidentiality or can provide information to the OIG anonymously.

(1) **Complainant Receiving Confidentiality.** Pursuant to the Inspector General Act of 1978, as amended, all RTC employee complainants are automatically granted confidential status, unless they waive it by consenting specifically to allow OIG to use their identities. Confidentiality may also be waived by the complainant's subsequent actions (e.g., RTC employee disclosing to others that he/she has contacted the OIG). The OIG shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General, or designee, determines such disclosure is unavoidable during the course of the investigation. As described in the OIG Manual chapter on confidential sources (Chapter 110.3), the OIG will follow existing procedures for safeguarding the complainant's confidentiality.

(2) **Anonymous Complainant.** An anonymous complainant cannot be treated as a confidential source because his/her identity has not been disclosed to the OIG. However, measures should be taken to prevent disclosure. Specifically, the information provided may

tend to identify the complainant and is not to be released in whole or in part to those involved in the complaint or to any unauthorized personnel.

7. Employee Claims of Retaliation for Disclosure to OIG. Given the seriousness of the allegations, the OIG must give reviews of retaliation claims for disclosure to the OIG a high priority. Failure to aggressively and thoroughly review these allegations could discourage other RTC employees from reporting suspected instances of wrongdoing for fear of retaliation or reprisal.

a. Reviewing Retaliation Claims

(1) OIG Review. The OIG will promptly review the merits of any allegations of retaliation against an RTC employee for making a complaint or disclosing information to the OIG. Upon receipt of an allegation (as described in paragraph 6.a.), the OIG manager will promptly confer with the Inspector General and/or Deputy Inspector General to determine the most appropriate approach. This approach may include involving other OIG managers (e.g., AIG) to review the allegations. Generally, one OIG manager (i.e., AIG or the Deputy Inspector General) will be responsible for the review of the allegations. In addition to specific issues related to the individual's allegation, the review of alleged retaliation must consider the timeframe and circumstances of the complainant's initial reporting to the OIG.

(2) RTC Management Review. Under certain circumstances, RTC management may be asked to respond to the allegations. The responsible OIG manager will monitor RTC officials' review of the allegations.

b. Final Report. Upon completing the review of the retaliation claim, the responsible OIG manager must ensure that a final report is expeditiously prepared. Reports should be prepared in accordance with OIG reporting policies (i.e., audit, investigation, and inspection), as appropriate.

c. OIG Followup. At an appropriate time, the responsible OIG manager, or designee, should contact the RTC employee and RTC management officials to determine whether appropriate corrective actions have occurred. The resolution of an audit report should be in conformance with RTC Circular 1250.2, Management Decision Process and Audit Followup. Should the OIG become aware that action has not been taken in a timely manner, notification of the situation may be sent from the Inspector General to the RTC Chief Executive Officer, the Thrift Depositor Protection Oversight Board, and/or the Congress, as appropriate.

8. Other Allegations of Retaliation

a. The Whistleblower Protection Act of 1989 (P.L. 101-12) does not apply to the RTC. However, reprisals against RTC employees for reporting fraud, waste, or mismanagement may constitute a violation of RTC's ethics provisions, RTC Circular 2410.1, Standards of Ethical Conduct for RTC Employees.

b.. The OIG may receive allegations of retaliation from RTC employees who had not previously disclosed information of suspected wrongdoing to the OIG. In receiving the allegation, the OIG manager should obtain a clear understanding as to what action the employee took to apparently cause the alleged retaliation and what attempts, if any, the employee made to seek remedy through RTC management. The information collected should be immediately communicated to the Inspector General or Deputy Inspector General for further consideration to determine any OIG action. As appropriate, the OIG may refer the RTC employee to the Employee Ombudsman, Equal Employment Office, or other RTC office for assistance.

9. Contact. Questions regarding OIG guidance on this policy should be directed to the AIG for Policy, Planning, and Resources.



DIRECTIVE SYSTEM

TYPE AND NUMBER

Manual 10600.16, CE-6

CONTACT

Dolores L. Lowery

TELEPHONE

(202) 416-4115

DATE

December 16, 1993

DATE OF CANCELLATION (bulletins only)

TO: All RTC Offices

FROM: John Tierney
 Director, Office for Contract Policy and
 Major Dispute Resolutions

SUBJECT: Contract Policies and Procedures Manual (CPPM)
Revision Six, New Policy and Administrative Revisions

1. **Purpose.** To incorporate changes to the May 7, 1992, edition of the CPPM that reflect new policy and administrative corrections.
2. **Scope.** This directive applies to RTC Offices, and Conservatorships and Receiverships acting in their corporate, conservatorship, and receivership capacities when soliciting and engaging private sector firms to provide goods and services (except for legal services) for RTC.
3. **Summary of Revisions.** The CPPM has been changed as indicated below.

a. **CHAPTER 1** to:

- (1) Reflect an organizational change that redefines the Office of Contract Operations into the Office for Contract Policy and Major Dispute Resolutions and the Office of Contract Operations, also reflected in Chapters 2, 3 and 7.
- (2) Incorporate minor changes in wording, also reflected in Chapters 2, 3, 4, 5, 6, 7, 9, 10 and 11.
- (3) Add exemptions for a memorandum of understanding with Technical Assistance Advisors (TAAs) for the Affordable Housing Disposition Program and for leases for RTC office space.

(4) Clarify and add detailed changes in Minority and Women-Owned Business (MWOB) policies and procedures, also reflected in Chapters 3, 4, 5, 6, 9, 10 and 11.

(5) Emphasize the requirement for centralized official contract files, also reflected in Chapters 4 and 7.

(6) Add the use of technical monitors elected by the program office, as necessary.

(7) Clarify Legal review of unique documents only.

(8) Define the requirement for the Office of Ethics to review the fitness and integrity of CRS for potential contract awards exceeding \$25,000, also reflected in Chapters 3, 5 and 6.

(9) Clarify that noncompetitive authorization is not required when a price for goods or services is set by law or regulation and there is only one sole source.

(10) Remove the chart on limits of program expenditure authority, with referral to the delegations of authority, Exhibit B.

(11) Update the non-competitive expenditures authority for senior vice presidents.

(12) Clarify that only warranted contracting officers have authority to execute, modify or terminate contracts or task orders.

(13) Remove the chart on authority to handle contract actions, with referral to the delegations of authority, Exhibit B.

(14) Extend the use of Powers of Attorney.

(15) Require that the insurance policy be submitted upon contract execution.

(16) Delete the exception to inputting of Federal Supply Schedule fees into CARS.

b. CHAPTER 2 to:

- (1) Add the requirement for reports on status of all warranted contracting officers.
- (2) Add the specific authority to approve invoices under warrant program.
- (3) Clarify warrant authority for modifications as individual actions.
- (4) Clarify requirements of Level III Contracting Officers.
- (5) Clarify the appointment of multiple Level III Contracting Officers in a contracts office.

c. CHAPTER 3 to:

- (1) Reflect the removal of leased space as a type of service under contracting for day-to-day operations.
- (2) Add the requirement for allocation of MWOB bonus points on purchase orders.
- (3) Add the provision of other circumstances as part of the rationale for non-competitive awards.
- (4) Add the requirement for written certifications from contractors that RTC is receiving the best pricing on awards over \$100,000.
- (5) Clarify the submission of multiple offers to allow a firm to be a member of a joint venture and also be submitted as a subcontractor.
- (6) Clarify the requirement for approval of non-competitive brand names.
- (7) Add the requirement for a 15-day minimum for response to the CBD advertisement.
- (8) Define contract awards made through the Federal Supply Schedules as competitive awards.

(9) Revise the time standards for contracting methods.

(10) Define the use of the GSA Bankcard Program for RTC.

(11) Clarify the approval authority for exigent circumstances.

(12) Establish the requirement permitting the use of other agency contracts by RTC.

(13) Add the requirement that only one firm need be solicited for contracts under \$5,000, also reflected in Chapter 5.

(14) Clarify and emphasize the competitive requirements for task orders, also reflected in Chapter 7.

(15) Clarify that complaints of ethical concerns are submitted to the Office of Ethics.

(16) Clarify the time limits for filing source selection complaints.

(17) Add the address for filing of contractor selection complaints.

(18) Revise the definition of ratification.

(19) Add the requirement that complex ratifications will be referred to the Office for Contract Policy and Major Dispute Resolutions.

d. CHAPTER 4 to:

(1) Amplify the description requirements of deliverables by program office.

(2) Remove the requirement for Legal review of Oversight Management Plans.

(3) Reflect that the Request for Contractor Services form may be modified.

(4) Clarify requirements for the Oversight Management Plan, also reflected in Chapter 6.

(5) Supplement the requirement for legal review of SOWs for contracts to include task orders.

(6) Clarify that the contract action schedule is not normally needed for simplified contracting.

e. CHAPTER 5 to:

(1) Clarify that if equal offers are received, the award will be made to the firm that has not sought a waiver.

(2) Define that OCOS has the responsibility for the information format for background investigations, also reflected in Chapter 6 and Exhibit UU.

(3) Clarify contract execution under simplified contracting.

(4) Reflect the allowance for contract authorization prior to execution date in warranted circumstances, also reflected in Chapters 6, 7 and 10.

f. CHAPTER 6 to:

(1) Add the requirement for review of the TEP report by the contracting officer.

(2) Add documentation requirements for the elimination of proposals based on an unrealistic cost proposal determination.

(3) Clarify the application of MWOB bonus points and the verification of certification for awards in excess of, or accumulating to, \$50,000 in a given year.

(4) Establish that the contracting officer is responsible for the financial assessment prior to award.

(5) Extend the release of proposal and award documents to other RTC officials cited in the CPPM on a need-to-know basis.

(6) Clarify the applicability of using Executive Committee Decisional Memorandum.

(7) Clarify that the program office must furnish documentation of expenditure approval for review prior to award notification.

(8) Clarify that Legal Services has responsibility to draft agreements based on pre-award negotiations.

g. CHAPTER 7 to:

(1) Clarify the requirement for ceiling amounts for task order agreements.

(2) Add the order of precedence for the task order agreement over that of the task order unless otherwise specified.

(3) Establish requirements for insurance coverage and financial capability review for task orders.

(4) Clarify that modifications of terms or conditions of task orders require concurrence of the Director, Office for Contract Policy and Major Dispute Resolutions.

(5) Define the requirement for review of task order SOWs for out-of-scope conditions.

(6) Clarify the use of one source under a competitively awarded task order agreement.

(7) Clarify that the Byrd Amendment Certifications are not required with task order proposals.

(8) Remove redundant discussion of non-competitive awards on task orders which is described earlier.

(9) Clarify that the cost reasonableness evaluation includes the level of effort and other proposed costs and must be documented.

(10) Clarify the requirement for written documentation of expenditure estimates.

h. CHAPTER 8 to:

- (1) Clarify the restrictions regarding payment for services provided by subcontractors.
- (2) Define the limitation to subcontracting on 8(a) contracts.

i. CHAPTER 9 to:

- (1) Clarify the need for prequalification of a firm prior to placement on a prequalified source list and subsequent usage.
- (2) Reflect the Appraisal Review Department is responsible for providing a signed copy of the appraisal compliance checklist to the contracts office.
- (3) Provide requirements for the handling of dormant asset recovery.

j. CHAPTER 10 to:

- (1) Add responsibilities in the contract administration function for reviewing and approving invoices, monitoring cumulative expenditure of funds, addressing performance deficiencies and closeout of contract files.
- (2) Clarify and add functional requirements for the oversight manager to include definition of work performed, review of invoices for delivery, recommendation to the contracting officer on invoice disposition, and tracking of contract costs.
- (3) Clarify and add functional requirements for the contracting officer to include approval of invoices for compliance with contract terms and conditions, execution of contract modifications, contractor deficiency notification and resolution of claims, performance issues and audit findings.
- (4) Add Legal review for formal suspension of payments.
- (5) Require the review of official contract files during the transition process.

(6) Add requirements for training of oversight managers and technical monitors.

(7) Add the requirement for a contractor oversight plan for contracts in excess of \$1,000,000 as a function of the oversight manager.

(8) Clarify responsibilities at postaward conferences.

(9) Clarify the critical factors and general requirements of the contractor's performance evaluation.

(10) Add the requirement for timely payment of invoices and clarify the applicability of the Prompt Payment Act.

(11) Provide the citation and in what capacities RTC is exempt from taxes.

(12) Reflect changes in the invoice payment process for review and approval, withholding payments and contractor travel.

(13) Add requirements for compliance with RTC Travel Regulations, also reflected in Exhibits SS and TT.

(14) Clarify administrative changes and types of modifications to the contract.

(15) Add the use of MOUs to restrict contractor activities.

(16) Clarify the use of discretionary termination.

(17) Clarify changes to contract closeout procedures.

k. CHAPTER 11 to:

(1) Remove the requirement for adherence to the CPPM by subsidiaries except when involved in RTC specific contracting.

(2) Clarify the requirement for field office responsibility for use of the Conservatorship's contracts office personnel for awards in excess of \$100,000.

(3) clarify day-to-day operations in conservatorships.

(4) Clarify the requirements for information to be entered into CARS for conservatorships and receiverships.

1. The EXHIBITS to:

- (1) Revise the list of acronyms in Exhibit A.
- (2) Revise all other Exhibits except OO.
- (3) Add Exhibits QQ through YY.

4. General Information

a. Summary of Changes. The attached "Summary of Changes" reflects all pages that have been revised in accordance with the information shown above.

b. Page Changes. Change bars in the margin of each page indicate an addition, deletion or change that occurred as part of this revision. Previous changes are defined on a paragraph by paragraph basis and are defined by a change date within the paragraph.

5. Filing Instructions. Manual recipients shall remove all existing pages from the CPPM binder and insert Revision 6 as a complete replacement for all such pages. All pages removed should either be destroyed or archived.

6. Distribution. Distribution of this directive is made by a coordinator in each local office. For anyone not receiving a copy of Revision 6 of the CPPM the local coordinator should be contacted. An E-mail will be sent by the Helpdesk throughout RTC at the time of distribution and will provide the name of each locally based distribution coordinator.

7. Effective Date. This Revision 6 to the CPPM is effective on December 16, 1993.

**SUMMARY OF CHANGES
REVISION 6**

CHAPTER 1

1. **Reorganization into Office for Contract Policy and Major Dispute Resolutions and Office of Contract Operations** : 1-1, 1-2, 1-5, 1-6, 1-7, 1-8, 1-19, 1-20, 1-21, 1-22, 1-32, 1-33, 2-1, 2-2, 2-3, 2-4 2-11, 2-12, 2-15, 2-16, 2-17, 2-19, 2-21, 2-22, 2-23, 2-24, 3-51, 3-55, 3-56, 3-61, 3-64, 3-65, 3-66, 7-4, 7-10, 10-15, 10-51, 10-52, and 10-54

2. **Minor Wording Changes** : 1-1, 1-5, 1-6, 1-7, 1-8, 1-9, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-18, 1-21, 1-22, 1-23, 1-25, 1-30, 1-31, 1-32, 1-33, 1-34, 1-35, 2-5, 2-7, 2-11, 2-22, 3-1, 3-7, 3-9, 3-10, 3-33, 3-41, 3-53, 3-60, 3-61, 3-66, 3-67, 4-3, 4-4, 4-9, 4-19, 5-20, 6-9, 6-11, 6-12, 6-22, 6-31, 6-46, 6-53, 6-54, 7-2, 7-5, 7-9, 7-10, 7-12, 8-1, 8-2, 9-3, 9-7, 9-8, 9-9, 9-10, 9-12, 9-15, 10-1, 10-5, 10-6, 10-8, 10-11, 10-13, 10-21, 10-43, 10-44, 10-57, 10-58, 10-60, 11-2, 11-7, 11-23 and 11-24

3. **Exemption for Memorandum of Understanding with Technical Assistance Advisors (TAAs) and RTC Leases** : 1-2

4. **MWOB Changes** : 1-3, 1-9, 1-14, 1-16, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29, 3-30, 3-31, 3-35, 3-43, 3-47, 3-59, 4-1, 4-2, 4-3, 4-15, 4-18, 5-4, 5-15, 6-13 6-15, 6-17, 6-19, 6-23, 6-30 6-39, 6-40, 6-43, 6-44, 6-49, 6-54, 9-2, 9-3, 9-5, 9-14, 10-2, 10-7, 10-11, 10-12, 10-27, 10-29, 10-31, 10-44, 10-46, 10-48, 10-49, 10-50, 10-52, 10-54, and 11-8

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REVISION 6 (continued)

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| 5. | Use of Centralized Official Contract Files | : 1-9, 1-33, 1-35, 4-18, 4-19, 4-21, 5-20, 6-11, 7-13, 7-15, 10-13, and 10-63 |
| 6. | Use of Technical Monitors | : 1-15, 10-16, and Exhibit RR |
| 7. | Legal Review of Any Unique Documents | : 1-16 and 3-64 |
| 8. | Review of Fitness and Integrity Certifications by Office of Ethics for Contracts over \$25,000 for Offerors Most Likely to Receive Award | : 1-17, 3-8, 5-16, 6-43, and 6-44 |
| 9. | Exemption from Non-Competitive Authorization for Prices set by Regulation When There is Only One Source | : 1-24 |
| 10. | Removed Figure 1-2, Limits of Program Expenditure Authority | : 1-24 |
| 11. | Updated Non-Competitive Expenditure Authority | : 1-24 |
| 12. | No Authority for Non-Warranted Personnel to Execute, Modify, or Terminate Contracts or Task Orders | : 1-24 |
| 13. | Removed Figure 1-4, Authority to Handle Contract Actions | : 1-25 |
| 14. | Extension of Use of Powers of Attorney | : 1-33, and 1-34 |
| 15. | Requirement for Insurance Policy upon Contract Execution | : 1-33 and 10-15 |
| 16. | Changes in Data Input in CARS | : 1-39 |

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| 1. | Preparation of Reports of Changes Under Warrant Program | : 2-4 |
| 2. | Addition of Authority to Approve Invoices Under Warrant Program | : 2-5, 2-7, 2-11, and 2-12 |

SUMMARY OF CHANGES
REVISION 6 (continued)

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| 3. | Clarification of Warrant Authority for Modifications as Individual Actions | : 2-5, 2-7, and 2-11 |
| 4. | Clarification of Level III Contracting Officers | : 2-11 and 2-12 |
| 5. | Multiple Level III Contracting Officers in Contracts Office | : 2-12 |

CHAPTER 3

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| 1. | Removal of Leased Space Under Contracting for Day-to-Day Operations | : 3-1 |
| 2. | Allocation of MWOB Bonus Points for Purchase Orders | : 3-31 and 3-57 |
| 3. | Rationale for Non-Competitive Award Modified | : 3-38 |
| 4. | Best Pricing for Non-Competitive Awards Over \$100,000 | : 3-38 and 3-39 |
| 5. | Need for Non-Competitive Approval for Brand Name | : 3-39 |
| 6. | Clarification of Multiple Offers to Allow Firm to be Member of Joint Venture and Subcontractor | : 3-40 |
| 7. | Minimum of 15 Day Response Time in CBD | : 3-42 and 6-13 |
| 8. | Awards under Federal Supply Schedule are Deemed Competitive | : 3-44 and 3-51 |
| 9. | Timeframes for Contracting Methods | : 3-49 |
| 10. | Use of Bankcard Program | : 3-50, 3-51 and Exhibit VV |
| 11. | Clarification of Approval Authority for Exigent Circumstances | : 3-51 |
| 12. | Procedures for Other Agencies | : 3-52 |

**SUMMARY OF CHANGES
REVISION 6 (continued)**

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| 13. | Only One Firm Required to be Solicited
under \$5,000 | : 3-52 and 5-4 |
| 14. | Clarification of Competitive
Requirements for Task Orders | : 3-53, 7-1, 7-2, 7-10 and 7-11 |
| 15. | Clarification of Complaints
For Office Of Ethics | : 3-59 and 8-2 |
| 16. | Time-Limits for Filing Source
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| 17. | Address for Filing of Complaint
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| 18. | Revision to Definition of Ratification | : 3-69 |
| 19. | Changes in the Ratification Process | : 3-69, 3-70 and 3-71 |

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| 1. | Amplification of Description of Deliverables
Necessary to be Described by Program Office | : 4-1 |
| 2. | Removal of Requirement for Legal Review
of Oversight Management Plans | : 4-3 |
| 3. | Clarification on the Use of Request for
Services (RCS) | : 4-7 |
| 4. | Clarification for Oversight Management
Plans | : 4-9, 6-11, 6-45, 7-9, 7-10, and
Exhibit XX |
| 5. | Requirement for Legal Review of SOW for
Task Orders | : 4-15 |
| 6. | Contract Action Schedule
Not Normally Needed for Simplified Contracting | : 4-17 |

CHAPTER 5

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| 1. | Clarifications of Equal Offers | : 5-6 and 6-3 |
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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
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WASHINGTON, DC 20510-6075

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**SUMMARY OF CHANGES
REVISION 6 (continued)**

2. Format of Information for Background Investigation by OCOS : 5-15, 6-44, 7-12 and Exhibit UU
3. Clarification of Execution Under Simplified Contracting : 5-17
4. Allowing Effective Date Prior to Execution Date When Circumstances Require it : 5-18, 6-47, 6-48, 7-14, and 10-43

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1. Review of TEP Report by Contracting Officer : 6-27 and 6-36
2. Documentation for the Elimination of Proposals Based on an Unrealistic Cost Proposal Determination : 6-30
3. Application of Bonus Considerations : 6-30
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5. Release of Information : 6-31
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7. Clarification of Review of Expenditure Authority : 6-46 and 6-47
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CHAPTER 7

1. Clarification of Ceiling Amount for Task Order Agreements : 7-3
2. Order of Precedence of Task Order Agreement : 7-4

**SUMMARY OF CHANGES
REVISION 6 (continued)**

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| 3. | Insurance Coverage and Financial Capability Review at the Task Order Level | : 7-6 |
| 4. | Restriction of Task Order Modifications | : 7-10 |
| 5. | Review of SOW of Task Orders for Out-of-Scope Conditions | : 7-10 |
| 6. | Clarification of the Use of Sole Source | : 7-11 |
| 7. | Clarification that the Byrd Amendment Certifications not Required with Task Order Proposals | : 7-11 |
| 8. | Clarification of Cost Reasonableness Check | : 7-12 |
| 9. | Removed Redundant Paragraph for Justification of Non-Competitive Awards | : 7-13 |
| 10. | Clarification of Verification of Expenditure Estimates | : 7-13 |

CHAPTER 8

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| 1. | Policy for Services Provided by Subcontractors | : 8-2 |
| 2. | Clarification of Use of 8(a) Program | : 8-3 |

CHAPTER 9

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| 1. | Clarification of Prequalification Applicability and Definition | : 9-11 |
| 2. | Role of the Appraisal Review Department in the Completion and Signature of the Checklist by the Appraiser | : 9-15, 9-16, and 9-17 |
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CHAPTER 10

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**SUMMARY OF CHANGES
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| 3. | Updates on Administrative Contracting Officer's Functions | : 10-9 and 10-10 |
| 4. | Legal Review for Formal Suspension of Payments | : 10-11 |
| 5. | Review of Official Contract Files During the Transition Process | : 10-13 |
| 6. | Training Requirements for Oversight Managers and Technical Monitors | : 10-14 and 10-15 |
| 7. | Contractor Oversight Plan | : 10-14 and Exhibit YY |
| 8. | Clarification of Responsibilities at Post-Award Conference | : 10-17, 10-18, 10-19, and 10-20 |
| 9. | Clarification of Contractors Performance Evaluation | : 10-23 and 10-24 |
| 10. | Citation for Taxes | : 10-33 |
| 11. | Changes to Payment Process | : 10-33, 10-34, 10-35, and 10-36 |
| 12. | Compliance with RTC Travel Regulations | : 10-36, 10-37, Exhibit SS, and Exhibit TT |
| 13. | Clarification of Administrative Changes and Modifications | : 10-39, 10-40, and 10-41 |
| 14. | Use of MOUs to Restrict Contractor Activities | : 10-45 |
| 15. | Clarification on Use of Discretionary Termination | : 10-45 |
| 16. | Changes to Closeout Procedures | : 10-55 and 10-56 |
| 17. | Need for Contractors Release | : 10-55 and 10-56 |

**SUMMARY OF CHANGES
REVISION 6 (continued)****CHAPTER 11**

1. Clarification of Implementation by Subsidiaries : 11-2
2. Clarification in the Use of Conservatorship Contracts Offices for Awards Over \$100,000 : 11-4
3. Clarification of Day-to-Day Operations in Conservatorships : 11-5
4. Clarification of Entry into CARS for Receiverships : 11-25 -

EXHIBITS

1. List of Acronyms has been revised.
2. All other Exhibits except OO have been revised.
3. QQ through YY have been added.



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

SUMMARY OF RESPONSES TO RTC WHISTLEBLOWER HEARING

On September 23, 1993, the Senate Committee on Banking, Housing and Urban Affairs held a hearing that included the testimony of 13 current and former employees of the RTC. These "whistleblowers" raised serious questions about RTC management and policies in a number of areas.

Summary and Review of Allegations

Many of the concerns raised by the 13 witnesses were known to the RTC at the time of the hearing and either had been addressed, or were in the process of being addressed. Most of the major issues had been identified as areas requiring improvement in Secretary Bentsen's management reforms announced in March of last year. A number of issues, however, require further attention. The following discussion is a summary of what we have classified as the seven major issues raised by the witnesses, the steps taken or planned to address these issues, and our current recommendations for further action where necessary.

1. Review of the Professional Liability Section (PLS) Program

Thomas Burnside, a former PLS attorney in the RTC Dallas office, alleged 1) that the PLS program in Texas was understaffed, 2) that severe disruptions to the PLS program were caused by the 1992 reorganization, and 3) that operational problems with the PLS program resulted in the RTC's failure to aggressively pursue Texas PLS cases. As examples of the operational problems, Mr. Burnside stated that far too few subpoenas were issued out of the Texas RTC offices in PLS cases to make an effective determination about whether a case should be pursued, and that the relationship between PLS investigators (who are not part of the Legal Division) and attorneys was unclear and not sufficiently coordinated. The concerns raised by other witnesses regarding the PLS program also can be categorized as 1) inadequate staffing and 2) operational problems.

The improvement of the PLS program is one of the nine reforms announced by Secretary Bentsen in March of 1993. Both the General Accounting Office (GAO) and the RTC Inspector General (IG) conducted investigations into the RTC PLS program. Regarding staffing, the GAO and IG reports stated that the 1992 reorganization of the PLS program was poorly planned and implemented. The GAO stated that there was a risk that future investigations of PLS claims may suffer from inadequate staffing and the staff's lack of experience. The GAO pointed out that, because the RTC is a temporary agency, it is difficult to attract and retain PLS attorneys and recommended that the RTC work with the FDIC to analyze and address the staffing needs of the PLS program. The RTC Completion Act, through its mandates, has provided a framework for addressing the staffing needs as well as overall restructuring of the PLS program. The similarities of the FDIC and RTC

PLS programs and the need eventually to merge the two programs requires improving both PLS programs in concert. Ellen Kulka, the recently appointed General Counsel of the RTC is treating this issue as one of her top priorities.

While the GAO expressed concern about staffing levels, they found "no indication that RTC or PLS management sought to undermine the professional liability work," and its review of the "close-out" memoranda detailing the reasons behind decisions not to pursue cases against officers and directors concluded that the decisions were based on "good faith and plausible litigation judgments." The IG also discovered no evidence of a management policy of covering up or willfully not pursuing fraudulent activity of officers and directors in institutions with expiring statutes of limitation.

With respect to the operations issue, and particularly as it relates to the Dallas office, staff met on November 12 with the GAO team who reviewed the Dallas RTC PLS program to get their views on the program, and how to improve it. In addition, on November 15, we met with former RTC PLS attorney Thomas Burnside to better understand his concerns and to get his views on how the program can be improved. RTC staff also will continue their discussions with the FDIC to understand their views on these issues and to learn if they have experienced similar concerns and complaints. To follow up on Mr. Burnside's complaints about the operation of the Dallas office, a team of Treasury and RTC attorneys and investigators went to the Dallas RTC office to discuss the PLS program with investigators and attorneys there.

2. Review of Contracting

Mr. Romer, Ms. Sherrill, Mr. Henderson, and Ms. Taylor spoke about the existence of contracting problems and abuses. Mr. Romer pointed out the subordinate role of the contracting function, relative to asset disposition, and the letting of contracts despite conflicts of interests. All of these witnesses stated that inadequate supervision of contractors resulted in poor performance, inflated bills and the use of incompetent staff by contractors.

To address the concern regarding the subordinate role of contracting, in early 1991 RTC management reorganized the Contracting Office. At that time, the Office of Contracting began reporting to the Director of Administration, rather than the Director of the Office of Management and Sales. Both of these Directors have line reporting responsibility to the field office Vice President.

This year, the new Administration immediately recognized that additional improvements were needed in contracting and contract oversight, and stated its intent to accomplish this change in Secretary Bentsen's reform package announced in March 1993. In the same month, the RTC implemented changes to improve RTC contracting in four areas, as noted below.

First, to address concerns regarding potential conflicts of interest and to ensure that contracts include a clear assessment of services needed, cost estimations, and scope of work definitions, the Office of Contracts was reorganized into two separate and distinct operations groups: Contract Solicitation and Award, and Contract Administration. These two groups respectively handle pre-award and post-award matters. An additional 42 people have been assigned to the Office to facilitate improved planning of contracting activities.

Second, to ensure that the RTC contracts with reputable parties, Fitness and Integrity Certifications of contract offerors' proposals now are required to be sent to the Office of Ethics for review whenever total estimated contract fees exceed \$25,000. Also, all RTC contractors, subcontractors, and servicers have been informed that any violation or circumvention of RTC internal controls, policies, or procedures will result in the termination of their contract, and could lead to debarment.

Third, to strengthen the RTC's capacity for contract oversight, the Office of Contractor Oversight and Surveillance has been authorized to increase its staffing level by 147 positions. These new positions will be used to improve the quality and increase the frequency of oversight of SAMDA contractors, mortgage loan servicers, property management companies, and billings and travel claim reviews. In addition, a Contractor Performance Tracking System has been established that produces standardized reports from which to more objectively evaluate contractor performance.

Fourth, the RTC's control over contracting has been enhanced by requiring that the Office of Contracts approve in writing contract-related invoices before they are paid. An independent invoice tracking and processing unit has been established within the Office of Contracts to perform invoice processing/tracking functions and to maintain continuous contact with the Accounts Payable Office to ensure compliance with all applicable regulatory and legal requirements.

Ms. Crisman, Mr. Mangelsdorf, Mr. Pederson, and Ms. Taylor also stated that contracting with law firms was seriously flawed. In particular, they alleged that contracts were awarded to law firms based on acquaintances and on interest in firms as potential future employers.

Beginning in late 1992, each RTC office implemented procedures by which a Legal Services Committee approves the contracting of legal matters. The creation of the Legal Services Committees was designed, among other things, to avoid conflicts of interest by separating the awarding of legal services contracts from the oversight of the contracts. Each such Committee generally consists of representatives from the Legal Division, the Division of Minority and Women's Programs (Department of Legal Programs), and the Department of Contracts, Oversight and Evaluation (Office of Contracts). In addition, there have been enhancements of the operation of the RTC Legal Information System. The improvement of the RTC's processes for the awarding of legal contracts is on-going and further changes are being made. For example, recommendations are being implemented from a May 1993 GAO report on the status of the RTC Minority and Women Owned Law Firm (MWOLF)

Program and from a September 1993 IG report on the RTC's adherence to monetary limitations on fees paid to outside legal counsel.

We believe that these changes have made significant progress in correcting deficiencies in contracting. In addition, two other RTC initiatives deserve mention here. First, the RTC developed a comprehensive audit response capability designed to ensure that RTC management identifies and implements, in a timely fashion, necessary corrective actions in response to all audit recommendations, *e.g.*, those of the GAO and the IG. Second, the RTC Legal Division initiated discussions with the IG, the result of which is that the IG will audit particular aspects of the legal contracting program during the current and subsequent years and report any deficiencies uncovered by these audits so that corrective action, including the collection of overbillings, can be taken. Going forward, program managers should continually review the operation of these programs to ensure that they meet the goals of Secretary Bentsen's management reforms.

3. Asset Disposition

Messrs. O'Bryon and Mangelsdorf alleged that in certain instances the RTC did not receive the maximum return on the disposition of assets. They alleged that complicated and convoluted RTC selling practices contributed to this problem.

To ensure that the RTC meets its statutory mandate to maximize the net recoveries on asset dispositions, Secretary Bentsen mandated in his reform package that the RTC develop a business plan for the balance of the cleanup. That plan, a copy of which has been forwarded to the Congress and Thrift Depositor Protection Oversight Board, includes the RTC's strategy for the sale of its remaining assets, many of which are hard-to-sell real estate and nonperforming loans. In the meantime, RTC asset disposition procedures continue to be improved. For example, the Small Investor Program increases participation and competition with regard to RTC asset disposition, and therefore should result in better prices for the assets sold, and thus a better return for the taxpayer. To follow up on their concerns regarding asset management and disposition, Messrs. O'Bryon and Mangelsdorf were invited to come to Washington to meet with staff from the RTC and Treasury to discuss specific instances of mismanagement or other problems and to give their recommendations for improvements in asset management and disposition going forward. Initially, they tentatively agreed to come to Washington during the week of December 27 through December 31, 1993, they subsequently declined the invitation. Mr. Mangelsdorf, however, consented to a telephone interview.

4. Follow-up on Efforts Aimed at Eliminating Discrimination

RTC employees from the Newport Beach office (Ms. Crisman and Ms. LePique) and the Atlanta office (Mr. Henderson and Ms. Smith) described instances of sexual and racial discrimination and harassment. For employees that feel they have been victims of discrimination, the RTC follows statutory processes pursuant to the Equal Employment

Opportunity Commission (EEOC) regulations that apply across the government. The RTC Equal Employment Opportunity (EEO) complaint process is implemented at the administrative level by the Office of Equal Employment Opportunity and Affirmative Action (OEEO/AA), which is part of the Division of Minority and Women's Programs (DMWP). The EEO process offers several levels of protection and independent review, which were used by Ms. Crisman and Ms. LePique. A result of this process was that a manager was fired for engaging in sexual harassment and other improper conduct.

Senior management recognized that EEO problems existed and took action to remedy the situation. RTC management issued a strong policy against sexual harassment in September 1992 which was distributed to all RTC employees. The RTC created and implemented a training and education program that includes managers' responsibilities for maintaining a work environment free of sexual harassment. Training sessions were held in January through March 1993 in every field office as well as in Washington, D.C. offices, and attendance was mandatory. A new training program is being developed to place even greater emphasis on EEO, multicultural awareness, and affirmative action issues. Placement and promotions at grades 13 and above are routinely reviewed by the OEEO/AA for consistency with the RTC's Multi-Year Affirmative Action Plan.

Due to EEO problems in the Newport Beach and Atlanta offices, additional actions were taken. The RTC Office of Human Resources Management conducted training at the Newport Beach office on Workplace Discipline and Conduct. In May 1993, a meeting was held for all Newport Beach employees, which was attended by two RTC Senior Vice Presidents and the RTC Director of Personnel, to emphasize the RTC's commitment to a workplace free from discrimination, intimidation and harassment. Employees were given the opportunity to meet with representatives of the OEEO/AA and to present their concerns.

In June 1993, a meeting also was held with employees in the Atlanta office by the RTC Director, OEEO/AA. In that meeting, employees were briefed on the RTC's EEO and Affirmative Action programs. Employees also exchanged views on the work environment and raised specific problems. Additional meetings were held with senior management in Atlanta in October 1993 to provide additional guidance on EEO and the Affirmative Action program in that office.

To assure that the efforts previously taken in the Newport Beach and the Atlanta offices had produced the desired results, the Vice President of the RTC Division of Minority and Women's Programs (DMWP) visited the Newport Beach office in late November of 1993 and her Assistant visited the Atlanta office in mid-December of 1993, to follow up on earlier visits and assess the impact of previous actions to improve the EEO atmosphere. On December 15, 1993, Mr. Henderson and Ms. Smith came to Washington to meet with staff

from the DMWP and from Treasury to offer their views on the EEO atmosphere in Atlanta and on whether additional improvements could be made to regional EEO processes. Their remarks, which dealt primarily with concerns about the management of the Atlanta office, have been relayed to Mr. Ryan.

5. Review the Inspector General's Office

Michael Koszola, an agent of the IG, alleged that a number of improprieties occurred in that office, including rewriting reports to mislead Congress, to cover up high level misconduct, and to distort agency investigative priorities. Mr. Koszola also alleged that important documentary evidence was destroyed. The IG responded to Mr. Koszola's allegations in an October 18, 1993 letter to Chairman Riegle. We have not been able independently to substantiate either his allegations or the IG's denials. Mr. Koszola has since been fired for cause. We were contacted by individuals from the GAO who informed us that they were conducting an investigation of the Inspector General's Office at the request of Congressman Spratt's Oversight Subcommittee. We met with the individuals conducting the investigation and have continued to relay information to them that could be helpful or relevant to their investigation. They are in the early stages of their investigation and do not know when their work will be completed.

6. Review of Complaint Procedures and Allegations of Retaliation; Communications

The RTC currently has available internally a number of avenues by which to communicate alleged wrongs that occur, such as an EEO process for allegations of discrimination, an Inspector General to investigate waste, fraud and abuse, and a grievance procedure to address other issues such as the denial of a promotion. In addition, the Employee Ombudsman position that was established will provide RTC employees a direct line to communicate their concerns and suggestions to senior RTC management, although this position is not designed to substitute for the EEO, IG or grievance processes.

During the hearing, all of the existing procedures were criticized. For example, a number of the witnesses complained about the EEO process in RTC field offices, although they all generally agreed that the process in the OEEEO/AA in Washington, D.C., was fair and efficient. The grievance process was criticized and RTC employees who used existing complaint procedures alleged that they faced retaliation for identifying alleged wrongs.

We believe that the complaints may be evidence of a problem in communications at the RTC. To improve the employee complaint procedures, Mr. Ryan is conducting a search for a consultant that would be retained by the RTC to study the quality and the coordination of the grievance, EEO and IG procedures, and to report back to the RTC CEO. The report should include recommendations for improving the employee complaint procedures and any recommendations regarding the role of the Ombudsman.

7. Personnel

Allegations were made by Mr. Romer, Ms. Sherrill, Ms. Smith and Mr. Henderson regarding employment and promotion practices. Generally, the concerns were that people were hired without the requisite skills and that there was low morale among staff as a result of bad management by certain supervisors.

In January 1992, the RTC established its own Office of Human Resources Management to better ascertain that employees and job applicants meet basic job requirements. Of course, because the RTC will be downsizing as the cleanup effort winds down, there will be much less hiring that will occur in the future, particularly in comparison to the explosive growth experienced by the agency from 1989 to approximately 1991. Senior management also is attempting to improve morale by examining more closely all requests for promotions and by better planning the downsizing of the agency to assure that employees are given the maximum possible notice of how long their services will be needed by the agency. The RTC also is providing outplacement and job search assistance. Careful work with the FDIC on the transition plan is necessary to improve and maintain morale.

ATTACHMENT C

RTIC/DIC COMPARISON

VALUATION REQ	RTIC	RTIC
Commercial Loans	Appraisals and brokers' opinions initially used to determine market value. Pricing is adjusted as necessary and is determined by marketing time, market influence and economic conditions but generally limited to 80%, 60% or 50% of appraisal benchmark over a 2 year period. Re-appraisal after 2 years if dictated by significant market change.	Appraisals and brokers' opinions used to determine market value. Pricing determined by marketing time and market experience
Performing Loans (Other than Commercial)	Value of assets to be sold in pools determined by contractor through the establishment of Derived Investment Value (DIV). DIV measures value of income producing RE assets and land (REO and certain assets collateralized by RE) through computation of NPV of estimated cash flow received during holding period and net sales proceeds discounted to expected investor yield requirements.	Marked-to-market through discounted cash flow analysis, discounted based on investor yield requirements
Non-Performing Loans (Other than Commercial)	Marked-to-market by contractor through cash flow analysis discounted based on investor yield requirements.	
ASSET MANAGEMENT Performing Loans	Valuation based on expected guarantor and borrower recovery and market value of collateral less foreclosure, holding and selling costs if unsecured, value based on expected cash recovery.	
Non-Performing Loans & Charge-Offs	Connected to qualified full loan servicers if (1) sale not expected for 6 months or (2) existing servicing is in jeopardy.	Serviced by full loan servicers for packaging and sale
REO	Specialized asset management contractors.	Serviced in-house or by outside asset management contractor
ACQUISITION STRATEGY	Specialized asset management contractors.	Managed in-house or by outside asset management contractors
Securities	Sold as soon as possible after acquisition through Capital Advisors Branch in Washington.	Sold immediately after acquisition through consolidated offices
Performing 1-4 Family Loans	Securitized through Agencies or RTC private label. Whole loan portfolio sales as last resort.	Whole loan sales
Performing Multi-family Loans and Consumer Loans	If not eligible for securitization, sold as whole loans.	Securitized loan sales and whole loan sales
Performing Commercial Loans *	30% expected to be securitized; 70% sold as whole loans, with financial advisor assistance.	Securitized loan sales and whole loan sales
REO	Sold for cash, or with financing, by asset management contractors, conservatorship staff and through RTC portfolio sales and auctions.	Sold for cash or on terms through auction, sealed bid sale, broker listing or account officer direct sale
Distressed Loans	Portfolio sales with RTC financing offered or sold through auctions. Non-performing commercial loans offered through a financial advisor in homogeneous pools with bridge, term and cash flow financing. Also, individually collected through asset management contractors.	Whole loan sales, direct collection

Response to Paragraph One of John E. Robson Memorandum
Dated February 27, 1992

The FDIC and the RTC each operate under comprehensive policies on the liquidation of assets acquired from failed financial institutions. These policies are generally quite similar with both emphasizing liquidating properties as soon as possible for the optimum price versus holding them in speculation of increased value.

The mandate from Congress to maximize the net present value recovery on assets will normally require speedy liquidation due to the expenses associated with holding properties. In some cases properties are held for a longer period than desired due to market conditions when reserve prices are not met, but this is an example of involuntary holding and not speculation. In addition, the FDIC and the RTC continue to acquire properties to liquidate. A policy favoring holding properties would lead to tremendous inventories requiring a larger staff and a greater use of outside contractors to manage the properties. Such a policy would result in greater costs than necessary and a more lengthy recovery period.

Although the two liquidation policies are generally consistent, there are some differences. For example, the RTC conducts securitized loan sales to dispose of their performing commercial and residential mortgage loans. The FDIC is in the process of attempting to utilize a securitization approach to performing commercial mortgage loans, and will continue to utilize whole loan sales to liquidate residential mortgage loans. It shall be noted that in contrast to the RTC, the FDIC cannot issue securities in its name. The RTC has also provided seller financing for the purchase of nonperforming loans and other illiquid assets. The FDIC has not provided seller financing on loan sales although it does offer financing for the purchase of its owned real estate properties, as does the RTC.

It should be noted that the FDIC's portfolio consists of 31% of non real estate related business and commercial loans.

ATTACHMENT D

Question 2.(a)

3/25/94

REPORT OF FAILED SAVINGS & LOANS
LOCATED IN THE STATE OF TEXAS

Page 1

Sorted by Thrift Name

COUNT	THRIFT NAME	CITY	ST	ASSET SIZE (in millions)	FAIL DATE
1	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	573	3/02/89
2	AMERICAN FSB	AUSTIN	TX	34	4/06/89
3	AMERICAN S&L OF BRAZORIA	LAKE JACKSON	TX	213	3/09/89
4	AMERITWAY SAVINGS	HOUSTON	TX	177	3/09/89
5	AMIGO FS&LA	BROWNSVILLE	TX	21	8/03/90
6	ANDREWS S&LA	ANDREWSVILLE	TX	125	12/07/90
7	ATASCOSTA	JOURDANTON	TX	37	11/30/90
8	ATLANTA FEDERAL S&L	ATLANTA	TX	97	8/31/90
9	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	128	11/30/89
10	BANPLUS SA	PASADENA	TX	633	3/09/89
11	BANKERS S&LA	GALVESTON	TX	94	3/09/89
12	BANNERBANC SA	GARLAND	TX	72	1/03/90
13	BAYSHORE SA	LA PORTE	TX	40	3/09/89
14	BEDFORD SA	BEDFORD	TX	87	4/05/89
15	BENJAMIN FRANKLIN FSA	HOUSTON	TX	2300	3/09/89
16	BEXAR SA	HOUSTON	TX	624	3/02/89
17	BRIGHT BANC. SA	SAN ANTONIO	TX	4000	2/08/89
18	BURLESON COUNTY SA	DALLAS	TX	34	5/30/91
19	CAPITOL CITY FSA	CALDWELL	TX	528	7/27/89
20	CAPROCK FS&LA	AUSTIN	TX	418	8/01/89
21	CENTENNIAL SB FSB	LUBBOCK	TX	104	4/06/89
22	CENTRAL TEXAS S&LA	GREENVILLE	TX	202	4/05/89
23	CENTRE SA	WACO	TX	16	8/16/91
24	CENTURY S&LA	ARLINGTON	TX	61	3/09/89
25	CERTIFIED SA	BAYTOWN	TX	123	1/11/90
26	CITIZENS OF TEXAS S&L ASSOC.	GEORGETOWN	TX	0	3/09/89
27	CITIZENS SECURITY BANK, A FSB	BAYTOWN	TX	34	3/22/91
28	CITY S&LA OF SAN ANTONIO	BORGER	TX	212	10/26/90
29	CITY SA	SAN ANTONIO	TX	36	3/09/89
30	COLUMBIA FEDERAL SAVINGS ASSOCIATION	LEAGUE CITY	TX	50	12/21/89
31	COMMERCE FSA	WEBSTER; NASSAU	TX	852	2/28/89
32	COMMONWEALTH FSA	SAN ANTONIO	TX	1500	3/09/89
		HOUSTON	TX		

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 REPORT OF FAILED SAVINGS & LOANS
 LOCATED IN THE STATE OF TEXAS

Page 2

Sorted by Thrift Name

COUNT	THRIFT NAME	CITY	ST	ASSET SIZE (in millions)	FAIL DATE
33	CONTINENTAL SAVINGS, A FS&LA	BELLAIRE	TX	355	3/08/89
34	CORNERSTONE FSA	HOUSTON	TX	112	7/13/89
35	DAVY CROCKETT FSB	CROCKETT	TX	46	9/13/91
36	DEEP EAST TEXAS SA	JASPER	TX	49	3/16/89
37	DENTON FS&LA	DENTON	TX	143	8/24/89
38	EAST TEXAS S&LA	TYLER	TX	367	9/21/89
39	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	482	9/06/90
40	EXCEL BANC SA	LAREDO	TX	140	4/06/89
41	EXECUTIVE BANC SAVINGS	NEW BRAUNFELS	TX	17	11/09/90
42	FEDERAL SAVINGSBANC OF THE SOUTHWEST	KILGORE	TX	45	7/27/89
43	FIDELITY S&LA	PORT ARTHUR	TX	288	3/16/89
44	FIDELITY SAVINGS-AUSTIN, FA	AUSTIN	TX	67	7/12/91
45	FIRST BANKERS TRUST & SA	MIDLAND	TX	110	6/08/90
46	FIRST CAPITAL SA OF TEXAS	HOUSTON	TX	93	3/09/89
47	FIRST EQUITY SA	TOMBALL	TX	89	3/09/89
48	FIRST FS&LA	NACOGDOCHES	TX	70	11/30/90
49	FIRST FS&LA	WICHITA FALLS	TX	89	3/16/90
50	FIRST FS&LA OF BRENHAM	BRENHAM	TX	148	9/21/89
51	FIRST FS&LA OF CONROE	CONROE	TX	179	5/18/90
52	FIRST FS&LA, BEAUMONT	BEAUMONT	TX	251	9/27/91
53	FIRST FS&LA, NEW BRAUNFELS	NEW BRAUNFELS	TX	236	5/25/90
54	FIRST FS&LA, SAN ANTONIO	SAN ANTONIO	TX	727	1/04/91
55	FIRST FS&LA, TEMPLE	TEMPLE	TX	350	8/24/90
56	FIRST FSB OF HEMPSTEAD	HEMPSTEAD	TX	35	9/14/90
57	FIRST FSB, LUBBOCK	LUBBOCK	TX	220	10/11/91
58	FIRST GARLAND FS&LA	GARLAND	TX	134	9/21/89
59	FIRST S&LA, BORGER	BORGER	TX	75	5/19/90
60	FIRST S&LA, WACO	WACO	TX	383	7/13/89
61	FIRST SA OF SOUTHEAST TEXAS	SILSBEE	TX	0	3/16/89
62	FIRST SAVINGS OF LAREDO, FA	LAREDO	TX	171	9/14/89
63	FIRST SOUTH SA	PORT NECHES	TX	298	3/16/89
64	FIRST SOUTHWEST S&LA	TYLER	TX	54	11/30/90
65	FIRST STATE FSA	SAN ANTONIO	TX	265	3/02/89

REPORT OF FAILED SAVINGS & LOANS
LOCATED IN THE STATE OF TEXAS

3/25/94

Sorted by Thrift Name

COUNT	THRIFT NAME	CITY	ST	ASSET SIZE (in millions)	FAIL DATE
66	FORTUNE FINANCIAL	COPPERAS COVE	TX	88	11/30/89
67	GENERAL SA	HENDERSON	TX	47	3/16/89
68	GILL SA	HONDO	TX	985	2/07/89
69	GOLDEN CIRCLE SA, FSB	CORSICANA	TX	25	4/06/89
70	GOLDEN TRIANGLE S&LA	BRIDGE CITY	TX	29	3/16/89
71	GUADALUPE S&LA	KERRVILLE	TX	29	8/16/89
72	HALLMARK SA	PLANO	TX	166	7/27/89
73	HEARNE BUILDING & LOAN ASSOC	HEARNE	TX	27	8/17/89
74	HERITAGEBANC SA	DUNCANVILLE	TX	140	4/05/89
75	HIDALGO S&LA	EDINBURG	TX	153	9/21/90
76	HUMBLE S&LA	HUMBLE	TX	52	3/09/89
77	JASPER, FS&LA	JASPER	TX	142	3/16/89
78	JEFFERSON S&LA	BEAUMONT	TX	109	3/16/89
79	KARNES COUNTY S&LA	KARNES CITY	TX	63	1/18/90
80	LA HACIENDA SA	SAN ANTONIO	TX	64	3/02/89
81	LIBERTY COUNTY FS&LA	LIBERTY	TX	45	3/09/89
82	MARSHALL FS&LA	MARSHALL	TX	69	1/18/90
83	MERABANK TEXAS, FSB	EL PASO	TX	1233	5/31/91
84	MERIDIAN SA	ARLINGTON	TX	51	4/06/89
85	MERITBANC SA	HOUSTON	TX	272	3/16/89
86	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	803	8/10/89
87	MISSION SA OF TEXAS	SAN ANTONIO	TX	88	3/02/89
88	MURRAY SA	DALLAS	TX	1100	4/06/89
89	MUTUAL S&LA	WEATHERFORD	TX	105	6/01/90
90	NEW BRAUNFELS S&LA	NEW BRAUNFELS	TX	85	7/27/89
91	NORTH AMERICAN FSA	SAN ANTONIO	TX	99	7/27/89
92	NORTH TEXAS OF WICHITA FALLS	WICHITA FALLS	TX	103	7/13/90
93	NOWLIN SA	NORTH RICHLAND	TX	227	2/22/90
94	PADRE FS&LA	CORPUS CHRISTI	TX	22	3/02/89
95	PALO DURO S&LA	AMARILLO	TX	71	1/26/90
96	PARK CITIES	DALLAS	TX	0	4/06/89
97	PERMIAN S&LA	KERMIT	TX	88	3/02/89
98	PLANO S&LA	PLANO	TX	274	9/21/89

REPORT OF FAILED SAVINGS & LOANS
 LOCATED IN THE STATE OF TEXAS

3/25/94

Sorted by Thrift Name

COUNT	THRIFT NAME	CITY	ST	ASSET SIZE (in millions)	FAIL DATE
99	REMINGTON SA	ELGIN	TX	174	5/25/90
100	RESOURCE SA	DENISON	TX	447	4/05/89
101	RUSK FS&LA	RUSK	TX	38	3/16/89
102	SABINE VALLEY S&LA	CENTER	TX	43	3/16/89
103	SAN ANTONIO SA, FA	SAN ANTONIO	TX	2500	3/02/89
104	SAN JACINTO SA	BELLAIRE	TX	3160	11/30/90
105	SAVINGS OF TEXAS ASSOCIATION	JACKSONVILLE	TX	77	3/16/89
106	SECURITY FSA	TEXARKANA	TX	229	3/16/89
107	SOUTHEAST TEXAS S&LA	WOODVILLE	TX	35	3/16/89
108	SOUTHEASTERN SA	DAYTON	TX	64	3/09/89
109	SOUTHMOST S&LA	BROWNSVILLE	TX	96	3/02/89
110	SOUTHSIDE S&LA	AUSTIN	TX	48	8/17/89
111	SOUTHWEST SA	DALLAS	TX	5521	5/18/90
112	SOUTHWESTERN S&LA	EL PASO	TX	126	11/30/89
113	SPINDLETOP SA	BEAUMONT	TX	184	3/16/89
114	SPRING BRANCH S&LA	HOUSTON	TX	92	3/09/89
115	STANDARD SAVINGS ASSOCIATION	HOUSTON	TX	0	1/18/90
116	SUBURBAN SA	SAN ANTONIO	TX	41	3/02/89
117	SUNBELT SAVINGS FSB	DALLAS	TX	8354	4/26/91
118	SUPERIOR FEDERAL SAVINGS BANK	NACOGDOCHES	TX	83	8/10/90
119	SURETY SAVINGS	EL PASO	TX	309	10/19/89
120	TAYLORBANC SA	TAYLOR	TX	140	8/17/89
121	TEXAS COMMERCIAL SA	SULPHUR SPRING	TX	23	9/21/90
122	TEXAS S&LA	SAN ANTONIO	TX	59	4/20/90
123	TEXAS WESTERN FS&LA	HOUSTON	TX	214	11/13/89
124	TEXASBANK SAVINGS, FSB	CONROE	TX	181	2/23/90
125	THE FEDERAL SAVINGS BANC, F.A.	ARLINGTON	TX	142	5/11/90
126	TIMBERLAND SA	NACOGDOCHES	TX	52	3/16/89
127	TRAVIS S&LA	SAN ANTONIO	TX	330	6/29/90
128	TRINITY VALLEY S&LA	CLEVELAND	TX	85	3/09/89
129	UNIVERSAL SA	HOUSTON	TX	119	3/09/89
130	UNIVERSITY SA	HOUSTON	TX	2600	2/08/89
131	UVALDE S&LA	UVALDE	TX	16	1/26/90

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 REPORT OF FAILED SAVINGS & LOANS
 LOCATED IN THE STATE OF TEXAS

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Sorted by Thrift Name

COUNT	THRIFT NAME	CITY	ST	ASSET SIZE (in millions)	FAIL DATE
132	VALLEY FEDERAL S&LA	MCALLEN	TX	582	10/19/89
133	VICTORIA SA	VICTORIA	TX	883	6/29/89
134	VILLAGE SAVINGS FSB	HOUSTON	TX	75	3/09/89
135	VISION BANC SA	KINGSVILLE	TX	77	2/28/89
136	WESTERN GULF S&LA	BAY CITY	TX	137	3/09/89
137	WINDSOR SAVINGS ASSOCIATION	AUSTIN	TX	121	6/29/90

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ATTACHMENT E

Section 2... (1) & (11)
4/01/78

REPORT OF BIT PLS RECOVERIES FOR FAILED TEXAS SAVINGS & LOANS

Sorted by Thrift Name

TRUST NAME	CITY	ST	SETTLEMENT WISE	TOTAL AMOUNT AGREED TO	TOTAL AMT RECOVERED BY 3/15/78	DATE RECOVERED
AMERICAN S&L OF BRACELIA						
BANCPLUS SA	LAKE JACKSON	TX	Thomas Edling (D/O); Raymond Jess (D/O); and James Linford (D/O).	600,000	400,000	5/06/92
BANCPLUS SA	PARABOLA	TX	(GLOBAL) Ernst & Young (T)	3,550,000	3,550,000	11/25/92
BANCPLUS SA	PARABOLA	TX	Phillip Barber (D/O)	150,000	150,000	12/17/92
BANCPLUS SA	PARABOLA	TX	Walter A. Ross (D/O)	300,000	300,000	6/02/93
BANCPLUS SA	PARABOLA	TX	First Interstate Corporation (S)	5,000,000	5,000,000	1/22/92
BANCPLUS SA	PARABOLA	TX	Securities and Investment Securities Corporation (S)	2,500,000	2,500,000	12/82
BANSHERRILL SA	CARLAND	TX	(GLOBAL) Arthur Anderson (T)	10,000	10,000	8/03/93
BENTON SA	BENTON	TX	Oakerson, Arnold, Walker & Co. (T); Oakerson, Arnold & Co. (T); Earl M. Oakerson, Individually (T) and Bobby Jack Arnold, Individually (T)	475,000	475,000	10/19/93
BENJAMIN FRANKLIN FSA	HOUSTON	TX	Lloyd's of London (S)	2,150,000	2,150,000	10/24/89
BENJAMIN FRANKLIN FSA	HOUSTON	TX	(GLOBAL) Arthur Anderson (T)	36,750,000	36,750,000	8/03/93
BEVAN SA	SAN ANTONIO	TX	(GLOBAL) Ernst & Young (T)	43,690,000	43,690,000	11/25/92
BEVAN SA	SAN ANTONIO	TX	Boyd W. Cook (SBO)	550,000	550,000	6/04/93
BEVAN SA	SAN ANTONIO	TX	Tom E. Turner Sr (D/O); Tom E. Turner Jr. (D/O); and Dayton R. Slims (D/O).	3,500,000	2,938,750	12/30/93
BEVAN SA	SAN ANTONIO	TX	Wayden G. Crow (SBO); Vera K. Crow, Crow Family Partners, (L); and Crow Family Living Trust.	3,250,000	3,250,000	6/11/93
CESTERMIA SB FSB	GREENVILLE	TX	(GLOBAL) Prudential-Bache Securities, Inc. (S); Prudential Securities, Inc. (S); Arthur Donald Bobb, Jr. (S); Robert B. Frels (T); James W. Byrd (D); and James W. Byrd (D); Max Kullins (D/O); Martha Beard (D/O); Charles Gulliver (D); David Kullins (D); Rose M. Leck, Jr. (D); Sam Jack McEneaney (D)	1,000,000	1,000,000	1/13/93
CENTRAL TEXAS S&L	WACO	TX	FIDELITY AND DEPOSIT COMPANY OF MARYLAND (S)	1,035,000	1,035,000	11/25/92
CENTURY S&L	BAYTOWN	TX	Kidder Peabody (S/C)	3,700,000	3,700,000	12/26/89
CONFERENCE FSA	SAN ANTONIO	TX	Gerald R. Steel (D); John C. Eerr (D/O); Roger D. Harrison (D/O); Steven L. Pritchard (D/O) and John T. Steen, Jr. (D/O)	520,000	520,000	1/25/93
CONDOMINIUM FSA	HOUSTON	TX	Joseph J. Blake & Associates, Inc. (A)	150,000	150,000	12/30/92
CONDOMINIUM FSA	HOUSTON	TX	(GLOBAL) Arthur Anderson (T)	10,000	10,000	8/05/93
FAST EAST TEXAS SA	JASPER	TX	Eray King (D/O)	12,000	12,000	12/27/93
EAST TEXAS S&L	TITUS	TX	(GLOBAL) Prudential-Bache Securities, Inc. (S); Prudential Securities, Inc. (S); Arthur Donald Bobb, Jr. (S); Robert B. Frels (T); James W. Byrd (D); and James W. Byrd (D); Charles Gulliver (D); David Kullins (D); Rose M. Leck, Jr. (D); Sam Jack McEneaney (D); and M. G. Sutton, Jr. (D).	2,246,400	2,246,400	1/15/93
EL PASO SAVINGS ASSOCIATION	EL PASO	TX	Securities, Inc. (S); Arthur Donald Bobb, Jr. (S); Robert B. Frels (T); James W. Byrd (D); and James W. Byrd (D); Charles Gulliver (D); David Kullins (D); Rose M. Leck, Jr. (D); Sam Jack McEneaney (D); and M. G. Sutton, Jr. (D).	15,000	15,000	1/01/92
FIDELITY S&L	PORT ARTHUR	TX	Charles S. West (D); W.B. Beal (D); William Hatfield (D); and M. G. Sutton, Jr. (D).	500,000	500,000	9/08/92
FIRST F&L SA, SAN ANTONIO	SAN ANTONIO	TX	(GLOBAL) Arthur Anderson (T)	10,000	10,000	8/03/93
FIRST CARLAND F&L SA	CARLAND	TX	(GLOBAL) Arthur Anderson (T)	10,000	10,000	8/03/93
GILL SA	WACO	TX	Hartlin, Drought & Torres, Inc. (L) f/k/a Martin & Drought, Inc and Martin, Shannon & Drought, Inc; James Martin (L), Frank Burey (L) and Kenneth Bernight (L)	1,650,000	1,650,000	6/23/93
HALLMARK SA	PLANO	TX	(GLOBAL) Ernst & Young (T)	950,000	950,000	11/25/92
HALLMARK SA	PLANO	TX	Atlantic Casualty & Fire Insurance Company (S); Mabel's Lloyds Insurance Company (S); Mabel's Insurance Company and Mabel's Insurance Group (S).	100,000	100,000	6/21/93
HEBITMAN SA	HOUSTON	TX	(GLOBAL) Ernst & Young (T)	2,010,000	2,010,000	11/25/92

REPORT OF RIC PLS RECOVERIES FOR FAILED TEXAS SAVINGS & LOANS

4/01/94

Sorted by Thrift Name

THRIFT NAME	CITY	BT SETTLEMENT WITH	TOTAL AMOUNT AGREED TO	TOTAL AMT RECOVERED BY 3/15/94	DATE RECOVERED
MERITBANC SA	HOUSTON	TX Marvin C. Moore, Jr. (D/D) (ADVERSE)	501,897	501,897	2/25/92
MERITBANC SA	HOUSTON	TX Ellenburg & Stiles, P.C. (L); David L. Rosenberg (L)	75,000	75,000	12/16/93
MERRITT SA	DALLAS	TX Jack E. Cooper (D)	100,000	40,000	10/21/93
MERRITT SA	DALLAS	TX Charles E. Cooper (D)	10,000	1,350	1/20/94
NEW SHARPSHIELDS	NEW SHARPSHIELDS	TX Atlantic Casualty & Fire Insurance Company (S), Robert Lloyds Insurance Company (S), Robert Insurance Company (S) & Robert Insurance Group (S)	17,500	17,500	6/21/93
NORTH AMERICAN FSA	SAN ANTONIO	TX Atlantic Casualty & Fire Insurance Company (S), Robert Lloyds Insurance Company (S), Robert Insurance Company (S) and Robert Insurance Group (S)	17,500	17,500	6/21/93
NORTH STAR	NORTH RICHLAND	TX Aetna Insurance Company (I)	300,000	300,000	7/05/90
RESOURCE SA	DEBISON	TX (GLOBAL) Arthur Andersen (I)	3,000,000	3,000,000	8/03/93
RESOURCE SA	DEBISON	TX Winstead, Sechrest & Rinick (L); William B. Sechrest (L); William E. Cherry (L); Richard Kopf (L); Robert Mallow (L); Gaylene Rogers (L); Phillip Stewart (L)	130,000	130,000	9/20/93
RESOURCE SA	DEBISON	TX Mary Cherry (I) (D)	3,000	3,000	4/28/93
RESOURCE SA	DEBISON	TX David Marshall (D)	70,000	10,000	12/15/93
RESOURCE SA	DEBISON	TX David Marshall (D)	70,000	30,000	8/09/93
RESOURCE SA	DEBISON	TX Robert Kitchell (D)	18,000	18,000	4/19/93
RESOURCE SA	DEBISON	TX Michael Kilbourn (D)	8,750	8,750	5/24/93
RESOURCE SA	DEBISON	TX William Gutow (D)	40,000	40,000	5/24/93
RESOURCE SA	DEBISON	TX Karen Arnold, Independent Executor of the Estate of Richard Arnold (D)	15,000	15,000	10/07/93
SAN JACINTO SA	BELLAIRE	TX Geary, Stahl, Spencer Claim (L)	25,000	25,000	2/28/91
SALINGS OF TEXAS ASSOCIATION	JACKSONVILLE	TX (GLOBAL) Arthur Andersen (I)	10,000	10,000	8/03/93
SOUTHWESTERN S&LA	EL PASO	TX Guereira, Rebe, Baumann, Colwell & Gary (L), Andrew R. Guereira (L), Jani Rebe (L), James A. Baumann (L), Clifford B. Colwell (L), Juan Carlos Gary (L), & Lew C. Baedman (L)	225,000	225,000	9/18/93
SPINDLETOP SA	BEAUMONT	TX (GLOBAL) Prudential-Bache Securities, Inc. (S); Prudential Securities, Inc. (S); Arthur Donald Rabb, Jr. (S); Robert B. Francis (S); John W. Allison II (S); Johnny L. Taylor (S); John A. Hutchinson III (D)	468,000	468,000	1/13/93
SPRING BRANCH S&LA	HOUSTON	TX John A. Hutchinson III (D)	30,000	30,000	1/18/93
THE FEDERAL SAVINGS BANK, F.A.	ARLINGTON	TX Arthur Andersen (I)	10,000	10,000	8/03/93
THE FEDERAL SAVINGS BANK, F.A.	WACO	TX Richard E. Green (D)	125,000	125,000	12/23/93
TRAVIS S&LA	WACO	TX Joe Mac Green (D), Charles Bright (D) & Stanley Jones (D)	275,000	275,000	3/15/93
UNIVERSITY SA	SAN ANTONIO	TX (GLOBAL) Prudential-Bache Securities, Inc. (S); Prudential Securities, Inc. (S); Arthur Donald Rabb, Jr. (S); Robert B. Francis (S); John W. Allison II (S); Johnny L. Taylor (S); Lloyd's of London. (S)	46,800	46,800	1/13/93
UNIVERSITY SA	HOUSTON	TX Lloyd's of London. (S)	3,500,000	3,500,000	4/01/90
UNIVERSITY SA	HOUSTON	TX (GLOBAL) ARTHUR ANDERSEN (I)	24,500,000	24,500,000	8/03/93
VALLEY FEDERAL S&LA	MCALLER	TX (GLOBAL) Arthur Andersen (I)	10,000	10,000	8/03/93
VICTORIA SA	VICTORIA SA	TX (GLOBAL) Ernst & Young (I)	3,840,000	3,840,000	1/25/92
VISION BANK SA	KINGSVILLE	TX Government Securities Dealers (S/C) and World Trading Group (S/C)	32,000	32,000	4/22/93
WESTERN D&F S&LA	BAY CITY	TX Sidney Scheriff (D), Melvin A. Epstein (D), George A. Odom (D), and Sylvester E. Bousley (D)	214,000	214,000	1/29/93
WINDSOR SAVINGS ASSOCIATION	AUSTIN	TX (GLOBAL) Arthur Andersen (I)	10,000	10,000	8/03/93

Sorted by Thrift Name	
	157,339,447
	156,620,547

CODES:

- D = Director
- O = Officer
- A = Appraiser
- R = Accountant
- L = Attorney
- S = Securities Broker
- C = Commodities Broker
- B = Fidelity Bond
- I = D&O Insurance
- K = Other

[GLOBAL] = Recovery obtained through the execution of a "global" settlement agreement which covers claims arising from more than one institution.
 [JUDGMENT] = Recovery obtained through a court-awarded judgment.

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ATTACHMENT F

4/12/94

ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

Page

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
1	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
2	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
3	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
4	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
5	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
6	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
7	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/21/92	W
8	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/27/92	W
9	ALAMO FSA OF TEXAS	SAN ANTONIO	TX	1/28/93	W
10	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
11	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
12	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
13	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
14	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
15	ANDREWS S&LA, FA	ANDREWS	TX	8/12/93	N
16	ATASCOSTA	JOURDANTON	TX	1/17/92	R
17	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	11/13/91	I
18	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	5/22/92	I
19	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	5/22/92	I
20	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	5/22/92	I
21	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/15/92	I
22	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/15/92	I
23	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/15/92	I
24	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/15/92	I
25	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/20/92	I
26	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/20/92	I

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CODE
27	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/25/92	1
28	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/25/92	1
29	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/25/92	1
30	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	6/25/92	1
31	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
32	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
33	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
34	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
35	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
36	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	7/30/92	1
37	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
38	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
39	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
40	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
41	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
42	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
43	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
44	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
45	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
46	AUSTIN SAVINGS ASSOCIATION	AUSTIN	TX	9/16/92	1
47	BANCPLUS SA	PASADENA	TX	8/07/91	D
48	BANCPLUS SA	PASADENA	TX	8/09/91	D
49	BANCPLUS SA	PASADENA	TX	8/10/91	D
50	BANCPLUS SA	PASADENA	TX	8/19/91	D
51	BANCPLUS SA	PASADENA	TX	8/19/91	D
52	BANCPLUS SA	PASADENA	TX	8/19/91	D

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ACTION CODE
53	BANPLUS SA	PASADENA	TX	8/19/91	D
54	BANPLUS SA	PASADENA	TX	8/19/91	D
55	BANPLUS SA	PASADENA	TX	8/19/91	D
56	BANPLUS SA	PASADENA	TX	8/19/91	D
57	BANPLUS SA	PASADENA	TX	8/19/91	D
58	BANPLUS SA	PASADENA	TX	8/19/91	D
59	BANPLUS SA	PASADENA	TX	8/19/91	D
60	BANPLUS SA	PASADENA	TX	8/19/91	D
61	BANPLUS SA	PASADENA	TX	9/17/91	D
62	BANPLUS SA	PASADENA	TX	9/17/91	D
63	BANPLUS SA	PASADENA	TX	9/17/91	D
64	BANPLUS SA	PASADENA	TX	9/17/91	D
65	BANPLUS SA	PASADENA	TX	9/17/91	D
66	BANPLUS SA	PASADENA	TX	9/17/91	D
67	BANPLUS SA	PASADENA	TX	9/17/91	D
68	BANPLUS SA	PASADENA	TX	9/17/91	D
69	BANPLUS SA	PASADENA	TX	9/17/91	D
70	BANPLUS SA	PASADENA	TX	9/17/91	D
71	BANPLUS SA	PASADENA	TX	9/17/91	D
72	BANPLUS SA	PASADENA	TX	9/17/91	D
73	BANPLUS SA	PASADENA	TX	9/17/91	D
74	BANPLUS SA	PASADENA	TX	9/17/91	D
75	BANPLUS SA	PASADENA	TX	9/17/91	D
76	BANPLUS SA	PASADENA	TX	9/17/91	D
77	BANPLUS SA	PASADENA	TX	9/17/91	D
78	BANPLUS SA	PASADENA	TX	9/20/91	D

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
79	BANPLUS SA	PASADENA	TX	9/20/91	D
80	BANPLUS SA	PASADENA	TX	9/27/91	K
81	BANPLUS SA	PASADENA	TX	9/27/91	K
82	BANPLUS SA	PASADENA	TX	9/27/91	K
83	BANPLUS SA	PASADENA	TX	9/27/91	K
84	BANPLUS SA	PASADENA	TX	9/27/91	K
85	BANPLUS SA	PASADENA	TX	9/27/91	K
86	BANPLUS SA	PASADENA	TX	9/27/91	K
87	BANPLUS SA	PASADENA	TX	9/27/91	K
88	BANPLUS SA	PASADENA	TX	9/27/91	K
89	BANPLUS SA	PASADENA	TX	9/27/91	K
90	BANPLUS SA	PASADENA	TX	9/27/91	K
91	BANPLUS SA	PASADENA	TX	9/27/91	K
92	BANPLUS SA	PASADENA	TX	10/09/91	D
93	BANPLUS SA	PASADENA	TX	11/01/91	D
94	BANPLUS SA	PASADENA	TX	11/06/91	D
95	BANPLUS SA	PASADENA	TX	11/06/91	D
96	BANPLUS SA	PASADENA	TX	11/12/91	D
97	BANPLUS SA	PASADENA	TX	11/12/91	D
98	BANPLUS SA	PASADENA	TX	11/14/91	D
99	BANPLUS SA	PASADENA	TX	11/14/91	D
100	BANPLUS SA	PASADENA	TX	11/19/91	D
101	BANPLUS SA	PASADENA	TX	11/27/91	D
102	BANPLUS SA	PASADENA	TX	11/27/91	D
103	BANPLUS SA	PASADENA	TX	11/27/91	D
104	BANPLUS SA	PASADENA	TX	12/04/91	D

4/12/96

ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTN	CODE
105	BANPLUS SA	PASADENA	TX	12/05/91		0
106	BANPLUS SA	PASADENA	TX	12/05/91		0
107	BANPLUS SA	PASADENA	TX	12/05/91		0
108	BANPLUS SA	PASADENA	TX	12/05/91		0
109	BANPLUS SA	PASADENA	TX	12/05/91		0
110	BANPLUS SA	PASADENA	TX	12/05/91		0
111	BANPLUS SA	PASADENA	TX	12/05/91		0
112	BANPLUS SA	PASADENA	TX	12/05/91		0
113	BANPLUS SA	PASADENA	TX	12/05/91		0
114	BANPLUS SA	PASADENA	TX	12/05/91		0
115	BANPLUS SA	PASADENA	TX	12/05/91		0
116	BANPLUS SA	PASADENA	TX	12/05/91		0
117	BANPLUS SA	PASADENA	TX	12/05/91		0
118	BANPLUS SA	PASADENA	TX	12/05/91		0
119	BANPLUS SA	PASADENA	TX	12/05/91		0
120	BANPLUS SA	PASADENA	TX	12/05/91		0
121	BANPLUS SA	PASADENA	TX	12/05/91		0
122	BANPLUS SA	PASADENA	TX	12/05/91		0
123	BANPLUS SA	PASADENA	TX	12/05/91		0
124	BANPLUS SA	PASADENA	TX	12/05/91		0
125	BANPLUS SA	PASADENA	TX	12/05/91		0
126	BANPLUS SA	PASADENA	TX	12/05/91		0
127	BANPLUS SA	PASADENA	TX	12/05/91		0
128	BANPLUS SA	PASADENA	TX	12/05/91		0
129	BANPLUS SA	PASADENA	TX	12/05/91		0
130	BANPLUS SA	PASADENA	TX	12/05/91		0

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CLASS
131	BANCOPLUS SA	PASADENA	TX	12/05/91	C
132	BANCOPLUS SA	PASADENA	TX	12/05/91	C
133	BANCOPLUS SA	PASADENA	TX	12/05/91	C
134	BANCOPLUS SA	PASADENA	TX	12/05/91	C
135	BANCOPLUS SA	PASADENA	TX	12/05/91	C
136	BANCOPLUS SA	PASADENA	TX	12/10/91	C
137	BANCOPLUS SA	PASADENA	TX	12/10/91	C
138	BANCOPLUS SA	PASADENA	TX	12/10/91	C
139	BANCOPLUS SA	PASADENA	TX	12/10/91	C
140	BANCOPLUS SA	PASADENA	TX	12/10/91	C
141	BANCOPLUS SA	PASADENA	TX	12/10/91	C
142	BANCOPLUS SA	PASADENA	TX	12/10/91	C
143	BANCOPLUS SA	PASADENA	TX	12/10/91	C
144	BANCOPLUS SA	PASADENA	TX	12/10/91	D
145	BANCOPLUS SA	PASADENA	TX	12/10/91	D
146	BANCOPLUS SA	PASADENA	TX	12/11/91	E
147	BANCOPLUS SA	PASADENA	TX	12/12/91	E
148	BANCOPLUS SA	PASADENA	TX	12/12/91	E
149	BANCOPLUS SA	PASADENA	TX	12/17/91	E
150	BANCOPLUS SA	PASADENA	TX	12/17/91	E
151	BANCOPLUS SA	PASADENA	TX	12/17/91	E
152	BANCOPLUS SA	PASADENA	TX	12/17/91	E
153	BANCOPLUS SA	PASADENA	TX	12/31/91	D
154	BANCOPLUS SA	PASADENA	TX	1/16/92	D
155	BANCOPLUS SA	PASADENA	TX	8/07/92	D
156	BANKERSBANC SA	GARLAND	TX	11/02/92	E

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
157	BEDFORD SA	BEDFORD	TX	11/01/91	0
158	BEDFORD SA	BEDFORD	TX	11/01/91	0
159	BEDFORD SA	BEDFORD	TX	11/01/91	0
160	BEDFORD SA	BEDFORD	TX	11/04/91	0
161	BEDFORD SA	BEDFORD	TX	11/13/91	0
162	BEDFORD SA	BEDFORD	TX	11/14/91	0
163	BEDFORD SA	BEDFORD	TX	11/14/91	0
164	BEDFORD SA	BEDFORD	TX	12/02/91	0
165	BEDFORD SA	BEDFORD	TX	12/03/91	0
166	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
167	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
168	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
169	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
170	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
171	BENJAMIN FRANKLIN FSA	HOUSTON	TX	11/15/91	C
172	BENJAMIN FRANKLIN FSA	HOUSTON	TX	12/31/91	C
173	BENJAMIN FRANKLIN FSA	HOUSTON	TX	12/31/91	C
174	BENJAMIN FRANKLIN FSA	HOUSTON	TX	1/02/92	C
175	BENJAMIN FRANKLIN FSA	HOUSTON	TX	1/02/92	C
176	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
177	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
178	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
179	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
180	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
181	DEKOR SA	SAN ANTONIO	TX	7/18/91	D
182	DEKOR SA	SAN ANTONIO	TX	7/18/91	D

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
183	BEXAR SA	SAN ANTONIO	TX	7/18/91	D
184	BEXAR SA	SAN ANTONIO	TX	7/18/91	D
185	BEXAR SA	SAN ANTONIO	TX	7/18/91	D
186	BEXAR SA	SAN ANTONIO	TX	8/15/91	I
187	BEXAR SA	SAN ANTONIO	TX	8/15/91	I
188	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
189	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
190	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
191	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
192	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
193	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
194	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
195	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
196	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
197	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
198	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
199	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
200	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
201	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
202	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
203	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
204	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
205	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
206	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
207	BEXAR SA	SAN ANTONIO	TX	8/19/91	K
208	BEXAR SA	SAN ANTONIO	TX	8/19/91	K

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CODE
209	BEKAR SA	SAN ANTONIO	TX	8/19/91	C
210	BEKAR SA	SAN ANTONIO	TX	8/19/91	C
211	BEKAR SA	SAN ANTONIO	TX	8/19/91	C
212	BEKAR SA	SAN ANTONIO	TX	10/25/91	D
213	BEKAR SA	SAN ANTONIO	TX	10/25/91	D
214	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
215	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
216	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
217	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
218	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
219	BEKAR SA	SAN ANTONIO	TX	12/13/91	D
220	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
221	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
222	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
223	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
224	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
225	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
226	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
227	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
228	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
229	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
230	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
231	BURLESON COUNTY FSA	CALDWELL	TX	1/14/96	F
232	CAPITOL CITY FSA	AUSTIN	TX	1/28/92	I
233	CAPITOL CITY FSA	AUSTIN	TX	2/24/92	I
234	CAPITOL CITY FSA	AUSTIN	TX	2/24/92	I

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
235	CAPITOL CITY FSA	AUSTIN	TX	2/26/92	I
236	CAPITOL CITY FSA	AUSTIN	TX	2/27/92	I
237	CAPITOL CITY FSA	AUSTIN	TX	2/28/92	I
238	CAPROCK FS&LA	LUBBOCK	TX	11/13/91	I
239	CAPROCK FS&LA	LUBBOCK	TX	1/30/92	I
240	CAPROCK FS&LA	LUBBOCK	TX	6/25/92	I
241	CAPROCK FS&LA	LUBBOCK	TX	6/25/92	I
242	CAPROCK FS&LA	LUBBOCK	TX	6/25/92	I
243	CAPROCK FS&LA	LUBBOCK	TX	6/25/92	I
244	CAPROCK FS&LA	LUBBOCK	TX	7/09/93	I
245	CAPROCK FS&LA	LUBBOCK	TX	7/09/93	I
246	CAPROCK FS&LA	LUBBOCK	TX	7/09/93	I
247	CAPROCK FS&LA	LUBBOCK	TX	7/09/93	I
248	CENTRAL TEXAS S&LA	WACO	TX	11/04/91	G
249	CENTRAL TEXAS S&LA	WACO	TX	11/04/91	G
250	CENTRAL TEXAS S&LA	WACO	TX	11/13/91	G
251	CENTRAL TEXAS S&LA	WACO	TX	11/26/91	G
252	CENTRAL TEXAS S&LA	WACO	TX	11/26/91	G
253	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
254	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
255	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
256	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
257	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
258	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
259	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
260	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N

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261	CENTRE SAVINGS ASSOCIATION	ARLINGTON	TX	3/21/94	N
262	CERTIFIED SA	GEORGETOWN	TX	1/28/92	:
263	CERTIFIED SA	GEORGETOWN	TX	1/29/92	:
264	CERTIFIED SA	GEORGETOWN	TX	1/29/92	:
265	CERTIFIED SA	GEORGETOWN	TX	2/07/92	:
266	CERTIFIED SA	GEORGETOWN	TX	6/12/92	:
267	CERTIFIED SA	GEORGETOWN	TX	12/15/92	:
268	CERTIFIED SA	GEORGETOWN	TX	12/15/92	:
269	CERTIFIED SA	GEORGETOWN	TX	12/15/92	:
270	CERTIFIED SA	GEORGETOWN	TX	12/16/92	:
271	CERTIFIED SA	GEORGETOWN	TX	12/16/92	:
272	CERTIFIED SA	GEORGETOWN	TX	12/16/92	:
273	CITIZENS SECURITY BANK, A FSB	BORGER	TX	11/13/91	C
274	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
275	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
276	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
277	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
278	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
279	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
280	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
281	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
282	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
283	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
284	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
285	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W
286	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/07/94	W

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CODE
287	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/31/94	u
288	CITIZENS SECURITY BANK, A FSB	BORGER	TX	1/31/94	u
289	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/09/94	u
290	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/11/94	u
291	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/11/94	u
292	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/11/94	u
293	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/11/94	u
294	CITIZENS SECURITY BANK, A FSB	BORGER	TX	2/11/94	u
295	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	8/22/91	e
296	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	12/16/91	c
297	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	12/16/91	c
298	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	12/20/91	c
299	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	12/20/91	c
300	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/07/92	o
301	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/07/92	o
302	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/07/92	o
303	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/07/92	o
304	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	1/07/92	o
305	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/02/92	o
306	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/15/93	i
307	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/15/93	i
308	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/15/93	i
309	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	i
310	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	i
311	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	i
312	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	i

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
313	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	I
314	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	I
315	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/22/93	I
316	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/26/93	I
317	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/26/93	I
318	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/26/93	I
319	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/26/93	I
320	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	4/26/93	I
321	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	5/07/93	I
322	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	5/07/93	I
323	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	5/07/93	I
324	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	5/07/93	I
325	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	7/20/93	T
326	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	7/20/93	T
327	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	8/19/93	T
328	CITY S&LA OF SAN ANTONIO	SAN ANTONIO	TX	8/19/93	T
329	CITYSAVINGS AND LOAN ASSOCIATION	SAN ANTONIO	TX	8/18/93	E
330	CITYSAVINGS AND LOAN ASSOCIATION	SAN ANTONIO	TX	8/18/93	E
331	CITYSAVINGS AND LOAN ASSOCIATION	SAN ANTONIO	TX	8/18/93	E
332	COMMONWEALTH FSA	HOUSTON	TX	8/14/91	P
333	COMMONWEALTH FSA	HOUSTON	TX	8/14/91	P
334	COMMONWEALTH FSA	HOUSTON	TX	12/16/91	P
335	COMMONWEALTH FSA	HOUSTON	TX	12/16/91	P
336	COMMONWEALTH FSA	HOUSTON	TX	12/16/91	P
337	COMMONWEALTH FSA	HOUSTON	TX	2/28/92	P
338	COMMONWEALTH FSA	HOUSTON	TX	2/28/92	P

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339	COMMONWEALTH FSA	HOUSTON	TX	2/28/92	D
340	COMMONWEALTH FSA	HOUSTON	TX	6/07/92	P
341	DENTON FS&LA	DENTON	TX	1/29/92	D
342	DENTON FS&LA	DENTON	TX	2/03/92	D
343	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
344	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
345	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
346	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
347	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
348	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
349	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/24/92	V
350	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	6/18/93	G
351	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	6/18/93	G
352	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
353	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
354	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
355	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
356	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
357	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
358	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
359	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
360	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/01/93	G
361	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/22/93	G
362	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/22/93	G
363	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/22/93	G
364	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/22/93	G

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365	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/22/93	G
366	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/28/93	G
367	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	7/28/93	G
368	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	8/19/93	G
369	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	8/26/93	G
370	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	8/26/93	G
371	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/11/94	G
372	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/11/94	G
373	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/11/94	G
374	EL PASO SAVINGS ASSOCIATION	EL PASO	TX	2/11/94	G
375	EXECUTIVE BANC SAVINGS	NEW BRAUNFELS	TX	6/04/93	W
376	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
377	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
378	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
379	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
380	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
381	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
382	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
383	FIDELITY SAVINGS-AUSTIN	AUSTIN	TX	3/17/94	N
384	FIRST BANKERS TESA, FA	MIDLAND	TX	5/17/93	N
385	FIRST BANKERS TESA, FA	MIDLAND	TX	5/17/93	N
386	FIRST BANKERS TESA, FA	MIDLAND	TX	5/17/93	N
387	FIRST FS&LA, SAN ANTONIO	SAN ANTONIO	TX	1/15/92	I
388	FIRST FS&LA, TEMPLE	TEMPLE	TX	7/14/93	G
389	FIRST FSA	BORGER	TX	2/05/93	I
390	FIRST FSA	BORGER	TX	2/05/93	I

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391	FIRST FSA	BORGER	TX	2/05/93	F
392	FIRST FSA	BORGER	TX	2/05/93	F
393	FIRST FSA	BORGER	TX	2/05/93	F
394	FIRST FSA	BORGER	TX	2/05/93	F
395	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
396	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
397	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
398	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
399	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
400	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
401	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
402	FIRST FSA OF NACOGDOCHES	NACOGDOCHES	TX	9/07/93	F
403	FIRST SOUTHWEST S&A	TYLER	TX	11/13/91	G
404	FIRST STATE FSA	SAN ANTONIO	TX	11/05/91	S
405	FIRST STATE FSA	SAN ANTONIO	TX	11/05/91	S
406	FIRST STATE FSA	SAN ANTONIO	TX	1/28/92	S
407	FORTUNE FINANCIAL	COPPERAS COVE	TX	11/13/91	O
408	FORTUNE FINANCIAL	COPPERAS COVE	TX	9/11/92	H
409	GENERAL SA	HENDERSON	TX	10/15/91	O
410	GENERAL SA	HENDERSON	TX	10/31/91	O
411	GENERAL SA	HENDERSON	TX	11/26/91	O
412	HALLMARK SA	PLANO	TX	9/28/90	H
413	HALLMARK SA	PLANO	TX	9/28/90	H
414	HALLMARK SA	PLANO	TX	9/28/90	H
415	HALLMARK SA	PLANO	TX	9/28/90	H
416	HALLMARK SA	PLANO	TX	9/28/90	H

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417	HALLMARK SA	PLANO	TX	9/28/90	H
418	HALLMARK SA	PLANO	TX	10/10/90	H
419	HALLMARK SA	PLANO	TX	11/01/90	H
420	HALLMARK SA	PLANO	TX	1/18/91	H
421	HALLMARK SA	PLANO	TX	1/18/91	H
422	HALLMARK SA	PLANO	TX	3/21/91	H
423	HALLMARK SA	PLANO	TX	3/21/91	H
424	HALLMARK SA	PLANO	TX	3/21/91	H
425	HALLMARK SA	PLANO	TX	4/04/91	H
426	HALLMARK SA	PLANO	TX	4/19/91	H
427	HALLMARK SA	PLANO	TX	7/10/91	H
428	HALLMARK SA	PLANO	TX	7/10/91	H
429	HALLMARK SA	PLANO	TX	7/10/91	H
430	HALLMARK SA	PLANO	TX	7/10/91	H
431	HALLMARK SA	PLANO	TX	7/10/91	H
432	HALLMARK SA	PLANO	TX	7/12/91	H
433	HALLMARK SA	PLANO	TX	7/12/91	H
434	HALLMARK SA	PLANO	TX	7/12/91	H
435	HALLMARK SA	PLANO	TX	5/21/93	T
436	HALLMARK SA	PLANO	TX	5/21/93	T
437	HALLMARK SA	PLANO	TX	5/21/93	T
438	HALLMARK SA	PLANO	TX	5/21/93	T
439	HERITAGEBANC SA	DUNCANVILLE	TX	11/13/91	U
440	MERIDIAN SA	ARLINGTON	TX	5/07/92	H
441	MERIDIAN SA	ARLINGTON	TX	5/07/92	H
442	HERITBANC SA	HOUSTON	TX	8/13/91	J

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443	MERITBANC SA	HOUSTON	TX	8/13/91	J
444	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	8/22/91	K
445	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
446	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
447	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
448	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
449	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
450	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
451	METROPOLITAN FINANCIAL S&LA	DALLAS	TX	6/09/92	D
452	MURRAY SA	DALLAS	TX	12/30/91	E
453	MURRAY SA	DALLAS	TX	12/30/91	E
454	MURRAY SA	DALLAS	TX	12/30/91	E
455	MURRAY SA	DALLAS	TX	12/30/91	E
456	MURRAY SA	DALLAS	TX	12/30/91	E
457	MURRAY SA	DALLAS	TX	12/30/91	E
458	MURRAY SA	DALLAS	TX	12/30/91	E
459	MURRAY SA	DALLAS	TX	12/30/91	E
460	MURRAY SA	DALLAS	TX	12/30/91	E
461	MURRAY SA	DALLAS	TX	12/30/91	E
462	MURRAY SA	DALLAS	TX	12/30/91	E
463	MURRAY SA	DALLAS	TX	12/30/91	E
464	MURRAY SA	DALLAS	TX	12/30/91	E
465	MURRAY SA	DALLAS	TX	12/30/91	E
466	MURRAY SA	DALLAS	TX	12/30/91	E
467	MURRAY SA	DALLAS	TX	2/14/92	E
468	MURRAY SA	DALLAS	TX	2/14/92	E

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
469	MURRAY SA	DALLAS	TX	2/16/92	E
470	HOMLIN SA	NORTH RICHLAND	TX	9/24/92	0
471	PLANO S&LA	PLANO	TX	7/15/91	0
472	PLANO S&LA	PLANO	TX	7/15/91	0
473	PLANO S&LA	PLANO	TX	7/15/91	0
474	PLANO S&LA	PLANO	TX	7/15/91	0
475	PLANO S&LA	PLANO	TX	7/15/91	0
476	PLANO S&LA	PLANO	TX	7/15/91	0
477	PLANO S&LA	PLANO	TX	7/15/91	0
478	PLANO S&LA	PLANO	TX	7/15/91	0
479	PLANO S&LA	PLANO	TX	7/15/91	0
480	PLANO S&LA	PLANO	TX	7/15/91	0
481	PLANO S&LA	PLANO	TX	7/15/91	0
482	PLANO S&LA	PLANO	TX	7/15/91	0
483	PLANO S&LA	PLANO	TX	7/15/91	0
484	PLANO S&LA	PLANO	TX	10/03/91	0
485	PLANO S&LA	PLANO	TX	10/03/91	0
486	PLANO S&LA	PLANO	TX	10/03/91	0
487	PLANO S&LA	PLANO	TX	10/16/91	0
488	PLANO S&LA	PLANO	TX	10/16/91	0
489	PLANO S&LA	PLANO	TX	10/16/91	0
490	PLANO S&LA	PLANO	TX	10/16/91	0
491	PLANO S&LA	PLANO	TX	10/16/91	0
492	PLANO S&LA	PLANO	TX	10/16/91	0
493	PLANO S&LA	PLANO	TX	10/16/91	0
494	PLANO S&LA	PLANO	TX	10/16/91	0

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495	PLANO S&LA	PLANO	TX	10/16/91	0
496	PLANO S&LA	PLANO	TX	10/16/91	0
497	PLANO S&LA	PLANO	TX	10/16/91	0
498	PLANO S&LA	PLANO	TX	10/16/91	0
499	PLANO S&LA	PLANO	TX	10/16/91	0
500	PLANO S&LA	PLANO	TX	10/16/91	0
501	PLANO S&LA	PLANO	TX	10/16/91	0
502	PLANO S&LA	PLANO	TX	10/31/91	0
503	PLANO S&LA	PLANO	TX	12/06/91	0
504	PLANO S&LA	PLANO	TX	12/06/91	0
505	PLANO S&LA	PLANO	TX	12/10/91	0
506	PLANO S&LA	PLANO	TX	12/10/91	0
507	PLANO S&LA	PLANO	TX	12/10/91	0
508	PLANO S&LA	PLANO	TX	12/10/91	0
509	PLANO S&LA	PLANO	TX	12/10/91	0
510	PLANO S&LA	PLANO	TX	12/10/91	0
511	PLANO S&LA	PLANO	TX	12/10/91	0
512	PLANO S&LA	PLANO	TX	4/28/92	0
513	REXINGTON SA	ELGIN	TX	5/21/93	1
514	REXINGTON SA	ELGIN	TX	5/21/93	1
515	REXINGTON SA	ELGIN	TX	5/21/93	1
516	REXINGTON SA	ELGIN	TX	5/21/93	1
517	REXINGTON SA	ELGIN	TX	5/21/93	1
518	REXINGTON SA	ELGIN	TX	5/21/93	1
519	REXINGTON SA	ELGIN	TX	5/21/93	1
520	REXINGTON SA	ELGIN	TX	6/09/93	1

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ACTY CODE
521	REHINGTON SA	ELGIN	TX	8/02/93	T
522	REHINGTON SA	ELGIN	TX	8/02/93	T
523	REHINGTON SA	ELGIN	TX	8/02/93	T
524	REHINGTON SA	ELGIN	TX	8/02/93	T
525	RESOURCE SA	DENISON	TX	6/22/92	H
526	RESOURCE SA	DENISON	TX	12/04/92	G
527	SAM JACINTO SA	BELLAIRE	TX	9/27/91	A
528	SAM JACINTO SA	BELLAIRE	TX	6/02/92	L
529	SAM JACINTO SA	BELLAIRE	TX	6/03/92	L
530	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
531	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
532	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
533	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
534	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
535	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
536	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
537	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
538	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
539	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
540	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
541	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
542	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
543	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
544	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
545	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L
546	SAM JACINTO SA	BELLAIRE	TX	7/06/92	L

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	AFFI CODE
547	SAN JACINTO SA	BELLAIRE	TX	7/22/92	L
548	SAN JACINTO SA	BELLAIRE	TX	7/22/92	L
549	SAN JACINTO SA	BELLAIRE	TX	7/22/92	L
550	SAN JACINTO SA	BELLAIRE	TX	7/22/92	L
551	SAN JACINTO SA	BELLAIRE	TX	7/22/92	L
552	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
553	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
554	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
555	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
556	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
557	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
558	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
559	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
560	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
561	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
562	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
563	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
564	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
565	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
566	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
567	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
568	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
569	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
570	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
571	SAN JACINTO SA	BELLAIRE	TX	10/07/92	0
572	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0

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573	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
574	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
575	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
576	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
577	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
578	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
579	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
580	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
581	SAN JACINTO SA	BELLAIRE	TX	10/19/92	0
582	SAN JACINTO SA	BELLAIRE	TX	11/10/92	0
583	SAN JACINTO SA	BELLAIRE	TX	11/10/92	0
584	SAN JACINTO SA	BELLAIRE	TX	11/10/92	0
585	SAN JACINTO SA	BELLAIRE	TX	11/10/92	0
586	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
587	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
588	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
589	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
590	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
591	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
592	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
593	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
594	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
595	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
596	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
597	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
598	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0

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599	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
600	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
601	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
602	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
603	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
604	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
605	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
606	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
607	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
608	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
609	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
610	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
611	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
612	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
613	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
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615	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
616	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
617	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
618	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
619	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
620	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
621	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
622	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
623	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
624	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
625	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
626	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
627	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
628	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
629	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
630	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
631	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
632	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
633	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
634	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
635	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
636	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
637	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
638	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
639	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
640	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
641	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
642	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
643	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
644	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
645	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
646	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
647	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
648	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
649	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0
650	SAN JACINTO SA	BELLAIRE	TX	11/18/92	0

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651	SAN JACINTO SA	BELLAIRE	TX	11/18/92	5
652	SAN JACINTO SA	BELLAIRE	TX	11/18/92	5
653	SAN JACINTO SA	BELLAIRE	TX	11/18/92	5
654	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
655	SAN JACINTO SA	BELLAIRE	TX	11/18/92	5
656	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
657	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
658	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
659	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
660	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
661	SAN JACINTO SA	BELLAIRE	TX	11/18/92	8
662	SAN JACINTO SA	BELLAIRE	TX	11/20/92	5
663	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
664	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
665	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
666	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
667	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
668	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
669	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
670	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
671	SAN JACINTO SA	BELLAIRE	TX	11/20/92	8
672	SAN JACINTO SA	BELLAIRE	TX	12/08/92	8
673	SAN JACINTO SA	BELLAIRE	TX	12/08/92	8
674	SAN JACINTO SA	BELLAIRE	TX	12/08/92	8
675	SAN JACINTO SA	BELLAIRE	TX	12/08/92	8
676	SAN JACINTO SA	BELLAIRE	TX	12/08/92	8

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677	SAN JACINTO SA	BELLAIRE	TX	12/08/92	3
678	SAN JACINTO SA	BELLAIRE	TX	12/08/92	3
679	SAN JACINTO SA	BELLAIRE	TX	12/08/92	3
680	SAN JACINTO SA	BELLAIRE	TX	12/11/92	3
681	SAN JACINTO SA	BELLAIRE	TX	12/11/92	3
682	SAN JACINTO SA	BELLAIRE	TX	12/11/92	3
683	SAN JACINTO SA	BELLAIRE	TX	12/11/92	3
684	SAN JACINTO SA	BELLAIRE	TX	12/17/92	3
685	SAN JACINTO SA	BELLAIRE	TX	12/17/92	3
686	SAN JACINTO SA	BELLAIRE	TX	12/17/92	3
687	SAN JACINTO SA	BELLAIRE	TX	12/17/92	3
688	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
689	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
690	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
691	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
692	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
693	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
694	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
695	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
696	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
697	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
698	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
699	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
700	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
701	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3
702	SAN JACINTO SA	BELLAIRE	TX	2/10/93	3

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703	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
704	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
705	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
706	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
707	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
708	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
709	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
710	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
711	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
712	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
713	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
714	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
715	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
716	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
717	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
718	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
719	SAM JACINTO SA	BELLAIRE	TX	2/10/93	0
720	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
721	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
722	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
723	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
724	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
725	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
726	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
727	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0
728	SAM JACINTO SA	BELLAIRE	TX	2/16/93	0

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CODE
729	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
730	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
731	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
732	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
733	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
734	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
735	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
736	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
737	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
738	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
739	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
740	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
741	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
742	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
743	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
744	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
745	SAN JACINTO SA	BELLAIRE	TX	2/16/93	0
746	SAN JACINTO SA	BELLAIRE	TX	2/17/93	0
747	SAN JACINTO SA	BELLAIRE	TX	2/17/93	0
748	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
749	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
750	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
751	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
752	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
753	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
754	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	4177 CODE
755	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
756	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
757	SAN JACINTO SA	BELLAIRE	TX	2/23/93	0
758	SAN JACINTO SA	BELLAIRE	TX	* 2/24/93	0
759	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
760	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
761	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
762	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
763	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
764	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
765	SAN JACINTO SA	BELLAIRE	TX	2/24/93	0
766	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
767	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
768	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
769	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
770	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
771	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
772	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
773	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
774	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
775	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
776	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
777	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
778	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
779	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0
780	SAN JACINTO SA	BELLAIRE	TX	2/25/93	0

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
781	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
782	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
783	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
784	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
785	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
786	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
787	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
788	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
789	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
790	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
791	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
792	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
793	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
794	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
795	SAN JACINTO SA	BELLATRE	TX	2/25/93	0
796	SAN JACINTO SA	BELLATRE	TX	3/05/93	0
797	SAN JACINTO SA	BELLATRE	TX	3/05/93	0
798	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
799	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
800	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
801	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
802	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
803	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
804	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
805	SAN JACINTO SA	BELLATRE	TX	3/24/93	0
806	SAN JACINTO SA	BELLATRE	TX	3/24/93	0

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ACTY CODE
807	SAN JACINTO SA	BELLAIRE	TX	3/24/93	9
808	SAN JACINTO SA	BELLAIRE	TX	3/24/93	8
809	SAN JACINTO SA	BELLAIRE	TX	3/24/93	8
810	SAN JACINTO SA	BELLAIRE	TX	3/30/93	8
811	SAN JACINTO SA	BELLAIRE	TX	3/30/93	8
812	SAN JACINTO SA	BELLAIRE	TX	3/30/93	8
813	SAN JACINTO SA	BELLAIRE	TX	3/30/93	8
814	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
815	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
816	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
817	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
818	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
819	SAN JACINTO SA	BELLAIRE	TX	4/16/93	8
820	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
821	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
822	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
823	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
824	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
825	SAN JACINTO SA	BELLAIRE	TX	5/13/93	8
826	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
827	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
828	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
829	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
830	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
831	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8
832	SAN JACINTO SA	BELLAIRE	TX	5/17/93	8

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
833	SAN JACINTO SA	BELLAIRE	TX	5/17/93	0
834	SAN JACINTO SA	BELLAIRE	TX	5/27/93	0
835	SAN JACINTO SA	BELLAIRE	TX	5/27/93	0
836	SAN JACINTO SA	BELLAIRE	TX	6/04/93	0
837	SAN JACINTO SA	BELLAIRE	TX	6/27/93	0
838	SAN JACINTO SA	BELLAIRE	TX	6/07/93	0
839	SAN JACINTO SA	BELLAIRE	TX	6/07/93	0
840	SAN JACINTO SA	BELLAIRE	TX	6/07/93	0
841	SAN JACINTO SA	BELLAIRE	TX	6/21/93	0
842	SAN JACINTO SA	BELLAIRE	TX	6/21/93	0
843	SAN JACINTO SA	BELLAIRE	TX	7/12/93	0
844	SAN JACINTO SA	BELLAIRE	TX	7/12/93	0
845	SAN JACINTO SA	BELLAIRE	TX	7/12/93	0
846	SAN JACINTO SA	BELLAIRE	TX	7/12/93	0
847	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
848	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
849	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
850	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
851	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
852	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
853	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
854	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
855	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
856	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
857	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0
858	SAN JACINTO SA	BELLAIRE	TX	7/30/93	0

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPENA	ATTY CODE
859	SOUTHSIDE S&LA	AUSTIN	TX	1/31/92	S
860	SOUTHSIDE S&LA	AUSTIN	TX	2/05/92	S
861	SOUTHWESTERN S&LA	EL PASO	TX	2/03/92	S
862	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	0
863	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	0
864	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	0
865	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	0
866	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
867	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
868	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
869	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
870	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
871	SOUTHWESTERN S&LA	EL PASO	TX	4/17/92	S
872	SOUTHWESTERN S&LA	EL PASO	TX	5/01/92	0
873	SOUTHWESTERN S&LA	EL PASO	TX	5/01/92	0
874	SOUTHWESTERN S&LA	EL PASO	TX	5/01/92	0
875	SOUTHWESTERN S&LA	EL PASO	TX	5/01/92	0
876	SOUTHWESTERN S&LA	EL PASO	TX	5/01/92	0
877	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
878	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
879	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
880	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
881	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
882	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
883	SOUTHWESTERN S&LA	EL PASO	TX	4/15/93	I
884	SOUTHWESTERN S&LAD	EL PASO	TX	4/15/93	I

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CODE
885	SURETY SAVINGS	EL PASO	TX	4/04/92	S
886	SURETY SAVINGS	EL PASO	TX	4/04/92	S
887	SURETY SAVINGS	EL PASO	TX	4/04/92	S
888	SURETY SAVINGS	EL PASO	TX	4/04/92	S
889	SURETY SAVINGS	EL PASO	TX	4/04/92	S
890	SURETY SAVINGS	EL PASO	TX	4/04/92	S
891	SURETY SAVINGS	EL PASO	TX	4/04/92	S
892	SURETY SAVINGS	EL PASO	TX	4/04/92	S
893	SURETY SAVINGS	EL PASO	TX	4/04/92	S
894	SURETY SAVINGS	EL PASO	TX	4/04/92	S
895	SURETY SAVINGS	EL PASO	TX	4/04/92	S
896	SURETY SAVINGS	EL PASC	TX	4/04/92	S
897	SURETY SAVINGS	EL PASO	TX	4/30/92	S
898	SURETY SAVINGS	EL PASO	TX	4/30/92	S
899	SURETY SAVINGS	EL PASO	TX	4/30/92	S
900	SURETY SAVINGS	EL PASO	TX	4/30/92	S
901	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
902	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
903	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
904	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
905	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
906	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
907	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
908	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
909	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D
910	TEXASBANK SAVINGS, FSB	CONROE	TX	6/09/92	D

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
911	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
912	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
913	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
914	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
915	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
916	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
917	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
918	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
919	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
920	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
921	TEXASBANK SAVINGS, FSB	COMROE	TX	6/09/92	D
922	TEXASBANK SAVINGS, FSB	COMROE	TX	7/07/92	D
923	TEXASBANK SAVINGS, FSB	COMROE	TX	7/07/92	D
924	TEXASBANK SAVINGS, FSB	COMROE	TX	7/07/92	D
925	TEXASBANK SAVINGS, FSB	COMROE	TX	7/08/92	D
926	TEXASBANK SAVINGS, FSB	COMROE	TX	7/09/92	D
927	TEXASBANK SAVINGS, FSB	COMROE	TX	8/27/92	D
928	TEXASBANK SAVINGS, FSB	COMROE	TX	9/11/92	D
929	TEXASBANK SAVINGS, FSB	COMROE	TX	10/29/92	D
930	TEXASBANK SAVINGS, FSB	COMROE	TX	10/29/92	D
931	TEXASBANK SAVINGS, FSB	COMROE	TX	11/28/92	D
932	TEXASBANK SAVINGS, FSB	COMROE	TX	11/28/92	D
933	TEXASBANK SAVINGS, FSB	COMROE	TX	12/22/92	D
934	TEXASBANK SAVINGS, FSB	COMROE	TX	12/22/92	D
935	TEXASBANK SAVINGS, FSB	COMROE	TX	12/22/92	D
936	TEXASBANK SAVINGS, FSB	COMROE	TX	12/22/92	D

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	CASE
937	TEXASBANK SAVINGS, FSB	CONROE	TX	12/22/92	1
938	TEXASBANK SAVINGS, FSB	CONROE	TX	12/22/92	1
939	TEXASBANK SAVINGS, FSB	CONROE	TX	1/19/93	2
940	TEXASBANK SAVINGS, FSB	CONROE	TX	1/19/93	2
941	TEXASBANK SAVINGS, FSB	CONROE	TX	1/19/93	2
942	TEXASBANK SAVINGS, FSB	CONROE	TX	1/19/93	2
943	TEXASBANK SAVINGS, FSB	CONROE	TX	1/19/93	2
944	THE FEDERAL SAVINGS BANC, F.A.	ARLINGTON	TX	12/13/91	2
945	THE FEDERAL SAVINGS BANC, F.A.	ARLINGTON	TX	9/16/92	2
946	THE FEDERAL SAVINGS BANC, F.A.	ARLINGTON	TX	10/06/92	2
947	TRAVIS S&LA	SAN ANTONIO	TX	11/13/91	4
948	VALLEY FEDERAL S&LA	MCALLEN	TX	2/03/92	5
949	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
950	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
951	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
952	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
953	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
954	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
955	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
956	VALLEY FEDERAL S&LA	MCALLEN	TX	3/27/92	5
957	VALLEY FEDERAL S&LA	MCALLEN	TX	4/01/92	5
958	VALLEY FEDERAL S&LA	MCALLEN	TX	4/01/92	5
959	VALLEY FEDERAL S&LA	MCALLEN	TX	4/01/92	5
960	VALLEY FEDERAL S&LA	MCALLEN	TX	4/01/92	5
961	VALLEY FEDERAL S&LA	MCALLEN	TX	4/01/92	5
962	VICTORIA SA	VICTORIA	TX	7/17/91	0

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ADMINISTRATIVE SUBPOENA ISSUED FROM TEXAS INSTITUTIONS

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NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ACTION CODE
963	VICTORIA SA	VICTORIA	TX	7/17/91	D
964	VICTORIA SA	VICTORIA	TX	7/17/91	D
965	VICTORIA SA	VICTORIA	TX	7/17/91	D
966	VICTORIA SA	VICTORIA	TX	7/17/91	D
967	VICTORIA SA	VICTORIA	TX	7/17/91	D
968	VICTORIA SA	VICTORIA	TX	7/17/91	D
969	VICTORIA SA	VICTORIA	TX	7/17/91	D
970	VICTORIA SA	VICTORIA	TX	7/17/91	D
971	VICTORIA SA	VICTORIA	TX	7/17/91	D
972	VICTORIA SA	VICTORIA	TX	7/17/91	D
973	VICTORIA SA	VICTORIA	TX	7/17/91	D
974	VICTORIA SA	VICTORIA	TX	8/09/91	D
975	VICTORIA SA	VICTORIA	TX	8/25/91	I
976	VICTORIA SA	VICTORIA	TX	10/03/91	I
977	VICTORIA SA	VICTORIA	TX	10/03/91	I
978	VICTORIA SA	VICTORIA	TX	10/15/91	I
979	VICTORIA SA	VICTORIA	TX	10/15/91	I
980	VICTORIA SA	VICTORIA	TX	11/05/91	I
981	VICTORIA SA	VICTORIA	TX	11/13/91	I
982	VICTORIA SA	VICTORIA	TX	12/05/91	I
983	VICTORIA SA	VICTORIA	TX	4/07/92	I
984	VICTORIA SA	VICTORIA	TX	4/07/92	I
985	VICTORIA SA	VICTORIA	TX	4/07/92	I
986	VICTORIA SA	VICTORIA	TX	4/07/92	I
987	VICTORIA SA	VICTORIA	TX	4/07/92	I
988	VICTORIA SA	VICTORIA	TX	4/07/92	I

NUMBER	INSTITUTION	CITY	STATE	DATE OF SUBPOENA	ATTY CODE
989	VICTORIA SA	VICTORIA	TX	4/07/92	I
990	VICTORIA SA	VICTORIA	TX	4/07/92	I
991	VICTORIA SA	VICTORIA	TX	4/07/92	I
992	VICTORIA SA	VICTORIA	TX	4/07/92	I
993	VICTORIA SA	VICTORIA	TX	4/07/92	I
994	VICTORIA SA	VICTORIA	TX	4/07/92	I
995	VICTORIA SA	VICTORIA	TX	4/07/92	I
996	VICTORIA SA	VICTORIA	TX	4/07/92	I
997	VICTORIA SA	VICTORIA	TX	4/07/92	I
998	VICTORIA SA	VICTORIA	TX	4/07/92	I
999	VICTORIA SA	VICTORIA	TX	4/07/92	I
1000	VICTORIA SA	VICTORIA	TX	4/07/92	I
1001	VICTORIA SA	VICTORIA	TX	4/08/92	I
1002	VICTORIA SA	VICTORIA	TX	4/08/92	I
1003	VISION BANC SA	KINGSVILLE	TX	2/10/92	I
1004	VISION BANC SA	KINGSVILLE	TX	2/10/92	I
1005	VISION BANC SA	KINGSVILLE	TX	2/13/92	I
1006	WESTERN GULF SALLA	BAT CITY	TX	8/13/91	J

ATTACHMENT G

Question 2.d.

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 REPORT OF RTC PLS OFFENSIVE LAWSUITS INVOLVING FAILED TEXAS SAVINGS & LOANS
 (AS OF MARCH 15, 1994)

4/21/94

Sorted by Thrift Name

NO.	THRIFT NAME	SUIT DATE	DOCKET NUMBER	CT S FED IF APPLICABLE, ST F DIST STATE COURT NAME			TX F	WD	CASE NAME	CASE CLOSED
				TX F	WD	TX F				
1	ALAMO FSA OF TEXAS	2/27/92	SA 92 CA 196					Resolution Trust Corporation as Receiver for Alamo FederalSavings Association of Texas v. Wilbur L. Fite (D); Nina O.Calhoun (D); Ronald K. Calgaard (D); Richard L. Fite (D); James K. Ruble (D); William S. Watson (D); William W. Ochsae(D); A.C. Sien, Jr.	M	
2	BANCPLUS SA	4/16/92	H-92-1174	TX F	SD			Resolution Trust Corporation v. Walter Ross (DO) Amended Complaint filed 7/17/92; RTC v. Walter Ross (D/O), Neil R. Pettigrew D/O, The First Boston Corporation (A) and Donaldson, Lufkin & Jenerette, et al.	Y	
3	BANCPLUS SA	2/12/93	H-93-0412	TX F	SD			Resolution Trust Corporation v. Mayor, Day & Caldwell (L) and Mayor, Day, Caldwell & Keeton, LLP (L)	M	
4	BAYSHORE SA	2/28/92	91-49495	TX F	SD			In Re: Benton Scott Fleming, Sr., (DO)	Y	
5	BEDFORD SA	8/07/92	4-92CV-601-A	TX F	HD			The Resolution Trust Corporation, in its Corporate Capacity v. Oakerston, Arnold, Walker & Co. (T); Oakerston, Arnold & Co. (T); Earl M. Oakerston (T), and Bobby Jack Arnold (T) Amended Complaint filed 8/14/92	Y	
6	BENJAMIN FRANKLIN FSA	11/07/86	86-52038	TX S			11TH JUDICIAL DIST.	RTC as conservator for Benjamin Franklin FSA v. Stouffer (X)	Y	
7	BENJAMIN FRANKLIN FSA	7/28/89	CA-4-89-533-K	TX F	HD			RTC as conservator for Benjamin Franklin FSA v. Prince (DO/T)	Y	
8	BENJAMIN FRANKLIN FSA	7/31/92	92-C-5130	IL F	ED			Resolution Trust Corporation, in its corporate capacity, v.Arthur Anderson & Company (T); e partnership First Amended Complaint: Resolution Trust Corporation, in its corporate capacity v. Arthur Anderson & Company (T)	Y	
9	BRIGHT BANC, SA	2/14/87	CA3-8-0116-F	TX F	HD			RTC as conservator for Bright Banc, SA v. U.S. Fire Ins. Co. (8)	M	
10	CENTRAL TEXAS S&L	4/02/92	U-92CA109	TX F	MT			The Resolution Trust Corporation, in its corporate capacity v. Max Atkins (D/O); Martha Beard (D); Charles Dulaney (D); David Kuitgen (D/L); Roine Lacy, Jr. (D) and Sam Jack McClasson (D).	Y	
11	CITY S&L OF SAN ANTONIO	10/24/93	SA93CA0906	TX F	MD			Resolution Trust Corporation vs. Paul Tillman (D/O); Nancy Dillon, Executrix of the Estate of David Dillon (D/O); Ralph Bender (D); Jerry Jordan (D)	Y	

REPORT OF RTC PLS OFFENSIVE LAWSUITS INVOLVING FAILED TEXAS SAVINGS & LOANS
(AS OF MARCH 15, 1994)

4/01/94

Sorted by Thrift Name

NO.	THRIFT NAME	SUIT DATE	DOCKET NUMBER	CI S ST F	PED DIST	IF APPLICABLE, STATE COURT NAME	CASE NAME	CASE CLOSED
12	CITY S&LA OF SAN ANTONIO	10/21/93	94-R-015				Resolution Trust Corp as Receiver for CitySavings & Loan Association, F.A., San Antonio, Texas and Malzem Service Corporation, and in all applicable capacities conferred upon it by law v. First Financial Futures, Inc (S), et al.	Y
13	CITY SA	1/01/86	86CV-0225	TX S		56th Judicial Distri	CITY SAVINGS ASSOCIATION V. W.L. FARQUHAR (D/A) INSURANCE CO. (B)	T
14	CITY SA	3/30/88	G-88-114	TX F	SD		In re Kidder Peabody (S/C) arbitration	T
15	COMMERCE FSA	1/01/88	71-1360-0553-89	TX F	TX	Arbitration	The Resolution Trust Corporation in its Corporate Capacity, V. Gerald M. Stool (D); John C. Kerr (D); Roger D. Harrilom(DO); Steven L. Pritchard (D) and John T. Steen, Jr. (DO)	T
16	COMMERCE FSA	6/19/92	S-A92CA0624	TX F	WD		Resolution Trust Corporation, in its corporate capacity, v. S. Don Morris (DO); John J. Ellenburg (D); George G. Harris, Sr. (DO); Edgar A. Smith (D); Howard T. Tellepsen, Jr. (D); Joe Lynch (D); Lee Hogan (D); Larry Street (D); et al.	M
17	COMMONWEALTH FSA	3/06/92	92-748	TX F	SD		Resolution Trust Corporation, in its corporate capacity and as assignee of the receiver of Deep East Texas Savings Association v. Hubert Vestal (D); Elray King (DO); William E. Haynie (DO); Richard Gill Tubb (D) and R. Q. Perkins (D)	M
18	DEEP EAST TEXAS SA	3/06/92	1-92-CV0096	TX F	ED		RTC AS CONSERVATOR FOR EAST TEXAS S&LA, F.A. v. PRUDENTIAL SECURITIES, INC. (S); ET AL (K)	Y
19	EAST TEXAS S&LA11 1 92	7/28/89	89-R341	DC F	CF		Resolution Trust Corporation v. Gene Phelps (DO); E.L. Beckendorf (DO); E.L. Beckendorf (D); Milton E. Havlick, Jr.(D/L); Donald C. Strack (D) and V.G. Bratton (D)	M
20	FIRST EQUITY SA	3/06/92	N-92-734	TX F	SD		Resolution Trust Corporation v. Milton E. Havlick, Jr.(D/L); Klein, Havlick & Covington (L) and Klein, Havlick & Gallagher (L)	M
21	FIRST EQUITY SA	3/06/92	N-92-735	TX F	SD		Resolution Trust Corporation, as Receiver for Hallmark Savings Association vs. Atlantic Casualty & Fire InsuranceCompany (B), Nobel' Lloyd's Insurance Company (B), Nobel' Insurance Company (B) and Nobel' Insurance Group (B)	Y
22	HALLMARK SA	8/16/91	3: 91 CV1669-C	TX F	WD		Resolution Trust Corporation, in its corporate capacity and as receiver of Hallmark S&LA, as receiver of New Braunfels S&LA and as receiver of North American FSA v. Jerry Stiles (D), et al.	M

REPORT OF RTC PLS OFFENSIVE LAWSUITS INVOLVING FAILED TEXAS SAVINGS & LOANS
(AS OF MARCH 15, 1994)

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Sorted by Thrift Name

NO.	THRIFT NAME	SUIT DATE	DOCKET NUMBER	CT S FED IF APPLICABLE			CASE NAME	CASE CLOSED
				ST	F	D1ST STATE COURT NAME		
				TX	F	MO		
24	HERITAGEBANC SA	3/19/92	3-92CV-624-H	TX	F	MO	The Resolution Trust Corporation, in its corporate capacity, v. Charles D. Acton (D/D); David Clayton (D); William F. Courtney (D/L); Richard L. Davidson (D) and John R. Rittenberry (D/O)	M
25	JASPER, FS&LA	3/10/92	1-92CV91	TX	F	ED	Resolution Trust Corporation as receiver of Jasper Federal Savings and Loan Association v. John H. Seale (D); Virgil Martindale (D) and Richard R. Mays (D)	M
26	MERITBANC SA	7/15/89	89-01075-N3-7	TX	F	SO	RTC AS CONSERVATOR FOR MERITBANC SAVINGS ASSOCIATION vs. HARVIN COOPER MOORE III, a/k/a HARVIN C. MOORE, JR. (OO)	Y
27	MERITBANC SA	9/27/89	89-01876-N5-7	TX	F	SO	RTC AS CONSERVATOR FOR MERITBANC SAVINGS ASSOCIATION vs. CHARLES WILLIAM LAMER (OO)	M
28	MERITBANC SA	5/04/92	K-92-1364	TX	F	SO	Resolution Trust Corporation, as Receiver of Meritbanc Savings Association. Elkenburg and Stiles, a Professional Corporation. Elkenburg and Elkenburg & Stiles (L) and David L. Rosenberg (L)	Y
29	METROPOLITAN FINANCIAL S&LA	8/07/92	3-92CV1610-T	TX	F	MO	Resolution Trust Corporation, in its corporate capacity, v. Jackson, Walker, Winstead, Cantwell and Miller (L); a general partnership; Jackson & Walker, a general partnership; and Jackson & Walker, L.L.P. (L); a law firm; Bryan C. Birkland (L); et al.	M
30	MURRAY SA	4/06/92	CA3-92CV0648-R	TX	F	MO	Resolution Trust Corporation v. Jack E. Crozier (OO); David Meek (OO); Charles M. Karlen (D); James C. Aulry (D); Daniel L. Basird (D); Alan B. Coleman (D); Searcy M. Ferguson, Jr. (D) and Oliver R. Mattingly (D) Amended Complaint Filed 4/6/92	Y
31	KOHLIN SA	4/01/87	90-1186	TX	F	MO	RESOLUTION TRUST CORPORATION v. ROBERT WALTERS (O); ET AL.	Y
32	RENINGTON SA	5/24/93	93-CA-280-JH	TX	F	MO	Resolution Trust Corporation, as Receiver of Remington FSA v. Rey Hennis Arbuckle, Jr. (D/O), Steven L. Crawford (D/O), Herold E. Diddy (D/O), Thomas R. Perry (D/O) and John Stanley "Chip" Rainey (D/O)	M
33	RESOURCE SA	4/02/92	3-92CV-632-R	TX	F	MO	RTC v. Creig Hall (D); Richard Arnold, Esq. (D/L); Mark Cleary (OO); David Marshall (OO); Herbert Bickel (D); Michael Kilbourn (D); William Gutow (D) and Martin Cohen, M.D. (D) and Creig Hall, as Trustee for the Creig Hall Revocable Living Trust, et al	M

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(AS OF MARCH 15, 1994)

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NO.	THRIFT NAME	SUIT DATE	DOCKET NUMBER	CT S FED IF APPLICABLE,			CASE NAME	CASE CLOSED
				ST F	DIST	STATE COURT		
34	SAN JACINTO SA	10/08/90	CAS-90-2549-P	TX S	MD		Resolution Trust Corporation v. Fidelity & Deposit Company (B).	N
35	SAN JACINTO SA	11/26/93	393CW-2367P	TX F	MD		RTC, as Receiver for San Jacinto SA v. Akin, Gump, Strauss, Heuer & Feld (L)	Y
36	SAN JACINTO SA	11/26/93	3-93CV2364-R	TX F	MD		RESOLUTION TRUST CORPORATION, in its corporate capacity v. JAMES O KELLY (D), M. ROBERT BARTLELL (DO), MUGH T. WILSON (D), D. VINSON MARLEY (D), MELVIN B. REIST (DO), FREDERICK RIEDEL (D), GENE E. PHILLIPS (D).	Y
37	SAN JACINTO SA	11/26/93	93 CIV. 8143	MY F	SO		RTC as Receiver for San Jacinto SA v. Gene E. Phillip (D) Grant Thornton (T) et al.	Y
38	SOUTHWEST SA	5/17/93	3-93-CW0956-0	TX F	MD		Resolution Trust Corporation, in its corporate capacity, vs. John B. Sands (D); David K. Sands (D); Leudie H. Sands Harrison (D); M. Martin Pearce (D/0); Curtis Todd Miller (D/0); Richard L. Park (D/0); James D. Alexander (D); et al.	N
39	SPRING BRANCH S&LA	3/06/92	H-92-753	TX F	SD		Resolution Trust Corporation v. Harry Holmes, Jr. (D); Thomas J. Holmes, Sr. (DO); Thomas J. Holmes, Jr. (D) and John A. Hutchison III (D)	N
40	TEXAS COMMERCIAL SA	9/17/93	93-CV-71	TX F	ED		Resolution Trust Corporation v. Coy Johnson (D), Joe Billy Ardia (D), Joe Cephus Parris (D), Don Martin D'Neal (D), Bobby Lee Price (D), and Frankie Price, Bobby Lee Price, Roger Price, as Co-Executors of the Estate of Pizzini Price, Deceased (D)	N
41	TEXASBANK SAVINGS, FSB	2/19/93	ZH-93-498	TX F	SD		Resolution Trust Corporation v. Patrick W. Johnson (L), Chamberlain, Hrdlicka, White, Williams & Martin (L), Leymon L. Solomon (L), Harold A. Chamberlain (L), George A. Hrdlicka (L), George A. Hrdlicka, P.C. (L), Robert I. White, P.C. (L), et al.	N
42	THE FEDERAL SAVINGS BANK, F.A.	5/07/93	3-93CV0893-G	TX F	MD		Resolution Trust Corporation as Receiver for The Federal Savings Banc. F.A. v. Joseph Robert Alpert (D/0) and A. Daniel McClintock (D/0)	N
43	THE FEDERAL SAVINGS BANK, F.A.	7/07/93	3-93CV1329-0	TX F	MD		Resolution Trust Corporation as Receiver for The Federal Savings Banc. F.A. v. Patrick T. Peyton (D/0) and David Quinn (D/0)	N
44	TIMBERLAND SA	3/06/92	9-93CV32	TX F	ED		Resolution Trust Corporation, in its corporate capacity and as assignee of the receiver of Timberland Savings Association v. Joe Max Green (D); Charles Bright (D) and Stanley Jones (D)	Y

4/01/94 REPORT OF RTC PLS DEFENSIVE LAWSUITS INVOLVING FAILED TEXAS SAVINGS & LOANS
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Sorted by Thrift Name

NO.	THRIFT NAME	SUIT DATE	DOCKET NUMBER	CT \$ FED IF APPLICABLE		CASE NAME	CASE CLOSED
				ST F	DIST STATE COURT NAME		
45	UNIVERSAL SA	3/01/89	M-90-573	TX	F	First Universal Service Corporation and the RTC, assignor of Universal Savings Association v. Rudy M. Groom (L); Lawrence Weiser (L); Anthony Migliocco (L); Thes Fabio (L) and Charles Botschen (L)	Y
46	UNIVERSAL SA	5/20/88	M-88-1760	TX	F	RTC as Conservator for Universal Savings Association, et al. v. Pentecost, et al. (00/X)	Y
47	UNIVERSAL SA	3/05/92	M-92-7391	TX	F	The Resolution Trust Corporation, as Receiver for Universal Savings Association and Universal Federal Savings Association v. Boyer, Horton & Blair, a Texas Legal Partnership (L); Carl L. Horton (L); Graham K. Blair (L); Michael K. Kuhn (L); et al.	Y
48	UNIVERSITY SA	2/10/92	M-92-053	TX	F	Resolution Trust Corporation, in its capacity as Receiver for University Federal Savings Association v. John Bonner(00); Kenneth Montague (0); Jean Farley (0); James Fatheree(0) and William Greenwood (0)	Y
49	UNIVERSITY SA	11/10/92	M-92-3479	TX	F	Resolution Trust Corporation, in its capacity as Receiver for University Federal Savings Association, and the Resolution Trust Corporation, in its Corporate Capacity v. Smell, Craig & Werkenthin (L)	Y
50	UNIVERSITY SA	8/12/93	M-92-430	TX	F	Resolution Trust Corporation, in its corporate capacity, as Assignee of the RTC, Receiver for University Federal Savings Association, v. John Bonner, (0&0) et. al.	N
51	VICTORIA SA	6/25/92	SA92CA0653	TX	F	Resolution Trust Corporation, in its corporate capacity v. Rupert Hays (0/0), Edward Barron (0/0), Dan Praman (0/X), James Hopper (0), Wayne Ferguson (0), Joseph Ewers (0), Thomas Martin (0), Mark Kreiger (0), Glen Corso (0/0/L), et al.	N
52	VISION BANC SA	8/07/89	M-89-3673	TX	F	RTC, as conservator for Vision Banc SA v. James W. Hooty, II (00/5), et al.	Y
53	WESTERN GULF SBLA	3/06/92	9-92-91	TX	F	Resolution Trust Corporation, in its corporate capacity and as assignee of the Receiver of Western Gulf Savings and Loan Association v. Sidney Schwartz (0); George A. Odum (0) and Melvin A. Epstein (0)	Y

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REPORT OF RTC PLS OFFENSIVE LAWSUITS INVOLVING FAILED TEXAS SAVINGS & LOANS
[AS OF MARCH 15, 1994]

Sorted by Thrift Name

CODES:

- D = Director
- O = Officer
- A = Appraiser
- T = Accountant
- L = Attorney
- S = Securities Broker
- C = Commodities Broker
- B = Fidelity Bond
- I = D&O Insurance
- X = Other

- CT S1 = Court State
- SF = State or Federal Court

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ATTACHMENT H

Atlanta Office

RTC 92-46(C)

Complainant, a Special Assistant, LG-14, Atlanta and Tampa Offices, filed a class complaint of discrimination dated December 30, 1992, alleging the following:

Blacks, specifically Black Women, are/were represented at the lower levels, or nonprofessional levels, within the organization at a rate disproportionate to their White counterparts even though they tend to be better qualified and educated than their White counterparts;

Blacks, especially Black Women, are rarely considered seriously for employment at the higher professional grade levels for which they could qualify within the Corporation, thus denying them economic opportunities;

Management within the Corporation has systematically excluded Blacks, particularly Black Women, from higher grade levels (Grade 15 and above). As such, they are almost nonexistent at the higher grade levels;

When Black Women are employed at the professional grade levels, they are excluded from promotions and advancement; and

During periods of reduction-in-force (RIF's) and/or restructuring, Black Women were dismissed and/or excluded from promotions or opportunities for advancement at a rate disproportionate to their White counterparts.

EEOC recommended complaint be dismissed for failure to meet the prerequisites of a class. The Corporation will issue a FAD adopting EEOC's recommendation.

RTC 94-09

Complainant, an Operations Technician, GG-7, Investigations Department, filed a formal complaint on February 10, 1994, alleging that as a result of discrimination on the basis of her race (African-American), she and other minorities in her Department are treated less favorably than White employees with respect to training, awards, job assignments and promotion opportunities. Complainant identified the Director, Investigations and Assistant Director, Investigations, as the responsible management officials. Complaint is pending review for assignment to investigation.

RTC 92-27
RTC 93-12

Complainant, a Secretary, LG-6, Step 2, Tampa, filed a formal complaint of discrimination August 6, 1992, alleging that she was discriminated against because of her race (Black), sex (female) and as reprisal for previous participation in the complaint process. Specifically, Complainant alleged that the Senior MWPD Specialist, and Special Assistant at SECO provided her a Performance Appraisal on June 8, 1992, that did not reflect her perception of her job performance.

Complainant, filed a second formal complaint of discrimination on February 2, 1993, alleging that she was discriminated against because of her race (Black), color (Black), sex (female) and in reprisal for filing previous complaint RTC 92-27, when: 1) her request for lateral transfer was denied; 2) she was given a 90 day Notice of non-renewal; 3) she was not selected for positions for which she applied; 4) she was denied extra-departmental assignments; 5) she was denied out-placement upon termination; 6) she was terminated 9/19/92, as part of the downsizing before "all other RTC Employees." The Senior MWPD Specialist and Special Assistant were identified as the responsible management officials. The two cases were joined for processing. Complaint is in investigation.

RTC 93-35

Complainant, an Operations Technician, LG-07, Investigations Department, filed a formal discrimination complaint on June 21, 1993, alleging that as a result of discrimination on the basis of her race (African American), color (black) and sex (female), she has been consistently denied an opportunity to be upgraded to the LG-09 level. Complainant also alleged that in reprisal for initiating EEO counseling in March 1993, she was removed from an assignment which she held since October 1992 and given a "derogatory" interim appraisal; in October 1993, she was given an unsatisfactory annual performance appraisal; and she was continuously subjected to abusive treatment. Complainant identified the Assistant Director and Department Head, Investigations, as the responsible management officials. By copy of a letter dated March 10, 1994, Complainant notified this Office that she is resigning from her position effective September 30, 1994, "due to racist practices." Issues raised in Complainant's letter are some of the same allegations raised in her discrimination complaint. Complaint is in investigation.

RTC-93-46

Complainant, Secretary, LG-318-5, Asset Marketing Office, filed a discrimination complaint on September 14, 1993, alleging that he was discriminated against based on his race (African American), sex

(male) and reprisal (initiating EEO Counseling), when he was removed from his position and replaced by a White female and was advised to look for another position elsewhere because there was no work for him in the Department; he was moved three times but was not reassigned to another official position; and, he was subjected to harassment in violation of his terms, conditions and privileges of employment after being placed under the supervision of the supervisor, Division of Assets-REO. Complaint is currently under investigation.

RTC-93-55

Complainant, Conversion Specialist LG-303-12, Atlanta Financial Services Center, filed a formal complaint on December 13, 1993, alleging that as a result of discrimination on the basis of her race (African American) and sex (female) in violation of Title VII of the Civil Rights Act, 1964, as amended, and the Equal Pay Act, in February 1993, she was hired at a lower salary than a White male hired before her and one hired after her to perform the same duties and responsibilities, based on the Corporation's "Policy Guidance on Paysetting Determinations." Complaint is presently under investigation.

RTC 93-24

Complainant, a Paralegal Specialist, GG-9, Legal Division, Real Estate and Marketing Section, filed a formal complaint on April 27, 1993, alleging that as a result of discrimination on the basis of her race (Black), she was not promoted to a Paralegal Specialist, GG-11 and was denied select assignments that would have enhanced her opportunity for advancement. Complainant also alleged that as a result of discrimination based on reprisal for initiating EEO counseling on March 1, 1993, she was subjected to different treatment by the Section Chief, Asset Disposition Unit; a Staff Attorney, Asset Disposition Unit, criticized her work unjustly and gave her a performance appraisal for the period April 28, 1992 to April 27, 1993, that she believed did not accurately reflect her performance. Complainant also identified the Assistant General Counsel and Senior Counsel, Asset Disposition, as responsible management officials. The investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 93-25
RTC 93-48

Complainant, a Paralegal Specialist, GG-9, Legal Division, filed formal complaint RTC 93-25, on April 27, 1993, alleging that as a result of discrimination on the basis of her race (Black), she was not promoted to a Paralegal Specialist GG-11 and was denied select assignments that would have enhanced her opportunity for advancement. Complainant filed formal complaint RTC 93-48 on October 1, 1993, alleging that as a result of discrimination based on reprisal (filing formal complaint RTC 93-25), on September 20, 1993, she was given an annual performance appraisal that did not accurately reflect her performance for the period June 18, 1992 to June 18, 1993. The two complaints were joined for processing. Complainant identified her first and second level supervisors as the responsible management officials. The investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 93-29

Complainant, a Paralegal Specialist, GG-9, Legal Division, filed a formal complaint on April 27, 1993, alleging that as a result of discrimination on the basis of his age (DOB: 7-26-46) and sex (male), he was not promoted to a Paralegal Specialist, GG-11 and was denied select work assignments that would have enhanced his opportunity for advancement. Complainant identified the Assistant General Counsel, Senior Counsel for Corporate Affairs, and his Section Chief as the responsible management officials. Investigation has been completed and Report of Investigation is pending review. Upon completion of review, a copy of the Report will be forwarded to Complainant.

RTC-93-33

Complainant, former Administrative Assistant LG-303-6, Facilities Department, filed a formal complaint dated June 1, 1993, alleging that she was discriminated against based on her race (Black) and sex (female). Complainant specifically alleged that her temporary appointment was terminated and she was placed on administrative leave until the Tampa Office closed in January 1993; during the period from June 1992 to January 1993, she was continuously subjected to humiliating, hostile, unfair and racist treatment and was denied an opportunity for advancement to Facilities Department Supervisor and denied consideration for a transfer or detail to the Atlanta Office; and during January 1993, her work was subjected to inappropriate scrutiny and her work station and personal effects were searched by another temporary employee assigned to supervise her work. Complainant identified the Administrative Officer as the responsible management official. The Report of Investigation is currently under review. Upon completion of the review, a copy will

be forwarded to the Complainant.

RTC 93-17

Complainant, an RLIS Technician, LG-303 7/1, Division of Legal Services, filed a formal complaint of discrimination on February 22, 1993, alleging that she was discriminated against because of her race (Black) and age (DOB 5/26/51), as follows: 1) she was given a poor Performance Appraisal for the period 3/25/91 to 10/25/92; 2) issuance of her Performance Appraisal was delayed 20 months; 3) in January 1993, she was not considered for the position of Management Specialist, Legal Division, LG-301-11/12, Announcement Number 001-07-1992; 4) her work site was moved on four occasions. Complainant identified the Assistant General Counsel and Senior Counsel for Corporate Affairs, as the responsible management officials. Complaint is pending issuance of Final Agency Decision.

RTC-93-05

Complainant, a Clerk-Typist, LG-4, Step 4, filed a formal complaint of discrimination dated January 14, 1993, alleging that he was discriminated against because of his race (Black) and reprisal (participation in an EEO complaint) when his supervisor accused him of sexual harassment and on December 21, 1992, he was terminated for misconduct involving his government issued Diner's Club charge card. Complaint is pending an EEOC hearing.

RTC 93-06

Complainant, an Operations Technician, LG-7, filed a formal complaint of discrimination dated January 13, 1993, alleging that she was discriminated against because of her race (African American) when she was not selected for a Career Development Specialist position. Complaint is pending an EEOC hearing.

RTC 93-08

Complainant, an Administrative Assistant (Personnel), GG-303-08, filed a formal complaint of discrimination on February 11, 1993, alleging that because of her race (Black), she was not selected for the position of Personnel Specialist, LG-09, under Announcement 92 ATL 114, posted in September 1992. Complaint is pending an EEOC hearing.

RTC-93-09
RTC-93-10

Complainant, an Administrative Assistant (Personnel) GG-303-08, filed two formal complaints on January 26, 1993, alleging that she was discriminated against because of her race (Black) when she was not selected for two Personnel Specialist positions, LG-301-9, in October 1992. The Administrative Officer was named as the responsible management official. Complaint is pending an EEOC hearing.

RTC 92-14
RTC 92-38

Complainant, Special Assistant, LG-14, Atlanta and Tampa Offices, filed formal complaints of discrimination dated April 22, 1992 and October 13, 1992 respectively. Complainant alleged that because of her race (Black) and sex (female), she was subjected to harassment which created unequal working conditions. She also alleged that after becoming aware of the sexual harassment, the (former) Director, RTC Southeast Consolidated Office failed to take immediate and appropriate action to ensure that the sexual harassment did not recur. Complainant further alleged that in reprisal for her prior EEO complaint activity, she was subjected to unequal terms, conditions and privileges of employment; given two Letters of Reprimand; and, placed on leave restriction. The complaints were joined for processing. The investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 92-21

Complainant, an applicant for employment with the RTC, filed a formal discrimination complaint on June 4, 1992, alleging that because of his age (DOB: 5-06-27), he was discriminated against by the Supervisory Managing Agent, Special Assistant to the Vice President, and Administrative Officer, when he was not selected for the position of Managing Agent, LG-13, with the Conservatorship Program. An EEOC hearing was conducted by an Administrative Judge appointed by Equal Employment Opportunity Commission (EEOC), who recommended a finding of no discrimination. A Final Agency Decision was issued adopting EEOC's recommendation.

RTC 92-33

Complainant filed a formal discrimination complaint on August 20, 1992, alleging that as a result of discrimination on the basis of her sex (female), her 1992 performance evaluation prepared by her immediate supervisor, Investigations Department Head, contained references to "outside responsibilities and concerns and outside

pressures" as a single parent to support some of the ratings. Complainant further alleged that, as a result of discrimination based on her sex, management and other employees referred to her as a "J.A.P." (Jewish American Princess); she was subjected to a sexually hostile working environment by her supervisor who repeatedly asked her co-worker for dates; and she was denied an upgrade from an Operations Technician (Typing), LG-303-07, to an Investigator, LG-301-09 position. Complainant also alleged that as a result of discrimination based on reprisal (prior EEO activity), she was involuntarily detailed from the Investigations Department to the Personnel Office; and, on October 16, 1992, she received a 60 day Notice of Non-renewal of her temporary appointment. Complainant identified the Assistant Director, Investigations, as the responsible management official. The complaint is pending issuance of a Final Agency Decision.

RTC 92-44

Complainant a former RLIS Technician, LG-7, filed a formal complaint on December 2, 1992, alleging that she was discriminated against because of her race (Black) and sex (female) by the Assistant General Counsel and Senior Counsel, Corporate Affairs, when she was terminated effective September 25, 1992. Complaint is pending issuance of a Final Agency Decision.

California Office

RTC 94-10

Complainant, a Senior Administrative Assistant, LG-09, filed a formal complaint on February 17, 1994, alleging that as a result of discrimination based on her age (DOB 3/1/53), sex (female), and reprisal (participation in the EEO process), she was subjected to harassment and subsequently terminated. Complainant identified the Assistant General Counsel and Deputy General Counsel, as the responsible management officials. The complaint is pending assignment to investigation.

RTC 93-22

Complainant, an Asset Specialist, Real Estate Owned, LG-14, filed a formal complaint on April 19, 1993, alleging that as result of discrimination based on reprisal (participation in an EEO investigation), she was subjected to harassment, denied an upgrade to an LG-15, and provided a low performance evaluation. Complainant identified the Director, Office of Asset Management and the Section Chief as the responsible management officials. The Complaint is currently in investigation.

RTC 93-11

Complainant, a Contract Specialist, LG-14, filed a formal complaint on January 23, 1993, alleging that he was discriminated against based on his age (58) and reprisal (previous EEO activity), in that he was verbally warned that support for his job would be withdrawn; his support staff was relocated; he received unjustified oral and written criticism of his performance; and, he was dismissed from his Department Head position. Complainant identified his immediate Supervisor and the Acting Assistant Director as the responsible management officials. The Complaint is currently in investigation.

RTC 93-27

Complainant, a Supervisory Asset Manager GG-15, Standard Asset Management Disposition Agreement Program (SAMDA), filed a formal complaint on April 27, 1993, alleging that because of discrimination based on her sex (female) she was subjected to both sexual and non-sexual harassment creating a generally hostile and abusive work environment. Complainant identified the Directors/SAMDA Program Management, Deputy Vice President and Vice President, California Office as the responsible management officials. The investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to the Complainant.

RTC 93-42

Complainant, a Staff Attorney, LG-905-13, filed a formal complaint on July 23, 1993, alleging that as a result of discrimination on the basis of her sex (female), race (Hispanic) and reprisal (informal EEO complaint activity and management's perception that she is involved in a former employee's EEO complaint), she has been subjected to harassment and unequal terms, conditions, and privileges of employment. Specifically, she alleged that she was not recommended for an upgrade to an LG-14; she has been continuously denied conversion from a temporary LG to permanent GG status; she has been consistently assigned a heavier workload than White male attorneys; she received a performance evaluation which did not accurately reflect her performance; she has been denied an opportunity to serve as Acting Section Chief; and, her immediate supervisor over scrutinized her work. Complainant identified the Acting Deputy General Counsel, General Counsel, and Section Chief as the responsible management officials. The complaint is pending assignment to an investigator.

RTC 92-40

Complainant, a Department Head, Real Estate Owned (REO), LG-14, filed a formal complaint on October 21, 1992, alleging that because of her sex (female), she was denied an upgrade to an LG-15. She identified the Vice President, California Office, as the responsible management official. The complaint is pending settlement.

RTC 93-02

Complainant, Department Head, Affordable Housing, LG-14, filed a formal complaint on January 4, 1993, alleging that she was discriminated against because of her sex (female) when she was subjected to sexual harassment. She further alleged that she was discriminated against because of reprisal (prior participation in an EEO complaint) when she was denied an upgrade to an LG-15 which had been recommended by her immediate supervisor. Complainant identified the Director, Office of SAMDA Program Management and the Vice President, California Office, as the responsible management officials. The individual found to have sexually harassed Complainant was terminated. The complaint is pending settlement.

RTC 92-39

The Complainant, an Asset Specialist, Office of SAMDA Program Management, filed a formal complaint on October 6, 1992, alleging discrimination based on his race (Hispanic) and National Origin (Mexican) when he was not considered for promotion and was removed from a supervisory position. Complainant identified the Director, Office Of SAMDA Program Management as the responsible management official. The Complaint is pending the issuance of a Final Agency Decision.

Dallas OfficeRTC 93-40
RTC 93-40A

Complainant filed a formal complaint on July 14, 1993 and October 24, 1993, alleging that as a result of discrimination on the basis of his race (African-American) and reprisal (his association with an individual who filed a formal complaint against the Corporation), he has been continuously denied a position with the Dallas Office and Dallas Financial Service Center. Complainant identified the Director of Administration, Administrative Services Manager, and Personnel Section Chief, Dallas Office and Dallas Financial Service Center as the responsible management officials.

Complainant identified several positions for which he applied in the Dallas Office and Dallas Financial Service Center between November 1992 and October 1993. Complainant also alleged that Black applicants, specifically Black males who apply for positions at grades 12 and above in the Dallas Office and Dallas Financial Service Center, are rejected for employment in favor of White applicants with less education and experience.

Complainant further alleged that he was discriminated against based on his race when he was not selected for the position of Contract Specialist, Kansas City Office, under Vacancy Announcement Number 93-CON-050. Complainant applied for the position in August 1993. Complaint is currently in investigation.

RTC 93-04

Complainant, an Assistant Marketing Specialist, LG-12, filed a formal complaint on April 7, 1993, alleging that she was discriminated against based on her sex (female), when she was subjected to sexual harassment which created a hostile work environment. Complainant also alleged that as a result of discrimination on the basis of reprisal her temporary appointment was not renewed when it expired. Final Agency Decision issued on jurisdiction (complaint was untimely filed).

RTC 93-39

Complainant, formerly an LG-11 Settlement Claims Specialist, filed a formal complaint July 7, 1993, alleging that as a result of discrimination on the basis of her sex (female), she was hired as an LG-11 instead of an LG-12 which she was offered and accepted; her temporary appointment was not renewed when it expired January 1, 1994; and, she was subjected to unequal terms, conditions and privileges of employment, sexual harassment and a hostile work environment in which females were encouraged to be submissive and obedient. Complainant cites verbal abuse, sexual innuendo, negative remarks about women by co-workers and managers, and denial of training, overtime, opportunities to travel. Complainant identified the Department Head, Claims Settlement Department, as a responsible management official. Complaint is pending assignment to investigation.

RTC 92-37

Complainant, a former Deputy Regional Counsel, Legal Division, filed a formal complaint on September 29, 1992, alleging that he was discriminated against based on his religion (Christian) and reprisal (EEO activity), in that he was subjected to harassment and unequal terms, conditions and privileges of employment. Complainant specifically alleged that: his second level supervisor refused to sign or comment on his Annual and Supervisory Performance Appraisal; he was denied permission and/or directives were given to others to prevent his participation in special, high visibility projects and assignments; he was denied promotion or upgrade to his target grade of E-1; he received written criticism; he was the victim of injurious remarks regarding his character, performance, disposition, and professionalism; he was not considered, contacted, nor interviewed for promotion to Assistant General Counsel; he was removed from the position of Senior Counsel, Corporate Affairs, Legal Division; his privacy was invaded by the establishment of a secret electronic mailbox to which some of his E-Mail was delivered without his knowledge; he was assigned to a former "Smoking Room" with poor ventilation when management knew that he was allergic to smoke; and he was subjected to ostracism because no one was supposed to talk to or be seen with him. Complainant identified the former Associate General Counsel and Assistant General Counsel as the responsible management officials.

RTC 92-41
RTC 92-41A

Complainant, a Paralegal Specialist, Outside Counsel Services, Legal Division, filed a formal complaints on November 19, 1992, alleging that she was discriminated against on the basis of reprisal by the Assistant General Counsel, as follows: she was replaced as RLIS Coordinator; her performance appraisal was "downgraded" in several categories; she was relocated to an isolated location within the office; she received two reprimands; she was assigned an inequitable and disproportionate workload; she was not given recognition for her supervisory experience; and her activity was closely scrutinized. Complaints were consolidated and are currently in investigation.

RTC 93-30

Complainant, formerly Affordable Housing Coordinator, LG-15, filed a formal complaint on April 20, 1993, alleging that because of her race (White), sex (female) and physical handicap (neck surgery on ruptured disk) she was discriminated against by the Acting General Counsel and Assistant Director, Operations/Administration, when she was terminated for "misconduct" effective April 2, 1993. Complaint is currently in investigation.

12

RTC 94-02

Complainant, an applicant, filed a formal complaint on January 10, 1994, alleging that because of discrimination on the basis of his age (DOB: 2/24/34), he was not selected by the Personnel Section Chief, for the position of Affordable Housing Disposition Coordinator, LG-301-15, under Vacancy Announcement Number RTC-DO-1281, issued 10/04/93. Complaint is currently in investigation.

RTC 92-31

Complainant, a Financial Institution Specialist, GG-12, Special Projects Division, filed a formal complaint on August 17, 1992, alleging that as a result of discrimination on the basis of his sex (male), physical handicap (degenerative spinal disease), and reprisal (prior EEO complaint dated 12/2/91 and activity as an EEO Counselor), he was subjected to continuous acts of harassment by the former Vice President, Dallas Office and Vice President for Field Operations, as follows: his home was "raided" by the FBI at the request on Vice President; he was instructed by his Supervisor to resign as an EEO Counselor; and, he was required to use sick and annual leave for medical treatment. Complaint is pending issuance of a Final Agency Decision.

RTC 93-49

Complainant, an EDP Technician, LG-7, Information Services Unit (ISU) filed a formal complaint on September 30, 1993, alleging that she was discriminated against because of her sex (female), when in March 1992, her immediate supervisor and Department Head transferred her from the Network to Systems component of the Information Services Unit; and, in March and June 1993, she was denied BANYAN computer training provided her male counterparts. Complaint is pending supplemental investigation. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 93-19

Complainant, a Senior Attorney, LG 14/1, (former) Gulf Coast Consolidated Office, Houston, filed a formal complaint on March 2, 1993, alleging she was discriminated against because of her sex (female) when the Managing Senior Counsel, failed to convert her from Liquidation Grade (LG) to General Grade (GG) status following her selection for a position. Complaint is pending an EEOC hearing.

RTC 93-20

Complainant, a Senior Attorney, LG-14/1, (former) Houston Consolidated Office, filed a formal discrimination complaint on March 4, 1993, alleging that the Managing Senior Counsel, Legal Division, discriminated against her because of her sex (female) when she was not converted from Liquidation Grade to General Grade following selection from roster No. 10050, dated December 9, 1991. Pending request from Complainant for a Final Agency Decision with or without a hearing.

RTC 92-32

Complainant, a former LG-9 Paralegal Specialist, Case Management Department, Legal Division, (former) Gulf Coast Consolidated Office (GCCO), filed a formal complaint on August 19, 1992, alleging that because of her race (White) and age, she was discriminated against by the Assistant General Counsel, when she was not selected for a transfer to any of the three regions of her choice (Valley Forge, California, Atlanta) when the GCCO closed; and she was denied a promotion, step increase, and/or awards, granted other similarly situated, younger, Black Paralegal Specialists. Complaint is pending an EEOC hearing.

RTC 92-35

Complainant, a former LG-5 Clerk-Typist, SAMDA, filed a formal complaint on August 16, 1992, alleging that she was discriminated against because of her race (Black), when the SAMDA Oversight Department Head-Team 4, terminated her employment effective July 17, 1992. Complaint is pending an EEOC hearing.

RTC 92-42

Complainant, a former Financial Analyst, Budget Office, filed a formal complaint on December 1, 1992, alleging that she was discriminated against because of her race (Asia-American) and color (Yellow) when she was given a Notice of Nonrenewal on June 6, 1992, terminating her temporary employment. Complaint is pending an EEOC hearing.

RTC 91-26

Complainant, a former Asset Specialist, LG-15, Real Estate Owned (REO), former Gulf Coast Consolidated Office, filed a formal complaint on October 9, 1991, alleging that because of discrimination on the basis of his race (Caucasian), color (White), sex (Male), and Age (53), in April 1991, without being given a probationary period or an opportunity to perform under the restructured departmental organization, he was coerced into signing memoranda agreeing to change his position from an Assistant

Director, REO, LG-15, step 10, to an Asset Specialist, LG-15, step 7; in August 1991, his temporary appointment as an Asset Specialist, LG 15, expired and was not renewed; and, in September 1991, management refused to adjust a clerical error on his appointment SF-50 to reflect that he was hired for a two year temporary appointment. Complainant also alleged that as a result of discrimination on the basis of reprisal (EEO activity), in October 1991, he was given a negative Performance Appraisal. Complaint is pending issuance of a Final Agency Decision.

RTC 92-18
RTC 92-23
RTC 92-28

Complainant, an Asset Marketing Specialist, LG-12, filed three formal complaints on 5/27/92, 6/29/92, and 8/5/92, respectively. The complaints were combined for processing pursuant to EEOC regulation at 29 C.F.R. § 1614.606. Complainant alleged that as a result of discrimination based on his race (Hispanic) and age (DOB: 6/21/47), the Department Head, Sales Center, and his former supervisor subjected him to harassment and unequal terms, conditions and privileges of employment, as follows: in March 1992, removed his name from the list of individuals selected to work at a bank closing and made changes to a response to a Congressional inquiry he prepared without his consent or knowledge; in April 1992, denied him an Achievement Award under the Incentive Award Program; and, in June 1992, failed to select him as the Acting Department Head, Asset Marketing Sales Center, LG 13/14. Complaint is pending issuance of a Final Agency Decision.

RTC 92-36

Complainant, an Assets Operation Technician, filed a formal complaint dated September 4, 1992, alleging that she was discriminated against because of her sex (female) when she was assigned "more detailed and time consuming" work than her male counterparts. Complainant also alleged that as a result of discrimination based on reprisal (participation in the complaints process), she was denied overtime, compensatory time and assistance received by her male co-workers. The complaint is pending issuance of Final Agency Decision.

Denver Office

RTC 94-11

Complainant, a former Senior Attorney, LG-905-13, Division of Minority and Women's Programs, Kansas City, filed a formal complaint on March 2, 1994, alleging that she was discriminated against because of her race (Mexican-American/Hispanic) when she was led to believe that she had been selected for a Program Manager

position she had applied for under a posted vacancy announcement but was hired in a non-managerial position. Complainant also alleged that as a result of discrimination based on her race and reprisal (opposing management's methods and decisions regarding the hiring process as discriminatory and advising management of decision to pursue the matter), she was terminated from her position. Complainant identified the Director, Department of Legal Programs, Assistant Vice President, and Director, Policy, Evaluation and Field Management, Division of Minority and Women's Programs, as the responsible management officials. The complaint is currently in investigation.

RTC 92-11

RTC 92-15

Complainant, former Senior Attorney, GG-13, filed two formal complaints on March 31, 1992, and April 30, 1992, respectively. Complainant alleged that she was discriminated against on the bases of her race (Native American), sex (female), and handicapping condition in that her requests for a transfer as a reasonable accommodation were denied and in March 1992, she was forced to resign after being notified of her termination. She also alleged that she was treated differently than other minorities and/or women, with respect to work assignments, travel requests, counseling, discipline, and performance appraisals. Complainant further alleged that as a result of discrimination based on reprisal (EEO activity), the Managing Attorney and Administrative Officer failed to provide her the necessary paperwork to timely process her disability retirement and two outstanding travel vouchers. Complainant identified the Managing Attorney and Administrative Officer, as the responsible management officials. The Complaints are pending assignment to investigation. Complainant has requested a delay due to medical reasons.

RTC 92-24

RTC 92-26

RTC 93-14

Complainant, Counsel (Section Chief), Professional Liabilities Section (PLS), GG-905-15, filed three formal complaints of discrimination, July 6, 1992, August 3, 1992, and February 17, 1993, respectively. In her first complaint, she alleged that because of her sex (female) and age (DOB: 2-03-49), she was notified that she would be prematurely returned to the FDIC under the "GG Put Back Program" even though she had expressed a desire to remain in her position as Section Chief in PLS. In her second complaint, Complainant alleged that because of discrimination on the basis of her sex, age and reprisal (filed prior complaint), she was subjected to unequal terms, conditions and privileges of employment when her professionalism was questioned; she was accused of being hysterical and paranoid; and her confidential mail was

routed throughout the office. In her third complaint, Complainant alleged that because of discrimination based on her sex, age and reprisal (prior EEO complaints), she was not selected for multiple Denver Counsel/Section Chief positions, she was refused information by Denver management and personnel relating to rosters and selectees for the jobs, and her individuals who associate with her have been threatened. Complainant identified the Acting Assistant General Counsel as one of the responsible management officials. The complaints are currently in investigation.

RTC 93-44

Complainant, an Operations Technician, GG-303-7, filed a formal complaint on August 12, 1993, alleging that she was discriminated against based on reprisal (initiating an informal complaint), when she received an unfair performance appraisal; her request for advance annual leave was denied; she received a Letter of Reprimand because of tardiness; and management continuously referred to her as a "leave abuser". Complainant identified her immediate supervisor as the responsible management official. The investigation of the complaint has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 93-53

Complainant, an Asset Specialist, LG-14, filed a formal complaint on December 17, 1993, alleging discrimination based on sex (male) and age (DOB: 7-28-39), when in September 1993, he was not selected for the position of Director, Small Investor Program, LG-15, posted in July 1993. Complainant identified the Administrative Officer, Director of Asset Management and Sales and Site Sales Coordinator as the responsible management officials. The investigation is complete and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 92-43

Complainant, a Management Specialist, GG-11, Legal Division, filed a formal complaint on November 27, 1992, alleging that she was discriminated against because of her sex (female) when she was not selected for a Management Specialist position from Announcement 92-DEU-314. The former Assistant General Counsel was identified as the responsible management official. The Investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy will be forwarded to Complainant.

RTC 93-28

Complainant, a Senior Counsel GG-15, Legal Division, filed a formal complaint of discrimination on April 28, 1993, alleging that he was

discriminated against because of his age (DOB 9/25/44), handicap (hearing impairment), national origin (Hispanic) and reprisal (participation in a prior EEO complaint) in that he has been continuously denied a position as a Counsel (Section Chief). Complainant identified the Assistant General Counsel as a responsible management official. The investigation has been completed and the Report of Investigation is pending review. Upon completion of the review, a copy of the Report will be forwarded to Complainant.

RTC 91-21

Complainant, a Clerk/Typist LG-5, Western Region (now Denver Office), filed a formal complaint on September 12, 1991, alleging that she was discriminated against because of her race (Black) when her temporary appointment was not renewed when it expired. Complaint identifies her supervisor, Head of Real Estate Owned Marketing and Sales Department, as the responsible management official. The complaint is pending the issuance of a Final Agency Decision based on a recommendation from an Administrative Judge of the EEOC.

RTC 93-50

Complainant, applicant, filed a discrimination complaint on October 5, 1993, alleging age discrimination when he was not selected for the position of Asset Operation Specialist, LG-301-14, under Vacancy Announcement Number RTC-93-168-DO-LG. Complainant identified the Department Head Conversions and Services Quality Assurance Asset Operations Department and Acting Director, Asset Operations as the responsible management officials. The complaint is pending a Hearing before an Administrative Judge of the EEOC.

RTC 92-16

Complainant, a Minority Contract Specialist, LG-1101-14, filed a formal complaint on April 20, 1992. Complainant alleged that because of his race (Hispanic), he has been subjected to ongoing harassment. Complainant further alleged that as part of this pattern of harassment, he was denied the opportunity to compete for the position of Department Head, Women and Minority Programs, LG-15, when management opted to fill the vacancy through a non-competitive lateral reassignment of a non-Hispanic individual. Complainant identified former Denver Office Vice President, as the responsible management official. An EEOC hearing was held and the complaint is pending EEOC's recommended decision.

RTC 91-36

Complainant, a Contract Specialist, GG-12, filed a formal complaint on December 3, 1992, alleging that he was harassed and terminated

on October 18, 1991, because of his age (DOB: 12/25/53). He cites instances where, allegedly, his supervisor subjected him to personal criticism, accusations, physical assault, and scrutiny. Complainant identified the Department Head as the responsible management official. The complaint is pending issuance of a Final Agency Decision.

RTC 92-20
RTC 92-25

Complainant filed formal complaints on June 2 and July 8, 1992, alleging that because of his age (42) and handicap (back injury), and in reprisal for having filed a complaint, his position as Management Analyst, GG-343-12, was abolished; his individual development plan (IDP) became invalid; his incentive award was denied; he received a reassignment of his duty station; he was charged with Leave Without Pay (LWOP). Complainant identified the former Vice President and former Administrative Officer as the responsible management officials. The complaints were consolidated for processing and are pending the issuance of a Final Agency Decision.

RTC 92-22

Complainant filed a formal complaint on June 19, 1992, alleging that because of his age (DOB: 12/19/47), his temporary appointment as Credit Specialist, LG-14, was only extended to July 22, 1992, instead of September 30, 1992. Complainant also alleged that, as a result of his age, he was denied an opportunity to compete for positions in the newly organized Denver Office, in that management directly assigned younger employees to various positions instead of posting the positions. Complainant identified the former Vice President of the Denver Office as the responsible management official. Complaint is pending the issuance of a Final Agency Decision.



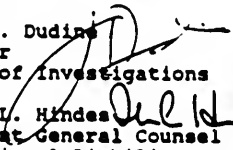
ATTACHMENT I

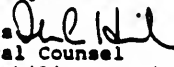
RESOLUTION TRUST CORPORATION


Resolving The Crisis
Restoring The Confidence


June 17, 1993

MEMORANDUM TO: All RTC Investigations Department Heads
(Field Sites)
All Investigations Staff (Washington)
All Assistant General Counsel (Field Sites)
All Litigation, Professional Liability,
and Complex Litigation Section Chiefs
(Field Sites)
All Litigation, Professional Liability,
and Complex Litigation Attorneys
(Washington)

FROM: James R. Dudine 
Director
Office of Investigations

Thomas L. Hinder 
Assistant General Counsel
Professional Liability Section

James M. Barker 
Assistant General Counsel
Litigation Section

Jerry Patchan 
Assistant General Counsel
Complex Litigation Section

SUBJECT: Criminal Referrals

1. Purpose: To consolidate instructions and guidance on making criminal referrals to the U. S. Department of Justice and other agencies.

2. Policy: Whenever an investigator, attorney, or contractor for RTC discovers "suspected criminal activity," that person shall prepare a criminal referral, using the standard Interagency Criminal Referral Form, in accordance with filing instructions and the following guidelines. For purposes of making a referral, "suspected criminal activity" means that there is a reasonable basis to believe that a crime has or may have been committed, i.e., there's evidence of wrongdoing or a factual basis for the belief (not merely a suspicion). Except in rare circumstances, criminal referrals shall be reviewed by RTC Investigations and Legal Division Criminal Coordinators ("RTC Criminal Coordinators") before they are delivered to the U.S. Attorney and the FBI or other investigative agency. RTC Criminal Coordinators shall make certain that all required information and support documents are provided.

3. Handling of Criminal Referrals: All referrals are sensitive and must be handled with appropriate confidentiality and care. Most RTC criminal referrals are made to the U.S. Department of Justice (including the U.S. Attorney's Office and the FBI). In such cases, each referral should be accompanied by a cover letter signed by a supervisory official; this may be a Section Chief, Department Head, or, in appropriate cases, the Criminal Coordinator. When the criminal referral includes records or information derived from the records of a customer who is an individual or a partnership consisting of five or fewer individuals, the signing official must make the following certification in the cover

letter, as required by the Right to Financial Privacy Act,
12 U.S.C. § 3412(f):

The information pertaining to this matter may have been derived from the financial records of customers of federally insured financial institutions. I hereby certify that (A) there is reason to believe that these records may be relevant to a violation of a federal criminal law, and (B) the records were obtained in the exercise of RTC's supervisory or regulatory functions.

Referrals for money laundering and other financial crimes may also be made in this manner to components of the Treasury Department (e.g., the Secret Service). In cases of referrals to other federal agencies, the Legal Division Criminal Coordinator should be consulted to ensure compliance with the other requirements of the Right to Financial Privacy Act.

Copies of significant criminal referrals should also be sent to the Office of Investigations, Washington, D.C. Significant referrals are those which qualify to become "major" cases under DOJ guidelines: (1) Loss due to apparent criminal conduct is \$100,000 or more; (2) The apparent criminal conduct involves a director, officer, professional (e.g., attorney or accountant), or shareholder of the institution; or (3) Other compelling reasons (e.g., the apparent misconduct is part of a pattern or practice involving other financial institutions or the scheme or

suspects pose a threat to operating financial institutions). As with all other criminal referrals, official file copies must be retained in the field office.

4. Coordination with Other Agencies: In accordance with a recent agreement, RTC-generated criminal referrals will be forwarded to the Department of the Treasury's FincEN office, to be included in a national database of referrals submitted from financial institution regulators, banks, credit unions and savings associations. Refer to the filing instructions contained on page 3 of the Interagency Criminal Referral Form.

5. Compliance with Senior Interagency Group Policy Statement Regarding National Policy on Collection and Reporting Procedures for Restitution Payable to Financial Institution Regulatory Agencies ("SIG Policy Statement"): RTC Criminal Coordinators shall be responsible for contact with other agencies to insure compliance with the SIG policy statement adopted June 25, 1992. It is essential that all communication with the appropriate investigative agency and/or the USAO or DOJ trial attorney be coordinated in advance between the Legal and Investigations Criminal Coordinators. The line of communication should remain open from the time the referral is made through final disposition, including collection of any amounts due under a criminal restitution order.

6. Record Keeping: It is very important that all criminal referrals and the subsequent case and sentencing status be entered into the Thrift Investigations Management System (TIMS). Referrals which were filed by an RTC institution before it failed or by a regulatory agency (OTS or FDIC) which name specific individual(s); and for which the statute of limitations has not expired or for which a criminal case has been initiated (via indictment or information filing) must be entered into TIMS as well. Do not enter inherited referrals which do not name the suspect (e.g. naming "unknown," or "unidentified employees").

A file must be maintained in the field office by the designated Investigations Criminal Coordinator for each referral with supporting documentation and subsequent correspondence. These records are highly confidential and should be treated accordingly (e.g., kept in secured/locked cabinet).

The completed referral form and some related records are subject to the applicable provisions of the Privacy Act of 1974, 5 U.S.C. § 552a, and may not be disclosed to the public in response to a request under the Freedom of Information Act, 5 U.S.C. § 552, or as part of a litigation discovery process. Any requests for referral information from non-regulators or non-RTC investigative or legal staff should be promptly referred or forwarded to the field office Legal Division Criminal Coordinator and the attorney(s) with litigating responsibility (Litigation, PLS, and/or Complex Litigation) for the institution. Outside counsel and

investigative contractors may have access to these records under the close supervision of the attorney with litigating responsibility for the matter or Investigations, as appropriate. Outside contractors should be advised of the sensitivity of case materials and that disclosures are prohibited.

7. Attachments and References: This directive replaces all others previously issued on this subject. A sample Interagency Criminal Referral Form and SIG Policy Statement are attached. Please review the Investigations Section of the Conservators' Operating Manual and Directive 91-097 issued by OIG. Most of the relevant federal bank fraud statutes are contained in Title 18, U. S. Code.

Attachments



DIRECTIVE SYSTEM

TYPE AND NUMBER

Manual 9300.1

CONTACT

Sally McCormick

TELEPHONE #

(202) 416-7458

DATE

January 22, 1992

DATE OF CANCELLATION (Bulletins only)

TO: All RTC Offices and Divisions
Regional Directors and Managing Agents

FROM: *Arthur G. Stow*
Arthur G. Stow, Deputy Director
Operations, Resolutions and Operations Division

SUBJECT: Conservator's Operating Manual

1. Purpose

a. To establish consistent policies, procedures, and standards for operating an RTC conservatorship. This manual will also serve as a guide to Managing Agents in daily operations of institutions in the RTC Conservatorship program.

b. To consolidate and clarify previously issued RTC policy guidelines distributed via circulars and policy memoranda.

2. Cancellation. RTC Manual 9300.1, "Conservator's Operating Manual," dated August 22, 1990; Change 1 dated December 5, 1990; and Change 2 dated September 27, 1991, are hereby cancelled.

3. Scope. This manual applies to all conservatorships operated by the RTC.

4. Policy Guidelines. Major revisions to policies and procedures are summarized in Attachment A.

5. Responsibilities

a. Each Managing Agent is responsible for carrying out all policies, procedures, and guidelines provided in this manual.

b. To insure that the information in the manual reflects the most current policies and procedures, Regional Directors are requested to submit their recommendations for changes in writing to the Deputy Director, Operations, Resolutions and Operations Division whenever they consider it necessary.

11. INVESTIGATIONS

INTRODUCTION

As the designated conservator and/or receiver for insolvent thrifts, the RTC is charged with the responsibility of accounting for and properly liquidating all legal assets and discharging all lawful liabilities. Among the assets of an insolvent thrift taken over by the RTC are the potential claims against former officers, directors, employees, and outside professionals such as attorneys, accountants, appraisers, and securities and commodities brokers.

The exposure and referral of criminal activity to the appropriate prosecuting agency and the potential for financial recovery are contingent on completion of a successful investigation of all facts surrounding particular circumstances relating to the diligence, performance, and possible misdeeds of the former management, Board of Directors, and outside professionals. The responsibility for investigating and developing claims against such potential assets with the view toward recovering misappropriated thrift assets and for helping to send the individuals who caused losses to thrifts to jail when appropriate is charged to the RTC Office of Investigations through its Regional and Consolidated Office network.

Investigators are responsible for investigating and developing conclusive case write-ups within specific time frames, which must withstand the scrutiny of the Legal Division, Department of Justice, various U.S. Attorney's offices, legal counsel of Bonding Companies, and Directors and Officers, as well as the courts. The functions require special expertise and dedication to facilitate continuity of efforts and a successful resolution.

RTC INVESTIGATIVE PHILOSOPHY

The Office of Investigations shall coordinate and oversee investigations in accordance with the objectives set forth below. The RTC uses its own investigators in most cases, but also employs private firms or individuals to supplement RTC investigators in cases where particular expertise is desirable or where in-house resources are not immediately available. In order to obtain superior investigative results, the RTC is committed to maintaining a highly competent force of investigators. Toward this end, the Office of Investigations has established a rigorous training program to enhance investigative skills and the understanding of complex financial transactions.

ASSET TRACING

The ability to locate assets and accurately assess the net worth of former directors and officers of failed thrifts is crucial to the RTC's effectiveness in pursuing professional liability claims and possible forfeiture claims. Therefore, an asset tracing program has been established to supplement other critical Investigations efforts. The program relies on regional and consolidated units staffed by RTC employees to research and retrieve data.

CRIMINAL REFERRALS

Thrifts operating in conservatorship or receivership are subject to the rules of the Office of Thrift Supervision (OTS) with respect to the reporting of criminal activity involving the day-to-day operations of the thrift. OTS regulation 12 CFR 563.18 requires this reporting to the "appropriate law enforcement agency."

Referral procedures will differ depending on when the alleged criminal activity took place. Any known or suspected criminal activity that appears to have taken place prior to RTC intervention should be referred to the RTC Office of Investigations Unit at the local Consolidated Office. Criminal activity that occurs during conservatorship should be referred to the Office of the Inspector General (OIG), which will either initiate an investigation or forward the referral and coordinate investigative actions with the Department of Justice.

Effective spring 1992, the Financial Crime Enforcement Network (FINCEN) of the Department of the Treasury will maintain the Interagency Criminal Referral Data Base. The RTC, along with the FRB, OCC, OTS, FDIC, and NCUA, have jointly created this data base for the storage, retrieval, and analysis of information contained on their criminal referral forms. These forms, and other information relating to proceedings affecting institutions, are required to be submitted by the agencies noted above and by institutions under their supervision to federal law enforcement authorities.

Pre-Conservatorship

Any known or suspected criminal activity discovered by RTC employees, outside counsel, or RTC contractors that took place prior to conservatorship must be referred to the Office of Investigations for referral to the U.S. Attorney.

- * Copies of all criminal referrals are maintained in confidential files in regional offices or consolidated field offices.

Individuals who become aware of suspected criminal activities in the operations of an institution in conservatorship should report the activity to the Managing Agent immediately. The Managing Agent must then complete the appropriate Criminal Referral Form and forward it to the RIGI. After receiving notice of allegations, the OIG will initiate an investigation and/or refer the matter to the DOJ and FBI, depending on the circumstances.

Generally, employees will provide information on suspected criminal information directly to the Managing Agent. However, if for some reason an employee would prefer to report the matter directly to the OIG, he or she may do so by calling the OIG Hotline in Washington, D.C. or by writing to the address located in Appendix A - Contact Listing.

BACKGROUND CHECKS

To ensure that individuals previously involved with suspect activities in a financial institution do not unknowingly end up in positions of trust within institutions being managed by the RTC, background checks are to be conducted through the Washington Office of Investigations on all individuals who are being considered for senior management positions. Field discretion should be used in determining whether national background checks should be run on individuals being considered for positions below the senior management level in conservatorships.

Managing Agents are to contact the RTC Office of Investigations at the Consolidated Offices to request a background check. Generally, the consolidated office will verify applicant data through querying DOL and DOS Offices, banks and S&Ls listed in references, and federal and state financial institution regulators, as well as OTS District Bank Supervisory Agents.

The Investigations Systems Section in Washington conducts database searches with other regulatory and law enforcement agencies where applicable. This RTC Investigations check is to be viewed as a supplement to the verifications conducted in the field.

The applicant's completed employment application can be reviewed to obtain the data needed for submission to Washington. A signed "Authority for Release of Information" form, RTC 9200/01 (9-91), must be obtained from the applicant. (See Exhibit 11-A.) Copies of this form can be obtained from the administrative officers at the Consolidated Offices. The signed copies need not be forwarded to Investigations Systems but should be retained in a secure place in the Consolidated Office.

Additional details on the processing of background investigations is provided in RTC Circular 9200.2, "Background Investigations," dated January 24, 1991.

DOCUMENT CONTROL

Definition

For purposes of this section, the term document includes, but is not necessarily limited to, records, files, reports, correspondence, policies, listings, ledgers, journals, certificates, tapes, diaries, notes, memos, and computations. They may be typed, handwritten, recorded, or captured on a variety of media including magnetic tapes and discs, microforms, or reel and fiche.

Preservation of Documents

With the RTC having as one of its major missions the pursuit of civil and criminal claims, the preservation of original documents is of vital concern. The following basic guidelines are expected to cover most situations. Should questions arise, however, the Regional Investigations office should be contacted before proceeding:

- * No original documents are to be destroyed or otherwise disposed of without the concurrence of the Investigations staff.
- * No original documents are to be altered or otherwise changed from their pre-conservatorship/receivership condition.
- * No original documents are to be released from the custody of the RTC. (Note: There may be some contractual or subpoena exceptions.)

File Integrity

A defaulted institution's documents provide information that is critical to the investigative function. For purposes of conducting the activities of the conservatorship or receivership and for pursuing professional liability claims and necessary litigation, all records and files of a defaulted institution are to be located, inventoried, and controlled at the time the institution goes into conservatorship or receivership. The Managing Agent may be asked to assist the Investigator in locating, securing, and protecting files.

Additional Policies

NOTE: For interim procedures, please refer to the following issued directives:

- * RTC Circular 1210.1, "Files Management and Records Disposition - Interim Guidance," 10-19-90, (Circular is 33 pages in length)
- * RTC Circular 1210.1, CH-1, (03-19-91)
- * RTC Bulletin 1210.2, "Destruction of Institution Files During Conservatorship," (05-07-91)



DIRECTIVE SYSTEM

TYPE AND NUMBER	Manual: 9300.1, 0-1
CONTACT	Clark W. Blight
TELEPHONE NUMBER	202-455-4300
DATE	September 27, 1991
DATE OF CANCELLATION	EXPIRES 01/92

TO: All RTC Offices and Divisions
Regional Directors, Managing Agents

FROM: John J. Adair *John J. Adair*
Inspector General
Arthur G. Stow, Deputy Director *Arthur G. Stow*
Regional Operations

SUBJECT: Conservator's Operating Manual -
Criminal Referrals

- Purpose.** To clarify the procedures for detection and investigation of potential criminal activity or misconduct by conservatorship employees.
- Scope.** This change affects all institutions in conservatorship.
- Background.** Former RTC policy did not address the steps to be taken when an association employee has violated the Employee Code of Conduct or committed some other form of misconduct not specifically covered by the Code of Conduct. While some instances are generally covered by personnel policies or are otherwise controlled by state and federal laws affecting the institution, some will merit an investigation by the Office of the Inspector General (OIG). Office of Thrift Supervision (OTS) regulations also require that criminal referrals be made to "the appropriate law enforcement authorities," but do not specifically define those authorities. Past procedures required the Managing Agent to send criminal referrals directly to the Department of Justice (DOJ).

The Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA) amended the Inspector General Act of 1978 to authorize an Inspector General for the RTC. This directive reflects an agreement between the OTS, DOJ, and the RTC that the resources of the OIG will now be used to facilitate the investigation of misconduct or criminal activity in institutions in conservatorship.

Obviously, alleged or suspected theft or embezzlement are matters that should be referred. In addition, in contracting to manage and sell the assets of an institution, such matters as bid rigging, price fixing, kickbacks, bribery, or false appraisals should be referred to the OIG.

(1) Referral Procedures. Individuals who become aware of suspected criminal activity in the operations of an institution in conservatorship must report the activity immediately to the Managing Agent. The Managing Agent must complete either OTS Form 366, Criminal Referral Form, or FDIC Form 6710/06, Report of Apparent Crime, and forward appropriate form to the RIGI in his/her region.

(2) OIG Investigation. After receiving notice of the allegations, the OIG will initiate an investigation and/or refer the matter to the DOJ and Federal Bureau of Investigation (FBI), depending on the particular circumstance.

(3) Pre-Conservatorship Activities. Criminal referrals made during the conservatorship period but pertaining to pre-conservatorship activities at institutions, or Directors and Officers liability issues, will be referred by the OIG to the Office of Investigation in the RTC's Resolutions and Operations Division.

b. Investigation of Misconduct. This change adds a new section to Chapter 3 in the Conservator's Operating Manual.

Not all non-criminal, improper activities, and alleged violations of the Code of Conduct for Conservatorship Employees constitute violations of federal criminal statutes or require referral to the RIGI.

Personnel issues such as equal opportunity and discrimination in employment, hiring and firing, labor-management relations, performance, time and attendance, and salary matters are among those which a Managing Agent may normally address without an OIG investigation.

Managing Agents are expected to exercise judgment and refer all "significant" alleged violations of the Code of Conduct for Conservatorship Employees to the RIGI in his/her region. (Alleged violations by federal employees as specified in RTC Circular 2410.1, "Part 1605 - Employee Responsibilities and Conduct," should also be reported to the RIGI.) Violations which may affect the actual resolution of the institution and/or involve the institution's contracting activities or management and disposition of assets that will typically pass to RTC in receivership are examples of violations that should be referred.

STANDARDS OF CONDUCT FOR CONSERVATORSHIP EMPLOYEES

General Instructions to Managing Agents

Associations placed under conservatorship must operate in an environment requiring special sensitivity on the part of all employees. Conservatorship status frequently causes the general public to view the institution and its operations as more public than private. It is the Resolution Trust Corporation's policy that all of its business be conducted in accordance with the highest ethical standards. A Standard Code of Conduct has been developed by the RTC which sets forth basic principles and guidelines to direct employees in the proper conduct of their business and personal affairs, as representatives of the institutions in conservatorship and/or receivership.

All Managing Agents are responsible for enforcing compliance with the RTC's Standard Code of Conduct for Conservatorship Employees, including its distribution to ensure employee knowledge and compliance.

Each employee should be given a copy of the code within five business days of the establishment of the conservatorship or date of hire, and should sign an Acknowledgement of Receipt and a Statement of Disclosure that is to be kept on file in the records of the association. Failure to comply with the standards established by the Code of Conduct may result in disciplinary action or termination of employment if appropriate.

Investigation of Misconduct

The Office of the Inspector General (OIG) is to serve as a focal point for criminal referrals for investigations relating to the RTC's programs and operations from the date of conservatorship forward, as well as serious, though non-criminal, misconduct by conservatorship employees.

Managing Agents are expected to exercise judgment and refer all "significant" alleged violations of the Code of Conduct for Conservatorship Employees rules to the RIGI in his/her region. (Alleged violations by federal employees of the Employee Responsibilities and Conduct regulations specified in RTC Circular 2410.1 should also be reported to the RIGI.) Violations that may affect the actual resolution of the institution and/or involve the institution's contracting activities or management and disposition of assets that typically pass to the RTC in receivership are examples of violations that should be referred.

Personnel issues such as equal opportunity and discrimination in employment, hiring and firing, labor-management relations, performance, or time and attendance, and salary matters are among those that a Managing Agent may normally address without an OIG investigation.

Authority to Sue

No suit may be started before obtaining authority to sue. All Professional Liability suits require approval by the General Counsel and in his absence the Chairman. Authority should be sought as soon as a firm intention to sue is reached, but in no event less than 60 days prior to the running of the statute of limitations.

The memorandum itself should state the nature of the claim, the proposed defendants, the law firm engaged or to be engaged, insurance coverage (if any), venue of the action, damages claimed, the general theory, a summary of the facts (usually with two or three sample transactions), defenses anticipated, the ability of the defendants to respond to damages (if known), the estimated cost of suit, a preliminary estimate of the likelihood of recovery, and the estimated settlement value of the case.

Termination of Investigation

All RTC close outs must be approved by Senior Counsel for the Professional Liability Section and for Business/Operations by the Deputy Executive Director of Resolutions and Operations or a designee.

Proof of Loss

Proof of loss must be initiated by Senior Counsel and signed for the Business/Operations side of RTC by the Deputy Executive Director of Resolutions and Operations or a designee.

Settlement

Settlement approval and, where required by the court, settlement authority must be obtained as follows:

- If proposed settlement amount is less than \$2 million and
 - if both the claim and the insurance coverage are \$4 million or less, approved by:
 - (a) Assistant General Counsel, Professional Liability Section,
 - (b) Regional Director, RTC Division of Liquidation, and
 - (c) RTC Deputy Executive Director of Resolutions and Operations.
 - If either the claim or the insurance coverage is above \$4 million, the Associate General Counsel, Professional Liability Section must also approve.

- If proposed settlement amount is \$2 million to \$5 million, it must be approved by all of the above and also by the Deputy General Counsel, Litigation.
- Settlements above \$5 million must be approved by all of the above and the General Counsel.

This memorandum requesting authority to settle a case should be discussed with the Senior Counsel prior to forwarding for approval.

This memorandum should include the following facts: the nature of the suit, names of defendants, damages sought, amount of settlement, likelihood of recovery, likelihood of collection, anticipated expense of obtaining judgment and resisting appeals, and reasons for settlement. All settlements must provide for the payment of interest if the funds are not received within 30 days unless the RTC has the settlement check in hand when the settlement memorandum is prepared.

Settlement proceeds and all other checks should be delivered to Corporate Accounting Section, Attention: Sherri Roberson for deposit into the RTC's Account. Such checks must be accompanied by a short memorandum identifying the savings association and nature of the settled action.

CRIMINAL REFERRALS

Thrifts operating in conservatorship or receivership are subject to the rules of the Office of Thrift Supervision (OTS) with respect to the reporting of criminal activity involving the day-to-day operations of the thrift. OTS regulation 12 CFR 563.18 requires this reporting to be the "appropriate law enforcement agency."

Referral procedures will differ depending on when the alleged criminal activity took place. Any known or suspected criminal activity that appears to have taken place prior to RTC intervention should be referred to the RTC Office of Investigations Unit at the local Consolidated Office. Criminal activity that occurs during conservatorship should be referred to the Office of the Inspector General (OIG), which will either initiate an investigation or forward the referral and coordinate investigative actions with the Department of Justice.

Effective November 1991, the Financial Crime Enforcement Network of the Department of the Treasury will maintain the Interagency Criminal Referral Data Base. The RTC, along with the FRB, OCC, OTS, FDIC, and NCUA, have jointly created this data base for the storage, retrieval, and analysis of information contained on their criminal referral forms. These forms, and other information relating to proceedings affecting institutions, are required to be submitted by the agencies noted above and by institutions under their supervision to federal law enforcement authorities.

Pre-Conservatorship

Any known or suspected criminal activity discovered by RTC employees, outside counsel, or RTC contractors that took place prior to conservatorship must be referred to the Office of Investigations for referral to the U.S. Attorney.

- Copies of all criminal referrals are to be maintained in confidential files in regional offices or consolidated field offices.
- The Fraud Section of the DOJ Criminal Division maintains a criminal referral tracking system to alert U.S. Attorneys to the referrals regulators consider to be significant. This system is used for making resource allocation decisions within DOJ and the FBI and is an informative source used by Congressional Committees, GAO, and others studying bank and S&L fraud problems. Accordingly, copies of significant criminal referrals meeting the following criteria are to be forwarded to the Washington Office of Investigation:
 - Loss due to apparent criminal conduct is \$200,000 or more.
 - The apparent criminal conduct involves a director, senior officer, or major shareholder of the institution.
 - The apparent misconduct is part of a pattern or practice involving other financial institutions; or the scheme or suspect poses a threat to operating financial institutions.

During Conservatorship

The Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA) amended the Inspector General Act of 1978 to authorize an Inspector General for the RTC. The OTS, DOJ, and RTC have agreed to use the resources of the Inspector General to facilitate the investigation of misconduct or criminal activity that occurs during the period of conservatorship.

The mission of the Inspector General (OIG) is to prevent and detect fraud, waste, and mismanagement, as well as promote economy and efficiency in RTC operations by conducting audits and investigations. The OIG is to serve as a focal point for criminal referrals for investigations relating to RTC programs and operations from the date of conservatorship forward, as well as serious, though non-criminal misconduct by conservatorship employees.

Each region has a Regional Inspector General for Investigations (RIGI), who is responsible for investigating fraud, waste, and abuse within RTC programs in that area. Managing Agents are responsible for identifying situations of criminal activity, coordinating carefully with their RIGI to determine which matters should be further investigated by the OIG, and assisting in the preparation of thorough documentation.

NATIONAL BACKGROUND CHECKS

To ensure that individuals previously involved with suspect activities in a financial institution do not unknowingly end up in positions of trust somewhere within the RTC, background checks are to be conducted through the Washington Office of Investigation on individuals who are being considered for senior management positions in RTC savings and loans.

The Washington Office check is to be viewed as a supplement to the credit and character verification conducted by field staff and is required to be made on all senior officials of S&Ls in conservatorship. Managing Agents are to contact the consolidated offices's Office of Investigation to request a background check. Field discretion should be used in determining whether national background checks should be run on individuals being considered for positions below the senior management level in conservatorships.

As a general rule, the RTC regional or consolidated office staff will independently verify applicant data through querying DOL and DOS Offices, banks and S&Ls listed in references, and federal and state financial institutions regulators, as well as OTS District Bank Supervisory Agents.

To complement the field inquiries, the Investigations Systems Section in Washington, D.C. conducts database searches with the DOJ, FDIC, OTS, OCC, and FINCEN (U.S. Customs Service), as well as various news and credit database sources.

The applicant's completed employment application can be reviewed to obtain the data needed for submission to Washington. A signed "Authority for Release of Information" form (RTC 9200/01 (9-91)), (see Exhibit A) must be obtained from the applicant. Copies of this form can be obtained from administrative officers and Consolidated Offices of Investigations. The signed copies need not be forwarded to Investigations Systems but should be retained in a secure place in the Consolidated Office.

Additional details on the processing of background investigations is provided in RTC Circular 9200.2, "Background Investigations," dated January 24, 1991.



OFFICE OF THE CHAIRMAN

October 3, 1991

MEMORANDUM TO All DOL and RTC Regional Directors
 All DOL and RTC Regional Counsel and Managing Attorneys
 All DOL and RTC Investigations Unit Supervisors

FROM: L. William Seidman *L. W. Seidman*
 Chairman

SUBJECT: Pursuit of Financial Institution Fraud

The importance of pursuing bank and thrift fraud in failed financial institutions grows with each passing day. The American people and Congress expect everything possible to be done to detect, prosecute and punish illegal conduct.

The FDIC and the RTC have a central role in the campaign against criminal activity in banks and thrifts. Our liquidation and resolution efforts afford us a unique opportunity to uncover evidence of criminal conduct by insiders, professional advisors and borrowers and to make criminal referrals, provide documents and assistance to prosecutors, and advise sentencing judges of our concerns.

We have designated criminal coordinators in the field and established a Criminal Restitution Unit in the Legal Division to coordinate our anti-fraud program. ~~The responsibilities of DOL and RTC Regional Counsel and Supervisors have been defined in a joint policy statement.~~ In addition, we have distributed a clear, written policy statement developed by the Legal Division emphasizing the necessity of cooperating fully with the Department of Justice in responding to Grand Jury subpoenas and information requests.

It remains the policy of the FDIC and the RTC aggressively to pursue fraud in the course of our liquidation and resolution work. We have a legal and ethical duty, as conservator or receiver of failed financial institutions, to report evidence of criminal activity to proper law enforcement authorities which can result in significant financial restitution for the deposit insurance funds we administer. Moreover, public confidence in the safety and soundness of the banking system is enhanced by bringing those who abuse the system to justice. Your continued support of these goals is essential.

SUPPORTING AND COORDINATING CRIMINAL MATTERS

LEGAL DIVISION
CRIMINAL COORDINATORS

- (1) Act as principal liaison between the Legal Division and DOL/RTC Criminal Coordinators within his/her Region.
- (2) Act as principal legal liaison between the Legal Division and the Department of Justice to coordinate criminal investigations, and assist prosecutors in pursuing criminal cases within his/her Region. Consult with the Legal Division Criminal Restitution Unit on a regular basis for consistency of policy and legal theory. Maintain an awareness of the status of criminal referrals made within his/her region, as well as indictments, plea negotiations, convictions, and sentencing and restitution hearings. Communicate the same to the Criminal Restitution Unit and to the appropriate Professional Liability Section (PLS) attorney. Act as a liaison with PLS on all matters involving parallel civil proceedings.

DOL/RTC CRIMINAL COORDINATORS

- (1) Act as principal liaison with other DOL/RTC investigators involved in criminal matters and with the Legal Division's Criminal Restitution Unit and Criminal Coordinators.
- (2) Act as principal investigative liaison with the Department of Justice in criminal investigations, and assist prosecutors in pursuing criminal cases. Monitor the status of criminal referrals made within his/her consolidated field office, as well as indictments, plea negotiations, convictions, and sentencing and restitution hearings.

DOL/RTC INVESTIGATORS

- (1) Provide DOL/RTC Criminal Coordinator with information on criminal matters. Utilize DOL/RTC Criminal Coordinator for guidance on criminal issues.
- (2) As needed, request DOL/RTC Criminal Coordinator to obtain status information on criminal referrals, as well as indictments, plea negotiations, convictions, and sentencing and restitution hearings.

LEGAL DIVISION
CRIMINAL COORDINATORS

(3) Assist the Criminal Restitution Unit in the development and implementation of legal policies and procedures related to the discovery, investigation, referral and vigorous prosecution of criminal conduct, including the development and implementation of legal policies and procedures related to obtaining access to grand jury material.

(4) Ensure FDIC's interests are represented during plea negotiations and during sentencing and restitution hearings. Ensure the timely submission of information concerning losses caused by criminal behavior. Consult with the Criminal Restitution Unit on a regular basis for consistency of policy and legal theory.

(5) Coordinate and review for legal sufficiency responses to grand jury subpoenas and other requests for information from the Department of Justice. As appropriate, assist in narrowing the scope of the requests, and in determining the appropriate disposition of privileged material. Where necessary, consult with the Criminal Restitution Unit regarding responses to Department of Justice requests for information.

DOL/RTC CRIMINAL COORDINATORS

(3) Assist DOL/RTC investigators in the preparation of criminal referrals, and in providing information and technical assistance to the Department of Justice. Support and promote the vigorous prosecution of wrongdoers.

(4) As appropriate, facilitate the review of loss calculations submitted by investigators in response to requests for such information. Coordinate the preparation and submission of restitution requests with the Legal Division Criminal Coordinator.

(5) As appropriate, narrow the scope of the requests and, with the assistance of the Legal Division Criminal Coordinators and PLS attorneys, determine the appropriate disposition of privileged material.

DOL/RTC INVESTIGATORS

(3) Refer for prosecution the individuals who benefitted from misappropriated funds or who otherwise engaged in criminal misconduct. In cases where there is evidence of significant ongoing criminal violations, or destruction of documents, or secreting of assets, law enforcement authorities should be notified immediately by telephone followed by a written referral. Provide information, documentation, and assistance to support the vigorous prosecution of wrongdoers.

(4) Respond to requests to calculate the losses caused by criminal behavior for use in determining the amount of restitution. Provide such calculations and supporting documentation to the DOL/RTC Criminal Coordinator.

(5) Identify and assemble information responsive to grand jury subpoenas and other requests for information from the Department of Justice. As appropriate, seek assistance of DOL/RTC Criminal Coordinator in identifying privileged or otherwise sensitive material or in narrowing the scope of the requests, as appropriate.

LEGAL DIVISION
CRIMINAL COORDINATORS

(6) Assist in establishing, supporting and representing the Legal Division at bank fraud working group meetings within his/her Region. Provide to the Criminal Restitution Unit, a copy of the agenda and minutes or a summary of each bank fraud working group meeting and keep him/her apprised of pertinent information.

(7) Review for legal sufficiency civil and criminal forfeiture referrals for submission to the United States Attorney, the FBI, or other appropriate law enforcement authorities. Consult with the Criminal Restitution Unit on a regular basis for consistency of policy and legal theory. Assist the Criminal Restitution Unit in the development and implementation of policies, procedures and training related to civil and criminal forfeiture.

(8) Follow-up on evidence of unjustified failure to pay criminal restitution for referral to the Department of Justice or the Probation Department for appropriate action. Provide timely notice to the Criminal Restitution Unit of information describing assets sequestered overseas.

DOL/RTC CRIMINAL COORDINATORS

(6) Represent DOL/RTC at bank fraud working group meetings. Seek answers to questions regarding the status of criminal referrals and other questions concerning criminal matters received from DOL/RTC investigators. Provide to the responsible investigator a copy of the agenda and minutes from each bank fraud working group meeting.

(7) With the assistance of the Legal Division Criminal Coordinator, as appropriate, review forfeiture referrals received from DOL/RTC investigators for evidence that assets were purchased, directly or indirectly, with the fruits of bank fraud. Refer appropriate cases to the United States Attorney, the FBI, or other appropriate law enforcement authorities.

(8) Provide evidence discovered of a defendant's unjustified failure to pay criminal restitution to the Legal Division Criminal Coordinator for referral to the Department of Justice or the Probation Department for appropriate action.

DOL/RTC INVESTIGATORS

(6) Request of the DOL Criminal Coordinator, the status of criminal referrals and other questions concerning criminal matters.

(7) Refer civil and criminal forfeiture opportunities to the DOL/RTC Criminal Coordinator for review and submission to the United States Attorney, the FBI or other appropriate law enforcement authorities.

(8) If, at any time, evidence is discovered of unjustified failure to pay criminal restitution orders, refer the evidence to the DOL/RTC Criminal Coordinator for review and submission to the United States Attorney or the Probation Department.

LEGAL DIVISION
CRIMINAL COORDINATORS

(9) Assist the Criminal Restitution Unit in establishing and conducting training programs, including programs on criminal referrals, obtaining restitution orders, asset forfeitures, and asset collection for attorneys, investigators and other professionals.

(10) Coordinate and negotiate legal matters and activities within his/her Region with other government regulatory and law enforcement agencies in consultation with the Criminal Restitution Unit for consistency of policy and legal theory.

(11) Be available to provide legal advice and guidance to field personnel on all aspects of our dealings with criminal authorities within his/her Region. Consult with the Criminal Restitution Unit, as needed, to ensure uniform application of policies and procedures.

DOL/RTC CRIMINAL COORDINATORS

(9) Participate in the development of training programs and material, including programs on making criminal referrals, obtaining restitution orders, referring evidence of unjustified failures to pay restitution orders and identifying and referring asset forfeiture opportunities. In developing the above training program, the DOL Criminal Coordinator should make certain that DOL policies and procedures are fully described.

(10) Keep track of and provide input on collection of criminal restitution orders payable to recidivists in his/her consolidated field office.

DOL/RTC INVESTIGATORS

(9) Keep abreast of issues relating to the making of criminal referrals, obtaining restitution orders, referring evidence of failure to pay restitution orders, and identifying and referring forfeiture opportunities by engaging in general reading and attending training programs conducted by the Legal Division Criminal Restitution Unit, and Criminal Coordinators in conjunction with DOL/RTC Criminal Coordinators.



Resolution Trust Corporation

MEMORANDUM TO: RTC Investigators
Managing Agents

FROM: James R. Dudine, Assistant Director
Investigations

DATE: February 16, 1990

SUBJECT: Procedures for Referring Apparent Criminal
Conduct to the Department of Justice

1. Purpose: To establish policy and provide general guidelines for the filing of criminal referrals involving the affairs of RTC supervised thrift institutions.

2. Regulatory Requirements: Thrifts operating in conservatorship or receivership under control of the RTC are subject to the rules of the Office of Thrift Supervision (12 CFR 563.18) with respect to the reporting of known suspected criminal activity involving the day-to-day operations of the thrift. Managing Agents, therefore, should follow 12 CFR 563.18 and the guidance found in Section 135 of the OTS Regulatory Handbook and in OTS Form 366 (see attachment). Either OTS Form 366 or FDIC's Report of Apparent Crime may be used.

Any known or suspected criminal activity discovered by RTC/FDIC employees, outside counsel or RTC contractors involving previous insider or borrower relationships, asset sales or other receivership activities should be referred to the Investigation Department for referral on FDIC's Report of Apparent Crime (copy attached).

3. Procedures for Review and Follow-Up: Regional Directors may establish policies and procedures covering the review and filing of criminal referrals within the region. For example, some may require review by regional office staff before filing with the U.S. Attorney.

Copies of all criminal referrals should be maintained in regional offices or in consolidated field offices to permit ready access as needed. Copies of significant referrals should be forwarded to the Washington Office in accordance with RTC memorandum to Senior Investigation Specialists dated February 8, 1990. (Copy Attached.)

4. Cancellation: This is an interim directive. It is effective until replaced by a memorandum prepared under the RTC Directive System.

Attachment

INTERAGENCY CRIMINAL REFERRAL FORM INSTRUCTIONS

Paperwork Reduction Act Notice: The purpose of this form is to provide an effective and consistent means for financial institutions to notify appropriate law enforcement agencies of known or suspected criminal activities that took advantage of or were perpetrated against financial institutions. This report is required by law. Information collected on the form is confidential (5 U.S.C. 552(b)(7) and 552a(k)(2)). The federal financial institutions regulatory agencies and the U.S. Department of the Treasury may use and share the information. Public reporting burden for this information collection is estimated to average one half hour per response, including time to gather and maintain data in the required form and to review the instructions and complete the information collection. Send comments regarding this burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503 and, depending on your primary federal regulatory agency, to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; or Assistant Executive Secretary, Federal Deposit Insurance Corporation, Washington, DC 20429; or Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, Washington, DC 20219; or Office of Thrift Supervision, Enforcement Office, Washington, DC 20552; or National Credit Union Administration, 1776 G Street, NW, Washington DC 20456.

Federal law (31 U.S.C. 5314(g)(3)) provides that financial institutions, and their directors, officers, employees and agents, that disclose, in good faith, possible violations of law in connection with the preparation of criminal referral forms "shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure." This law also requires that financial institutions, and their directors, officers, employees and agents, refrain from communicating that a criminal referral has been made and the information reported in a criminal referral to any person involved in the suspicious transaction.

WHEN TO FILE THIS FORM:

1. All financial institutions operating in the United States, including insured banks, savings and loan associations, and credit unions, and bank holding companies, nonbank subsidiaries of bank and thrift holding companies, savings and loan service corporations, Edge and Agreement corporations, and United States branches and agencies of foreign banks, are required to report the detection of a loss or a suspected violation of law following the discovery of:
 - a. **Suspected insider abuse involving any amount.** Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution, where the financial institution has a substantial basis for identifying one of its directors, officers, employees, agents, or other institution-affiliated parties (as defined in 12 U.S.C. 1786(r), 1813(u) and 1818(b)(3) and (4)) as having committed or aided in the commission of a criminal act.
 - b. **Aggregate loss of \$1,000 or more where a suspect can be identified.** Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution and involving or aggregating \$1,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, the financial institution has a substantial basis for identifying a possible suspect or group of suspects and that the suspect(s) is not a director, officer, employee, agent, or other institution-affiliated party.
 - c. **Aggregate loss of \$5,000 or more regardless of potential suspects.** Any known or suspected criminal violation, or pattern of criminal violations, committed against the financial institution or involving a transaction conducted through the financial institution and involving or aggregating \$5,000 or more in funds or other assets, where the financial institution believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the financial institution was used to facilitate a criminal transaction, even though there is no substantial basis for identifying a possible suspect or group of suspects.

- d. **Money laundering or violations of the Bank Secrecy Act.** Any financial transaction conducted, or attempted, at the financial institution involving funds derived from illicit activity or for the purpose of hiding or disguising funds from illicit activities, or for the possible violation or evasion of the Bank Secrecy Act reporting and/or recordkeeping requirements, even though there is no substantial basis for identifying a possible suspect or group of suspects. A form must be filed for all instances where money laundering is suspected, regardless of the identification of a potential suspect or the amount involved in the violation.
2. Financial institutions are required to file this form no later than 30 calendar days after the date of initial detection of the known or suspected criminal violations or series of criminal violations. If no suspect has been identified within 30 days after the date of the detection of the loss or the known, or suspected criminal violation or series of criminal violations, reporting may be delayed an additional 30 calendar days or until a suspect has been identified, whichever is sooner. However, in no case shall reporting of suspected violations be delayed more than 60 calendar days after the date of the loss or the known or suspected criminal violation or series of criminal violations. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a timely criminal referral form.
3. This form does not need to be filed for those robberies and burglaries that are reported to local authorities, or for lost, missing, counterfeit or stolen securities that are reported pursuant to the requirements of 17 CFR 240.17f-1.

HOW TO COMPLETE THIS FORM:

1. **This form must be typewritten.** Use a standard commercial font and pitch (no italics or script).
2. **Do not fold or staple the original of this form.** Use a 9" x 12" or larger envelope when mailing the original form to the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN"). All other forms required for distribution may be copied or folded.
3. **Type on the original of the form.** Do not use a photocopy or any other type of facsimile of the form for submission to FinCEN. Extra original pages for Suspect Information (Section-4) and Witness Information (Section-5) are provided for additional suspects and witnesses.
4. **This form is machine readable.** The form will be optically scanned, and the information on it will be stored in data fields that correspond to the line numbers which are generally located in the center of the page (e.g., <0101>). These line numbers tell the optical scanner where on the page to read the reported information. In two parts of the form only -- area <1701> on page 4 and area <2801> on page 9 -- information may be typed within a space larger than one line.
5. **All information should be entered on the form in the space to the right of the arrow symbols.** When indicating a choice among several options, use a capital "X". Use two-letter postal abbreviations with no punctuation when entering state names, such as "VA". Dollar amounts should be expressed in numerals only.

WHERE TO SEND A COMPLETED FORM:

1. For each completed form:
 - a. Send the unfolded, unstapled **original form** and a copy of related supporting documentation to:
FinCEN
PO Box 8000
Vienna, VA 22183-8000
 - b. Send a copy of the completed form and a copy of related supporting documentation to:
U.S. Attorney
for the federal judicial district in which the alleged criminal act took place.
 - c. Send a copy of the completed form and a copy of related supporting documentation to:
FBI Regional Office
for the region in which the alleged criminal act took place, **and:**
 - (1) For known or suspected credit card fraud or computer fraud, send an additional copy to:
U.S. Secret Service
Financial Crimes Division
1800 G Street, NW
Room 942
Washington, DC 20223
 - (2) For known or suspected money laundering or a Bank Secrecy Act violation, send an additional copy to:
Internal Revenue Service District Office
for the region in which the alleged criminal act took place.
 - d. All national banks regulated by the Office of the Comptroller of the Currency and all thrift associations regulated by the Office of Thrift Supervision must also send an additional copy of the completed form and related supporting documentation to the U.S. Secret Service at the address set forth in instruction 1c (1) above.
 - e. Send a copy of the completed form and a copy of related supporting documentation to your primary federal regulatory agency at its District or Regional Office or Federal Reserve Bank. The appropriate address of the regulatory agency is on page 4 of these instructions.
2. Retain a copy of the form and all **original** documentation for 10 years from the date of the form.
3. If the form is prepared by an agency examiner, send the unfolded, unstapled original form with a copy of related supporting documentation to your supervisor. The supervisor will ensure that the completed form and supporting documentation are distributed in accordance with the directions set forth in instruction 1 above.

GENERAL INSTRUCTIONS:

- Section 1, lines 0101, 0102, and 0103.** Indicate whether this report is an initial, correction or supplemental submission. Each form must be completed in its entirety, even when the form is a correction or supplement. If a correction or supplement pertains to suspects, witnesses, and/or offers of assistance, complete (as appropriate) Sections 4, 5, and/or 6. Section 7 should be used to highlight the information that is being corrected and/or supplemented.
- Section 3, line 1111.** Briefly describe the suspected violation on this line, but limit your response to 23 characters. This line should be used only if the general categories for the type of suspected violation do not appear to apply to the offense being reported.
- Section 4, lines 1801, 1802, and 1803.** When entering a suspect name do not use titles or generational abbreviations such as Mr., Mrs., Ms., Dr., Jr., Sr., III, etc. If the suspect is a corporation or other entity, enter the name on line 1801.
- Section 4, lines 1814 and 1815.** Other identification types would include drivers licenses, passports, visas, and alien registration cards. Please specify issuing authority, as appropriate, and number, if any.
- Section 4, line 1912.** Briefly describe the relationship on this line, but limit your response to 34 characters. This line should be used only if the general categories of relationships do not appear to apply to the suspect.

SPECIFIC FEDERAL RESERVE SYSTEM INSTRUCTIONS:

- Section 1, line 0207.** Enter the number for the appropriate Federal Reserve District:

1 Boston	5 Richmond	9 Minneapolis
2 New York	6 Atlanta	10 Kansas City
3 Philadelphia	7 Chicago	11 Dallas
4 Cleveland	8 St. Louis	12 San Francisco

- Federal Reserve Bank addresses:**

Federal Reserve Bank of Boston
Attention: Criminal Referral
600 Atlantic Avenue
Boston, MA 02106

Federal Reserve Bank of Richmond
Attention: Criminal Referral
701 East Byrd Street
Richmond, VA 23219

Federal Reserve Bank of Minneapolis
Attention: Criminal Referral
250 Marquette Avenue
Minneapolis, MN 55480

Federal Reserve Bank of New York
Attention: Criminal Referral
33 Liberty Street
New York, NY 10046

Federal Reserve Bank of Atlanta
Attention: Criminal Referral
104 Marietta Street, N.W.
Atlanta, GA 30303

Federal Reserve Bank of Kansas City
Attention: Criminal Referral
925 Grand Avenue
Kansas City, MO 64198

Federal Reserve Bank of Philadelphia
Attention: Criminal Referral
Ten Independence Mall
Philadelphia, PA 19106

Federal Reserve Bank of Chicago
Attention: Criminal Referral
230 South LaSalle Street
Chicago, IL 60604

Federal Reserve Bank of Dallas
Attention: Criminal Referral
2200 North Pearl Street
Dallas, TX 75201

Federal Reserve Bank of Cleveland
Attention: Criminal Referral
1455 East Sixth Street
Cleveland, OH 44114

Federal Reserve Bank of St. Louis
Attention: Criminal Referral
411 Locust Street
St. Louis, MO 63102

Federal Reserve Bank of San Francisco
Attention: Criminal Referral
101 Market Street
San Francisco, CA 94105

OFFICE USE ONLY

<8101>

INTERAGENCY CRIMINAL REFERRAL FORM

MUST BE TYPEWRITTEN
DO NOT FOLD OR STAPLE THE ORIGINAL
DO NOT TYPE ON A PHOTOCOPY OF THE ORIGINAL

Place "X" next to ONE only. Initial <0101>
Explain Correction/Supplemental Correction <0102>
in Section 7. Supplemental <0103>

SECTION - 1 DISTRIBUTION

Primary federal regulatory/source agency.
Place "X" next to ONE Only.

Board of Governors of the Federal Reserve System <0201>
Comptroller of the Currency <0202>
Office of Thrift Supervision <0203>
Federal Deposit Insurance Corporation <0204>
Resolution Trust Corporation <0205>
National Credit Union Administration <0206>

Region/District Code (see instructions) <0207>

Attorney in: City <0301>
State (2 character code) <0302>
Zip Code <0303>

Indicate all applicable recipients:

(as required)

Federal Bureau of Investigation in: City <0304>
State (2 character code) <0305>
Zip code <0306>

(as required)

U.S. Secret Service in: City <0307>
State (2 character code) <0308>
Zip code <0309>

(as required)

Internal Revenue Service in: City <0310>
State (2 character code) <0311>
Zip code <0312>

(as required)

Other federal, state or local agency (specify name) <0401>
City <0402>
State (2 character code) <0403>
Zip code <0404>

DO NOT WRITE ON THE BACK OF THIS FORM

FBI Form 2239
OASIS No. 7193-0211
Expires June 30, 1994

HCMA: Form No. 2282
OASIS No. 2123-0204
Expires November 30, 1994

OTS Form 288
OASIS No. 1660-0203
Expires June 30, 1994

OCC Form No. CC-2016-02
OASIS No. 1567-0105
Expires June 30, 1994

DOC Form No. 0110
OASIS No. 2054-0211
Expires June 30, 1994

**SECTION 2
INSTITUTION INFORMATION**

Institution name <0601 >
 Address line 1 (where known or suspected acts took place) <0602 >
 Address line 2 <0603 >
 City <0604 >
 State (2 character code) <0605 >
 Zip code <0606 >

FDIC Insurance Certificate Number <0607 >
 or,
 Bank Holding Company Number <0608 >
 or,
 State Member Bank Number <0609 >
 or,
 OTS Docket Number <0610 >
 or,
 OCC Charter Number <0611 >
 or,
 RTC Financial Institution Number <0612 >
 or,
 NCUA Charter/Insurance Number <0613 >

Asset size of financial institution (example: \$50,000,000) <0701 > \$

Institution closed, date closed (format: mm-d-yy) <0801 >

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SECTION - 3
SUSPECTED VIOLATION(S)

Date of suspected initial violation (format: mm-d-yy) <0901 >
Dollar amount involved in suspected violations (example: \$3,500,000) <1010 > \$

Summary characterization of suspected violation(s).
("X" all that are applicable.)

Defalcation/Embezzlement <1101 >
False Statement <1102 >
Check Kiting <1103 >
Check Fraud <1104 >
Credit Card Fraud <1105 >
Bribery/Gratuity <1106 >
Misuse of Position or Self-Dealing <1107 >
Mysterious Disappearance <1108 >
Bank Secrecy Act/Structuring/Money Laundering <1109 >
Other (specify suspected violation type on line <1111 >) <1110 >
 Specify other here <1111 >

Amount of loss known prior to recovery (example: \$3,500,000) <1201 > \$
Dollar amount of recovery (example: \$3,500,000) <1301 > \$

Have the suspected violations had a material impact on or otherwise
affected the financial soundness of the institution? ("X" if yes) <1401 >
Has the institution's bonding company been notified? ("X" if yes) <1501 >
Have any of the institution's accounts related to this matter
been closed? ("X" if yes) <1601 >

If line <1601 > is YES, list the account number(s) and type(s), and the person(s) closing the
account(s) in area <1701 >.

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SECTION - 3
SUSPECTED VIOLATION(S)
(CONTINUED)

Explanation/description of suspected violation(s). This section of the referral is critical. The care with which it is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. Provide a chronological and complete account of the suspected violation(s), including what is unusual or irregular about the transaction(s), using the checklist below as you prepare your account.

- a. Relate key events to supporting documents and affected institution depository/loan accounts, and include copies of those supporting documents, retaining the originals.
 - b. Explain who benefited, financially or otherwise, from the transaction(s), how much and how.
 - c. Furnish any confession, admission, or explanation of the transaction(s) provided by the suspect(s) and indicate to whom and when it was given.
 - d. Furnish any confession, admission, or explanation of the transaction(s) provided by any other person(s) and indicate to whom and when it was given.
 - e. Furnish any evidence of cover-up or evidence of an attempt to deceive federal or state examiners or others.
 - f. Indicate where the suspected violation(s) took place (e.g. main office, branch, other).
 - g. Indicate whether the suspected violation(s) is an isolated incident or relates to other transaction(s).
 - h. Indicate whether any information has been excluded from this referral; if so, why.
 - i. Indicate whether there is any other related litigation; if so, specify.
- Recommend any further investigation that might assist law enforcement authorities.

Enter explanation/description. If necessary, continue the narrative on plain white 8 1/2" x 11" paper.
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< 01 >

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**SECTION - 4
SUSPECT INFORMATION**

SUSPECT(S): Person(s) suspected of criminal violation(s).

Complete copies of these two pages for each suspect in this referral.

If the suspect in question is a corporation or other entity, enter the entity name on line < 1801 >

Last name < 1801 >
 First name < 1802 >
 Middle initial < 1803 >
 Address line 1 < 1804 >
 Address line 2 < 1805 >
 City < 1806 >
 State (2 character code) < 1807 >
 Zip code < 1808 >
 Country < 1809 >
 Phone number-Residence (include area code) < 1810 >
 Phone number-Work (include Area code) < 1811 >
 Date of Birth (format: mm-dd-yy) < 1812 >
 Social Security Number < 1813 >
 Other Identification Type (e.g., driver's license) < 1814 >
 Other Identification Number < 1815 >
 Tax ID Number < 1816 >

Relationship to financial institution. ("X" all that apply)

Officer < 1901 >
 Director < 1902 >
 Employee < 1903 >
 Borrower < 1904 >
 Shareholder < 1905 >
 Accountant < 1906 >
 Agent < 1907 >
 Attorney < 1908 >
 Appraiser < 1909 >
 Broker < 1910 >
 Other (specify on line < 1912 >) < 1911 >
 Specify other relationship here < 1912 >

FOR ADDITIONAL SUSPECTS, include additional

copies of pages 5 and 6 and place "X" here < 1913 >

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SECTION - 4
SUSPECT INFORMATION
(CONTINUED)

Entity(ies) suspected of criminal violation(s). Provide requested information for each suspect in this referral.

Is person/entity still affiliated
with the financial institution? (*X* if yes) <2011 >

If no, Suspended? <2012 >

Terminated? <2013 >

Resigned? <2014 >

Date of suspension/termination/resignation <2015 >

(format: mm-d-yy)

Provide the name(s) of up to three other financial
institution(s) with whom the suspect/entity is affiliated:

Institution name 1 <2101

Institution name 2 <2102

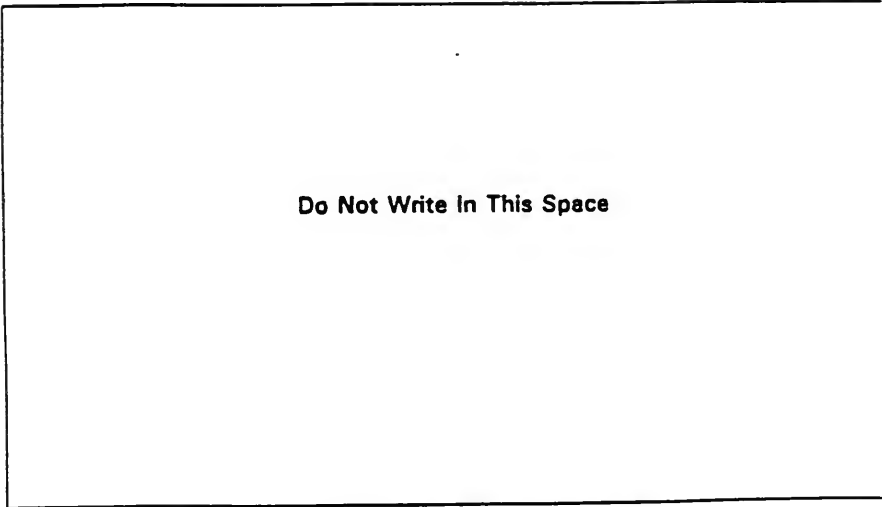
Institution name 3 <2103

Provide the name(s) of up to three other business
enterprise(s) with which the suspect/entity is affiliated:

Enterprise name 1 <2201

Enterprise name 2 <2202

Enterprise name 3 <2203



DO NOT WRITE ON THE BACK OF THIS FORM

**SECTION - 5
WITNESS INFORMATION**

WITNESS(ES): Provide the following for any persons who might have information about the suspected violations

Last name <2301 >
 First name <2302 >
 Middle initial <2303 >
 Address line 1 <2304 >
 Address line 2 <2305 >
 City <2306 >
 State (2 character code) <2307 >
 Zip code <2308 >
 Country <2309 >
 Date of Birth (format: mm-dd-yy) <2310 >
 Social Security Number <2311 >
 Title <2312 >
 Phone number (include area code) <2313 >
 Interviewed ("X" if yes) <2314 >

Last name <2401 >
 First name <2402 >
 Middle initial <2403 >
 Address line 1 <2404 >
 Address line 2 <2405 >
 City <2406 >
 State (2 character code) <2407 >
 Zip code <2408 >
 Country <2409 >
 Date of Birth (format: mm-dd-yy) <2410 >
 Social Security Number <2411 >
 Title <2412 >
 Phone number (include area code) <2413 >
 Interviewed ("X" if yes) <2414 >

FOR ADDITIONAL WITNESSES, include additional
 copies of this page and place "X" here <2415 >

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SECTION - 6
ASSISTANCE

Offer of assistance. Provide the following for individuals who are/will be authorized to discuss this refer with Justice Department, Treasury Department, or the appropriate federal, state, or local agency and to assist locating or explaining any documents pertinent to this referral.

Last name <2501
 First name <2502
 Middle initial <2503
 Employer <2504
 Phone number (include area code) <2505

Last Name <2601
 First name <2602
 Middle initial <2603
 Employer <2604
 Phone number (include area code) <2605

Provide information on person preparing this form:

Last name <2701
 First name <2702
 Middle initial <2703
 Title <2704
 Agency/Institution <2705
 Phone number (include area code) <2706
 Date (format: mm-dd-yy) <2707

FOR ADDITIONAL OFFERS OF ASSISTANCE,

include additional copies of this page and

place an "X" here <2708

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SECTION - 7
MISCELLANEOUS INFORMATION
(This page is for supplementing or correcting an earlier submission.)

<2801 >

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ATTACHMENT J

MADISON GUARANTY SAVINGS AND LOAN
CHRONOLOGY OF SIGNIFICANT EVENTS

1978:	Madison opens; receives charter from the State of Arkansas to operate as a stock association; obtains Federal deposit insurance for its accounts.
1/82:	James McDougal purchases majority interest in Madison (63.5 percent); Susan McDougal (wife of James) purchases 12.6 percent; William Henley (brother of Susan) purchases 8.5 percent; remaining 15.4 percent held by 70 other individuals. Asset size: \$7 million.
2/3/82:	Madison Financial Corporation incorporated as wholly owned subsidiary of Madison Guaranty Savings; James McDougal becomes Chairman of Madison Financial.
1/20/84:	Limited FHLBB examination.
7/19/84:	Supervisory Agreement executed.
10/18/84:	J. McDougal resigns as CEO of Madison (remains majority stockholder and CEO of subsidiary Madison Financial).
12/84:	Frost and Co. issues unqualified opinion regarding Madison 1984 financial statements (concludes association solvent).
4/85:	Rose Law Firm retained to represent Madison before Arkansas Securities Commissioner (thrift regulator); (1) sought opinion from Commissioner on whether an Arkansas thrift was permitted to issue preferred stock and (2) submitted application for Madison to set up a broker/dealer subsidiary.
5/14/85:	Arkansas Commissioner issues opinion which concludes that Arkansas thrifts are permitted to issue preferred stock to raise capital; conditions approval for broker/dealer subsidiary on Madison's ability to raise \$3 million in capital. (Note: Madison never issued stock or organized broker/dealer subsidiary.)
12/85:	Frost and Co. issues unqualified opinion regarding Madison 1985 financial statements; accepts positive net worth reflected in Madison's financials. Asset size: \$107 million.
3/4/86:	FHLB examination.
7/15/86:	Examination conducted pursuant to 12 USC 407(m)(2) of Nat. Housing Act.
8/15/86:	Cease and Desist Order signed; requires Madison to obtain new audit for 1985 (Madison chooses Peat Marwick Mitchell for project); John Latham resigns as Madison CEO.
9/86:	At Supervisory Agent's request, Madison retains outside counsel to investigate possible claims.
10/31/86:	J. McDougal receives compensation from subsidiary Madison Financial for the last time and apparently resigns, although no written resignation has been located.
11/24/86:	Limited FHLB examination.
3/3/87:	Initial report issued by outside counsel.
4/30/87:	Madison's last fidelity bond expires.
8/17/87:	FHLB examination; new Peat Marwick audit for 1985 shows severe capital deficiencies (key difference with Frost audit is conclusion that Madison had failed to adequately reserve for loan losses; adjustments deplete capital).
1/15/88:	Madison forecloses on real estate pledged by J. McDougal as collateral to secure loans; obtains deficiency judgment.
2/29/88:	Madison files suit against Frost and several of its partners (No. 88-1193, Cir. Ct. of Pulaski County, Ark.). Suit seeks damages for losses caused by defective audits of 1984 and 1985 financial statements.
3/10/88:	Madison signs Consent to Merge Agreement.

8/31/88:	Outside counsel submits updated investigatory report.
8/31/88:	Seth Ward obtains judgment against Madison for \$350,000 in commissions allegedly owed.
2/28/89:	FSLIC appointed conservator of Madison (Order 89-483 P).
3/2/89:	FDIC accepts appointment as FSLIC's Managing Agent.
3/9/89:	Outside counsel in <i>Frost</i> litigation discloses that his firm represents parties who are adverse to the FDIC in three pending civil actions. FDIC refuses to waive conflicts.
3/22-24/89:	Rose firm retained to represent FDIC in <i>Frost</i> malpractice case.
3/30/89:	FDIC substituted as party in <i>Frost</i> case, matter removed to Federal District Court for E.D. Ark (No-LR-C-89-216).
4/10/89:	FDIC Investigations Department prepares report of preliminary findings.
6/8/89:	FDIC in-house counsel first receives information regarding potential conflict of interest which stems from Hubble/Ward relationship (Ward is Hubble's father-in-law); see entries for 8/31/88 and 3/22-24/89.
6/28/89:	At FDIC in-house counsel's request, Hubble submits letter which states that he has not represented Ward in his dispute with Madison and will not do so in the future.
8/9/89:	RTC created by FIRREA.
10/89:	FDIC "Directors' and Officers' Liability Section" renamed "Professional Liability Section"; responsibility for RTC institutions handled by branch of FDIC section.
11/89:	J. McDougal, James Henley, and David Henley indicted for defrauding Madison (violations of 18 USC 1006, 371, 1344, 1014, 3623, and 3013).
2/16/90:	Latham indicted for making false entries on Madison's books and deceiving examiners (violations of 18 USC 1002, and 1006).
Spring 1990:	Latham and David Henley arrange plea bargains.
6/7/90:	J. McDougal and Jim Henley acquitted.
11/30/90:	RTC appointed Receiver of Madison (OTS Order 90-2083); arranges Purchase and Assumption transactions.
2/26/91:	Settlement of <i>Frost</i> lawsuit for \$1,025,000 approved.
4/8/91:	<i>Frost</i> settlement documents executed.
4/10/91:	<i>Frost</i> 's insurance carrier (Crum and Forster) pays the RTC.
9/20/91:	J. McDougal files Chapter 7 Bankruptcy (No. LA-919107-JD in U.S. Bnkr. Ct. for C.D. Cal.); no deadline for proofs of claim imposed.
Sept./91:	RTC Legal Division separates from FDIC; FDIC lawyers responsible for RTC projects transferred to RTC Legal Division.
1/29/92:	RTC files proof of claim in McDougal bankruptcy for deficiency judgment obtained by Madison on 1/15/88.
7/30/92:	8th Cir. upholds jurisdiction of Federal District Court for Ward litigation, permits the RTC to raise defenses unavailable to Madison to Ward's compensation claims (decision reported at 972 F.2d 196).
6/29/93:	RTC settles Seth Ward claims, receiving over \$341,000 in settlement payment and accrued interest.
Summer 1993:	Susan McDougal indicted on charges unrelated to Madison.
9/93:	Madison borrower David Hale indicted for defrauding the Small Business Administration (not Madison).
11/15/93:	J. McDougal bankruptcy trustee files report which concludes that there are no assets to distribute to creditors.

ATTACHMENT K

RESOLUTION TRUST CORPORATION

ASSET MANAGEMENT AND DISPOSITION MANUAL CHAPTER III—MANAGING A LOAN PORTFOLIO

K. LOAN MODIFICATIONS

1. DEFINITION

A loan modification (also known as a “workout arrangement” in the private sector) is a relatively short-term reconfiguration of a performing or non-performing loan for the purpose of enabling the borrower to fulfill the loan obligations in time of economic distress. The loan modification may involve a workout, restructure, compromise, and/or extension entered into for a period of 12 to 60 months.

2. LOAN MODIFICATION GOALS

The main goals of the RTC's loan modifications are as follows:

- a. To modify certain performing and newly emerging non-performing loans so as to maximize the net present value recovery from each modified loan.
- b. To create as a consequence of each modification a performing loan which can be securitized and sold in MBS pools.
- c. To delegate most of the underwriting, loan restructuring, and approval of loan modifications to the RTC's private sector loan servicers and other loan managers.
- d. To establish loan modification policies which are relatively easy to understand and administer by the loan servicers and other loan managers of the RTC.

3. INTRODUCTION

When a borrower is unable to meet the terms of the original note, the RTC has two general courses of action to take. The preferred course is to let the borrower retain an ownership interest in the collateral and devise a workout program. However, if a loan modification is not feasible, the RTC may need to pursue a settlement (e.g., deed-in-lieu of foreclosure) or initiate foreclosure proceedings or other litigation, (normally as soon as the loan has been delinquent for two weeks after issuance of the 120-day past due notice). *A loan modification shall always be considered before taking legal action or filing for foreclosure.* The loan modification should be directed toward preserving the value of the asset and improving the likelihood of full collection of the obligation either through repayment or sale of the asset in securitized form. A loan modification may offer better prospects for recovery on an asset than other alternatives such as foreclosure or litigation.

Loan modifications should be developed after careful and thoughtful analysis of the loan documents, the borrower, the collateral, and any guarantors. Loan modifications should not be pursued whenever refinancing is feasible and available. A modification may be in the form of a standby agreement or modification of debt terms including collateral adjustments and requires the borrower to make a contribution to the process that can not otherwise be achieved by the RTC.

Loan modifications require that a comprehensive evaluation of the borrower's willingness and capacity to repay, the cash flow potential of the collateral, and the value of the collateral be performed. The evaluation should be initiated as soon as 30 or more days of non-payment is confirmed. This evaluation should also be extended to any guarantors of the loan and require the identification of any affiliated loans to the borrower and/or guarantors held by the RTC.

The RTC views legal action as the last resort in the loan disposition process. As required by the RTC's pre-litigation analysis, files must always document the rationale for the selection of either a settlement approach or a decision to initiate foreclosure or other litigation. This rationale should clearly identify the economic benefits to the RTC for the option selected.

Loan modifications require the cooperation and good faith of the borrower. At any time in the process, should it become apparent that a borrower in default has not been forthcoming on material matters, the asset manager should assess the appropriateness of continuing to attempt a workout program and/or using legal action as a means of enforcement or our claims. Such matters require the assistance of legal counsel.

4. ENCOURAGING REFINANCING

The repayment of a loan from the proceeds of a refinancing is always preferable to a loan modification. Asset managers shall notify the borrower one year prior to the maturity date of the original loan serving notice that the loan is coming due

and that the RTC expects to be repaid in full under the terms of the Note. A follow-up notice shall be sent six months prior to the maturity date.

5. NOTIFYING BORROWER AND GUARANTORS OF DEFAULT

Upon the event of a default, the borrower should be promptly notified of the default. The most common types of defaults which suggest the need for either loan modification or litigation are the failure of the borrower to make payments in accordance with contract terms, the failure to refinance at the maturity of an obligation, or delinquent property taxes. The default notice should be reviewed by counsel prior to its delivery to the borrower for compliance with loan documents. Co-makers and guarantors should also be notified. In certain instances, failure to properly advise the guarantors of a borrower's default may void the guarantee.

6. DETERMINING NEED FOR LOAN MODIFICATIONS

A loan modification is the result of an extensive process which begins with a due diligence exercise undertaken by the loan servicer or other loan asset manager. The information which the asset manager should obtain includes a review of the applicable loan documents, an understanding of the nature and recent performance of the collateral, and the identity of the borrower and guarantors.

The loan documents should be reviewed to identify: (a) the borrower, (b) the collateral, (c) the contractual interest rate, (d) the date of the default, (e) loan amount and unpaid interest, and (f) any participants in the case of a participation loan.

An in-depth investigation of the collateral should be performed. A review of the collateral's value, status of property taxes, magnitude of vendor obligations, existence of liens, status of insurance, whether the collateral has been marketed by the owner, leasing status for income producing properties, recent cash flow reports, and available market analysis are all important elements of information to be used by the asset manager in understanding the causes of the borrower's default. The asset manager should obtain a title report to identify liens and other potential impairments of the collateral. In the case of income producing properties, the asset manager may also consider exercising a right for the assignment of rents during the workout period to control the use of and better measure the collateral's cash flow. During this investigation the magnitude of management and other fees drawn from the cash flow of the collateral by the borrower or its affiliates should be ascertained.

An understanding of the legal form of the borrowing entity is important in determining the extent to which the asset manager can expect to obtain assistance from the borrower in the workout program. The borrower may be a corporation, limited or general partnership, or an individual or group of individuals. The analysis of the borrowing entity can best be performed with the assistance of legal counsel. In connection with this analysis, affiliated and related loans held by the RTC need to be identified.

Based upon this information, the asset manager should develop a preliminary opinion as to the causes of the default. A commercial mortgage loan which has matured and is technically in default, but has otherwise met the terms of the loan documents, may be considered for renewal as outlined in Section L below. Loan modifications should be explored in those instances where the performance of the collateral has produced insufficient cash flow to meet monthly or other periodic payment requirements and the borrower is cooperative and competent.

7. THE DEVELOPMENT OF A LOAN MODIFICATION

The development of a possible loan modification begins with an initial meeting with the borrower. A Pre-workout Letter Agreement (see Exhibit K-1) is sometimes useful prior to initiating discussions with the borrower. The purpose of this agreement is to recognize that both parties are entering into negotiations without waiving their rights under existing documents and applicable law. The Pre-workout Letter Agreement should be prepared or reviewed by counsel when it is used.

Meeting with the borrower is essential to understanding the borrower's expectations. The asset manager should request financial information relevant to the borrower's and the guarantor's financial status. At this point, the asset manager should not speak directly with vendors or other third parties without the borrower's written permission.

The asset manager should obtain actual and projected cash flow information from the borrower and all guarantors. Actual and projected cash flows for both the project and the principals of the borrowing entity should be obtained. The cash flows should encompass a minimum of the previous twenty-four months and the next twelve months. Recent financial statements and tax returns should also be obtained.

The financial strength of the borrower and guarantors should be evaluated to determine their ability to preserve the value of the collateral. Financial statements prepared by an independent Certified Public Accountant can be expected to be more

reliable. Current financial statements should be compared to those of earlier periods (if available) to identify significant changes in net worth and liquidity. Credit reports can be utilized to determine if either the borrower or the guarantors have outstanding judgments against them or have filed for bankruptcy. In case of actual or potential bankruptcy, it may be appropriate to promptly initiate legal action and the asset manager should seek the advice of legal counsel.

Contingent liabilities and the prospect for substantial adverse change in the financial condition of the borrower and the guarantors should be considered in this evaluation. Significant leverage may jeopardize the success of a workout program. A determination should be made as to the cost and benefit of instituting a workout program under these circumstances.

The cash flow information for the borrower and the guarantors should be reviewed to identify sources of liquidity which may be utilized to assist in preserving the collateral. If the collateral is an income producing property, infusions of equity may be required for improvements. Development activities also generally require working capital and, in connection with a loan modification, the borrower and the guarantors should be required to commit a reasonable amount of their available financial resources to the preservation of the value of the collateral. Cash flow information should be evaluated to ascertain whether the borrower and the guarantors have sufficient cash resources to meet their financial obligations.

At the conclusion of the initial meetings with the borrower and the guarantors and an evaluation of their financial affairs, the asset manager should proceed to determine the feasibility of implementing a workout program. At this time, the value of the collateral, the reasons for the default, and the ability of the property's net operating income to service the debt should be determined.

8. KEY ELEMENTS OF LOAN MODIFICATIONS

A loan modification plan should address the following terms and conditions as it is being devised and negotiated:

- Handling of any unpaid principal or interest
- Principal to be repaid
- Duration of the modification: 12 to 60 months
- Interest rate(s) during the loan modification period
- Degree of amortization required
- Payment schedule during the loan modification period
- Need for additional collateral, if any
- Need for additional guarantees, if any
- Documentation of the modification

9. FORMULATION OF A LOAN MODIFICATION

A loan modification developed by an asset manager should be based upon the economic viability of the borrower and the cash flow potential of the collateral. The amount of cash available to make principal curtailments, periodic principal and interest payments, and preserve the value of the collateral determine the extent to which a loan modification can be effected. The estimated value of the collateral as compared to the loan balance is used to determine the need for additional collateral enhancement from the borrower and the guarantors as a part of the loan modification.

The number of possible loan modifications is large. Loan modification alternatives include the following possible actions, which are not mutually exclusive and frequently will be used in concert with each other:

- Reduction or change in timing of the periodic payment
- Deferral of interest or amortization
- Reduction in the rate of interest
- Forgiveness of accrued interest or principal debt
- Additional collateral
- Additional guarantees

Required interest payments may be reduced or deferred for a period of time in instances when the performance of the collateral is below expectations at the present time, but is expected to improve. A reserve should normally be established from any available cash flow which results from this modification. This cash reserve is to be used for additional principal curtailments or expenditures to preserve the value of the collateral. When this is done, it would be necessary to establish a cash collateral escrow fund, the administration of which would have to be described in an Escrow Deposit Agreement.

The property's net operating income available for debt service may be able to cover contractual interest rate payments but not amortization requirements. The loan modification may defer scheduled amortization during such periods.

Reducing the interest rate may be appropriate in those instances where the cash flow produced by the collateral is insufficient to pay the debt service owed, and the borrower and the guarantors do not have sufficient financial resources to cover the anticipated deficit.

Cash flow mortgages call for any cash flow in excess of normal operating costs and reserves to be paid as debt service. *Cash flow mortgages are not readily securitizable and are not to be used for loan modifications.*

The borrower should be willing to change the management of the collateral to enhance its ability to meet debt service requirements. The borrower should provide an analysis of operating expenses, management fees, capital expenditure budgets, and a marketing analysis, along with a business plan to improve the collateral's cash flow producing capability. The business plan may be incorporated into the loan modification, particularly for a large loan balance or for complex collateral (e.g., a multi-use PUD).

Forgiveness of principal debt may be a part of an overall debt restructuring when the current value of the collateral is substantially less than the loan balance and the borrower and guarantors have insufficient financial resources to fully repay the obligation. The main determinants of the degree of forgiveness of debt should be the current value of the property and the property's pro forma net operating income. (See Section K-11 below.)

In developing a loan modification, the asset manager should assess the appropriateness of these various alternatives. The degree to which the workout program requires a reduction from the return the RTC would have attained under contractual terms should be quantified. The magnitude of any concessions made to the borrower should be documented.

10. ADDITIONAL COLLATERAL

During the course of developing a loan modification it may become apparent that the value of the property has deteriorated to the point where there is the likelihood that there would be a deficiency in a litigation scenario. In such situations, in consideration for reducing the contractual rate of interest or making other concessions, the asset manager should consider the need for additional collateral and/or guarantees beyond that which is available in the existing security. The asset manager should coordinate such provisions with legal counsel.

11. GUIDELINES FOR LOAN MODIFICATIONS

The following are general guidelines to be considered in developing a loan modification.

a. *Priority of Various Loan Modification Alternatives*

The loan modification alternatives cited above should normally be initially considered in the following sequence:

Priority 1—Changes in the payment amount not involving a decrease or deferral of the contractual rate of interest owed (e.g., deferral of principal portion of debt service payment); changes in the payment frequency (e.g., monthly payments changed to quarterly payments).

Priority 2—Deferral of accrued, unpaid debt service (principal and interest unpaid at the time of the modification) for a loan modification period not to exceed 60 months.

Priority 3—Reduction in the contractual rate of interest, normally to a level no lower than the One-Year, Three-Year, or Five-Year Weekly Average U.S. Treasury Note Constant Maturity Yield (depending on the duration of the loan modification period), normally establishing the interest rate for the modified loan at the level which is expected to produce zero or minimal cash flow (i.e., net operating income less debt service of the modified loan) during the first year of a loan modification period not to exceed 60 months.

Priority 4—Forgiveness of accrued, unpaid interest.

Priority 5—Forgiveness of principal debt.

The foregoing alternatives (listed as Priority 1-5 above) are not mutually exclusive actions and they will frequently be used in concert with each other. While the possible actions listed above should normally be explored in the order listed, the asset manager will recognize that some situations will not fit the sequential approach suggested above. For example, if a loan being considered for a modification were fully guaranteed by an extremely strong personal or corporate guarantor, the asset manager might be justified in standing on the terms of the original loan rather than forgiving interest or principal in any mechanical fashion regardless of the LTV ratio or the pro forma debt service coverage ratio.

In considering an interest rate reduction (Priority 3 action), the main determinant of the new interest rate should be the expected net operating income (i.e., the net income available for debt service) during the loan modification period. Therefore, before a suitable loan modification can be formulated, the loan manager must thoroughly understand the historical operating history and the pro forma expectation of the property.

In considering the proper interest rate for a modification involving a property with very limited income available to service the debt, the minimum interest rate described above may be considered to be the minimum average level during the period of the loan modification. Therefore, if stepped interest rates were used, the interest rate during the first year of the loan modification period could be less than the normal minimum provided the interest rate(s) charged in future years were sufficiently higher to offset the first year concessionary level.

As a general rule, in situations where a compromise (Priority 4 or 5 action) may be warranted (e.g., the current value of the collateral is substantially less than the loan balance), the reduction in interest rate option will normally be employed before any forgiveness of accrued, unpaid interest, or principal is considered.

Forgiveness of debt (Priority 5 action) will normally be considered after it has been determined that interest rate concessions alone will not solve the problem. Once it has been determined that there is no other alternative remaining to permit a successful modification other than a compromise of debt, the forgiveness of debt will normally be coupled with interest rate reduction in the formulation of the total loan modification plan. In considering the proper amount of debt to forgive, the main determinants should normally be the current value of the property and the net operating income expected during the loan modification period. As a general rule, it is not considered desirable to forgive debt in any one- to five-year loan modification below the current market value of the underlying collateral. For example, if the current loan balance were \$1.0 million and the current market value of the collateral were \$800,000, normally it would not be desirable to forgive more than \$200,000 of principal debt in a one- to five-year loan modification.

b. Term of the Modified Loan

The term of the loan modification should normally be 12 to 60 months.

c. Control and Monitoring

The loan modification should require that the borrower and the guarantors provide periodic reports to the asset manager as to the performance of the collateral. In addition, the asset manager may wish to control the management fees paid to the borrower, the guarantors, and their affiliates. Restrictive covenants pertaining to personal assets of the borrower may also be considered so as to ensure that assets needed to preserve the collateral's value are not diverted.

d. Interest Rate

Ideally, the loan modification should attempt to return to the RTC the full amount of interest due under the original loan documents. However, it may be determined to be in the best interests of the RTC to lower the contractual rate of interest due in a loan modification.

e. Financial Statements

The loan modification requires that a complete assessment of the financial capabilities of the borrower and the guarantors be performed for recourse loans. *When the borrower and the guarantors fail to provide current financial statements, loan modification discussions should cease.* These situations should be evaluated with the assistance of legal counsel and litigation should be considered at an early stage in the process. In other instances, the financial statements may help the asset manager to determine that a proposed loan modification would substantially improve an under-collateralized position.

Refusal to provide current financial statements by the borrower, guarantors, or co-makers is a serious matter. The borrower should be advised that failure to provide the requested information will likely trigger a recommendation to initiate litigation or referral to a collection agency, whichever is appropriate.

f. Property Operating Statements

Borrowers for both recourse and non-recourse loans are required to submit current property operating statements for income producing real estate collateral. *As is the case with personal financial statements, a borrower's refusal to provide such statements is a very serious matter and will normally result in a recommendation to initiate litigation.*

g. Additional Collateral and Guarantees

The asset manager should establish a value for the collateral either by obtaining a third party appraisal or by preparing a formal evaluation of the collateral's value. A request for additional collateral and/or guarantees should be considered as follows:

(1) Fully Secured Loans

Although the value of the existing collateral is sufficient to reasonably ensure full repayment of the borrower's obligations, additional collateral and/or guarantees may be needed when interest rate reductions and/or other concessions are a part of a loan modification.

(2) Undersecured Loans or Lines of Credit

When the value of the existing collateral does not reasonably ensure full repayment of the debt, additional collateral and/or guarantees should be obtained in connection with a loan modification. The amount of additional collateral required should be based upon the financial capability of the borrower and the guarantors and the extent to which a loan modification would preserve the value of the asset and ensure repayment.

(3) Unsecured Loans

An attempt should be made to secure unsecured loans. Collateral which produces cash flow is preferred over that which does not. The asset manager should be as prompt as possible in attempting to obtain collateral for unsecured loans.

If an asset is insufficiently secured, the asset manager should normally obtain additional collateral to improve the RTC's position. For example, the RTC Representative may take senior or junior mortgage positions on the obligor's residence or other real estate in which equity exists, and take pledges or assignments of other assets in which equity exists.

When the asset manager takes additional collateral, the RTC's Legal Division should draft routine forms and provide general advice about the procedures that should be used. When a mortgage position is taken, the asset manager should normally have the mortgage recorded and obtain title insurance.

h. Additional Guarantees

The likelihood of repayment will be enhanced by obtaining additional guarantees. The value of these guarantees should be evaluated by assessing the additional guarantor's financial capability. This will require the same degree of due diligence work on the financial affairs of the borrower and existing guarantors as in evaluating the prospects for a successful loan modification.

In those instances when the borrower's spouse is not a maker, guarantor, or endorser of the loan, the asset manager should confer with the RTC legal counsel and attempt to obtain the spouse's guarantee as part of the workout program. Including both the husband and wife as obligors to the obligation is generally more valuable whenever execution against jointly-owned property is necessary or whenever the taking of secured positions against jointly-owned property is desirable. If the spouse later claims a lack of consideration was provided in exchange for granting the guarantee, the asset manager should normally consult with the RTC legal counsel for advice on determining whether the guarantee should be rescinded. The consideration obtained would be forbearance from suit as a result of the borrower's inability to pay the obligation at maturity. Forbearance refers to the act of refraining from enforcing a debt when it falls due. Although counsel may advise reversing the position later, obtaining the spouse's guarantee is often a worthwhile method of ensuring payment of the obligation.

i. LTV Ratio Considerations

If a secured loan is a candidate for a loan modification, the value of the underlying collateral is probably impaired. It is important for the asset manager to keep the following valuation principles in mind in the development of a loan modification plan:

(1) No loan with an LTV in excess of 125 percent can be securitized; therefore, most loans should be modified in such a way that the LTV ratio of the modified loan is not in excess of 125 percent. A legitimate exception to this general rule might be a loan which is collateralized by a strong personal or corporate guarantee.

(2) It is essential for the asset manager to understand the property's historical operating history, the property's proforma operating expectation, the borrower's overall financial position, and the current value of the underlying collateral *before* any compromise of interest or principal can be considered.

(3) When considering a forgiveness of principal, the RTC normally limits the maximum amount of the forgiveness to the difference between the outstanding principal balance of the loan and the current value of the loan.

j. *Equity Participation Features*

One of the main goals of the RTC loan modification program is to create as a consequence of each modification a performing loan which can be securitized and sold in MBS pools. As a general rule, an equity participation feature has little value to Wall Street and does not facilitate the securitization process in any way. In fact, if something is given up in a loan modification in exchange for a participation feature (e.g., a higher rate of interest), the result may be harmful to the securitization process. *Therefore as a general rule, no standard program of participating mortgages or equity kickers is considered feasible or desirable for the RTC; and the standard loan documentation which has been developed for RTC loan modifications does not provide for them.* Equity participations may be appropriate in certain transactions involving a loan with a book value in excess of \$2.5 million in which a compromise of principal is part of the loan modification. In cases where the asset manager deems it appropriate and advisable to negotiate an equity participation feature in such situations, the following guidelines in structuring equity participations will apply:

- A loan modification with an equity participation feature should be structured so that there is a forced sale or refinance at maturity, at which time the RTC would receive a certain percentage of the appreciation in the value of the property.
- The value of the RTC's share of the appreciation in value of the property will be determined by an appraisal, prepared in compliance with the RTC's appraisal policies.
- No participations in rental income, net operating income before debt service, or cash flow after debt service will be negotiated.
- A loan modification with an equity participation feature should normally have a loan term of 5 years.
- All such transactions should be reviewed prior to their approval by RTC Legal Counsel to ensure that the RTC is not assuming any undue risks of ownership by such a loan modification structure.

Loan modifications with such equity participation features will need to be serviced by reputable, experienced commercial mortgage loan servicers to ensure that the RTC's interests are protected at loan maturity. It is not expected that there will be a large number of such loan modifications.

12. APPROVAL OF LOAN MODIFICATIONS

a. *General Policy*

The modification of RTC loans can be initiated by the loan servicer, SAMDA contractor, or other asset manager. Such loan modifications will be approved by either (1) the RTC Office Vice President or Designee, or (2) under the RTC Delegations of Authority, depending on the nature of the modification.

b. *Authority for Approval of Loan Modifications*

(1) RTC Office Vice President or Designee

The RTC Office Vice President or Designee can approve the following types of loan modifications:

- Extension of the maturity date.
- Changes in the payment amount not involving a decrease in the contractual rate of interest.
- Changes in the payment frequency.
- Deferral of up to six monthly payments, or two quarterly payments for a period not to exceed 60 months, without the necessity of having to pay late charges, penalty interest, or interest-on-unpaid interest.
- In connection with an extension of a performing commercial mortgage under the RTC Loan Extension Program or a reduction in the contractual rate of interest to a level no lower than the "market level" rate described in the RTC Directive No. 10100.37, dated July 28, 1992, Subj: Extension of Performing Commercial Mortgages. (See Exhibit L-1.)
- In connection with the modification of any performing mortgage loan, a reduction in the contractual rate of interest to a level no lower than the "market level" rate described in the RTC Directive 10100.37, dated July 28, 1992, Subject: Extension of Performing Commercial Mortgages. (See Exhibit L-1.)

(2) A(1) Delegated Authority

The appropriate Delegated Authority under the A(1) Delegations of Authority in Appendix IIA will approve the following types of loan modifications:

- Any reduction in the contractual rate of interest except to the extent allowed in the directive enclosed as Exhibit L-1.
- In the case of a commercial mortgage loan extension qualifying for the RTC Loan Extension Program described in Exhibit L-1 or any other loan modification, a reduction of the contractual rate of interest to a level below the "market level" rate, as defined in the directive. (See Exhibit L-1, Attachment A.)
- Forgiveness of accrued interest and/or principal amount owed.

(3) Authority of Loan Asset Managers

It is the policy of the RTC for its loan servicers and other loan asset managers, to the maximum extent permitted by their Loan Servicing Agreements or other asset management contracts, to make most of the loan extension and modification decisions relating to the loan portfolios assigned to them. Accordingly, it is incumbent upon the RTC Office Vice Presidents and General Managers to redelegate to the loan managers under their jurisdiction the authority necessary to accomplish this goal. Likewise, it is necessary to give full-service loan servicers the power of attorney so as to allow them to efficiently accomplish their responsibilities.

13. ASSISTANCE OF OUTSIDE COUNSEL

Secured assets may be referred to outside counsel for legal assistance. This should be done only when the costs of such referrals are substantially less than the RTC's expected net proceeds from the sale of the collateral, and the RTC Legal Division has approved the use of outside counsel for this purpose.

14. CONSOLIDATION OF BORROWERS' OBLIGATIONS TO TWO OR MORE INSTITUTIONS

In many instances borrowers, guarantors, and their affiliates may have multiple loans with various associations in conservatorship or receivership. Generally, a consolidation of debt held by the RTC-controlled institutions is in order to more effectively administer such debt. It may be the case that one institution is oversecured while others are undersecured. This situation may be a disadvantage to the undersecured institution when formulating a collection strategy. The astute borrower may use this circumstance to an advantage when proposing a compromise or settlement offer. If all loans were cross-collateralized, the credit decision could be made more easily. In the case of large-dollar multiple lines, the collection strategy may be hampered if all creditors do not work toward a global settlement.

a. Borrower Committee

In the case of large-dollar multiple lines involving two or more RTC offices, it is usually advantageous to establish a committee consisting of RTC staff from all RTC offices involved. The committee should review all collection proposals and attempt to achieve a harmonious, global strategy.

b. Loan Participation

In the case of a loan participation (see RTC in Lead Position, Chapter III, *Participations*), it is usually advisable for one (1) asset manager to assume the lead role and represent all RTC-controlled institutions in negotiating with other lenders, or the borrower. Normally the asset manager responsible for the largest RTC-controlled percentage interest would be the one to take the lead.

15. POLICIES AND PROCEDURES TO MAXIMIZE COLLECTION EFFORTS ON RELATED DEBT WITHIN RTC-CONTROLLED INSTITUTIONS

a. General Policy

The following policies and procedures can be used to maximize the results of collection efforts on related debt within RTC-controlled institutions, both conservatorships and receiverships:

Related Debt is defined as the aggregate debt of all borrowing entities in which one person, corporation, or partnership appears as a principal (e.g., all partnerships in which Cardinal Industries, Inc. appears as a general partner).

(Please note that this definition of related debt differs from the concept of debt aggregation for delegation of authority purposes.)

b. Consolidation of Debt

When the consolidation of debt is appropriate, the institution that acquires the debt shall be responsible for making arrangements with the borrower and obtaining the cooperation of that borrower to execute the proper documents.

- The purpose is to pool the loans, cross-collateralize, and control all proceeds in a loan modification.
- The RTC Legal Division should develop the credit agreement and proper documentation to secure debt, and provide a perfected interest on all collateral.

c. *Guidelines for Pricing Participation Interests*

The pricing of notes or collateral purchased should be a joint effort of the institutions involved. All instruments purchased should be a complete and total assumption with all collections going to the assuming institution, together with the monitoring responsibilities. The following guidelines should be followed when pricing assets and/or valuing a loan participation interest:

- Real estate values should normally be based on current appraisal;
- The value of liquid instruments should normally be based on face value;
- The valuation of personal property and chattels should normally be based on appraised value;
- The value of personal guarantees should normally be based on the financial condition of the guarantors, the likelihood of collecting on a deficiency judgment, and the expected time to collect;
- The valuation of other collateral should normally be based on current liquidation value.

Asset searches should be performed to determine all assets and liabilities of the borrower, and the RTC Legal Division's concurrence should normally be obtained in all cases. If a discrepancy is found, the Regional Director or his designee should determine the final value.

16. LIMITATIONS ON ADDITIONAL LOANS TO ONE (1) BORROWER WITH CONSOLIDATED DEBT

The consolidation of a borrower's obligations may suggest the need for additional loans to a borrower to more effectively restructure and manage the consolidated debt for maximum recovery. A legal opinion must be obtained prior to issuing such a commitment or loan closing to ensure that no other limitations or restrictions apply.

SAMPLE PRE-WORKOUT LETTER AGREEMENT

[Date]

[Borrower]
[Address]

Dear [Borrower]:

When signed by each of us, this letter constitutes an agreement between you ("Debtor") and the undersigned lender ("Lender").

1. *Negotiations.* We have commenced or are about to commence negotiations concerning certain obligations (the "Obligations") you have to us. Without liability for failing to do so, we each plan to discuss various courses of action which might be in our mutual interests. Either of us, in our sole and absolute discretion, may terminate these discussions at any time and for any reason; and, upon such termination of discussion, our respective obligations to one another shall be only as set forth in executed written agreements as described below.

2. *Description of Loan Documents and Debtor's Default.* Attached hereto as *Exhibit A* is a list of certain documents (collectively the "Loan Documents") concerning the Obligations.

3. *Only Written Agreements and Amendments.* Our contemplated discussions may be lengthy and complex. While we may reach agreement on one or more preliminary issues which are part of the problem we are trying to resolve, we have agreed that neither of us shall be bound by any agreement on individual issues until (a) agreement is reached on all issues, and (b) our agreement on all issues has been reduced to a written agreement and signed by each of us. Furthermore, in order to avoid any confusions on misunderstanding, each of us also agrees that this agreement may only be amended in writing.

4. *Loan Documents Still in Force.* Notwithstanding any other provisions of this agreement, or any claims of the parties to the contrary, the Loan Documents are in full force and effect, and shall remain in full force and effect unless and until modified by a written document which complies with the provisions of paragraph 3 hereof.

5. *No Waivers.* No negotiations or other action undertaken pursuant to this Agreement shall constitute a waiver of any party's rights under the Loan Documents, except to the extent specifically stated in a written agreement complying with the provisions of paragraph 3 hereof.

6. *Authorized Representatives.* No party shall be authorized to negotiate on behalf of or represent either of us until written notice of such fact is given to the other party.

7. *Termination of Settlement Discussions.* Either party to this agreement may terminate any and all settlement discussions upon written notice to the other parties to this agreement at their sole and absolute discretion.

8. *Miscellaneous.* This agreement constitutes our entire agreement concerning its subject matter and supersedes any prior or contemporaneous representations or agreements not contained herein concerning the Obligations or the subject matter of this agreement. This agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors, and assigns, and shall be governed by the law of [Governing State], without giving effect to principles of conflicts of laws. In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and attorneys' fees from the non-prevailing parties. Paragraph headings used herein are for convenience only and shall not be used to interpret any term hereof. This agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one agreement. Each party executing this agreement represents that such party has the full authority and legal power to do so.

Please acknowledge the foregoing by signing this letter in the space provided below and returning one copy to the undersigned.

Sincerely,

ATTACHMENT L

STATUS REPORT
RTC COMPLETION ACT
MANAGEMENT REFORMS SECTION 3(a)

MARCH 30, 1994

	<i>Organizational Changes</i>
<i>Objective:</i>	Create a division of Minority and Women's Programs whose head is a vice president and serves on the RTC's Executive Committee. (Reform 4)
<i>Status:</i>	CEO resolution 93-CEO-21 created the position of Vice President of Minority and Women's Programs on April 13, 1993. Johnnie Booker was appointed as Vice President of MWP on April 13, 1993, via CEO resolution 93-CEO-22. CEO resolution 93-CEO-23 dated April 13, 1993, appointed the Vice President of MWP to the RTC Executive Committee. CEO resolution 94-CEO-29 dated January 13, 1994, provided a position description for the Vice President for MWP.
<i>Objective:</i>	Appoint a Chief Financial Officer reporting directly to the CEO with no operating responsibilities other than as CFO as determined appropriate by the Oversight Board. (Reform 5)
<i>Status:</i>	Interim CEO Altman signed 93-CEO-24 creating the position of CFO on July 13, 1993. CEO resolution 93-CEO-25 appointed Donna Cunninghame as the RTC's Chief Financial Officer on July 13, 1993. CEO resolution 93-CEO-26 dated July 13, 1993, delegated specific authorities to the CFO. Corporate accounting, financial management, and control functions and appropriate Headquarters and field organizations have been assigned to the Chief Financial Officer.
<i>Objective:</i>	Appoint an Assistant General Counsel for Professional Liability within the Legal Division and Report to Congress semiannually (on April 30 and October 31 of each year) on litigation. (Reform 10)
<i>Status:</i>	Thomas Hindes has been selected to fill the position of Assistant General Counsel for Professional Liability. Reports on RTC litigation will be included in RTC's Semi-annual Report to Congress on an on-going basis.
<i>Objective:</i>	Appoint a Vice President for Minority and Women's Programs, a Chief Financial Officer, an Assistant General Counsel for Professional Liability, a General Counsel, and a Deputy Chief Executive Officer. Failure to make these appointments constitutes failure to comply with requirements necessary for securing funding in excess of \$10 billion. (Reform 13)
<i>Status:</i>	Johnnie Booker holds the position of Vice President for Minority and Women's Programs (see Reform 4). Donna Cunninghame holds the position of Chief Financial Officer (see Reform 5). Thomas Hindes holds the position of Assistant General Counsel for Professional Liability (see Reform 10). Ellen Kulka was appointed as General Counsel effective January 17, 1994. John (Jack) Ryan was appointed as Deputy Chief Executive Officer effective January 4, 1994. CEO resolution 94-CEO-29 dated January 13, 1994, created the position of Deputy CEO, consistent with the RTC Completion Act.
<i>Objective:</i>	Create Client Responsiveness Units in each RTC regional office reporting to the Corporation's Ombudsman. (Reform 21)
<i>Status:</i>	Client Responsiveness units have been established at each RTC field office, including Atlanta, California, Dallas, Denver, Kansas City, and Valley Forge.

All field Vice Presidents have been contacted to assure adequate staffing of the program in each field office to assist the public.
A directive will be issued clarifying the role and responsibilities of each unit and emphasizing that all RTC field offices must maintain Client Responsiveness departments at their respective sites.

Asset Disposition

Objective: Promulgate a regulation implementing a 120-day waiting period before selling real property assets on other than an individual basis and requiring that portfolio sales or sales in connection with any multi-asset sales initiative made after the 120-day waiting period be justified in writing. (Reform 2)

Status: A policy was established on April 15, 1993 (through memo 93-AMSD-0037) implementing these provisions. The regulation required by the Completion Act is being drafted.

Objective: Require a qualified person or entity to prepare a written management and disposition plan on an asset-by-asset basis or provide a written determination that a bulk transfer would maximize net recovery with opportunity for broad participation by MWOB's for non-performing real estate loans with a book value of at least \$1 million and real property with a book value of at least \$400,000. (Reform 3)

Status: This policy became effective on February 28, 1994, through memo 94-AMSD-0050 from Thomas P. Horton, Vice President for Asset Management and Sales, to the field.
A regulation incorporating this policy is in process.

Contracting

Objective: Modify contracting procedures for MWOB's by: (1) reviewing and revising procedures for reviewing and qualifying applicants for Basic Ordering Agreements to ensure that MWOB's and small businesses are not inadvertently excluded; (2) reviewing existing lists of eligible contractors to ensure maximum participation by MWOB's; and (3) promulgating a regulation to implement the new requirement providing for maximum participation by MWOB's in lists of eligible contractors. (Reform 6)

Status: All solicitations for new contracts and renewals of existing contracts undergo, on a continual basis, an extensive review to identify any inadvertent exclusionary language. More explicit direction is forthcoming in the Contracting Policy and Procedures Manual (CPPM) revision due in March 1994.

For each solicitation, lists are reviewed to include MWOB contractors, and MWP staff input is solicited.

A draft Interim Final Rule (which would amend the current MWOB Interim Rule) is being amended to include the requirement of maximum participation by MWOB's in lists of eligible contractors.

Objective: With regard to contracting systems and contractor oversight: (1) maintain procedures and uniform standards for entering into contracts with private contractors and overseeing the performance of contractors and subcontractors; (2) review contract oversight to ensure that sufficient resources are available; (3) maintain uniform procurement guidelines for procurement of basic goods and administrative services. (Reform 7)

Status: These procedures and standards have been reviewed and strengthened and are included in the CPPM Version 5 distributed on July 21, 1993, and again in Version 6 on December 15, 1993.

The Office of Contractor Oversight and Surveillance evaluated their staffing needs, increased staffing from 118 to 265, and conducted extensive training during 1993.

Uniform procurement guidelines are maintained in the CPPM and version 7.0 of the CPPM is being updated to fulfill any other provisions required by the Act. Version 7 is expected to be published in March 1994.

	<p>The CPPM sets forth the policies and procedures necessary for RTC contracting. The Warranted Contracting Officer program was implemented to ensure that only appropriate and knowledgeable staff are involved in the contracting process.</p> <p>Requirements for Warranted Contracting Officers for non-legal contracts were published in the Federal Register in January 1994.</p>
<i>Objective:</i>	Establish guidelines for achieving a reasonably even distribution of contracts among subgroups of Minority- and Women-Owned Businesses.
<i>Status:</i>	<p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program also sets forth the requirement for the RTC to establish guidelines to achieve a reasonably even distribution in contracting among minority subgroups.</p> <p>The CPPM is being revised to incorporate this provision of the Completion Act to establish guidelines for achieving reasonable parity.</p>
<i>Objective:</i>	Establish reasonable goals for MWOB subcontracting and prohibit any contracts, with certain exceptions, of \$500,000 or more unless the contract has a subcontract with an MWOB and compensates it commensurately. (Reform 18)
<i>Status:</i>	<p>RTC has implemented a policy to require MWOB subcontracting of 10 percent for non-MWOB prime contractors and MWOB joint ventures with less than 50 percent MWOB prime contracting participation, and MWOB subcontracting of 5 percent for MWOB firms or joint ventures with 50 percent or more MWOB prime contracting participation for all awards with total estimated fees equal to or greater than \$500,000.</p> <p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program has been updated to reflect this policy.</p> <p>The CPPM is also being updated to reflect this requirement.</p>
<i>Objective:</i>	Promulgate a regulation to provide sanctions for violations of MWOB subcontracting and joint venture requirements. (Reform 16)
<i>Status:</i>	<p>The Draft Interim Rule on the Minority- and Women-Owned Business and Law Firm Program has been updated to outline sanctions for non-compliance with subcontracting requirements. Remedial action could result in contract suspension, exclusion, or termination.</p> <p>Contracting documents are being revised to incorporate reference to these sanctions.</p>
<i>Objective:</i>	Apply competitive bidding procedures in awarding contracts that are no less stringent than those currently in effect. (Reform 19)
<i>Status:</i>	The Office of Contract Policy and Major Dispute Resolution was created in December 1993. Among its duties is to assure that any change in contracting procedures does not result in any diminution in the competitive bidding process.
<i>Internal Controls</i>	
<i>Objective:</i>	The Oversight Board is directed to establish and maintain an Audit Committee to monitor RTC's internal controls, monitor audit findings and recommendations, maintain a close working relationship with the IG and GAO, report on findings and recommendations of the Committee, and monitor financial operations. (Reform 8)
<i>Status:</i>	An Audit Committee has been formed and is expected to commence its work shortly.
<i>Objective:</i>	Respond to problems identified in audits or certify to the Oversight Board that no action is necessary or appropriate. (Reform 9)
<i>Status:</i>	<p>Circular (1250.2), <i>Management Decision Process and Audit Followup</i>, which prescribes procedures and time requirements for resolving audit findings, recommendations, and corrective actions was issued on July 20, 1993.</p> <p>A management reporting system to track and update the status of all IG, GAO, and internal audit report findings was implemented on June 30, 1993.</p> <p>Status and management reports have been produced which identify aging open issues to alert senior management since October 21, 1993.</p>

Procedures have been established in the audit followup circular to require certifications from responsible program managers attesting to the completion of planned corrective actions.

Scheduled evaluations and subsequent reviews will verify effectiveness of completed corrective actions.

Reports have been provided and meetings held with GAO, IG, and the Oversight Board, beginning in late 1993 and continuing on an on-going basis.

The audit followup circular requires management to certify the rational and legal basis for not implementing an audit recommendation or an agreed upon corrective action. RTC will provide the Board with a copy of such certification statements.

Objective: Maintain effective internal controls against fraud, waste, and abuse. (Reform 12)

Status: Circular 1250.1, *Internal Control Systems* established RTC's internal control program and requires managers to:

- Identify activities or functions (Assessable Units) subject to risk.
- Conduct an assessment and rate the susceptibility of the function or activity to risk (Vulnerability Assessment).
- Schedule high risk functions for annual examination (Management Control Plan).
- Conduct a detailed examination (Internal Control Review) of function to determine if internal controls and procedures are current, adequate, and cost effective.
- Develop and implement corrective actions to resolve deficiencies and strengthen controls.

Field offices have redesigned and enhanced their internal control programs to provide preemptive review of high risk areas and evaluation of implemented corrective actions for effectiveness.

Headquarters organizations conduct reviews of field offices and financial service centers operations for compliance with Corporate policies and procedures, and for effectiveness of internal control activities.

Specialized program initiatives such as the Loan Servicer Oversight Program have been implemented to address specific management and internal control concerns.

Resolutions

Objective: Subject to the least cost test, give a preference to offers from minorities in considering offers to acquire institutions or their branches, located in predominantly minority neighborhoods and give a first priority to the disposition of the performing assets to such acquirers and define by regulation a predominantly minority neighborhood. (Reform 17)

Status: An interim rule defining "predominantly minority neighborhood" was published in the *Federal Register* on February 24, 1994. The rule generally defines predominantly minority neighborhood as a postal zip code area with more than 50 percent minority population unless the RTC has determined that other reasonably reliable and readily accessible data indicate more accurate neighborhood boundaries.

A directive was issued on February 28, 1994. The directive:

- In general defines institutions in predominantly minority neighborhoods as institutions headquartered in predominantly minority neighborhoods or with 50 percent or more of its offices in predominantly minority neighborhoods;
- Provides that in the event a minority bidder is within 10 percent of a high majority bid for an institution or branches in a predominantly minority neighborhood that both shall submit best and final bids.

Minority bidders for institutions and branches in predominantly minority neighborhoods will be eligible for:

- Interim capital assistance for up to two-thirds of required regulatory capital including the premium provided that the total amount of interim capital assistance does not exceed the tangible equity of the institution;
- An option to purchase earning assets at market prices;

	<ul style="list-style-type: none"> • Offices located within a predominantly minority neighborhood owned by the failed institution rent free for 5 years.
	<i>Management</i>
<i>Objective:</i>	Establish and maintain a comprehensive Business Plan. (Reform 1)
<i>Status:</i>	An RTC Business Plan was transmitted to the House and Senate Banking Committees on December 15, 1993. It will be updated as circumstances warrant.
<i>Objective:</i>	Include in the annual report to Congress an itemization of the expenditures of funds provided by the RTC Completion Act and a list of the salaries and other compensation paid to directors and senior executive officers at RTC-controlled institutions. (Reform 14)
<i>Status:</i>	This information will be included in RTC's annual report to Congress, with the first such report expected June 30, 1994.
<i>Objective:</i>	Modify existing RTC procedures for using outside counsel so that in-house counsel would be preferred, and limiting the use of outside counsel to those instances where it would provide the most practicable, efficient, and cost effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee arrangement. (Reform 20)
<i>Status:</i>	RTC is currently revising the Legal Services Committee's procedures for retention of outside counsel to comply with this provision. The revision will apply to Washington and all field offices.
<i>Objective:</i>	Maintain an effective Management Information System. (Reform 11)
<i>Status:</i>	<p>Information resources support has been prioritized to meet key goals and functions by evaluating existing systems to confirm that all essential corporate management information needs have been met and will continue to be met.</p> <p>The Department of Information Resources Management (DIRM) has established and maintains an on-going communication with RTC client offices regarding the effectiveness and quality of RTC's major automated information systems to ensure they meet management's information requirements.</p> <p>DIRM continues to work with system users to enhance information systems to adequately support business needs. Enhancements are approved through the existing management and committee structure and are implemented with the interaction of system users and management.</p> <p>DIRM continues to enforce its requirement that cost/benefit analyses be conducted and approved prior to initiation of new systems development and any enhancement activities. A directive outlining policies and procedures related to cost/benefit analyses is being developed.</p> <p>As a major component of an on-going effort to improve data quality, a corporate-wide Data Quality Program was implemented through a directive issued on November 11, 1993.</p> <p>Individual Data Quality Action Plans are being developed to assess the quality of data in each of RTC's 17 primary automated information systems and to establish initiatives to improve data where needed. As of March 15, 1994, 15 of these plans have been completed (with eight approved and seven still under review). The remaining two are in process.</p> <p>Information Resources Management (IRM) field reviews have been conducted in all six RTC field offices. These reviews help management assess the quality and effectiveness of IRM operations.</p>

ATTACHMENT M

3/25/94

REPORT OF RTC PLS RECOVERIES, BY STATE
[RECOVERIES AS OF MARCH 15, 1994]

STATE	TOTAL AMOUNT RECOVERED
ALABAMA	2,629,821
ARIZONA	9,106,163
ARKANSAS	42,800,541
CALIFORNIA	333,505,599
COLORADO	32,659,374
CONNECTICUT	440,000
FLORIDA	162,914,118
GEORGIA	1,097,367
ILLINOIS	13,806,271
INDIANA	50,000
IOWA	1,508,750
KANSAS	44,726,188
KENTUCKY	770,000
LOUISIANA	18,380,527
MAINE	1,019,000
MARYLAND	450,000
MICHIGAN	1,260,117
MINNESOTA	42,134,951
MISSISSIPPI	4,940,785
MISSOURI	2,968,265
NEBRASKA	7,068,630
NEW HAMPSHIRE	75,000
NEW JERSEY	31,508,415
NEW MEXICO	7,246,306
NEW YORK	10,000
NORTH CAROLINA	1,705,365
OKLAHOMA	1,348,500
OREGON	10,000
PENNSYLVANIA	3,377,844
PUERTO RICO	5,070,000
RHODE ISLAND	10,000
TENNESSEE	3,115,000
TEXAS	156,620,547
UTAH	4,500,000
VIRGINIA	640,000
WASHINGTON	46,800
WISCONSIN	920,000
WYOMING	440,000

TOTAL AMOUNT RECOVERED AS OF 3/15/94 = 940,880,244

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ATTACHMENT N

RTC LEGAL INFORMATION SYSTEM (RLIS)

FIRMS REPRESENTING THE 14 TOP INSTITUTIONS
ON BEHALF OF THE RTC

FIRM NAME	INSTITUTION NAME
ARTER & HADDEN	BRIGHT BANC SA
BAKER & HOSTETLER	ATLANTIC FINANCIAL SAVINGS, F.A. CITY SAVINGS, F.S.B. EMPIRE OF AMERICA FED SAVINGS BANK GILL SAVINGS ASSOCIATION LINCOLN SAVINGS & LOAN ASSOCIATION, F.A. MERABANK FEDERAL SAVINGS BANK
BROBECK, PHLEGER & HARRISON	BRIGHT BANC SA CITY SAVINGS, F.S.B. HOMEFED BANK LINCOLN SAVINGS & LOAN ASSOCIATION, F.A. WESTERN SAVINGS & LOAN ASSOCIATION, F.A.
BUCHALTER, NEMER, FIELDS & YOUNGER, P.C.	CENTRUST FEDERAL SAVINGS BANK GILL SAVINGS ASSOCIATION SAN JACINTO SA, F.A.

THIS INFORMATION INCLUDES ALL INSTITUTIONS FOR WHICH THERE WERE ACTIVE MATTERS AS OF JANUARY 1, 1992 OR AFTER.

Q_FIRM_INST2 (F_FIRM_INST2)
1994-04-13 12.33.03

RTC LEGAL INFORMATION SYSTEM (RLIS)
 FIRMS REPRESENTING THE 14 TOP INSTITUTIONS
 ON BEHALF OF THE RTC

FIRM NAME	INSTITUTION NAME
----- BURKE, WARREN & MACKAY, P.C.	----- EMPIRE OF AMERICA FED SAVINGS BANK
CUDDY & FEDER	EMPIRE OF AMERICA FED SAVINGS BANK
GODWIN & CARLTON, P.C.	BRIGHT BANC SA COMMONWEALTH FED SA EMPIRE OF AMERICA FED SAVINGS BANK GILL SAVINGS ASSOCIATION LINCOLN SAVINGS & LOAN ASSOCIATION, F.A. MERABANK FEDERAL SAVINGS BANK SAN JACINTO SA, F.A. UNIVERSITY FED SAVINGS ASSOCIATION
GUST ROSENFELD	EMPIRE OF AMERICA FED SAVINGS BANK LINCOLN SAVINGS & LOAN ASSOCIATION, F.A. MERABANK FEDERAL SAVINGS BANK SAN ANTONIO SAVINGS ASSOCIATION, F.A. WESTERN SAVINGS & LOAN ASSOCIATION, F.A.

THIS INFORMATION INCLUDES ALL INSTITUTIONS FOR WHICH THERE WERE ACTIVE MATTERS AS OF JANUARY 1, 1992 OR AFTER.

Q_FIRM_INST2 (F_FIRM_INST2)
 1994-04-13 12.35.43

RTC LEGAL INFORMATION SYSTEM (RLIS)

FIRMS REPRESENTING THE 14 TOP INSTITUTIONS
ON BEHALF OF THE RTC

FIRM NAME	INSTITUTION NAME
GOYTISOLO, MARTINEZ DE CORDOBA & GUTIERREZ	CENTRUST FEDERAL SAVINGS BANK
HOPKINS & SUTTER	ATLANTIC FINANCIAL SAVINGS, F.A. BRIGHT BANC SA CENTRUST FEDERAL SAVINGS BANK CITY SAVINGS, F.S.B. COMMONWEALTH FED SA EMPIRE OF AMERICA FED SAVINGS BANK HOMEFED BANK MERABANK FEDERAL SAVINGS BANK SAN ANTONIO SAVINGS ASSOCIATION, F.A. SAN JACINTO SA, F.A. UNIVERSITY FED SAVINGS ASSOCIATION WESTERN SAVINGS & LOAN ASSOCIATION, F.A.
JACKSON & WALKER	BRIGHT BANC SA COMMONWEALTH FED SA GILL SAVINGS ASSOCIATION MERABANK FEDERAL SAVINGS BANK SAN JACINTO SA, F.A. UNIVERSITY FED SAVINGS ASSOCIATION
JEFFER, MANGELS, BUTLER & MARMARO, P.C.	ATLANTIC FINANCIAL SAVINGS, F.A. CENTRUST FEDERAL SAVINGS BANK CITY SAVINGS, F.S.B. EMPIRE OF AMERICA FED SAVINGS BANK HOMEFED BANK SAN JACINTO SA, F.A. WESTERN SAVINGS & LOAN ASSOCIATION, F.A.
KELEHER & MCLEOD, P.A.	HOMEFED BANK
KIMBRELL & HAMANN, P.A.	CENTRUST FEDERAL SAVINGS BANK UNIVERSITY FED SAVINGS ASSOCIATION
LOWNDES, DRSDICK, DOSTER, KANTOR & REED	ATLANTIC FINANCIAL SAVINGS, F.A. CENTRUST FEDERAL SAVINGS BANK HOMEFED BANK
PETTIT & MARTIN	CITY SAVINGS, F.S.B. HOMEFED BANK

THIS INFORMATION INCLUDES ALL INSTITUTIONS FOR WHICH THERE WERE ACTIVE MATTERS AS OF JANUARY 1, 1992 OR AFTER.

O_FIRM_INST2 (F_FIRM_INST2)
1994-04-13 12.40.37

RTC LEGAL INFORMATION SYSTEM (RLIS)
FIRMS REPRESENTING THE 14 TOP INSTITUTIONS
ON BEHALF OF THE RTC

FIRM NAME	INSTITUTION NAME
-----	-----
PETTIT & MARTIN	LINCOLN SAVINGS & LOAN ASSOCIATION, F.A.
RAVEN, KIRSCHNER & NORELL FKA STOMPOLY & STROUD	HOMEFED BANK MERABANK FEDERAL SAVINGS BANK WESTERN SAVINGS & LOAN ASSOCIATION, F.A.

THIS INFORMATION INCLUDES ALL INSTITUTIONS FOR WHICH THERE WERE ACTIVE MATTERS AS OF JANUARY 1, 1992 OR AFTER.

0_FIRM_INST2 (F_FIRM_INST2)
1994-04-13 12.40.37

RTC LEGAL INFORMATION SYSTEM (RLIS)
FIRMS REPRESENTING THE 14 TOP INSTITUTIONS
ON BEHALF OF THE RTC

FIRM NAME	INSTITUTION NAME
RUBINSTEIN & PERRY	BRIGHT BANC SA SAN ANTONIO SAVINGS ASSOCIATION, F.A.
STEPTOE & JOHNSON	MERABANK FEDERAL SAVINGS BANK
THACHER, PROFFITT & WOOD	LINCOLN SAVINGS & LOAN ASSOCIATION, F.A. WESTERN SAVINGS & LOAN ASSOCIATION, F.A.
WINTHROP, STIMSON, PUTNAM & ROBERTS	CENTRUST FEDERAL SAVINGS BANK EMPIRE OF AMERICA FED SAVINGS BANK

THIS INFORMATION INCLUDES ALL INSTITUTIONS FOR WHICH THERE WERE ACTIVE MATTERS AS OF JANUARY 1, 1992 OR AFTER.

Q_FIRM_INST2 (F_FIRM_INST2)
1994-04-13 12.42.47

ATTACHMENT O

RESOLUTION TRUST CORPORATION

**Resolving The Crisis
Restoring The Confidence**

March 2, 1994

MEMORANDUM TO: John Adair
Inspector General

FROM: John E. Ryan *JER*
Deputy Chief Executive Officer

SUBJECT: Investigation of Report Dated Feb. 8, 1994 of
the Office of Contract Oversight and Surveillance
titled Rose Law Firm RTC/OCOS-T94002-WA

As you know, Interim CEO Roger Altman, in his appearance at the semi-annual hearing on February 24, 1994 of the Resolution Trust Corporation/Thrift Depositor Oversight Board conducted by the Senate Committee on Banking, Housing and Urban Affairs, said that he would request that the RTC Inspector General review the report dated Feb. 8, 1994 of the Office of Contract Oversight and Surveillance titled Rose Law Firm RTC/OCOS-T94002-WA (copy attached). Since that date, Mr. Altman has recused himself and has delegated all of his authority and all of his responsibilities concerning any matter connected to or arising out of Madison Guaranty Savings and Loan Association to me. Therefore, I am requesting that you conduct an investigation, in accordance with your normal operating procedures, of the substance addressed by the report.

Furthermore, I am requesting that you also audit fees paid to the Rose Law Firm by the RTC on any matter, or by the FDIC on any matter where the FDIC retained the Rose Law Firm, (i) as managing agent for the FSLIC, or (ii) as the legal arm of the RTC before this corporation maintained its own legal division. Please direct your report to the General Counsel, Ellen B. Kulka.

Attachment

cc: Kulka

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE
FROM ANDREW C. HOVE, JR.**

Q.1.A. Will the RTC finish its task of resolving failed thrifts within the first six months of 1995, which is the time period provided to it by the RTC Completion Act of 1993?

A.1.A. We expect that the RTC will have completed this task by June 30, 1995. The current inventory of 55 conservatorships is expected to be resolved in 1994. The only contingency that would cause the RTC not to meet the June 30, 1995, target date, would be transfer of additional failures by the regulatory authorities immediately prior to that date which would push the resolution of these institutions into the second half of 1995. Given the current economic environment and the condition of the thrift industry, we do not expect a significant number of additional failures, however.

Q.1.B. Will the RTC be able to wrap up its affairs by December 31, 1995, as required by law?

A.1.B. We believe that the RTC will be able to complete their business as was envisioned in the RTC Completion Act by December 31, 1995. Resolutions of failed institutions should be completed and the inventory of unsold assets should be relatively small by that date. Of course, there will be activities such as contracting audits, recordkeeping, pursuit of legal claims and related matters, sale of remaining assets, monitoring securitization pools and arrangements, and certain other activities that will be transitioned to the FDIC, which will assume responsibility for those activities after the RTC "sunsets."

Q.1.C. Will the FDIC be prepared to take over these responsibilities?

A.1.C. On February 22, 1994, the Acting Chairman of the Federal Deposit Insurance Corporation, Mr. Andrew C. Hove, Jr., and the Deputy Executive Officer of the Resolution Trust Corporation, Mr. John E. Ryan, established the FDIC/RTC Transition Task Force. Senior executives have been meeting on a weekly basis to resolve broad policy issues and to establish a framework for planning and implementing the transition of RTC operations to the FDIC by the sunset date of December 31, 1995.

One of the first actions of the Transition Task Force was to institute a number of functional task groups which will be chaired jointly by FDIC and RTC managers. These groups will identify policy, resource, operational, and other issues which need to be addressed so that a successful merger can be completed. During the second quarter of 1994, written implementation plans and recommendations will be submitted by each program group to the Transition Task Force for approval. Reports from support functions will be issued during the third quarter of the year.

The Transition Task Force will play a strong leadership role in planning and implementing the transfer of RTC responsibilities to the FDIC. We are confident that the FDIC will be fully prepared to absorb RTC operations and staff.

Q.1.D. What is the status of the transition of the RTC's employees to the FDIC?

A.1.D. Currently, the RTC has a total of 6,743 employees. Of that number, 1,560 are permanent employees with the right to return to the FDIC.

The FDIC began the return of RTC-assigned permanent employees in March 1992 and, thus far, 718 employees have been returned to the FDIC, with 1,560 still assigned to the RTC. Of those still working for the RTC, 1,077 are assigned to headquarters and 483 are assigned to field offices. We are continuing to identify placement opportunities for the remaining permanent employees still assigned to the RTC.

Q.1.E. Does the FDIC have any plan in place to absorb the new employees from the RTC?

A.1.E. By decision of the FDIC's Board of Directors, permanent RTC employees hired after enactment of the RTC Refinancing, Restructuring, and Improvement Act of 1991 and the RTC Thrift Depositor Protection Reform Act of 1991, signed into law on December 12, 1991, will be accorded the same right to return to the FDIC as those hired before the enactment.

In February 1992, the late Mr. William Taylor, Chairman of the FDIC, and Mr. Albert V. Casey, the RTC's former Chief Executive Officer, entered into an agreement which provided in part that, as a general rule, no permanent positions would be hired or promoted without Mr. Casey's approval. Mr. Casey agreed to keep Mr. Taylor informed of such approvals. This agreement was formalized into two written agreements in March and May 1992, further defining conditions of employment for new employees of both agencies, as well as conditions of promotion for the then current employees of both agencies.

The primary purpose in making non-permanent appointments has been to work toward and support a natural downsizing that will complement the return of permanent RTC-assigned employees to the FDIC as the RTC's workload decreases and that agency phases out its operations. As the workload diminishes, so will personnel needs. All FDIC and RTC employees on time-limited appointments have been clearly informed from the outset that their services will be needed only on a temporary basis. Thus, our plan at this time is to absorb the permanent employees assigned to the RTC in accordance with legislation and Board decisions.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR BOND FROM ANDREW C. HOVE, JR.

First Group of Questions

Q.1. What conflicts of interest existed with the Wright, Lindsey, Jennings firm such that the FDIC could not use them in the *Frost* case.

A.1. Wright, Lindsey, and Jennings represented Seth Ward, Sr., the father-in-law of Webster Hubbell, in litigation against Madison Guaranty, and against the Madison conservatorship once Madison failed. Moreover, Wright, Lindsey initially was defense counsel representing Frost in the *Frost* litigation brought by Madison. Prior to the Madison conservatorship, the lawyers representing Frost on behalf of Wright, Lindsey moved from Wright, Lindsey to the firm of

Williams and Anderson, which continued the representation of Frost.

Q.2. What conflicts of interest existed with the Gerrish, McCreary firm such that the FDIC could not use them in the *Frost* case?

A.2. In a letter dated March 9, 1989, a copy of which is attached, in response to a request for information regarding any representation that could give rise to a conflict with the FDIC, the former Federal Home Loan Bank Board, or the former Federal Savings and Loan Insurance Corporation, Jeffrey Gerrish of Gerrish & McCreary identified three cases with respect to the FDIC. First, Gerrish & McCreary was then representing an outside director against the FDIC in a director's liability action brought by the FDIC as a result of the failure of Corning Bank. Second, the firm was involved in the defense of First Acadiana Bank of a cease and desist proceeding initiated by the FDIC at about the time of the Madison conservatorship. Finally, Gerrish & McCreary was used as a "consulting counsel" in connection with a directors liability action against fifteen former outside directors of the Moncor Bank in Hobbs, New Mexico.

Second Group of Questions

Q.1. Was Madison insolvent when it was taken into conservatorship by the FDIC?

Q.2. Was Madison insolvent before it was taken into conservatorship? If so, at what point in time was it declared insolvent? By whom was it declared insolvent?

Q.3. If it was insolvent before 2/89, why was it not placed in conservatorship earlier?

Q.4. Assuming there were reports in 1987 and 1988, were those exam reports an improvement over the earlier 1984 and 1986 reports? If not, why was it not placed in conservatorship earlier? May we get copies of those reports?

Q.5. Were the State regulators asking the Federal Government to come in and take Madison over before 2/89? If so, why didn't the Federal Government act? (Probably because FSLIC had no money and it was going after the bigger S&L's at the time.) If not, do you think the State regulators should have been requesting that the Federal Government close Madison earlier than 2/89?

Q.6. Do you think the State government did a good job of regulating Madison? In other words, do you think the Arkansas S&L regulators were too lenient when examining Madison?

A.1. through A.6. The FDIC did not supervise or regulate Madison Guaranty and has no direct knowledge of its condition before it was placed in conservatorship. The Federal Home Loan Bank Board (FHLBB), as the primary Federal regulator of Madison, was the agency best able to respond to these questions. However, as the FHLBB was abolished in 1989, the agency currently most likely to have recollections and documents on this matter is the Office of Thrift Supervision, the statutory successor to the FHLBB as primary Federal regulator of savings associations.

Attachment

**GERRISH &
MCCREARY**

Attorneys

80 Monroe, Seventh Floor
 Memphis, TN 38103
 P. O. Box 3330
 Memphis, TN 38173-0330
 (901) 524-0900

March 9, 1989

Mr. Paul A. Jeddelloh
 Staff Attorney
 Legal Division
 Federal Deposit Insurance Corporation
 P. O. Box 1336
 501 East Highway 13
 Burnsville, Minnesota 55337

RE: Madison Guaranty Savings & Loan Association
 Augusta/Little Rock, Arkansas/In Conservatorship #8313

Dear Mr. Jeddelloh:

Pursuant to our meeting of Friday, March 3, and our telephone conversation of Monday, March 6, please consider this letter in response to your request for information regarding any representation by our firm which may give rise to a position in conflict with that of the FHLBB, FSLIC or FDIC.

As we discussed, the firm is not currently involved in any litigation involving FSLIC or Federal Home Loan Bank Board or any of the individual Federal Home Loan Banks.

The firm currently is involved in varying degrees in three litigation matters in which the FDIC is a party as follows:

1. Hobbs, New Mexico Directors Liability Suit.

The firm has been used primarily as "consulting counsel" in connection with a currently inactive directors liability action involving the fifteen former outside directors of the Hobbs bank in Hobbs, New Mexico. The firm is counsel of record in a D&O insurance rescission action involving that same matter filed by CNA Insurance Company in Albuquerque, New Mexico.

Borod & Kramer
 Memphis, Tennessee
 Of Counsel

Mr. Paul A. Jeddalah

-2-

March 9, 1989

2. Corning Bank, Corning, Arkansas Directors Liability Action.

The firm is currently involved in the representation of one outside director in the FDIC directors liability action filed as a result of the failure of the Corning Bank. This matter is styled FDIC v. Manatt and is currently pending in Federal District Court in the Eastern District of Arkansas.

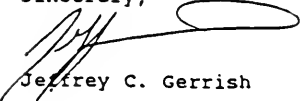
3. First Acadiana Bank, Eunice, Louisiana, Termination of Agricultural Loan Loss Deferral Program and Cease and Desist Proceeding.

The firm is currently involved in an appeal from the termination of a bank's participation in the agricultural loan loss deferral program and in the bank's defense of a cease and desist proceeding initiated by the FDIC on or about March 1, 1989. The client, First Acadiana Bank, Eunice, Louisiana is approximately a \$55 million institution.

We do not believe that our representation of FSLIC as conservator or FDIC as managing agent for savings & loans would present any possibility for conflicts on our part, but we wanted to make sure you are aware of these matters.

Please call if you have any questions.

Sincerely,



Jeffrey C. Gerrish

/ld

cc: Billy Carroll, Managing Agent
Madison Guaranty Savings & Loan

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE
FROM JONATHAN L. FIECHTER**

Q.1. As of November 30, 1993, the OTS had listed as "Problem Institutions" 34 institutions, with assets of \$45 billion, which were continuing to incur losses. With current economic conditions in mind, how many of these institutions would you expect to be placed under the control of the RTC? What would be the asset value of these institutions?

A.1. Based on December 31, 1993, financial data, we estimate that there are five savings institutions with \$1.0 billion in assets for which grounds exist or are likely to exist in the current year for the appointment of a conservator or receiver. All of these thrifts have more than two percent tangible equity capital and, therefore, are *not* subject to early intervention by the Government as required by the critically undercapitalized standard established in section 38 of the Federal Deposit Insurance Act. (12 U.S.C. 1831o)

There are also 18 savings associations with \$4.3 billion in assets that are prospective resolution cases. Based on past experience, we expect that some of these cases may require resolution by the RTC over the next 12 months. Finally, based on December 31, 1993, financial data, there are 70 institutions with \$73.9 billion in assets classified as "Other Troubled Institutions." These thrifts, which we do not expect to fail, have average core capital of 5.16 percent, but are experiencing financial difficulties.

As you know, the financial condition and viability of these institutions are dependent on future economic conditions, including changes in short-term and long-term interest rates, changes in regional real estate markets, and growth in home mortgage lending.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR RIEGLE
FROM ALAN GREENSPAN**

Q.1. Commercial real estate accounts for a sizable portion of the RTC's asset portfolio. Will higher interest rates make it more difficult for the RTC to dispose of these assets?

A.1. In the past, the disposition of commercial real estate assets by the RTC has been made difficult by poor conditions in the commercial real estate market. In recent months, however, conditions have improved considerably, and it now appears that the RTC's ability to dispose of real estate assets will be enhanced by the emergence of the commercial real estate market from a sustained period of cyclical adjustment.

While sizable increases in interest rates can make the sale of real estate assets more difficult by increasing financing costs for purchasers, recent increases in rates have been relatively small. The recent rise in interest rates has also come only after a long period of decline and, in fact, rates continue to remain low in relation to historical norms. Thus, when considered in the context of recent improvements in the commercial real estate market and the economy as a whole, it does not appear that the recent increase in rates will have any appreciable effect on the RTC's ability to dispose of its real estate holdings.



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

February 23, 1994

Honorable Alfonse D'Amato
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

This is in response to your letter of February 8, 1994 concerning the RTC's efforts relating to possible civil litigation resulting from the failure of Madison Guaranty.

Your letter makes the statement that, "The RTC's inaction on the civil side is ...disturbing." I want to reiterate what I said in my letter of February 1, 1994, which is that the RTC "is conducting a thorough review of the failure of Madison." While your letter characterizes this as a "general response," I must point out that it is inappropriate for me to address at this time any specifics relating to this matter.

It is standard operating procedure not to discuss any matter relating to the review of potential civil claims of any institution. While it would be inappropriate for me to provide any information relating to the status of our review at this point, I can assure you that the RTC is prepared to make a full public accounting of the handling of civil matters under the purview of the RTC when it is appropriate to do so.

Sincerely,

A handwritten signature in black ink, appearing to read "John E. Ryan", with a long horizontal flourish extending to the right.

John E. Ryan
Deputy CEO



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 2, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

I testified before your Committee last Thursday in connection with the semi-annual Oversight hearings on the RTC. There was a discussion, as you remember, of a meeting which I had with representatives of the White House. As I indicated, no non-public information was provided at that meeting on any aspect of the Madison Guaranty matter.

When Senator Bond asked me at that hearing whether any other communications had taken place between the RTC and the White House, my response was "not to my knowledge". I still have no knowledge that any such discussions occurred.

But, I have learned today of two conversations which did take place between Treasury staff and White House personnel on this matter. My information is that both related to the handling of press inquiries.

I would appreciate the opportunity to amend the record accordingly.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger C. Altman". The signature is fluid and cursive, with the first name being the most prominent.

Roger C. Altman



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 3, 1994

The Honorable Donald W. Riegle, Jr.
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

As you know, I testified before your Committee last week in connection with the semi-annual Oversight hearings on the RTC. I was asked about any contacts which I had with representatives of the White House on RTC matters and described a meeting which I had.

I would like to expand the record as follows. First, to the best of my recollection, no non-public information was provided on this case to representatives of the White House during that discussion. Second, it is my understanding that RTC staff had already had discussions with Senator D'Amato's staff on statute of limitations issues. Third, the Treasury General Counsel, who also attended the meeting, has advised me that before that meeting she sat down with this Department's designated Ethics Officer. She informed him of the purposes of the meeting and asked his view. He advised her that he saw no problem.

In short, there was no discussion whatsoever on the substance of this case. That's because I never have had, nor have, any knowledge of the substance. I have received no documents in that regard, nor otherwise received any information on the substance of this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Altman", written over a light-colored background.

Roger C. Altman



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 11, 1994

The Honorable Donald Riegle
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

When I testified before your Committee twelve days ago, I was asked about contacts with White House personnel on any aspect of the Madison Guaranty matter. I cited one meeting which addressed only generic RTC procedures which would have applied to any case involving a statute of limitations. There was no substantive discussion of the case itself. Indeed, that would have been impossible because I know nothing of the substance of the case. I've never received a single document or a word of briefing on it.

For obvious reasons, I have been reviewing all my files and other information which could possibly pertain to this matter. I would like to amend the record to reflect one additional contact. One or two days after my meeting, there was a very brief discussion on the issue of recusal. There was no discussion whatsoever of the case itself. The conversation lasted five minutes or less and included me and Harold Ickes of the White House staff. There may have been one or two others in the room, but I cannot recall.

The purpose of both meetings was to provide notification. At neither meeting did I seek advice, nor was it given.

I am sending this letter immediately to be sure that the record is as complete as possible.

Sincerely,

A handwritten signature in dark ink, appearing to read "Roger C. Altman". The signature is fluid and cursive, with a large initial "R" and "A".

Roger C. Altman



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

March 21, 1994

The Honorable Donald Riegle
United States Senate
105 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Riegle:

I have been continuing an exhaustive review of all my files, phone logs and other information, with the assistance of Counsel. Every contact, regardless of significance, is being reviewed. As you may know, I generally attend meetings in the White House three or more times a day, and am on the telephone with White House staff even more often. It is difficult to recall every brief encounter. But, I would like to add to the record.

In my testimony, I referred to one substantive communication, and, upon further review, that is still my view. The meeting at the White House on February 2 related to procedural issues which pertain to any RTC claim or case. There was not, and could not have been, any discussion on the substance of the case. I never had any information on it, or any other RTC case.

Before that meeting ended, I also informed those in attendance that I was weighing the issue of recusal. A few days after that meeting, I spoke with Mr. McLarty briefly on the telephone with the same message. As you know, on February 25, I decided to recuse myself and did so.

The night before my February 24 testimony, I informed Mr. Ickes by phone that I would announce that I was stepping down from the RTC the next morning. That was, indeed, announced on schedule. Also, around the same time, I literally bumped into Mr. Nussbaum in a White House corridor. He told me that the Administration would soon be submitting its nominee for permanent RTC head.

The Honorable Donald Riegle
March 21, 1994
Page Two

I have done my best to recall every communication with White House staff on anything which could be connected to this matter. I hope that this is helpful.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Altman', written in a cursive style.

Roger C. Altman



U.S. Department of Justice

Office of the Independent Counsel
SENATOR DONALD W. RIEGLE
WASHINGTON, D.C.

94 MAR 10 PM 4:34

Little Rock, Arkansas

March 7, 1994

The Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing
and Urban Affairs
United States Senate
Dirksen Senate Office Building, Rm SD-534
Washington, D.C. 20510-6075

The Honorable Alphonse M. D'Amato
Ranking Minority Member
Committee on Banking, Housing
and Urban Affairs
United States Senate
Dirksen Senate Office Building, Rm. SD-534
Washington, D.C. 20510-6075

Dear Senators Riegle and D'Amato:

I am writing this letter to express my strong concern about the impact of any hearings that your Committee might hold into the underlying events concerning Madison Guaranty Savings and Loan ("MGS&L"), Whitewater and Capital Management Services ("CMS") on the investigation that this Office is conducting into these matters.

As you know, I was appointed to the position of Independent Counsel pursuant to CFR 603.1 on January 31, 1994. Since that date we have obtained an Order from Chief Judge Stephen M. Reasoner in the Eastern District of Arkansas authorizing the empaneling of a grand jury which will be devoted exclusively to the Whitewater/MGS&L/CMS investigation. In the meantime, we have been using the regular grand jury for this District. We have a team of eight experienced attorneys, six of whom were current or former prosecutors when they joined the staff. We are working in Little Rock with a team of more than twenty FBI agents and financial analysts who are working full time on this matter. We are doing everything possible to conduct and conclude as expeditiously as possible a complete, thorough and impartial investigation.

Inquiry into the underlying events surrounding MGS&L, Whitewater and CMS by a Congressional Committee would pose a severe risk to the integrity of our investigation. Inevitably, any such inquiry would overlap substantially with the grand jury's activities. Among other concerns, the Committee certainly would seek to interview the same witnesses or subjects who are central to the criminal investigation. Such interviews could jeopardize our investigation in several respects, including the dangers of Congressional immunity, the premature disclosures of the contents of documents or of witnesses' testimony to other witnesses on the same subject (creating the risk of tailored testimony) and of premature public disclosure of matters at the core of the criminal investigation. This inherent conflict would be greatly magnified by the fact that the Committee would be covering essentially the same ground as the grand jury.

While we recognize the Committee's oversight responsibilities pursuant to Section 501 of PL 101-73 (FIREAA), we have similar concerns with a Congressional investigation into the recently-disclosed meetings between White House and Treasury Department officials -- particularly because we believe these hearings will inevitably lead to the disclosure of the contents of RTC referrals and other information relating to the underlying grand jury investigation.

For these reasons, we request that your Committee not conduct any hearings in the areas covered by the grand jury's ongoing investigation, both in order to avoid compromising that investigation and in order to further the public interest in preserving the fairness, thoroughness, and confidentiality of the grand jury process.

I will be glad to meet with you personally to explain our position further if you feel that would be helpful.

Respectfully yours,



ROBERT B. FISKE, JR.
Independent Counsel

DONALD W. RIEGLE, JR., MICHIGAN, CHAIRMAN

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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

STEVEN S. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
 HOWARD A. MENELL, REPUBLICAN STAFF DIRECTOR

March 7, 1994

Robert B. Fiske, Jr.
 Independent Counsel
 Office of the Independent Counsel
 Two Financial Centre, Suite 134
 10825 Financial Centre Parkway
 Little Rock, AR 72211

Dear Independent Counsel Fiske:

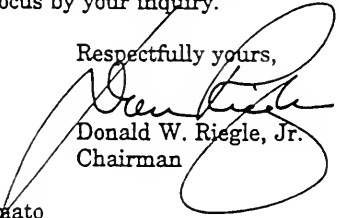
Your letter to me of this date has arrived requesting that the Banking Committee not conduct further hearings into the matters within the scope of your investigation. The concerns you outline in your letter - that a parallel Congressional investigation would interfere with your inquiry - are compelling and accurate.

Recent experience has shown that Justice Department prosecutions and convictions have been thwarted by untimely Congressional inquiries into the same matters.

It is my view that the Banking Committee should defer to your investigation.

When you have completed your investigative work - I will direct the Committee's efforts to any items you might bring to our attention - or which are otherwise brought into focus by your inquiry.

Respectfully yours,


 Donald W. Riegle, Jr.
 Chairman

cc: Senator Alfonse M. D'Amato
 Ranking Minority Member

DATE: 08-14-89TO: Paul A. Jeddloh, Esq. - Staff AttorneyFDIC Consolidated OfficesBurnsville, MNFROM: David Paulson, Managing Agent *D. Paulson*Madison Guaranty Conservatorship #8313Little Rock, Arkansas(501) 374-7777Re: Ken Schneck's letter to John O'Donnell dated August 10, 1989 regarding Frost & Company Audit suit. *FILE*Number of Pages including Cover: 2

Paul, for your information relative to an appearance of a conflict of interest in the suit brought by Madison Guaranty against Frost & Company as their former accountants.



MADISON GUARANTY

TIME GUARANTY CORPORATION

P.O. Box 1583 • 16th & Main Street
Little Rock, Arkansas 72203 • 501-374-7777

August 10, 1989

Mr. John O'Donnell
FDIC S & L Project Area Coordinator
c/o First Federal Savings & Loan
401 West Capitol
Little Rock, Arkansas 72201

Dear John:

Since arriving at Madison Guaranty on August 7th, a situation concerning a possible conflict of interest has come to my attention involving Madison Guaranty vs. Frost & Company. Madison Guaranty sued their former accountants in 1988 for negligence and breach of contract involving their 1984 and 1985 audits of the the institution.

At the time of the conservatorship, the action was removed from Madison Guaranty's attorney to the Rose Law Firm of Little Rock at the behest of April Breslaw, FDIC investigationa attorney. The attorneys who are handling these accounts are Rick Donovan and Webb Hubbell.

An apparent conflict exists in that Mr. Hubbell is the son-in-law of Seth Ward who was an insider at Madison Guaranty and is the brother-in-law of Seth Ward, II. Both of these men have sued Madison Guaranty. We are currently defending an action from Seth Ward, II concerning a side agreement for interest rate concessions and are appealing a judgment in a case we lost to Seth Ward (Sr.) to the tune of \$470,000.

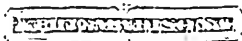
Our attorney, April Breslaw, was made aware of this possible conflict. Her response is encapsulated in the attached letter and letters she requested from Mr. Hubbell.

In the process of our suit against Frost & Company, we will most certainly examine practices and procedures Madison Guaranty used in day to day operations. We are making this information available, in detail, to Mr. Hubbell. ~~I~~ believe that none of this information will make it back to his family ~~is naive~~ I do not know whether or not any information upcoming will be damaging. However, I would like someone with a wider scope of authority to review the situation and possibly eliminate this conflict.

Sincerely,

Kenell K. Schneck
Ken K. Schneck
Credit Specialist

KRS/ss
Encs



PREPARED STATEMENT OF RESOLUTION TRUST CORPORATION
 CHIEF EXECUTIVE OFFICER DESIGNATE, STANLEY G. TATE

NOVEMBER 11, 1993

Chairman Riegle, Senator D'Amato, and distinguished Members of the United States Senate Committee on Banking, Housing, and Urban Affairs ("Senate Banking Committee").

I am deeply honored and privileged to have been nominated by President Clinton to be Chief Executive Officer ("CEO") of the Resolution Trust Corporation ("RTC"). I am also greatly honored to appear before this Committee to be considered for Senate confirmation. If confirmed, it will be a privilege for me to serve in President Clinton's Administration. I have assured the President, and I assure this Committee, that, if confirmed, I will devote my full attention, and bring whatever expertise I possess, to the Resolution Trust Corporation to complete the thrift cleanup in an ethical and cost conscious manner, protecting the American taxpayers' interests every step of the way.

I would like at this time to personally thank Senator Mack, Senator Graham, and Congresswoman Meek for their kind and gracious introductions of me before this Committee. I believe that they have provided you with a good background on my professional career over the past 45 years and my public service contributions. I would also like to thank Secretary Bentsen, Deputy Secretary Roger Altman, and Under Secretary Frank Newman of the Treasury Department for their unwavering support of my nomination and confirmation. Finally, and most importantly, I would like to thank my family for their support of my decision to be considered for Senate confirmation as Chief Executive Officer of RTC.

Before I begin my statement I would like to recognize also several prominent Floridians who have traveled to Washington to be here with me during my confirmation hearing today.

Mr. Chairman and Members of the Senate Banking Committee, I am very proud to be here today.

At this hearing, I would like to do three important things. *First*, I desire to *set the record straight* and let the Members of this Committee know exactly what I have said or have done since I came to Washington, questions I have asked, and why. *Second*, I would like to give you some idea of *what I have learned* during the last several months as a Senior Advisor at the Thrift Depositor Protection Oversight Board. And, *third*, I would like to give you a clear indication of *what I feel needs to be done at the RTC, and how I intend to do it*, if I am confirmed. I believe that the Committee needs this perspective on all three of these items in order to make an informed decision on my nomination.

AS TO "SETTING THE RECORD STRAIGHT"

Mr. Chairman, I would like to begin by setting the record straight on five allegations about me on which the press has recently reported. I know that some Members of the Committee may have questions, and rightfully so, about some of these issues. Rather than wait for your questions, respectfully, I believe that it is prudent for me to address these allegations upfront and at this time. The accusations about me relate to the following:

- My Relationship With David Paul
- My Position on Minority and Women's Programs
- My Regional Advisory Board Participation
- My Attendance at an RTC Legal Conflicts Committee Meeting
- My Involvement With a Florida Resident's Proposal to Purchase an RTC Asset

As to My Relationship With David Paul

Mr. Chairman, let me state very clearly for the record. Mr. David Paul is not now, nor ever has been, in any stretch of the imagination, a friend of mine. He and I happened to have been appointed to the Board of one of the largest public hospitals in the United States, Jackson Memorial Hospital in Miami. This is, and has been, my only relationship with David Paul. He has not been and is not my pal. He has not been and is not my friend. He has not been and is not my associate.

Mr. Chairman, you and the Members of the Committee should also know, for the record, that I approved a motion to request that David Paul resign from the Jackson Memorial Hospital Board when it became evident that there was a perception, real or otherwise, that for Mr. Paul to continue to serve as a Trustee on that Board would reflect poorly on this important public institution.

Mr. Chairman, I never thought for one moment that my request for summary information, with respect to RTC's PLS civil litigation, would be used in an attempt

to wrongly discredit me by fabricating a relationship between me and David Paul. Perhaps I should have followed a more cautious path and not have requested this information. However, that is not how I undertake my responsibilities, and I do not think either the President or this Committee is looking for a candidate who would be reticent about asking tough and probing questions in an effort to better understand important public policy issues facing the RTC.

This Committee, and you Mr. Chairman, have publicly expressed deep concern with respect to the RTC's professional liability program, and the use of outside counsel in general. In fact some of the witnesses during this Committee's recent RTC whistleblower hearing questioned the tenacity of RTC's pursuit of directors, officers, and professional firms. I would like you to know that I share that same concern. I will return to this matter later in my testimony, explaining exactly why and how the information request was made.

As to My Position on Minority and Women's Programs

Next I would like to take a few moments to address several recent press articles which reported that perhaps I do not support minority and women's programs. These articles were obviously prompted by a letter sent to you, Mr. Chairman, from the Reverend Jesse Jackson.

Mr. Chairman, at your request, I have provided you a written response to all of the issues raised in Reverend Jackson's letter, a copy of which is attached to my statement [*Exhibit 1*]. I would like you to know that I would be pleased to meet with Reverend Jackson and personally answer each and every question he still may have.

I would like to make two points with respect to my support for minorities. Unfortunately, the press either was not aware of, or for some reason neglected to consider these in the various articles written about Reverend Jackson's letter.

First, as you know Mr. Chairman, my nomination has the support of the entire delegation of the Hispanic-American Members of Congress and also has the support of a significant majority of the African-American Members of Congress [*Exhibits 2 and 3*]. I do not believe that these groups would go on record without an absolute level of certainty with respect to my record and my long time support of minority affairs.

Second, my State and local leadership record regarding my support, involvement, and advocacy of minority matters in the State of Florida speaks for itself. This Committee should be aware of the following efforts, each of which directly benefited, to a large extent, various minority populations in the State of Florida:

- *As to Education*—I helped draft the enabling legislation and have been Chairman of the Board of the Florida Prepaid College Program since its inception over 7 years ago. It is the largest program of its kind in the Nation. Over 219,000 contracts have been sold to date. Of those families who indicated annual income on their application (approximately 75 percent), approximately 5,000 beneficiaries come from households earning \$20,000 per year or less. Approximately 12,000 beneficiaries come from households earning between \$20,000 and \$30,000 per year.

I also serve as Vice Chairman of the Florida Endowment Fund, a legislated State of Florida organization, which grants scholarships only to African-American doctoral candidates. This Fund also owns and operates one of the largest and best African-American art museums, located in Tampa, Florida.

- *As to Housing*—I was Chairman of the Dade County HUD Oversight Committee for 5 years. We took a very troubled housing program of over 13,000 units from being declared "uninhabitable" to now being recognized as among one of the best HUD operations in the United States.
- *As to Public Health*—As I mentioned before, I was appointed to the Board of the 2nd largest public hospital in the United States, Jackson Memorial Hospital. My efforts to gain greater access to health care for indigent and minority patients are well documented and acknowledged. I strongly believe and have publicly stated, "Health care is a right, not a privilege."
- *As to Civic Organizations Serving Minority Groups*—I have been and am presently an active board member of many South Florida organizations dedicated to be of assistance to minorities. The list of these involvements is both long and substantial.

As to My Regional Advisory Board Participation

Much has also been alleged about my membership on RTC's Region I Advisory Board. It has been asserted that I was party to "mismanagement, fraud, and waste of taxpayers' funds" during my tenure on the Regional and National Advisory Boards. The public record shows quite the contrary.

Because these RTC Advisory Boards operate under the Federal Advisory Committee Act, their meetings are always held in open session and a verbatim transcript must be kept. I have attached as an exhibit, and submit for the record, every single question posed, or statement made, by me during every Regional and National Advisory Board meeting [Exhibit 4]. I would also like to include all recommendations made by the Region I Advisory Board and those made by the National Advisory Board and the National Housing Advisory Board during my tenure as a member of these Boards [Exhibit 5]. This information was provided to me, at my request, by the Advisory Board staff of the Oversight Board.

In order to give you a flavor of what I said during these open meetings, let me offer some representative statements which I made with respect to six important areas—*minimizing taxpayers' costs, small business participation, the credit crunch, affordable housing, RTC downsizing, and RTC actions taken as a result of Advisory Board recommendations.*

1. *As to Minimizing Taxpayers' Costs*—In August, 1990, regarding taxpayer recoveries, I said, "I think we have to be cognizant of the fact that the public is outraged at what happened, and I think that (fact) only has to make us more concerned, and persevere in our endeavors, to make sure that whatever suggestions we can make, that the disposition of the assets (of the RTC) brings back the highest reasonable amount of money so that the ultimate cost (to the taxpayer) is minimized."

2. *As to Small Business Participation*—In October, 1990, regarding the award of large asset management contracts, I said, "By doing it on that basis, (the RTC would) eliminate, by far, the majority of the smaller firms in this country from becoming eligible to become an asset manager. And the only way they could participate (in management of assets) would be through a subcontract basis, which I believe leaves much room for potential problems."

3. *As to the Credit Crunch*—In October, 1990, regarding the scarcity of commercial financing, I said, "On the financing side . . . I would like to recommend that we (the Region I Advisory Board) take the position that financing . . . as it pertains to . . . assets that are in RTC's portfolio . . . (where) regular kinds of financing, through the commercial institutions are just not available . . . we (should) adopt a policy endorsing some kind of seller financing to be inaugurated by the RTC."

4. *As to Affordable Housing*—In January, 1993, regarding potential abuses in RTC's Affordable Housing Program, I said, "It would seem to me that perhaps we can (recommend) that whatever safeguards are necessary to ensure that violations of the intent of the Affordable Housing Program are rigidly enforced . . . and that multiple purchases of affordable housing be avoided wherever possible, and intense scrutiny be undertaken by the RTC, that such instances are not allowed. . . ."

5. *As to RTC Downsizing*—In May, 1992, with respect to the decision by the former RTC Chief Executive Officer, Albert V. Casey, to prematurely downsize the RTC, I said, ". . . it would seem to me from a dollar effective standpoint, it's a mistake to close the Tampa office at this particular time . . . I'd like that comment to go on the record . . . I'm just having a very difficult time understanding the rationale for the closing of that particular office, and maybe other offices that fall into the same category. . . ."

Mr. Chairman, I would like to point out that when this downsizing occurred, the RTC Tampa Office (which was generally responsible for RTC operations in the State of Florida) had approximately \$8.3 billion in assets. As of August 31, 1993, Florida still had over \$918 million in REO assets alone.

6. *As to RTC Responses to Advisory Board Recommendations*—In January, 1993, with respect to RTC's implementation of Advisory Board recommendations, I said, "I guess if you had to do a grading system on whether the implementation (by the RTC) of the recommendations of the various regional boards has been accomplished, the grade would be probably a "C," at best. It certainly doesn't reflect that the strong recommendations that have been made by the Regional Boards and the National Board have, in fact, been implemented. . . ."

Mr. Chairman, I have been a strong and forceful advocate of change and good management practices at the RTC during my tenure as a member of the Regional and National Advisory Boards. I was not reticent in my criticism of the RTC, and I objected, in public and on the record, to many of the questionable management decisions and operations carried out by the RTC's leadership.

As to My Attendance at an RTC Legal Conflicts Committee Meeting

Mr. Chairman, regarding the much heralded press accounts of my attendance at a meeting of the RTC Legal Conflicts Committee, I would like to set the record straight.

I was specifically invited by the RTC's Vice President of Minority and Women's Programs, and member of the RTC Executive Committee, to attend and observe a

presentation before a meeting of the RTC Legal Conflicts Committee. My only intent was to observe how that part of the RTC system worked, in my role as Senior Advisor to the Oversight Board. I did so at the RTC's Vice President's direct request. At the time of my visit I had no idea of the specific roles and/or responsibilities of this Committee.

When I first walked into the meeting, I introduced myself and specifically asked if anyone objected to my presence. Not a single person voiced any objections. For the balance of the meeting, approximately 15 or 20 minutes, I listened to the discussion and observed only that both the Vice President for the Minority and Women's Programs and the Members of the Committee appeared to be in agreement with respect to a procedural issue before them.

Mr. Chairman, you should know that I do not know, nor have I ever spoken with, anyone from the Bryan, Jupiter law firm, the firm which was the subject of this Legal Conflicts Committee meeting. I also do not know, nor have I ever spoken with, Congressman Jefferson.

Mr. Chairman, that is the entire story . . . nothing more, nothing less. I have made it very clear during every meeting I have ever attended at the RTC that I was only present to observe, ask questions, and gather information. At no time have I ever attempted to influence any decisionmaking either directly or indirectly.

As to My Involvement With a Florida Resident's Proposal to Purchase an RTC Asset

I would now like to address the most recent press accounts alleging that I personally intervened to help a Florida couple buy an RTC property.

As you know the story was written by a news wire reporter who managed to release a total of four successive, and different, versions of this story. Three were released on the same day. The final, and fourth, version was released during the afternoon of Friday, October 22, 1993. While this final version sought to provide some amount of balance to the story, it came a little too late. It was by and large the first version of the story, released at 1:40 p.m. on October 21, 1993, which was picked up by numerous media organizations throughout the country. I am attaching to my statement all versions of this news wire story so that you can see how the reported facts materially changed over several hours and days [Exhibit 6].

Concisely, this is what really happened. During August of 1992, Hurricane Andrew hit South Florida and caused approximately \$30 billion in damage. Because I was a resident of South Florida and a member of the Region I RTC Advisory Board, the then CEO of the RTC asked me to help coordinate onsite relief efforts for the RTC. I am attaching a letter to me from the former RTC CEO and RTC's Atlanta Regional Vice President authorizing me to act in this capacity [Exhibit 7]. At the time, quite frankly, I was not worried about a formal piece of paper because of the urgency of this natural disaster. However, Mr. Chairman, you should know that any and all actions I took, or decisions I made, were within what I was specifically told to by an official delegation of authority.

It is well known that there was huge devastation in South Florida from the hurricane. Estimates suggest that a full rebuilding effort will not be completed until after 1995. As the RTC's designated onsite representative, I served on a Dade County Committee named "We Will Rebuild," set up to provide assistance to Dade County residents needing help. I was contacted by over 50 individuals and countless organizations during my tenure on this Committee. One of the individuals who contacted me was Mrs. Janis O'Rourke who found out about my involvement with RTC through the "We Will Rebuild" Committee.

It is true that I knew Mrs. O'Rourke from the time she helped me to raise funds to help build a breast cancer diagnostic center, designed primarily for South Florida's indigent population, to be established at a local public hospital. It is absurd for anyone to think that this sole relationship had anything to do whatsoever with any communication I took with respect to her situation. I treated her just as I treated others who sustained losses and were seeking my help and guidance, as RTC's representative, regarding rebuilding and relief assistance. All of these people needed to receive responses in a prompt manner, and not in a bureaucratic manner.

The referenced letter which I wrote to the two attorneys, one representing Mrs. O'Rourke and the other representing the RTC, is clear and very self explanatory. I have attached it to my statement for your reference [Exhibit 8].

At no time did I attempt to influence the RTC's asset management contractor, or for that matter anyone else, to accept Mrs. O'Rourke's bid. In fact I went out of my way to make that very clear in my letter. My only concern in this issue was that it appeared to me that legal fees with respect to the property in question were fast accumulating, and that the RTC, through its SAMDA contractor, appeared to be in a position to provide a response, particularly in the context of the aftermath of Hurricane Andrew.

While the press stated that the property in question was apparently appraised at \$370,000, I had absolutely no idea of the real value of the property. To this day I have never seen the property. However I was informed that Hurricane Andrew had substantially damaged the asset in question, and it was worth far less than it was prior to the hurricane. I also never told any "anonymous sources" that the subject property should be sold to the O'Rourke's, at any price. That statement is not true and a complete fabrication.

What would be more revealing would be for the anonymous sources who disclosed the letter, and those who made misstatements to the press, to appear before this Committee and assert their allegations firsthand, and in public.

Mr. Chairman, my only concern in this matter was that the U.S. taxpayer not have to pay legal bills and asset management fees for what appeared to me to be unnecessary and prolonged maneuvering, particularly in a situation where it appeared that cumulative legal costs could be rapidly approaching the salvage value of the property.

I hope it was, and it should always be, RTC's policy to sell its assets as soon as possible and to the highest bidder, as so stated in my letter, and stated by me on a number of occasions before the Regional and National Advisory Boards. Getting the highest net recovery for the American taxpayer was my only concern in this situation. I do not believe for one moment that I overstepped any bounds of ethical standards with respect to my position as a member of the Region I Advisory Board. In fact, given my delegated authority from the CEO of the RTC, I believe that I acted properly, ethically, and prudently with respect to the matter.

The O'Rourke's needed, and were due, a response, one way or another. They needed a response to determine whether they were going to try to rebuild their business at the property in question or get on with their lives elsewhere. They were, in my opinion, getting an apparent runaround from the involved RTC contractor. The legal fees which are ultimately paid for by the American taxpayer were, in my opinion, needlessly mounting. I felt a moral obligation, and an obligation as a representative of the American taxpayer, to write the letter in question. The letter clearly states that the asset in question should, and I quote, "be sold to the highest bidder."

I have absolutely no regrets or apologies to make for the communications which I initiated in this matter. They were all proper and called for.

Mr. Chairman, these five attempts to question my fitness and integrity for the position of Chief Executive Officer of the Resolution Trust Corporation are extremely disturbing to me. While I would normally dismiss such fictional, biased, and distorted accounts of my activities in a different environment, I am now compelled to defend myself, particularly given the seriousness of the accusations made about me and because of the high profile nature of the RTC Chief Executive Officer position.

AS TO "WHAT I HAVE LEARNED"

As you know, I was asked by the Treasury Department to join the Oversight Board staff as a senior advisor in anticipation of my confirmation as CEO. My responsibilities called for me to, and I quote,

- "analyze principal issues and topics of current concern with respect to the Oversight Board and the Resolution Trust Corporation";
- "ascertain relevant information on emerging and key issues of importance"; and,
- "provide expert advice and counsel on issues of concern."

Mr. Chairman, in order to fully meet these duties for over seventeen weeks, I have been rather prolific in my requests for information from the RTC. I have attached and will submit each and every one of these written requests, for the record, to give you a sense of the type of questions and issues which, in my opinion, needed more and better information, at a minimum [Exhibit 9].

There obviously may be some who will be upset that I am sharing this information with the Members of this Committee, but I believe in full disclosure, and will continue this practice if confirmed. I want each of you to have a perspective as to the type of chief executive I will be. I believe that these memoranda provide context and insight into issues I felt were important for me to receive information about and thoroughly understand.

Mr. Chairman, in my requests, always prepared for informational purposes only, I have asked about everything ranging from how Inspector General and General Accounting Office reports are handled (I found many RTC management replies to IG and GAO recommendations to be nonresponsive), to specific questions about asset disposition programs and recoveries, and to what it costs to prepare for and hold an auction.

In virtually every instance, the information provided to me by RTC employees has led to further questions. The more I read, on virtually every issue, the more questions I came up with. Let me give you some typical examples.

[Information Request on RTC's SWAT Program]

I made an information request regarding RTC's Settlement/Workout Asset Teams ("SWAT") Program [Exhibit 9(a)]. Since this program dealt generally with significant, distressed assets, I wanted to fully understand the purpose and goals of the program, how assets were selected for the program, how a SWAT team is formed and compensated, how negotiations are conducted with a borrower, and how offers are considered and acted upon.

My inquiry was driven by the fact that SWAT teams have delegated authority of \$100 million. I cannot think of any corporate board in the world which has delegated authority to make disposition decisions on assets of this dollar amount without the approval of the most senior levels of management.

During the course of this request for information on RTC's SWAT Program, I was informed that the RTC had sold a high profile SWAT asset to the original borrower. As is typical with all SWAT assets, an outside financial advisor had been retained to assist in the disposition effort. However, in this case, I found out that the financial advisor was apparently substantially owned and controlled by an investment group that provided the source of capital to help the original borrower purchase the asset in question. I was told by RTC officials that this potential conflict of interest was not revealed when it appears it should have been. This situation raised serious questions about the degree to which an open, competitive, and "arms-length" transaction occurred.

Mr. Chairman, I have learned that the conflicts issue at RTC needs immediate attention. My findings with respect to this one SWAT team example reaffirm the findings of the GAO in their audit report of July, 1993, entitled "*Resolution Trust Corporation—Better Assurance Needed That Contractors Meet Fitness and Integrity Standards.*" The GAO stated, and I quote, "RTC has not established a mechanism to ensure consistent implementation of its policy throughout the organization." The GAO report goes on to say, and I quote, "RTC's responsibility to ensure that its business and legal contractors meet fitness and integrity standards does not end when contracts are awarded. Oversight is especially important for contractors who are required to take certain actions—such as screening—to comply with fitness and integrity requirements." I believe that the GAO report is entirely on the mark.

[Information Request on "S-1"]

In another instance I requested information about a recent disposition of non-performing mortgages where the RTC and the winning bidder formed a limited equity partnership [Exhibit 9(b)]. These are also known as the "S" deals ("S" meaning small investor). It seems that the winning bidder was a previously approved contractor with the RTC and was, at the time, engaged in asset management work. The day the decision was made by the RTC to form a partnership with this company, the Inspector General issued a draft report which questioned that particular firm's ability to "manage cash." Additionally it turns out that this same firm had unsatisfactory ratings by two of the RTC field offices. Obviously that award raised some interesting questions.

I have since learned that the RTC did not have in place a comprehensive management system to ensure that all possible sources of internal performance and audit information on a potential equity partner were adequately checked prior to qualifying bidders and before making award determinations.

[Information Request on RTC Lease Liability]

In another instance I asked for information concerning the amount of RTC leased space throughout the country and the total cost of this space, both now and in the future [Exhibit 9(c)]. This question was prompted by the RTC downsizing; my prior knowledge that the former RTC Tampa field site was closed; and, the fact that I knew that the office space which was formerly occupied in Tampa by the RTC was still vacant.

I found out that the RTC has tens of thousands of square feet of vacant building space it is still paying rent on. In Tampa alone, the RTC has over 100,000 square feet of vacant space. I inquired as to what RTC was doing to sub-lease this space. Well, I found out that the RTC had hired a national brokerage firm to market its local space.

In most cases that I know, owners of real estate or lease holders pay a commission only if space is actually leased by a broker. Mr. Chairman, the RTC isn't doing it that way. RTC apparently entered into an agreement where a brokerage firm is paid a minimum fee of \$100,000 with an offsetting commission. As of September,

1993, approximately 82 percent of the total RTC vacant space available for lease, remains vacant.

I learned that the RTC did not have a very good program in place for handling unexpired leases of property which they had vacated. I am pleased to note that, once RTC management reviewed their staff's report on the subject, they were prompted to establish a new, integrated system for tracking, monitoring, and managing lease liability throughout the country.

[Information Request on Professional Liability Section (PLS)]

In another example, I asked for information with respect to professional liability. This was the famous "Centrust" information request which, as you all know, some members of the press have reported on extensively. I am including a copy of the actual information request with my statement *[Exhibit 9(d)]*.

Let me set the record straight. The RTC is spending hundreds of millions of dollars annually on outside counsel to pursue a variety of RTC civil matters. I am certainly not convinced that all of this money is being spent wisely, nor am I convinced that all bills from these firms are being checked thoroughly. I am not alone in this opinion. In a recent report, the RTC Inspector General said that almost 50 percent of a particular firm's billings were, in their opinion, disallowable. That's a rather high percentage. And that's just one firm. It appears that many times when the Inspector General audits a law firm retained by RTC, quite often they recommend that RTC management disallow, or seek to recover, a substantial portion of professional fees and expenses which were billed. As a taxpayer, you get pretty upset after reading all of this material. I probably have read over fifty Inspector General (many dealing with legal fees) and GAO reports since coming to Washington.

Because I do not know a lot about PLS, I decided to ask for information on how the system works for a typical case. My request was prompted by an article which appeared in the August 16, 1993, issue of *Businessweek*. The date of my request for information was August 20, 1993. If you look at the memo I wrote, which had the *Businessweek* article attached, you will see that it focuses on: (1) who is being sued and for how much; (2) what outside counsel has been retained to help investigate and prepare the Government's case; (3) what fees are being paid to outside counsel; (4) has outside counsel completed a fitness and integrity evaluation and has RTC checked it; (5) what liability insurance do defendants have; and, (6) what are the expected trial dates for defendants.

The information request is very self-explanatory and was prepared solely to gain a better understanding of the fee economics and limits as well as the fitness and integrity requirements associated with law firms retained by the RTC to pursue officers, directors, and professional firms.

I did not ask for any specifics whatsoever with regard to case litigation strategy or content, nor did I expect to receive any. I certainly did not ask for any information regarding the Government's case against David Paul.

Mr. Chairman, I fully expected to receive a short memorandum with perhaps a couple of charts answering my questions. I certainly did not expect to receive a 10 to 12 inch thick notebook of source documents from someone in the RTC's Legal Department who decided to empty their files. I clearly did not ask for that and did not intend to receive that. I was not about to sign a confidentiality agreement, with respect to sensitive source documents, in my role as senior advisor to the Oversight Board. However, I was willing to sign a confidentiality agreement for a short response to my memo, if in fact any of the summary information was deemed sensitive in any way. Because I received information that clearly, by virtue of its size alone, went well beyond the scope of my request, the material provided was therefore returned, unopened and unread, to the RTC Legal Department.

[Information Request on Auction Procedures and Costs]

Another area of concern to me were, and are, costs associated with RTC's sales events. Using auctions as an example, I made several inquiries as to the total costs, both direct and indirect, for specific auctions, large and small. Copies of these memoranda are attached to my statement *[Exhibit 9(e)]*.

While I was pleased to find out that much of this information was available from RTC staff, I was disturbed by what I found. For example, the National Non-performing Loan Auction held in Kansas City this past August, with sales of \$335 million, cost over \$5.2 million to prepare for and hold. If you take into consideration various disposition fees, the total cost exceeded \$12 million.

Several specific costs for this auction that especially bothered me were "catering expenses" of almost \$12 thousand and auction seminar costs in excess of \$247 thousand. Why RTC pays the bill for catering costs, with American taxpayers' money, is beyond my comprehension.

The basic question which I believe needs to be asked with respect to large auction events is, "Is it necessary to spend this much money on an auction? What are the benefits to the taxpayer in terms of higher net recoveries?"

In comparing the last two RTC National Non-performing Loan Auctions (held in March and August of 1993), \$372 thousand more was spent on the August auction, yet the sales to book value returns for both auctions were essentially identical.

In addition to requesting information on the costs of auctions, I have requested information on the costs and marketing effectiveness of RTC's marketing brochures. As a general rule RTC authorizes brochures and promotional material for each sales event it undertakes, including, in some cases, single asset sales.

Recently I have received numerous brochures containing four-color photographs, custom multi-color graphic designs, and in one case, a brochure with an embossed cloth cover. In one instance I was told that a specific promotional package cost \$119 to produce per package, and effectively more than \$119 for each one when you consider that many of the packages were not even distributed to potential purchasers.

Who determines marketing and auction budgets? What is the decisionmaking process? Who authorizes expenses? Who follows up to determine effectiveness? All of these questions surely need to be asked.

Mr. Chairman, I have learned that often money is spent at the RTC without what I would consider good budget planning, good cost controls, and comprehensive reporting, measurement and followup. The GAO just recently issued a report entitled "*Resolution Trust Corporation: Status of Management Efforts To Control Costs.*" I am in agreement with their findings.

I believe that every RTC employee should spend taxpayers' money with the *same amount of care as if they were spending their own money*. That means, not sending letters routinely via Federal Express when a 29 cent stamp would do, as the Inspector General recently reported. That also means not picking up the meal ticket for attendees at RTC auctions *with appropriated funds*, courtesy of the American taxpayer.

*[Information Request on Securitization Reps and Warranties
(RTC Securitization 1991-9)]*

On September 15, 1993, I inquired about the reasons behind Fitch Investors Service's placement of RTC's 1991-9 Class A & B Pass-Thrus on "Fitchalert Negative" [*Exhibit 9(f)*]. As you know, RTC offers certain representations and warranties on each securitization deal along with a substantial credit enhancement. Evidently, with respect to 1991-9, RTC had made certain representations and warranties that taxes on the securitization's underlying single-family mortgages were current at the time of issuance.

I made this request because I was concerned that some of the representations and warranties provided by the RTC may have been furnished as a substitute for thorough due diligence. I also felt that this information request would help me understand RTC's exposure to future representation and warranty claims. I know that the issue of representations and warranties has been raised by Members of Congress. I too am concerned that RTC minimize or eliminate as much contingent liability as possible once assets are disposed of.

Mr. Chairman, these represent only some of the information requests I have made of the RTC. However I believe that they will provide you and the Members of the Senate Banking Committee with a good sense of some of the items which concern me. I am sure that you recognize that many of the issues which I have inquired about are very similar to the issues which this Committee has raised, from time to time, with the members of the Oversight Board and with RTC senior management.

I must admit to this Committee that many of my concerns with respect to RTC operations have been confirmed as a result of these information requests. I must also say that these information requests have caused me to be even more troubled about the decisionmaking processes at the RTC. If confirmed, I can assure this Committee that all of these issues will be addressed as soon as possible with a goal of establishing improved business practices and management decisionmaking.

AS TO "WHAT I FEEL NEEDS TO BE DONE AND HOW I INTEND TO DO IT,
IF CONFIRMED"

Mr. Chairman, it is quite evident to me that there are individuals, who probably are not present at this hearing today, who obviously do not want me confirmed as CEO of RTC. In my opinion, it has nothing to do with politics or even alleged relationships. These individuals certainly must feel that if I am confirmed, *it will not be business as usual*, and quite frankly they are right!

Additionally, a couple of weeks ago two threatening telephone calls, *concerning me*, came to staff at the Oversight Board. These callers said for me "to get out of

Washington" and "tell Tate he's dead." I took these calls to be direct threats on my well-being. As I am sure you know, this has been a very upsetting experience for me. The FBI was promptly notified, and they are presently conducting an investigation into this entire matter.

[No More Wastage and "Get Rich Quick" Deals]

I can tell you right now that any instance of an "RTC gravy train" will cease the minute I am confirmed as CEO. I will not tolerate accounting firms charging RTC outlandish rates for photocopying or for security services. I will not allow agreements to be entered into which pay outside law firms outrageous hourly rates of over \$600 per hour or provide blank checks for expense items. I will not tolerate accounting firms which lose control over millions of dollars of assets. I will not tolerate conflicts of interest which may be hidden or only disclosed, after the fact. The list goes on and on.

[Strengthened Post-employment Restrictions]

In fact Mr. Chairman, I think that the current RTC post-employment restrictions may need to be revisited. I read quite frequently about former RTC employees either opening up their own shops to buy RTC assets or bid on contracts, or going to work for firms to which RTC has awarded or will award contracts. I do not know how much of this is true, but if it is, I find it deeply disturbing. I do not believe that Government employees should be able to "trade" on inside information and contacts as a result of having served the United States of America. Mr. Chairman, these rules might have to be toughened, and I intend to make that one of my first orders of business if I am confirmed. I may need this Committee's help if a legislative change is determined to be needed.

[Support of Whistleblowers]

Next, let's talk about the whistleblowers. As you requested Mr. Chairman, I read the entire transcript of this Committee's hearing on RTC whistleblowers, and quite frankly, I was disturbed by the allegations made. I believe that I made that fact clear in the letter which I wrote to you, Mr. Chairman, and to Senators Metzbaum and Kerry [*Exhibit 10*]. However as all of us know very well, there are usually two sides to every story. Interim RTC CEO, Deputy Secretary Roger Altman, has initiated action to thoroughly investigate these allegations.

Once these investigations are completed, and if I am confirmed, I will take firm action against anyone who takes any adverse action against any whistleblower for the act of whistleblowing. It is my intention to meet with each of the witnesses who appeared before this Committee, should they wish to meet, and ask questions about their concerns and complaints. Anyone who meets with me will *not be at risk*, and what they say, with respect to their whistleblowing allegations, will never be used against them.

[Zero Tolerance of Sexual Harassment or Discrimination]

In terms of sexual harassment and discrimination, that too cannot and will not be tolerated. I can tell you now, unequivocally, that any RTC employee who has committed sexual harassment or discrimination, or does so in the future, will face dismissal.

Because the RTC relies so heavily on outsider contractors, I am also concerned that these contractors should have similar policies in place and that these policies are enforced. If confirmed, I intend to direct the RTC Vice President for Minority and Women's Programs to undertake an assessment of the sexual harassment and discrimination policies and enforcement procedures of RTC's contractors.

Let me also say that, if confirmed, I will also stand by any RTC employee who is wrongly accused of any misdeeds. If, based on credible evidence and independent investigation, I believe that they acted in good faith or have been wrongly accused, they will be able to count on my support. I certainly know firsthand what it is to be wrongfully accused.

[Further Advancement of Secretary Bentsen's Ten Point Management Reform Program]

Mr. Chairman, I would like to state that I am a strong supporter of Secretary Bentsen's Management Reform Agenda for the RTC, without any qualifications. I believe that the ten point plan which the Secretary announced before this Committee last March, and which Interim CEO Roger Altman was charged with implementing, is a good plan and a necessary plan.

You should also know, Mr. Chairman, that many of Secretary Bentsen's reform initiatives were recommended by the RTC Regional and National Advisory Boards

over the last several years. I was pleased that the Clinton Administration recognized the value of these recommendations and acted swiftly to put them into effect.

As you know RTC's reform agenda is broken down into four critical areas—Planning, Financial Management and Control, Operations, and Public Policy. Each of these areas deserves attention by the CEO. I can assure this Committee that each will have my attention.

1. *Planning*—In the planning area, I believe, and have for some time, that the RTC needs an asset sales strategy and an integrated business plan for the balance of the thrift cleanup, with specific measurable goals. The plan is currently under review by the members of the Oversight Board. I intend to place considerable emphasis on its implementation and continuous review, particularly to ensure that it fully meets Secretary Bentsen's reforms and statutory goals and requirements.

I also intend to make sure that this plan fully and directly addresses concerns expressed by the small investor. A "level playing field" must be established and maintained for the purchase of RTC assets to ensure fair and adequate competition.

I also intend to make a smooth RTC/FDIC transition a priority area on my management agenda. I believe that this area needs considerable attention now, to ensure that FDIC, when the time comes, is in a strong position to assume many of the responsibilities which RTC shoulders at the present time.

2. *Financial Management and Control*—In the Financial Management and Control area, I am deeply committed to seeing that proper internal controls are in place for every facet of RTC's operations. Good controls represent good management, and I intend to make sure that this business philosophy is the RTC's philosophy.

I would also like to assure this Committee that all General Accounting Office and Inspector General audit recommendations will be acted upon in a timely and responsive manner. I have read a number of GAO reports recently—including those recently issued on auctions, fitness and integrity, and professional liability. Many of the findings were deeply disturbing to me, and, if I am confirmed, I can assure this Committee that the recommendations contained in these reports will be acted upon expeditiously.

I have also reviewed the RTC Inspector General's 1994 Audit Plan and have found it to be an excellent blueprint to review high risk areas within RTC. I have advised the Inspector General that, if confirmed, I will make management responsiveness to Inspector General recommendations a top priority. The Inspector General has written to me acknowledging and supporting my desire to redefine the relationship between his organization and the RTC. I am attaching a copy of that letter to my statement [Exhibit 11].

3. *Operations*—In the operations areas, if confirmed, I intend to continue progress toward ensuring that the RTC's information systems produce reliable data on a cost effective basis. I also intend to make sure that whatever investment the RTC makes in systems is not wasted or lost, and that a plan be put in place for migrating the best of the RTC's systems over to the FDIC.

In the contracting and contracting oversight areas I will continue Interim CEO Roger Altman's initiatives to strengthen controls. The private sector is an important partner with the RTC in cleaning up the mess left by failed savings and loans. Yet, we must make sure that all of the RTC's partners *play by the rules* and deliver to the RTC services that add value, rather than waste taxpayers' dollars.

4. *Public Policy*—In the public policy area, if confirmed, I remain committed to a strong and results-oriented minority- and women-owned business program. The RTC has made good strides in recent months to increase the number of opportunities for minority businesses, however more remains to be done.

I can assure this Committee that, if confirmed, I will make every conceivable effort to increase real opportunities for minorities, and I intend to enlist the support of many majority firms to help make this happen. One of my first initiatives will be to thoroughly analyze each and every area of RTC's business to evaluate ways in which minority participation can be increased. Let me also assure this Committee that minority involvement in RTC's business is good business and, in my opinion, can be done without incurring extra costs if designed and implemented properly.

[ISSUES NEEDING IMMEDIATE AND CONTINUING CEO ATTENTION]

Mr. Chairman, going forward, and if confirmed, I intend to aggressively continue the implementation of RTC management reforms started by Interim CEO Roger Altman, as well as those additional areas which this Committee has expressed deep concern about.

I can assure this Committee that I will also work diligently to ensure:

- *That Taxpayers Returns Are Maximized*—and that the RTC recovers as much money as possible for the American taxpayer from the sale of assets and conservatorship institutions;
- *That the RTC/FDIC Transition is Orderly*—and that the two phase termination of RTC—assignment of insolvent thrifts by OTS to the FDIC on March 31, 1995, and transfer of remaining RTC assets and liabilities on December 31, 1995, proceeds on an orderly basis, without compromising the integrity of the process, or taxpayers' returns;
- *That Professional Liability Cases Will Be Well Managed*—and that determinations are made as how best to handle professional liability cases utilizing existing RTC and FDIC staff. The members of the FDIC Board have assured me that they will provide whatever assistance is necessary to ensure that this area is not short-changed in any way;
- *That Fitness and Integrity Requirements Are Met*—and that all contractors receive the appropriate fitness and integrity checks to ensure that they are fit and qualified to do work for RTC. I will implement procedures to ensure that this is done on a more direct and visible basis. My goal is to ensure that all conflicts and disqualifying factors are identified up front before any business or legal contract awards are made;
- *That Affordable Housing Remains a Priority*—and that continued attention is given to the RTC affordable housing program. It appears that the single-family area has done a good job, but much remains to be done in the multi-family area. I intend to actively encourage ways to make these properties available to community-based, non-profit investors. There are a tremendous number of opportunities available to match existing programs from agencies such as HUD and HHS with RTC's affordable inventory; and,
- *That Minority Investment Opportunities Are Created*—and that minority investors are given the opportunity to bid on minority banking institutions *and*, and I stress, to bid on majority banking institutions as well. I believe that this can be done without any additional cost to the taxpayer.

Finally, Mr. Chairman, if confirmed, I intend to be an active and involved CEO, a "hands-on" CEO if you will. I intend to routinely travel to each RTC field office, talk with RTC employees from the Vice President level to the support staff level, and find out what problems exist. I believe that the best ideas for problem solving and organizational improvements come from employees, and I intend to have an open door policy at the RTC.

* * *

Mr. Chairman, if you and the Members of the Committee would like to send a clear message to those who are reaping questionable financial rewards off the S&L cleanup, then confirm me as CEO of RTC. I have spent my entire adult life trying to help the less fortunate and to make all levels of Government more effective and accountable. During the past several months I have seen many good things and some very talented and dedicated people; however, I have also seen much material that quite frankly would make each and every American taxpayer and each Member of this Committee quite concerned. I intend to change that if confirmed as CEO, and I pledge that I will follow a full disclosure policy.

Mr. Chairman, that concludes my statement before this Committee. I would be pleased to answer any questions which you or the other Members of the Senate Banking Committee wish to ask.

PERSPECTIVE

January 6, 1994

SECTION E

THE DENVER POST

RESOLUTION TRUST CORPORATION

Affirmative action abuse reaches an alarming level

John B. Kavanaugh Special to The Denver Post

One would think that the Resolution Trust Corp. had troubles enough without going out of its way to create new ones. Sen. Don Riegle, of Keating Five fame and chairman of the Senate Banking Committee, stubbornly refused to even consider the Clinton administration's nomination of Stanley Tate to head up the S&L cleanup agency; so RTC continues its leaderless drift. Every day seems to bring new revelations of ineptitude in managing and marketing the detritus of the savings and loan fiasco. Hundreds of millions of dollars have been squandered on one after the other of nearly useless accounting systems that somehow can't manage to produce even the most basic information.

More than three years of roughshod and arbitrary dealings with SAMDA Asset Managers and other contractors are bound to generate numerous lawsuits as these contracts are winding down. And now, as if all of this were not enough, the fumlbers in charge of the RTC have decided to step into the vanguard of misdirected attempts to promote the interests of women and minorities.

Extremist advocates of affirmative action have gained the upper hand in the RTC bureaucracy, and now they have even gone beyond quotas. An absolute exclusion of non-minority males for mid-level positions is the order of the day. Johnnie Booker, an Afro-American woman who was named vice president of minority & women's programs for RTC, has been granted unprecedented authority to interfere with the hiring and promotion process throughout the vast RTC national organization. It has been RTC policy that if a woman or a minority candidate for hiring or promotion is even minimally qualified, he or she will automatically be selected - no matter how much better qualified a non-minority male might be. Ms. Booker has gone even further. In a policy memo on the subject of "Referral and Selection Process," she mandated that:

"...you should ensure that those criteria described as job related do not unnecessarily exclude individuals who would otherwise be qualified. Any knowledge which could be obtained on the job within six months of the hire date should not be listed as a selective factor ..."

In other words, don't bother with prior knowledge and experience requirements for minorities and women because they can just pick this up on the job. This is an interesting concept but the sad reality is that this is now RTC policy. Booker's directive went on to state that no promotion or employment selections for mid-level or higher positions could be made without her personal approval. Few white males receive the personal approval of the vice president of women's and minority programs. If no women or minorities apply for positions, then RTC officials can, and often do, simply cancel the posting and open it up again after they have found a woman or minority (qualified or not) willing to accept the job. In a rush to

curry favor with the politically correct junta in Washington, RTC managers are selecting some minority and women candidates who are not even vaguely qualified for positions in which they are placed. It did not take long for the message to get through that white males need not apply. Morale among non-minority males plummeted as advancement opportunities were denied to them. Affirmative action to benefit qualified women and minorities is a laudable goal, but the RTC's current policies are a disservice to those ostensibly being favored. Every woman and minority with hard-earned credentials is demeaned by this process.

RTC's response to the inevitable complaints about the misguided affirmative action plan so far has been to stonewall. Officials in the troubled Denver office go so far as to deny that sex or minority status is even a consideration in the selection process. These officials seem to have forgotten that consideration of, and preference for, the sex or race of a qualified candidate is a legitimate requirement of their selection process. To ignore these considerations, as they claim to be doing, would be to break their own rules; but then that certainly wouldn't be the first time rules have been broken by this out-of-control agency.

John B. Kavanaugh is an oversight manager in the Denver office of the RTC.



RECEIVED

APR 16 1993

REGIONAL DIRECTORS OFFICE

RESOLUTION TRUST CORPORATION
Resolving The Crisis
Restoring The Confidence

April 14, 1993

MEMORANDUM TO: Jon R. Karlson
Vice President
Denver Field Office
FROM: *Johnnie B. Booker*
Johnnie B. Booker
Assistant Vice President
Department of Minority and Women's Programs
SUBJECT: AAP Goal Setting Process

Copy		Action
<input checked="" type="checkbox"/>	SEA	
<input checked="" type="checkbox"/>	REG/71	
<input checked="" type="checkbox"/>	DO	
<input checked="" type="checkbox"/>	EAM	
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We have reviewed the Affirmative Action Program goals submitted by your office. While a good faith effort has been made to establish your Affirmative Action Program goals, ~~the goals should be set by~~ each senior grade level and by race. In addition, ~~the Federal~~ civilian work force statistics should be used for comparison. ~~Goals~~ should also be set for individuals with disabilities. To assist you in this process, we have provided a format to be used in the presentation of your goals as well as a review of our original guidance on establishing your goals.

Guidance for Setting Goals

As indicated in my December 16th memorandum, "RTC's Multi-Year Affirmative Action Program Plan," ~~numeric~~ goals must be set for grade levels 13 and above by race and gender. In instances where a particular minority ~~is~~ totally absent from the work force, goals can be set for the group, i.e., Hispanics, rather than by gender. As an example, we have attached a sample draft of the goals for the Division of Administration and Corporate Relations.

Field office goals should represent the combined goals of the major departments within the office. It is possible that due to employment ceilings, some departments may not have opportunities to increase representation of minorities and women. ~~if this is the~~ case, it should be noted on the attached format.

As previously stated, the following steps to setting goals are to be used as a guide. Each office will have unique situations that will require modification or creative alternatives to the guidance provided below.

1. Determine the ceiling for the 1993 work force for your field office using the MAPs, budget information or other sources.
2. Determine the number of positions you expect to fill by subtracting the current work force total from your 1993 ceiling. You should also consider the expected turnover rate. This will give you the number of positions you expect to fill for the entire work force.
3. Determine the number of positions you expect to fill at grades 13, 14, 15 and at the Executive Level.
4. Once you have determined the number of vacancies for each grade level at grade 13 and above, the goals for minorities and women can be set. When setting the goals, you should consider the current areas of manifest imbalance and conspicuous absence as determined by comparisons to the Federal Civilian work force, ~~and the government-wide statistics on minorities and women at~~ grades 13 and above. These statistics are included in the Equal Employment Opportunity Commission's Annual Report for FY '90, which we provided to you in January. Goals should be reasonable, yet ambitious.

GOALS ARE NOT SET FOR WHITE MEN In the 1972 amendments to Title VII of the Civil Rights Act, agencies were required to maintain affirmative employment programs to eliminate discrimination in Federal employment as evidenced by serious underrepresentation and exclusion of minorities and women in specific areas, agencies and grade levels. (Historically, white men have not been excluded from the employment process, and therefore, they are not covered by this program.)

5. Goals should also be set for Individuals with Disabilities. This goal should be set for the entire work force, rather than by grade levels. The government-wide representation rate for Individuals with Disabilities is 6.3%.
6. An EEO Action Officer (EEOAO) should be appointed, if one has not been designated. The EEOAO should be at a senior level. His/her duties and responsibilities are outlined in the attached document.

The attached form should be used to record your overall goals for minorities, women, and individuals with disabilities. Your final submission should include aggregate goals for the field office and goals for each of its major units. Please submit your final goals to this office by April 30, 1993.

If you have questions or need further assistance, please contact me on (202) 416-6925 or Louis Jones, Director, Office of EEO and Affirmative Action, on 416-4710. We look forward to your participation in this important process.

Attachments



RESOLUTION TRUST CORPORATION

*Resolving The Crisis
Lessening The Confusion*

June 22, 1993

MEMORANDUM TO: **All Vice Presidents**
 FROM: *Johnnie B. Baker*
Johnnie B. Baker
Vice President
Division of Minority and Woman's Programs

SUBJECT: **Referral and Selection Process**

The directive on "EEO Efforts in the Referral and Selection Process" (2710.10) has been in effect since January 26, 1993. This directive applies to all Managers and Supervisors who make selections or internal movement actions for positions at grades 13 and above in major/mission occupations where there is a manifest imbalance or conspicuous absence of minorities, women, or individuals with disabilities. As you know, recruiting and hiring actions are being monitored closely as we continue to restructure and downsize the agency. As opportunities to hire and promote occur, targeted recruitment will be conducted for those positions where there is a manifest imbalance or conspicuous absence of minorities, women, and individuals with disabilities.

In accordance with the directive, the following procedures governing the selection process must be adhered to:

- a. All selections or internal movement actions for positions at grades 13 and above in major/mission occupations where there is a manifest imbalance or conspicuous absence of minorities, women, or individuals with disabilities that are filled through the use of a certificate, list, or roster of eligibles must be sent to the Director, Office of Equal Employment Opportunity and Affirmative Action (OEEO/AA), for review and concurrence prior to notification of the selectee. The following job series have been identified as the major/mission occupations

-2-

for targeted recruitment: 905-General Attorney, 1101-General Business and Industry, 1160-Financial Analysis, 510-Accounting, 301-Miscellaneous Administration and Program, and 334-Computer Specialist.

- b. The selecting official is responsible for completing RTC Form 2710/02, providing the selectee's name, sex, race and handicap code (if known), and forwarding the form and certificate, roster, or list of eligibles to the Director, OEEO/AA.
- c. When methods other than a certificate, roster, or list of eligibles are used for selections at grades 13 and above in positions identified in paragraph (a), managers and supervisors are responsible for notifying their EEO Action Officer prior to taking the action.

The analysis of the RTC 2710/02 forms that we have received as of April 1993, shows that 84% have been non-minorities, of which 61% have been white males. We realize that many vacancies were announced prior to the effective date of the directive and expect that selections of minorities, women and individuals with disabilities will increase as you strive to meet your affirmative action goals. Your selections will be measured against the goals that you have set. We are also aware that some offices are not fully complying with the directive and we will be contacting those offices directly.

I urge you to consider minorities and women from all of the field offices when filling positions by expanding the area of consideration. In addition, you should ensure that those criteria described as job related do not unnecessarily exclude individuals who would otherwise be qualified. Any knowledge which could be obtained on the job within six months of the hire date should not be listed as a selective factor, i.e., knowledge of RTC policies and procedures.

Roger C. Altman, Interim President and Chief Executive Officer, has made known his commitment to improve the representation of minorities, women and individuals with disabilities within the RTC. That improvement will start at your level through the personnel selections you make.

I encourage you to make a concerted effort to reach the Affirmative Action goals you have set, and I look forward to working with you in implementing a results-oriented Affirmative Action Program for the RTC.

190 days per C

determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Regulatory Agenda

This rule was listed as Item No. 1455 in the Department's Semiannual Agenda of Regulations published on October 25, 1993, at 58 FR 56402, 56412, in accordance with Executive Order 12866 and the Regulatory Flexibility Act.

List of Subjects for 24 CFR Part 87

Government contracts, Grant programs, Loan programs, Lobbying, Penalties, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 87 is amended as follows:

PART 87—NEW RESTRICTIONS ON LOBBYING

1. The authority for part 87 is revised to read as follows:

Authority: 31 U.S.C. 1352; 42 U.S.C. 3525(d).

2. In § 87.110, paragraphs (a)(2) and (b)(2) are revised to read as follows:

§ 87.110 Certification and disclosure.

(a) * * *

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

(b) * * *

(2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000 or the single family maximum mortgage limit for affected programs, whichever is greater.

Dated: January 4, 1994.

Henry G Cisneros,

Secretary.

[FR Doc. 94-2621 Filed 2-3-94; 8:45 am]

BILLING CODE 4210-32-P

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 970

[Docket No. N-94-1689; FR-3528-N-03]

Public and Indian Housing Program—Demolition or Disposition of Public and Indian Housing Projects—Required and Permitted PHA/IHA Actions Prior to Approval; Extension of Delay of Effective Date

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice; extension of delay of effective date of final rule.

SUMMARY: Existing regulations require that a PHA or IHA not take any action to demolish or dispose of a public or Indian housing project or a portion of a public or Indian housing project without obtaining HUD approval under the provisions of 24 CFR parts 970 or 905, respectively. On November 4, 1993, the Department promulgated a final rule that clarifies that until such time as HUD approval may be obtained, the PHA or IHA must not take any action intended to further the demolition or disposition of a public housing project or a portion of a public housing project without obtaining HUD approval under 24 CFR parts 970 or 905, respectively. Furthermore, until such time as HUD approval is obtained, the PHA or IHA must prevent further deterioration of the physical condition of the project, other than deterioration incident to normal use, and is responsible under the ACC to continue providing emergency repair services and routine maintenance for occupied projects.

On December 6, 1993, a notice was published to delay the effective date of the final rule from December 6, 1993, until February 4, 1994. This notice further delays the effective date of the final rule for an additional 60 days.

EFFECTIVE DATE: Effective February 4, 1994, the effective date of the final rule published at 58 FR 58784 is delayed until April 5, 1994.

FOR FURTHER INFORMATION CONTACT: William R. Manning, Director, Policy Division, Office of Management and Policy, (202) 708-0713. The telecommunications device for deaf persons (TDD) is available at (202) 708-0650. (The telephone numbers provided are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: On November 4, 1993, at 58 FR 58784, the Department issued a final rule regarding required and permitted actions that a PHA or IHA may take prior to approval

of an application for demolition or disposition of a public or Indian Housing project or a portion of a public or Indian housing project. The final rule had an effective date of December 6, 1993, and a notice was published in the Federal Register on December 6, 1993 (58 FR 64141) that delayed that effective date until February 4, 1994, because serious concerns had been expressed about the impact of some of the provisions of the final rule on residents and resident organizations.

In the spirit of cooperation, the Department wishes to further delay the effective date of the final rule so that further review of this rule may be conducted.

Accordingly, in FR Doc. 93-29687, published in the Federal Register on December 6, 1993, at 58 FR 64141, the effective date for the referenced final rule regarding the Public and Indian Housing Program is further delayed until April 5, 1994.

Dated: January 26, 1994.

Michael B. Janus,

General Deputy Assistant Secretary for Public and Indian Housing

[FR Doc. 94-2389 Filed 2-3-94; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Parts 600 and 603

[A.G. Order No. 1844-94]

Independent Counsel: In re Madison Guaranty Savings & Loan Association

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule sets forth the jurisdiction of the Independent Counsel In re Madison Guaranty Savings & Loan Association, appointed by the Attorney General pursuant to her statutory authority under 28 U.S.C. 509, 510, and 543, and 5 U.S.C. 301. The Attorney General has appointed this Independent Counsel to investigate whether any individuals or entities have committed a violation of any federal criminal or civil law relating to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with the Madison Guaranty Savings & Loan Association, the Whitewater Development Corporation, or Capital Management Services, Inc.

This rule also amends the regulations on the salary of an Independent Counsel and the provisions for appointing and fixing the compensation of, and assigning

duties to such employees as the Independent Counsel deems necessary. These changes reflect the elimination of the "GS-18" rate under the General Schedule, 5 U.S.C. 5332(a), more closely align the regulation with the laws governing the civil service, and provide more flexibility in setting the salary of the Independent Counsel, subject to a specified maximum level.

EFFECTIVE DATE: January 31, 1994.

FOR FURTHER INFORMATION CONTACT: Carl Stern, Director, Office of Public Affairs, U.S. Department of Justice, Washington, DC 20530, (202) 616-2777. SUPPLEMENTARY INFORMATION: This order pertains to a matter of internal Department management. It does not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not subject to Executive Order No. 12866.

List of Subjects in 28 CFR Parts 600 and 603

Authority delegations (Government agencies), Crime, Conflict of interests, Government employees.

Accordingly, by virtue of the authority vested in me as Attorney General, including 5 U.S.C. 301 and 28 U.S.C. 509, 510, and 543, chapter VI of title 28 of the Code of Federal Regulations is amended as follows:

PART 600—GENERAL POWERS OF INDEPENDENT COUNSEL

1. The authority citation for part 600 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 515, 543; Article II of the U.S. Constitution.

2. Section 600.1 is amended by revising paragraphs (b) and (c) to read as follows:

§ 600.1 Authorities and duties of an Independent Counsel.

(b) An Independent Counsel appointed under this chapter shall receive compensation at a rate not to exceed the annual or per diem rate equal to the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the U.S. Code. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (b) of section 594 of title 28 of the U.S. Code.

(c) For the purposes of carrying out the duties of the Office of Independent Counsel, an Independent Counsel shall have the full power of the Attorney General to appoint (other than in the Senior Executive Service), fix the

compensation and assign the duties of such employees as the Independent Counsel deems necessary. This paragraph shall not be construed to authorize the payment of any compensation in addition to that paid under subsection (c) of section 595 of title 28 of the U.S. Code.

3. A new part 603 consisting of § 603.1 is added to read as follows:

PART 603—JURISDICTION OF THE INDEPENDENT COUNSEL: IN RE MADISON GUARANTY SAVINGS & LOAN ASSOCIATION

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 543.

§ 603.1 Jurisdiction of the Independent Counsel

(a) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate to the maximum extent authorized by part 600 of this chapter whether any individuals or entities have committed a violation of any federal criminal or civil law relating in any way to President William Jefferson Clinton's or Mrs. Hillary Rodham Clinton's relationships with:

(1) Madison Guaranty Savings & Loan Association;

(2) Whitewater Development Corporation; or

(3) Capital Management Services. (b) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate other allegations or evidence of violation of any federal criminal or civil law by any person or entity developed during the Independent Counsel's investigation referred to above, and connected with or arising out of that investigation.

(c) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to investigate any violation of section 1825 of title 28 of the U.S. Code, or any obstruction of the due administration of justice, or any material false testimony or statement in violation of federal law, in connection with any investigation of the matters described in paragraph (a) or (b) of this section.

(d) The Independent Counsel: In re Madison Guaranty Savings & Loan Association shall have jurisdiction and authority to seek indictments and to prosecute, or to bring civil actions against, any persons or entities involved in any of the matters referred to in paragraph (a), (b), or (c) of this section who are reasonably believed to have

committed a violation of any federal criminal or civil law arising out of such matters, including persons or entities who have engaged in an unlawful conspiracy or who have aided or abetted any federal offense.

Dated: January 31, 1994.

Janet Reno,

Attorney General.

[FR Doc. 94-2534 Filed 2-3-94; 8:45 am]

BILLING CODE 4110-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

(CGO 05-03-055)

Special Local Regulations for Marine Events; Virginia Beach Offshore Grand Prix; Atlantic Ocean, Rudee Inlet, Lake Rudee, Virginia Beach, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Virginia Beach Offshore Grand Prix held annually in the Atlantic Ocean off Virginia Beach. The effect of these regulations will be to restrict general navigation in the regulated area for the safety of spectators and participants. These regulations are needed to provide for the safety of life, limb, and property on the navigable waters during the event.

EFFECTIVE DATE: This rule is effective March 7, 1994.

FOR FURTHER INFORMATION CONTACT: Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004 (804) 398-6204.

SUPPLEMENTARY INFORMATION: The Coast Guard published a notice of proposed rulemaking concerning this regulation in the Federal Register on September 7, 1993 (58 FR 47099). Interested persons were requested to submit comments. The 45-day comment period ended on October 21, 1993. The Coast Guard received no letters.

Drafting Information

The drafters of this notice are QM2 Gregory C. Garrison, project officer, Boating Affairs Branch, Fifth Coast Guard District, and LT Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

The Virginia Beach Offshore Grand Prix, sponsored by the Eastern Virginia

DONALD W. RIEGLE JR. MICHIGAN CHAIRMAN

PAUL S. SARBANES MARYLAND
 CHRISTOPHER J. DODD CONNECTICUT
 JIM SASSER TENNESSEE
 RICHARD C. SHELBY ALABAMA
 JOHN F. TERRY MASSACHUSETTS
 RICHARD M. BRYAN NEVADA
 BARBARA ROSEN CALIFORNIA
 BEN Nighthorse CAMPBELL COLORADO
 CAROL MOSELEY-BRAUN ILLINOIS
 PATTY MURRAY WASHINGTON

ALFONSE M. DAMATO NEW YORK
 PHIL GRAMM TEXAS
 CHRISTOPHER S. BOND MISSOURI
 CONNIE MAZIE FLORIDA
 LAURIE FAIRCLOTH NORTH CAROLINA
 ROBERT F. BENNETT UTAH
 WILLIAM V. ROY JR. DELAWARE
 PETE V. DOMENICI NEW MEXICO

United States Senate

COMMITTEE ON BANKING, HOUSING, AND
 URBAN AFFAIRS

WASHINGTON, DC 20510-6075

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
 HOWARD A. MEHILL, REPUBLICAN STAFF DIRECTOR

January 25, 1994

Mr. Roger Altman
 President Interim and
 Chief Executive Officer
 Resolution Trust Corporation
 801 17th Street N.W.
 Washington, D.C. 20434

Dear Mr. Altman:

I am writing to you in connection with the letters of January 11, 1994, to Attorney General Janet Reno and yourself, expressing the grave concern that I and a number of my colleagues have regarding the expiration of the applicable statutes of limitations with respect to possible wrongdoing at Madison Guaranty Savings and Loan ("Madison"). We urged that voluntary agreements tolling the statute of limitations be sought with all the relevant parties. That letter addressed the urgent need for immediate action with respect to any violations that may have occurred, since the applicable statute of limitations may expire as soon as March, 1994.

More than two weeks have passed since we raised this vital issue. In his public comments, Special Counsel Fiske has already demonstrated his recognition of, and sensitivity to, the applicable criminal statutes of limitations.

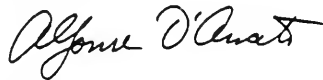
I have yet to be apprised of what action, if any, the RTC has taken to ensure that the applicable civil statute will not expire. The American people have the right to know if any wrongdoing took place in connection with Madison. It is equally important that the rights of the American people to obtain a full accounting against wrongdoers be preserved.

The RTC should do all in its power to protect the American taxpayer by making a definitive interpretation of precisely when the civil statute of limitation will expire, and then take action to voluntarily seek agreements from potential parties to RTC-initiated legal actions. Should the statute of limitations run, any findings that the RTC makes will be meaningless--there will be no hearing and the American people will be left without complete redress.

Members of the Banking Committee staff have discussed the need for meaningful action with representatives of the RTC. My staff was informed that the RTC had not yet made a final analysis with respect to the expiration of the statute of limitation. They were also informed that no response was immediately available, more than two weeks after this issue was raised--this is inconceivable and unacceptable.

In light of the RTC's failure to respond to these concerns for over two weeks, I am compelled to write again to ascertain what action the RTC has taken, so that I may consider alternate avenues that I can pursue in order to protect the interest of the American people with respect to this matter. I can see no reason for further delay on your part. Please provide me with your conclusions as to the application of the relevant statute of limitations with respect to the Madison situation immediately.

Sincerely,



Alfonse M. D'Amato
Ranking Republican
Senate Banking Committee

AMD:dn



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

February 1, 1994

The Honorable Alfonse M. D'Amato
Ranking Minority Member
Committee on Banking, Finance
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Senator D'Amato:

On January 11 and January 25, 1994 you wrote to me concerning the statute of limitations relating to Madison Guaranty Savings and Loan of McCrory, Arkansas ("Madison"). I want to assure you that the Resolution Trust Corporation is conducting a thorough review of the potential civil claims it possesses as a result of the failure of Madison. The RTC is, of course, mindful of the impending February 28 anniversary date of the federal takeover of Madison.

If such claims do exist, the RTC will vigorously pursue all appropriate remedies using standard procedures in such cases, which could include seeking agreements to toll the statute of limitations. As you noted, the barriers presented by the expiration of the statute of limitations in many cases have been ameliorated by the extension of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) statutes in the RTC Completion Act (Act). The Act has afforded the RTC an opportunity to investigate further any civil claims which may be asserted against individuals or entities associated with Madison Guaranty for fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the institution. As you know, the RTC's jurisdiction is solely as to civil claims. Any potential criminal matters are within the jurisdiction of the Justice Department.

Sincerely,

Roger C. Altman
Interim CEO

DONALD W. RIEGLE, JR. MICHIGAN CHAIRMAN

PAUL S. SARBAANS, MARYLAND	ALFONSE M. D'AMATO, NEW YORK
CHRISTOPHER J. DODD, CONNECTICUT	PHIL GRAMM, TEXAS
JIM SASSER, TENNESSEE	CHRISTOPHER S. BOND, MISSOURI
RICHARD C. SHELBY, ALABAMA	CONNIE BRACK, FLORIDA
JOHN F. KERRY, MASSACHUSETTS	LAUCH FAIRCLOTH, NORTH CAROLINA
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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

STEVEN B. HARRIS, STAFF DIRECTOR AND CHIEF COUNSEL
HOWARD A. MENWELL, REPUBLICAN STAFF DIRECTOR

February 18, 1994

Mr. Roger Altman
President and
Interim Chief Executive Officer
Resolution Trust Corporation
801 17th Street, N.W.
Washington, D.C. 20434

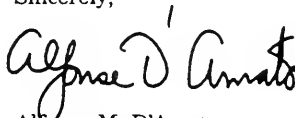
Dear Mr. Altman:

Please provide to my staff copies of all the documents pertaining to Madison Guaranty Savings and Loan ("Madison"), including all subsidiaries of Madison, that are currently in the possession, or subject to the control, of the Resolution Trust Corporation ("RTC"). In addition, please forward the names and titles of all RTC employees that are involved in any review or investigation of the Madison Guaranty matter. Should the RTC refuse to release any documents, please provide, in writing, a summary index of documents that the RTC refuses to provide as well as an explanation of the grounds alleged for that refusal.

Please forward this information to Douglas Nappi, at the Senate Committee on Banking, Housing and Urban Affairs, 534 Dirksen, Washington, DC 20510. Mr. Nappi can be reached at 202-224-1577.

Thank you in advance for your assistance.

Sincerely,



Alfonse M. D'Amato
United States Senator

AD:dn

Documents Released to Sen. D'Amato (as of 02)

DOCUMENT (title/description/date)
"RTC RESOLUTION REQUEST FOR FUNDING ANTICIPATED THRIFT CLOSING" form submitted to RTC Funding office three days prior to scheduled closing of Madison [11/27/90]
Letter [9/18/90] from J. Paul Ramcy, Associate Director, RTC to Mr. William Taylor, Staff Director, Federal Reserve re: insolvency of Madison Guaranty, requests Board of Governors to approve applications
Letter [10/22/90] from Fred Selby, RTC Resolution Specialist at Madison Guaranty to Mr. Tony Samson, RTC, D.C. Resolution states attached is bid package.
"CASE LOAD INPUT FORM" submitted by the Field Resolution Branch
Madison Guaranty Bid Analysis forms and information used by Resolutions
Letter [11/30/90] from AFS Financial Group, Bob Fegty, President to Fred Selby, RTC Resolution Specialist regarding a bid on Madison Guaranty made by Central Bank & Trust
Letter [11/21/90] from AFS Financial Group, Randy Dennis, Principal to Fred Selby, RTC Resolution Specialist withdrawing bids on Arkansas institutions, including Madison Guaranty
"REFERENCE SHEET" lists the potential bidders at the bid meeting
"DOCUMENTATION CHECKLIST" regarding resolution of Madison Guaranty
"LIQUIDATION SUMMARY STATEMENT AND DISTRIBUTION OF LOSS" on Madison [8/31/90]
"BID RESULTS" memo regarding Madison from Fred Selby (RTCKC) to Robert Fish (RTCKC) [11/20/90]
"CASE RESOLUTION - SUMMARY BID INFORMATION" prepared by Tony Samson (RTCDC) on Madison [12/03/90]
"FAILING THRIFT CASE" form with information pertaining to the failure of Madison
Letter [12/03/90] from Robert Fish (RTC KC) Resolutions to prospective bidders stating the winning bids
"PRESS RELEASE ON RTC TRANSFER OF INSURED DEPOSITS OF MADISON" (PR-218-90) [05/18/90]
"SETTLEMENT AGREEMENT AND RELEASE" b/n RTC and FROST & Co., North River Insurance Co. and Crum & Forster Managers Corp. [04/08/91]
"CASE RESOLUTION - SUMMARY BID INFORMATION" on Madison [11/30/90]
"SETTLEMENT AGREEMENT AND RELEASE" - RTC settlement on Madison [04/08/91]
"AUTHORIZATION TO ACT FOR OTS for Madison Guaranty S&L - 2 documents: (1) Appointment of Receiver; and, (2) 11/30/90 Contract of Sale [11/30/90]
"FIRST AMENDED COMPLAINT" v. Frost & Co. [unsure, marked "received 03/14/91]
"NOTICE OF REMOVAL" v. Frost & Co. [03/30/89]

DOCUMENT (title/description/date)
"ORIGINAL COMPLAINT" v. Frost & Co. [02/28/??, marked "received 11/18/93]
"SETTLEMENT AGREEMENT AND RELEASE" of Seth Ward v. RTC for Madison [04/30/93]
"PURCHASE AND ASSUMPTION AGREEMENT BETWEEN RTC (Madison) AND BALD KNOB FSLA", with Indemnity Agreement [11/30/90]
"PURCHASE AND ASSUMPTION AGREEMENT BETWEEN RTC (Madison) AND CENTRAL BANK & TRUST", with Indemnity Agreement [11/30/90]
"PRESS RELEASE ON SALE OF MADISON" (PR-603-90) [12/05/90]
"PROPOSED FORM OF RESOLUTION" memo regarding Madison Guaranty from Robert H. Fish (RTCKC) to J. Paul Ramey (RTCDC) [10/30/90]
"BID RESULTS AND RECOMMENDATIONS" memo regarding Madison from Robert H. Fish (RTCKC) to J. Paul Ramey (RTCDC) [11/21/90]
"SUMMARY/BID INFORMATION SHEET - ANTICIPATED THRIFT FAILURE" regarding Madison; contains memo to Seidman, Bovenzi, et al. from J. Paul Ramey (RTCDC) [11/16/90]
"ASSET VALUATION REVIEW" memo regarding Madison to William H. Roelle (RTCDC) from David H. Nielsen (RTCKC) [11/09/90]
"REOMS REPORT FOR INST #7236" listing of all real estate owned properties attributed to Madison [12/29/93]
"CONTRACT INFORMATION" from inception to date for Madison [12/27/93]
"INSTITUTIONAL CASE LISTING" for Madison [12/21/93]
"SUMMARY OF CONTRACTING ACTIVITY" for Madison; status of all contracts; contract information; list of firms providing services to the RTC relative to Madison [12/27/93]
"ADJUSTMENTS TO STATEMENT OF CONDITION" lists beginning balances, adjustments (debits/credits), and adjusted balances for Madison assets and liability & equity capital [??/??/??]
"PRO FORMA STATEMENT - ASSUMING INST." lists asset and liabilities & equity capital amounts for Madison [??/??/??]
"PRO FORMA STATEMENT - RTC" lists asset and liabilities & equity capital amounts for Madison [12/05/90]
"INSTITUTION G/L RECONCILIATION WORKSHEET" [12/05/90]
"PRO FORMA ADJUSTMENT LISTING" [12/05/90]
"PRO FORMA ADJUSTMENT REGISTER" [12/05/90]
"PRO FORMA INS. - P&L ADJUSTMENT REGISTER" [12/05/90]

DOCUMENT (title/description/date)
CONFIRMED WIRE WORKSHEET SUMMARY for Little Rock and Bald Knob Agents; breakdown of liabilities assumed, assets purchased, premiums, etc. [11/30/90]
FINAL WIRE AND CONFIRMATION SUMMARY breakdown between confirmed balances, Little Rock agent, Bald Knob agent, and RTC/FDIC. [??/??/??]
LOAN PRICE ADJUSTMENT CALCULATION for Central Bank and Citizens Bank [11/30/90]
DACS ADJUSTMENTS TO STATEMENT OF CONDITION lists asset and liabilities & equity amounts [12/05/90]
DACS PROFORMA STATEMENT - RTC lists asset and liabilities & equity capital amounts for Madison [12/05/90]
DACS RECONCILIATION WORKSHEET [12/05/90]
DACS ADJUSTMENT LISTING [12/05/90]
DACS ADJUSTMENT REGISTER 12/05/90]
DACS INST P&L ADJUSTMENT REGISTER [12/05/90]
INQUIRY FROM REP. RAY THORNTON to Roger C. Altman RTCDC regarding Laurence B. DeGroat, with attached constituent letter [12/06/93, 11/23/93]
INQUIRY FROM SEN. DAVID PRYOR to Bowen Hinton RTCKC, with attached constituent letter [12/08/93, 11/23/93]
LETTER TO ROGER C. ALTMAN [10/14/93]
LETTER TO SEN. DAVID PRYOR from J. Paul Ramey RTCKC [08/29/93]
INQUIRY FROM SEN. WILLIAM S. COHEN to Roger Altman RTCDC [11/03/93]
INQUIRY FROM SEN. WILLIAM S. COHEN RTC summary with incoming and outgoing letters [11/16/93]
INQUIRY FROM SEN. GEORGE J. MITCHELL with fax cover sheet, and response from Dennis Cavinaw RTCKC [11/03/93]
INQUIRY FROM SEN. DAVID PRYOR to Randall McFarlane RTCDC, with response from Dennis Cavinaw RTCKC [05/13/93, 07/24/93]
INQUIRY FROM SEN. DAVID PRYOR to Bowen Hinton RTCKC, with enclosure from constituent and response to Sen. Pryor from Michael Martinelli RTCKC [04/11/91, 03/05/91, 04/30/91]
INQUIRY FROM SEN. DALE BUMPERS to Regional Director RTCKC, with enclosure from constituent and RTC response to Sen. Bumpers from John Lomax RTCKC [11/12/91, 11/11/91, 12/13/91]
INQUIRY FROM SENS. DAVID PRYOR AND DALE BUMPERS to Virginia Kingsley Lewis RTC TULSA, with constituent enclosure and RTC response from J. Paul Ramey RTCKC [06/06/91, 08/29/91]

DOCUMENT (title/description/date)
"FAX COVER SHEET INQUIRY FROM SEN. DALE BUMPERS" to Bowen Hinton RTCKC, with constituent enclosure and RTC response from Margaret Penrose (for Michael Martinelli) [04/17/91, 04/16/91, 04/25/91]
"INQUIRY FROM SEN. CHRISTOPHER DODD" to Pandall McFarlane, with constituent enclosures and RTC response from Dennis Cavinaw RTCKC [04/07/92, 05/27/92]
"INQUIRY FROM SEN. DALE BUMPERS" to Michael Martinelli RTCKC, with constituent enclosure and RTC response from Michael Martinelli RTCKC [03/08/91, 03/05/91, 04/30/91]
"LETTER TO SEN. DAVID PRYOR" from Randall H. McFarlane RTCDC [04/08/91]
"INQUIRY FROM SEN. DALE BUMPERS" to Michael Martinelli RTCKC, with RTC response from Michael Martinelli RTCKC [03/28/91, 04/16/91]
"MADISON GUARANTY BOARD MINUTES" from 1982 through 1986 [03/05/82 - 12/30/86]
"MADISON GUARANTY BID PACKAGE AND INSTRUCTIONS" [?/?/?/?]
"PROCEDURES FOR AGENCY RECORDS DETERMINATION" from Philip Lindenmuth RTCDC [08/31/92]
"MASTER INVENTORY OF MADISON GUARANTY ASSETS" [09/29/92]
"INVENTORY OF MADISON GUARANTY INSTITUTION RECORDS" for paid off/REO loans [?/?/?/?]
"INVENTORY OF MADISON GUARANTY SUBSIDIARY RECORDS" [?/?/?/?]
"INVENTORY OF MADISON GUARANTY INSTITUTION AND RTC ACCOUNTING RECORDS" [?/?/?/?]
"INVENTORY OF MADISON GUARANTY INSTITUTION MICROFICHE" [10/07/93]
"INVENTORY OF MADISON GUARANTY GENERAL FILES" [?/?/?/?]
"INVENTORY OF RTC DEPARTMENTAL RECORDS ON MADISON GUARANTY" [?/?/?/?]
"PROFESSIONAL SERVICES AGREEMENT B/N MADISON GUARANTY AND CONESTOGA-ROVERS & ASSOCIATES, LTD." [02/10/92]
"PROFESSIONAL SERVICES AGREEMENT B/N MADISON GUARANTY AND GOSLINE & COMPANY" [06/29/93]
"CONTRACT FOR CAMPOBELLO ESTATES B/N RTC AND MORGAN BAYSIDE RE INC." [03/30/93]
"THRIFT RESOLUTION ASSISTANCE AGREEMENT B/N RTC AND ARTHUR ANDERSON & COMPANY" [11/21/90]
"MORTGAGE B/N JOHN & MARGARET LATHAM & MADISON GUARANTY" [08/23/85] 1312 S. MAIN, LITTLE ROCK

DOCUMENT (title/description/date)
"MORTGAGE B/N JOHN & MARGARET LATHAM & MADISON GUARANTY" [3/29/85] 1821 BROADWAY, LITTLE ROCK
"SECOND MORTGAGE B/N JOHN LATHAM & MADISON GUARANTY" [2/8/88] 23 MELDIA, LITTLE ROCK
"SECOND MORTGAGE B/N JOHN LATHAM & MADISON GUARANTY" [2/8/88] 23 MELDIA, LITTLE ROCK
"ANSWER TO PLAINTIFF ORIGINAL COMPLAINT, RTC AS RECEIVER FOR MADISON GUARANTY VS JOHN AND M.MARGARET LATHAM" FILED [1/15/91]
"ORDER ON SUMMARY JUDGMENT, RTC AS RECEIVER FOR MADISON GUARANTY VS JOHN AND M.MARGARET LATHAM" FILED [11/12/91]
"DISCHARGE OF DEBTOR IN US BANKRUPTCY COURT" RTC C/O HARRY A. LIGHT, ESQ. IN RE JOHN LATHAM (AKA LATHAM ASSOCIATES) [6/23/24/92]
"MOTION FOR ORDER OF ABANDONMENT IN RE: JOHN M. AND MARY MARGARET LATHAM" FILED [6/25/92]
"MOTION FOR ORDER OF ABANDONMENT, US BANKRUPTCY COURT (CHAPTER 7)" [8/23/85]
"NOTICE OF COMMENCEMENT OF CASE UNDER CHAPTER 7 OF THE BANKRUPTCY CODE, MEETING OF CREDITORS, FIXING OF DATES..." MS. MEREDITH CATLETT IN RE JOHN M. LATHAM (AKA LATHAM & ASSOCIATES AND MARY MARGARET LATHAM" FILED 3/13/92
"AMENDED ANSWER TO PLAINTIFF ORIGINAL COMPLAINT" RTC AS RECEIVER FOR MADISON GUARANTY VS. JOHN AND MARGARET LATHAM, US DISTRICT COURT, FILED [11/14/91]
"ORDER", RTC AS RECEIVER FOR MADISON GUARANTY V. JOHN AND MARGARET LATHAM FILED [11/12/91]
"BRIEF IN SUPPORT OF RESPONSE TO MOTION FOR SUMMARY JUDGMENT", RTC AS RECEIVER FOR MADISON GUARANTY V. JOHN AND MARGARET LATHAM FILED [9/25/91]
"MOTION FOR LEAVE TO FILE AMENDED ANSWER AND COUNTERCLAIM" , RTC V. LATHAM [9/25/91]
"PLAINTIFF'S BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT", RTC V. LATHAM [9/16/91]
"MOTION FOR SUMMARY JUDGMENT" RTC V. LATHAM [9/16/91]
"AFFIDAVIT OF TONY R. SHELTON" RTC V. LATHAM [8/30/91]
"ANSWERS TO INTERROGATORIES AND RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS" [4/1/91]
"PROOF OF CLAIM, JOHN LATHAM IN RE: MADISON GUARANTY" [3/5/91]

DOCUMENT (title/description/date)
"ANSWER TO PLAINTIFF ORIGINAL COMPLAINT" RTC AS RECEIVER FOR MADISON GUARANTY V. JOHN AND MARGARET LATHAM FILED [1/15/91]
"INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS" [12/18/90]
"SUMMONS: FEDERAL HOME LOAN MORTGAGE V JOHN M. LATHAM, ET AL" STATE OF ARKANSAS TO MADISON GUARANTY MAILED [3/15/93]
"PLAINTIFF ORIGINAL COMPLAINT", RTC AS RECEIVER FOR MADISON GUARANTY V. JOHN AND MARY MARGARET LATHAM FILED [12/31/90]
"JAMES BERT MCDUGAL BANKRUPTCY CLAIM" [1/29/92]
"JAMES BERT MCDUGAL BANKRUPTCY - PROOF OF CLAIM" [1/21/92]
"JAMES BERT MCDUGAL BANKRUPTCY NOTICE OF COMMENCEMENT OF CLAIM" [10/7/91]
"FORECLOSURE DECREE" MADISON GUARANTY V. JAMES B. MCDUGAL AND SUSAN H. MCDUGAL FILED [1/15/88]
"FORECLOSURE DECREE" MADISON GUARANTY V. JAMES B. MCDUGAL AND SUSAN H. MCDUGAL FILED [1/15/88]
"COMMISSIONER'S DEED" AND "ACKNOWLEDGEMENT" [3/4/88] (2 COPIES)
"THE JIMBO COMPANY: RECORDED MORTGAGE/LOAN MODIFICATION AGREEMENT BY MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION" FILED & RECORDED [4/6/89]
"JIMBO COMPANY MORTGAGE WITH POWER OF SALE" [3/10/89]
"MORTGAGE OF JIM GUY TUCKER AND BETTY TUCKER" [12/3/85]
"MORTGAGE OF JIM GUY TUCKER AND BETTY TUCKER LOAN MODIFICATION AGREEMENT" [3/7/86]
"PEACOCK BROTHERS: MORTGAGE FORECLOSURE" "PETITION FOR FORECLOSURE AND LISPENS" FILED BY TURNER & MAINARD ON BEHALF OF BANK OF OZARKS" "LETTER TO RTC AS RECEIVER" [6/27/91]"
"PEACOCK BROTHERS: MORTGAGE FORECLOSURE SUMMONS" [6/27/91]
"BANK OF OZARKS VS. PEACOCK BROS., INC. PETITION FOR FORECLOSURE" [6/21/91]
"BANK OF OZARKS VS. PEACOCK BROS., INC. DECREE OF FORECLOSURE" [10/23/91 FILED 10/30/91]
"BANK OF OZARKS VS. PEACOCK BROS., INC. NOTICE OF SALE" FILED [10/31/91]
"BANK OF OZARKS VS. PEACOCK BROS., INC. PETITION FOR FORECLOSURE AND SUPPORTING DOCUMENTS" [6/21/91]"
"PROMISSORY NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK [12/19/83]

DOCUMENT (title/description/date)
*MORTGAGE WITH POWER OF SALE B/N PEACOCK BROS., INC. AND BANK OF OZARK [12/19/83]
*SECURITY AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK [12/19/83] FILED FOR RECORD [1/5/94]
PROMISSORY NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK RENEWAL [2/13/85 TO BE EFFECTIVE AS OF 12/29/84]
DISCLOSURE STATEMENT OF LOAN RENEWED B/N PEACOCK BROS., INC. AND BANK OF OZARK [12/26/85]
REAL ESTATE MORTGAGE EXTENSION AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK [2/13/85] FILED [2/14/85]
CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR PEACOCK BROS., INC. [2/13/85]
CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR BANK OF OZARK* [2/13/85]
PROMISSORY NOTE - 2ND RENEWAL NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK [1/30/86 TO BE EFFECTIVE AS OF 12/29/85]
REAL ESTATE MORTGAGE EXTENSION AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK [2/3/86]
CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR PEACOCK BROS., INC. [1/31/86]
CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR BANK OF OZARK* [1/31/86]
PROMISSORY NOTE - 3RD RENEWAL NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK [2/20/87 TO BE EFFECTIVE AS OF 1/15/87]
REAL ESTATE MORTGAGE EXTENSION AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK [3/4/87]
*CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR PEACOCK BROS., INC. [2/20/87]
CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR BANK OF OZARK* [2/20/87]
PROMISSORY NOTE - 4TH RENEWAL NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK [1/25/88 TO BE EFFECTIVE AS OF 1/15/88]
REAL ESTATE MORTGAGE EXTENSION AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK [3/2/88]

DOCUMENT (title/description/date)
"CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR PEACOCK BROS., INC. [1/25/88]
"CORPORATION ACKNOWLEDGEMENT" BY THE STATE OF ARKANSAS FOR BANK OF OZARK" [1/25/88]
"PROMISSORY NOTE - 5TH RENEWAL NOTE B/N PEACOCK BROS., INC. AND BANK OF OZARK" [2/16/89 TO BE EFFECTIVE AS OF 1/15/89]
"REAL ESTATE MORTGAGE EXTENSION AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK" [3/22/89]
"CORPORATION ACKNOWLEDGEMENT BY THE STATE OF ARKANSAS FOR PEACOCK BROS., INC. [1/25/89]
"CORPORATION ACKNOWLEDGEMENT" BY THE STATE OF ARKANSAS FOR BANK OF OZARK" [3/16/89]
"FINANCIAL STATEMENT FILING" [1/5/89]
"FINANCIAL STATEMENT FILING" [1/9/89]
"MORTGAGE WITH POWER OF SALE B/N PEACOCK BROS., INC. AND BANK OF OZARK", "ACKNOWLEDGMENT AND CERTIFICATE OF RECORD" [6/6/84]
"MORTGAGE RENEWAL AGREEMENT B/N PEACOCK BROS., INC. AND BANK OF OZARK" [1/17/90]
"LETTER FROM TURNER & MAINARD FOR BANK OF OZARK TO PEACOCK BROS., INC. RE:DEFAULT AND MORTGAGE FORECLOSURE PROCEDURES" [5/1/91]
"LETTER FROM TURNER & MAINARD FOR BANK OF OZARK TO PEACOCK BROS., INC. RE:DEFAULT AND MORTGAGE FORECLOSURE PROCEDURES" [5/1/91]
"REDEMPTION DEED BY COMMISSIONER OF STATE LANDS" & "CERTIFICATE OF RECORD" [2/14/91] FILED [2/19/91]
"REDEMPTION DEED BY COMMISSIONER OF STATE LANDS" & "CERTIFICATE OF RECORD" [2/14/91] FILED [2/19/91]
"DEMAND NOTE B/N CHA-RA-KE CORPORATION AND MARY PEACOCK" [12/18/87]
"DEED OF TRUST B/N CHA-RA-KE, INC. AND MARY PEACOCK" AND "ACKNOWLEDGEMENT" [12/19/87] FILED FOR RECORD [6/26/90]
"CORPORATION WARRANTY DEED B/N CHA-RA-KE, INC. AND PEACOCK BROS., INC." AND "ACKNOWLEDGEMENT" [6/5/84], FILED FOR RECORD [6/6/84]
"ANSWER TO PETITION FOR FORECLOSURE BY RTC AS RECEIVER FOR MADISON GUARANTY RE: BANK OF OZARK VS. PEACOCK BROS., INC." [7/17/91]

DOCUMENT (title/description/date)

SUMMONS BY BANK OF OZARK V. PEACOCK BROS., INC; CHARLES J. (IV) & TERRI PEACOCK RALPH J. PEACOCK; CHARLES J. (III) & JUDY PEACOCK; KENNETH RAY & DENISE PEACOCK; MARY PEACOCK & SPOUSE; MADISON GUARANTY; R.M. WEAVER; CHA-RA-KE, INC. AND CITIZENS BANK OF BALD KNOB, ARK. [7/1/91]

LIS-PENDENS, BANK OF OZARK V. PEACOCK BROS., ET AL [6/27/91]

CERTIFICATION OF DOCUMENT AUTHENTICITY BY FEDERAL HOME LOAN BANK BOARD [2/28/89]

FEDERAL HOME LOAN BANK BOARD APPOINTMENT OF CONSERVATOR FOR MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION "ORDER - OFFICE OF THRIFT SUPERVISION" [2/28/89]

*NEWSPAPER ARTICLE: 'TUCKER ATTEMPTS TO SHAKE S&L ENTANGLEMENT.' ARKANSAS TIMES" [2/18/91]

*NEWSPAPER ARTICLE: 'RTC IN A HURRY TO SELL STATE THRIFTS' ARKANSAS GAZETTE" []

*NEWSPAPER ARTICLE: 'HEAD OF FAILING S&L HELPED CLINTON PAY A \$50,000 PERSONAL DEBT IN 1985,' THE NEW YORK TIMES NATIONAL" [12/15/93]

MORTGAGE BETWEEN MADISON FINANCIAL CORPORATION AND MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION FOR LAKE FAIRCREST ESTATES - CAMPOBELLO ISLAND [8/29/86]

MORTGAGE BETWEEN MADISON FINANCIAL CORPORATION AND MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION FOR TIMBERLINE ESTATES, GREENTREE FARMS AND FAIR OAKS SUBDIVISION, QUACHITA COUNTY, ARKANSAS [4/29/91]

MORTGAGE BETWEEN MADISON FINANCIAL CORPORATION AND MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION FOR LOTS IN EDEN PARK, WHITE COUNTY, ARKANSAS [4/20/88]

*MORTGAGE BETWEEN MADISON FINANCIAL CORPORATION AND MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION FOR PROPERTIES IN SALINE COUNTY, ARK" [4/20/88]

*MORTGAGE BETWEEN MADISON FINANCIAL CORPORATION AND MADISON GUARANTY SAVINGS AND LOAN ASSOCIATION FOR PROPERTIES IN WHITE COUNTY, ARKANSAS" [4/20/88]

*FINANCING STATEMENT OF MADISON FINANCIAL CORPORATION FOR MADISON GUARANTY SAVINGS & LOAN ASSOCIATION" [5/9/88]

*OATH OF OFFICE BY JAMES H. JACKSON FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [6/28/90]

*OATH OF OFFICE BY LAVERNE M. GOODWIN FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [7/30/91]

DOCUMENT (title/description/date)
"OATH OF OFFICE BY JOHN M. THOMAS, SR FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [7/29/91]
"OATH OF OFFICE BY BRUCE CAMPBELL FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [6/28/89]
"OATH OF OFFICE BY ELORA COLEMAN FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [11/17/87]
"OATH OF OFFICE BY JOHN W. ATKINS FOR MAPLE CREEK FARMS BOARD OF COMMISSIONERS" [7/17/90]
"COMMISSIONER OF MAPLE CREEK FARMS PROPERTY OWNERS SEWER IMPROVEMENT DISTRICT NO. 1, BRUCE CAMPBELL, RESIGNATION AND RECOMMENDATION OF APPOINTMENT OF JAMES H. JACKSON" [6/22/90]
"COMMISSIONER OF MAPLE CREEK FARMS PROPERTY OWNERS SEWER IMPROVEMENT DISTRICT NO. 1, TOMMY TRANTHAM, RESIGNATION AND RECOMMENDATION OF APPOINTMENT OF BRUCE CAMPBELL" [6/28/89]
"COMMISSIONER OF MAPLE CREEK FARMS PROPERTY OWNERS SEWER IMPROVEMENT DISTRICT NO. 1, ELORA COLEMAN, RESIGNATION AND RECOMMENDATION OF APPOINTMENT OF JOHN W. ATKINS" [7/11/90].
"COMMISSIONER OF MAPLE CREEK FARMS PROPERTY OWNERS SEWER IMPROVEMENT DISTRICT NO. 1, JAMES JACKSON, RESIGNATION AND RECOMMENDATION OF APPOINTMENT OF LAVERNE M. GOODWIN [7/30/91].
"STATE OF ARKANSAS DEPT. OF POLLUTION CONTROL AND ECOLOGY NPDES PERMIT VIOLATIONS - LETTER TO RANDALL RANDOLPH, CASTLE WATER & SEWER CORP." [5/7/91]
"CONSENT ADMINISTRATIVE ORDER," "FINDINGS OF FACT," "ORDER AND AGREEMENT," "ESCROW AGREEMENT" BETWEEN DEPT. OF POLLUTION CONTROL & ECOLOGY AND RANDALL RANDOLPH OF CASTLE WATER & SEWER CORP. [4/8/91]
"MOTION FOR DEFAULT: MADISON FINANCIAL CORPORATION VS. ELI ESAU" FILED [10/7/91]
"CERTIFICATE OF ASSESSOR (JOHN M. KAPP)" [10/11/90]
"OATH OF ASSESSOR" [10/16/90]
"RESOLUTION CONFIRMING ASSESSMENT OF BENEFITS AND DAMAGES" [12/10/90]
"MAPLE CREEK SEWER NOTICE OF MEETING TO DISCUSS SEWER ASSESSMENT" [11/3/90]
"ORDER LEVYING TAX BY BOARD OF COMMISSIONERS OF MAPLE CREEK FARMS PROPERTY OWNERS' SEWER IMPROVEMENT DISTRICT NO. 1"
"US HUD NOTICE OF PROCEEDINGS AND OPPORTUNITY FOR HEARING IN THE MATTER OF CAM[P]OBELLO" [9/28/93]

DOCUMENT (title/description/date)

SURRENDER OF LEASE BETWEEN CAMPOBELLO DEVELOPMENT LTD AND HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK [5/5/93]

FEDERAL REGISTER ARTICLE ON COASTAL BARRIER IMPROVEMENT ACT; PROPERTY AVAILABILITY; CAMPOBELLO ISLAND ESTATES, NEW BRUNSWICK, CANADA RE: RTC NOTICE [6/29/93]

FORM A13 DEED BETWEEN LARRY KUCA, HAROLD WENGER AND CAMPOBELLO ISLAND CLUB AND *SCHEDULE A* [5/15/87] REGISTERED 7/13/87]

CERTIFICATE OF FORMATION OF CAMPOBELLO PROPERTIES VENTURE BY JAMES MCDUGAL, PRESIDENT, MADISON FINANCIAL CORPORATION [12/5/85] FILED [7/29/87]

STATE OF ARKANSAS SECRETARY OF STATE CANCELLATION OF LIMITED PARTNERSHIP OF CAMPOBELLO DEVELOPMENT COMPANY [3/21/86]

CERTIFICATE OF CANCELLATION OF LIMITED PARTNERSHIP OF CAMPOBELLO DEVELOPMENT COMPANY [12/11/85] AND *ACKNOWLEDGEMENT*

OATH AS PRESIDENT OF ROBERT J. HIGGINS FOR CAMPOBELLO ISLAND CLUB [5/29/93]

DEED UNDER STANDARD FORMS OF CONVEYANCES ACT BETWEEN MARY FREEMAN, TRUSTEE, ("GRANTOR") LANIS YARBROUGH, TRUSTEE ("GRANTEE"), AND CAMPOBELLO ISLAND CLUB, INC. [10/29/92]

SCHEDULE A PURSUANT TO TERMS OF CAMPOBELLO PROPERTIES VENTURE TRUST AGREEMENT

SCHEDULE C

SCHEDULE D RE: SUBDIVISION SCHEME AND INDENTURE, CAMPOBELLO ISLAND, LARRY E. KUCA AND MARY FREEMAN*

SCHEDULE E RE: TERMS USED IN DEED OF CONVEYANCE

SCHEDULE D ITEM 1: MARY FREEMAN AS TRUSTEE [10/21/92]

SCHEDULE D ITEM 1: LANIS YARBROUGH AS TRUSTEE [10/29/92]

AFFIDAVIT OF MARY A. FREEMAN AS GRANTOR IN THE INDENTURE OF LANDS AND PREMISES [10/21/92] AND NOTARY PUBLICS CERTIFICATIONS*

DEED: STANDARD FORMS OF CONVEYANCES ACT BETWEEN MARY FREEMAN AND LANIS YARBROUGH [10/21/92] AND *SCHEDULE A*

AFFIDAVIT BY MARY FREEMAN AS GRANTOR NAMED IN INDENTURE OF DEED OF LANDS AND PREMISES - IN THE MATTER OF MARITAL PROPERTY ACT, STATE OF ARKANSAS RE: CAMPOBELLO AND *SCHEDULE D* [10/21/92]

DEED, STANDARD FORMS OF CONVEYANCE ACT [10/21/92]

DOCUMENT (title/description/date)
"SCHEDULE A AS RELATED TO DEED, STANDARD FORMS OF CONVEYANCE ACT"
"SCHEDULE B: INDEX OF LANDS CONVEYED BY DEAD RIVER LIMITED OF CAMPOBELLO ISLAND PROPERTIES" [7/16/58-10/7/83]
"AFFIDAVIT IN THE MATTER OF THE MARITAL PROPERTY ACT BY MARY A. FREEMAN" [10/21/92]
"SCHEDULE D DECLARATION AS TRUSTEE FOR CAMPOBELLO PROPERTIES VENTURE WITHIN INDENTURE OF DEED, BY VIRTUE OF "CANADA EVIDENCE ACT" [10/21/92]
"DEED IN ACCORDANCE WITH STANDARD FORMS OF CONVEYANCES ACT" [10/21/92]
"SCHEDULE A: PARCELS CONVEYED UNTO THE GRANTOR BY LARRY E. KUCA, TRUSTEE"
"AFFIDAVIT IN THE MATTER OF THE MARITAL PROPERTY BY MARY FREEMAN RE: CAMPOBELLO" [10/21/92]
"SCHEDULE D BY MARY FREEMAN" [10/21/92]
"ASSIGNMENT OF INDENTURE BETWEEN MARY FREEMAN AND LANIS YARBROUGH" [6/30/93]
"SCHEDULE D BY MARY FREEMAN AS TRUSTEE FOR CAMPOBELLO AND BY VIRTUE OF THE CANADA EVIDENCE ACT" [10/21/92]
"CERTIFICATION BY NOTARY PUBLIC, STATE OF ARKANSAS" [10/21/92]
"CERTIFICATION BY NOTARY PUBLIC, STATE OF KANSAS" [10/29/92]
"INDENTURE BETWEEN MARY FREEMAN AND LANIS YARBROUGH" [10/21/92], "SCHEDULE D" AND "CERTIFICATION BY NOTARY PUBLIC" [10/21/92]
"INDENTURE 125657 BETWEEN MARY FREEMAN AND MADISON GUARANTY PURSUANT TO CAMPOBELLO PROPERTIES VENTURE TRUST AGREEMENT" [10/21/92], "SCHEDULE D" AND "CERTIFICATION BY NOTARY PUBLIC" [10/21/92]
"IN THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK, CANADA - TRIAL DIVISION - NOTICE OF ACTION WITH STATEMENT OF CLAIM ATTACHED, JOHN F. D'ARCANGELO VS. MARY FREEMAN, AS TRUSTEE FOR CAMPOBELLO PROPERTIES VENTURE" [7/31/92]
"AVIS DE CREDIT - CANADIAN COAST GUARD BASE EN RE MARY FREEMAN C/O STEWART MCELVEY STERLING SCALES TO CANCEL WATER LOT LEASE #113301, HEAD HARBOUR, CAMPOBELLO, NEW BRUNSWICK" [11/15/93]
"CANADIAN COAST GUARD LETTER RE: TERMINATION OF LEASE 113301, MARY FREEMAN HEAD HARBOUR, CAMPOBELLO, NEW BRUNSWICK" [11/2/93]
"FOOD SERVICE ESTABLISHMENT LICENSE #201934 FOR ISLAND CLUB LODGE, CAMPOBELLO ISLAND, OPERATOR LESLEY SAVAGE" [3/15/93 FOR PERIOD 4/1/93 TO 3/31/94]

DOCUMENT (title/description/date)
"FOOD SERVICE ESTABLISHMENT LICENSE #201707 FOR ISLAND CLUB LODGE, CAMPOBELLO ISLAND, OPERATOR LESLEY SAVAGE" [3/2/92 FOR PERIOD 4/1/92 TO 3/31/93]
"NEW BRUNSWICK DEPT. OF TOURISM, RECREATION AND HERITAGE TOURIST ESTABLISHMENT LICENSE #639 FOR CAMPOBELLO ISLAND CLUB LODGE"
"CERTIFICATE OF REGISTRATION, LIQUOR LICENSE AND ROOMS AND MEALS" [6/15/85]
"FOOD SERVICE ESTABLISHMENT LICENSE #201707 FOR ISLAND CLUB LODGE, CAMPOBELLO ISLAND, OPERATOR LESLEY SAVAGE" [3/15/93 FOR PERIOD 4/1/93 TO 3/31/94]
"FOOD SERVICE ESTABLISHMENT LICENSE #201934 FOR ISLAND CLUB LODGE, CAMPOBELLO ISLAND, OPERATOR LESLEY SAVAGE" [3/2/92 FOR PERIOD 4/1/92 TO 3/31/93]
"NEW BRUNSWICK DEPT. OF TOURISM, RECREATION AND HERITAGE TOURIST ESTABLISHMENT LICENSE #639 FOR CAMPOBELLO ISLAND CLUB LODGE"
"CERTIFICATE OF REGISTRATION, LIQUOR LICENSE AND ROOMS AND MEALS" [6/15/85]
"CAMPOBELLO COMPANY PROPERTY OWNERS ASSOCIATION DISCOUNT" [9/1/92]
"LEASE BETWEEN HER QUEEN IN RIGHT OF THE PROVINCE OF NEW BRUNSWICK, AS REPRESENTED BY THE MINISTER OF TOURISM - THE LESSOR - AND CAMPOBELLO DEVELOPMENT LTD - LESSEE" [3/25/86]
"LETTER OF TESTIMONY BY NICHOLE P. DAVIS FOR SEC'Y OF STATE, BILL McCUEN, THAT ATTACHED IS A TRUE COPY OF THE ENTIRE FILE OF CAMPOBELLO REALTY CO." [4/28/92]
"ARTICLES OF INCORPORATION OF CAMPOBELLO REALTY CO." [12/7/84]
"LETTER OF TESTIMONY BY SABRINA THREET FOR SEC'Y OF STATE, BILL McCUEN, THAT ATTACHED IS A TRUE COPY OF THE ENTIRE FILE OF MADISON FINANCIAL CORP." [2/5/92]
"ARKANSAS APPLICATION FOR REGISTRATION OF FICTITIOUS NAME MADISON FINANCIAL CORP. T/A (AKA) MADISON REAL ESTATE" [7/7/86]
"ARTICLES OF INCORPORATION OF MADISON FINANCIAL CORPORATION" [2/3/82]
"ARKANSAS APPLICATION FOR REGISTRATION OF FICTITIOUS NAME - MADISON FINANCIAL CORP. T/A (AKA) MADISON MARKETING [7/26/86]
"NOTICE OF CHANGE OF REGISTERED OFFICE AND REGISTERED AGENT" [8/22/85] FILED [9/16/85]
"ADVISEMENT BY ARKANSAS DEPT. OF FINANCE AND ADMINISTRATION THAT DELINQUENT FRANCHISE TAX HAS BEEN PAID" QUALIFIED 2/3/82 FILED [6/7/84]
"STATE OF ARKANSAS CHANGE OF REGISTERED AGENT AND REGISTERED OFFICE OF MADISON FINANCIAL CORPORATION" [9/28/92]
"ARTICLES OF INCORPORATION OF MADISON FINANCIAL CORPORATION" [2/3/82]

DOCUMENT (rule/description/date)
"MORTGAGE BETWEEN LARRY E. KUCA AND MADISON GUARANTY" [4/30/93]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY" [9/5/86]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY" [9/5/86]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY" [1/16/87]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY" [4/6/87]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY. LOTS COLLATERAL OF FEROLIE, GILMORE, GARLAND, ET AL..." [8/11/88]
"INDENTURE BETWEEN LARRY E. KUCA AND MADISON GUARANTY. LOTS COLLATERAL OF DORSEY, WHEELER, RUTLEDGE, ET AL... #110102" [8/11/88]
"INDENTURE BETWEEN MARY FREEMAN AND MADISON GUARANTY" [5/25/89]
"INDENTURE BETWEEN MARY FREEMAN AND MADISON GUARANTY" [5/15/89]
"INDENTURE BETWEEN MARY FREEMAN AND MADISON GUARANTY" [10/2/90]
"FORM A15.1 COLLATERAL MORTGAGE BETWEEN BURNHAM MATTHEWS AND MARY FREEMAN" "WITH SCHEDULES A, B & C AND AFFIDAVITS" [7/12/89]
"FORM A13 DEED UNDER THE STANDARD FORMS OF CONVEYANCE ACT AMONGST THREE PARTIES: LARRY E. KUCA, HENRY P. LOMBARDELLI, CAMPOBELLO ISLAND CLUB, INC." "WITH SCHEDULES A, C, E & D, STATUTORY DECLARATION AND AFFIDAVIT BY LARRY KUCA & NOTARY PUBLIC" [4/4/86]
"CERTIFICATION BY NOTARY PUBLIC, NADEEN M. DANIELS" [5/29/86]
"OATH OF LARRY E. KUCA IN PROVINCE OF NEW BRUNSWICK ON BEHALF OF CAMPOBELLO" [7/16/86]
"FORM A15.1 COLLATERAL MORTGAGE BETWEEN HENRY P. LOMBARDELLI AND LARRY E. KUCA UNDER STANDARD FORMS OF CONVEYANCE ACT FOR \$4,300.00 PLUS 12% INTEREST AS EVIDENCED BY 8/27/85 PROMISSORY NOTE, SCHEDULES A, B, C AND AFFIDAVITS" [5/29/86]
"FORM A15.1 COLLATERAL MORTGAGE BETWEEN HENRY P. LOMBARDELLI AND LARRY E. KUCA UNDER STANDARD FORMS OF CONVEYANCE ACT FOR \$15,250.00 PLUS 12% INTEREST AS EVIDENCED BY 8/27/85 PROMISSORY NOTE, SCHEDULES A, B, C AND AFFIDAVITS" [5/29/86 REGISTERED BY COUNTY OF CHARLOTTE AS #103379 IN BOOK #323 [7/16/86]
"AGREEMENT OF COVENANT TO ASSUME MORTGAGE BETWEEN FREDERICK B. SHEEHY AND MADISON GUARANTY" [6/6/90]
"NOTARY PUBLIC'S AFFIDAVIT OF AUTHENTICITY OF 6/6/90 AGREEMENT" REGISTERED BY COUNTY OF CHARLOTTE, #116078, BOOK 435 [6/25/90]

DOCUMENT (title/description/date)
"FORM A15.1 COLLATERAL MORTGAGE UNDER STANDARD FORMS OF CONVEYANCE ACT B/N CATHERINE M. SHEEHY AND LARRY E. KUCA FOR PROMISSORY NOTE OF 6/14/86, SCHEDULES A, B, C, AFFIDAVIT AND REGISTRATION" [10/20/86]
"FORM A13 DEED FOR LARRY E. KUCA, CATHERINE SHEEHY & CAMPOBELLO ISLAND CLUB, INC., SCHEDULES A,B,C,D (RECITALS), E, AFFIDAVIT, STATUTORY DECLARATION, OATH OF LARRY KUCA, AND NOTARY PUBLIC CERTIFICATION" [10/14/86]
"FORM A15.1 COLLATERAL MORTGAGE UNDER STANDARD FORMS OF CONVEYANCE ACT B/N DONALD ROBBINS AND LARRY E. KUCA FOR PROMISSORY NOTE OF 7/26/86, SCHEDULES A, B, C, AFFIDAVIT AND REGISTRATION" [11/12/86]
"FORM A13 DEED FOR LARRY E. KUCA, DONALD ROBBINS & CAMPOBELLO ISLAND CLUB, INC., SCHEDULES A,C,D (RECITALS), E, AFFIDAVIT, STATUTORY DECLARATION, OATH OF LARRY KUCA, AND NOTARY PUBLIC CERTIFICATION" [10/14/86]
"FINANCIAL CONSERVATORS, INC. ASSET INSPECTION REPORT ON CASTLE SEWER AND WATER CO. - APPEARANCE OF PROPERTY AS A 'CLOSED BUSINESS'" AND "ENVIRONMENTAL CHECKLIST INSPECTION FORM COMPLETED BY SARAH HAWKINS" [11/5/91]
"CIERRA, INC. TECHNICAL REPORT OF ENVIRONMENTAL AUDIT PREPARED FOR RTC, TULSA, OK IN ANTICIPATION OF LITIGATION WITH LETTER AND RECOMMENDATIONS TO ED STOUT, RTC LEGAL" [8/91]
"APPRAISAL REPORT: CASTLE SEWER AND WATER CORPORATION, MADISON GUARANTY ASSET NO. 3358 PREPARED BY PYRON & ASSOCIATES FOR FINANCIAL CONSERVATORS, INC." [2/3/92]
"ADDENDUM LETTER TO APPRAISAL REPORT BY PYRON & ASSOCIATES" [2/12/92]
"LETTER OF ENGAGEMENT/AGREEMENT TO PREPARE APPRAISAL REPORT B/N PYRON & ASSOCIATES AND FINANCIAL CONSERVATORS, INC." [10/27/91] [1/4/92]
"UNIFORM APPRAISAL INSTRUCTIONS TO APPRAISER FOR RTC REAL ESTATE PROPERTIES"
"PHOTOGRAPHS OF CASTLE WATER AND SEWER CORPORATION AND SURROUNDINGS"
"PYRON AND ASSOCIATES - MICHAEL T. PYRON - PROFESSIONAL QUALIFICATIONS, LICENSING AND CERTIFICATION" [12/24/91]
"VICINITY MAP"
"EXHIBIT 'A' DESCRIPTIONS PERTAINING TO PHOTOGRAPHS AND MAPS OF TRACTS AND EASEMENTS" [2/6/86]
"PROGRESS REPORT FOR CAO RE: IMPROVEMENTS & PROGRESS SCHEDULE BY CASTLE WATER AND SEWER COMPANY [10/30/91 & 10/29/91]

DOCUMENT (title/description/date)

"LETTER FROM CASTLE SEWER & WATER CO. TO ARKANSAS DEPT. OF POLLUTION CONTROL & ECOLOGY RE: NPDES PERMIT #AR0040266, PROGRESS REPORT AND SCHEDULE" [10/30/91]

"LETTER FR ARKANSAS DEPT. OF POLLUTION CONTROL & ECOLOGY TO CASTLE WATER & SEWER RE: VIOLATIONS OF ARK. WATER & AIR POLLUTION ACT" [2/15/91]

"LETTER FR ARKANSAS DEPT. OF POLLUTION CONTROL & ECOLOGY TO CASTLE WATER & SEWER RE: VIOLATIONS OF ARK. WATER & AIR POLLUTION ACT" [5/7/91]

"LETTER FR ARKANSAS DEPT. OF POLLUTION CONTROL & ECOLOGY TO CASTLE WATER & SEWER RE: VIOLATIONS OF ARK. WATER & AIR POLLUTION ACT & CONDITIONS OF PERMIT NO. AR0040266" [10/1/89]

"ARKANSAS DEPT. OF HEALTH PUBLIC WATER SANITARY SURVEY OF CASTLE WATER SYSTEM" [6/1/90]

"ARKANSAS DEPT. OF HEALTH LETTER TO RANDALL RUDOLPH, SUPERINTENDENT, CASTLE SEWER & WATER CO. RE: SANITARY SURVEY INSPECTION" [6/1/90]

"DEFINITIONS FOR CHARGE CODES"

"MASTER CUSTOMER LIST OF CASTLE WATER" [1/21/92]

"CIERRA, INC. LTR. TO ED STOUT, RTC LEGAL, TULSA, OK RE: RECOMMENDATIONS OF TRANSFORMER REPLACEMENT, ADVANCED TREATMENT AND SECURITY FENCES WITH RESPECT TO CONTRACT #0731-91-0308-001" [8/19/91]

"MAPS OF LITTLE ROCK SOUTH-INDUSTRIAL PARK, INDUSTRIAL DEVELOPMENT CO."

"US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION (NO. LR-C-89-216): RTC, SUCCESSOR TO MADISON GUARANTY AND MADISON FINANCIAL, PLAINTIFF VS. FROST & CO., DEFENDANTS - MOTION TO COMPEL DISCOVERY OR, IN THE ALTERNATIVE, TO EXCLUDE TESTIMONY" [1/31/91]

"US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION (NO. LR-C-89-216): RTC, SUCCESSOR TO MADISON GUARANTY AND MADISON FINANCIAL, PLAINTIFF VS. FROST & CO., DEFENDANTS - PENDING DOCUMENTS REQUESTED BY DEFENDANTS" []

"SETH WARD LITIGATION AND PROOFS OF CLAIM - PART I OF IV PARTS" TITLE PAGE

"US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION: REPLY BRIEF IN SUPPORT OF APPELLEE WARD'S MOTION TO DISMISS: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL CORP. CIVIL NO. LR-C-89-807" [2/25/91]

"RESPONSE TO MOTION TO DISMISS, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL" [2/19/91]

DOCUMENT (title/description/date)
AFFIDAVIT OF DAVID M. SWISS, MANAGING ATTY FOR KANSAS CITY CONSOLIDATED OFFICE ON BEHALF OF RTC IN THE MATTER OF SETH WARD V. RTC AS CONSERVATOR... [2/19/91]
BRIEF IN SUPPORT OF RESPONSE TO MOTION TO DISMISS, SETH WARD VS. RTC AS CONSERVATOR [2/19/91]
MOTION TO DISMISS BY WARD AS ACTION WITH PREJUDICE PURSUANT TO RULE 41(b) OF FEDERAL RULES OF CIVIL PROCEDURE, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL [2/5/91]
RESPONSE TO MOTION TO TERMINATE ADMINISTRATIVE STAY, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL CORP. [2/5/91]
MEMORANDUM OF LAW IN SUPPORT OF MOTION TO DISMISS, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL CORP. [2/5/91]
MOTION TO TERMINATE ADMINISTRATIVE STAY, SETH WARD V. RTC AS CONSERVATOR FO MADISON GUARANTY AND MADISON FINANCIAL CORP. [1/25/91]
MOTION FOR SANCTIONS AND MOTION TO STRIKE, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL CORP. [1/11/90]
EXHIBIT A: LETTER TO THE HONORABLE JUDGE REASONER, US DISTRICT JUDGE RE: SETH WARD V. RTC AS CONSERVATOR EMERGENCY MOTION TO ENFORCE STAY OF PROCEEDINGS FROM HARRY LIGHT ON BEHALF OF RTC [10/30/89]
EXHIBIT B: TRANSCRIPT OF HEARING BEFORE THE HONORABLE STEPHEN M. REASONER...,SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL EUGENIE M. POWER, OFFICIAL COURT REPORTER, [11/21/89] FILED [10/31/89]
EXHIBIT C: AFFIDAVIT OF THOMAS RAY IN RE: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/11/90]
MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SANCTIONS AND MOTION TO STRIKE SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/11/90]
RESPONSE TO MOTION FOR SANCTIONS BY HARRY A. LIGHT, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/20/90]
AFFIDAVIT OF GEORGE PIKE, JR. IN RE: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/22/90]
EXHIBIT B: AFFIDAVIT OF DENNIS S. KLEIN IN RE: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/19/90]
AFFIDAVIT OF HARRY A. LIGHT IN RE: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL [1/23/90]

DOCUMENT (title/description/date)

"LETTER FROM DENNIS S. KLEIN, ESQ., ON BEHALF OF RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL V. SETH WARD, TO THOMAS RAY TO THOMAS RAY, ATT FOR SETH WARD CITING VIOLATION OF ESCROW AGREEMENT AND 28 U.S.C. 14469d0, RULE 11, FEDERAL RULES OF CIVIL PROCEDURE, AND THE STAY BY JUDGE REASONER" [10/28/89]

"APPELLEE'S MOTION TO SUBSTITUTE COUNSEL, FDIC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL V. SETH WARD" [5/1/89]

"BRIEF IN SUPPORT OF RESPONSE TO MOTION FOR SANCTIONS, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL" [1/30/90]

"RESPONSE TO MOTION TO STRIKE, SETH WARD VS. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL" [1/30/90]

"APPELLEE'S REPLY TO RESPONDENT'S RESPONSE TO MOTION FOR SANCTIONS, SETH WARD VS. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL" [2/2/90]

"US COURT OF APPEALS: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL BRIEF FOR APPELLANT, NO. CA 89-1980EA" [11/30/89]

"US COURT OF APPEALS: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL ADDENDUM FOR APPELLANT, NO. CA 89-1980EA" [4/28/89]

"US COURT OF APPEALS: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL ORDER, NO. CA 89-1980EA" [4/28/89]

"TRANSCRIPT OF PROCEEDINGS BEFORE THE HON. STEVEN REASONER, SETH WARD VS. FDIC" [4/28/89]

"COURT REPORTER, PEGGE J. MERKEL'S CERTIFICATE FOR TRANSCRIPT OF PROCEEDINGS" [5/12/89]

"ORDER REINFORCING THE GRANTING OF THE MOTION TO REMAND; DENYING THE DEFENDANT, FDIC'S (AS CONSERVATOR FOR MADISON GUARANTY) REQUEST TO STAY REMAND IN RE: SETH WARD, PLAINTIFF, VS. FDIC, CONSERVATOR FOR MADISON GUARANTY" [5/22/89]

"US COURT OF APPEALS FOR THE EIGHTH CIRCUIT: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY ON APPEAL, NO. CA 89-1980EA: APPENDIX FOR APPELLANT (RTC...)" [3/10/89]

"US COURT OF APPEALS FOR THE EIGHTH CIRCUIT: SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY ON APPEAL, NO. CA 89-1980EA: REPLY BRIEF OF APPELLANT (RTC...)" []

"US DISTRICT COURT: VERIFICATION OF ADDITIONAL DOCUMENTS TO BE INCLUDED IN RECORD (BY APPELLEE WARD, VIA COUNSEL, SHULTS, RAY & KURRUS) IN RE: SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL [8/2/91]

DOCUMENT (title/description/date)

"ARKANSAS COURT OF APPEALS, RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, MOTION FOR RELEASE OF RECORD FILED BY APPELLANT, RTC" [9/25/89]

"EXHIBIT A: NOTICE OF REMOVAL OF SETH WARD V. RTC AS CONSERVATOR... TO US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION FROM CIRCUIT COURT OF PULASKI COUNTY, ARK, 2ND DIV (CASE NO. 87-7580) & ARKANSAS COURT OF APPEALS (CASE NO. CA 89-1240" [9/29/89]

"EXHIBIT B: IN THE ARKANSAS COURT OF APPEALS, RTC, AS CONSERVATOR FOR MADISON GUARANTY SAVINGS AND LOAN, APPELLANT V. SETH WARD, APPELLEE: RESPONSE IN OPPOSITION TO MOTION FOR RELEASE OF RECORD" [10/3/89]

"(EXHIBIT A) IN US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, WESTERN DIV: SETH WARD, PLAINTIFF V. FDIC, CONSERVATOR FOR MADISON GUARANTY, DEFENDANT: ORDER GRANTING THE PLAINTIFF'S MOTION TO REMAND" [4/28/89]

"(EXHIBIT B) IN US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, WESTERN DIV: SETH WARD, PLAINTIFF V. FDIC, CONSERVATOR FOR MADISON GUARANTY, DEFENDANT: ORDER DENYING DEFENDANT'S REQUEST FOR STAY OF MOTION TO REMAND" [5/22/89]

"(EXHIBIT C) IN ARKANSAS COURT OF APPEALS, NO. CA 89-124: RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, APPELLANT V. SETH WARD, APPELLEE: MOTION TO DISMISS APPEAL OR AFFIRM JUDGMENT BY APPELLEE" [10/3/89]

"(EXHIBIT D) IN ARKANSAS COURT OF APPEALS, NO. CA 89-124: RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, APPELLANT V. SETH WARD, APPELLEE: RESPONSE TO MOTION TO DISMISS APPEAL OR AFFIRM JUDGMENT AND MEMORANDUM OF AUTHORITIES IN SUPPORT THEREOF - FILED BY APPELLANT, RTC...APPELLEE" [10/13/89]

"EXHIBIT A: WESTLAW FOUND DOCUMENT: "TRILAND HOLDINGS & CO., PLAINTIFF/APPELLANT V. SUNBELT SERVICE CORP., ET AL, FSLIC AS RECEIVER FOR SUNBELT SAVINGS ASSOC. OF TEXAS, DEFENDANTS/APPELLEES; TRILAND INVESTMENT GROUP, PLAINTIFF-APPELLANT V. FSLIC AS RECEIVER FOR SUNBELT SAVINGS, DEFENDANT-APPELLEE; BRAZOS PARK, INC. ET AL, PLAINTIFFS-APPELLANTS, V. FSLIC, RECEIVER OF MAINLAND SAVINGS ASSOCIATION, DEFENDANT-APPELLEE; AMISTAD CONSTRUCTION CO., PLAINTIFF-APPELLEE V. FSLIC, AS RECEIVER FOR MAINLAND SAVINGS ASSOC., DEFENDANT-APPELLEE - CONSOLIDATED APPEALS" [7/22/89]

"LAW OR CHANCERY MANDATE, RTC AS CONSERVATOR FOR MADISON GUARANTY, APPELLANT V. SETH WARD, APPELLEE, FROM PULASKI CIRCUIT COURT, SECOND DIVISION - APPELLANTS' MOTION FOR RELEASE OF RECORD DENIED; APPELLEE'S MOTION TO DISMISS APPEAL OF AFFIRM JUDGMENT IS GRANTED." [10/25/89]

"ARKANSAS COURT OF APPEALS: RTC AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, APPELLANT V. SETH WARD, APPELLEE: APPELLANTS' MOTION TO RELEASE RECORD DENIED; APPEAL DISMISSED" [10/25/89]

DOCUMENT (title/description/date)

"EXHIBIT F: PETITION FOR REHEARING AND FOR RECALL OF MANDATE OR, IN THE ALTERNATE, MOTION FOR RECONSIDERATION, RTC AS CONSERVATOR V SETH WARD IN ARKANSAS COURT OF APPEALS" [11/13/89]

"EXHIBIT G: APPELLEE'S RESPONSE IN OPPOSITION TO PETITION FOR REHEARING AND FOR RECALL OF MANDATE OR, IN THE ALTERNATIVE, MOTION FOR RECONSIDERATION, RTC AS CONSERVATOR V SETH WARD IN ARKANSAS COURT OF APPEALS" [11/17/89]

"LETTER FROM LESLIE W. STEEN, CLERK OF THE SUPREME COURT OF ARKANSAS COURT OF APPEALS, TO HARRY A. LIGHT & HOPKINS, SUTTER, HAMEL & PARK RE:CA89-124, RTC AS CONSERVATOR FOR MADISON GUARANTY ET AL V. SETH WARD" [10/29/89]

"MOTION TO SUBSTITUTE PARTY, SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY ET AL V. SETH WARD" [7/8/91]

"OFFICE OF THRIFT SUPERVISION: REPLACEMENT OF A CONSERVATOR WITH A RECEIVER. MADISON GUARANTY - ISSUED UNDER DELEGATED AUTHORITY" [10/30/90]

"JUDGMENT IN FAVOR OF SETH WARD VS. RTC, AS CONSERVATOR FOR MADISON GUARANTY ET AL V. SETH WARD" [7/31/91]

"TRANSCRIPT OF HEARING BEFORE THE HONORABLE STEPHEN M. REASONER, CASE NO. LR-C-89-807, SETH WARD, PLAINTIFF V. RTC, AS CONSERVATOR FOR MADISON GUARANTY ET AL" [8/11/91]

"BRIEF FOR THE RESPONDENTS IN OPPOSITION, SUPREME COURT OF THE US, SETH WARD. PETITIONER V. RTC AS RECEIVER FOR MADISON GUARANTY ET AL (NO.92-935)" [OCT. TERM 1992]

"PETITION FOR A WRIT OF CERTIORARI TO THE US COURT OF APPEALS FOR THE EIGHTH CIRCUIT, SETH WARD, PETITIONER, V. RTC AS RECEIVER FOR MADISON GUARANTY ET AL (NO.92-935)" [OCT. TERM 1992]

"STIPULATION OF DISMISSAL WITH PREJUDICE AGAINST ALL CLAIMS AND COUNTERCLAIMS AGAINST EACH OTHER AND TO THE FINAL DISMISSAL OF THE ACTION, SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY ET AL (NO.92-935)" [4/30/93]

"SETTLEMENT AGREEMENT AND RELEASE, SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY ET AL (NO.92-935)" [4/30/93]

"US COURT OF APPEALS EIGHTH CIRCUIT CALENDAR NOTICE TO COUNSEL AND JUDGES, DIVISION I,II,III" [5/93]

"REPLY TO OPPOSITION TO PLAINTIFF'S MOTION TO STAY DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, ETC., SETH WARD V. RTC AS CONSERVATOR FOR MADISON GUARANTY ET AL (CIVIL NO. LR-C-89-807)" [2/4/93]

DOCUMENT (title/description/date)

"OPPOSITION TO PLAINTIFF'S MOTION TO STAY CONSIDERATION OF RTC'S MOTION FOR SUMMARY JUDGMENT, ETC., SETH WARD, PLAINTIFF, V. RTC AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL" [1/22/93]

"BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, RENEWED MOTION FOR RELIEF FROM JUDGMENT AND MOTION FOR REINSTATEMENT OF ESCROW FUNDS" [12/15/92]

"AFFIDAVIT BY LANIS YARBROUGH EN RE SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL (IN STATE OF KANSAS, COUNTY OF JOHNSON)" [12/10/92]

"AFFIDAVIT BY CARLEEN RYAN EN RE SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL (IN STATE OF MISSOURI, COUNTY OF JACKSON)" [12/10/92]

"MADISON GUARANTY S&L ASSOC. BOARD OF DIRECTORS MTG MINUTES" [9/17/87]

"REPLY TO RESPONSE TO PETITION FOR STAY OF MANDATE, SETH WARD V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL IN THE US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR" [9/17/92]

"RESPONSE TO PETITION FOR STAY OF MANDATE, SETH WARD, APPELLEE, V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS, IN THE US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR" [9/9/92]

"PETITION FOR STAY OF MANDATE, SETH WARD, PLAINTIFF-APPELLEE, V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, DEFENDANTS-APPELLANTS, IN THE US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR" [9/8/92]

"VERIFIED BILL OF COSTS INCURRED BY RTC AS PER HARRY LIGHT EN RE: SETH WARD, PLAINTIFF-APPELLEE, V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, DEFENDANTS-APPELLANTS, IN THE US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR" [8/12/92]

"US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR, ORDER DENYING PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC EN RE: SETH WARD, APPELLEE, V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANT" [9/3/92]

"PETITION FOR REHEARING WITH SUGGESTION FOR REHEARING EN BANC: SETH WARD, PLAINTIFF-APPELLEE, V. RTC, AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, DEFENDANTS-APPELLANTS, IN THE US COURT OF APPEALS, EIGHTH DISTRICT, NO. CA 91-3015 EALR" [8/10/92]

DOCUMENT (title/description/date)

*APPEAL FROM THE US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS IN THE US COURT OF APPEALS FOR EIGHTH, REVERSE AND REMAND BY APPELLANTS EN RE: SETH WARD, APPELLEE V. RTC AS RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, DEFENDANTS-APPELLANTS, NO. 91-3015EA. SUBMITTED [5/12/92] FILED [7/20/92]

SETH WARD: LITIGATION AND PROOFS OF CLAIM, PART II OF IV PARTS (COVER PAGE)

MEMORANDUM IN SUPPORT OF THE FSLIC'S MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, TO STAY REMAND OF THIS ACTION PENDING APPEAL, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO. LR-C-89-180 [5/??/8?]

FEDERAL HOME LOAN BANK BOARD APPOINTMENT OF CONSERVATOR FOR MADISON GUARANTY ISSUED UNDER DESIGNATED AUTHORITY, NO. 89-483P W/ ATTACHMENT [2/28/89]

FEDERAL HOME LOAN BANK BOARD AUTHORIZATION TO RECEIVE PAYMENTS AND HONOR WITHDRAWALS, MADISON GUARANTY, ISSUED UNDER DELEGATED AUTHORITY, NO. 89-484P [2/28/89]

FEDERAL HOME LOAN BANK BOARD AUTHORIZATION TO INDEMNIFY SPECIAL REPRESENTATIVES OF CONSERVATOR, MADISON GUARANTY, NO. 89-485p [2/28/89]

FEDERAL HOME LOAN BANK BOARD APPOINTMENT OF CONSERVATOR FOR MADISON GUARANTY ISSUED UNDER DESIGNATED AUTHORITY, NO. 89-486P [2/28/89]

FEDERAL HOME LOAN BANK BOARD IMPLEMENTATION RESOLUTION, MADISON GUARANTY ISSUED UNDER DESIGNATED AUTHORITY, NO. 89-487p [2/28/89]

MANAGEMENT AGREEMENT AMONG THE FEDERAL HOME LOAN BANK BOARD, FSLIC AND FDIC [2/7/89]

MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, TO STAY REMAND OF THIS ACTION PENDING APPEAL, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO. LR-C-89-180 [5/12/89]

TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE STEVEN REASONER, SETH WARD VS. FDIC, APPEARANCES: THOMAS RAY FOR PLAINTIFF AND GEORGE PIKE, FRIDAY, ELDRIDGE & CLARK, FOR DEFENDANT [4/28/89]

PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION TO REMAND, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO. LR-C-89-180 (ARK COURT OF APPEALS CO. CA 89-124) [4/19/89]

EXHIBIT A: 'STIPULATION AND CONSENT TO ENTRY OF ORDER TO CEASE AND DESIST' IN THE MATTER OF MADISON GUARANTY, FEDERAL HOME LOAN BANK BOARD RESOLUTION NO.86-851, USA BEFORE THE FSLIC [8/15/86]

EXHIBIT B: FEDERAL HOME LOAN BANK RESOLUTION NO.86-851 - PROPOSED FINAL ORDER TO CEASE AND DESIST. [8/15/86]

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"EXHIBIT C: 'ORDER TO CEASE AND DESIST CEASE AND DESIST' IN THE MATTER OF MADISON GUARANTY, FEDERAL HOME LOAN BANK BOARD RESOLUTION NO.86-851, USA BEFORE THE FSLIC" [8/15/86]

"RESPONSE OF FEDERAL DEPOSIT INSURANCE CORP, CONSERVATOR FOR MADISON GUARNATY, IN OPPOSITION TO REMAND AND BRIEF IN SUPPORT, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO.LR-C-89-180" [4/14/89]

"PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO REMAND, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO.LR-C-89-180" [3/22/89]

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"ORDER REWARDING WARD ATTORNEY'S FEES AND COSTS AS SANCTIONS, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO.LR-C-89-180" [9/14/90]

"LETTER VIA TELECOPY TO ST.VRAIN, CLERK, US COURT OF APPEALS OF THE EIGHTH DISTRICT, FROM THOMAS RAY, SHULTS, RAY & KURRUS ON BEHALF OF SETH WARD V. FDIC ET AL RE: EXPIRATION OF TIME FOR FILING OF RESPONSE" [7/11/89]

"LTR FR GEORGE PIKE, JR., FRIDAY, ELDREDGE & CLARK, ON BEHALF OF FDIC AS CONSERVATOR, ET AL, TO LESLIE STEEN, CLERK, ARK COURT OF APPEALS, REQUESTING ACCEPTANCE OF RESPONSE OF APPELLEE AS TIMELY, AS WELL AS DENIAL OF RESPONSE ON MERITS" [7/12/89]

"LTR FR. ROBERT ST.VRAIN, CLERK, US COURT OF APPEALS FOR THE EIGHTH CIRCUIT, TO JEDDELOH, FDIC, PIKE, FRIDAY,ELDREDGE&CLARK, BATES, HOPKINS,SUTTER,HAMEL & PORK IN RE:FSLIC ORDER" [6/21/89]

"US COURT OF APPEALS, 8TH DISTRICT,NO 89-1961, IN RE FSLIC, PETITIONER: ON PETITION FOR WRIT OF MANDAMUS TO THE US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, ORDER DENYING MOTION OF PETITIONER FOR EMERGENCY STAY OF ORDER OF REMAND; PETITION FOR WRIT OF MANDAMUS STILL PENDING" SUBMITTED [6/15/89] FILED [6/21/89]

"LTR FR GEORGE PIKE REQUESTING CLERK TO FILE NOTICE OF APPELLANT TO FILE SEPARATE APPENDIX, IN RE SETH WARD V. FDIC, ET AL" [6/26/89]

"NOTICE OF APPELLANT TO FILE SEPARATE APPENDIX, SETH WARD, APPELLEE, V FDIC, AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY S&L" [6/26/89]

"RESPONSE IN OPPOSITION TO FDIC'S EMERGENCY MOTION TO STAY ORDER OF REMAND PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS, IN RE: FSLIC, AS CONSERVATOR OF MADISON GUARANTY, BY FDIC, AS MANAGER FOR THE CONSERVATOR. PETITIONER, V. SETH WARD, RESPONDENT" [6/14/89]

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EXHIBIT B: ORDER TO CEASE AND DESIST, IN THE MATTER OF MADISON GUARANTY, FHLBB BEFORE FSLIC [8/15/86]
EXHIBIT C: ESCROW AGREEMENT B/N SETH WARD, MADISON GUARANTY, & NORTHERN BANK & TRUST [10/4/88]
EXHIBIT D: FIRST CLASS ENVELOPED ADDRESSED TO THOMAS RAY
EXHIBIT E: SETH WARD V. FDIC, CONSERVATOR, NOTICE OF REMOVAL [3/10/89]
EXHIBIT F: ORDER DENYING MOTION FOR STAY REMAND, IN RE: SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY [5/22/89]
EXHIBIT G: MOTION TO REMAND IN RE: SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY [3/22/89]
EXHIBIT H: PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO REMAND IN RE SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY [3/22/89]
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LETTER FR GEORGE PIKE ON BEHALF OF FDIC TO CLERK, US COURT OF APPEALS, 8TH CIRCUIT RE: NO. 89-1980EA, SETH WARD V FDIC ET AL, CERTIFICATE ATTACHMENT FOR FILING [6/23/89]
CERTIFICATE OF INTERESTED PERSONS, SETH WARD V FDIC AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY [6/23/89]
APPEARANCE DOCUMENT, GEORGE PIKE, JR., FOR FDIC
EXHIBIT F: ORDER DENYING MOTION FOR STAY REMAND, IN RE: SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY [5/22/89] FILED [5/23/89]
EXHIBIT I: PLAINTIFF'S REPLY TO DEFENDANT' RESPONSE IN OPPOSITION TO MOTION TO MOTION TO REMAND IN RE: SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY [4/19/89]
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"APPENDIX FOR APPELLANTS SETH WARD, APPELLEE V RTC, RECEIVER FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS IN THE US COURT OF APPEALS, 8TH CIRCUIT, NO.91-3015EA"
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"EXHIBIT A TO COUNTERCLAIM, DEFENDANTS, MADISON GUARANTY, ET AL, V. PLAINTIFF, SETH WARD: CONSUMER BUSINESS LOAN DOCUMENT" [6/10/86]
"SETH WARD V. MADISON GUARANTY AND MADISON FINANCIAL, NO 87-7580: CAPTION & APPEARANCES OF COUNSEL AND WITNESSES, EXAMINATIONS AND CROSS-EXAMINATIONS" [8/30&31/88]
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"CIRCUIT COURT OF PULASKI COUNTY, 2ND DIV: JUDGMENT IN RE SETH WARD VS MADISON GUARANTY ET AL: \$353,502.57 DUE PLAINTIFF, PLUS 10% INTEREST" [9/6/88]

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"EXCERPTS FROM COURT TRANSCRIPTS: WITNESS, , TESTIMONY" []

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"EXCERPTS FROM COURT TRANSCRIPTS: WITNESS, MR. YOUNG, DISCUSSING DEFENDANTS' EXHIBIT 40, PLAINTIFFS' EXHIBITS 4 & 5, DOCUMENTS MISSING FROM FILES, CHANGING OF LOCATIONS AND "PREPARATION" FOR UPCOMING FED. HOME LOAN BANK EXAMINERS - ALLEGED COVER-UP"

"PLAINTIFF'S EXHIBIT 5: VOIDED LETTER, SETH WARD TO JIM MCDUGAL" [9/24/85]

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"IN THE US COURT OF APPEALS FOR THE EIGHTH CIRCUIT, NO. CA 91-3015 EALR, SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY, AND MADISON FINANCIAL CORP. BRIEF OF APPELLEE - BY THOMAS RAY, SHULTS, RAY & KURRUS [12/19/91]

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"IN THE US COURT OF APPEALS FOR THE EIGHTH CIRCUIT, NO. CA 91-3015 EALR, SETH WARD V. RTC AS RECEIVER FOR MADISON GUARANTY, AND MADISON FINANCIAL CORP. SUPPLEMENTAL APPENDIX FOR APPELLEE - BY THOMAS RAY, SHULTS, RAY & KURRUS []

"ARK. COURT OF APPEALS, APPELLANTS' RESPONSE IN OPPOSITION TO PETITION FOR REHEARING AND FOR RECALL OF MANDATE OR, IN THE ALTERNATIVE, MOTION FOR RECONSIDERATION" RTC CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL. APPELLANTS V. SETH WARD, PER CURIAM" [10/17/89]

"SETH WARD: LITIGATION AND PROOFS OF CLAIM: PART III OF IV PARTS"

"US DISTRICT COURT: MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, TO STAY, REMAND OF THIS ACTION PENDING APPEAL, SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY" [5/12/89]

"US DISTRICT COURT: MEMORANDUM IN SUPPORT OF THE FSLIC'S MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, TO STAY, REMAND OF THIS ACTION PENDING APPEAL, SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY" [5/12/89]

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"US COURT OF APPEALS: EMERGENCY MOTION TO STAY ORDER OF REMAND PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS IN RE: FSLIC, IN ITS CAPACITY AS CONSERVATOR OF MADISON GUARANTY, BY FDIC, AS MANAGER FOR THE CONSERVATOR, PETITIONER" [6/13/89]

"ORDER DENYING MOTION FOR STAY BY DEFENDANT, FDIC, CONSERVATOR" [5/22/89]

"ORDER GRANTING MOTION TO REMAND, SETH WARD VS. FDIC, CONSERVATOR FOR MADISON GUARANTY" [4/28/89]

"US DISTRICT COURT: TRANSCRIPT OF PROCEEDINGS BEFORE HON. STEVEN REASONER, SETH WARD VS. FDIC" [4/28/89]

"LTR TO ST. VRAIN, CLERK, US COURT OF APPEALS RE: WARD V. FDIC AS CONSERVATOR, FR GEORGE PIKE REQUESTING FILING OF APPELLANTS' FORM A, PETITION FOR WRIT OF MANDAMUS, EMERGENCY MOTION TO STAY ORDER OF REMAND PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS" [6/13/89]

"US DISTRICT COURT: NOTICE OF APPEALS, IN RE WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY" [6/13/89]

"US COURT OF APPEALS - EIGHTH CIRCUIT APPELLANTS' FORM A - APPEAL INFO FORM FILED W/ NOTICE OF APPEAL; SETH WARD, APPELLEE, TOM RAY, SHULTS, RAY & KURRIS, COUNSEL V. FDIC, MGR FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY, OF COUNSEL GEORGE PIKE, FRIDAY, ELDREDGE & CLARK"

"PETITION FOR WRIT OF MANDAMU TO US DISTRICT COURT FOR EASTERN DISTRICT OF ARK WESTERN DIVISION, IN RE: FSLIC, AS CONSERVATOR OF MADISON GUARANTY, BY FDIC, AS MGR. FOR CONSERVATOR, PETITIONER" [6/13/89]

"DEFINITION OF SAVINGS & LOAN INSURANCE: JURISDICTION AND ENFORCEMENT - CODE"

"WESTLAW IN RE, SAVERS FSLIC AS CONSERVATOR: WRIT OF MANDAMUS GRANTED & DISTRICT COURT REMAND ORDER VACATED; CHANGE OF VENUE AND TRANSFER OF CAUSES; REMOVAL OF CASES; COURT OPINIONS"

"WESTLAW IN RE FIRST STATE BANK OF WAYNE COUNTY, KENTUCKY, PLAINTIFF-APPELLEE V. THE CITY AND COUNTY BANK OF KNOX COUNTY, TENNESSEE, DEFENDANT-APPELLEE, EVIDENCE, BANKS & BANKING, PRECEDENT REFERENCES, ETC. [1989]

"CAPTION AND TRANSCRIPT, SETH WARD VS. MADISON GUARANTY S&L ASSOC. & MADISON FIN. CORP." [8/30&31/88]

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"PLAINTIFF'S EXHIBIT 4: LETTER OF AGREEMENT B/N WARD & JIM MCDUGAL" [5/24/85]

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*ARK COURT OF APPEALS: MADISON GUARANTY & MADISON FINANCIAL CORP. V. SETH WARD: MOTION OF APPELLANTS TO EXTEND TIME FOR FILING OF ABSTRACT AND BRIEF" [8/2/89]
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*ARK COURT OF APPEALS: RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL V. SETH WARD, PETITION FOR REHEARING AND FOR RECALL OF MANDATE OR, IN THE ALTERNATE, MOTION FOR RECONSIDERATION" [11/13/89]
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*US DISTRICT COURT FOR EASTERN DISTRICT OF ARKANSAS WESTERN DIVISION NO. LR-C-89 807, SETH WARD, PLAINTIFF, V. RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL: NOTICE OF REMOVAL" [9/25/89]

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"ARK COURT OF APPEALS: RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL V. SETH WARD, MOTION TO DISMISS APPEAL OF AFFIRM JUDGMENT (EXH B)" [10/3/89]

"ARK COURT OF APPEALS: RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, APPELLANTS V. SETH WARD, APPELLEE, RESPONSE TO MOTION TO DISMISS APPEAL OF AFFIRM JUDGMENT AND MEMORANDUM OF AUTHORITIES IN SUPPORT THEREOF (EXH C)" [10/13/89]

"WESTLAW: TRILAND HOLDINGS V. SUNBELT SERVICE CORP; TRILAND INVESTMENT GROUP V. FSLIC; BRAZOS PARK, INC., ET AL V FSLIC, RECEIVER OF MAINLAND SAVINGS ASSOC.; AMISTAD CONSTRUCTION CO. V. FSLIC, AS RECEIVER FOR MAINLAND SAVINGS - PLAINTIFF-APPELLANTS V. DEFENDANTS-APPELLEES. - CONSOLIDATED APPEALS. COURT OF APPEALS CIRCUIT JUDGE HELD (1) THAT FED. DISTRICT COURTS HAD JURISDICTION; (2) COURT OF APPEALS TO ADDRESS MOOTNESS ISSUE EVEN THOUGH ACTIONS WERE DISMISSED ON SUBJECT-MATTER JURISDICTION GROUNDS; & (3) DISTRICT COURTS'S DECISION TO POSTPONE HEARING ON FSLIC SANCTIONS MOTION DID NOT RENDER COURT'S ORDER A NONFINAL JUDGMENT FOR PURPOSES OF APPEAL. (EXHIBIT A)" [1989]

"EXHIBIT D: ARK COURT OF APPEALS: RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL, APPELLANTS V. SETH WARD, APPELLEE: APPELLANTS' MOTION TO RELEASE RECORD DENIED; APPEAL DISMISSED (NOT DESIGNATED FOR PUBLICATION) PER CURIAM" [10/25/89]

"LAW OR CHANCERY MANDATE: APPELLANTS' MOTION FOR RELEASE OF RECORD DENIED. APPELLEE'S MOTION TO DISMISS APPEAL OR AFFIRM JUDGMENT GRANTED" [10/25/89]

"EXHIBIT E: LTR. FR THOMAS RAY TO JUDGE REASONER RE: CONFIRMATION OF UNDERSTANDING OF THE STAY IN RE: SETH WARD V. RTC, AS CONSERVATOR FOR MADISON GUARANTY, & MADISON FINANCIAL, NO.LR-C-89-807" [10/27/89]

"SUPERSEDEAS ORDER: IN THE CIRCUIT COURT OF PULASKI IN RE: WARD VS. MADISON GUARANTY & MADISON FINANCIAL" [11/15/88]

"ESCROW AGREEMENT B/N SETH WARD, MADISON GUARANTY & WORTHEN BANK & TRUST CO. (ESCROW AGENT). MADISON GUARANTY AGREED TO POST SECURITY IN LIEU OF SUPERSEDEAS BOND BY DEPOSIT..." [11/9/88]

"EXHIBIT G: LTR FR DENNIS KLEIN, HOPKINS, SUTTER, HAMEL & PARK, FOR RTC AS CONSERVATOR FOR MADISON GUARANTY ET AL TO THOMAS RAY, COUNSEL FOR WARD RE: MAKE FORMAL DEMAND THAT MONEY RELEASED FROM WORTHEN BANK & TRUST BE IMMEDIATELY REDEPOSITED, AS ACTION WAS A BREACH OF ESCROW AGREEMENT" [10/28/89]

"MEMORANDUM OF LAW OF RTC, CONSERVATOR FOR MADISON GUARANTY S&L, AND MADISON FINANCIAL CORP. IN SUPPORT OF EMERGENCY MOTION TO ENFORCE STAY OF PROCEEDINGS, WARD V. RTC AS CONSERVATOR ET AL" [10/30/89]

DOCUMENT (title/description/date)

ORDER GRANTING REHEARING OF ITS PREVIOUS POSITION DISMISSING DEFENDANT'S APPEAL OF REMAND ORDER; ACTION STAYED PENDING 8TH CIRCUIT'S DECISION ON REHEARING, CLERK TO ADMINISTRATIVELY TERMINATE CASE PENDING 8TH CIRCUIT OUTCOME, SUBJECT TO REOPENING ONCE DECISION HAS BEEN REACHED, ETC...., SETH WARD V. RTC, CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL [10/26/89]

IN US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION, NO. LR-C-89-807: RESPONSE AND BRIEF OF RTC AS CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL IN OPPOSITION TO MOTION TO REMAND, IN RE: SETH WARD V., RTC, CONSERVATOR, ET AL [10/3/89]

ARKANSAS COURT OF APPEALS: RESPONSE TO MOTION TO DISMISS APPEAL OR AFFIRM JUDGMENT AND MEMORANDUM OF AUTHORITIES IN SUPPORT THEREOF, RTC, AS CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL, APPELLANTS, VS. SETH WARD, APPELLEE [10/13/89]

WESTLAW EXHIBIT A: CONSOLIDATED APPEALS, TRILAND HOLDINGS V. SUNBELT SERVICE CORP; TRILAND INVESTMENT GROUP V. FSLIC; BRAZOS PARK, INC., ET AL V FSLIC, RECEIVER OF MAINLAND SAVINGS ASSOC.; AMSTAD CONSTRUCTION CO. V. FSLIC, AS RECEIVER FOR MAINLAND SAVINGS, ETC. AND JUDGE'S COMBINED OPINION [1989-FIFTH CIRCUIT, TEXAS]

LTR FR CLERK, SUPREME COURT OF ARKANSAS, COURT OF APPEALS ADVISING COUNSELS PIKE AND BATES IN RE: CA89-124, FDIC, CONSERVATOR V WARD THAT COURT ORDERED GRANTING OF APPELLANT'S MOTION TO STAY BRIEF FOR 45 DAYS AND THAT APPELLEE'S MOTION TO DISMISS APPEAL DENIED [8/16/89]

ARKANSAS COURT OF APPEALS: MOTION TO SUBSTITUTE PARTY, MADISON GUARANTY AND MADISON FINANCIAL V. SETH WARD [8/14/89]

ARKANSAS COURT OF APPEALS: APPELLEE'S RESPONSE IN OPPOSITION TO APPELLANTS' MOTION TO SUBSTITUTE PARTY, FDIC, CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL V. SETH WARD [8/13/89]

ARKANSAS COURT OF APPEALS: APPELLEE'S SUPPLEMENTAL RESPONSE IN OPPOSITION TO APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF, FDIC, CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL V. SETH WARD [5/23/89]

ARKANSAS COURT OF APPEALS: APPELLEE'S RESPONSE IN OPPOSITION TO APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF, FDIC, CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL V. SETH WARD [5/22/89]

DOCUMENT (title/description/date)

*ARKANSAS COURT OF APPEALS: MEMORANDUM OF LAW IN SUPPORT OF APPELLEE'S RESPONSE IN OPPOSITION TO APPELLANTS' MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF, FDIC, CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL V. SETH WARD, NO.CA89-124" [5/22/89]

*ARKANSAS COURT OF APPEALS: MOTION OF APPELLANTS TO EXTEND TIME TO FILE ABSTRACT AND BRIEF, FDIC, CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL V. SETH WARD, NO.CA89-124" [5/19/89] date stamped 5/19/87 in error

*US DISTRICT COURT FOR EASTERN DISTRICT OF ARKANSAS WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY, NO.LR-C-89-180: MEMORANDUM IN SUPPORT OF THE FSLIC'S MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, TO STAY REMAND OF THIS ACTION PENDING APPEAL" [5/12/89]

*EXTENSION FOR FILING APPELLANTS TO JULY 10, 1989 AUTHORIZED BY CLERK OF ARKANSAS COURT OF APPEALS IN RE: NO.CA89-124, MADISON GUARANTY ET AL V. WARD" [5/22/89]

*MEMORANDUM TO ALL COUNSEL RE: PROMULGATION OF EIGHTH CIRCUIT RULE 8(E)" [9/23/86]

*BRIEFING CHECKLIST BY CLERK OF US COURT OF APPEALS, 8TH DISTRICT"

*CLERK OF US COURT OF APPEALS, 8TH CIRCUIT LETTER TO LAWRENCE BATES, ESQ, HOPKINS, SUTTER ET AL RE:89-1961 IN RE RTC & 89-1980EA WARD V RTC - OPINION AND BRIEFING SCHEDULE ATTACHED" [10/30/89]

*US COURT OF APPEALS, 8TH CIRCUIT ORDER: NO.89-1961 IN RE: RTC, PETITIONER ON PETITION FOR WRIT OF MANDAMUS...,NO.89-1980, WARD V. RTC, APPELLANT: APPELLANT'S PETITION GRANTED" [10/20/89]

*US COURT OF APPEALS, 8TH CIRCUIT MEMORANDUM: RE: REVISED EIGHTH CIRCUIT RULE 7 THE DESIGNATED RECORD ON APPEAL" [7/20/88]

*US COURT OF APPEALS, 8TH CIRCUIT, NO. 89-1961 IN RE: RTC, PETITIONER ON PETITION FOR WRIT OF MANDAMUS...,NO.89-1980, WARD V. RTC, APPELLANT: OPINION OF THE COURT"

*US COURT OF APPEALS, 8TH CIRCUIT, NO. 89-1961 IN RE: RTC, PETITIONER ON PETITION FOR WRIT OF MANDAMUS...,NO.89-1980, WARD V. RTC, APPELLANT: MOTION OF RTC TO BE SUBSTITUTED AS PETITIONER IN PLACE OF FSLIC, IN 89-1861 AND IN PLACE OF FDIC IN NO.89-1980" [9/7/89]

*LTR FR THOMAS RAY TO LINDA PENBERTHY, SR. DEPUTY CLERK, US COURT OF APPEALS-8TH CIRCUIT WITH APPELLEE SETH WARD'S RESPONSE TO PETITION FOR REHEARING IN NOS.89-1961, RTC ET AL AND 89-1980, WARD V. RTC, ET AL" [9/15/89]

*US COURT OF APPEALS-8TH CIRCUIT, FSLIC, PETITIONER NO.89-1961 AND WARD V FDIC. APPELLANT: APPELLEE'S RESPONSE TO PETITION FOR REHEARING" [9/15/89]

DOCUMENT (title/description/date)

"CIRCUIT COURT OF PULASKI COUNTY, 2ND DIVISION: SETH WARD V MADISON GUARANTY AND MADISON FINANCIAL: REDIRECT EXAMINATION OF SHERRY BARTLEY, ESQ." []
"CIRCUIT COURT OF PULASKI COUNTY, 2ND DIVISION: SETH WARD V MADISON GUARANTY AND MADISON FINANCIAL, NO.87-7580: JUDGMENT" [8/30/88]
"HR101-54 PART 1: FINANCIAL INSTITUTIONS, RECOVERY AND ENFORCEMENT ACT OF 1989" [5/16/89]
"HR101-54 PART 3: FINANCIAL INSTITUTIONS, RECOVERY AND ENFORCEMENT ACT OF 1989: SUPPLEMENTAL REPORT" [6/1/89]
"FEDERAL BANKING LAW REPORTS: SPECIAL REPORT #1281: FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989" [4/25/89]
"S.774"
"EXHIBIT D: FEDERAL BANKING LAW REPORTS: SPECIAL REPORT #1281: FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 - CONFERENCE REPORT" [4/25/89]
"FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 - CONFERENCE REPORT 101-222 (TO ACCOMPANY HR 1278)"
"US DISTRICT COURT: WARD V FDIC, CONSERVATOR FOR MADISON GUARANTY: ORDER DENYING MOTION FOR STAY" [5/22/89]
"US COURT OF APPEALS FOR 8TH CIRCUIT RE: 89-1961/1980 LTR FR ST. VRAIN TO LAWRENCE BATES RE OPINION ENTERED INTO AND DIRECTING HOW TO FILE PETITION FOR REHEARING" [8/7-14/89]
"US COURT OF APPEALS FOR 8TH CIRCUIT NOS.89-1961,89-1980, PETITION FOR WRIT OF MANDAMUS AND ON APPEAL" [7/18/89] FILED [8/7/89]
"EXHIBIT E: US DISTRICT COURT, SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY, LR-C-89-180: ORDER DENYING MOTION FOR STAY" [5/22/89]
"US COURT OF APPEALS FOR 8TH CIRCUIT RE: 89-1961/1980 LTR FR ST. VRAIN (BY MARILYN MCDONALD, DEPUTY CLERK/OPINIONS TO LAWRENCE BATES RE OPINION ENTERED INTO AND DIRECTING HOW TO FILE PETITION FOR REHEARING" [8/7-14/89]
"EXHIBIT E: US DISTRICT COURT, SETH WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY, LR-C-89-180: ORDER DENYING MOTION FOR STAY" [5/22/89]
"US COURT OF APPEALS FOR 8TH CIRCUIT RE: 89-1961/1980 LTR FR ST. VRAIN (BY MARILYN MCDONALD, DEPUTY CLERK/OPINIONS TO LAWRENCE BATES RE OPINION ENTERED INTO AND DIRECTING HOW TO FILE PETITION FOR REHEARING" [8/7-14/89]

DOCUMENT (title/description/date)

"EXHIBIT A: US COURT OF APPEALS, 8TH DISTRICT NOS.89-1961, 89-1980 IN RE FSLIC ON PETITION FOR WRIT OF MANDAMUS...., WARD V FDIC ON APPEALS" SUBMITTED [7/18/85] FILED [8/7/89]

"LTR FR GEORGE PIKE, JR., FRIDAY, ELDREDGE & CLARK TO ST.VRAIN, CLERK, US COURT OF APPEALS RE: WARD V FDIC, RESPONSE OF FDIC AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY TO WARD MOTION TO DISMISS." [7/11/89]

"LTR FR GEORGE PIKE, JR., FRIDAY, ELDREDGE & CLARK TO ST.VRAIN, CLERK, US COURT OF APPEALS RE: WARD V FDIC, RESPONSE OF FDIC AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY TO WARD MOTION TO DISMISS." [7/11/89]

"US COURT OF APPEALS, 8TH CIRCUIT: WARD V FDIC, RESPONSE OF FDIC AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY TO WARD MOTION TO DISMISS, WRITTEN BY GEORGE PIKE, JR." [7/11/89]

"US COURT OF APPEALS, 8TH CIRCUIT: WARD V FDIC, AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY: APPELLEE, WARD'S MOTION TO DISMISS" [6/30/89]

"LTR. FR THOMAS RAY, SHULTS, RAY & KURRUS ON BEHALF OF APPELLEE SETH WARD: MOTION TO DISMISS TO ST. VRAIN, CLERK, US COURT OF APPEALS" [6/27/89]

"US COURT OF APPEALS, 8TH CIRCUIT: SETH WARD V FDIC AS MANAGER FOR FSLIC, CONSERVATOR FOR MADISON GUARNATY: WARD'S MOTION TO DISMISS (NO.89-1980EA)"

"CIRCUIT COURT OF PULASKI COUNTY, ARK, 2ND DIVISION, NO.87-7580: WARD, PLAINTIFF V. MADISON GUARANTY AND MADISON FINANCIAL: NOTICE OF APPEAL AND DESIGNATION OF RECORD (EXHIBIT A)" [10/6/88]

"IN US DISTRICT COURT FOR EASTERN DIV. ARKANSAS, WESTERN DIVISION, NO.LR-C-89-150: WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY: NOTICE OF REMOVAL TO USDC, EDA (EXHIBIT B) [3/10/89]

"IN US DISTRICT COURT FOR EASTERN DIV. ARKANSAS, WESTERN DIVISION, NO.LR-C-89-150: WARD V. FDIC, CONSERVATOR FOR MADISON GUARANTY: ORDER GRANTING PLAINTIFF'S MOTION TO REMAND (EXHIBIT C)" [4/28/89]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION DOCKET NO.LR-C-89-180: SETH WARD V. FDIC: TRANSCRIPT OF PROCEEDINGS BEFORE THE HON. STEVEN REASONER. APPEARANCES, FOR PLAINTIFF, THOMAS RAY; FOR DEFENDANT, GEORGE PIKE" [4/28/89]

"ARKANSAS COURT OF APPEALS: MADISON GUARANTY S&L AND MADISON FINANCIAL CCRP V SETH WARD, NO.CA89-124: MOTION OF APPELLANTS TO EXTEND TIME FOR FILING OF ABSTRACT AND BRIEF" [6/30/89]

"INVENTORY OF BOX TWO OF TWO BOXES: PARTS III & IV OF IV PARTS, SETH WARD"

DOCUMENT (title/description/date)

SETH WARD: LITIGATION AND PROOFS OF CLAIM, PART IV OF IV PARTS

US COURT OF APPEALS, 8TH CIRCUIT IN RE: FSLIC, AS CONSERVATOR OF MADISON GUARANTY S&L BY FDIC AS MANAGER FOR THE CONSERVATOR, PETITIONER V. SETH WARD RESPONDENT: RESPONSE IN OPPOSITION TO FDIC'S EMERGENCY MOTION TO STAY ORDER OF REMAND PENDING DISPOSITION OF PETITION FOR WRIT OF MANDAMUS. [6/14/89]

EXHIBIT A: USA BEFORE FSLIC IN THE MATTER OF: MADISON GUARANTY S&L, FED HOME LOAN BANK BOARD RESOLUTION NO.86-851: STIPULATION AND CONSENT TO ENTRY OF ORDER TO CEASE AND DESIST [8/15/86]

EXHIBIT B: USA BEFORE FSLIC IN THE MATTER OF: MADISON GUARANTY S&L, FED HOME LOAN BANK BOARD RESOLUTION NO.86-851: ORDER TO CEASE AND DESIST [8/15/86]

EXHIBIT C: ESCROW AGREEMENT B/N MADISON GUARANTY AND WORTHEN BANK & TRUST

EXHIBIT D: FIRST CLASS MAIL FR FRIDAY, ELDREDGE & CLARK TO THOMAS RAY

EXHIBIT E: US DISTRICT COURT, EASTERN DISTRICT, ETC, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180): NOTICE OF REMOVAL TO US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION [10/10/89]

EXHIBIT F: US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180): ORDER BY JUDGE REASONER DENYING MOTION FOR STAY PENDING APPEAL, STATING COURT LACKS JURISDICTION TO RECONSIDER OR STAY THE ORDER REMANDING THE ACTION TO THE ARKANSAS COURT OF APPEALS [5/22/89]

EXHIBIT G: US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180): MOTION TO REMAND BY PLAINTIFF, WARD, SUBMITTED BY THOMAS RAY [3/22/89]

CERTIFICATE OF SERVICE OF COPIES OF MOTION TO REMAND BY PLAINTIFF, WARD, SUBMITTED BY THOMAS RAY [3/22/89]

EXHIBIT H: US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180): PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO REMAND [3/22/89]

EXHIBIT I: US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180): PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION TO REMAND [4/19/89]

LAWRENCE F. BATES (HOPKINS, SUTTER, HAMEL & PARK), OF COUNSEL, LTR. TO PAUL JEDDELOH, ESQ., FDIC ATTACHING DOCUMENTS FOR REVIEW [8/16/89]

US COURT OF APPEALS, 8TH CIRCUIT, NO. CA 89-1980EA, WARD V. FDIC AS CONSERVATOR: FSLIC'S OPENING BRIEF FOR APPELLANT

DOCUMENT (title/description/date)
"US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION, SETH WARD V. FDIC, CONSERVATOR, MADISON GUARANTY (LR-C-89-180) DOCKET & LISTING OF PROCEEDINGS. W. CORRESPONDING DATES, MOTIONS AND ORDERS"
"TRANSCRIPT OF PROCEEDINGS: INDEX OF PLAINTIFF'S EXHIBITS, WITNESSES, EXAMINATIONS, DEFENDANT'S EVIDENCE, WITNESSES & EXAMINATIONS"
"EXCERPTS OF TRANSCRIPT OF PROCEEDINGS BEFORE THE HON. STEVEN REASONER, US DISTRICT COURT AND EXHIBITS"
"WARD V FDIC, CONSERVATOR, US DISTRICT COURT: PLAINTIFF'S REPLY TO DEFENDANT'S RESPONSE IN OPPOSITION TO MOTION TO MOTION TO REMAND - INCLUDED IN PLAINTIFF'S BRIEFING"
"FEDERAL HOME LOAN BANK BOARD RESOLUTION 86-851: STIPULATION & CONSENT OF ORDER TO CEASE AND DESIST - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [8/15/86]
"FEDERAL HOME LOAN BANK BOARD RESOLUTION 86-851: ORDER TO CEASE AND DESIST - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [8/15/86]
"MEMORANDUM OPINION AND ORDER IN RE: US DISTRICT COURT EASTERN DISTRICT ARKANSAS, WESTERN DISTRICT: FIRST FINANCIAL S&L OF EL DORADO, FIRST FEDERAL S&L OF ROGERS, ARK, ET AL, PLAINTIFFS (NO.LR-C-86-724) V FSLIC AS RECEIVER FOR FIRSTSOUTH, F.A., DEFENDANT & FSLIC, AS RECEIVER V. FIRST JACKSONVILLE BANK, ET AL DEFENDANTS/COUNTERPLAINTIFFS INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [1/21/87]
"US DISTRICT COURT, WARD V. FDIC, CONSERVATOR: MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, REMAND OF THIS ACTION PENDING APPEAL - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [5/12/89]
"US DISTRICT COURT, WARD V. FDIC, CONSERVATOR: MEMORANDUM IN SUPPORT OF THE FSLIC'S MOTION FOR RECONSIDERATION OR, ALTERNATIVELY, REMAND OF THIS ACTION PENDING APPEAL - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [5/12/89]
"FHLBB APPOINTMENT OF CONSERVATOR FOR MADISON GUARANTY - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [2/28/89]
"MANAGEMENT AGREEMENT AMONG FEDERAL HOME LOAN BANK BOARD, FSLIC & FDIC - EXHIBIT 2 - INCLUDED IN 8/16/89 PLAINTIFF'S BRIEFING FOR COURT OF APPEALS" [2/7/89]
"IN THE US DISTRICT COURT EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION (DOCKET NO.LR-C-89-180), WARD, PLAINTIFF V. FDIC, DEFENDANT: TRANSCRIPT OF PROCEEDINGS BEFORE THE HON. STEVEN REASONER BY PEGGE J. MERKEL" [4/28/89]

DOCUMENT (title/description/date)

*ARKANSAS COURT OF APPEALS: MADISON GUARANTY & MADISON FINANCIAL, APPELLANT V. SETH WARD (NO.CA 89-124), APPELLEE: MOTION OF APPELLANTS TO EXTEND TIME FOR FILING OF ABSTRACT AND BRIEF" [8/2/89]

*ARKANSAS COURT OF APPEALS: FDIC, CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS V. SETH WARD (NO.CA 89-124), APPELLEE: APPELLEE'S RESPONSE IN OPPOSITION TO APPELLANTS' THIRD MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF" [8/4/89]

*ARKANSAS COURT OF APPEALS: FDIC, CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS V. SETH WARD (NO.CA 89-124), APPELLEE: APPELLANT FSLIC'S SUPPLEMENTAL BRIEF IN SUPPORT OF ITS MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF" [8/2/89]

*ARKANSAS COURT OF APPEALS: FDIC, CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS V. SETH WARD (NO.CA 89-124), APPELLEE: MOTION TO DISMISS" [8/10/89]

*ARKANSAS COURT OF APPEALS: FDIC, CONSERVATOR FOR MADISON GUARANTY & MADISON FINANCIAL, APPELLANTS V. SETH WARD (NO.CA 89-124), APPELLEE: APPELLEE'S SUPPLEMENTAL RESPONSE IN OPPOSITION TO APPELLANTS' THIRD MOTION FOR EXTENSION OF TIME TO FILE ABSTRACT AND BRIEF" [8/10/89]

*CONGRESSIONAL RECORD - HOUSE: POWER TO REMOVE: JURISDICTION" [8/4/89]

"IN THE US DISTRICT COURT, EASTERN DIVISION OF ARKANSAS, WESTERN DIVISION (NO.LR-C-89-180), SETH WARD V. FDIC, CONSERVATOR: PLAINTIFF'S RESPONSE IN OPPOSITION TO FDIC'S MOTION TO RECONSIDER OR STAY THE ORDER OF REMAND" [5/17/89]

"IN THE US DISTRICT COURT, EASTERN DIVISION OF ARKANSAS, WESTERN DIVISION (NO.LR-C-89-67), FIRST FEDERAL S&L OF HARRISON, ARK, PLAINTIFF V. SAVERS FEDERAL S&L OF LITTLE ROCK, ARK: RTC'S NOTICE OF REMOVAL" [8/22/89]

"IN THE US DISTRICT COURT, EASTERN DIVISION OF ARKANSAS, WESTERN DIVISION (NO.LR-C-89-67), FIRST FEDERAL S&L OF HARRISON, ARK, PLAINTIFF V. SAVERS FEDERAL S&L OF LITTLE ROCK, ARK: ORDER DENYING PLAINTIFF'S MOTION TO REMAND CASE TO STATE COURT; GRANTING DEFENDANT'S MOTION TO STAY ALL PROCEEDINGS FOR 45 DAYS; DIRECTING DEFENDANT TO POST BOND IN THE FORM OF US TREASURY BILL; DIRECTING CLERK OF THE COURT TO HOLD TREASURY BILL; GIVING PLAINTIFF RIGHT IN THE BOND BY SERVING A WRIT GARNISHMENT OR WRIT OF EXECUTION ON DEFENDANT ON 9/8/89; THAT CONDITIONS OF COURT SHALL CONTINUE UNTIL FURTHER ORDERS OF THE COURT" [9/12/89]

"IN THE US DISTRICT COURT, EASTERN DIVISION OF ARKANSAS, WESTERN DIVISION (NO.LR-C-89-67), FIRST FEDERAL S&L OF HARRISON, ARK, PLAINTIFF V. SAVERS FEDERAL S&L OF LITTLE ROCK, ARK, CASE NO. LR-C-89-679: TENDER IN LIEU OF GARNISHMENT BY RTC, AS CONSERVATOR FOR SAVERS - BY GEORGE DAHNKE, ESQ., HASTIE & KIRSCHNER" [9/12/89]

DOCUMENT (title/description/date)

"IN THE US DISTRICT COURT, EASTERN DIVISION OF ARKANSAS, WESTERN DIVISION (NO.LR-C-89-67), FIRST FEDERAL S&L OF HARRISON, ARK, PLAINTIFF V. SAVERS FEDERAL S&L OF LITTLE ROCK, ARK, CASE NO. LR-C-89-679: TENDER IN LIEU OF GARNISHMENT BY RTC, AS CONSERVATOR FOR SAVERS - BY GEORGE DAHNKE, ESQ., HASTIE & KIRSCHNER" [9/12/89]

"IN CIRCUIT COURT OF PULASKI COUNTY, ARK., SECOND DIVISION, SETH WARD V. MADISON GUARANTY S&L AND MADISON FINANCIAL: SUPERSEDEAS ORDER BY JUDGE PERRY V. WHITMORE - ESCROW AGREEMENT ENTERED INTO IN LIEU OF SUPERSEDEAS BOND" [11/15/88]

"US COURT OF APPEALS FOR THE ELEVENTH CIRCUIT (NO.89-5272) IN RE: FSLIC & SAVERS FEDERAL S&L ASSOCIATION, PETITIONERS ON PETITION FOR WRIT OF MANDAMUS TO THE US DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA" [4/24/89]

"US COURT OF APPEALS FOR THE EIGHTH CIRCUIT (NO.89-1980EA), SETH WARD, APPELLEE, V. FSLIC AS MGR FOR FSLIC, CONSERVATOR FOR MADISON GUARANTY S&L, APPELLANT AND (NO.89-1961) IN RE FSLIC, PETITIONER ON PETITION FOR WRIT OF MANDAMUS TO THE US DISTRICT COURT FOR THE EASTERN DISTRICT OF ARKANSAS: MOTION TO CONSOLIDATE PROCEEDINGS" [8/7/89]

"US COURT OF APPEALS FOR THE EIGHTH CIRCUIT (NO.89-1980EA), RTC, AS CONSERVATOR FOR MADISON GUARANTY, APPELLANT V. SETH WARD, APPELLEE: BRIEF OF APPELLEE" [1/6/90]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS, WESTERN DIVISION (CIVIL NO.LR-C-89-228), SETH WARD II & ANN BALCH WARD V FDIC, CONSERVATOR FOR MADISON GUARANTY: ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT AND DISMISSING CASE, W/ PREJUDICE. EACH PARTY TO BEAR ITS OWN COSTS, AND PLAINTIFFS ARE ESTOPPED FROM CLAIMING A RIGHT TO A LOWER INTEREST RATE THAN THAT REFLECTED IN THE OFFICIAL RECORDS OF THE DEFENDANT." [1/23/90]

"US COURT OF APPEALS FOR THE EIGHTH CIRCUIT (NO.89-1980), SETH WARD, APPELLEE, V. RTC AS CONSERVATOR FOR MADISON GUARANTY ON APPEAL: PER CURIAM: APPEAL IS MOOT" SUBMITTED [4/13/90]; FILED [5/7/90]

"US DISTRICT COURT, EASTERN DISTRICT, WESTERN DIVISION (DOCKET NO.LR-C-89-807), SETH WARD, PLAINTIFF V RTC, AS CONSERVATOR FOR MADISON GUARANTY, AND MADISON FINANCIAL: TRANSCRIPT OF HEARING BEFORE THE HONORABLE JUDGE STEPHEN M. REASONER" [10/31/89]

"LTR FROM HARRY A. LIGHT TO ACTING CLERK, US COURT OF APPEALS TO THE HONORABLE MICHAEL E. GANS RE: CAUSE NO.91-3015, WARD V RTC AS RECEIVER FOR MADISON GUARANTY ET AL ATTACHED TO OWN ENTRY OF APPEARANCE ON BEHALF OF APPELLANTS. ENTRY OF APPEARANCE OF MICHAEL G. THOMPSON ON BEHALF OF APPELLANTS, AND 3 COPIES OF NOTICE OF APPELLANTS' INTENTION TO FILE SEPARATE APPENDIX FOR FILING" [9/13/91]

DOCUMENT (title/description/date)

"RE: CAUSE NO.91-3015, WARD V RTC AS RECEIVER FOR MADISON GUARANTY ET AL ENTRY OF APPEARANCE OF MICHAEL G. THOMPSON ON BEHALF OF APPELLANTS"

"NOTICE OF APPELLANTS' INTENTION TO FILE SEPARATE APPENDIX: IN NO.91-3015, WARD, APPELLEE V. RTC AS RECEIVER FOR MADISON GUARANTY, & MADISON FINANCIAL CORP., APPELLANTS" [9/13/91]

"RE: CAUSE NO.91-3015, WARD V RTC AS RECEIVER FOR MADISON GUARANTY ET AL ENTRY OF APPEARANCE OF HARRY A. LIGHT ON BEHALF OF APPELLANTS"

"LTR. FR MICHAEL E. GANS, CLERK, US COURT OF APPEALS FOR THE EIGHTH CIRCUIT TO HARRY A. LIGHT & GEORGE PIKE, JR., FRIDAY & ELDRIDGE, RE:91-3015EALR, WARD V RTC WITH APPEAL BRIEFING SCHEDULE, BRIEFING CHECKLIST AND ADDRESSES OF INVOLVED PARTIES"

"US COURT OF APPEALS - EIGHTH CIRCUIT, APPELLEE'S FORM B: APPEAL INFORMATION FORM COMPLETED BY THOMAS RAY, SHULTS, RAY & KURRUS, FOR SETH WARD" [9/10/91]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS: ORDER SCHEDULING HEARING FOR 7/19/91 IN RE LR-C-89-807, WARD V. RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL" [7/2/91]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS: ORDER GRANTING DEFENDANT'S MOTION TO SUBSTITUTE RTC AS RECEIVER IN PLACE OF AS CONSERVATOR IN RE LR-C-89-807, WARD V. RTC, AS CONSERVATOR FOR MADISON GUARANTY AND MADISON FINANCIAL" [7/2/91]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS CIVIL NO. LR-C-89-807, WARD V. RTC, AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL: MOTION FOR RELIEF FROM JUDGMENT BY DEFENDANTS, RTC, ET AL" [7/11/91]

"US DISTRICT COURT, EASTERN DISTRICT OF ARKANSAS CIVIL NO. LR-C-89-807, WARD V. RTC, AS RECEIVER FOR MADISON GUARANTY AND MADISON FINANCIAL: BRIEF IN SUPPORT OF MOTION FOR RELIEF FROM JUDGMENT BY DEFENDANTS, RTC, ET AL" [7/11/91]



RESOLUTION TRUST CORPORATION

Resolving The Crisis
Restoring The Confidence

April 19, 1994

Honorable Donald W. Riegle, Jr.
Chairman
Committee on Banking, Housing,
and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed is the Report of the Dallas Professional Liability Review Team composed of attorneys from the Treasury Department, Secret Service Agents, and an RTC investigator and attorney. The Review Team was formed by Interim CEO Roger Altman to investigate allegations made during the hearings held on September 23, 1993 regarding the Resolution Trust Corporation's (RTC) pursuit of legal action against officers, directors and other professionals who were affiliated with failed savings institutions. The objective of the Review Team was (1) to review the allegations regarding the professional liability program, (2) to review the operation of the professional liability program in Dallas, and (3) to present Review Team findings to the RTC CEO.

The Review Team conducted 49 interviews of PLS attorneys and investigators from the Dallas office on December 8-10 and 15-16, 1993. Each interview was conducted using a standard questionnaire and each interviewee was assured that his or her identity would remain confidential. In addition, the Review Team interviewed four RTC officials in Washington on December 21-23, 1993, for a total of 53 interviews. The findings in the report were based upon the interviews, a review of the legal and regulatory bases for the RTC's professional liability program, and a review of internal policy memoranda and other information concerning RTC's professional liability program in the Dallas office. It was not within the scope of the review to investigate or verify statements obtained in interviews or to review individual RTC case files.

The findings of the Review Team, as summarized in the report, are as follows:

- There was not a wide-ranging failure to pursue professional liability claims in Texas.

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- Dallas PLS attorneys and investigators generally believe that professional liability cases are adequately investigated, and not closed merely because the statute of limitations is about to expire.
- The reorganizations of the professional liability program and the resulting frequent changes in personnel and reassignment of cases have been extremely disruptive to the operation of the program in Dallas.
- The RTC's decentralized organizational structure, inadequate management of personnel in Dallas, and inadequate oversight by the RTC in Washington all contributed to the failure of PLS attorneys and investigators in Dallas to work together as a team.

Although we have not had an opportunity to consider all of the findings, some steps had already been taken prior to receipt of the report to address the problems noted.

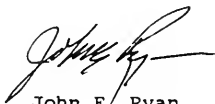
- In accordance with the requirements of the RTC Completion Act, the Legal Division has taken steps to remedy structural problems which resulted in fragmented management, lack of direction and inadequate oversight. An Assistant General Counsel for Professional Liability, (AGC) who is to report to Congress semi-annually on professional liability matters has been appointed.
- The professional liability staff in each field office is now under the direct supervisory control of the Washington AGC and the Office of Investigations has been transferred to the Legal Division, also under the supervisory direction of the senior PLS and Legal Division management. The head of the Office of Investigation and the AGC are working closely together to integrate investigation and professional liability efforts of the staff. This process has just begun and will be on-going.
- In the past year the quarterly review of cases in each field office has been expanded and emphasized.
- Four new Senior Counsel positions, three of which are to provide direct oversight of professional liability efforts in the field, have been approved and are expected to be filled within the next week.
- In order to obtain additional experienced professional liability attorneys, the FDIC is working with the RTC to make available FDIC attorneys who wish to volunteer to work within the RTC on PLS matters. FDIC attorneys in Washington are being invited to participate in this program and it is anticipated that FDIC attorneys in the field will be invited to do so shortly.

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Again, let me assure you that this final report, received yesterday, will be thoroughly reviewed and changes at the RTC will be made as required. We have approximately 20 months left before the RTC sunset date. I am determined to make sure we operate as efficiently and effectively as possible during this remaining period. I fully agree with the view expressed during your September hearings. The taxpayers deserve to know the government is doing all that can be done to recover monies from those who contributed to the failure of federally insured savings institutions.

We hope this information is of assistance to you. If you have any questions, please let me know.

Sincerely,



John E. Ryan
Deputy and Acting CEO

Enclosure



REPORT

RESOLUTION TRUST CORPORATION

**REVIEW OF THE
PROFESSIONAL LIABILITY PROGRAM IN DALLAS**

APRIL 1994

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INTRODUCTION

On September 23, 1993, 13 current and former employees of the Resolution Trust Corporation (RTC) testified at a "whistleblower" hearing before the Senate Committee on Banking, Housing, and Urban Affairs. These witnesses raised serious questions regarding RTC management and policies. One of the witnesses was Mr. Thomas J. Burnside, a former Professional Liability Section (PLS) attorney in the RTC Dallas office, who made several allegations regarding the Professional Liability (PL) program in that office.

The purpose of the RTC PL program is to pursue civil claims against officers, directors, attorneys, accountants and other institution-affiliated parties who caused losses to failed savings associations. To develop these claims, the RTC employs investigators and PLS attorneys. Mr. Burnside alleged that the RTC failed to pursue many PL cases handled by RTC offices in Texas. In particular, Mr. Burnside stated that key witnesses in PL cases often were not interviewed by PLS attorneys, and that far too few subpoenas were issued in PL cases, thus hindering the RTC's ability to make an effective determination about whether a case should be pursued. He also stated that inadequate investigation of PL claims often led to closure of PL cases because the statute of limitations expired before claims could be filed. He further stated that PLS attorneys and RTC investigators, who are responsible for developing the factual record for the pursuit of PL claims and providing litigation support, failed to work as a team. Finally, Mr. Burnside claimed that severe disruptions to the PL program were caused by reorganizations of the program.

On September 28, 1993, RTC Interim Chief Executive Officer (CEO) Roger C. Altman wrote to the Chairman of the Banking Committee, Senator Donald W. Riegle, Jr., stating that each of the whistleblower allegations would be reviewed. To address the allegations made by Mr. Burnside, Mr. Altman's staff met with Mr. Burnside on November 15, 1993, to obtain additional details regarding the operation of the RTC's PL program in Dallas, and to seek his views on how the PL program could be improved. Following Mr. Burnside's visit, Mr. Altman directed that a Review Team be assembled. The objectives of the Dallas Professional Liability Review Team were (1) to review the allegations made by Mr. Burnside, (2) to review the operation of the PL program in Dallas, and (3) to present Review Team findings to the RTC CEO.

To conduct this review, the Review Team read the written testimony of Mr. Burnside, the transcript of the September 23 hearing, and letters written by Mr. Burnside to Mr. Altman and his staff following the hearing. The Review Team also requested and received information from RTC officials regarding the history, organization, and operation of the RTC PL program. Next, the Review Team interviewed investigators and PLS attorneys in Dallas.

The Review Team conducted 49 interviews of PLS attorneys and investigators from the Dallas office on December 8-10 and 15-16, 1993. Each interview was conducted using a standard questionnaire and each interviewee was assured that his or her identity would remain confidential. In addition, the Review Team interviewed four RTC officials in Washington on December 21-23, 1993, for a total of 53 interviews. At his request, members of the Review Team also met with Mr. Burnside in Washington, D.C. on January 13, 1994.

Finally, the Review Team contacted some interviewees to answer follow-up questions, and obtained further information from other RTC officials. For example, the Review Team requested and received statistics concerning RTC Dallas office cases and recoveries.

The findings in this report are based upon interviews of Dallas and Washington RTC employees, a review of the legal and regulatory bases for the RTC's PL program, and a review of internal policy memoranda and other information concerning RTC's PL program in the Dallas office. It was not within the scope of this review to investigate or verify statements obtained in interviews or to review individual RTC case files. The interviews were a means to report to the RTC CEO, in summary form, the views of Dallas RTC employees. The Review Team expresses no opinion regarding the accuracy of the comments made by interviewees.

RESULTS IN BRIEF

The Review Team found that there have been, and continue to be, problems in Dallas with the RTC Professional Liability program. Although some of these problems were identified during the September 23, 1993 hearing before the Senate Committee on Banking, Housing, and Urban Affairs, the Review Team did not find support for many of the allegations raised in that hearing. The Review Team found that:

- **There was not a wide-ranging failure to pursue professional liability claims in Texas.**

A large number of thrifts failed in Texas early in the RTC's history, when the RTC professional liability program was being established and the Dallas RTC office had few experienced PLS attorneys. In this situation, decisions were made on many early cases just prior to the expiration of the statute of limitations. Some interviewees identified cases that they believe should have been pursued, or pursued more vigorously. The Review Team assembled a list of those cases, and has forwarded that list to the RTC for review in light of the recent extension of the statute of limitations.

- **Dallas PLS attorneys and investigators generally believe that professional liability cases are adequately investigated, and not closed merely because the statute of limitations is about to expire.**

Investigators and PLS attorneys generally felt that they were able to seek and use administrative subpoenas for the investigation of failed institutions whenever necessary. However, the Review Team did not find an environment in the Dallas RTC office that seemed conducive to the proactive use of subpoenas. Nonetheless, it is not certain that increased use of administrative subpoenas would have guaranteed significantly greater recoveries, and the savings and loan loss and RTC recovery figures provided during the September 23, 1993 hearing do not present an accurate picture of overall RTC recovery efforts.

- **The reorganizations of the professional liability program and the resulting frequent changes in personnel and reassignment of cases have been extremely disruptive to the operation of the program in Dallas.**
- **The RTC's decentralized organizational structure, inadequate management of personnel in Dallas, and inadequate oversight by the RTC in Washington all contributed to the failure of PLS attorneys and investigators in Dallas to work together as a team.**

The Review Team found a very high level of tension between PLS attorneys and investigators in the Dallas office, particularly between managers. This tension undoubtedly impaired the efficiency of the PL program. However, most interviewees expressed a strong commitment to their work.

BACKGROUND

History of the RTC Professional Liability Program

When the RTC was created in late 1989, investigators and attorneys handling professional liability claims came from the Federal Deposit Insurance Corporation (FDIC), which has separate reporting lines for investigators and attorneys.

Office of Investigations. The RTC's Office of Investigations was formed in late 1989 and early 1990 when the FDIC began to designate certain of its investigators as RTC employees. Also at that time, the RTC hired many new investigators. These investigators reported to a Senior Investigations Specialist in each of four regional RTC offices, who in turn reported to the regional office's Vice President for Operations. The RTC also established an Office of Investigations (as part of the Division of Operations) in Washington, D.C., headed by the Director of Investigations, whose purpose was to establish goals and objectives and to provide policy guidance for Investigations units throughout the country. The Director of Investigations has a staff of 27 in Washington,¹ which develops policy and training programs for RTC investigators nationwide, works on high priority cases, and performs asset tracing services for the RTC's Washington and regional office staff. The Director has no supervisory authority over Investigations personnel outside of Washington.

Beginning in May 1992, staffing of the RTC Office of Investigations was affected when RTC Investigations managers and staff who had been FDIC employees and had "return rights" to the FDIC began to be transferred back to the FDIC. This decision coincided with a decision to reorganize and downsize the RTC, and to eliminate an intermediate level of Investigations managers. Despite the goal of downsizing, the RTC expended additional funds to hire contractors to perform investigative work for particular cases. The results of this turnover in Investigations included a loss of experienced managers and a disruption in the investigation of on-going cases.

Professional Liability Section. The RTC PLS had its beginning in late 1989 when the FDIC General Counsel's Office designated approximately 17 attorneys to do only RTC PL work, with approximately 48 attorneys remaining for FDIC PL work. By January 1990, 22 FDIC attorneys had been dedicated to RTC PL work, including 17 in Washington and five in Dallas, the first office outside of Washington to include attorneys dedicated to RTC PL work. This number remained relatively constant until early 1991.

In April 1991, the RTC established 15 "field offices" that reported to four regional offices. The field offices that reported to the Dallas regional office were located in Dallas, San Antonio, and Houston.² At the same time, a decision was made to staff PLS (and Investigations) in all RTC

¹ This figure was provided to the Review Team by the RTC, as were other figures in this report unless attributed to other sources.

² In a 1992 reorganization, the RTC's Baton Rouge field office began reporting to the Dallas regional office.

regional and field offices. By May 1991, FDIC attorneys dedicated to RTC PL cases had increased to 64, with 17 in Washington, seven in four regional offices, and 40 in the 15 RTC field offices. At this time, the Dallas regional office included two attorneys, the PLS Counsel and a senior attorney, Mr. Burnside. Reporting to this office were three PLS Section Chiefs from the Dallas, San Antonio, and Houston field offices. Each of these field offices had three PLS attorneys, including the Section Chief.

In September 1991, the RTC Legal Services Division separated from the FDIC. In the RTC, PLS attorneys outside of Washington had separate reporting lines from other RTC attorneys outside of Washington. PLS Section Chiefs in field offices reported to PLS Counsel in regional offices, who in turn reported to the Assistant General Counsel-PLS (AGC-PLS) in Washington. The AGC-PLS reported to the RTC Deputy General Counsel. Non-PLS attorneys outside of Washington reported to Assistant General Counsel in the regional offices, the top Legal Division officials in those offices, who in turn reported to regional Vice Presidents and to the General Counsel in Washington.

The largest, most complicated PL cases, regardless of their geographic origin, generally are (and generally always have been) handled in Washington.³ Similarly, within the regions, the larger, more complicated cases (that are not being handled in Washington) were handled by the regional offices, as opposed to the field offices.

Organizational changes affecting PLS and RTC regional offices, particularly in 1992, caused disruption in the Dallas office. These reorganizations and their effect on the PL program are discussed in detail later in this report.

Concerns Regarding the Professional Liability Program

Concerns regarding the operation of the PL program at the RTC did not begin with the September 23, 1993 hearing in the Senate. In addition to Congressional committees, the General Accounting Office (GAO) also has been monitoring the RTC PL program, and RTC PLS and Investigations and the RTC Office of Inspector General also have conducted their own reviews.

The GAO testified in June 1992 that the RTC and the FDIC were not doing enough to pursue PL claims, noting in particular that staffing shortages and reorganizations at the RTC had

³ PLS cases may be handled by Washington PLS when they have been deemed "significant" by the AGC-PLS. In the past, cases have been deemed significant when:

- they involved a defendant, such as an accounting firm, which may be involved with a number of institutions in different regions of the country, so that the RTC sought a "global" resolution with the defendant;
- they involved a nationally known business or political figure;
- Washington RTC management had a particular interest in the institution; or
- at the closing of the institution, institution assets were in excess of \$1 billion.

disrupted the PL program.⁴ On August 11, 1992, the Senate Committee on Banking, Housing, and Urban Affairs heard from three PLS attorneys who said that the RTC had seriously damaged the PL program through staffing and restructuring decisions, among other things, and that those decisions may have been motivated by a desire to undercut the program. These allegations were rejected by the then-CEO of the RTC at another hearing before the same Senate committee on October 1, 1992.

Following these hearings, Chairman Riegle requested that the GAO respond to the issues raised by witnesses at both hearings, assess the impact of RTC management changes on the PL program, and continue to monitor PLS staffing and the filing and disposition of PL cases. Chairman Riegle also requested that the GAO identify steps to assure the orderly transfer of the RTC PL program to the FDIC when the RTC is terminated.⁵

In early 1993, the RTC CEO departed, and his responsibilities were assumed by Interim CEO Altman. On March 16, 1993, in testimony before the House Committee on Banking, Finance, and Urban Affairs, Lloyd Bentsen, Secretary of the Treasury and Chairman of the Thrift Depositor Protection Oversight Board (Oversight Board), announced, as one of ten reforms to improve overall RTC management, that he had requested the Interim CEO to review and to recommend improvements in the organization and staffing of the RTC's PLS program.

In June 1993, the GAO completed its review of the PL program requested by Senator Riegle. The GAO found "no evidence that the staffing actions and reorganizations RTC took affecting PLS were designed to impede the professional liability work."⁶ GAO found, however, "that some of the management actions taken by RTC, as they affected PLS, were ill-conceived and poorly implemented."⁷ The GAO also noted that between March 31, 1992 and the date of its report, half of the PLS attorneys had left the program, and that a high proportion of the attorneys hired to replace them had less experience than needed. The GAO stated that there was a risk that future investigations of PLS claims might suffer from inadequate staffing and the staff's lack of experience. The GAO pointed out that, because the RTC is a temporary agency, it is difficult to attract and retain PLS attorneys and recommended that the RTC work with the FDIC to analyze and address the staffing needs of the PL program.⁸

⁴ GEN'L ACCT'G OFFICE, NO. GAO/T-GGD-92-42, BANK AND THRIFT FAILURES: FDIC AND RTC COULD DO MORE TO PURSUE PROFESSIONAL LIABILITY CLAIMS 14-17, 27-29 (1992).

⁵ GEN'L ACCT'G OFFICE, NO. GAO/GGD-93-105, THRIFT FAILURES: ACTIONS NEEDED TO STABILIZE RTC'S PROFESSIONAL LIABILITY PROGRAM 1 (1993) (hereinafter THRIFT FAILURES).

⁶ *Id.* at 2.

⁷ *Id.*

⁸ The RTC and FDIC Offices of General Counsel have been discussing approaches to improve morale, retain qualified staff, and effect a smooth transition of the RTC PL program to the FDIC. Both of these offices also are reviewing and discussing their respective operational practices, with the goal of retaining the best practices from each office and harmonizing their respective procedures to the extent practical.

The GAO's review of the "close-out" memoranda detailing the reasons behind decisions not to pursue cases against institution-affiliated parties⁹ concluded that the decisions were based on "good faith and plausible litigation judgments."¹⁰ The GAO also noted actions taken by the RTC to improve PLS case oversight, including quarterly case reviews by PLS managers, a requirement that the AGC-PLS formally approve all case close-out decisions, and coordinated training for regional PLS attorneys.

In the spring of 1993, the RTC in Washington also recognized that there were problems in Dallas because the quality of PL program work received from that office seemed to decline, and disagreements between Dallas investigators and attorneys appeared more frequent. Both PLS and Investigations dispatched teams headed by staff from Washington to Dallas in June 1993 to review on-going cases to determine whether investigative and legal work was adequate. The team sent by PLS identified cases needing attention, but reported that none of these cases had been compromised, despite the ongoing problems between Dallas PLS and Investigations. The team sent by Investigations identified several issues of concern and brought them to the attention of Washington PLS and Investigations management in an effort to address them. A Washington-based investigator also stayed in Dallas throughout the summer of 1993 to provide advice and assistance.

The RTC Office of Inspector General (OIG) also reviewed the RTC PLS program and issued a report in July 1993. The OIG reached generally the same conclusions as the GAO, including the finding that there was no evidence of a management policy of covering up or willfully failing to pursue fraudulent or negligent activity of institution-affiliated parties from institutions with expiring statutes of limitations.¹¹

⁹ The term "institution-affiliated parties" is defined at 12 U.S.C. § 1813(u).

¹⁰ THRIFT FAILURES at 9.

¹¹ See OFFICE OF THE INSPECTOR GENERAL, RESOLUTION TRUST CORPORATION, INSPECTION REPT. INS93-005, REVIEW OF ALLEGATIONS ASSOCIATED WITH THE RESTRUCTURING OF RTC'S LEGAL DIVISION AND ITS EFFECT ON THE PROFESSIONAL LIABILITY SECTION (1993) [hereinafter OIG REPORT].

PROFESSIONAL LIABILITY PROGRAM ORGANIZATION AND OPERATION

Since 1992, several major reorganizations of the RTC and the PL program have disrupted PL program work throughout the country. The resulting loss of experienced staff, reassignment of on-going cases, lost knowledge regarding those cases, and physical transfer of files from one office to another created delays in investigating PL claims. In some cases, these delays made it difficult to complete thorough investigations before the expiration of the statute of limitations.¹² These reorganizations appear to have been particularly detrimental to the operation of the PL program in Texas. Coupled with a PLS and Investigations management structure that fails to promote dispute resolution at all levels, the result is that small problems in Dallas have a tendency to become larger problems.

The Review Team found a very high level of tension between PLS attorneys and investigators in the Dallas office. The Review Team believes that the reorganizations contributed to this tension, along with management deficiencies and personality conflicts. This tension flows from: a lack of respect by PLS attorneys and investigators for each other's skills, a failure to identify specifically the respective duties and responsibilities of PLS and Investigations, failure of PLS and Investigations management in Dallas to work effectively together to address and resolve conflicts, and failure of PLS and Investigations management in Washington adequately to oversee, provide guidance, and intervene effectively when it became clear that the problems would not be solved in Dallas. While this tension undoubtedly impaired the efficiency of the PL program, it does not appear to have resulted in any failure adequately to investigate or pursue PL claims.

Congress has sought to address some of the problems arising from the PL program management structure. Under section 3(a) of the Resolution Trust Corporation Completion Act,¹³ the RTC is required to appoint an assistant general counsel for professional liability, whose responsibilities include the direction and supervision of all legal, investigative, and other personnel involved in the litigation of PL claims. As of this writing, the AGC-PLS has been appointed, and the Office of Investigations has been reassigned under the direction of the AGC-PLS. The exact reporting lines of regional office PLS and Investigations staff still are being determined.

The Review Team believes that a careful, considered implementation of this statutory requirement can contribute significantly to improvement in the operation of the PL program in Dallas. In light of the history of disruptions to the PL program, great care should be taken to minimize the disruption caused when implementing this change in reporting lines.

The Review Team also believes strong, consistent oversight by the RTC in Washington also can

¹² See *THRIFT FAILURES* at 7-11.

¹³ Pub. L. No. 103-204, 107 Stat. 2369, 2374 (1993), *codified at* 12 U.S.C. § 1441a(w)(10).

contribute to improvement in the operation of the PL program. The appointment of the AGC-PLS, with responsibility for all aspects of PL program operations, provides an opportunity for such oversight that did not exist in the previous organizational structure of the PL program.

An explanation of recent RTC reorganizations and realignments, and their deleterious effect on the PL program, follows.

1992 PLS Realignment

As noted above, following the creation of a separate RTC Legal Division, PLS attorneys outside of Washington reported to regional PLS Counsel, who in turn reported directly to the AGC-PLS in Washington. However, in a realignment of reporting lines announced in January 1992 and implemented in April 1992, the regional PLS Counsel began reporting to Senior Counsel for Litigation in the regional offices, who in turn report to an Assistant General Counsel (AGC), the top Legal Division official in each regional office. These regional AGCs report to the heads of the regional offices, who are RTC Vice Presidents, and to the General Counsel in Washington. This realignment made the reporting structure for PLS attorneys the same as that which existed for non-PLS attorneys outside of Washington.

The result of this realignment was a loss of AGC-PLS operational control over PLS attorneys. Although the AGC-PLS retained authority over policy matters and major cases, the AGC-PLS was considered a second-line supervisor for regional PLS Counsel (later retitled as section chiefs) only on their personnel evaluations and had only concurrence authority regarding the hiring or firing of Counsel. All other PLS attorneys and matters outside of Washington, including budget, were under the control of the regional office AGCs.¹⁴

The impact of the PLS realignment in Dallas is difficult to determine because it occurred close in time to the 1992 RTC reorganization, discussed below. The realignment meant that PL cases underwent two additional layers of review in the regional office before they were sent to Washington. It is not clear that these additional layers of review improved the quality of the PLS work products, or that the coordination between PLS and non-PLS sides of the Legal Division was improved, which supposedly was one basis for the realignment decision. The Review Team believes that the loss of operational control by PLS in Washington over the Dallas regional office PLS staff did not improve the overall operation of the PL program in that office.

1992 RTC Reorganization

In March 1992, the RTC decided to downsize and consolidate its operations nationwide. Its four regional offices and 15 field offices were merged into six "supersites," one of which was Dallas. As a result, the Houston, San Antonio, and Baton Rouge field offices were to be closed, and their PL program work assigned to the Dallas supersite. In May 1992, the Dallas field office and regional office were merged. The San Antonio field office was closed and its cases moved

¹⁴ See THRIFT FAILURES at 5-7.

to Dallas in January 1993. The Houston field office was closed in May 1993; however, in September 1993, the RTC rehired eight investigators and four technicians for litigation support in that office. Finally, although the Baton Rouge field office was to be closed in February 1993, eight Investigations staff members remained in that office through June 1993, and six staff until January 1994.

Some PLS attorneys and investigators from these field offices were offered the opportunity to move to the new Dallas supersite. Only three of the Houston Investigations staff of 24 and one of its three PLS attorneys accepted positions in Dallas. Similarly, nine of the San Antonio Investigations staff of 20, and only one PLS attorney, accepted Dallas positions. From Baton Rouge, only two of 31 Investigations staff members moved to Dallas, but no PLS attorneys.

In addition, the announcement of the closing of the field offices in early 1992 started the exodus of attorneys and investigators from those offices as they sought other employment. For example, in Houston, three PLS attorneys had been handling over 40 institutions, including 33 with statute of limitations deadlines in March 1992. Once filed, these cases were subject to a court-imposed expedited schedule known as the "rocket docket." One Houston PLS attorney left in May 1992, and a second in December 1992. In January 1993, the remaining Houston attorney moved to Dallas, but spent a significant amount of time in 1993 traveling to Houston. Active files on which PLS attorneys in Houston and other field offices were working had to be reassigned and learned by PLS attorneys in Dallas, an office which also was experiencing a high turnover of PLS attorneys.

These changes were particularly devastating to PLS in terms of lost experience and knowledge of ongoing cases. There has been an almost complete turnover in attorneys in three years; only one attorney is now there who was there in 1990. Of the eight PLS staff attorneys, six have been there for a year or less, and there are four staff attorney vacancies. The Review Team notes that even though quarterly staffing levels for Dallas region PLS remained fairly constant following the reorganization, the turnover was extremely high. In addition, some of the attorneys who worked in PLS were "borrowed" from non-PLS positions at the RTC and worked only for a few months on PLS matters. Although such stop-gap measures may have provided some limited short term relief, some of these attorneys were not very productive in their short time in PLS.

The Acting Section Chief in Dallas in December 1993 has returned to Kansas City. The current Acting Section Chief is one of two Deputy Section Chiefs, and moved to Dallas from RTC PLS in Kansas City in July 1993. Thus, there also is a vacancy in the Dallas PLS management. Since May 1992, Dallas PLS has had one Section Chief, who left in May 1993, and two Acting Section Chiefs. The Review Team believes that the frequent changes in Dallas PLS management in the past two years limited the RTC's ability to address and resolve problems between Dallas PLS and Investigations.

The high turnover of PLS attorneys in the Dallas region also resulted in a high turnover of cases among PLS attorneys. The 1993 RTC OIG report on the 1992 reorganization found that following the 1992 reorganization, 43 percent of PL cases were turned over to different PLS

attorneys.¹⁵ The Review Team found that the turnover in the Dallas region over the past two years was much higher; virtually every case in the Dallas region that was open at the time of the reorganization has been transferred from the original PLS attorney to another PLS attorney, and in some instances has been transferred a number of times.

By mid-September 1992, a total of 74 cases had been closed in the Dallas region, and 123 remained open. Of these 123 cases, 26 (21.1 percent) were transferred to a different PLS attorney once. Another 44 cases (35.8 percent) were transferred twice following the reorganization. Still another 36 cases (29.3 percent) were transferred to three times to separate PLS attorneys following the reorganization. Finally, 14 cases (11.4 percent) were transferred to four separate PLS attorneys, and three cases were transferred five times to different PLS attorneys. Considering the complicated nature of PL cases and the time involved in becoming familiar with a case, the turnover of the cases in Dallas among PLS attorneys, up to five times in less than two years, unquestionably has been a serious impediment to the prompt and thorough resolution of these cases.

The Review Team believes that the detrimental effect on the PL program in Texas of the loss of experienced RTC PLS attorneys is difficult to overstate, and that this loss contributed substantially to the problems the Review Team identified. The Review Team further believes that much of this loss of personnel is attributable to the 1992 PLS realignment, and the way in which the 1992 reorganization was carried out.

The Review Team was told that it was difficult to attract and retain qualified attorneys for Dallas PLS positions. Nevertheless, the Review Team believes that efforts should be made to fully staff the Dallas PLS office, and to secure the services of attorneys with significant, relevant experience. One potential reservoir of attorneys may be the FDIC. However, as the GAO stated in its 1993 report, under an agreement reached between previous heads of the RTC and FDIC, career permanent FDIC employees cannot accept positions at the RTC without giving up their rehire rights with the FDIC.¹⁶ Because of the need for experienced attorneys and the fact that the RTC expects to transfer its PL cases to the FDIC when the RTC is terminated, the Review Team believes that, if it still is in force, the RTC and FDIC should reconsider this agreement. In addition, the FDIC and RTC should consider whether other avenues are available to accomplish the goal of fully staffing RTC PLS with attorneys with relevant experience.

Finally, the Review Team recognizes that RTC decisions on whether to close an office involve much more than just the status of the PL program cases in that office. The Review Team also notes, however, that PL program work tends to take longer to complete other than RTC work.¹⁷ Therefore, the status of PL program work in regional offices should be carefully

¹⁵ OIG REPORT at 7.

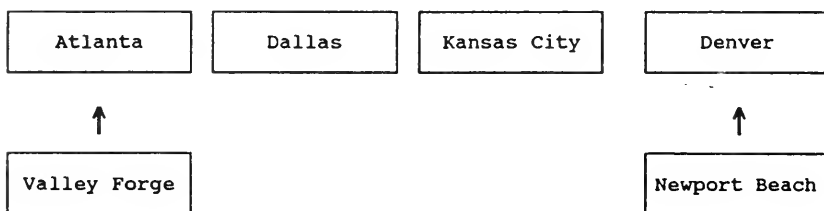
¹⁶ THRIFT FAILURES at 20.

¹⁷ For example, asset sales and commercial litigation typically require less factual investigation than PL cases. Because of their complicated nature, PL cases often require one to two years of investigation before cases are filed.

considered as the RTC winds down over the next 20 months. The closing and reopening of the Houston office for PL program purposes and the fact that the Baton Rouge office retained Investigations staff until January 1994 graphically illustrate the point made by the GAO regarding the 1992 reorganization: "some of the management actions taken by the RTC, as they affected PLS, were ill-conceived and poorly implemented."¹⁸

1993 Investigations Realignment

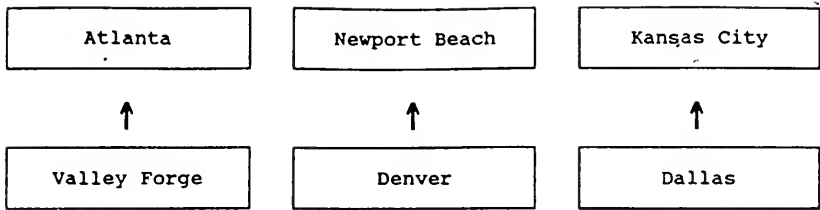
Until August 1993, Investigations offices outside of Washington were part of the Operations Division, and reported to regional Vice Presidents for Operations. In field offices such as Houston and San Antonio, Investigations reported to the regional Investigations offices, such as Dallas. Following the 1992 reorganization, the Operations Division, and thus the Investigations unit, organized its offices outside of Washington as follows:



One of the management reforms announced by Oversight Board Chairman Bentsen during the March 1993 RTC oversight hearing in the House of Representatives was the appointment of a Chief Financial Officer for the RTC. The appointment of that official in the summer of 1993 resulted in organizational changes at the RTC, including the transfer of the Office of Investigations from the Operations Division to the Division of Asset Management and Sales. Outside of Washington, this Division has three primary regional offices, as opposed to four for the Operations Division. Thus, when Investigations transferred to the Asset Management Division, RTC management decided to have three primary Investigations offices outside of Washington, and three satellite offices reporting to these offices. As a result, in August 1993, the regional Investigations offices were organized as follows:

¹⁸ THRIFT FAILURES at 2.

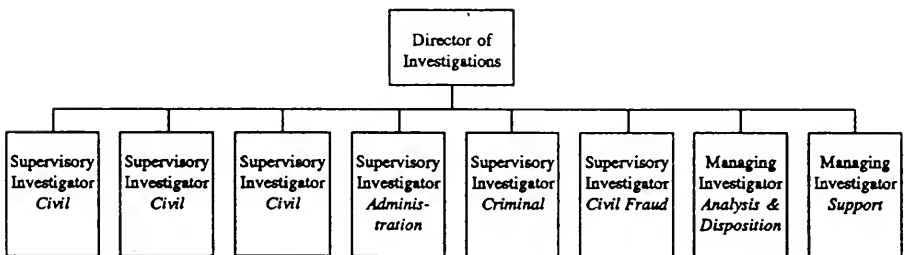
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The two results of this change were that (1) the reporting lines for the Denver and Newport Beach Investigations Offices were reversed, and (2) the Dallas Investigations Office now reports to Kansas City Investigations.

This change in reporting lines was not well received among investigators interviewed by the Review Team in Dallas. A number of investigators told the Review Team that they viewed this change as a punitive measure in response to the failure of the managers in Dallas Investigations and PLS to work together. Others questioned whether the Kansas City Investigations staff was as experienced as the Dallas staff, and still others questioned whether, considering the respective case loads of the two offices, Dallas Investigations should have been given oversight over Kansas City.

The change in reporting lines also resulted in the imposition of the Kansas City Investigations organizational structure in Dallas. Prior to this change, the Dallas Investigations office was headed by a Director, with two deputies. These deputies also assigned certain investigators to "team leader" roles. With the imposition of the Kansas City organizational structure, Dallas Investigations now includes a Director of Investigations and eight "deputies," with their roles broken down along functional lines, as shown below:



Many of the investigators interviewed by the Review Team stated that although two deputies in Investigations were not enough, eight deputies are too many. For example, it was pointed out that the Supervisory Investigator for Administration supervises only one investigator and two technicians. Investigators also questioned the decision to put investigators who focus on accountant liability claims and most of the technicians under the Managing Investigator for Support. Investigators noted that the changes in position for a number of investigators, including promotions to supervisory positions, meant that cases once again were reassigned to new investigators, resulting in lost time when the investigators and their supervisors were required to learn new cases. Another result is that fewer investigators actually are working on cases, since more investigators now are supervisors. Further, some investigators commented that the Kansas City Investigations organizational structure is not suited to the Dallas case load.

The Review Team was told that many of the functional duties assigned to the supervisory investigators in the new organizational structure were being performed under the previous Dallas Investigations organizational structure. However, the Review Team believes that the formalization and assignment of these roles (such as Civil Fraud and Analysis & Disposition) to particular individuals may help to ensure that these functions are performed.¹⁹ Nevertheless, it is not clear to the Review Team that the individuals who are assigned these roles all need to be supervisors, or that eight deputies are needed. The RTC may wish to address these issues as part of its change to the Office of Investigations reporting lines required by the RTC Completion Act.

Following the imposition of the Kansas City Investigations organizational structure on Dallas, a "mentoring" relationship was established between supervisors in Kansas City and their counterparts in Dallas. The Review Team believes that this may prove to be a valuable avenue for sharing problems and solutions in each of the functional areas, regardless of how the Dallas Investigations office is organized in the future.

Another practice from Kansas City that has been imported to Dallas is the "Blue Ribbon" system for the conduct of investigations by PLS and the Investigations unit after a thrift is closed.²⁰ Under this system, which was implemented in Kansas City in late 1991, Kansas City Investigations and PLS agreed upon the following to accomplish the goals of the professional liability program:

¹⁹ For example, the purpose of the analysis and disposition function is to make a determination, at the start of an investigation, regarding the potential for recoveries from institution-affiliated parties (so that the RTC does not spend, say, \$1 million trying to recover \$20,000). This is consistent with, and arguably required by, the RTC's statutory directive to resolve thrifts at the least possible cost. The analysis and disposition function becomes increasingly important under the most recent extension of the statute of limitations for gross negligence and intentional misconduct.

²⁰ See memorandum from Robert H. Asbacher, Senior Investigations Specialist, and Julie Fry Yanda, Counsel (PLS), to all Assistant Directors/Investigations and Section Chiefs/Professional Liability, North Central Region, *Investigations/Professional Liability Section Joint Checklists & Timetables for the Investigation of Professional Liability Claims - North Central Region* (November 26, 1991).

- the identification of the tasks that need to be accomplished during the investigation of professional liability claims;
- the responsibility (PLS or Investigations) for each such task; and
- the timetables for the completion of each task.

The goal of the Blue Ribbon system is to identify clearly what is expected of each member of the PLS and Investigations team responsible for the development and pursuit of the RTC's professional liability claims.²¹ The process includes timetables outlining duties, responsibilities and deadlines both for Investigations and for PLS, as well as checklists for both units that include more detailed, narrative descriptions and outlines of the specific steps that must be followed in the investigation of professional liability claims. The process further includes a timetable that outlines duties, responsibilities, and deadlines for regional Investigations management in reviewing and monitoring the progress of PL claim investigations.

A number of investigators in Dallas told the Review Team that the change in reporting lines for Dallas Investigations has resulted in the unnecessary generation of reports for Kansas City Investigations oversight purposes, taking away time that should be spent on investigative work. On the other hand, the Review Team heard numerous "finger-pointing" comments from both PLS attorneys and investigators in which one side accused the other of failing to perform satisfactorily the tasks for which they believe the other side was responsible during the course of an investigation.

The Review Team believes that *flexible* adoption of the Blue Ribbon system in Dallas, or a similar, agreed upon statement of duties, could clarify the roles and responsibilities of investigators and PLS attorneys there. This would narrow potential areas of misunderstanding and controversy. Having a mutually agreed upon time frame for the completion of tasks, and clear guidance on who is responsible for performing those tasks, should help PLS and Investigations management to monitor investigations and ensure that they are conducted in a thorough, timely manner.

Investigations management in Washington stated that since the August realignment, the work products from Dallas have improved and that the working relations between Dallas PLS attorneys and investigators are better. The latter view was not shared by everyone in Dallas who met with the Review Team. Washington Investigations management also stated that the Kansas City Blue Ribbon system has been recommended to regional Investigations offices across the country, but was not imposed in a rigid manner, and that they are not aware that it has raised problems in other offices.

²¹ A more general description of the roles and responsibilities of PLS and Investigations was issued to all PLS attorneys and investigators in September 1991. See memorandum from James R. Dudine, Assistant Director, Office of Investigations, and John Beaty, Assistant General Counsel, RTC Professional Liability Section, to RTC Investigators and RTC-PLS Attorneys, *Professional Liability Claims: Roles and Responsibilities* (September 20, 1991) [hereinafter *Roles & Responsibilities*]. For the most part, the Blue Ribbon system elaborates on this memorandum.

Professional Liability Program Management Concerns

The Review Team believes that many of the concerns expressed over the PL program in Dallas flow from the fact that investigators and PLS attorneys failed to work as a team. The Review Team found that Legal Division and Investigations management failed to coordinate adequately the efforts of their staff, resulting in delays in the completion of investigations of institution-affiliated parties. In addition, as already noted, the Review Team found a very high level of tension between PLS and Investigations, among managers as well as staff. While most interviewees expressed a strong commitment to their work and the success of the PL program, this tension undoubtedly impaired the efficiency of the program. The Review Team believes that personality conflicts led to a breakdown in cooperation that should have been addressed earlier by Dallas management or, when Dallas management failed to act, by PLS and Investigations in Washington. Management failures in Dallas, inadequate oversight by RTC in Washington, and RTC's decentralized organizational structure all contributed to the problem.

The Review Team found that investigators and PLS attorneys often were suspicious of each other's commitment to the program and doubtful of each other's competence. The Review Team believes that these suspicions and doubts arose from a profound failure to communicate. It is understandable that investigators — many of whom come from banking or law enforcement backgrounds — would have significantly different perspectives from PLS attorneys, who are essentially civil litigators. The differences in perspective led to equally understandable differences in professional opinion about matters as fundamental as how a case should be developed and who should be in charge.

Because Investigations reported to the "business" side of RTC, investigators generally considered themselves to be representatives of the Legal Division's "client," and often believed that they should make litigation and settlement decisions. They felt that this view was supported by the fact that they had more extensive and more detailed knowledge of the cases than PLS attorneys, who were essentially case managers supervising outside counsel.²² PLS attorneys, on the other hand, did not share the view that investigators had the rights of a client. Moreover, they generally felt that they had a better understanding of the complex legal and policy issues involved, and they often expressed the view that the investigators' role was to help prepare the case for closure, litigation, or settlement as the attorneys required.

Virtually all of the interviewees — both investigators and PLS attorneys — acknowledged that they had good working relationships with some of their colleagues in the other unit, but it was clear that the dispute over duties and responsibilities led to a general breakdown in communications between the two units. This breakdown was exacerbated by the physical

²² As noted above, many cases were handled by a number of PLS attorneys in a short period. Given the transfers of cases among various attorneys and the high turnover caused by the reorganizations described earlier, it is perhaps to be expected that PLS attorneys would take a certain amount of time to become familiar with their caseload. It would be a mistake, however, to characterize such a learning period as evidence of incompetence or lack of ability. On the other hand, the turnover rate in Investigations apparently was lower than in PLS, and investigators often had a better opportunity than the PLS attorneys to learn the facts of a case.

and E-mails with "return receipt requested" to establish that the message had been received.

The unresolved conflict over the roles of PLS and Investigations, and the failure of communications between the two units, gave rise to a number of actions that compounded the problems in Dallas. For example, PLS established a policy prohibiting investigators from communicating directly with outside counsel. Ostensibly this was to protect the attorney-client privilege; but the policy was not established in writing and the Review Team was told that the policy was not uniformly applied, leading some investigators to believe that it was punitive, rather than remedial. The Review Team also was told that Investigations established a policy, ostensibly to control expenses, that documents could be copied only under the supervision of Investigations and only to the extent approved by Investigations. It was reported that, in one case, an investigator physically impeded the work of a copying service hired by PLS to reproduce documents for review by outside counsel.

In addition, the Review Team was told that the Legal Division is developing a system for the routine hiring of outside investigative contractors. This was portrayed as an effort to ensure that all cases were given adequate attention, but a number of investigators expressed concern that this actually was designed to bypass Investigations altogether. It appears to the Review Team that this may be an unnecessary duplication of the work done by Investigations to identify and qualify outside investigative contractors. Also, some interviewees raised questions regarding the ability of PLS effectively to oversee the work of any such contractors.

These actions further harmed an already damaged working relationship between Investigations and PLS. Management did not put a stop to it. Instead, the Review Team was told that Investigations and PLS managers in Dallas quarrelled with each other and among themselves.

Many interviewees complained that there was no one with the authority to resolve problems. As noted previously, Investigations and PLS reported up separate lines to Washington; no one in the field appears to have had the power or willingness to compel PLS and Investigations to resolve a conflict, or to impose a resolution upon them. Moreover, the authority of Washington was limited and confused by the multiple reorganizations described above.

Both PLS and Investigations management in Washington seemed reluctant to intervene directly. For example, Washington management appears to have known of the policy prohibiting investigators from contacting outside counsel, to have disagreed with the reasoning underlying the policy, and to have been aware that it was causing friction between PLS and Investigations in Dallas; but it has never addressed the problem. Similarly, many interviewees — both investigators and PLS attorneys — complained that they had sought guidance on whether Investigations was the client, but were never able to get an answer.

In short, differing opinions of the respective roles of PLS and Investigations created serious conflicts in the Dallas region. PLS and Investigations management in Dallas entertained these conflicts, and RTC's decentralized and often-changing organizational structure diminished Washington management's ability to intervene. However, neither PLS nor Investigations management in Washington appears to have effectively exercised what direct authority or power

of persuasion it possessed to resolve matters in Dallas. Changes in the PL program organizational structure mandated by the Resolution Trust Corporation Completion Act provides the RTC with an opportunity to implement and enforce effective oversight.

INTERVIEWS OF INSTITUTION-AFFILIATED PARTIES

A concern expressed by Mr. Burnside at the September 23, 1993 hearings is that institution-affiliated parties were not adequately pursued because many were not interviewed following S&L failures. Mr. Burnside stated that:

The only way to understand the cause of the failure of a billion-dollar S&L is to interview people associated with the S&L and to obtain relevant records. Congress gave the RTC a simple, tried and true tool to interview witnesses and to investigate claims — the administrative subpoena.²⁴

Mr. Burnside correctly notes the usefulness of administrative subpoenas, discussed in greater detail in the next section, for obtaining information from institution-affiliated parties. However, Mr. Burnside fails to mention that the RTC generally employs other means to obtain this information before a subpoena is sought, and that those other means often are successful.

The Review Team specifically asked Dallas RTC employees whether investigations were inadequate because institution-affiliated parties were not interviewed following the closing of an S&L. The Review team also asked whether Dallas RTC employees were aware of any instances when institution-affiliated parties should have been interviewed, but were not. In general, interviewees did not believe there was any failure to interview such persons, or that investigations were inadequate because of failures to interview, either by using subpoenas or the other tools at the RTC's disposal.

A number of interviewees told the Review Team that, in hindsight, more or better interviews could have been conducted. However, none of the interviewees identified a specific institution that was not adequately investigated for this reason. Some of these interviewees told the Review Team that at various times the RTC was not adequately staffed to prepare for and conduct thorough interviews at the time of intervention. Other interviewees explained that because Texas was the first area to experience a large number of financial institution failures, the RTC interviewers did not understand the magnitude of the problem or the types of questions to ask, and that early training in investigative techniques would have been useful.

Some investigators noted that PLS attorneys do not participate in interviews of institution-affiliated parties at the time of closing, but that additional involvement by PLS attorneys in preparation for the closing could improve the quality of the interviews and give the PLS attorney a better sense of the institution and the individuals involved. Other investigators stated that it is important for them to observe the depositions of institution-affiliated parties and others by PLS attorneys to enable them to contribute effectively as the investigation goes forward and to gain a better appreciation for the issues surrounding the case.

²⁴ THOMAS J. BURNSIDE, STATEMENT BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS 7-8 (September 23, 1993) [hereinafter STATEMENT].

The RTC has policies and procedures for interviewing institution-affiliated parties.²⁵ In general, these policies and procedures require that before the RTC intervenes in a failing S&L, RTC PLS attorneys review the package prepared by the Office of Thrift Supervision (OTS) on the institution to identify potential subjects for interviews. PLS attorneys are to discuss with the intervention team's lead investigator who to interview, and what questions should be asked when the RTC takes over the institution.

Investigations staff then assembles names and addresses of all potential witnesses, including support staff, officers, and directors, and is responsible for interviewing these parties. Investigations also identifies all pertinent documents, such as those related to internal loan underwriting procedures, board of director, loan, or other committee minutes, and documents related to lending and investment functions. In addition, Investigations obtains names and addresses of borrowers and others with information relevant to potential target transactions.

Before conducting interviews, RTC procedures suggest that the Investigations team leader advise the PLS attorney of the persons to be interviewed, and that the two agree upon interview outlines for each person and determine whether PLS attorneys should participate. PLS attorneys are to be available at intervention to provide advice and guidance to the investigators. Investigators are to dictate notes of the interviews within 72 hours in a memorandum addressed to the PLS attorney assigned to the institution.

Thus, the RTC's policy is to attempt to interview institution-affiliated parties at the time an institution fails, when records often are on hand at the institution and recollections of persons involved generally are more clear. If these interviews fail to produce necessary information, if interviewees are uncooperative, or if further investigation reveals that witnesses need to be questioned about other information, and these witnesses are unwilling to supply that information without an administrative subpoena, then that tool is available.

RTC regulations outline procedures for PLS attorneys to issue subpoenas for the purpose of conducting depositions and obtaining documents during an RTC investigation.²⁶ Using this investigative tool, PLS attorneys take sworn statements from institution-affiliated parties and others to supplement information obtained at intervention interviews or through Investigations' review of institution documents. In addition, after the RTC decides to pursue claims by initiating litigation, normal pretrial discovery rules provide an avenue for obtaining information and documents.

The Review Team believes that greater involvement by PLS attorneys in planning interviews before an institution is closed could make the interview process more productive. The Review Team also believes that permitting investigators to observe depositions is a natural part of their role as the primary fact-finders in PL claim investigations.

²⁵ See *Roles & Responsibilities*.

²⁶ 12 C.F.R. part 1625, published at 58 Fed. Reg. 58,938 (November 5, 1993).

THE USE OF ADMINISTRATIVE SUBPOENAS

RTC Investigations Prior to Administrative Subpoena Authority

The vast majority of civil cases investigated in America do not rely on pre-complaint administrative subpoenas because only a few government agencies, and no private litigants, have this authority. For the majority of RTC cases handled by PLS prior to 1992, administrative subpoenas were not used as an investigative tool to determine whether RTC should file a lawsuit against an institution-affiliated party.

As discussed further below, the RTC's authority to issue administrative subpoenas was uncertain until the end of 1990. Consequently, the RTC conducted investigations without exercising administrative subpoena authority until mid-1991, when it began to use subpoenas in a very careful, conservative fashion. The investigation of failed Texas institutions before administrative subpoenas were available began in the Washington RTC office when the RTC was established, and continued in Dallas when the RTC office was opened there in January 1990.

The process used in the RTC PL program to investigate and judge the cost-effectiveness of pursuing cases against institution-affiliated parties is straightforward. A PLS attorney first reviews a Preliminary Findings Report (PFR), which generally is developed by Investigations soon after an institution fails. The PFR is based on the regulator's examination reports, interviews with institution-affiliated parties, and an initial review of the institution's documents. The PLS attorney then requests that Investigations review defaulted loans (loan reviews) and identify and analyze loans that may involve civil action (loan write-ups). Once this is accomplished, Investigations conducts asset searches on potential targets and an analysis of assets discovered in that process.

Before the availability of administrative subpoenas, PLS lawyers reviewed this work, done mostly by Investigations, and made close-out or authority to sue (ATS) recommendations to RTC management. Decisions on liability were based primarily on Investigations PFRs and loan reviews. Decisions on cost-effectiveness of cases were based primarily on asset searches conducted by Investigations and financial statements found in the records of the institution or provided voluntarily by the target.

RTC Administrative Subpoena Authority and Use

The RTC is authorized to issue administrative subpoenas and subpoenas duces tecum to carry out its statutory obligations to resolve failed savings institutions. The RTC's administrative subpoena regulation and its subpoena procedures are the result of its unique legal status.

RTC administrative subpoenas are neither the grand jury subpoenas found in criminal practice nor the post-complaint subpoenas found in civil practice. They are non-public investigative tools used only prior to litigation. The primary purpose of the RTC's administrative subpoena is to determine whether the RTC has a claim that it should pursue.

The RTC uses these administrative subpoenas to determine whether it has valid claims against institution-affiliated parties and whether there are assets that justify pursuit of such claims. Administrative subpoenas also may be useful to decide whether to seek to void transfers of assets or incurring obligations, or to seek to attach certain assets. Finally, the RTC must determine whether pursuing any of these claims is consistent with its statutory obligation and with sound public policy.

RTC Authority to Issue Administrative Subpoenas. The RTC has legal authority to conduct investigations in its capacity as conservator or receiver for failed savings and loans and in its corporate capacity as acquirer of these institutions' assets. Whether acting as conservator or receiver, or in its corporate capacity, the RTC has in substance the same administrative subpoena power and authority as the FDIC.²⁷

Initially, both the FDIC and the RTC believed that the authority to issue administrative subpoenas ceased when an institution was declared insolvent or placed in conservatorship or receivership. The Crime Control Act of 1990²⁸ subsequently clarified the administrative subpoena powers of the FDIC and the RTC. This statute provides that, as conservator or receiver and for purposes of carrying out any power, authority, or duty with respect to an institution under their jurisdiction, the RTC and FDIC may exercise any power established under section 8(n) of the Federal Deposit Insurance Act (FDIA). Included in the section 8(n) powers are administering oaths and affirmations, taking and preserving testimony, and issuing subpoenas and subpoenas duces tecum to individuals and institutions.

Difference Between RTC and FDIC Administrative Subpoena Use. Upon its creation, the RTC relied upon the FDIC's regulation in its administrative subpoena practice.²⁹ However, the RTC soon discovered that the FDIC regulation was not suited to the RTC's mission of investigating closed and failed institutions and pursuing professional liability claims. The FDIC traditionally had used its administrative subpoena powers only in pursuit of its supervisory authority over open institutions. Further, courts raised issues regarding the RTC's use of the FDIC rule. Finally, the statutory basis for the FDIC rule (section 10(c) of the FDIA) is different from the statutory basis for RTC investigations (section 8(n) of FDIA and section 21A of the Federal Home Loan Bank Act).

To meet the specific needs of its caseload, the RTC proposed its own rule, which was published for comment in the FEDERAL REGISTER on July 27, 1992, and became final on November 5, 1993.³⁰

²⁷ See 12 U.S.C. §§ 1441a(b)(4), 1818(n), 1821(d)(2)(I), and 1823(d)(3)(A).

²⁸ Pub. L. No. 101-647, § 2534(a), 104 Stat. 4789, 4882 (1990), codified at 12 U.S.C. § 1821(d)(2)(I).

²⁹ 12 C.F.R. part 308, subpart K. The statutory authority for that regulation is found in section 10(c) of the FDIA. The RTC's authority to rely upon the FDIC regulations without formal action of its own is provided by 12 U.S.C. § 1441a(a)(7).

³⁰ *Supra* note 26.

Development of RTC Administrative Subpoena Practices and Procedures. After the Crime Control Act of 1990 clarified its administrative subpoena powers, the RTC delegated its statutory power to authorize the use of administrative subpoenas and subpoenas duces tecum in PL cases. The RTC was very concerned about the use and perception of abuse of this investigative tool. As a result, it centralized the issuance and enforcement of administrative subpoenas in its Washington headquarters. Ultimately, this power was delegated to an RTC PLS Senior Counsel in Washington, with concurrence authority held by the Director of the Office of Investigations. The goal of this decision was to have uniform procedures for the use of RTC administrative subpoenas and to develop favorable case law to support their use. In addition, the RTC believed that it could have better success enforcing its administrative subpoenas in Washington because, as the seat of the Federal government, there was a greater likelihood that judges in Washington would be familiar with administrative law.

PLS staff discussed administrative subpoenas during the early part of 1991. By May 1991, while the RTC PLS was still part of the FDIC Legal Division, RTC PLS managers decided to use the administrative subpoenas to determine *whether* to bring suit. Consequently, once a PLS attorney had decided that liability was present and a cost-effective claim could be asserted, the attorney was not to request the issuance of a subpoena, even if a case was not to be filed for some time. The FDIC PLS training manual, distributed to new RTC PLS attorneys in early summer 1991, contained the same injunction.³¹ Administrative subpoenas did not become available to RTC regional and field office PLS attorneys until late June 1991. Official caution regarding their use and the modifications to the subpoena form by the RTC limited that use until the beginning of August 1991.³²

Issuance of RTC Administrative Subpoenas. The RTC begins its investigation into a failed savings association with its appointment as conservator or receiver for the institution. In many cases, institution-affiliated parties are immediately interviewed by investigators and/or attorneys. The RTC makes reasonable efforts to obtain factual information through any available source and seeks voluntary cooperation with requests for information before administrative subpoenas are requested.

The RTC investigative procedures discussed earlier in this section were not modified when RTC

³¹ FDIC Professional Liability Section, Procedural Manual for Staff Attorneys (June 4, 1990).

The RTC developed and distributed its own procedural manual for PLS attorneys which includes guidelines for orders of investigation (OIs) and a discussion of administrative subpoenas and authority to sue memoranda. The manual also contains forms for particular types of subpoenas, a discussion of RTC subpoena case law, and other information to assist PLS attorneys involved in professional liability investigations. In addition, the RTC conducts training at RTC regional offices for PLS attorneys on use of its administrative subpoenas, revisions of subpoena procedures, and updates on current case law.

³² The PLS unit in Washington announced the ability to use administrative subpoenas in an E-mail to PLS attorneys on June 3, 1991; the first authoritative copy of the subpoena form was circulated on June 25, 1991. However, the form changed throughout July 1991, as the RTC fine-tuned the form to better reflect Congressional intent while continuing to exercise caution not to overuse this powerful tool.

administrative subpoenas became available; administrative subpoenas simply supplemented and enhanced those procedures. Still, PLS attorneys could issue RTC administrative subpoenas only during a limited period — from the time PLS in Washington approved an order of investigation (OI) until the time a PLS attorney decided to recommend that the RTC pursue litigation.³³ The reason for not seeking administrative subpoenas after the decision to pursue litigation is that following such a decision, information can be obtained in the normal pre-trial discovery process; thus, to continue to use administrative subpoenas could be viewed as an abuse of this powerful tool.

The RTC encourages PLS attorneys to use administrative subpoenas only after traditional investigative techniques and efforts to obtain the voluntary release of information are exhausted. If PLS attorneys determine that administrative subpoenas are needed to develop further information after initial investigation, they request that PLS and Investigations in Washington approve an OI, which constitutes an authorization to issue administrative subpoenas.

RTC OIs set out in broad terms the investigation's purpose and authorize specific PLS attorneys to issue RTC administrative subpoenas and conduct depositions. RTC policy requires that PLS attorneys submit a memorandum in support of a request for an OI that includes a brief statement of the facts, the reasons the subpoena power is required, the types of information to be sought, and the categories of persons and entities from whom it will be requested. The memorandum also is required to discuss previous efforts to obtain information voluntarily and the results of these efforts. Both the RTC PLS Senior Counsel and the Director, Office of Investigations, must review this information and concur in the OI. After the OI is approved, PLS attorneys may issue subpoenas and conduct depositions.

Enforcement of RTC Administrative Subpoenas. Many respondents comply with RTC administrative subpoenas. However, because this is not always the case, the RTC has developed subpoena enforcement guidelines.

PLS attorneys are required to contact the RTC headquarters in Washington when administrative subpoena recipients refuse to comply with subpoenas and further negotiations are not worthwhile. If the preservation of testimony or the production of documents continues to be important to the ongoing investigation, the RTC considers enforcement action in the U.S. District Court for the District of Columbia.³⁴ The RTC has won virtually all of the contested issues in these cases, and in the process has gained judicial recognition of broad RTC powers regarding administrative subpoenas, including many powers that are incident to the successful

³³ This policy was in place while Mr. Burnside worked at the RTC. However, as the RTC's experience and the case law regarding administrative subpoenas has evolved, the RTC's rule on the deadline for issuing subpoenas has been extended beyond the time that an ATS memorandum is contemplated.

³⁴ The RTC has defended pre-enforcement challenges to RTC administrative subpoenas brought in other courts by parties under investigation, and in late 1993, a court ruled that the RTC may continue its enforcement proceedings after initiating civil litigation. See *Linde Thomson Langworthy Kohn & Van Dyke, P.C. v. RTC*, 5 F.3d 1508 (D.C. Cir. 1993).

use of administrative subpoenas.³⁵

Administrative Subpoena Use in Texas

Although administrative subpoenas are an important investigative tool, as noted above, this tool was not widely available to PLS attorneys until August 1991. Even then, because it had only recently been made available to the RTC and policies regarding its use still were being developed, it does not appear that administrative subpoenas were used widely in most early RTC PLS cases.

In January 1990, PLS attorneys in Dallas, some of whom had PL claim experience from the FDIC, began to handle cases. Initially, this office was assigned over 100 failed institutions, many with a statute of limitations that expired in March 1992. Thus, the early PL program work of this office, where Mr. Burnside was located, plus the early PL program work in Washington, was accomplished without the use of administrative subpoenas.

Administrative Subpoena Use in Houston. The experience of the RTC's Houston field office, which Mr. Burnside criticized in his testimony, provides some insight into the early use of administrative subpoenas by the RTC. Regarding the Houston office, Mr. Burnside stated:

Well, let me tell you how little the subpoena power was used in Texas. In the Houston field office in Texas, which was handling I think about 37 or 40 thrifts, they issued three subpoenas out of the entire office. Three subpoenas. Do you think those institutions were investigated?

* * *

I had one case in Houston where I issued 100 subpoenas on one case. . . . Hundreds of subpoenas in one case, and three for the rest of the office. What the hell happened?³⁶

As the following discussion will show, administrative subpoenas were not widely available during the time period in which the vast majority of the Houston office's work had to be accomplished. A number of factors contributed to this situation.

The RTC's Houston field office was established in April 1991 with a staff of three PLS attorneys

³⁵ However, because RTC administrative subpoena practice is centralized, enforcement in a specific case may be thwarted because of pending litigation. For example, seven district court orders enforcing administrative subpoenas for personal financial statements were stayed for up to 13 months by the U.S. Court of Appeals for the District of Columbia Circuit pending resolution of *RTC v. Walde* (No. 92-5495) and *RTC v. Adams* (No. 93-5010), ___ F.3d ___, 1994 WestLaw 87,383 (D.C. Cir. March 22, 1994). Until *Walde* and *Adams* were decided, other cases involving the enforcement of administrative subpoenas for personal financial statements could not go forward.

³⁶ TRANSCRIPT OF HEARING BEFORE THE UNITED STATES SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS 134-35 (September 23, 1993) [hereinafter TRANSCRIPT].

and an Investigations staff of 30. Unlike the Dallas office, none of these PLS attorneys had any PL claim experience. The Houston office immediately was assigned 36 of the approximately 125 institutions that had failed in Texas by May 1991. Of these 36 institutions, 33 (or 91 percent) had statute of limitation dates that ran ten months later, in March 1992.³⁷

The Houston office quickly investigated the 33 institutions with the March 1992 statute of limitation dates. None of the Houston investigators or PLS attorneys were on site when these institutions were closed in March 1989, and on some cases, little if any investigative work had been done during the time the cases had been assigned to the Dallas office.³⁸

As noted above, when it appears that administrative subpoena use will be necessary for the investigation of PL claims, the first step for the PLS attorney is to request the approval of an order of investigation by PLS and Investigations management. The Houston PLS field office sent its first set of requests for OIs subpoenas regarding 13 institutions to the Dallas PLS regional office on July 3, 1991 for approval. On July 8, 1991, these OI requests were approved by Dallas PLS and forwarded to Washington PLS and Investigations for review and approval.

Additional discussions regarding these cases from Houston began after the OI requests were sent to Washington. On July 10, 1991, Washington Investigations requested that Dallas Investigations management analyze and prioritize the administrative subpoenas requested in the 13 OIs.³⁹ Dallas Investigations management objected to eight of the 13 requests for OIs because of determinations they had made before the cases were sent to Houston. Of these eight cases, Dallas Investigations had determined that four should be closed out, and that action on the four others should be delayed. The Dallas regional office PLS, where Mr. Burnside was one of two attorneys, also requested additional information on some of the requests for administrative subpoenas, even though that office had approved the original request on July 8, 1991.

It is not unusual that the discussions regarding these OIs would occur; the administrative subpoena authority still was fairly new, and there had not yet been a successful RTC subpoena

³⁷ By comparison, the San Antonio office had 13 institutions with March 1992 statute of limitation dates, and Dallas, which had been open since January 1990 and which had attorneys with PL claim experience, had only five institutions with March 1992 statute of limitation dates. The March 1992 statute of limitation cases came from institutions that failed before the RTC was created. Before August 1989, these cases were handled by the FDIC pursuant to an agreement with the Federal Savings and Loan Insurance Corporation.

³⁸ In their early review of the institutions assigned to the Houston office, Houston PLS attorneys discovered that little progress had been made in the investigation of assigned institutions by either the Dallas PLS or Investigations staff. The Houston PLS attorneys believed that this was the direct result of the extraordinary case loads both the PLS lawyers and investigators shouldered with limited resources.

³⁹ The fact that Dallas PLS did not consult with Dallas Investigations management before the OI requests were sent to Washington for approval demonstrates that the lack of communication between PLS and Investigations in Dallas has a long history.

enforcement action.⁴⁰ Nonetheless, this internal debate slowed the decision-making process on these Houston cases, and illustrates how conservatively the RTC used its administrative subpoena power at the onset.

To seek approval to pursue any litigation in these cases, which normally would have occurred after the issuance of an OI and a period of investigation, the Houston PLS Section Chief, the Dallas regional office, and the RTC in Washington had to approve authority to sue memoranda. Review and approval of ATS memoranda by Dallas and Washington required extensive review time: Dallas wanted 30-60 days, and Washington another 60-90 days. In early July 1991 — about the same time that administrative subpoenas first became available — the Dallas PLS Counsel informed the Houston PLS Section Chief that all ATS memoranda for cases with March 1992 statute of limitation dates were to be in Dallas for review by late September.⁴¹ The Houston PLS Section Chief wanted to receive ATS memoranda for review by September 1, 1991. Thus, Houston PLS staff attorneys had to make decisions regarding whether to recommend pursuing the Houston cases with the early statute of limitation dates by mid-August 1991.

As discussed previously, when a PLS attorney decided to seek authority to sue, no further administrative subpoenas could be issued in that case. Therefore, the window of opportunity to use administrative subpoenas in Houston for the early cases was very narrow: from approximately June 25 to August 15, 1991. As noted above, it was not common practice for PLS attorneys to use administrative subpoenas until August 1991.

In addition, there are indications that the Dallas regional Investigations office believed that approximately half of the cases assigned to Houston were not worth pursuing. The Review Team was told that Dallas Investigations made this determination even before the cases were assigned to Houston. The cases were sent to Houston because close-out memoranda had not been written for the cases, even though decisions not to pursue the cases had been made months earlier. These decisions, apparently based on a determination either that actionable liability did not exist or that the pursuit of litigation would not be cost-effective, were made without the benefit of subpoenas.

A former Houston PLS attorney estimated that 75 percent of all potential claims arising from

⁴⁰ At the time the RTC's administrative subpoena power was announced, the RTC did not know how subpoena recipients would respond. PLS attorneys familiar with civil practice assumed that courts would view as unreasonable a subpoena return date of less than 30 days after service. A number of PLS attorneys assumed that the RTC would be required to enforce most administrative subpoenas, given the fact that it was a new tool without judicial history. They thought that enforcement would take an additional 30 days after the initial month for response. In addition, PLS attorneys believed that they could not enforce a subpoena after a decision had been made to write an authority to sue memorandum. Thus, in order to have administrative subpoenas issued and enforced on the bulk of Houston field office cases, Houston PLS attorneys believed that they needed to issue subpoenas no later than July 1991. Because of the short time the office was in operation and the status of work on the cases assigned to the office, only a few cases were prepared enough to issue a subpoena by July 1991.

⁴¹ Close-out memoranda for cases with the same statute of limitations date were to follow later.

the 45 institutions eventually assigned to Houston were not amenable to the issuance of administrative subpoenas because of the many factors discussed above.

Finally, the decision in April 1992 to close RTC field offices, including Houston, meant that new cases generally were not assigned to those offices. Institutions on which a decision had been made to close out the investigation remained in Houston for the preparation of close-out memoranda. As noted above, the three Houston field office PLS attorneys began leaving in May 1992, and the two attorneys who stayed spent much of their time in litigation matters, *i.e.*, at the stage when administrative subpoenas are not used. Indeed, although the Houston field office was scheduled to close, that office is staffed with investigators and technicians and remains open today, in part due to a court order that requires certain PL cases in litigation, related documents, and document production to remain in Houston.

Thus, the use of administrative subpoenas in the Houston field office was a moot question for most cases. Mr. Burnside's comments regarding the use of subpoenas in that office fails to account for the situation that existed. The fact that only three administrative subpoenas were issued does not mean that the institutions handled from the Houston field office were not adequately investigated. In addition, even though Dallas Investigations had determined that many of the cases sent to Houston should be closed, the Houston field office filed suit in 40 percent of the institutions under its control.

Administrative Subpoena Use in the Dallas Region. In his oral testimony, Mr. Burnside stated that the RTC Investigations unit in Texas recognized the efficacy of administrative subpoenas and pleaded for their use:

The investigations unit down in Texas was begging their attorneys to issue subpoenas, absolutely begging people because they would be looking at records inside the thrift and they couldn't go outside and figure out what happened until they got the subpoenas.⁴²

The Review Team did not find support for this statement by Mr. Burnside.

In its interviews, the Review Team specifically raised the question of whether investigators or PLS attorneys experienced difficulties in getting administrative subpoenas issued when they were necessary to develop a case. With few exceptions,⁴³ investigators stated that they did not have

⁴² TRANSCRIPT at 138-39.

⁴³ One investigator documented a case in which it took him over a year to persuade a PLS attorney to issue a subpoena to pursue a particular avenue of inquiry. Another investigator told the Review Team that a PLS attorney met his request for a subpoena with the reply that subpoenas could not be issued without first receiving approval of an order of investigation (which is correct); and that after the OI was drafted and approved, the PLS attorney still delayed for a time before issuing a subpoena.

The Review Team was told about two cases in which investigators requested that a PLS attorney issue administrative subpoenas, and received copies of signed, dated subpoenas from the attorney that supposedly had been

problems convincing PLS attorneys to issue subpoenas when they were necessary. Moreover, many Dallas RTC investigators have extensive backgrounds in thrifts and commercial banks, and expressed confidence in their ability to identify potential claims in failed institutions. Many PLS attorneys told the Review Team that they were comfortable using administrative subpoenas, that they did not have problems convincing PLS management to approve requests for the issuance of subpoenas, and that they believed they had received adequate training and support from Washington in subpoena use and enforcement.

Although the Review Team did not find support for Mr. Burnside's statement that investigators "were begging" PLS attorneys to issue administrative subpoenas, the Review Team also did not find an environment or "culture" in the Dallas PLS office that seemed conducive to the proactive use of subpoenas. The Review Team notes that many of the PLS attorneys in Dallas have been there for only a year. Although they have received subpoena training, they work in an environment where administrative subpoenas are not used actively.

This culture manifested itself in a number of fashions. First, some investigators complained to the Review Team about PLS comments that sending administrative subpoenas "would send the wrong message." The Review Team also finds such comments disturbing.

Second, some PLS attorneys stated that administrative subpoenas were not used in the past as frequently as they should have been. This sentiment was echoed by RTC officials who reviewed Dallas PLS case files. These officials stated that even Mr. Burnside did not issue enough administrative subpoenas; he issued numerous subpoenas in a few cases, but also issued no subpoenas in others.

However, to say that the culture of administrative subpoena use in Dallas is the reason that more subpoenas were not issued is too simplistic. The Review Team believes that other factors contributed.

Not surprisingly, one of those factors is that individuals have different approaches to case development. PLS attorneys use different strategies in the development of cases and the pursuit of recoveries from institution-affiliated parties. Individual investigators and, indeed, individual PLS attorneys, may have disagreed on the appropriate strategy for a particular case. For

issued. However, when there was no response to the subpoenas, the investigators called the respondents and were told that subpoenas had not been served. These investigators believe the PLS attorney drafted, signed, and dated the subpoenas, but never served them, and that this was done deliberately to mislead them.

The Review Team also was told by an investigator of an incident to which Mr. Burnside referred in his written statement, in which a PLS attorney denied an investigator's request for the issuance of administrative subpoenas, saying that sending a subpoena "would send the wrong message." Other investigators told the Review Team that they had heard "there were problems" with the issuance of administrative subpoenas, but could not provide specific examples.

Finally, the Review Team was told about a case in which Investigations requested subpoenas from PLS by E-mail, telephone calls, and official memorandum, but in which PLS never issued subpoenas.

example, the Review Team was told that Mr. Burnside's method of operation was to focus on one case to the exclusion of all others, and that subpoenas were not issued in some of the cases assigned to him because "he directed that no subpoenas go out." It was alleged that Mr. Burnside worked intensively on cases and issues he was interested in, and let other matters go unattended. Similarly, the Review Team was told that another PLS attorney would work on only one case at a time, and would not return telephone calls for days from investigators on other cases. Problems between Dallas PLS and Investigations management inhibited the two sides from discussing and resolving disagreements over the appropriate strategy for pursuing certain cases, including whether subpoenas should be issued.

Another factor affecting the use of administrative subpoenas in Dallas may be related to knowledge of the subpoena process. The Review Team found that many investigators were not knowledgeable about the RTC's administrative subpoena issuance and enforcement processes, and that this was a source of frustration for them, particularly when subpoenas were not enforced. As noted above, the RTC provides training, guidance, and information on current legal developments to PLS attorneys on administrative subpoenas.⁴⁴ The Review Team believes that providing Investigations staff with similar information would decrease disagreements regarding administrative subpoena use.

Finally, poor communication between PLS and Investigations in Dallas also has been a factor, and has contributed to disputes regarding the use of administrative subpoenas. There are legitimate reasons for PLS to decline to issue administrative subpoenas. For example, the PLS attorney may have decided by that time to recommend that litigation be pursued, or an adverse appellate decision may have influenced the PLS attorney's decision to issue or seek enforcement of an administrative subpoena. Poor communication and the problems between PLS and Investigations meant that in some instances the legitimate reasons for not issuing a subpoena never were discussed.⁴⁵

Going forward, the Review Team believes that regular case reviews, such as the ones now

⁴⁴ See *supra* note 31. However, one PLS attorney related a recent incident where a junior PLS attorney asked whether administrative subpoenas could be issued to third parties, *i.e.*, those who were not institution-affiliated parties, but who nonetheless might have information related to a PL claim. This evinces an inadequate understanding of the use of administrative subpoenas.

⁴⁵ The Review Team considered whether a comparison of administrative subpoena use between various RTC regions would be helpful in assessing whether administrative subpoena use in the Dallas region was adequate. The Review Team found it impossible to make any meaningful comparisons because of the differences in cases, the number of cases, and the many reorganizations of RTC offices in various regions of the country. Because the savings and loans in Texas were some of the first to experience major losses, at a time when administrative subpoena authority was not yet available, one might expect that subpoena use in the Dallas region would be less than in other parts of the country. Also, some of the larger, more complicated PLS cases from Texas were handled by the RTC office in Washington.

However, looking solely at numbers of subpoenas issued in the various regional office, it appears that the Dallas office did not use subpoenas as aggressively as other RTC regional offices. This is particularly true in the case of the RTC's Kansas City office, which consistently issued more subpoenas than any other RTC office.

performed on a quarterly basis by PLS, could be an important oversight tool to assess the use of administrative subpoenas in Dallas. The Review Team also believes that these quarterly reviews should be integrated to include both PLS and Investigations work products. Better oversight and communication should bring more consistency to the administrative subpoena program, as managers develop and provide better guidance on when administrative subpoenas are to be used.

Administrative Subpoena Use by Mr. Burnside. Mr. Burnside stated that he had issued 240 of 325 administrative subpoenas related to RTC investigation of Texas institutions.⁴⁶ He also stated that "Texas RTC attorneys issued five or fewer subpoenas on more than 90% of their cases,"⁴⁷ and presents this as evidence that no real investigation was performed. These statements do not present an accurate picture of the situation in the Dallas regional office.

Any discussion of PLS administrative subpoena use must take into account several issues. First, because the 1992 reorganization caused a turnover in the staff of the Dallas PLS, the office hired many new attorneys. These new PLS attorneys did not have extensive experience in the litigation of PL claims, as Mr. Burnside did. The time they had to spend learning files transferred from other offices and determining whether litigation was appropriate before the expiration of the statute of limitations was time these attorneys could not spend developing new information by issuing subpoenas.

Second, any comparison of attorneys' use of administrative subpoenas must consider that even experienced lawyers do not investigate cases in the same manner. Indeed, one interviewee told the Review Team of a conversation in which Mr. Burnside acknowledged that Dallas PLS attorneys had different philosophies regarding administrative subpoena use.

Third, PLS attorneys in the Dallas region handle a variety of cases, ranging from close-outs through simple negligence to intentional wrongdoing. Mr. Burnside incorrectly portrays all Texas S&L cases as "looting" cases merely because many of his cases were. The issues in the run-of-the-mill case handled by the field offices were more mundane: did negligence or breach of fiduciary duty occur? If so, did a loss result? These questions often were answered by the records of the institution, or by the institution-affiliated parties. For these kinds of cases, administrative subpoenas were simply a tool, supplementing asset searches, to determine whether litigation was cost-effective once liability was clear.

Fourth, the question of whether administrative subpoenas are used also depends on the stage of the case, e.g., whether the case is early in the investigative process or in litigation. As noted above, at the time Mr. Burnside was at the RTC, administrative subpoenas were not used after a decision was made to seek authority to sue. One PLS attorney told the Review Team that he seldom issues administrative subpoenas because virtually all of his cases are in litigation. The Review Team notes that its review of Mr. Burnside's administrative subpoena use indicates that

⁴⁶ TRANSCRIPT at 144.

⁴⁷ STATEMENT at 11.

in some cases he issued subpoenas in the early stage of the case, but that the case later was transferred to another PLS attorney. A number of Mr. Burnside's cases appear to have been those at the early stage of investigation, when subpoena use was more likely.

The Review Team reached a number of conclusions concerning Mr. Burnside's use of administrative subpoenas. First, the Review Team determined that Mr. Burnside was not the only PLS lawyer in Texas who issued administrative subpoenas, despite the suggestion in his testimony that they were not being used by other PLS attorneys.⁴⁸ As of May 1993, over 700 administrative subpoenas had been issued out of offices in the Dallas region, including 256 from Dallas, three from Houston, 146 from San Antonio, and 256 from Baton Rouge.

Second, over half of the administrative subpoenas that Mr. Burnside issued apparently were related to two comprehensive or "global" settlements: one with the accounting firm of Ernst & Young and other with Pru-Bache Securities, Inc. Both of these global settlements were carried out under the direction of PLS in Washington.⁴⁹ For example, in connection with the Ernst & Young global settlement, Mr. Burnside issued administrative subpoenas relating to a number of S&Ls with which Ernst & Young had done business, including BancPlus Federal Savings Association, Bexar Savings Association, and Victoria Savings Association. However, Mr. Burnside issued *no* administrative subpoenas related to another failed institution that was part of that settlement, Hallmark Savings and Loan Association. Clearly, Mr. Burnside's administrative subpoenas alone do not tell the whole story. Many other factors, such as the efforts in Washington and nationwide of multiple Federal agencies, and the defendant's litigation, public relations, and other costs, all contributed to the successful resolution of these cases.

Third, Mr. Burnside's testimony attempts to equate the number of administrative subpoenas issued with collection results.⁵⁰ His premise is invalid. A subpoena is simply a legal process — in RTC cases an administrative process — to cause a witness to produce documents or to appear and give testimony. Whether or not issuing a subpoena results in collections depends upon additional factors: the existence of information responsive to the subpoena, analysis of that

⁴⁸ The following exchange occurred between Mr. Burnside and Senator Kerry:

SENATOR KERRY. Did you ask for subpoenas?

MR. BURNSIDE. I was issuing subpoenas.

SENATOR KERRY. Were they being asked for in these other cases?

MR. BURNSIDE. Not that I know of.

SENATOR KERRY. Why not?

MR. BURNSIDE. I have no idea.

TRANSCRIPT at 138.

⁴⁹ The RTC has reached a number of global settlements with national financial services firms that had done business with failed S&Ls nationwide. These global settlements have been achieved through the efforts of many RTC attorneys, investigators, and other staff, and those of other agencies, such as the FDIC and OTS.

⁵⁰ STATEMENT at 7-9, 11-13.

information, and finally legal success in seizing the identified assets. While subpoena responses may confirm suspicions raised by other documents or expand the scope of an investigation, sometimes a subpoena respondent has no assets. In other cases, analysis of the response may not confirm an investigator's earlier perceptions, or a PLS attorney's efforts to seize assets identified by a subpoena may not be successful.

The Review Team found that administrative subpoenas issued by Mr. Burnside did not always result in collections. For example, although he did not discuss it in his testimony, Mr. Burnside issued numerous administrative subpoenas in the RTC investigation of Plano Savings and Loan Association. The RTC did not collect anything from institution-affiliated parties in its resolution of this institution. The Review Team does not pass any judgment on whether there should have been any recoveries from this institution, but mentions it to make the point that there is not a direct correlation between the issuance of administrative subpoenas and recoveries.

Finally, administrative subpoena use by Mr. Burnside illustrates the fact that subpoenas may not be issued in all cases. Mr. Burnside issued administrative subpoenas in just over 40 percent of the institutions assigned to him. And of the nine institutions where Mr. Burnside did issue subpoenas, over half of the subpoenas he issued were related to four institutions that were part of global settlements directed by PLS in Washington. There were no PL recoveries for one other institution, and the PL cases regarding the remaining four institutions are not yet closed.

ADEQUACY OF INVESTIGATIONS

To summarize the results of its findings in the previous three sections, the Review Team did not find support for Mr. Burnside's testimony that "it just wasn't investigated down there"⁵¹ or that "[w]hen the statutes started to expire, case after case was officially closed without any real investigation."⁵²

The Review Team notes that each failed S&L includes multiple potential claims for recovery, including claims against (1) directors and officers, (2) accountants, (3) attorneys, (4) appraisers, (5) securities and commodities brokers, (6) fidelity bond insurance policies, (7) persons suspected of civil fraud, and (8) controlling shareholders, persons participating in the conduct of the affairs of the institution, and other institution-affiliated parties. Out of all of these potential claims from failed S&Ls, interviewees told the Review Team about a relatively small number of specific claims that they believe should be further reviewed.⁵³ The Review Team did not evaluate any of these claims; considering the communications and other problems between PLS and Investigations, it is plausible that legitimate reasons for not pursuing some of these claims simply were not explained to the interviewees.

Thus, the Review Team found no indication of a wide-ranging failure in the Dallas regional office to pursue worthwhile cases. The discussions in the three previous sections regarding PL program organization and management, interviews of institution-affiliated parties, and the use of administrative subpoenas all highlight areas for improvement, but do not support the statement that investigations generally were not adequate.

The Review Team believes that inadequate management in Dallas and in Washington contributed to the problems in Dallas. The Review Team also believes that the quality of RTC investigations, litigation, and recoveries in that office will continue to be adversely affected unless the problems there are addressed. The Review Team understands the difficulty of this task in light of the fact that the RTC has a statutory sunset, which exacerbates discontent, uncertainty about tenure, and morale problems.

⁵¹ TRANSCRIPT at 134.

⁵² STATEMENT at 11.

⁵³ As noted at the beginning of this report, the Review Team has assembled a list of the claims that interviewees believe should have been pursued, or pursued more vigorously, and has forwarded that list to the RTC for inclusion in its ongoing review of cases in response to the extension of the statute of limitations for gross negligence and intentional wrongdoing in the Resolution Trust Corporation Completion Act, P.L. 103-204, 107 Stat. 2369, and in the Emergency Supplemental Appropriations Act of 1994, P.L. 103-211, 108 Stat. 3.

RECOVERIES FROM FAILED INSTITUTIONS

In his written testimony, Mr. Burnside charged that the RTC has very little to show for its efforts in Texas. However, his figures regarding savings and loan losses are inaccurate, his figures regarding PL program recoveries are understated, and his charge fails to take into account both the obstacles to professional liability recoveries in Texas and the other recoveries obtained there.

Savings and Loan Losses

Mr. Burnside's written statement for the Senate Banking Committee on September 23, 1993 presented figures relating to the cost of the S&L crisis.⁵⁴ Leaving aside Mr. Burnside's figures, his analysis is flawed.

Mr. Burnside compares a future value to current dollars. Specifically, Mr. Burnside claims it will cost \$560 billion to resolve failed Texas S&Ls. This figure includes interest to the year 2029. However, Mr. Burnside's figure of \$90 million recovered from professional liability claims in Texas does not include the 35 years' worth of interest that could be earned on the \$90 million until 2029. At seven percent interest, \$90 million in 1993 would be worth in excess of \$1 billion in 2029. Mr. Burnside expresses "surprise" that most estimates of the cost of the S&L crisis ignore interest,⁵⁵ but it is precisely to avoid errors such as the one he has made that economists compare funds expended at different points in time in present value terms.

Another problem with comparing the \$560 billion to Mr. Burnside's \$90 million is that the \$560 billion is supposed to include all failures through 1999, while the \$90 million only includes recoveries on professional liability claims through June 30, 1993. The \$90 million figure does not include all funds that eventually will be recovered on institutions that had failed by mid-1993, let alone recoveries from institutions that have not yet failed.

Mr. Burnside indicates that the \$1.4 trillion figure, on which the \$560 billion in Texas costs is based, comes from a STANFORD LAW AND POLICY REVIEW report. In particular, according to Mr. Burnside, the report assumes a cost to resolve failed thrifts between 1989 and 1999 of \$456 billion. A \$1.4 trillion price tag for the S&L crisis appears to be quite inflated. For thrifts that have failed from 1989 to date, the most recent estimated resolution cost is \$81 billion (the cost is still estimated because the true cost will not be known until the last asset is sold and the last claim is recovered), and the total projected cost through mid-year 1995 is estimated to be under \$100 billion. Although the Review Team did not attempt to make projections of future losses, it appears that it would take another major thrift crisis to generate outlays anywhere near \$456

⁵⁴ STATEMENT at 1-5.

⁵⁵ *Id.* at 2.

billion by 1999.⁵⁶

Thus, Mr. Burnside substantially overstates the cost of resolving failed Texas S&Ls. Based on data between 1986 and 1992, Mr. Burnside assumes that 41 percent of the \$1.4 trillion, or \$560 billion, will be spent on resolving S&Ls in Texas. Based solely on outlays, \$187 billion would be allocated to Texas. Based on current estimates, it has cost the RTC \$25 billion to resolve insolvent thrifts in Texas. While significant additional failures are always possible, at the present they are not anticipated.

Despite the flawed analysis, Mr. Burnside's point that the failure of Texas S&Ls has cost the taxpayer a lot of money, and that only a small percentage of these funds will be recaptured through professional liability claims, is undoubtedly true. However, that does not lead to his next conclusion that a substantial amount of these funds exist or could be recovered through professional liability claims. For example, some part of the cost of Texas failures is due to economic events such as high interest rates, a collapsed real estate market, plummeting oil prices, and a depressed agricultural sector that cannot reasonably be blamed on institution-affiliated parties. Thus, the fact that professional liability recoveries are only a small percentage of the total recoveries from S&L losses does not imply an inadequate professional liability effort.

Recoveries from Savings and Loan Losses

In assessing the recoveries from savings and loan losses, it is important to remember that, while fraud and self-dealing by institution-affiliated parties played a role in the nation's thrift crisis, it was by no means the sole reason — or even the most significant reason — for thrift losses. The National Commission on Financial Institution Reform, Recovery and Enforcement was established by the Crime Control Act of 1990 to examine the causes of the problems in the savings and loan industry. This Commission stated that "[w]hile not the cause of the S&L debacle, unprecedented fraud emerged in the S&L industry."⁵⁷ The Commission judged that fraud accounted for 10 to 15 percent of total S&L losses.⁵⁸

The Commission found that the following factors, among others, contributed to most of the savings and loan losses:

⁵⁶ Figures in this and the following paragraph are stated in nominal terms rather than present value terms, *i.e.*, the figures include interest costs over the life of the transaction.

⁵⁷ NATIONAL COMMISSION ON FINANCIAL INSTITUTION REFORM, RECOVERY AND ENFORCEMENT, ORIGINS AND CAUSES OF THE S&L DEBACLE: A BLUEPRINT FOR REFORM 3 (1993) [hereinafter ORIGINS AND CAUSES].

⁵⁸ *Id.* at 8.

- the perverse incentive of Federal deposit insurance to attract huge deposits at subsidized rates, and to invest them in risky activities;
- the macro-economic shock of unprecedented high interest rates adopted to combat inflation from 1979-82;
- the relaxation of regulatory and supervisory standards, particularly in Texas;
- the "boom and bust" cycle in real estate created by the Tax Acts of 1981 and 1986;
- accounting practices that masked the problems and encouraged fraud and abuse;
- regional factors, such as the massive overbuilding of real estate in Texas, followed by the collapse of property values, oil prices, and agriculture; and
- delay in recognizing and addressing the problems.⁵⁹

Mr. Burnside ignores these factors in his written statement for the Senate Committee on Banking, Housing, and Urban Affairs.⁶⁰ Particularly in the Southwest, a depressed real estate market led to a huge number of loan defaults, which resulted in the vast majority of losses suffered by savings and loans in Texas. Money was lent on projects that were only partly completed or, once completed, were not worth what they cost. Thus, while many institution-affiliated parties acted negligently, or even with gross negligence, it does not follow that all of them lined their own pockets as a result. In addition, while some institution-affiliated parties committed fraud, they may have depleted their ill-gotten gains before the RTC initiated litigation. Therefore, RTC PL program recoveries in Texas are by no means the full story.

The RTC has programs other than the PL program to recover losses from borrowers of failed S&Ls, including by sales of notes and real estate (owned by the S&L through foreclosure), by foreclosures, and by actions against the makers and guarantors of notes. Actions directly against defaulted borrowers have resulted in substantial recoveries because:

- the claims generally are smaller;
- the claims are spread out among a larger population;
- liability for a debt usually is much easier to prove than liability of an institution-affiliated party for negligence, gross negligence or willful misconduct; and
- many of the borrowers have continuing business operations that they are reluctant to jeopardize by undergoing involuntary execution on a judgment, and often they are more likely to make some assets available to the RTC in settlement.

As shown in the following chart, recoveries obtained in the RTC Dallas region provide a basis for understanding the total amount of recoveries from failed savings and loans in that area.

⁵⁹ See *id.* at 6-9.

⁶⁰ STATEMENT at 1-5.

RTC RECOVERIES — DALLAS REGION

Source of Recovery	Amount (as of 1/31/94)
Conservatorship Sales and Other Collections	\$23,942,000,000
Receivership Sales and Other Collections	\$20,371,000,000
Resolution Sales	\$7,323,000,000
Professional Liability Claims	\$179,342,509
Criminal Restitution Collections ⁶¹	\$937,110
Total Recoveries ⁶²	\$51,816,279,619

As shown above, conservatorship, receivership, and resolution sales and other collections constitute the bulk of RTC recoveries. These figures include the sales of securities, residential and other mortgages, other loans, real estate owned through foreclosure, and other assets, and also include payments on notes or other assets. These sales and collections from the Dallas region total \$51,636,000,000.

By ignoring the recoveries obtained through asset sales and collections efforts, Mr. Burnside shifts the center of attention away from the activities that make up the bulk of the RTC's overall recovery efforts, and creates the impression that RTC has failed in its responsibilities to the

⁶¹ This criminal restitution collection figure includes payments made pursuant to restitution orders entered by courts in cases where an RTC institution has been found to be the victim of a crime. By January 31, 1994, a total of 145 orders had been entered for payments totalling \$38,801,886. The low collection rate results from the facts that: (1) many orders are uncollectible because the defendants are incarcerated and have no income from which to make payments, and/or have exhausted their assets to pay for their defense; (2) some orders are unenforceable because they do not require the defendants to pay while incarcerated, even though they may have assets available to make payment; and (3) some orders may be unenforceable because the period during which the defendants are obligated to make payments has expired.

⁶² As of December 31, 1993, RTC had about \$1.7 billion in *uncollected assets* originated by institutions in the Dallas region. This includes judgments in suits (other than foreclosures) against borrowers, loan guarantors in default, and other debtors, amounts claimed in bankruptcy proceedings, and small unsecured loans.

RTC conservatorships and receiverships sell many of these uncollected assets to RTC in its corporate capacity for a nominal consideration based on RTC's historical rate of recovery on similar assets at auction. RTC Corporate in turn assigns these assets to joint ventures for collection. The joint venturers pay RTC a small fee to participate in the joint venture, then make efforts to collect on the assets. Recoveries are divided evenly between RTC and the joint venturer; expenses incurred in collection (working capital, overhead, salaries, facilities, etc.) are paid by the joint venturer out of its 50 percent share.

deposit insurance fund and the taxpayers.⁴³ The Review Team found that the operation of the PL program in Dallas could, and should, have been better, and continues to be in need of significant improvement. However, the Review Team also believes that it is important to present a complete and accurate picture of all RTC recoveries.

Professional Liability Program Recoveries in Texas

Since its inception, it has been the RTC's policy to bring a PL lawsuit only if the amount of the recovery justified the expense of litigation. The RTC has no authority to bring lawsuits for enforcement purposes, *e.g.*, to impose prohibitions on future conduct of institution-affiliated parties such as restricting their ability to serve on the board or work at a financial institution. While other Federal agencies may proceed against wrongdoers without the same regard for costs, the RTC's statutory obligation is to minimize taxpayer losses and maximize recoveries.⁴⁴

Consequently, before bringing a lawsuit, the RTC tries to determine whether the defendant has assets that will significantly exceed the cost of the suit. This determination necessarily involves an attempt to weigh the probability of success either in negotiating a settlement or in successfully pursuing litigation, and thus is not an exact science. Experience and good judgment must be applied. Such experience and judgment may not have been exercised consistently in Dallas. For example, the Review Team was told that one of the PL program staff in Dallas had a "\$2 million rule" for PL cases, *i.e.*, unless there was at least \$2 million in potential recoveries, the case should be closed because the RTC's "fixed" costs in conducting an investigation and pursuing a recovery through settlement or litigation supposedly were at least \$2 million. The Review Team notes that any investigation of a failed institution will involve some cost, and may show that there is no culpable conduct or no recoverable assets. Nonetheless, the Review Team questions whether the use of a bright line rule is consistent with good judgment, with RTC policy, or with the RTC's statutory mission to maximize recoveries from failed S&Ls.⁴⁵

The RTC found that few failed Texas S&Ls with actionable PL claims carried directors and officers (D&O) liability insurance policies, and a large proportion of the policies in force in Texas carried a "regulatory exclusion" clause that precludes payment for loss in connection with claims brought by a regulatory agency.⁴⁶ Consequently, there were very few insurance policies

⁴³ The Review Team recognizes that the PL program is an important component of the effort to recover losses resulting from the resolution of failed thrifts. Some such losses may be realized when RTC is unable to sell assets of a failed institution for the full amount the institution lent or contributed toward the acquisition of its assets. However, such losses are often a part of the ordinary risk of doing business, and may not be attributable to fraud, gross negligence, or other conduct giving rise to PL claims. See *supra* text accompanying notes 58-60.

⁴⁴ See 12 U.S.C. § 1441a(b)(3)(C)(i), (iv).

⁴⁵ See also *supra* note 19.

⁴⁶ A number of courts have held that the RTC and FDIC are regulatory agencies for purposes of applying regulatory exclusion clauses. See, *e.g.*, *American Casualty Co. v. Baker*, 1994 U.S. APP. LEXIS 4023 (9th Cir. March 8, 1994); *Nat'l Union Fire Ins. Co. v. RTC*, No. 92-2836 (5th Cir. February 26, 1994); *FDIC v. American*

available to satisfy D&O claims in Texas. Looking beyond insurance coverage, the RTC found in most cases that the personal assets of the directors and officers were limited. The largest single asset owned by many of the directors and officers was often their residences, which are largely protected from judgment by the generous homestead exemption in Texas.

Beyond officers and directors, PL program recoveries against other institution-affiliated parties, such as accountants, attorneys, and appraisers, faced some of the same problems that D&O suits faced; proving actionable liability for losses and finding assets to recover that will more than cover the costs of the investigation and any subsequent litigation.

In his testimony, Mr. Burnside stated that the RTC has recovered a little more than \$90 million through its Texas PLS cases.⁶⁷ This figure did not take into account cases that were in progress, and that have since resulted in substantial recoveries. Mr. Burnside attempted to take a snapshot of a moving target.

PL program collections are increasing as the laborious process of developing these cases is coming to fruition. As of September 1, 1993 (the most recent date prior to Mr. Burnside's testimony for which figures were available), the RTC had obtained settlements and judgments involving PL claims for thrifts located in Texas that totalled over \$155 million. By the end of January 1994, PL recoveries in the Dallas region totalled over \$179 million, almost double the amount cited by Mr. Burnside.

This trend of increasing recoveries is not confined to the Dallas region. As of the end of 1993, national PL program settlements and judgments totalled over \$744 million. Of this figure, \$348 million was recovered in 1993 alone.

Professional Liability Program Recoveries by Mr. Burnside

In his written testimony, Mr. Burnside takes credit for:

- \$66 million of PLS recoveries;
- 73 percent of all PL program recoveries involving failed Texas S&Ls;
- 37 percent of all recoveries nationwide on the global settlement with Ernst & Young;
- the second largest collective professional liability recovery for any RTC thrift in the country (second to Lincoln Savings);
- 70 percent of all the director and officer recoveries in Texas;
- the two largest RTC settlements with investment bankers who dealt with Texas thrifts;

Casualty Co., 998 F.2d 404 (7th Cir. 1993); *FDIC v. American Casualty Co.*, 995 F.2d 471 (4th Cir. 1993); *FDIC v. American Casualty Co.*, 975 F.2d 677 (10th Cir. 1992); *Fidelity & Deposit Co. of Maryland v. Conner*, 973 F.2d 1236 (5th Cir. 1992); *St. Paul Fire & Marine Ins. Co. v. FDIC*, 968 F.2d 695 (9th Cir. 1992).

⁶⁷ STATEMENT at 6.

- the largest RTC settlement with a commodities broker; and
- the largest RTC or FDIC recovery from a single accounting firm attributable to a failed thrift.

Mr. Burnside further stated that in his over two years with the RTC, the case recoveries under his supervision exceeded the combined total recoveries of all matters supervised by the 50-plus other PLS attorneys throughout the country.⁶⁴

As explained below, it is impossible to state with precision exactly how much of the Texas PL program recoveries Mr. Burnside is responsible for. However, it is clear that Mr. Burnside's personal claim of responsibility is overstated.

\$66 million of PLS recoveries, and 73 percent of all PL program recoveries involving failed Texas S&Ls. The bulk of Mr. Burnside's claimed recoveries, 84 percent, are traceable to allocations from global settlements by the RTC. These global settlements were reached with firms that had done business with failed thrift institutions around the country, and were directed by the RTC in Washington. A portion of these global settlements were allocated to institutions in Texas to which Mr. Burnside was assigned. His claim of credit for these recoveries overstates his role and contribution.

The largest global settlement was with the accounting firm of Ernst & Young. Of the total Ernst & Young settlement of \$400 million, \$128.24 million was allocated to the RTC. Of this amount, \$51.08 million was allocated to three institutions in Texas to which Mr. Burnside was assigned.⁶⁵ This represents 77 percent of Mr. Burnside's claim of \$66 million in PLS recoveries. Although Mr. Burnside contributed background information on some Texas institutions for this national settlement and otherwise assisted in staff work, this project involved other personnel from the RTC, the FDIC, and the OTS. Other PLS attorneys from Texas also contributed to this case. The RTC's nationwide contributions to this collective effort were supervised in Washington. Mr. Burnside claim of credit for this recovery ignores the contributions of many people from multiple agencies.

The second global settlement for which Mr. Burnside claimed credit was an RTC settlement with Pru-Bache Securities, Inc. The RTC in Washington and other RTC regional offices also contributed to the global settlement. The total amount of the settlement was \$6.597 million, of which \$1.5 million was allocated to the FDIC and \$5.097 million to the RTC. Of this \$5.097 million, \$4,258,800 was allocated to institutions in Texas assigned to Mr. Burnside.

Thus, Mr. Burnside's claims of responsibility for \$66 million of PLS recoveries and 73 percent of all PL program recoveries involving failed Texas S&Ls are inaccurate because those figures include the recoveries from the global settlements on which Mr. Burnside was one of many who

⁶⁴ *Id.*

⁶⁵ \$2.01 million was allocated to an institution, Meritbank Savings Association, assigned to another PLS attorney in Texas.

contributed. Recoveries from global settlements attributed to Texas institutions to which Mr. Burnside was assigned total \$55,338,800, or 84 percent of the \$66 million in PLS recoveries for which Mr. Burnside claims credit.

37 percent of the RTC's recoveries from the Ernst & Young global settlement. It is correct that the RTC attributed 37 percent of the Ernst & Young global settlement to institutions in Texas, and that those institutions were assigned to Mr. Burnside. However, as noted above, Mr. Burnside was one of many contributors to this multi-agency case directed by the RTC from Washington. So, Mr. Burnside's claim of responsibility for 37 percent of all recoveries nationwide on the Ernst & Young global settlement also overstates his contribution.

The second largest collective professional liability recovery for any RTC thrift in the country (second to Lincoln Savings). The second largest collective professional liability recovery at the time of the September 23, 1993 Senate Banking Committee hearing for any RTC thrift in the country was \$50.99 million from Bexar Savings Association of San Antonio.⁷⁰ Of this amount, \$43.69 million, or 86 percent, is attributable to the Ernst & Young global settlement, which, as noted above, was the result of the efforts of many people, including Mr. Burnside. The remainder of the Bexar Savings PLS recovery, \$7.3 million, or 14 percent of the total recovery of \$50.99 million, came from director and officer liability settlements.

Mr. Burnside was not the only attorney to work on matters related to this institution. For example, a review of the subpoenas issued in the Bexar case indicate that four subpoenas were issued by Mr. Burnside, but 12 were issued by his supervisor and one by another PLS attorney. This illustrates the fact that, in addition to the global settlements, Mr. Burnside was not the only PLS attorney who worked on some of these cases. Further, Mr. Burnside's supervisors also could claim some credit for the work he performed under their supervision. The Investigations unit also contributed to these cases.

Mr. Burnside's claim of responsibility for the second largest collective professional liability recovery for any RTC thrift in the country is undermined by the fact that much of this recovery is from a global settlement, and the fact that Mr. Burnside was not the only PLS attorney to work on Bexar.

70 percent of all the director and officer recoveries in Texas. Mr. Burnside's claim of credit for 70 percent of all the director and officer recoveries in Texas stems from his work on Bexar Savings Association. As noted above, the RTC recovered \$7.3 million from officers and directors in this case, but Mr. Burnside was not the only RTC attorney who worked on this case, which was completed by another attorney after Mr. Burnside left the RTC. Nonetheless, Mr. Burnside's contribution on this case was significant, and this recovery represents a substantial amount of the officer and director liability recoveries in Texas to date.

The two largest RTC settlements with investment bankers who dealt with Texas thrifts. Mr.

⁷⁰ Between 1991 and 1994, the RTC reached multiple settlements with individual directors, officers, accountants, and others associated with Centrust Bank resulting in a total recovery of over \$84.65 million.

Burnside was instrumental in the two largest RTC settlements with investment bankers, Donaldson, Lufkin, Jenrette and First Boston Company, which dealt with one Texas thrift.

The largest RTC settlement with a commodities broker. As discussed above, Mr. Burnside coordinated the Texas portion of the Pru-Bache Securities, Inc. global settlement, and a large part of this settlement was attributed to Texas thrifts.

The largest RTC or FDIC recovery from a single accounting firm attributable to a failed thrift. Mr. Burnside's claim in this instance apparently relates to the \$43.69 million recovery attributable to Bexar Savings Association as part of the Ernst & Young global settlement. For all the reasons stated above, Mr. Burnside's claim of credit for this recovery also is overstated.

Mr. Burnside's statement that the case recoveries under his supervision exceeded the combined total recoveries of all matters supervised by the rest of the PLS attorneys is inaccurate. As noted above, Mr. Burnside's claims of recovery for which he was solely responsible includes global settlements and is overstated. So, comparing his recovery figure to the recovery figures from other RTC PLS offices outside of Washington, which also include recoveries from global settlements directed from Washington, is misleading.

The Review Team was told in its interviews that Mr. Burnside's recoveries were greater than those of other PLS attorneys because Mr. Burnside, as the only senior PLS attorney in the Dallas regional office after cases were sent to other field offices in Texas, was able to "cherry-pick" the cases in Texas with the best and fastest potential for recovery, while cases with looming statute of limitation deadlines and those destined for "close-out" because of the lack of assets or liability were sent to field offices in Texas. His position in the Dallas regional office and his experience meant that he was in a position to work on those RTC cases related to Texas institutions that were being directed by the RTC in Washington, such as the Ernst & Young global settlement. The Review Team did not attempt to confirm or deny these statements; however, they generally are consistent with the RTC practice that high-profile, high-dollar, or otherwise significant cases were retained by Washington or the regional offices.

In conclusion, the Review Team found evidence that Mr. Burnside was successful in pursuing PL claims in Texas, particularly as part of a team that included PLS attorneys and investigators from around the country who worked on large global settlements. Nonetheless, the Review Team also found that Mr. Burnside's claims of credit for PL claim recoveries to be overstated.

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SUPPLEMENTAL SUBMISSION

BY BRUCE J. PEDERSON AND JACQUELINE P. TAYLOR

We wish to thank the Chairman and the Committee for the opportunity to submit this response for the record. The half truths and hidden admissions contained in the information provided by the RTC after the last oversight hearing compel us to provide the "rest of the story." It consists of the truth.

This statement addresses: (1) the festering damage to the RTC Professional Liability ("PLS") Program; (2) the lack of protection for agency whistleblowers; and (3) the absence of accountability for abusive RTC managers. These issues track our RTC experience: we initially exposed gross mismanagement in the PLS Program, subsequently suffered reprisals, and then were told that no retaliation had occurred because a rigged grievance system said so. Meanwhile, those responsible for the wasting of the PLS Program and the ensuing reprisals walked away with impunity. These events of the past two years occurred at great cost to taxpayers and to the detriment of RTC employees who wish to serve the public interest.

I. PLS PROGRAM

On August 11, 1992, we first testified before the Committee about how a major RTC reorganization gutted the PLS Program. We warned about a host of operational nightmares that were sure to come. These included a substantial loss in trained attorneys, rampant case reassignments, inefficient investigations, and flawed reporting lines, all of which stood to compromise valuable PLS claims worth millions, and perhaps billions, of dollars. We first gave these warnings to agency management in the spring of 1992 just prior to the ill-fated reorganization.

The RTC stubbornly rejected our message and preoccupied itself with "killing the messenger." It actually defended the PLS upheaval as an improvement to the Program. Despite ample signals that PLS was in dire need of repair as early as June of 1992,¹ this approach was adopted by both the Bush and Clinton Administrations. Although we stand by our earlier testimony regarding the motives for this behavior, we choose now to focus on the track record of those entrusted with stewardship of the PLS Program.

The RTC, and its oversight entity, the Treasury Department, have done little to fix the broken PLS Program on their own accord. In March of 1993, Secretary Bentsen announced a "10 Point Reform Program" that was little more than a promise to study the PLS Program. No meaningful reforms were implemented as a result. Two months later, Interim CEO Altman inexplicably rejected Congressional offers of assistance to lengthen PLS-related statutes of limitations at a time when the PLS Program was in turmoil.

Instead, those repairs that did occur were mere reinstatements of PLS Program features that were jettisoned or lost in the 1992 reorganization. The damage caused by their absence soon became apparent, even to the RTC. For that reason, quarterly case reviews and site visits were reinstated or increased in frequency. Other changes were forced on the RTC by the Congress. For example, the recently enacted RTC Completion Act provided for longer statutes of limitations and reinstated the independent reporting lines that were inherent to the original PLS Program.²

Vindication

Ensuing events have only served to confirm our original testimony. On October 1, 1992, former CEO Albert Casey appeared before the Committee and attempted a feeble defense using a Staff Report prepared by the very Legal Division managers who were responsible for the ill-conceived PLS reorganization. Thereafter, we wrote a Rebuttal Statement which identified the numerous shortcomings in Mr. Casey's statement. It was made part of the hearing record.

In 1993, third party investigations vindicated our original testimony. In June, the U.S. General Accounting Office ("GAO") issued a report that extensively criticized the PLS reorganization. In July, the RTC Office of Inspector General ("OIG") released its own report and echoed the adverse GAO findings in greater detail. Both reports failed to find any evidence that the PLS Program had been improved by the reorganization. If anything, PLS operations had been significantly disrupted at a critical time when dozens of cases around the Nation had lapsing statutes of limitations. Indeed, as reported in the press, PLS case filings plummeted after the reorga-

¹Pages five to seven of the RTC Report regarding the Dallas PLS Office, cited herein at n. 12, describe the red flags that were known to responsible officials.

²Pub. L. No. 103-204, 107 Stat. 2369, (1993), *codified at* 12 U.S.C. § 1441a(b)(14) and § 1441a(w)(10).

nization.³ RTC PLS efforts in Texas, the cradle of the S&L crisis, were particularly poor.⁴

Additional evidence corroborating our initial testimony came from RTC management and staff as well. On March 30, 1993, then Acting General Counsel Richard T. Aboussie and then PLS Assistant General Counsel Thomas Hindes admitted to a House Oversight Subcommittee that the PLS Program was seriously understaffed with inexperienced lawyers, top heavy with supervisory layers, and balkanized.⁵ Although the looming "RTC sunset date" was blamed, these problems were all self-inflicted by the reorganization. Later, on September 23, 1993, this Committee conducted a hearing which consisted of testimony from thirteen RTC whistleblowers.⁶ One of the witnesses was Mr. Thomas Burnside, a former PLS Senior Attorney in the RTC Dallas Office. He described the operational chaos that resulted from the 1992 reorganization and compromised PLS work in Texas.⁷

The most recent validation of our views came from the Treasury Department and RTC. In April 1994, the RTC PLS was forced to seek attorney recruits from the FDIC in order to fill staffing tables. That same month, the RTC released an internal report which disclosed the enormity of the operational difficulties afflicting the PLS Office in Dallas. This report was the product of an investigation conducted by a "Review Team" composed of Treasury and RTC officials. Their on-site inquiry examined the issues raised by Mr. Burnside at the Whistleblower Hearing last fall. It was most disheartening to see so many problems uncovered in Dallas when Treasury had been on notice of serious flaws in the PLS Program for over a year.

PLS Warning Chart

In order to graphically illustrate how ensuing events have vindicated our initial testimony from 1992, we prepared a "PLS Warning Chart" (the "Chart") which appears as Exhibit "A" to this statement. The Chart displays our warnings about several key PLS subjects (e.g., attorney turnover, case reassignments, reporting lines) and tracks how those positions were confirmed by third parties, including the RTC itself, during 1993 and 1994.

We chose to use the findings from 1993 GAO and RTC OIG Reports as well as the recently issued RTC Report regarding the PLS Office in Dallas. For dramatic contrast, we also included former CEO Casey's remarks in defense of the PLS reorganization. Thus, there are four columns found in the Chart: Column #1 contains excerpts from our testimony;⁸ Column #2 quotes former CEO Casey's statements;⁹ Column #3 consists of findings from the GAO¹⁰ and RTC OIG;¹¹ and Column #4 discloses the contents of the RTC Report analyzing the Dallas PLS Office.¹²

1994 RTC Dallas PLS Report

The Dallas PLS Report deserves special mention. It represents the most recent evaluation of RTC PLS operations in the wake of the 1992 reorganization. Because the Report was a byproduct of the Whistleblower Hearing when we last testified, we have not had the opportunity to comment on its contents before this Committee.

The timing of the release of the Report and its contents appear interwoven. Although a team of seven lawyers and investigators completed the "leg work" for the

³ Keil, Richard, "Recovery of S&L Losses Drops Off," San Francisco Examiner, May 14, 1993 at B-3.

⁴ Keil, Richard, "RTC Gets Back Little of Texas Losses," Fort Worth Star-Telegram, January 12, 1994 at —.

⁵ *Professional Liability and RTC Contracting With Lawyers, 1993: Hearings Before the Subcommittee on General Oversight, Investigations, and the Resolution of Failed Financial Institutions of the Committee on Banking, Finance and Urban Affairs, 103rd Cong., 1st Sess. (March 30, 1993).*

⁶ *Resolution Trust Corporation Whistleblowers, 1993: Hearing Before the Senate Committee on Banking, Housing, and Urban Affairs, 103rd Cong., 1st Sess. (September 23, 1993) ("Whistleblower Hearing").*

⁷ *Id.* at 51-64, 131-178, 441-539.

⁸ *Consolidation of the Professional Liability Section of the RTC Legal Division, 1992: Hearing Before the Senate Committee on Banking, Housing, and Urban Affairs, 102nd Cong. 2nd Sess. (August 11 and October 1, 1992) ("PLS Hearings").*

⁹ *Id.*

¹⁰ U.S. General Accounting Office, *Thrift Failures: Actions Needed to Stabilize RTC's Professional Liability Program*, (June 1993) (No. GAO/GGD-93-105). See also U.S. General Accounting Office, *Bank and Thrift Failures: FDIC and RTC Could Do More To Pursue Professional Liability Claims*, (June, 1992) (No. GAO/T-GGD-92-42).

¹¹ RTC Office of Inspector General, *Review of Allegations Associated With the Restructuring of RTC's Legal Division and Its Effect on the Professional Liability Section*, (July 20, 1993) (Inspection Report INS93-005).

¹² RTC, *Report: Review of the Professional Liability Program in Dallas*, (April 1994) (the "Dallas PLS Report").

Report in December of 1993, it was not made public until April of 1994. During that interim period, Treasury officials made repeated assurances that release of the Report was imminent. We only can surmise that the embarrassing findings contributed to the tardy issuance of the Report. In the end, Congressional and media pressure finally led the RTC, standing in the shoes of the Treasury Department, to release the Report.

Perhaps the Treasury Department deliberately chose to wait until Interim CEO Altman stepped down on March 30, 1994, so that the adverse findings of the Report would revert to being the exclusive problem of the RTC. The problems in Dallas, however, were known and neglected during the year that comprised Mr. Altman's "watch."

Two major points need to be made regarding the contents of the Dallas PLS Report. First, the Report clearly supports our predictions of the operational nightmares that would arise from the PLS reorganization. The Report chronicles the serious problems of subpoena underutilization, attorney turnover, case reassignments, staff friction, management impotence, and impaired efficiency. In its own words,

"Since 1992, several major reorganizations of the RTC and the PL program have disrupted PL program work throughout the country. The resulting loss of experienced staff, reassignment of on-going cases, lost knowledge regarding those cases, and physical transfer of files from one office to another created delays in investigating PL claims. In some cases, these delays made it difficult to complete thorough investigations before the expiration of the statute of limitations."¹³

Nothing in the Report supports the RTC's initial position that the reorganization somehow improved the PLS Program. In fact, the underlying evidence was so negative that the authors of the Report were only able to quibble over whether Mr. Burnside's testimony overstated the problems in Dallas. The Report does *not* dispute the existence of serious difficulties in that office.¹⁴

Second, there is every reason to still believe that valuable PLS claims were compromised by the 1992 reorganization. The grave disruptions listed in the Report are the very kind most likely to threaten the pursuit of PLS claims. It is ludicrous to suggest that every viable claim has been pursued by a program which fails to aggressively use administrative subpoenas, features inadequate management and oversight, harbors a very high level of tension between team members, exhibits impaired efficiency, and has been severely disrupted by staff turnover and case reassignments. The Report even admits at page seven that "the quality of PL program work received from [Dallas] seemed to *decline*" after the reorganization [emphasis added]. The reasoning used by the RTC is akin to saying that a failed financial institution had unsafe and unsound lending practices yet sustained no losses in its loan portfolio. Such a premise and conclusion rarely, if ever, occur together in reality.

Notwithstanding its lengthy inventory of operational problems and their consequences, the Report jumps to the blithe conclusion that there was no "wide-ranging failure to pursue professional liability claims in Texas." There is no evidentiary support for this leap of faith. If anything, the reader is led to suspect that some claims *were* missed by the RTC. The Report concedes at page three that a list of cases which "should have been pursued, or pursued more vigorously" was prepared in conjunction with interviews of RTC employees. Although the RTC fails to disclose numbers, the text leaves the reader with the impression that multiple PLS claims were bungled. Even one blown claim is inexcusable insofar as dollar recoveries on most PLS claims range between six and seven figures. The taxpayer should not have to subsidize this gross incompetence.

Finally, the Report contains two key admissions that undercut its own rhetorical conclusion of "no harm, no foul." Page thirty-four of the Report states that, "the quality of RTC investigations, litigation, and recoveries in [Dallas] will continue to be adversely affected unless the problems there are addressed." Impaired *investigations, litigation, and recoveries* are just another way of saying that viable claims have been compromised in whole or in part. Furthermore, it remains a mystery as to how the Review Team could maintain that no PLS claims were damaged or lost when its own Report admits at page two that "individual RTC case files" were not reviewed. The litany of operational problems described in the Report can only create a strong presumption that taxpayer interests ultimately suffered due to reduced re-

¹³ Dallas PLS Report at 8.

¹⁴ Mr. Burnside is expected to submit a rebuttal to the Report to address its understatements and misrepresentations. Other observers already have attacked the methodology and findings of the Report. "RTC Report Discounts Impact of Chaos in Dallas Office," Bank Lawyer Liability Reporter, April 29, 1994 at 5.

coveries. In the end, we concur with the Chairman's characterizations of RTC PLS efforts as "tanking" investigations and "taking a dive."¹⁵

II. RTC WHISTLEBLOWER PROTECTIONS

Treasury and RTC management have conducted a vigorous public relations campaign with this Committee and the press in arguing that whistleblowers are protected at the RTC. The "spin" for public consumption includes reference to a policy statement by Mr. Altman (issued on October 4, 1993), a newly created Ombudsman's Office, and new OIG guidelines.¹⁶ The agency's grievance process also continues to be endorsed by management as a realistic tool for resolving employee concerns. Finally, the RTC plans to spend more taxpayer money to hire a consultant who will "study the quality and the coordination of the grievance, EEO, and IG procedures."¹⁷

As the senior whistleblowers of the RTC, we take great exception to this display of "smoke and mirrors." These measures have no practical effect. Whistleblowers continue to suffer reprisals at the RTC and the perpetrators go unpunished. The actions of Treasury and RTC officials do *not* match their words. Indeed, we challenge them to name even *one* RTC whistleblower who has exposed mismanagement without being punished. While we do not pretend to speak for all of the witnesses from the Whistleblower Hearing, subsequent media accounts suggest that several of those still on the agency payroll have met with reprisals.¹⁸

Continuing Retaliation

Our retaliation experience at RTC was exhaustively documented last year.¹⁹ No other RTC employees have suffered *all* of the forms of vindictive treatment we have endured since May of 1992: arbitrary removal from PLS duties without cause and despite exemplary job performance; exile in outlying buildings; threats to co-workers for associating with us; slanderous statements to us, the OIG, the Congress, and the media; censorship of our mail from oversight entities; assignment of "make work" tasks which atrophied our professional skills; refusals to rule on our grievances for over eighteen months; exclusion from objective consideration for vacant management positions in Denver (including PLS); a covert invasion of Mr. Pederson's WordPerfect computer files without his consent, a court order, or a legitimate business purpose; and a "gag order" on Ms. Taylor banning her from discussing whistleblower and PLS public policy issues with the press. None of these injustices have been corrected. Instead, these injuries have been compounded each time the RTC has rejected or ignored our requests for relief.

RTC efforts to dodge responsibility for this prolonged and unfair pattern of treatment are unpersuasive. Agency officials belittle individual incidents while ignoring the totality of this punitive conduct over a two year period. The RTC also argues that other employees may have endured *some* of these forms of punishment. With this way of thinking, "two wrongs do make a right." Contrary to management's flawed reasoning, any conduct which chills employee efforts to report mismanagement should be deemed to be retaliatory. The grievance examiner used the same approach in rejecting our reprisal allegations.

Conversely, outside observers who take the time to examine this record readily conclude that we endured retaliation for exposing the PLS reorganization and subsequent management efforts to punish us. Representative Patricia Schroeder so testified before this Committee last fall.²⁰ The Cavallo Foundation reached the same conclusion in awarding us the prestigious 1993 Cavallo Prize for Moral Courage in Government and Industry. Numerous broadcast and print media reports about our

¹⁵ Whistleblower Hearings at 53, 57.

¹⁶ See RTC Response at page one to Chairman Riegle's followup question #1. See also testimony by Roger Altman at pages 88-89 of the unofficial transcript from the RTC Oversight Board Hearing held on February 24, 1994, before the Committee.

¹⁷ See Letter from Roger Altman to Donald Riegle, Jr. (February 10, 1994). The agency could obtain the same insight for free by listening to its own employees. They know better than anyone what problems afflict all of these ineffective procedures.

¹⁸ See Hanchette, John, "Government Whistleblowers Still Being Harassed, Abused," Gannett News Service, March 27, 1994; Granelli, James, "S&L Agency's O.C. Office Called House of Pain," Los Angeles Times, November 28, 1993 at D1.

¹⁹ Whistleblower Hearing at 181-185, 323-387.

²⁰ Whistleblower Hearing at 12. "Since first raising questions about RTC activities, Jackie and Bruce were demoted, isolated in a separate building, and threatened with transfers to Kansas City. And in the most recent example of what I consider to be retaliation, Bruce's computer was broken into and his files were copied. Call me crazy, but breaking into a whistleblower's computer sounds a little like retaliation." *Id.* at 82.

RTC experience have invariably disclosed an agency track record of reprisal and abuse.

Treasury/RTC Indifference

After the Whistleblower Hearings last September, we actively sought relief for our retaliation injuries from Treasury and newly installed RTC officials. Contrary to their rhetoric and the policy statement, Mr. Altman, the RTC Ombudsman (Jack Buckley), and the RTC General Counsel (Ellen Kulka) have, time and time again, failed to provide any relief. Their failure to right past wrongs was a perpetuation of the original reprisals. In at least one case, described below, they have piled on with their own reprisals.

It is equally telling that, despite Treasury promises to consult with the witnesses from the Whistleblower Hearing, the majority never were contacted by Treasury. By its own admission, Treasury spoke with only six of the thirteen witnesses (by telephone or in person). Many of the witnesses, like Mr. Burnside, who did speak with Treasury officials had to initiate the process. We never were contacted.²¹ We believe that our experience was the norm.

Our efforts and the stone wall of indifference are well documented in Exhibit "B." (Exhibit "B" held in Committee files.) It contains a lengthy series of memoranda, letters, and electronic mail ("E-Mail") between us and senior Treasury or RTC officials that date back to spring of 1993.²² All told, we exchanged 41 written communications, conducted several lengthy telephone calls with Treasury officials, and had one face to face meeting at our initiative. The subject matter invariably included the damaged PLS Program, past and present retaliation against us, and the absence of management accountability at RTC. The volume was dictated by the intransigence of both Treasury and RTC officials. Their vague replies necessitated repeated inquiries.

A quick review of the correspondence illustrates the hostility toward whistleblowers that still pervades RTC and Treasury. Former Interim CEO Altman declined to provide justice in our cases on three separate occasions. He denied both of our grievances on January 5, 1994 (after a decision was due for over fifteen months) and denied an ensuing request for reconsideration by Mr. Pederson on March 22, 1994. In all three instances, the cursory nature of his denials consistently failed to address our specific points. Instead, Mr. Altman took refuge behind two slipshod grievance examiner reports (discussed in detail below) which failed to find any evidence of retaliation against us. On February 22, 1994, the RTC Ombudsman followed suit and rejected an appeal by Mr. Pederson. Mr. Buckley ducked jurisdiction by deferring to the grievance decision reached by Mr. Altman.

Recent denials have now given way to total unresponsiveness and affirmative harassment. General Counsel Kulka has yet to answer Mr. Pederson's E-Mail of March 29, 1994, requesting relief based on recent events which vindicated our warnings about the PLS Program and a victory in our Freedom of Information Act ("FOIA") litigation with the agency. The only reaction has been a flurry of motions in the FOIA lawsuit to bar us from receiving our court ordered award of attorneys fees and costs. Just last week, the RTC also filed a notice of appeal for the underlying case. The agency continues to spend thousands of dollars to litigate losing positions in a case which originally involved \$3,000.²³

What personal attention has come from Ms. Kulka has been in the form of a vague "gag order" slammed down on Ms. Taylor which ostensibly prevents her from exercising her First Amendment rights to free speech on public policy issues which have been the subject of her earlier Congressional testimony.²⁴ As depicted in the E-Mail traffic listed above, Ms. Taylor's efforts to clarify the scope of the gag order have proven fruitless. The RTC Legal Division and Ombudsman's Office have not been of assistance. Meanwhile, she continues to forfeit opportunities to speak out

²¹ On June 10, 1993, we met with Jean Hanson, the Treasury General Counsel, Dennis Foreman, her Deputy, and Joshua Steiner, the Special Assistant to Mr. Altman. This introductory session addressed some of the issues we raised before Congress. We never received an invitation to continue this trouble shooting dialogue.

²² Our efforts to alert Treasury officials to rampant waste and abuse at the RTC began in April of 1993, over five months before the Whistleblower Hearing. Copies of these communications are attached to the post-hearing memoranda sent to CEO Altman which are included in Exhibit "B." We also attempted to alert the Clinton White House. In late 1992 and 1993, we separately wrote to the President, Vice President Gore, and a White House staffer. We never received a single reply to any of the three letters.

²³ *Pederson et al. v. RTC*, No. 93-C-241, slip op. (D.Col. March 28, 1994). See "RTC Whistleblowers Win FOIA Case," *Bank Lawyer Liability Reporter*, April 15, 1994 at 12.

²⁴ Skrzycki, Cindy, "The Regulators: The RTC Reigns In a Whistleblower," *The Washington Post*, May 13, 1994 at F1.

as she declines interview offers with reporters so as to avoid the harsh disciplinary actions threatened in Ms. Kulka's original order.

Ombudsman Ineffectiveness

Contrary to Mr. Altman's bald assertion at the RTC Oversight Board Hearing, the RTC Ombudsman's Office is *not* "working pretty well."²⁵ The only support offered by Mr. Altman was the fact that the majority of inquiries (96 out of 116) had been "closed." That is no measurement of justice or employee satisfaction with the outcome. In fact, the RTC rank and file regard the Ombudsman's Office as yet another ruse designed to deceive employees into thinking that someone within the agency really has the power to effect positive changes or redress serious wrongs.

The RTC Ombudsman's Office suffers from many serious infirmities. First, it lacks meaningful jurisdiction. Any matter placed into the agency grievance process is automatically excluded from review by the Ombudsman. That clever ploy never was disclosed to RTC employees. It also is illogical insofar as many employees, including Mr. Pederson, commenced their grievances well before the Ombudsman's Office was even created. They could not factor this jurisdictional quirk into their decision whether to file a grievance. Furthermore, many matters that are grievable also are appropriate for review by the Ombudsman.

Second, Mr. Buckley's office has no power. At best, all the Ombudsman can do is "jawbone" with senior RTC management. In some cases, these will be the very same officials responsible for the conduct that is the subject of the employee's complaint to the Ombudsman.

Third, the Ombudsman's Office lacks important resources. For example, it must depend on the Legal Division for legal advice. Again, this is undesirable when the subject of the complaint is a manager in the Legal Division. Ms. Taylor's efforts to clarify the pending gag order typify this problem. The Ombudsman's Office staff has had to turn to the Legal Division for guidance on interpreting a constitutionally suspect order issued by the head of that very same Division. The Ombudsman also cannot offer confidentiality. RTC employees are closely monitored by management in their use of time (*i.e.*, timeslips programs), computers (E-Mail), and telephones.

When all is said and done, even the staffers of the Ombudsman's Office have begun to concede these limitations in their conversations with agency employees. In some cases, their efforts to intervene on behalf of an employee only have resulted in retaliation for the unfortunate soul naive enough to try the Ombudsman route. As one staffer put it, "it's better to disappoint someone by not taking up a matter than to subject that employee to needless reprisal."

OIG Ineffectiveness

The RTC OIG continues to have no track record in successfully protecting agency whistleblowers. Our earlier testimony last September explained the deficiencies facing this office.²⁶ Despite a much ballyhooed amendment to the OIG "Policies and Procedures Manual," in December of 1993, we are not aware of a single case where an RTC employee experiencing retaliation for exposing waste, fraud, or abuse obtained meaningful protection from the OIG.²⁷

We decided to put the new guideline to the test earlier this year. Using our own unenviable record of agency retaliation, we filed a written complaint with the OIG office in Denver on February 22nd. We requested relief from past, present, and future management retaliation at RTC. We also supplemented our pending complaint with new acts of reprisal as they occurred (*e.g.*, the gag order on Ms. Taylor). Over 90 days later, all we have to show for our efforts is an acknowledgement of receipt and a case file number (No. DE-00-0800). While we have confidence in the dedication of the field staff, we fear that the matter has been referred to the headquarters office where it will be routed for eternity into the infamous "zero file" which IG Adair boasted of in his testimony before this Committee on October 1, 1992.²⁸

Discredited RTC Grievance System

The RTC also continues to hold up its grievance system as a viable forum for resolving employee complaints. We are surprised that the agency still uses such a discredited tool in its public relations efforts. There are no objective statistics which demonstrate satisfactory resolution of employee grievances. On the other hand, a poll of RTC employees would readily reveal a groundswell of cynicism which repudi-

²⁵ Unofficial transcript at 89.

²⁶ See Whistleblower Hearings at 185.

²⁷ See Chapter 110.6 entitled, "Handling RTC Employees' Allegations of Retaliation." It is found in Part I of the Manual pertaining to "Operations Policies and Procedures."

²⁸ PLS Hearings at 387-89.

ates the fairness of the grievance process. In short, we stand by our earlier testimony before the Committee:

"The grievance process at the RTC is a sham. It serves no purpose other than to delay resolution of legitimate employee concerns. It is a fraud in terms of giving unfounded hope to employees that the unfair treatment they receive will be remedied with these proceedings. . . . The grievance machinery is a one way street designed to stall matters for management in the hopes that the employee will give up on pursuing a remedy or that an excuse can be found for managerial misbehavior."²⁹

It also is important to unmask the RTC grievance process for the hoax that it is because management insists on using the discredited grievance examiner's reports in our cases as proof that we never suffered retaliation at the RTC. The most recent example occurred in the official "RTC Response" to followup questions posed by Committee members after the RTC Oversight Board Hearing held on February 24, 1994. In response to Chairman Riegle's question #1, concerning whistleblower protections at RTC, the agency noted at page two that our grievances had been denied by Interim CEO Roger Altman in reliance on a grievance examiner who "found no evidence of harassment or retaliation." The investigation was said to be "thorough and objective."

Exhibit "C" (Exhibit "C" held in Committee files) to this Supplemental Statement is a memorandum recently sent to Mr. Altman. It exposes the procedural flaws and explains the substantive shortcomings in the examiner's investigation and ensuing reports for our individual cases. These points belie any notion that the effort was "thorough" or "objective." The futility of the exercise was typified by events in March of 1993. The very week before the grievance examiner was due to arrive in Denver to conduct witness interviews, RTC management was busy covertly breaking into Bruce Pederson's computer in order to copy his WordPerfect files! At the time, those files contained sensitive memoranda addressed to various oversight entities such as this Committee and the GAO.

IV. MANAGEMENT ACCOUNTABILITY

This Section is regrettably brief because there continues to be little, if any, management accountability at the RTC. Despite our pleas, and those of many others, culpable agency managers still operate with impunity. Even the publicity and outrage attendant to the Whistleblower Hearing last fall failed to change this corporate culture.³⁰ A recent series of blistering newspaper articles regarding the RTC field office in Newport Beach, California confirm the widespread lack of accountability in this agency.³¹ The initial RTC reaction is said to have been that the pieces "contained nothing new." If so, that is the most eloquent testimony yet to the lack of accountability at RTC. No well run organization would tolerate such rampant mismanagement.

There are several explanations for why accountability is so difficult to impose at the RTC. The most persuasive one is that the career managers who are the problem continue to brief all new incoming senior officials such as Mr. Ryan and Ms. Kulka. These subordinate managers take great care to paint those who speak out as mere malcontents with nothing to say. As a result, vital agency programs continue to suffer and whistleblowers still experience unrelenting retaliation.

By now, RTC mid-management's playbook for avoiding responsibility is finely honed. When "caught in the act," managers resort to several time honored techniques. These include:

1. Deny Anything Is New.

This approach creates the impression that somehow things are under control and as they should be because management was not surprised by the disclosure.

2. Admit "Mistakes" Were Made.

This strategy never specifies what the mistakes were or who was responsible. Instead, the problem just sort of fades away following this pseudo act of contrition.

²⁹ Whistleblower Hearing at 184.

³⁰ Two members of this Committee and a guest, Senators Riegle, Kerry, and Metzenbaum, even wrote to Attorney General Janet Reno requesting a Justice Department investigation of the allegations raised at the hearing. Whistleblower Hearing at 216-17.

³¹ See Smith, Elliot Blair, "Second S&L Crisis: RTC," The Orange County Register, May 29, 1994 at 1 and a Special Close Up Section. The articles, attached as Exhibit "D" (Exhibit "D" held in Committee files), disclosed evidence of widespread fraud, malfeasance, and sexual harassment. Legal Division managers were prominently featured.

3. Initiate a Study or Task Force.

This option provides delay until oversight officials or the public begin to forget about the existence of the problem. In this fashion, the responsible managers "ride out the storm." This alternative also easily combines with the others.

4. Revise Manuals, Directives, or Procedures.

This approach addresses future conduct but neglects to go back and correct the specific problem. In so doing, the culpable official is rarely held accountable for past misconduct. The RTC has consistently employed this technique in addressing one contracting scandal after another.

5. Transfer RTC Managers to the FDIC.

When all else fails, the RTC discreetly returns the worst performers to the FDIC where they fill positions of similar grade and pay. They are not disciplined in the process. If anything, they are set free to replicate their misconduct at yet another Federal agency.

The RTC Legal Division has perfected the use of these dodges to an art form. Witness the following events in the PLS arena alone. The carnage resulting from the 1992 reorganization was shrugged off as a series of benign mistakes and errors in communication. After the Whistleblower Hearing a year later, Treasury and the RTC resorted to use of a Review Team to study the chaos in the Dallas PLS Office. When this strategy failed to quell public interest, the ensuing report was delayed for as long as possible. When finally released, it acknowledged more mistakes, pointed to new procedures, and somehow maintained that no work had been compromised.

Meanwhile, the architect of the PLS reorganization and the break in of Mr. Pederson's computer, former Acting General Counsel Richard Aboussie, fled to the FDIC where he continues to occupy an E-III executive position. The substantial disruption to the PLS Program caused by his conduct would have led to negative repercussions at any other well managed agency. In a publicly held corporation, he would have faced shareholder litigation alleging a breach of fiduciary duties.

The chief lieutenant for Mr. Aboussie's reign of terror in the PLS upheaval was Thomas Hinds. Since then, he has been blamed for the numerous problems found in the Dallas PLS Office. The Report found that PLS management in Washington, DC, *i.e.*, Mr. Hinds, failed to adequately "oversee, provide guidance, and intervene effectively" in the known problems occurring in Dallas.³² For this track record, Mr. Hinds was rewarded by being elevated to the statutorily created position of RTC Assistant General Counsel for PLS.

V. CONCLUSION

We began a long and painful journey when we first testified before this Committee on August 11, 1992. Our initial concerns about the RTC PLS Program were confirmed and then broadened over time as we found every internal agency complaint procedure to be useless. Instead, we suffered through unrelenting retaliation by culpable RTC officials. We thus grappled with this issue: "How could RTC employees, or any other Federal workers for that matter, who have legitimate evidence of waste, fraud, or abuse, make those concerns known to appropriate decisionmakers without fear of reprisal?"

Our experience taught us that such an outcome has not and cannot happen at the RTC. Employees who "blow the whistle" are beat down and driven out of the agency regardless of the merits of their concerns. Policy statements, the Ombudsman's Office, the OIG, and the grievance process are mere mirages of safety. To this day, we cannot name a single RTC whistleblower who exposed mismanagement without enduring unrequited reprisals. That is a pathetic record for the RTC. In the end, the taxpayer suffers the worst of both worlds: the RTC uses tax dollars to punish loyal employees and reward culpable managers. No public interest is served in that scenario.

We now seek to move on to new employment where, for a change, our views will be valued by our employer. After dedicating over two years to disseminating the truth about the RTC to this Committee and the public, there is no point in continuing to beat our heads against a bureaucratic brick wall. No one at Treasury or RTC with authority to make things right bothered to listen even as ensuing events proved us right. There is no reason to believe that circumstance will change.

We leave it to history to judge whether our hard fought efforts were of public service. God knows we tried our best to fight waste and abuse at the RTC. We put our Government careers, health, and reputations on the line. For over two years, we worked hard to invoke every internal agency mechanism and external method of su-

³² Dallas PLS Report at 8.

pervision. Hundreds of hours, many out of our own personal time, went into countless telephone calls, multiple written submissions, and numerous meetings with oversight officials.

On our better days, we like to think that the RTC acted a little more responsibly in response to our vigilant oversight from within. Our dogged pursuit deterred some RTC Legal Division managers from future misconduct. We also take some satisfaction from the legislative reforms to the PLS Program and whistleblower statutes that have come in the wake of our testimony. At deeper levels, we take pride in having defended the truth. We start each day knowing that we did not sell out the taxpayer or ourselves.

On our bleaker days, we reflect on the tragedy we have personally witnessed. The greatest financial scandal in our Nation's history has come and "gone." We were in the RTC trenches and saw firsthand the billions of dollars wasted, the dozens of promising Government careers ruined, and the many culpable managers who walked away without answering to anyone for their misdeeds. It is a dark vision which we will remember for a long time to come.

The Duke of Wellington is credited with lamenting that the next worst thing to losing a battle is winning one. In a similar vein, we believe that the next worst thing to being proven wrong as a whistleblower is to be proven correct. It is bitter-sweet at best to see our warnings from two years ago come true while the RTC and Treasury stood by and did nothing except persecute us. The ensuing reprisals can be only explained by the fact that our testimony was so prescient. We gladly would have foregone this vindication if it meant saving the taxpayer billions of dollars. Alas, such was not the case.

PLS WARNING CHART

PLS Topic	#1 Pederson/Taylor Congressional Testimony in 1992	#2 CEO Casey 1992 Congressional Testimony	#3 1993 GAO and RTC OIG Reports	#4 1994 RTC/Treasury Dallas PLS Report
REPORTING LINES	<p>"Gone...is the stand alone feature of the PLS Program, our former independent reporting lines which insulated this program from political pressures." At 37.</p> <p>"The Staff Report allegations (about the field structure)...are totally unsupported with any examples or empirical data....If there were problems...these were invariably instigated by Commercial attorneys acting under...Aboussie's (orders)...." At 464-65.</p> <p>"[T]he number of layers of review is now actually greater than before the reorganization...five layers under Mr. Beaty...up to seven layers under the new program." At 38.</p> <p>"[S]treamlining was not accomplished. PLS now has more intermediate management levels to report to than BEGINS the reorganization. Worse, the new supervisory layers...are not trained or experienced in PLS matters...." At 463.</p>	<p>"This special structure proved to be inefficient and fostered substantive and personnel problems." At 423, 435.</p> <p>(Alleged lack of coordination and client oversight. At 434).</p> <p>"[T]he previous separate PLS administrative structure...fostered competition rather than cooperation." At 436.</p>	<p>"[T]he restructuring lessened the direct supervisory and programmatic control over the PLS attorneys in the field...." GAO at 7.</p> <p>"[T]he Section Chief for PLS was to report to the Senior Counsel for Litigation, who then reported to the Regional Counsel in the new structure." OIG at 11.</p>	<p>"[T]he loss of operational control by PLS in Washington over the Dallas regional office PLS staff did not improve the overall operation of the PL program in that office." At 9.</p>
STREAMLINING	<p>"The reorganization was undertaken to streamline and improve the RTC's operations." At 405, 423, 425.</p> <p>"In the present (PLS) structure, who is the Section Chief, who is the manager of the section, reports to the Senior Counsel (Litigation) who, in turn, reports to the Assistant General Counsel in each site." At 426.</p>	<p>"The reorganization was undertaken to streamline and improve the RTC's operations." At 405, 423, 425.</p> <p>"In the present (PLS) structure, who is the Section Chief, who is the manager of the section, reports to the Senior Counsel (Litigation) who, in turn, reports to the Assistant General Counsel in each site." At 426.</p>	<p>"The restructuring also introduced many new regional attorneys into the PLS decision-making process, some of whom lacked prior experience with the professional liability work." GAO at 7.</p> <p>"[T]he immediate effect of the change was to place Regional Counsel not previously involved in PLS matters in a position of reviewing and approving PLS cases...." OIG at 10.</p>	<p>"The realignment meant that PL cases underwent two additional layers of review in the regional office before they were sent to Washington. It is not clear that these additional layers of review improved the quality of PLS work products, or that the coordination [within]... the Legal Division was improved...." At 9.</p>



<p style="text-align: center;">SUBPOENAS</p>	<p>•[G]lone is the productivity we once enjoyed; numerous orders of investigation, hundreds of administrative subpoenas, and dozens of complaints...." At 37.</p> <p>•"[T]he Staff Report makes the empty point that 216 more subpoenas were issued in the first six months of 1992 than in the last six months of 1991. Except for June of 1992, all of these months fall under the Beaty era PLS Program." At 458.</p> <p>•"The more telling statistic is how many subpoenas have been issued since June 1, 1992? We believe that it is substantially lower, reflecting the chaos of the reorganization." At 458.</p>	<p>•"--There were 216 more subpoenas issued during the six month period in 1992 than in the last six months of 1991, increase of 25 percent...." At 423, 442.</p>	<p style="text-align: center;">Not Addressed</p>	<p>•"[T]he Review Team did not find an environment in the Dallas RTC office that seemed conducive to the proactive use of subpoenas." At 3.</p> <p>•"[T]he PLS attorneys in Dallas...work in an environment where subpoenas are not used actively.... This sentiment was echoed by RTC officials who reviewed Dallas PLS files." At 29.</p> <p>•"[T]he Dallas office did not use subpoenas as aggressively as other RTC regional offices." [the K.C. office issued the most and was least affected by the reorganization] At 30.</p> <p>•"One investigator documented a case in which it took him over a year to persuade a PLS attorney to issue a subpoena." At 28.</p> <p>•"[The learning curve for new attorneys] was time these attorneys could not spend developing new information by issuing subpoenas." At 31.</p> <p>•[See PLS comments re: sending the 'wrong message,' (p. 29); fake subpoenas in 2 cases (pp. 28-29); new attorney ignorance (p. 30); and other failures to issue subpoenas (pp. 28-29).]</p>
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<p>PLS PUT BACK MECHANICS</p>	<p>•"Legal Division management used little planning, few objective criteria, or any rational decision making. Instead, the reorganization...was improvised without rules or procedures...." At 465.</p> <p>•"Contrary to the genteel proceeding described in the Staff Report, eyewitnesses state that a form of 'bureaucratic wilding' broke out. Various attendees engaged in joking and laughter as victims were selected for putback status to the FDIC. The desire to 'get people' was made paramount to the needs of the Legal Division in serving the client." At 465.</p> <p>•"[L]ittle or no consideration was given to assessing the impact of the putback decisions on the PLS program, accommodating the preferences expressed by the victims, or using the written [PLS] management recommendations...." At 465.</p> <p>•"[Legal Division management did not identify PLS Program workload by location until late July, almost 90 days after PLS was reorganized and experienced PLS personnel were kicked out of their PLS units." At 467.</p>	<p>•"The process was far from perfect, but mistakes and policy changes made in good faith do not equal evil intent." At 406, 452.</p> <p>•"[Some mistakes were made and necessary corrections have been undertaken." At 425.</p> <p>•"[S]everal factors [were] critical for a successful relocation plan. These included...[a]n expeditious and fair process for selection personnel for the new positions in the six sites...." [were to use employee preferences and GG status] At 428.</p> <p>•"The managers spent the week examining the data, considering the needs of the offices, interviewing candidates, and people who were familiar with the candidates' performance, ability, client relations, ability to supervise...substantive knowledge of the specific specialty area, and other characteristics appropriate to the jobs in question... They traded ideas, talked to one another about personnel in their respective offices, and made numerous phone calls to persons interested in taking positions in their offices." At 431.</p>	<p>•"Managers in the Legal Division made the putback decisions using no clear criteria...they gave little regard to the specific institutions and claims for which the attorneys were responsible...it is hard to understand why RTC would attempt to put back PLS attorneys to FDIC at a time when RTC's PLS workload was increasing. Nothing in the extensive materials submitted by RTC at the October 1 hearing explains these actions. Indeed, RTC eventually rescinded the putbacks...." GAO at 8.</p> <p>•"Employees were returned to the FDIC despite staffing analyses showing that PLS had a continuing need for existing, as well as additional, staff to handle its workload. Staffing decisions were made subjectively and without due consideration to the effects the decisions would have on the work force or the inventory of PLS cases." OIG at 2, 7.</p> <p>•"The process of selecting employees for supervisory positions and those to be returned to FDIC was not objective." OIG at 11.</p> <p>•"Selections for PLS groups were made without using criteria, standards, or guidelines...." OIG at 12.</p>	<p>[Not specifically addressed other than by linking many current problems to past reorganizations of PLS]</p> <p>Additional_OIG_criticisms:</p> <p>•"[S]enior Legal Division managers used the process to return PLS employees they did not want without regard to the intent of the "put back" process or the [PLS] work that remained to be done." OIG at 12.</p> <p>•"[R]eturning the most experienced supervisory PLS attorney in Denver at a time when a significant number of cases had expiring statutes of limitation lacked sound business purpose." OIG at 13.</p> <p>•"[putback PLS lawyers] already in the Eastern Region could have maintained the existing supervisory structure and were familiar with the cases." OIG at 14.</p> <p>•"In [the Costa Mesa] PLS, four of the five attorneys that were in the section, including the Section Chief, were placed on the return list...seemingly without justification or cause. They were replaced by attorneys who had no experience with PLS work...." OIG at 14.</p>
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	<p>• "Gone are numerous experienced, trained PLS attorneys who were on the job, ready to get the job and mission accomplished." At 37.</p> <p>• "Up to 40% of the trained, experienced lawyers who worked the cases for up to a year have been forced from the PLS." At 453.</p> <p>• "The 40% loss ratio far exceeds any acceptable turnover rate for a well managed program." At 471.</p> <p>• "[T]he PLS Program has suffered a tremendous turnover in its attorney staff due to the reorganization." At 470.</p> <p>• "The high number of Beaty-era PLS attorney departures was almost all attributable to the reorganization strategies of FDIC put backs or forced RTC attrition with office closings.... These individuals reluctantly left the PLS Program in disgust...." At 471.</p> <p>• "Few, if any, PLS attorneys left during the twelve months that cases were handled in the field under Mr. Beaty. Dozens have left under Mr. Aboussie's reign of half that time." At 471.</p>	<p>• "[T]he impact of the upheaval is: considerably less than that purported.... All of the....attorneys who departed, over a period which spanned several months, left for reasons unrelated to the reorganization or because they did not wish to relocate." At 451.</p> <p>• "Of the 75 attorneys working in the PLS program on April 1, 1992, 23 have left the RTC or transferred to other sections of the Legal Division. However, only 16 of these departing attorneys left for reasons which could in any sense be regarded as related to the reorganization. This is only 21 percent of the prerogation-staff." At 451.</p> <p>• "[I]t is not accurate to say that the ranks of experienced PLS attorneys have been decimated. There are presently 73 attorneys working in the various RTC PLS units; 50 of these have more than one year of PLS experience." At 451.</p>	<p>• "One half the PLS attorneys have left the program since March 31, 1992." GAO at 2.</p> <p>• "Even though RTC needs to complete a substantial amount of professional liability work, PLS continues to experience attorney shortages and has undergone a high level of staff turnover. [PLS] was still operating below authorized attorney levels as of March 31, 1993." GAO at 18.</p> <p>• "Overall, PLS lost approximately 50 percent of its experienced, trained attorneys; replaced three of its top four senior field managers...." OIG at 2, 7.</p> <p>• "Fifty percent of the experienced, specially trained attorneys who were in the original PLS resigned or were returned to the FDIC." OIG at 15.</p> <p>• "Legal Division management changed the PLS managers in four of the six locations: Atlanta, Dallas, Denver, and Costa Mesa." OIG at 16.</p>	<p>• "There has been an almost complete turnover in attorneys in three years; only one attorney is now there who was there in 1990." At 10.</p> <p>• "Of the eight PLS staff attorneys, six have been there for a year or less, and there are four staff attorney vacancies." At 10.</p> <p>• "[E]ven though quarterly staffing levels for Dallas region PLS remained fairly constant following the reorganization, the turnover was extremely high." At 10.</p> <p>• "These changes were particularly devastating to PLS in terms of lost experience and knowledge of ongoing cases." At 10.</p> <p>• "[T]he detrimental effect on the PL program in Texas of the loss of experienced RTC PLS attorneys is difficult to overstate.... much of this loss of personnel is attributable to the 1992 PLS realignment, and the way in which the 1992 reorganization was carried out." At 11.</p>
ATTORNEY TURNOVER				

<p>ATTORNEY PLS EXPERIENCE</p>	<p>• "[Experienced PLS lawyers] were replaced with well intentioned but green lawyers who had less qualifications, training, and complex litigation experience." At 453.</p> <p>• "Case recoveries are only as good as the lawyers and the program." At 454.</p> <p>• "New PLS attorneys with less training and experience are attempting to travel an eighteen month learning curve." At 455.</p> <p>• "Rampant attorney turnover resulted in a net loss in PLS attorney experience...." At 464.</p> <p>• "The replacement PLS attorneys were drawn from the ranks of Commercial Legal. They were, by definition, hired...to do different tasks and have not had the benefit of [PLS] training seminars." At 470.</p> <p>• "[W]hat PLS experience remains arises from the [pre-reorganization PLS] survivors." At 471.</p>	<p>• "The [PLS] staff attorneys presently in place are as qualified, or even more qualified, than the staff attorneys prior to reorganization." At 369, 406, 422, 426.</p> <p>• "I don't know of a single instance where we've got inexperienced people handling responsible functions out there in the law department." At 403.</p> <p>• "Of the current six PLS managers in the field, all but one was a PLS manager prior to the reorganization...the notion that all new and inexperienced attorneys were hired to run the current PLS program is simply false." At 448-49.</p>	<p>• "While other attorneys have been hired, the high turnover rate has resulted in a high proportion of PLS attorneys with less experience than needed." GAO at 2, 19.</p> <p>• "[A]s of the end of March 1993, 45 percent of the PLS attorneys had less than 12 months' experience [per RTC: learning curve is 12-18 months]." GAO at 2, 20.</p> <p>• "[N]ew attorneys, some with limited or no PLS experience, were added to replace [PLS] attorneys who were returned to FDIC." OIG at 16.</p>	<p>• "[S]ome of the attorneys who worked in PLS were 'borrowed' from non-PLS positions at the RTC and worked only for a few months on PLS matters... some of these attorneys were not very productive in their short time in PLS." At 10.</p> <p>• "[B]ecause the 1992 re-organization caused a turnover in the staff of the Dallas PLS, the office hired many new attorneys. These new PLS attorneys did not have extensive experience in the litigation of PL claims...." At 31.</p> <p>[See confusion on subpoena use (p. 30); and "2 million dollar rule" (p. 39).]</p>
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CASE REASSIGNMENT		Not Addressed	
<p>*"Gone is case continuity. Hundreds of cases have been reshuffled among attorneys still with the program nationwide...cases have been reshuffled like a gigantic game of musical chairs. And the net result - the cases all suffer." At 37.</p> <p>*"Dozens, if not hundreds, of PLS cases were shuffled between sites and attorneys while statutes of limitations expire weekly." At 453.</p> <p>*"Four out of six of the PLS Section Chiefs have new caseloads to learn as a result of the reorganization." At 472.</p> <p>*"The planners of the reorganization had a total disregard for the number, size and complexity of PLS cases subject to the reorganization. They also did not care about or totally unappreciated the harmful disruption that comes from abruptly reassigning PLS cases." At 473.</p>	<p>*"The 16 PLS attorneys the Legal Division designated for transfer to FDC collectively were responsible for 140 thefts with assets totalling nearly \$37 billion." GAO at 8.</p> <p>*[As of 7/20/93] "[S]ince April of 1992, 43 percent of existing PLS cases were transferred from one attorney to another. Transferring cases...can cause delays in their handling. The original attorney's working knowledge of a case may be lost and the attorney to whom it has been reassigned must learn the many, often complex, aspects involved." OIG at 16.</p> <p>*"Case assignment records showed that these 16 [PLS putback] attorneys were individually responsible for...19 percent of PLS' inventory...[E]ight managers [among the 16] represented 60 percent of the PLS field managers in the Eastern, Southwestern, and Western Regions. Further, the three PLS Counsel being returned were responsible for overseeing or directly handling 404 of 603 or 66 percent of the institutions in PLS' inventory." OIG at 15.</p>	<p>*"The high turnover of PLS attorneys in the Dallas region also resulted in a high turnover of cases among PLS attorneys...43 percent of PL cases [nationwide] were turned over to different PLS attorneys...the turnover in the Dallas region over the past two years was much higher; virtually every case...that was open at the time of the reorganization has been transferred...and transferred a number of times." At 10-11.</p> <p>* "[T]he turnover of the cases in Dallas...up to five times in less than two years, unquestionably has been a serious impediment to the prompt and thorough resolution of these cases." At 11.</p>	

<p>INV./PLS TEAMWORK</p>	<p>•"At some locations, PLS attorneys are now separated from their partners, RTC investigators." At 454.</p> <p>•"[Some PLS attorneys were separated from their partners in RTC Investigations because the Legal Division rushed to move PLS staff to the surviving field sites while investigations obtained dispensation to keep certain of its offices open as annexes. Examples include Tampa and Phoenix. Now the PLS attorneys and their assigned investigators are geographically split apart." At 467.</p>	<p>•"[I]t is vital that lawyers and their clients work closely together. Access to one another is maximized if both work in the same locations." At 76.</p> <p>•"[There is a] significant advantage of [having RTC lawyers] on site with [their clients]." At 427.</p>	<p>•"[The Legal Division believed that having attorneys in one city separated from RTC investigators and their client in another city would create inefficiencies." OIG at 10.</p>	<p>•"The Review Team found a very high level of tension between PLS attorneys and investigators in the Dallas office, particularly between managers. This tension undoubtedly impaired the efficiency of the PL program." At 3, 8.</p> <p>(Causes: reorganizations; management deficiencies; and personality conflicts)</p> <p>•"The closing and reopening of the Houston office for PL program purposes and the fact that the Baton Rouge office retained investigators staff until January 1994, graphically illustrate the [GAO finding that RTC management actions concerning PLS were ill-conceived and poorly implemented.] At 12.</p>
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<p>• "You've got millions or billions of dollars now placed at risk of being lost because claims will not be filed or claims will be settled far too cheaply." At 38.</p> <p>• "[T]he bad guys walk. Those responsible for this theft crisis, in the end, get off cheaply or get off altogether...." At 38.</p> <p>• "[W]e hear no evidence to support [CEO Casey's claim that no deadlines were missed]...How many close outs have been written with an informed and reasonable basis set forth in writing?" At 39.</p> <p>• "Despite the blanket assurance...that no deadlines have been missed, there are 'buried bodies' in the RTC PLS portfolio." At 483.</p> <p>• "Many members of the 'Class of '89' that are part of the Denver and Costa Mesa PLS portfolios had attractive PLS claims [yet nothing was filed]. Our sources within the agency have made similar points about cases formerly handled in Baton Rouge and now reassigned to Dallas at the eleventh hour." At 483.</p>	<p>• "The RTC has filed a professional liability action in each case in which there is a viable, cost-effective cause of action and has not been barred from filing a single meritorious, cost-effective lawsuit because it missed a statute of limitations deadline." At 368, 405, 422, 445.</p> <p>• "I do not believe that anyone can point to a single worthwhile, cost effective suit where we have failed to file, whether for statute of limitations reasons or any other." At 13.</p>	<p>• "[T]here is some risk that the development of future [PLS] claims may suffer from inadequate staffing and staff's lack of experience." GAO at 21.</p> <p>CAO figure 2 at p. 13 & Appendix I, II at 24 depict reduced case filings.</p> <p>• "RTC's ability to pursue professional liability cases depends on timely and thorough casework. If handled in any other manner, RTC could be unable to meet statute of limitation deadlines or inappropriately pursue a case." OIG at 18.</p> <p>CAO Inquiry for specific claims limited to 7 case files. GAO at 9-10.</p> <p>OIG Inquiry for specific claims limited to 21 case files. OIG at 6.</p>	<p>• "Some interviewees identified cases that they believe should have been pursued, or pursued more vigorously." At 3.</p> <p>• "[attorney turnover, case reassignments, file relocation] created delays in investigating PL claims. In some cases, these delays made it difficult to complete thorough investigations before the expiration of the statute of limitations." At 8.</p> <p>• "[T]he quality of RTC investigations, litigation, and recoveries in [Dallas] will continue to be adversely affected unless the problems there are addressed." At 34.</p> <p>[Case list of unknown length prepared (p. 34); decline in Dallas PLS work quality noted by RTC Headquarters (p. 7)]</p> <p>• "It was not within the scope of this review...to review individual RTC case files." At 2.</p>
<p>MISSED CLAIMS</p>			

<p>MANAGEMENT OVERSIGHT</p>	<p>•"Rather than concede that major problems have occurred and then take corrective action, RTC officials merely deny everything. Senior management finds itself in a minority of one as numerous agency employees, contractors, and the GAO reach conclusions very similar to ours." At 454.</p> <p>•"The problems identified by us will continue unless steps are taken to reform PLS Program staffing, procedures, and management." At 455.</p> <p>•"[R]TC management remains entrenched. CEO Casey's Statements pay lip service to past mistakes while maintaining that the PLS Program is 'stronger today than it has ever been'." At 456.</p>	<p>•"Far from being weakened, the program has been strengthened and is in the hands of capable and experienced managers." At 406, 451.</p>	<p>•"[M]anagement actions taken by the RTC, as they affected PLS, were ill-conceived and poorly implemented." GAO at 2.</p> <p>•"[Management's actions] call into question the priority that RTC attached to the [PLS] program." GAO at 7-8.</p> <p>•"The way in which the PLS staffing changes were carried out also engendered morale problems and a lack of confidence in RTC management." GAO at 8.</p> <p>•"[T]he Legal Division did not effectively manage the realignment." OIG at 2, 7.</p> <p>•"[T]he realignment process was poorly planned and managed." OIG at 8.</p>	<p>•"The RTC's decentralized organizational structure, inadequate management of personnel in Dallas, and inadequate oversight by the RTC in Washington all contributed to the failure of PLS attorneys and investigators in Dallas to work together as a team." At 3.</p> <p>•"The Review Team found a ...failure of PLS and Investigations management in Washington [to] adequately...oversee, provide guidance, and intervene effectively when it became clear that the problems would not be solved in Dallas." At 8.</p> <p>•"Legal Division and Investigations management failed to coordinate adequately the efforts of their staff, resulting in delays in the completion of investigations...." At 16.</p> <p>•"Washington management appears to have known of the policy prohibiting investigators from contacting outside counsel, to have disagreed...and to have been aware that it was causing friction...but it has never addressed the problem." At 17.</p>
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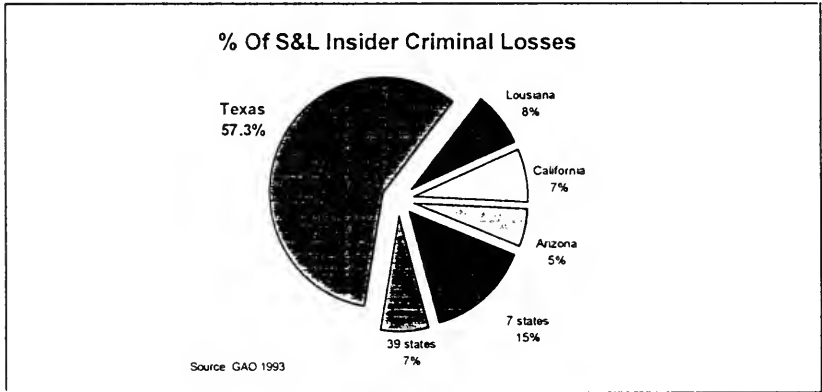
<p>NET EFFECT OF 1992 REORG.</p>	<p>•"The RTC PLS Program was substantially disrupted by the agency reorganization." At 455.</p> <p>•"The RTC reorganization thoughtlessly damaged the PLS program at a critical stage, just as it was beginning to bring hundreds of lawsuits to recover taxpayer money...The U.S. taxpayer will be the ultimate victim as PLS cases collectively worth hundreds of millions, if not billions, of dollars are sacrificed by design or inexperience." At 453.</p> <p>•"With the insertion of untrained and inexperienced attorneys and the massive reshuffling of cases, the PLS Program was set back at least twelve to eighteen months. As measured by lawsuit filings, PLS productivity was cut by 50%." At 468.</p> <p>•"The RTC's statements fail to document how the reorganization strengthened the PLS Program...." At 454.</p>	<p>• "[D]ue to the reorganization, the [PLS] program is stronger today than it has ever been." At 368, 405, 422.</p> <p>•"[T]he result is a strengthened, more effective and more efficient [PLS] program." At 370, 406-07, 452.</p> <p>•"The reorganization has accomplished much and will be successful." At 405, 423, 425.</p> <p>•"The cases are proceeding in a timely manner and the professional liability sections are functioning effectively. In fact, as the turmoil of the recent weeks subsides, it will become clear that the efforts of the PLS group have not been weakened, but instead have been strengthened." At 423-24, 439.</p>	<p>•"RTC's decisions to consolidate and reassign PLS attorneys demoralized PLS staff and disrupted the program." GAO at 2.</p> <p>•"[T]he realignment significantly disrupted PLS." OIG at 8.</p> <p>•"[T]he Legal Division's implementation and management of the restructuring process nonetheless disrupted PLS' efforts." OIG at 18.</p> <p>•"[T]here is little doubt that handling of PLS cases was disrupted and morale among the entire Legal Division suffered." OIG at 15.</p> <p>•"RTC management...has admitted that mistakes were made in carrying out the Legal Division restructuring...." OIG at 2, 18.</p>	<p>•"Since 1992, several major reorganizations of the RTC and the PL program have disrupted PL program work throughout the country... These reorganizations appear to have been particularly detrimental to the operation of the PL program in Texas." At 8.</p> <p>•"[T]here have been, and continue to be, problems in Dallas with the RTC [PLS] program." At 3.</p> <p>"The Review Team found that the operation of the PL program in Dallas could, and should, have been better, and continues to be in need of significant improvement." At 39.</p>
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SUPPLEMENTAL STATEMENT OF THOMAS J. BURNSIDE

MAY 31, 1994

The bigger Whitewater story lies in Texas, not Arkansas.

A 1993 GAO report revealed that 57.3 percent of all estimated Resolution Trust Corporation losses from S&L Insider criminal fraud nationally occurred in Texas.



A Congressional study labeled the Texas S&L collapse "an orgy of speculative investment" that "redeveloped Texas with Federal dollars from the other 49 States." Failed Texas S&L's account for 41 percent of the Nation's entire S&L bailout cost. Yet, the RTC has recovered less than \$11 million from Texas S&L insiders. Such shocking figures raise obvious questions.

Did the RTC at least try to investigate the collapse of the Texas S&L's?

Consider the Forgotten Fifty Texas S&L's.

The Forgotten Fifty RTC Texas S&L's are those RTC S&L's in Texas with a high loss ratio, low D&O recoveries, and few subpoenas. See Appendix 1. They were not necessarily the "dirtiest" S&L's in Texas; for the most part, they are not particularly well known. Indeed, they are significant because the RTC knew so little about these S&L's by the time the FIRREA statute of limitations expired.

These Texas S&L's were the cases the RTC "forgot."

- The Forgotten Fifty had total assets at closing of \$12,384,000,000.
- Taxpayers will pay \$11,707,598,000 to bailout the Forgotten Fifty S&L's. That exceeds *the combined annual 1992 earnings of 19 of the 30 Dow Jones Industrial Companies* [Boeing, J.P. Morgan, Texaco, Eastman Kodak, DuPont, McDonalds, Disney, Allied Signal, American Express, Goodyear, Westinghouse, Woolworth, Caterpillar, Bethlehem Steel, Alcoa, International Paper, Union Carbide, United Technologies, and Minnesota Mining and Manufacturing] (\$10.6 Billion) *plus the annual earnings of Ford Motor and Chrysler* (\$1 Billion).
- The annual interest on the bailout of the Forgotten Fifty at 7 percent is \$819 million. That exceeds the combined 1992 annual earnings of CBS, Capital Cities/ABC, Turner Broadcasting, New York Times, Dow Jones (Wall Street Journal), and Time-Warner (\$811 Million).
- The Loss Ratio on the Forgotten Fifty is 95 percent. The RTC will only "net" a nickel for every dollar on the sale of the "assets" of the Forgotten Fifty S&L's; taxpayers pay the remaining 95 cents.
- The RTC issued a total of 27 subpoenas over a 5-year period investigating the Forgotten Fifty. For example, Gill Savings cost \$1.4 Billion dollars in 1990 (roughly the annual budget of the FBI) but the RTC never issued a single subpoena investigating its collapse.

- As of March 15, 1994, the RTC has recovered \$42,000¹ from the S&L Insiders who ran the Forgotten Fifty into the ground. That works out to about 30 minutes interest on the cost of the Forgotten Fifty—interest the taxpayers will probably “pay forever.”

Subpoenas are the most important investigative tool available to the RTC. Congress called the RTC's power to issue administrative subpoenas:

“ . . . a powerful tool in conducting closed institution investigations by giving [the RTC] the ability to *‘follow the money trail’* even after an institution fails.” *Legislative History, CRIME CONTROL ACT OF 1990* at p. 6591.

Yet the RTC failed to issue even a single subpoena in its investigation of 86 out of 137 failed Texas S&L's. The entire Houston office of the RTC issued only 3 subpoenas in its investigation of 37 failed S&L's. (The Whitewater Special Prosecutor has issued over 160 grand jury subpoenas just on tiny Madison Guaranty Savings & Loan.) No attorney who ever recommended a Professional Liability suit in Texas prior to 1993 is still handling the case. Attorney turnover on cases ranged from 400 percent to 800 percent for each Texas S&L. And not one RTC Professional Liability case in Texas ever reached a jury in 5 years.

What happened?

Explanations for the Texas RTC collapse range from euphemistic acknowledgement of bureaucratic turf battles to partisan politics. But in truth, the entire S&L debacle and the subsequent RTC “clean up”—particularly in Texas—were simply too purposeful to be just gross incompetence. Democrats and Republicans alike have ample reasons to bury their S&L mistakes in unmarked graves. And the RTC certainly had no incentive to exhume S&L bodies under either the Bush or the Clinton Administrations.

The RTC policy of unmarked S&L graves became most pronounced with the reign of Deputy Treasury Secretary Roger Altman as the head of the RTC from April of 1993 until March of 1994. Within a month of taking control of RTC, Altman reversed a longstanding RTC request for additional time to pursue S&L wrongdoers and wrote to House Banking Chair Henry Gonzalez (D-TX):

“As you know, over a year ago the RTC generally supported legislative efforts to extend this [FIRREA] limitations period because its Professional Liability Section (PLS) was facing a peak number of institutions which were closed in 1989 and for which the Federal limitations period would be expiring during 1992 and the first quarter of 1993. The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes.” *The RTC, however, survived this critical period of time without missing a deadline.*

* * *

[T]he RTC has no need at this time either to revisit ‘closed’ claims arising in institutions in which the limitations period has expired or to extend the limitations prospectively as the RTC will continue to meet all upcoming deadlines. Cong. Rec.—Senate, May 13, 1993 at S.5879.

Just months later, the Senate Banking Committee heard testimony from myself and others concerning the RTC collapse in Texas and demanded an explanation. Altman appointed Jean Hansen, the Treasury General Counsel, to supervise a team of Secret Service agents, Treasury lawyers, and RTC employees in preparing Altman's response to the Texas charges. Roger Altman confirmed his receipt of the “initial” Treasury report in a February 10 letter to the Senate Banking Committee; he commented that my testimony concerning Texas was “useful and insightful.” Not knowing of Altman and Hansen's Whitewater agenda,² I thought that at least some S&L graves might receive tombstones.

¹The RTC filed some lawsuits arising out of the Forgotten Fifty. They have already lost some of these suits. Others are pending and may increase the recoveries from the Forgotten Fifty. For a discussion of those suits, see Excuse #4: “Who cares about the facts so long as we sue somebody (. . . or, winning isn't everything) *in/ra* at 28.

²Hansen and Altman were also secretly meeting with the White House concerning the RTC Whitewater inquiry. The Whitewater and Texas situations were controlled by the same RTC managers in Washington and Kansas City. See Appendix 2. Thus, the Altman/Hansen team

Two weeks later, however, Altman confessed to the Senate Banking Committee that he had secretly met with the White House concerning the RTC Whitewater investigation. Within weeks, Altman, Hansen, and other Administration officials were themselves the target of a grand jury investigation. The "initial" report—which involved many of the RTC Whitewater managers—inexplicably disappeared as grand jury subpoenas surfaced.

Altman then suppressed the release of any report on Texas until after he ceded official control of the RTC to two hand-picked subordinates from Treasury (OTS), John Ryan and Ellen Kulka. Days later, a report finally emerged. It belittled studies that decried the "looting" of Texas S&L's by insiders with offhand speculation that: "it doesn't follow that *all* [Texas insiders] lined their own pockets" and that "they may have depleted their ill-gotten gains." It also made the sweeping conclusions that:

- "There was no wide-ranging failure to pursue professional liability claims in Texas."
- "Dallas PLS attorneys and investigators generally believe that professional liability cases are adequately investigated."

The Altman team conceded that they never looked at a single case file. Virtually none of the Dallas PLS attorneys interviewed by Treasury started work on Texas cases until after the statute of limitations had long expired. And many Investigators dispute the accuracy of Treasury's sweeping statements concerning the adequacy of the Texas investigations.

Isn't the Forgotten Fifty evidence enough of a "wide-ranging failure"? Would Treasury also consider ZERO subpoenas an "adequate investigation" if someone lost the FBI's annual budget instead of the assets of Gill Savings?

So, when Congress looks into Whitewater, I urge them to also ask Roger Altman about the strange Texas report that ignores the Forgotten Fifty. They should also ask why the Treasury Department (led by Altman and Texan Lloyd Bentsen) campaigned against extending the statute of limitations to pursue S&L wrongdoers.

Perhaps then, taxpayers will get their money's worth out of Whitewater.

The Top Ten Altman Excuses for the RTC's Bungled Pursuit of Texas S&L Wrongdoers

EXCUSE #10: "TEXAS S&L'S WEREN'T SO BAD"

A. "Only Burnside had looting cases . . ."

The Altman report³ contained many surprises. But no issue was more surprising than its down playing of the magnitude of the Texas S&L debacle in the 1980's. Treasury argued that:

"Mr. Burnside incorrectly portrays all Texas S&L cases as "looting" cases merely because many of his cases were. The issues in the run-of-the-mill case handled by the field offices were more mundane: Did negligence or breach of fiduciary duty occur? If so, did a loss result? These questions were answered by the records of the institution, or by the institution-affiliated parties. For these kind of cases, administrative subpoenas were simply a tool, supplementing asset searches, to determine whether litigation was cost-effective once liability was clear."

Of course, I never said that *all* Texas S&L's exclusively involved "looting." But, I certainly did not have a monopoly on looted Texas S&L's. (Just look at the Forgotten Fifty.) According to the Government Accounting Office,⁴ Texas accounted for

found themselves with an explosive conflict of interest of investigating the Texas culpability of the same RTC managers in charge of Whitewater damage control.

³Altman formed the Treasury task force comprised of five Treasury (3 Secret Service agents and 2 Treasury lawyers) and two RTC employees. Altman sent them to Texas. Altman reviewed the "initial report." Altman sent it back for a rewrite. And Altman was in charge of the RTC throughout the Texas review. As late as March of 1994, the RTC disclaimed any connection to the report. See Hanchette, "Treasury target in Whitewater investigation" GANNETT NEWS SERVICE (March 20, 1994): "RTC spokesman Steve Katsanos says only the Treasury Department knows where the [report] is: 'I have no idea what happened to that report. Only Treasury people would know where it is.'"

Accordingly, hiding the report until days after Altman transferred power to his hand-chosen successors hardly insulates Altman of responsibility for the "Altman Report."

⁴THRIFT FAILURES: FEDERAL ENFORCEMENT ACTIONS AGAINST FRAUD AND WRONGDOING IN RTC THRIFTS (August 1993).

57.3 percent of all estimated losses nationally attributed to criminal fraud by S&L insiders. Just one State—57.3 percent.

The implications of the Altman excuse that the RTC chose to investigate “mundane negligence” rather than “looting” cases are enormous. Just look at the disproportionate amount of Texas S&L insider criminal referrals⁵ in comparison to other States with Senators on the Senate Banking Committee:

<i>State</i>	<i>RTC Insider Criminal Referral Losses</i>	<i>% of National Losses</i>	<i>Senator</i>
Michigan	\$691,000	0.02%	Donald W. Riegle
Maryland	\$2,110,966	0.05%	Paul S. Sarbanes
Connecticut	\$2,014,500	0.05%	Christopher J. Dodd
Tennessee	\$6,050,289	0.16%	Jim Sasser
Alabama	\$2,000,000	0.05%	Richard C. Selby
Massachusetts	\$2,110,966	0.05%	John F. Kerry
Nevada	\$0	0.00%	Richard H. Bryan
California	\$267,844,167	7.10%	Barbara Boxer
Colorado	\$116,488,544	3.00%	Ben Lighthorse Cambell
Illinois	\$111,300,490	2.96%	Carol Mosley Braun
Washington	\$0	0.00%	Patty Murray
New York	\$31,034,019	0.80%	Alphonso M. D'Amato
Texas	\$2,144,318,139	57.30	Phil Gramm
Missouri	\$103,441,574	2.70%	Christopher S. Bond
Florida	\$99,822,237	2.60%	Connie Mack
North Carolina	\$9,236,249	0.24%	Lauch Faircloth
Utah	\$7,271,161	0.18%	Robert F. Bennett
Delaware	\$0	0.00%	William Y. Roth
New Mexico	\$28,927,579	0.77%	Pete V. Domenici
	\$2,934,661,880	78.00%	

No wonder the Presidential Commission on Financial Institution Reform, Recovery, and Enforcement opined that:

“The situation was most out of control in Texas, which became the breeding ground for imprudent and abusive practices. The S&L's it chartered were allowed to engage in high-risk activities virtually without limit, and supervision and examination were essentially nonexistent for several years. It was no accident that over 40 percent of all taxpayer losses came from Texas S&L's.” *Origins and Causes of the S&L Debacle: A Blueprint for Reform, A Report to the President and Congress of the United States*, (July 1993).

The Northeast-Midwest Congressional Coalition was equally as blunt about Texas:

“No doubt the bailout has been the Nation's largest financial disaster. Less well understood is that the bailout transferred enormous wealth from the Northeast-Midwest region to Texas and a few other Sunbelt States.

⁵ Criminal referrals identify specific losses on specific transactions involving identified S&L insiders. They do not include: (a) negligence or gross negligence of insiders; or (b) fraud by outsiders without the collusion of insiders. Nor do criminal referrals include those instances where the RTC simply did not investigate or stopped looking. Texas S&L losses far exceed the amount of insider criminal referral losses.

* * *

Yet plenty of other States suffered economically in the 1980's, but their S&L's didn't become basket cases. Texas simply dropped the regulatory reins on its State-chartered S&L's, encouraging an orgy of speculative and insupportable investment. While depositors surely must be protected, no one should overlook the fact that Texas thrifts sponsored, in essence, an economic development program for which the rest of the country must pay." Lara Thyagarajan, *"Stuck with the Tab . . . Part III: The Bailout Continues"* NORTHEAST-MIDWEST CONGRESSIONAL COALITION REPORT, May, 1993.

Altman never explained why RTC attorneys concentrated on "mundane negligence" cases rather than following the money trail in Texas, a State with an overwhelming amount of criminal wrongdoing.

B. Just how much is "A Lot of Money?"

William Seidman, the former Chairman of the FDIC and RTC, recently wrote that the interest on the S&L bailout will probably run "forever." Seidman, *FULL FAITH AND CREDIT* at 196. The Treasury team ignored the interest component for the added cost of borrowing (through T-Bills or T-Bonds) billions for several generations of American taxpayers.⁶ *Altman* at 35-37. A *Stanford Law & Policy Review* report calculated the interest cost of the S&L bailout as follows:

*Table 2. Cost of the Thrift Rescue
Over 40 Years: 1989-2029
(Billions of Dollars)

1989-1999 Costs (from Table 1)	\$ 456.3
Non-Treasury Debt, 2000-2029	256.8
Treasury Debt, 2000-2029	<u>638.8</u>
Total 40 Year Cost	\$1369.9

NOTE: Calculation assumes that all costs except interest end by 1999. It excludes the interest of borrowing to pay Treasury interest (i.e., the compound effect of paying interest on interest).

The Altman Report questioned (but never outright denied) the accuracy of *Stanford Law and Public Policy Review* projections that the S&L debacle will ultimately cost each man, woman, and child in the United States **\$5,000 apiece** over the next 40 years. The accuracy of the *Stanford* study, however, is not the point. That's between Treasury and Stanford University.

Treasury finally (albeit, in only one reluctant sentence out of three pages) conceded the main point:

"Mr. Burnside's point that the failure of Texas S&L's has cost the taxpayer a lot of money, and that only a small percentage of these funds will be captured through professional liability claims, is undoubtedly true." *Altman* at 36.

Well, how much is "a lot of money" to the Department of Treasury?

The following table illustrates the current cost (exclusive of interest) of just seven Texas S&L's in terms of the annual budgets of Government programs or the annual earnings of private companies. It does not include the cost of the other 130 Texas S&L's under RTC control [see Appendix 4 attached] or the cost of the one hundred plus Texas S&L's under FDIC control.

⁶The report also failed to account for the Texas S&L's under FDIC or FSLIC jurisdiction. Those costs exceed the cost of the RTC's S&L's and neither the FDIC nor FSLIC ever issued a single administrative subpoena on a Texas S&L prior to the expiration of the FIRREA statute of limitations in 1991. But the most disingenuous Treasury argument on the "numbers" included Louisiana and Mississippi recoveries in the "Dallas totals" in order to inflate Texas recoveries.

University Savings, Houston (1989) ⁷	no subpoenas	\$2,422,858,000
San Jacinto Savings, Houston (1991)	360 subpoenas	\$1,790,204,000
Annual Budget of the Federal Judiciary (1990)		\$1,641,000,000
Brightbanc Savings, Dallas (1990)	no subpoenas	\$1,574,726,000
Commonwealth Savings, Houston (1991)	9 subpoenas	\$1,474,994,000
Annual Budget of the FBI (1990)		\$1,473,000,000
Gill Savings, San Antonio (1990)	no subpoenas	\$1,389,008,000
San Antonio Savings (1990)	no subpoenas	\$1,070,528,000
Benjamin Franklin, Houston (1991)	no subpoenas	\$984,745,600
Annual earnings of McDonalds Corp. (1992)		\$958,000,000
Annual Budget of the School Breakfast Program (1991)		\$685,000,000
Annual earnings of Ford Motor (1992)		\$501,800,000
Annual earnings of Capital Cities/ABC (1992)		\$389,300,000
Annual Budget of the Equal Employment Opportunity Commission (1991)		\$192,000,000
Annual earnings of CBS (1992)		\$162,500,000
Annual earnings of the Washington Post (1992)		\$127,000,000
Annual earnings of Dow Jones (Wall Street Journal) (1992)		\$126,000,000
Annual Budget of the Securities & Exchange Commission (1992)		\$117,000,000
Annual earnings of the New York Times (1992)		\$11,300,000

If the Department of Treasury were not the official custodian of our tax dollars, their lengthy discourse minimizing the extent of the Texas S&L debacle would be humorous. Unfortunately, such a cavalier attitude raises serious questions about how Treasury treats other issues involving our tax dollars. Perhaps such attitude explains why taxpayers face a Federal deficit that exceeds "a lot of money . . ." . . . and is rapidly becoming "a real lot of money."

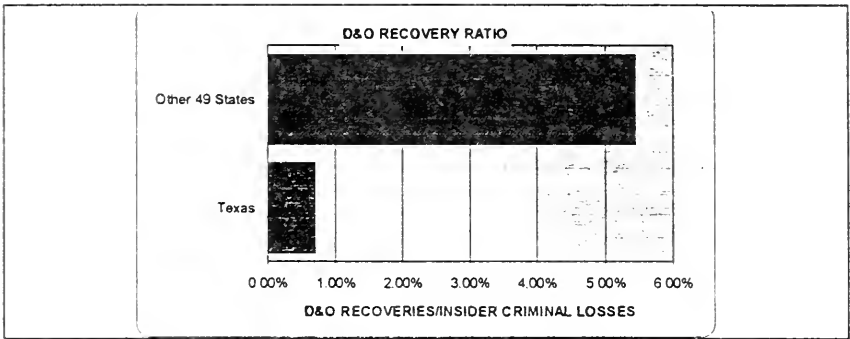
EXCUSE #9: "YOU CAN'T JUDGE A PLS PROGRAM BY ITS RESULTS (. . . OR, WAIT UNTIL THE RTC IS GONE BEFORE YOU BLAME ITS MANAGERS)"

Despite Texas's 57.3 percent of S&L insider criminal fraud, the RTC has only recovered \$11 million from Texas insiders as of 3/15/94.⁸ Treasury complains that looking at a "snap-shot" of the recoveries after 5 years is unfair. They also argue that the low Texas recoveries ". . . does not IMPLY AN INADEQUATE PROFESSIONAL LIABILITY EFFORT." Such arguments miss the point. After 5 years, the RTC should be expected to show some results. After all, the RTC is now approaching its statutory "sunset" of 1995.

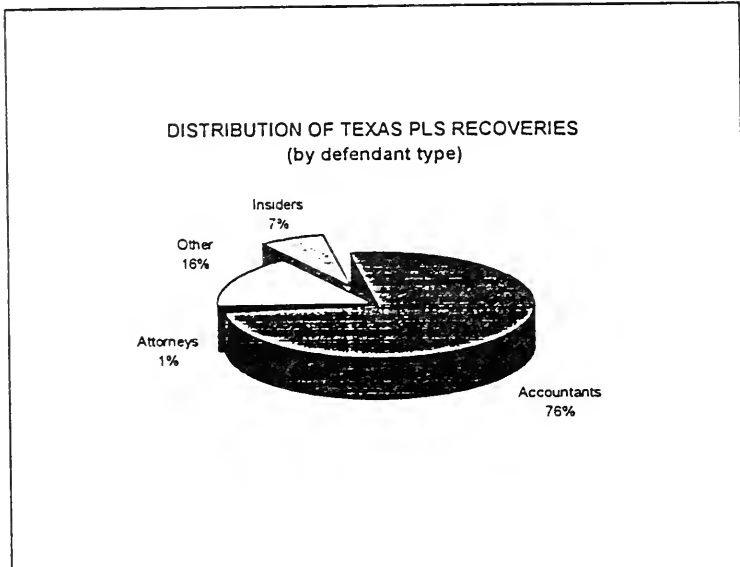
Even by RTC standards, the Texas insider recoveries are pitiful. For example, Texas accounts for 57.3 percent of the criminal insider losses but only 10 percent of the insider recoveries. Excluding any interest cost, that works out to a 0.71 percent insider recovery rate for Texas compared to a 5.45 percent recovery rate for the rest of the country.

⁷The date reflects the year the RTC "resolved" the failed S&L, not the date the S&L went into Federal conservatorship. Most Texas S&L's closed in 1989. The Resolution Cost came from RTC data provided to Senator John Kerry (D-MA) in February of 1994. The other dates reflect the years for the annual budget or the annual earnings and came from *The 1994 World Almanac* at 99-100 and *Moody's Handbook of Common Stocks*, Spring 1994.

⁸RTC Responses to Written Questions of Senator John Kerry (D-MA) to Roger Altman following the Senate Banking Committee of February 24, 1994.



And even those statistics are misleading since they include two of my cases, Bexar and BancPlus, which account for \$6.5 million. The other 135 RTC S&L's in Texas collectively have only recovered less than \$4.5 million on losses of \$24 billion. Moreover, the dearth of recoveries from D&O's is further highlighted by the disproportionate low recoveries from S&L insiders compared to accountants.



So, does it "overstate" the extent of the RTC's pursuit of Texas S&L wrongdoers to say that:

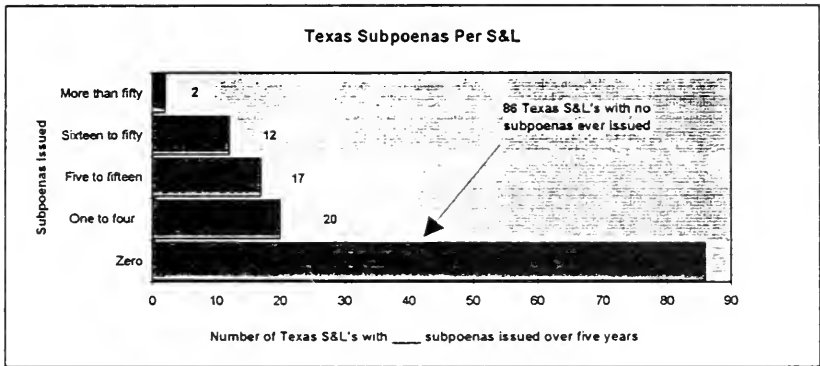
"Texas had the largest losses and the largest percentage of fraud and criminal wrongdoing in the country. Yet, almost 4 years [now 5] after the failure of most of the Texas S&L's, the RTC has little to show for its efforts." *Testimony at 4.*

Not in a State than can boast of the Forgotten Fifty.

EXCUSE #7: "WE WERE JUST KIDDING WHEN WE TOLD THE COURTS THAT SUBPOENAS WERE IMPORTANT"

The RTC numbers concerning subpoena usage⁹ in Texas graphically illustrate the failure to use subpoenas in Texas:

⁹From the RTC response to the written questions of Senator John Kerry (D-MA) to Roger Altman following the February 24, 1994 Hearing before the Senate Banking Committee.



The Altman report struggled to reconcile the RTC's failure to issue administrative subpoenas in Texas with its ultimate conclusion that "there was no wide-ranging failure" to investigate Texas S&L's. In trying to defend the Texas investigations, Treasury minimized the importance of subpoenas—a position antithetical to RTC representations to the Federal Courts.

A. One Story with the Federal Courts . . .

The Altman report argues that I overstated the importance of administrative subpoenas in the investigation of failed S&L's. Such a position minimizing the importance of administrative subpoenas is absurd.

But Mr. Altman doesn't have to take my word on the importance of subpoenas. The RTC itself has waxed eloquently about their subpoena power in a brief they filed in *RTC v. Walde*.¹⁰ The RTC told the United States Court of Appeals for the District of Columbia that it had to have subpoena power for the following reasons:

...to follow the money trail	"In adopting the subpoena provision, Congress noted that the subpoena power would be available "for all purposes" enabling the RTC to 'follow the money trail' in resolving failed savings associations. <u>Walde Brief</u> at 6.
...to set aside fraudulent transfers	"(T)he documents may assist the RTC in ascertaining whether Walde made transfers that the RTC might avoid. The RTC <u>must investigate</u> any diminution in total assets, transfers of assets, and particular assets in trusts or other entities to determine whether Walde has attempted to put assets beyond the reach of the RTC. <u>RTC Walde Brief</u> at 14. "To evaluate whether there is any basis for avoiding asset transfers or seeking an asset freeze, the RTC <u>needs to examine all of</u> [a D&O's] significant asset transactions, the activities of entities such as trusts and corporations that may be involved in transfers, and other transactions that may reflect transfers." <u>RTC Walde Brief</u> at 24.
...to determine the cost effectiveness of suit	"Congress thus directed the RTC to carry out its mission by collecting assets in a manner that minimizes the costs to the U.S. Taxpayer. The use of subpoenas to collect information to determine whether litigation would be cost effective <u>is central to the RTC's statutory duties.</u> " <u>RTC Walde Brief</u> at 29.

¹⁰ Reprinted in *Bank Lawyer Liability*, *Buraff's Litigation Reports*, Vol. 1, No. 43 (April 2, 1993) at C-1 [(800)862-0999].

<p>...to understand the relationship between S&L insiders and borrowers</p>	<p>"To investigate the various grounds for potential liability, the RTC <u>must</u> fully understand an individual's personal financial dealings and the direct and indirect relationships, if any, between the individual's personal dealings and persons who dealt with the failed association. Such personal financial information is <u>not available in the association's records</u>, and association records have sometimes been falsified." <u>RTC Walde Brief</u> at 21.</p>
<p>...to find bribes and kickbacks</p>	<p>"[T]he RTC looks for indications that a former officer or director may have received bribes (which could have been deposited in brokerage or other accounts), may have acquired assets with funds improperly taken from the association, may have usurped corporate opportunities of the failed association or its subsidiaries (directly or through other entities that such person controls), may have approved loans the proceeds of which were secretly used for personal purposes, and may have approved loans to persons with whom the officer or director had financial or other relations, without disclosing such relations." <u>RTC Walde Brief</u> at 22.</p>
<p>...to determine liability of S&L insiders</p>	<p>"The subpoena requires Walde to produce documents that show any significant properties owned by him, trusts established for his family or relatives, and transactions in his assets. These documents are relevant, first, to determining whether there may be a claim against Walde for fraud, negligence or breach of his fiduciary duties of loyalty and care to Trustbank. The RTC <u>MUST UNDERSTAND Walde's personal financial dealings</u> (including whether those dealings may have involved other persons who dealt with Trustbank) to determine whether Walde, for instance, received unauthorized funds from Trustbank, usurped any corporate opportunities of Trustbank, or approved loans to parties with whom he or his affiliates had financial or other relations." <u>RTC Walde Brief</u> at 13-14.</p>
<p>...to find secreted assets</p>	<p>"For instance, one can purchase a large insurance policy with a single premium, with proceeds payable to one's family at death or even to the insured himself at a later date in the form of an annuity. Information regarding inheritances could lead to information that Walde had transferred assets to an individual on the understanding that some portion would be bequeathed back to him. Employment and consulting contracts could lead to information that Walde has transferred assets to a corporation that is now returning benefits to him through an employment or consulting contract. <u>RTC Walde Brief</u> at 25.</p>
<p>...the timing of the subpoena</p>	<p>"There is also no support in the case law for the proposition that the RTC must conduct its investigation in stages, making a showing of evidence obtained in one phase before moving on to the next...</p> <p style="text-align: center;">* * * * *</p> <p>[Walde's] argument 'that the RTC must make a <u>prima facie</u> showing of wrongdoing before it can enforce its subpoenas, <u>puts the cart before the horse</u>. In many instances, the RTC cannot make a <u>prima facie</u> showing of wrongdoing unless it obtains the very documents which are sought in the subpoena.'" <u>RTC Walde Brief</u> at 26-27.</p>

Not surprisingly, the RTC told the D.C. Court of Appeals that:

"In conducting investigations to fulfill its statutory duties, the RTC *routinely* issues orders of investigation and subpoenas for relevant information, including financial information." *RTC Walde brief* at 6.

Well, it should have been routine. But for Texas S&L's the norm was ZERO subpoenas.

B. . . . And a Different Story with Congress

(1) "Sending the wrong message"

Altman admitted that subpoena usage in Texas was hardly routine. The Altman report conceded that they "did not find an environment or 'culture' in the Dallas office that seemed conducive to the proactive use of subpoenas."

"The culture manifested itself in a number of fashions. First, some investigators complained to the review team about PLS comments that sending administrative subpoenas 'would send the wrong message.' The Review Team also finds such comments disturbing." *Altman* at 29.

Their examples of such "culture" are chilling.

They note that one investigator "documented a case" in which it took him over a year to persuade a attorney to issue a subpoena to pursue a particular avenue of inquiry. In another case, "the Review Team was told about a case in which Investigations requested subpoenas by E-Mail, telephone calls, and official memorandum, but in which PLS never issued subpoenas." In other cases, investigators told Treasury that "there were problems" with administrative subpoenas. In the most flagrant case of all, Treasury states that:

"The Review Team also was told by Investigators about two cases in which investigators requested that a PLS attorney issue administrative subpoenas, and received copies of signed, dated subpoenas from the attorney that supposedly had been issued. However, when there was no response to the subpoenas, the investigators called the respondents and were told that subpoenas had not been served. These investigators believe the PLS attorney drafted, signed, and dated the subpoenas, *but never served them and that this was done deliberately to mislead them.*" *Altman* at 27, n43.

The Treasury report fails to mention that this deception unfolded over several months and that the PLS attorney purported to justify the close out of a case based upon the fictitious subpoenas. It also fails to mention that this attorney is still handling PLS cases in Dallas.

Instead, Treasury argued that "[w]ith few exceptions, investigators stated that they did not have problems convincing PLS attorneys to issue subpoenas when necessary."

Well, a "culture" that holds that issuing subpoenas "sends the wrong message" seems to rise to the level of a "problem." Asking for subpoenas for a year is a "problem." PLS attorneys ignoring E-Mails, phone calls, and official memoranda is a "problem." And investigators who are compelled to go outside the agency to find out if their own PLS attorney falsified Government records and deliberately lied to RTC officials is more than just a "problem."

Its potentially criminal.

(2) Excuses, Excuses . . . but no Texas Subpoenas

Having found a lack of a subpoena "culture" in Texas, the Altman group should have then said: "OK, the RTC screwed up. But we will go back and do it right." Then the RTC could at least go through the motions of investigating the cases.

But the Altman group inexplicably refused to concede the connection between: (a) failing to issue subpoenas; and (b) failing to conduct a legitimate investigation of the Texas S&L's.

Rather, they concluded that the failure to issue subpoenas in 86 Texas S&L's and less than five subpoenas in an additional 20 S&L's did not constitute a "wide-ranging failure" to investigate Texas S&L's. (Perhaps 77 percent isn't "wide-ranging" to Treasury.) In any event, Treasury was quick to offer excuses for the failure to issue subpoenas.

EXCUSE	DESCRIPTION
<p>Subpoenas are for looting cases; the RTC would rather look for "mundane negligence" cases in Texas</p>	<p>"Mr. Burnside incorrectly portrays all Texas S&L cases as looting" cases merely because many of his cases were. The issues in the run-of-the-mill case handled by the field offices were more mundane: did negligence or breach of fiduciary duty occur? If so, did a loss result? These questions were answered by the records of the institution, or by the institution-affiliated parties. For these kind of cases, administrative subpoenas were simply a tool, supplementing asset searches, to determine whether litigation was cost-effective once liability was clear."</p> <ul style="list-style-type: none"> ● Texas accounts for 57.3% of S&L insider criminal fraud nationally. Texas was the perfect state for using subpoenas as Congress intended: "In adopting the subpoena provision, Congress noted that the subpoena power would be available "for all purposes" enabling the RTC to "<u>follow the money trail</u>" in resolving failed savings associations." <u>Walde Brief</u> at 6
<p>The RTC would rather just rely on public records in Texas</p>	<p>"Decisions [in Texas] on cost-effectiveness of cases were based primarily on asset searches conducted by Investigations and financial statements found in the records of the institution or provided voluntarily by the target." <u>Altman</u> at 21</p> <ul style="list-style-type: none"> ● What about the <u>Walde</u> rhetoric about stocks, insurance policies, inheritances, consulting agreements, bank accounts, or just plain old cash?

<p>Texans don't have money</p>	<p>Altman noted that "the RTC found in most cases that the personal assets of the directors or officers were limited. The largest single asset owned by many of the directors or officers was often their residences." <u>Altman</u> at 40.</p> <ul style="list-style-type: none"> ● Asset searches primarily involve a search of county land records. Yet the Altman report points out that: (a) Texas real estate values had collapsed; and (b) residences of D&O's were protected by the generous Texas homestead laws. Accordingly, the focus on real estate assets would almost inevitably lead to the finding that the S&L insider had minimal net worth. <p>No wonder the RTC rarely found a case against an S&L insider worth pursuing.</p>
<p>Subpoenas might reveal information that would stop frivolous suits</p>	<p>"While subpoena responses may confirm suspicions raised by other documents or expand the scope of an investigation, sometimes a subpoena respondent has no assets. In other cases, analysis of the response may not confirm an investigator's earlier perceptions...." <u>Altman</u> at 33.</p> <ul style="list-style-type: none"> ● So, what's wrong with discovering problems with a case before filing suit?
<p>No one else was issuing subpoenas</p>	<p>The Altman report claims that most PLS attorneys across the country did not use subpoenas until after most of the early 1992 statute of limitations expired.</p> <ul style="list-style-type: none"> ● Rather than justifying such failure, the argument merely creates questions regarding the adequacy of the non-Texas investigations.

<p>The Investigators should have forced their attorneys to issue subpoenas.</p>	<p>The Altman team blames the Texas investigators for not being more vocal in objecting to the failure of their lawyers to issue subpoenas.</p> <ul style="list-style-type: none"> ● Such contention ignores the litany of horrors outlined above in which Investigators asked for subpoenas for over a year or in which they caught one of their own lawyers fabricating government records and lying about issuing subpoenas. Moreover, it was the attorney's sole responsibility to issue subpoenas; they can hardly blame the investigators for not forcing the attorneys to do their job.
<p>The RTC didn't have time to issue subpoenas</p>	<p>The Altman report contends that the Houston attorneys only had seven weeks to investigate 37 failed S&L's and that they were prohibited by Washington from using subpoenas for the five month period before the FIRREA limitation expired.</p> <ul style="list-style-type: none"> ● Such contention ignores the fact that I issued many of my subpoenas in the five-month "bar period" for cases whose limitations also expired in early 1992. But even assuming <u>arguendo</u> the validity of Treasury's argument, it does not rebut a conclusion that 37 Houston S&L's investigated in a seven week time period without subpoenas was a "wide-ranging failure" to investigate. <p>Anyway, Congress extended the Statute of Limitations three times. Why can't the RTC just go back and do it right?</p>
<p>Who cares about the facts so long as someone gets sued</p>	<p>The Altman report contends that filing suits in cases where the RTC failed to issue any subpoenas proves that the investigations were adequate.</p> <ul style="list-style-type: none"> ● <u>See</u> Response to Excuse # 4 as well as my previous testimony .

A lot of people don't even have the power to issue administrative subpoenas	<p>"The vast majority of civil cases investigated in America do not rely on pre-complaint administrative subpoenas because only a few government agencies, and no private litigants have this authority." <u>Altman</u> at 21</p> <p>● So what. What about all the <u>Walde</u> arguments about the subpoena power being <u>central to the RTC's statutory duties</u>? Didn't Congress give the RTC subpoena power so that it could "follow the money trail?"</p>
PLS attorneys were too inexperienced to issue subpoenas	<p>"These new PLS attorneys did not have the extensive experience in litigation of PL claims, as Mr. Burnside did. The time they spent learning files ... was time these attorneys could not spend developing new information by issuing subpoenas." <u>Altman</u> at 31</p> <p>● A glimmering of understanding by Treasury!?!)</p>
Sometimes a subpoena doesn't hit a home run	<p>Administrative subpoenas issued by Mr. Burnside did not always result in collections" <u>Altman</u> at 21</p> <p>● Hey, at least I tried.</p>

All the above excuses miss the point—the RTC still has time to correct its mistakes in Texas if they make a good faith attempt to investigate.

Yet what type of "good faith" investigation can taxpayers expect from Altman's hand-picked successors at the RTC (Ellen Kulka and John Ryan, both from Treasury-OTS) or the RTC managers who defended the Texas investigations? What type of "good faith" is a letter from Altman to Congress that reverses a longstanding RTC request for more time to investigate S&L wrongdoing and guarantees Congress that:

The limitations period expired during this time for 410 of the 752 thrifts under RTC control for PLS purposes. *The RTC, however, survived this critical period of time without missing a deadline.*

* * *

[T]he RTC has no need at this time either to revisit 'closed' claims arising in institutions in which the limitations period has expired or to extend the limitations prospectively as the RTC will continue to meet all upcoming deadlines. Altman April 1993 letter to House Banking Chairman Henry Gonzalez (D-TX) quoted in Cong. Rec.—Senate, May 13, 1993 at S.5879:

What type of "good faith" investigation can we expect from an agency that knowingly turns a blind-eye to the Texas collapse and argues that "there was no wide-ranging failure" to investigate Texas S&L's?

EXCUSE #7: "HONEY, THE RTC ACCIDENTLY GUTTED THE TEXAS PLS PROGRAM (BUT IT WASN'T INTENTIONAL . . .)"

A. Treasury Recognized the Problem

The Altman team agreed that the 1992 Reorganization of the Professional Liability Section "disrupted" the entire PL program nationally and was "particularly detrimental" to the Texas program. *Altman* at 8.

"The resulting loss of experienced staff, reassignment of on-going cases, lost knowledge regarding those cases, and physical transfer of files from one office to another created delays in investigating Professional Liability claims. In some cases, these delays made it difficult to complete thorough investigations before the expiration of the statute of limitations." *Altman* at 8.

"The Review Team believes that the detrimental effect on the PLS program in Texas of the loss of experienced RTC PLS attorneys is difficult to overstate, and that this loss contributed substantially to the problems the Review Team identi-

fied. The Review Team further believes that much of this loss of personnel is attributable to the 1992 PLS realignment, and the way in which the 1992 reorganization was carried out." *Altman* at 11.

After the 1992 reorganization, "it was difficult to attract and retain qualified attorneys for Dallas PLS positions." *Altman* at 11. Six of the eight PLS attorneys have been in PLS for less than a year and the Dallas PLS still has four vacancies. *Altman* at 10. Some non-PLS attorneys "were not very productive in their short time in PLS." *Altman* at 10. These attorneys did not have banking or law enforcement backgrounds, but were "civil litigators [who] were essentially case managers supervising outside counsel. . . ." *Altman* at 16.

"These new PLS attorneys did not have extensive experience in the litigation of Professional Liability claims, as Mr. Burnside did. The time they had to spend learning files transferred from other offices and determining whether litigation was appropriate before the expiration of the statute of limitations was time these attorneys could not spend developing new information by issuing subpoenas." *Altman* at 31.

"As noted above, many cases were handled by a number of PLS attorneys in a short period. Given the transfers of cases among various attorneys and the high turnover caused by the reorganizations described earlier, it is perhaps to be expected that PLS attorneys would take a certain amount of time to become familiar with their work load. It would be a mistake, however, to characterize such a learning period as evidence of incompetence or lack of ability. On the other hand, the turnover rate in Investigations apparently was lower than in PLS, and investigators often had a better opportunity than the PLS lawyers to learn the facts of the case." *Altman* at 16-22 and text.

Eventually the fourth or fifth attorney assigned to the S&L could only half-heartedly "go through the motions" of "papering the file" rather than trying to conduct a true investigation.

B. . . . But then said "Never-Mind"

The Altman report and I disagree on the significance of the reorganization. Altman looks at the reorganization as an "operational" problem that excuses the Texas collapse. While he recognizes that the RTC 1992 Reorganization was "ill-conceived and poorly implemented," he takes great solace because there is "no evidence that the staffing actions and reorganizations RTC took affecting PLS were DESIGNED TO IMPEDE THE PROFESSIONAL LIABILITY WORK." *Altman* at 6.

Intent aside, however, the reorganization is just one more piece of evidence of a wide-ranging failure to investigate Texas S&L's. Taxpayers have little interest in RTC excuses. They expect results, or at least a good faith effort. First and most importantly, they expect the RTC to go back and do the job right. The RTC needs to repudiate Roger Altman's guarantee that the RTC "survived . . . without missing a deadline [and] has no need at this time to revisit 'closed' claims." Just go back to the Forgotten Fifty and follow the money trail.

Second, taxpayers expect someone to be held accountable for their actions. For example, the RTC Inspector General opined that the 1992 reorganization was a turf battle in which RTC managers took the opportunity to get rid of PLS attorneys ". . . that were not perceived as 'team players' . . . [and that] . . . these differences, more than concerns for the professional liability program itself seemed to have influenced staffing decisions."¹¹ Yet, Richard Aboussie, the mastermind behind the 1992 purge of PLS attorneys, is now back at the FDIC organizing the reorganization of the FDIC upon the return of the RTC employees to the FDIC. Similarly, Arturo Vera-Rojas, the RTC's chief lawyer in Dallas who precipitated much of the Dallas "tension" with gag orders and lockouts, still holds his position. Isn't anyone in Government accountable when their "turf battles" devastate a program?

EXCUSE #6: "WHAT WE HAVE HERE IS A FAILURE TO COMMUNICATE . . ."

A. The "Team"

Investigations Unit. The collective experience of the investigative staff is one of the chief remaining assets of the Texas program. Many investigators have between 10 and 20 years "hands-on" experience with Texas S&L's and bring invaluable insight into accounting, regulatory, lending, real estate, and other specialized areas crucial to the development of viable claims. Additionally, the complete turnover in

¹¹ See OFFICE OF THE INSPECTOR GENERAL, RESOLUTION TRUST CORPORATION, INSPECTION REPT. INS 93-005, REVIEW OF ALLEGATIONS ASSOCIATED WITH THE RESTRUCTURING OF RTC'S LEGAL DIVISION AND ITS EFFECT ON THE PROFESSIONAL LIABILITY SECTION (1993) [hereafter OIG REPORT].

Dallas PLS lawyers has forced the Dallas investigators to become the RTC's institutional memory on the Texas cases.

The Altman team agreed. They recognized that many Dallas RTC investigators have extensive backgrounds in thrifts and commercial banks. *Altman* at 29. The investigators "had more extensive and more detailed knowledge of the cases than the PLS attorneys" and "many came from banking or law enforcement backgrounds." *Altman* at 16. Additionally, the ". . . investigators often had a better opportunity than the PLS attorney to learn the facts of a case." *Altman* at 16-22.

The Professional Liability Attorneys. By contrast, "it was difficult to attract and retain qualified attorneys for Dallas PLS positions." *Altman* at 11. Six of the eight PLS attorneys have been in PLS for less than a year and they have four vacancies. *Altman* at 10. Some non-PLS attorneys "were not very productive in their short time in PLS." *Altman* at 10. These attorneys did not have banking or law enforcement backgrounds, but were "civil litigators [who] were essentially case managers supervising outside counsel." *Altman* at 16. Despite their limited experience, the Dallas PLS lawyers claim they have a "better understanding" of the legal and undefined non-legal "policy issues"¹² involved in pursuing S&L wrongdoers than the Investigators who had more experience and less turnover. *Altman* at 16.

B. "A Very High Level of Tension"

The Altman team found that "many of the concerns over the PL program in Dallas flow from the fact that investigators and PLS attorneys failed to work together as a team." *Altman* at 16. They found a "very high level of tension" between the experienced investigators and the inexperienced attorneys. *Altman* at 16. They also found a "profound failure to communicate" and a "general breakdown in communications between the two units." *Altman* at 16. They gave several examples of the "profound failure to communicate:"

- PLS imposed a gag order on all communication between the Investigators and the outside attorneys handling the cases:

"PLS established a policy prohibiting investigators from communicating directly with outside counsel. Ostensibly this was to protect the attorney-client privilege; but the policy was not established in writing and the Review Team was told that the policy was not uniformly applied, leading some investigators to believe that it was punitive rather than remedial.

* * *

Both PLS and Investigations management seemed reluctant to intervene directly. For example, Washington management appears to have known of the policy prohibiting investigators from contacting outside counsel, *to have disagreed with the reasoning underlying the policy* and to have been aware that it was causing friction between PLS and Investigations in Dallas; but it has never addressed the problem." *Altman* at 17.

- PLS also refused to permit Investigators to observe depositions as part of their role as the primary fact-finders in Professional Liability investigations. *Altman* at 20.
- The PLS lawyers started "a system for the routine hiring of outside investigative contractors." "[A] number of investigators expresses concern that this actually was designed to bypass Investigations altogether. It appears to the Review Team that this may be an unnecessary duplication of the work done by Investigations to identify and qualify outside investigative contractors. Also, some interviewees raised questions regarding the ability to oversee the work of any such contractors." *Altman* at 17.
- Investigators caught their attorneys lying to them about the issuance of subpoenas. *Altman* at 29.

Perhaps one of the most "profound failure to communicate" occurred with an S&L that was not even federally insured until December of 1986, but failed 2 years later at a cost of \$686 million. Two of the officers of the S&L secretly received \$18 million over an 18-month period. Another insider obtained a golf course from the institution. (He offered every Federal and State judge in San Antonio a free country club membership to play at the golf course. Many of the judges accepted.)

¹² The Whitewater controversy illustrates the problems of RTC attorneys who become self-appointed guardians of RTC "policy" rather than just lawyers.

Bill DePugh¹³ was the RTC business representative at the series of settlement meetings with the insiders that transpired over many months. Under existing RTC policy, Bill was the "client" representative that I advised; perhaps more important I relied upon Bill's 37 years experience and judgment in setting and reaching our settlement goals. Then my managers made a decision that I believed would gut the case. I protested. My managers then gave me a gag order prohibiting me from advising DePugh of their actions. When I refused and reported my managers to Washington, they imposed a second gag order that greatly restricted my communications with Washington. Shortly thereafter, they locked me out of my office and I finished my Government career in a conference room in the Investigations office.

C. "Political Imperatives . . . ?"

Such gag orders and lockouts are more than just a "general breakdown in communications between the two units." They evidenced a prejudice against all investigators by Arturo Vera-Rojas, the top RTC lawyer in Dallas, who believed that:

"[F]ederal investigators, be they from the IRS, Customs, or DEA, strongly resent any attempt at close supervision by Justice Department attorneys, be they from a local U.S. Attorney's Office or from headquarters. As the RTC hired most of its field investigatory staff from said backgrounds, it does not surprise me that similar resentments developed so quickly in our own corporate culture."

* * *

"Investigations has suffered from conflicting statements of corporate priorities. *Then political imperatives have caused said conflicting priorities to weigh in favor of support for criminal investigations at the detracton of PLS-civil investigations.* To make matters even worse, RTC investigators hired from a Federal criminal investigatory background have naturally *avored the more attractive, exiting (sic) and short-term-satisfaction world of being involved with U.S. Attorneys, FBI, and Bank Fraud Task Forces, over the dreary and lack-luster tasks of preparing loan write-ups and net worth investigations.*" July 26, 1993, Memo of Arturo Vera-Rojas to Edward Maheney at 8-9.

Vera-Rojas' memo reveals more about his attitudes than those of the Investigators.¹⁴ His view of "close supervision" means gag orders to conceal his own wrongdoing. More importantly, the memo reflects a profound ignorance of the extent of criminal wrongdoing in Texas by RTC lawyers in general and explains, in part, the Forgotten Fifty. Vera-Rojas viewed PLS cases and criminal cases as mutually exclusive. And his attorneys chose "dreary" negligence cases to the exclusion of "more attractive, exiting (sic)" looting cases. Yet looting cases can make very good civil cases. Look at Lincoln Savings, Centrust, and Bexar Savings—the RTC's top three money-makers.

Treasury ultimately concluded:

"The Review Team, found that investigators and PLS attorney's often were suspicious of each's other's commitment to the program and doubtful of each other's competence. The Review team believes that these suspicions and doubts arose from a profound failure to communicate. *It is understandable that investigators—many of whom come from banking or law enforcement backgrounds—would have significantly different perspectives from the PLS attorneys, who are essentially civil litigators.* The differences in perspective led to equally understandable differences in professional opinion about matters as

¹³ Bill DePugh was the Managing Investigator of the 73 person RTC Dallas Investigations office. He has 37 years experience investigating white collar crime. He gained prominence in the 1960's for his work with Bobby Kennedy on the Jimmy Hoffa case which led to Bill DePugh's testimony in the McClellan and Long hearings on organized crime. It also resulted in a personal suit against Bill DePugh for "invading the privacy" of Jimmy Hoffa's lawyer.

Later in his career, DePugh became the Chief of the IRS Criminal Investigation Division in Manhattan and then the Assistant to the Director of the IRS Criminal Investigations Office in Washington. He was the IRS Liaison to the Interpol Working Group on Off-shore Banking and International Funds Transfers. DePugh also headed up the investigation of the NFL bribery scandal with the Detroit Lions in the 1960's. In the early 1980's, Bill DePugh became the Associate Director (Operations) of the U.S. Department of Defense Criminal Investigative Service, an office he helped set up to investigate defense contractor fraud nationally. Bill left retirement to join the RTC.

In sum, DePugh was both experienced and tough—hardly qualities that endeared him to the PLS attorneys. It also explains why PLS managers wanted to conceal information from DePugh—they knew he could and would protest.

¹⁴ In truth, the RTC Investigators were very interested in developing strong PLS cases and willingly worked with any PLS attorney who showed an interest in working as a team. They just weren't use to gag orders and lockouts.

fundamental as how a case should be developed and who should be in charge." *Altman* at 16.

Can anyone blame the investigators for doubting the competence of their lawyers who mocked the "then political imperative" focus on looting cases in a State that accounts for 57.3 percent of the S&L insider criminal losses in the country? The investigators were trying to cope with the Forgotten Fifty while their putative attorneys told them to focus exclusively on "dreary" negligence cases.

Taxpayers should be thankful that some "tension" existed in opposition to Vera-Rojas' views or else we might be faced with the Forgotten One Hundred.

EXCUSE #5: "DON'T WORRY, THE RTC NOW HAS GREAT PROCEDURES (. . . OR, BETTER FIVE YEARS LATE, THAN NEVER)"

The Altman group opined that RTC investigations adequately interviewed the directors, officers, attorneys, accountants, appraisers, and other "institution-affiliated parties" in Texas cases. The report based such opinion on: (a) interviews of Dallas employees;¹⁵ and (b) the RTC Procedural Manual. The Altman group did not review any files.

The Altman report relied on the current RTC "procedures and policies" in 1994 as support for the existence and adequacy of interviews of "institution-affiliated parties" in 1989. Yet the RTC did not even exist on paper until August of 1989¹⁶ and was not fully staffed until much later. *Altman* at 26. Most of the Texas S&L's closed in March and April of 1989.

Moreover, the investigators' "interviews" at closing only included those thrift employees who voluntarily remained at the S&L after closing. Such "interviewees" seldom included the top officers or directors and virtually never included the outside professionals such as attorneys or accountants. Finally, "interviews" immediately after an S&L closing did not have the benefit of careful pre-interview preparation and analysis; they were merely intended to obtain a brief overview of the S&L as a guide for a more thorough investigation over the next 3 years. Most of the notes from such "interviews" were only one or two pages long.

Despite the limitations on the Investigator's interviews, they often constituted the only interviews ever conducted. PLS attorneys did not participate in the interviews of S&L insiders at closing of most Texas S&L's. *Altman* at 19. The Altman report observed that the RTC was not "adequately staffed" to prepare for or conduct the interviews for the early Texas closings. *Altman* at 19. The report also suggests that the RTC "did not understand the magnitude of the problem or the types of questions to ask, and that early training in investigative techniques would have been useful." *Altman* at 19. It euphemistically observed that "additional" involvement of the PLS attorney "could improve the quality" of the interviews and give the PLS attorney "a better sense of the institution and the individuals involved." *Altman* at 19.

Unfortunately, new procedures come a little late. Texas S&L's closed 5 years ago and the RTC will be out of business in 1995.

EXCUSE #4: "WHO CARES ABOUT FACTS SO LONG AS WE SUE SOMEBODY (. . . OR, WINNING ISN'T EVERYTHING)"

Obviously, a poor investigation can result in a failure to bring meritorious suits. But Treasury totally ignored the other problems created by a poor investigation. A failure to investigate severely undermines the RTC ability to win or settle those meritorious suits that it does file. Just as importantly, however, poor investigation can result in a disproportionate number of negligence cases and the filing of unjust or frivolous suits. Filing suits without using available subpoena power is akin to firing a high-powered rifle while blindfolded—removing the blindfold after emptying the gun doesn't make the aim any better.

A. Difficulties Prevailing in Lawsuits

The RTC had no excuse for filing poorly prepared cases.

If a case was worth filing, it should have been worth a thorough investigation prior to suit. Congress gave the RTC 3 years, a large budget, and the subpoena power to investigate fully its cases prior to ever entering the courthouse. The RTC

¹⁵ As noted below, most of the Texas PLS attorneys interviewed did not even handle Texas cases until 1993, almost 4 years after the bulk of the Texas closings. Even most of RTC investigators interviewed by the Treasury task force were not present at the closings.

¹⁶ The FDIC loaned employees to assist in closing the Texas S&L's but those employees were closing as many as a dozen S&L's and banks a week in Texas alone. These FDIC employees were on temporary loan; none stayed with the RTC. The work product of these temporary employees reflected their heavy burden and short-term outlook and was never intended to substitute for a thorough investigation necessary to make meaningful decisions 3 years later.

had a huge head start over the defendants—only to squander it by failing to develop their cases prior to suit.

The RTC filed several suits in Texas without ever issuing a single subpoena. Not all of those cases were “small” insignificant cases. Consider University Savings of Houston, Texas; its \$2.4 billion dollar loss on this Forgotten Fifty S&L is second only to Charles Keating’s infamous Lincoln Savings in RTC losses. (The annual budget of the entire Federal Judiciary cost less than the bailout of University Savings.) University had a 96 percent loss ratio—“mundane” negligence does not explain such incredible losses. Moreover, a \$2.4 Billion loss doesn’t leave a money “trail,” it creates a money superhighway. Yet, the RTC never issued a single subpoena in a 3 year “investigation” of University. Not a single subpoena.

Why?

RTC finally filed suit on the University case. But simply filing a lawsuit does not guarantee the best possible recovery. The RTC must either prevail or settle the case on favorable terms for it to be worthwhile. The RTC encountered barriers in the University case from the date it filed suit. The Court originally dismissed the case because the RTC did not plead sufficient facts to establish liability of any of the defendants. See *RTC v. Bonner*, June 3, 1993. Order reprinted in *Bank Lawyer Liability*, Vol. 2, No 6 (June 25, 1993) at B1. In *Bonner*, the Court held the RTC to a very strict burden under the “Texas Business Judgment” rule, a burden the RTC did not meet in its original suit. The RTC later refiled its suit and the defendants have now sought dismissal because the RTC has not produced necessary documents to the defendants.

The “Texas Business Judgment” rule does not allow the RTC the luxury of simply filing suit and hoping that they can find enough evidence later to make the case stick. For example, a Dallas Federal court dismissed the RTC’s case arising out of Heritagebanc, a Forgotten Fifty S&L, because the RTC could not show any “self-dealing” in loans made by the Chairman of Heritagebanc which financially benefited his son-in-law. *RTC v. Charles Acton*, Feb. 1, 1994. Order reprinted in *Bank Lawyer Liability*, Vol. 2, No. 22 (March 4, 1994) at C1. The RTC issued *only one* subpoena in the Heritagebanc investigation; apparently the RTC considered “son-in-law loans” “mundane negligence” and the Court agreed.¹⁷

Rightly or wrongly, courts are requiring a showing of personal profit or greater wrongdoing than “mundane negligence.” Having failed to anticipate such burden, the RTC must now simply watch courts dismiss its poorly prepared cases for lack of proof. Even those “mundane” negligence cases that survive a Motion to Dismiss or for Summary Judgment lack the vitality that makes these complex cases worth pursuing.

Simply stated, juries and courts in a State that accounts for 57.3 percent of the RTC’s criminal insider losses expect the RTC to show more than simple negligence.

B. Increased Difficulties in Settling Cases

A complete investigation coupled with frank and candid pre-suit discussions with potential defendants can result in the RTC avoiding the filing of bad lawsuits. Such pre-suit discussions rarely succeed when the RTC has done no investigation at all. Potential defendants either believe (1) that the RTC is not genuinely concerned about making a fair decision based on the facts; or (2) that the RTC is so off base that they perceive a tactical litigation benefit to fighting an unprepared RTC. In any event, defendants are very unwilling to pay significant settlements to an unprepared RTC. Why should they?

C. Disproportionate Focus on “Mundane” Negligence Cases

The most egregious wrongdoers seldom leave a paper trail in an S&L that they know will be seized by the regulators. Rather, crooks attempt to hide their theft. Accordingly, a myopic examination of the records remaining in the gutted S&L often do not result in the big cases against those S&L officials who deliberately fashion schemes that are difficult to detect.

Just as crooks tend to hide their wrongdoing, honest (albeit, perhaps negligent or grossly negligent) S&L officials tend to leave a pretty good paper trail. Accordingly, a failure to use subpoenas will result in a disproportionate amount of claims against individuals that did not have the foresight or incentive to cover their tracks. Indeed, those individuals may themselves have been deceived by more culpable wrongdoers.

¹⁷The FDIC, which also failed to issue subpoenas, has the same problems with its cases. The courts want to see how the directors and officers “personally profited” from the loans. See e.g., *FDIC v. Chaney*, 11/12/93. Order reprinted in *Bank Lawyer Liability*, Vol. 2, No. 21 (February 18, 1994) at G1.

Much of my Testimony and materials focused upon the poorly prepared suits that were filed without proper investigation. Treasury inexplicably ignored this problem in their investigation. They never once referred to the memos of Arturo-Vera Rojas or Edward Mahaney which confessed the Dallas collapse. See APPENDIX 3 attached hereto.

Accordingly, the RTC focus on mundane negligence cases creates the anomaly of suing less culpable outside directors while letting the looters off scot-free. Now that's social justice!

EXCUSE #3: "SURE, NAMELESS MANAGERS MADE MISTAKES . . . BUT NOW WE HAVE A 'BLUE-RIBBON' PLAN"

A. *The Nameless Managers*¹⁸

The Altman report admitted that "management deficiencies and personality conflicts" contributed to "the very high level of tension" between the Investigators in Dallas and their attorneys. *Altman* at 8. The "result is that small problems in Dallas have a tendency to become larger problems." *Altman* at 8. The "management deficiencies" were not limited to Dallas; the RTC's Washington managers had notice of the problems and did nothing:

- The "breakdown in cooperation . . . should have been addressed earlier by Dallas management, or when Dallas management failed to act, by PLS and Investigations in Washington." *Altman* at 16.
- This tension flows from "a failure of PLS and Investigations management in Washington adequately to oversee, provide guidance, and intervene effectively when it became clear that the problems would not be solved in Dallas." *Altman* at 8.
- "These actions further harmed an already damaged working relationship between Investigations and PLS. Management did not put a stop to it. Instead, the Review Team was told that Investigations and PLS managers in Dallas quarreled with each other and among themselves." *Altman* at 17.
- "Neither PLS nor Investigations management in Washington appears to have effectively exercised what direct authority or power of persuasion it possessed to resolve matters in Dallas." *Altman* at 17-18.

The Report admitted that the "very high level of tension . . . undoubtedly impaired the efficiency of the [Professional Liability] program. . . ." *Altman* at 16 and 8. It also "result[ed] in delays in the completion of investigations of instituted-affiliated parties." *Altman* at 16.

But at what point does "a very high level of tension" cross the line from "undoubtedly impair[ing] the efficiency" of the Professional Liability program and start contributing to a "wide-ranging failure to investigate"?

- Is it when Legal managers order their attorneys to conceal information from the Managing Investigator representing the RTC at the settlement negotiation table?
- Is it when inexperienced Professional Liability attorneys bar experienced Investigators from communicating with outside counsel or reading depositions of S&L witnesses?
- Is it when Professional Liability attorneys lie to Investigators about the issuance of subpoenas in an effort "deliberately to mislead them"?
- Is it when a PLS manager only works a total of 2 hours a week on the cases assigned to him and he is then promoted to head the Dallas Professional Liability office over their objections?¹⁹
- Is it when Arturo Vera-Rojas, the top Dallas lawyer, criticized the entire Investigative department for their "bias" for investigating looting cases in Texas?
- Is it when inexperienced attorneys implement a system of hiring outside "investigative contractors" that Investigators believe "was designed to bypass Investigations altogether"?

Or is it simply when inexperienced Professional Liability lawyers ignored the Forgiven Fifty and looked only at "mundane negligence" cases in a State with 57.3 percent of S&L insider criminal fraud losses nationally?

B. *'Let's Silence Texas With A Blue Ribbon'*

Following the protests of the Dallas Investigators, the RTC management retaliated viciously in an attempt to "kill the messenger." The RTC sent in teams of "managers" from Kansas City to impose their "Blue Ribbon" system on Dallas.

¹⁸ See Appendix 2 for a list of the RTC managers with Whitewater and Texas connections.

¹⁹ Keil, "RTC not Raking in Big Bucks" *Houston Post* (January 12, 1994) A1.

- They barred the Investigators from discussing cases with the outside counsel handling the cases. *Altman* at 12. They also prohibited the Investigators from speaking with regulators or the RTC's outside consultants. PLS attorneys refused to give Investigators information received from RTC fee counsel, consultants, or regulators. The attorneys asserted that they had a "privilege" that allowed them to conceal such information from RTC Investigators.
 - They changed the reporting lines for the Dallas Investigations. "A number of Investigators told the Review Team that they viewed this change as a punitive measure in response to the failure of the managers in Dallas Investigations and PLS to work together." *Altman* at 13.
 - They stripped an Investigative manager with 20 years of experience and assigned her to manage documents in the RTC warehouse and the Accounting Liability Investigators.
 - This massive restructure "resulted in lost time when the investigators and their supervisors were required to learn new cases. Another result is that fewer investigators are actually working on cases, since more investigators are now supervisors." *Altman* at 14.
 - They required "the unnecessary generation of reports for Kansas City Investigations oversight purposes, taking away from time that should be spent on investigative work." *Altman* at 15.
 - The PLS lawyers started "a system for the routine hiring of outside investigative contractors." "[A] number of investigators expresses concern that this actually was designed to bypass Investigations altogether. It appears to the Review Team that this may be an unnecessary duplication of the work done by Investigations to identify and qualify outside investigative contractors. Also, some interviewees raised questions regarding the ability to oversee the work of any such contractors." *Altman* at 17.
 - They refused to permit Investigators to observe depositions as part of their role as the primary fact-finders in Professional Liability investigations. *Altman* at 20.
- The "Blue Ribbon" system divided accountability and control of each S&L investigation into six separate departments that each could kill a prospective case:

- ☞ Civil Claims (three sections)
- ☞ Civil Fraud
- ☞ Support (including accounting claims and the documents warehouse)
- ☞ Criminal
- ☞ Administration
- ☞ Analysis and Disposition (Civil Settlements)

If a case managed to survive the Blue Ribbon departments, it had to wind its way up the food chain through the Director of Investigations (Dallas) who then reports to a Director of Investigations (Kansas City) who in turn reported to the National Investigations office (which has 27 employees, including one who was stationed in Dallas full time during the summer and fall of 1993).

Each of these "departments" had detailed "checklists," reports, and "deadlines." No wonder the Dallas investigators objected to the:

"unnecessary generation of reports for Kansas City Investigations oversight purposes, taking away from time that should be spent on investigative work. Management did not put a stop to it. Instead, the Review Team was told that Investigations and PLS managers in Dallas quarreled with each other and among themselves." *Altman* at 15.

The Altman report noted that these Kansas City changes ". . . further damaged an already damage working relationship between Investigations and PLS. *Altman* at 17.

Meanwhile, the new Blue Ribbon PLS manager managed to so alienate his own legal staff that they accused him of wire-tapping their phones.²⁰ RTC spokesperson Steve Katsanos said:

"[T]he misunderstanding by RTC employees may have been intentional, reflecting the backbiting that exists within the agency."

"The legal department in this whole organization is going through a process of internal strife, criticism, and sniping.' This has been going on for almost a year since a couple of lawyers in Denver testified that other (RTC) lawyers were not vigilant and not bringing actions against S&L insiders."

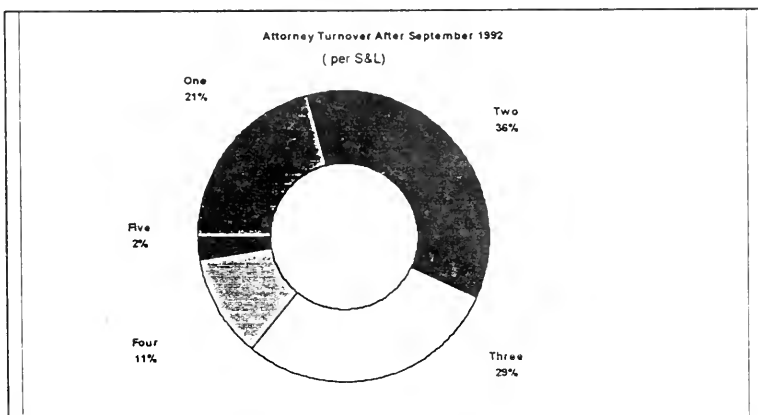
Asked if he was confident there had been no wiretapping, Mr. Katsanos said, "At the RTC, I'm not confident of anything with all the misinformation and bonafide missteps we have had. I'll wait for the IG to do a review before I say what the agency is confident in." Wrolstad, "RTC tries to clear up phone flap," *Dallas Morning News*, (November 2, 1993) D1,4²¹

After that PLS Section Chief went back to Kansas City, PLS extended the Blue Ribbon system to a level more akin to a Branch Davidian compound than an agency of the United States Government. PLS declared themselves a "family;" everyone else was "non-family" and not to be spoken to by PLS. PLS paralegals were reprimanded for socializing outside the "family" (i.e., with non-PLS RTC employees) on their own time, including attending a Christmas party at another paralegal's home. Not surprisingly, three PLS paralegals decided to leave the "family" and resign from the RTC.

EXCUSE #2: "WE SAW NO EVIL, HEARD NO EVIL,' SAYETH THE BRAND NEW PLS ATTORNEYS"

The Treasury team confessed that they relied primarily upon interviews of PLS attorneys and investigators in Dallas and four officials in Washington and did not ". . . investigate or verify statements obtained in interviews or . . . review individual RTC case files." *Altman* at 1-2.

Treasury also notes that many of the present PLS attorneys and investigators were not involved in the pre-1992 investigation of Texas S&L's, particularly in Houston. *Altman* at 10. For example, Treasury notes that 74 cases had been closed prior to September of 1992. *Altman* at 10. "Virtually every other case in the Dallas region that was open at the time of the reorganization has been transferred from the original attorney to another PLS attorney, and in some instances has been transferred a number of times." *Altman* at 11. They also note that none of the Investigators who closed the Houston S&L's in 1989 were still with the RTC by May of 1991. Only 3 of 24 Houston Investigators transferred to Dallas in the 1993 Reorganization. The following table illustrates the extent of the turnover *just from September 1992 to April 1994*:



²⁰ See Keil, "Dallas RTC Monitoring staff calls," *Dallas Morning News*, (November 1, 1993) D1; Wrolstad, "RTC tries to clear up phone flap," *Dallas Morning News*, (November 2, 1993) D1.

²¹ Yes, Steve Katsanos is the RTC's official spokesperson.

Yet Treasury ignores the extraordinary limited knowledge and experience of the interviewees in Dallas to make several sweeping "conclusions" that are antithetical to more objective evidence. How can an attorney who just joined the RTC without any prior Professional Liability experience legitimately have an opinion on whether cases closed in 1992 were adequately investigated?²²

The problems with relying on hearsay from inexperienced PLS lawyers who were not even on the RTC payroll prior to mid-1993 is illustrated, in part, by Treasury's misunderstanding of the cases I worked on from 1990 to 1993.

ALTMAN	FACT
<p>Burnside "was able to 'cherry-pick the cases in Texas with the best and fastest potential for recovery." <u>Altman</u> at 43</p>	<p>Bexar and BancPlus were assigned to me in 1990, two months after I joined the RTC. The previous line attorney had done no work on those S&L's and had been fired.</p> <p>Does Treasury really believe that I had such an uncanny ability to discern in 1990 that two S&L's out of 700 sent to the field would result in 50% of all field recoveries by 1993?</p>
<p>Burnside "worked intensely on cases he was interested in, and let other matters go unattended." <u>Altman</u> at 30</p>	<p>Of course I triaged my cases to maximize the recoveries. I also worked closely with Investigators which allowed me to leverage" my time. It paid off with the Bexar and BancPlus cases. I also obtained authority to sue on five other cases</p>
<p>Burnside can't take "sole responsibility" for the Bexar, BancPlus, and the Prudential Bache settlements. <u>Altman</u> at 41-43</p>	<p>Can Treasury read English?²³ My full testimony stated:</p> <p>"When I left the RTC in March of 1993, the case recoveries under my supervision for over two years exceeded the combined total recoveries of all matters supervised by the fifty plus field and regional Professional Liability attorneys throughout the country.</p> <p>Do I deserve all the credit on those cases? <u>Of course not. Indeed, I can not even take most of the credit on any single case.</u> I'm proud to say they were all truly 'team efforts' that had truly great RTC investigators and wonderful fee counsel. I also had strong support from Washington, D.C. Professional Liability lawyers." <u>Testimony</u> at 7</p> <p>My testimony also included two separate chapters concerning team work and numerous E-mails outlining the contributions of the Investigators in the cases. <u>Testimony</u> at 10; <u>Supplemental Testimony</u> at 6 and attachments.</p>

²² Treasury also admitted that they never looked at a single file and never attempted to verify any information given to them. Altman at 2. What "evidence" did they have for their conclusions?

²³ Treasury's inability or unwillingness to recount accurately my written testimony raises questions as to the accuracy of their "interview notes." Many Texas Investigators dispute the accuracy and objectivity of the Treasury "spin" on the Texas collapse.

<p>"Mr. Burnside contributed some background information on some Texas institutions for this national settlement on some Texas institutions and otherwise assisted in staff work (on BancPlus and Bexar) <u>Altman</u> at 41</p>	<p>I was the line attorney in charge of the investigations of the Bexar, BancPlus, and Pru-Bache cases from 1990 until 1993. I requested and received authority to sue Ernst & Young in both cases in February of 1992 and commenced handling the settlement discussions directly with EY. Other than normal supervision of cases, Washington gave no specific direction on the Bexar or BancPlus cases. I spent approximately 1700 hours on the two cases -- certainly more than just "background" work. <u>See</u> letter of former PLS Section Chief (Dallas) Sharon Howard to Senator Riegle.</p>
<p>"Mr. Burnside was not the only attorney who worked on [the Bexar case], which was completed by another attorney after Mr. Burnside left the RTC." <u>Altman</u> at 42</p>	<p>The EY global effort did not even commence until after the authorization to sue EY in Bexar & BancPlus. I was then asked to join the RTC working group on the EY discussions, but day-to-day control on all EY field cases remained in the field. Bexar, BancPlus, and Imperial were the only RTC approved cases against EY at the time of the settlement.</p> <p>The terms of the Bexar D&O settlement discussions were reached prior to the RTC locking me out of my office. Four levels of RTC Legal and Business side supervisors approved the settlement terms and I had submitted the formal Authority to Settle Memo prior to my departure. The terms of the settlement did not change after I left.</p>
<p>"The Investigations Unit also contributed to these cases." <u>Altman</u> at 42</p>	<p>You bet they did!</p> <p>That's why the current PLS practice of gag orders and ignoring Investigations is so damn stupid.</p>

EXCUSE #1: "THANK GOD THE TEXAS FAILURE WASN'T 'WIDE-RANGING'"

The NUMBER ONE excuse in the Altman report was that the RTC's failures in Texas were not "wide-ranging" because any single factor, by itself, does not conclusively "prove" a failure to investigate.

But, Altman misses the point—all the factors combined to show an RTC collapse in Texas:

- The RTC has collected only \$11 million from Insiders of Texas S&L's which account for 57.3 percent of all RTC S&L insider criminal fraud nationally. The Forgotten Fifty S&L's have almost \$12 Billion in losses but only \$42,000 in D&O Recoveries.
- The RTC failed to issue any subpoenas in 86 S&L's in Texas and issued less than 4 in 20 other S&L's. It only issued 27 subpoenas in the Forgotten Fifty.
- RTC employees have engaged in massive finger-pointing.
- Turnover on the Texas cases has been between 400 and 800 percent. Even the RTC questions the competence of its attorneys.
- The RTC focused upon negligence cases rather than looting cases. Now Texas courts have started to dismiss the RTC cases under the Texas Business Judgment Rule.

The list goes on and on. The real issue, however, is not the RTC's failures over the last 5 years. It is the Clinton Administrations refusal to investigate Texas S&L's now that they have notice of the Texas collapse. Despite Roger Altman's objections, Congress gave the RTC three extensions of time to investigate S&L's. They now have until December of 1995 to sue S&L wrongdoers for intentional wrongdoing (but not negligence). So the Altman team had the opportunity to force the RTC to do the job right.

Instead, Altman chose to defend the Forgotten Fifty.

Epilogue: The "Lady in the Warehouse"

The Investigators formed the backbone of the RTC pursuit of S&L wrongdoers in Texas. Their insight and experience played critical roles in the few successful Professional Liability cases in Texas. They often worked long hours without overtime compensation. Most important, they brought a sense of passion and mission to our work.

Many RTC employees stepped forward to protest the inadequate investigation of the Texas S&L's. One investigator described the reasons for coming forward as follows:

"It is not for money, nor is it for revenge. It is because it is right. It is for my children's children and their children. It is for all the people that will not be born for another 10 years but will spend half of their lives paying for what happened during the past decade." *October 1993, Letter to Senator Riegle (D-MI)*.

It is almost unfair to single out any single Investigator for praise. Individually, they were formidable; collectively they could be unstoppable. Yet, it is an even greater injustice to describe the Investigators with mere abstract concepts. The story of one individual illustrates the talent and passion that the RTC squandered in their quest to silence the protests of the Dallas Investigations Unit.

Diane Mendoza is a small Hispanic woman with 20 years' experience in S&L and bank regulation who went to Dallas in the late 1980's to help shut down the renegade Texas S&L's. She rose to become one of the most respected Supervisory Agents in Texas. Even the harshest critics of the defunct FHLBB later singled her out for praise for her lonely opposition to the admission of Olney Savings into Danny Wall's infamous Southwest Plan. In 1990, Diane joined the RTC Dallas Investigations Unit as its only Department Head.

Diane was often the first at work, the last to leave, and brought work home with her. She was and is strong-willed in an agency that does not always reward such qualities in a woman. Her demeanor and high expectations often intimidated RTC lawyers, including myself, who recognized that we might fall short of such expectations. Yet Diane held even higher standards for herself. When I needed an expert witness to testify in an RTC case in Houston, she agreed to do so—even though it clearly was not her "job." She used her personal time to prepare²⁴ but never complained or requested anything in return.

She passionately cared about her cases and staff. For example, the Dallas attorneys refused to issue subpoenas relating to an S&L in Waco, Texas, that will cost taxpayers \$170 million.

They then sought her consent to "closeout" the investigation. Her staff objected. The PLS line attorney was livid that the investigators questioned his "judgment" and demanded that she order the investigators to sign the closeout memo so "we wouldn't look bad." Diane supported her staff and refused to sign. Did this cause "tension" between PLS and Investigations? Of course it did. But Diane stood by her principles and her Investigators.

Diane also has made the Government her career and believes in working within the system. Diane kept her own counsel and was loathe to become enmeshed in a battle with her own lawyers. That background made it even more remarkable for her to become involved in my protest. Diane was the first person I approached for help. She had nothing to gain and much to lose when I approached her about my grievance. Yet she stayed late one night to hear my problems. When I asked for her help—she did not hesitate, she did not find out which way "the winds were blowing"—she simply quietly agreed.

Since then, others have come forward. But Diane was the first. She was the steadiest. She was the most visible. After I left, the RTC management sought to punish Diane for her stand. They had great difficulty. Diane was very good at what she did, much better than they were at their jobs. She also stayed entirely within the system when she spoke out. She filed no personal complaints and has not spoken to the press. Her boss, Bill DePugh, staunchly rebuffed pressure to punish Diane. So the RTC relieved him of responsibility for Dallas and eventually transferred him to Tampa. DePugh's successor immediately stripped Diane of her position, her cases, and most of her staff.

Now Diane spends much of her time in a Dallas warehouse supervising the movement of boxes. Treasury complains that the RTC has difficulty "retaining" experienced personnel to pursue S&L wrongdoers. Yet Diane has more S&L experience and passion for her work than the entire PLS section combined.

²⁴ While other RTC managers enjoyed the nightlife of Tampa in one of Jim Dudine's, RTC Director of Investigations, mandatory junkets, Diane spent her time in the hotel room studying exam reports and financial statements of a Houston S&L.

Perhaps they should look in the RTC warehouse for their missing experience.

Despite everything, however, Diane has retained her quiet dignity and integrity. Weeks after I left Texas, I received a large box from Diane. Inside the package was a small black framed picture with a stark white background and elegant lettering that has become a treasured possession. It simply stated:

“He who is silent is understood to consent.”

The Forgotten Fifty RTC Texas S&L's

S&L	City	Asset Size	Losses	Loss Ratio	Subpoenas	D&O
Meridian SA	Arlington	\$51,000	\$455,142	892%	3	0
Security FSA	Texasrkan	229,000	498,451	218%	0	0
Universal SA	Houston	119,000	256,873	216%	0	0
Golden Triangle S&LA	Bridge City	29,000	56,938	196%	0	0
Continental	Bellaire	355,000	646,872	182%	0	0
La Hacienda SA	San Antonio	64,000	110,437	173%	0	0
First South SA	Port Neches	298,000	498,786	167%	0	0
Village Savings FSB	Houston	75,000	119,363	159%	0	0
Spindletop SA	Beaumont	184,000	263,153	143%	0	0
Gill SA	Hondo	985,000	1,389,008	141%	0	0
Humble S&LA	Humble	52,000	64,242	124%	0	0
Spring Branch S&LA	Houston	92,000	109,672	119%	0	30
Southeastern SA	Dayton	64,000	75,993	119%	0	0
Ameriway Savings	Houston	177,000	196,949	111%	0	0
First State FSA	San Antonio	265,000	293,227	111%	3	0
First Equity SA	Tomball	89,000	97,326	109%	0	0
Padre FS&LA	Corpus Christi	22,000	22,343	102%	0	0
Vision Banc SA	Kingsville	77,000	77,308	100%	3	0
Commonwealth	Houston	1,500,000	1,474,995	98%	9	0
Century S&LA	Baytown	61,000	57,086	94%	0	0
University SA	Houston	2,600,000	2,422,858	93%	0	0
Mission SA of Texas	San Antonio	88,000	77,993	89%	0	0
First Capital SA	Houston	93,000	81,106	87%	0	0
Jefferson S&LA	Beaumont	109,000	92,531	85%	0	0
Texas S&LA	San Antonio	59,000	49,252	83%	0	0
Bayshore SA	La Porte	40,000	32,755	82%	0	0

The Forgotten Fifty RTC Texas S&L's

S&L	City	Asset Size	Losses	Loss Ratio	Subpoenas	D&O
Savings of Texas Assoc.	Jacksonville	77,000	62,101	81%	0	0
Columbia Federal SA	Webster	50,000	38,174	76%	0	0
First FSB, Lubbock	Lubbock	22,000	15,598	71%	0	0
New Braunfels S&LA	New Braunfels	85,000	58,840	69%	0	0
City SA	League City	36,000	24,221	67%	0	0
Suburban SA	San Antonio	41,000	27,307	67%	0	0
Rusk FS&LA	Rusk	38,000	25,007	66%	0	0
Heritagebanc SA	Duncanville	140,000	91,407	65%	1	0
Southmost S&LA	Brownsville	96,000	61,594	64%	0	0
First Savings of Laredo, FA	Laredo	171,000	108,585	64%	0	0
Southside S&LA	Austin	48,000	29,243	61%	2	0
Deep East Texas SA	Jasper	49,000	29,243	60%	0	12
General SA	Henderson	47,000	26,637	57%	3	0
Jasper, FS&LA	Jasper	142,000	78,212	55%	0	0
North American FSA	San Antonio	99,000	51,885	52%	0	0
American FSB	Austin	34,000	17,175	51%	0	0
Denton FS&L	Denton	100,000	49,788	50%	2	0
First S&LA, Waco	Waco	383,000	169,993	44%	0	0
Bannerbanc SA	Garland	72,000	31,564	44%	1	0
Windsor Savings Ass.	Austin	121,000	52,845	44%	0	0
Karnes County S&LA	Karnes City	63,000	26,545	42%	0	0
Federal SB of the SW	Kilgore	45,000	18,742	42%	0	0
San Antonio SA, FA	San Antonio	2,500,000	1,038,528	42%	0	0
First FS&L of Brenham	Brenham	148,000	53,705	36%	0	0
		12,384,000	11,707,598	95%	27	42

Source: RTC Responses to Written Questions of John Kerry (D. Mass.) to Roger Altman following the February 23, 1994 Hearing of the Senate Banking Committee. All Recoveries as of 3/15/94; assets, losses, and recoveries in 000's

**Common Players
Texas and Whitewater**

Person	Texas Connection	Whitewater Connection
Roger Altman Deputy Secretary of Treasury Acting CEO-RTC	Appointed Treasury team and responsible for Texas report	Participated in White House meetings
Jean Hansen General Counsel-Treasury (202) 622-0287	Day-to-day supervision of Treasury task force/ interviewed me in Washington	Participated in White House meetings
Tom Hinds Assistant General Counsel- RTC PLS (202) 736-3023	The top PLS lawyer who failed to correct the Dallas situation after clear notice.	Overall responsibility for handling of the Whitewater from PLS perspective
Jim Dudine Director-RTC Investigations (202) 416-2048	The top Investigator who failed to correct the Dallas situation after clear notice	Overall responsibility for handling of Whitewater from Investigations perspective
Mark Gabrellian Senior Counsel-PLS DC (202) 736-0641	Top assistant to Hinds. He was the Washington PLS manager with day-to-day responsibility for Dallas PLS who failed to correct the Dallas situation	The DC PLS manager with day-to-day responsibility for the Whitewater damage control team
Richard Iorio Field Investigations Officer Kansas City (816) 968-7212	Top investigator for Kansas City and Dallas; co-architect of the criticized Blue Ribbon system in Texas and 1993 Texas reorganization	The top Kansas City Investigator in charge of Madison Guaranty
Julie Yanda PLS Counsel Kansas City (913) 344-8437	Top PLS lawyer for Kansas City and Dallas; co-architect of the criticized Blue Ribbon system; Duane Curtis reported to her	The Kansas City PLS counsel that had responsibility for Madison Guaranty
Tom Murray Department Head Denver Investigations (303) 291-5738	Dudine's representative on the Treasury Texas Task force	On the RTC Whitewater damage control team
Duane Curtis Deputy Section Chief Kansas City (913) 344-8136	The Acting Section Chief of Dallas PLS; implemented the criticized Blue Ribbon system;	The Kansas City Section Chief that had responsibility for Madison Guaranty

Appendix III

Information on RTC Thrifts Associated With Suspected Criminal Activity, by Jurisdiction

Jurisdiction	Number of RTC thrifts	Number of RTC thrifts with at least one criminal referral	Total number of criminal referrals	Estimated dollar loss of alleged fraud	Number of RTC thrifts with criminal referrals involving insiders	Number of criminal referrals involving insiders	Estimated dollar loss of alleged fraud involving insiders
Alabama	11	7	17	\$13,448,229	2	2	\$2,000,000
Alaska	2	1	3	100,000	1	1	100,000
Arizona	9	7	42	239,122,135	5	19	203,407,112
Arkansas	18	13	41	46,957,607	7	24	38,623,029
California	54	49	550	590,196,797	33	80	267,844,167
Colorado	17	11	44	117,762,551	11	31	116,488,544
Connecticut	8	5	15	2,594,170	3	8	2,014,500
Delaware	0	0	0	0	0	0	0
District of Columbia	1	0	0	0	0	0	0
Florida	46	35	328	157,789,661	24	73	99,822,237
Georgia	15	12	30	18,130,321	9	17	15,610,611
Hawaii	0	0	0	0	0	0	0
Idaho	0	0	0	0	0	0	0
Illinois	48	35	106	165,250,886	22	49	111,300,490
Indiana	4	0	0	0	0	0	0
Iowa	12	9	23	17,451,883	5	8	1,145,876
Kansas	21	17	47	14,833,185	8	18	3,064,222
Kentucky	3	3	9	24,980	1	6	4,980
Louisiana	51	34	112	305,704,769	20	60	291,781,204
Maine	2	0	0	0	0	0	0
Maryland	12	5	11	4,732,966	3	6	2,110,966
Massachusetts	6	4	118	19,877,613	4	60	7,425,359
Michigan	4	1	14	10,109,405	1	3	691,000
Minnesota	5	4	19	42,359,483	4	9	7,751,000
Mississippi	18	15	55	22,926,629	14	36	21,930,057
Missouri	14	8	34	114,031,398	5	7	103,441,574
Montana	0	0	0	0	0	0	0
Nebraska	8	4	8	54,411,262	0	0	0
Nevada	1	1	1	1,000,000	0	0	0
New Hampshire	2	2	5	2,025,150	2	4	2,025,150
New Jersey	31	24	98	268,438,379	14	39	52,575,560
New Mexico	11	10	52	46,060,796	8	27	28,927,579
New York	14	9	32	46,078,913	4	10	31,034,019

(continued)

Appendix III
 Information on RTC Thrifts Associated With
 Suspected Criminal Activity, by Jurisdiction

Jurisdiction	Number of RTC thrifts	Number of RTC thrifts with at least one criminal referral	Total number of criminal referrals	Estimated dollar loss of alleged fraud	Number of RTC thrifts with criminal referrals involving insiders	Number of criminal referrals involving insiders	Estimated dollar loss of alleged fraud involving insiders
North Carolina	9	5	28	11,964,615	3	19	9,236,249
North Dakota	3	2	3	14,686	0	0	0
Ohio	17	11	109	48,668,961	6	9	34,346,398
Oklahoma	18	12	61	59,170,172	7	32	56,333,158
Oregon	3	2	24	6,013,645	2	3	2,065,000
Pennsylvania	19	14	72	152,076,167	7	19	30,036,475
Puerto Rico	1	1	11	23,258,068	1	4	300,000
Rhode Island	1	1	1	96,287	1	1	96,287
South Carolina	6	3	5	26,422,000	3	4	1,422,000
South Dakota	2	2	8	7,016,350	1	3	1,653,600
Tennessee	11	9	21	6,250,289	9	19	6,050,289
Texas	137	94	682	2,637,419,308	70	335	2,144,318,139
Utah	5	4	9	16,872,835	2	2	7,271,161
Vermont	0	0	0	0	0	0	0
Virginia	18	11	31	63,042,332	7	12	11,626,331
Washington	3	1	2	332,824	0	0	0
West Virginia	5	2	3	247,267	2	3	247,267
Wisconsin	3	3	25	16,410,624	3	12	14,557,825
Wyoming	4	2	4	9,620,844	2	4	9,620,844
Total	723	503	2,912	\$5,406,336,442	336	1,077	\$3,745,300,259

Source: GAO analysis of RTC data

SHARON J. HOWARD*Attorney-at-Law*4111 Herschel #4
Dallas, Texas 75219—
Telephone (214) 528-6564Senate Banking Committee
Chairman Donald Reigle
Washington D.C.

RE: Thomas Burnside & Treasury Report

Dear Mr. Chairman:

This letter is to reply to the inaccuracies and self-serving statements contained in the Treasury Report on the Dallas PLS program regarding the value of Mr. Burnside's service to the program. During the period February, 1990 to the June, 1992 reorganization, I was the Office Chief of the RTC PLS office in Dallas. I hired Tom Burnside to join forces with the government, instead of fighting the government on behalf of his insurer-clients, in prosecuting PLS claims. Tom was the hardest working, most innovative lawyers I had the pleasure of working with throughout the PLS program nationwide. Tom's zealous representation of his client, the RTC, caused him to work many nights and weekends delving into the documents and legal theories of accountant and appraiser malpractice claims. As Office Chief I watched Tom take cases that had languished in Washington D.C., and through hands-on involvement, turn the cases into multi-million dollar claims that ultimately recovered millions for the taxpayers.

These cases included the Bexar and BancPlus Savings cases which had been transferred from Washington in late 1990. Tom's style was to work closely with the investigators at the field office or in the thrift, pouring over documents and interviewing witnesses including the targets themselves. The goal was to follow the money trail and determine what really happened at the thrift, and not what the Directors & Officers of the thrift wanted you to believe happened. Tom would then brief me on the status of the investigations and we would brainstorm on the development of the case and the legal theories to be pursued. Tom did not deal directly with Washington until the case had been developed and an Authority to Sue Memo was in process. Both the Bexar and BancPlus cases were developed by Tom, the investigator, and outside counsel before Washington was ever apprised of the details. At no time did Washington suggest approaches to these cases, offer any direction, or involve themselves in any of the meetings in which the cases were discussed or witnesses interviewed. I personally attended numerous of these meetings, including meetings with the targets in which settlements were negotiated. Washington had no input in these cases and only became involved when authority memos were submitted, either to sue or to settle.

As PLS Office Chief, I proposed numerous alternative ways of developing cases to Washington including contingent fee cases¹ and global investigations of targets in multiple thrifts such as accounting firms and securities brokers. This was a direct result of Tom's work in the region, in which he saw the scope of involvement of the Prudential Bache Securities firm. At that time, I proposed that one lawfirm and one expert be retained to examine all of the trading by Pru-Bache in those Texas institutions identified by Tom. After several months and several submissions to Washington, approval was finally given by Washington for the global investigation and Tom was placed in charge. During my tenure, Washington did not direct or assist in the investigation, and in fact, I served as Tom's back-up on the case when he was on vacation. The case was totally developed by the line investigators, Tom, and the lawfirm of Finkelstein, Thompson, & Loughran.

Perhaps the most memorable event I recall involved the Bexar Savings case. The FDIC had been moving towards a global investigation concept as they had numerous claims against Ernst & Young which were approaching trial. Despite my efforts, the RTC managers in Washington were reluctant to pursue global investigations principally, as they relayed to me, because the cases were not well-developed yet and because of internal staff turf issues over who would be in charge. Tom had several cases involving EY and was negotiating with EY's Office of General Counsel for tolling agreements as statute of limitations approached. At that time, EY's attitude on all RTC matters and with all RTC attorneys was to stonewall and be obstructionists on all matters including tolling agreements. Tom was scheduled to have a phone conversation with EY regarding a BancPlus tolling agreement, and he discussed with me his plan to merely mention Bexar at the conclusion of the BancPlus discussion. I sat in his office as he talked to EY about BancPlus and EY stonewalled again saying they would call back on Monday with the answer to the BancPlus tolling question. At that time, Tom mentioned that on Monday he wanted to talk to them about Bexar Savings too, and EY asked some questions about the case. Tom then informed him that the claim would be for \$500 million the total losses to the insurance fund, that he had authority to sue, and that the lawsuit would be filed next week naming all of the partners of EY as defendants. EY became nervous and immediately started executing Tolling Agreements and approached the OTS regarding buying peace with all of the financial institution regulators. Only at that time did the Washington RTC managers join in the global EY effort, and only then were they apprised of the nature of the claims being pursued in the BancPlus and Bexar cases.²

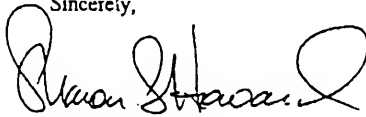
Tom developed all of his cases without input from Washington. At no time did Washington interject themselves into case development, and by the time they were aware of the existence of any claim, it was after it had been developed by the line attorneys and an Authority to Sue Memo had been presented with the fully developed claim and theories outlined. I personally was told by several on the Accountant Liability Task

¹ A concept adopted by Congress in 1993 in the RTC funding bill.

² EY's own nickname for the Bexar case was the "nuclear bomb".

Force created by the RTC that Tom's cases were the best developed of all of the claims submitted. Obviously that was the case, as the share of RTC EY recoveries attributable to his cases far outstrip the dollar value of other recoveries obtained by the RTC from EY's global settlement. It is as laughable for Washington to take credit for the work done by Tom on Bexar and BancPlus, as it is to claim credit for efforts made by the OTS to force a global settlement with EY. All Washington did is take Tom's work to the negotiating table after all of the work had been done.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon J. Howard". The signature is fluid and cursive, with a large initial "S" and a long, sweeping tail that loops back to the right.

Sharon J. Howard

William J. DePugh
194 West 4800 South
Washington Terrace, Utah 84403
(801) 392-9943

Senator Donald Riegle
Chairman
Senate Banking Committee
Washington, D.C.

Dear Senator Riegle:

I was the Managing Investigator of the Dallas RTC Investigations Unit.

I have thirty-seven years experience investigating white collar crime as a member of the Detroit Police, Internal Revenue Service, and the U.S. Department of Defense. Among other government posts, I was the Chief of the Criminal Investigations Division of the IRS in Manhattan and later was the Associate Director (Operations) of the Department of Defense Criminal Investigative Service which investigated military contractor fraud.

I have reviewed both the Treasury report and the response of Tom Burnside, a former RTC PLS attorney in Dallas. In my opinion, the Treasury Report is a whitewash of a national scandal. The RTC failed to properly investigate the Texas S&L's. It did not follow the money trails. Not only do I agree with Burnside's original testimony and his recent response, I believe that the RTC is worse than he portrays.

In 37 years, I have never seen anything like the RTC. No one is ever held accountable for anything. I personally told top RTC managers about the Texas problems and they did nothing. They could have solved many of the problems with a simple phone call but chose to ignore the situation. The RTC attorneys and managers seem more concerned about closing down the Dallas office than understanding the facts of the cases.

The Treasury report contains many inaccuracies. It chose to attack the messenger rather than deal with the Texas problems. The "unverified" allegations against

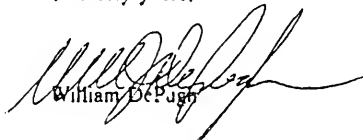
Burnside are simply untrue.¹ He was the hardest working, most dedicated attorney in Texas. He believed in working with investigators as a team and they responded. His cases represent what the RTC could have accomplished. His Forgotten Fifty cases represent what the RTC actually accomplished.

Even though I explicitly requested an interview, Treasury never interviewed myself or the two previous managers of the Dallas Investigations office. Further, many of my investigators feel that the report did not accurately portray the Texas debacle. We had hoped that Treasury would help solve the problems. It appears that their mission was to cover-up the situation.

As I said before, I agree with Tom Burnside's statements about what transpired in Texas. Now everyone has notice of the Texas collapse and the RTC has the opportunity to do the job right. My investigators in Texas are among the finest I have worked with and they are ready, willing and able to follow the Texas money trail. But the RTC and the PLS lawyers will not work with them.

Please look into the Texas situation. It is far more important than Whitewater.

Sincerely yours,



William DePugh

¹ For example, I attended all of the Bexar Savings settlement discussions with Burnside. The settlement against those directors and officers was fully negotiated and informally approved by RTC managers before Burnside left the RTC. He had already submitted the paperwork for final approval before he resigned. The only role his successors played in the settlement was to delay the closing.

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