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December 7, 1989

The Honorable Howell Heflin
Chairman
The Honorable Warren Rudman
Vice Chairman
Select Committee on Ethics
United States Senate
Washington, D.C. 20510

Dear Senators Heflin and Rudman:

On behalf of Senator Donald W. Riegle, Jr., we submit this further filing to demonstrate that the regulatory supervision of Lincoln Savings and Loan by the Federal Home Loan Bank Board (Office of Thrift Supervision) was not affected in any way as a result of Senator Riegle's participation in a meeting with San Francisco regulators on April 9, 1987. While we do not propose to speak on behalf of any other Senator who participated in that meeting, or in an earlier meeting conducted with Edwin Gray on April 2, 1987, we are confident that the same conclusion pertains as regards their conduct.

The following cursory analysis is based on extracts from the written and sworn testimony submitted to and adduced during the recently concluded hearings before the Committee on Banking, Finance and Urban Affairs of The House of Representatives (hereafter the "House Committee"). We have not undertaken at this time to surround these extracts with abundant

background facts or discussion in order to draw conclusions about the conduct of the banking regulators. The propriety of their conduct will be assessed in other forums.

Senator Riegle, and four other Senators, met with San Francisco regulators in Washington, D.C. on April 9, 1987. One week earlier, Edwin Gray met with the same four Senators without Senator Riegle in attendance. There are no notes of the April 2, 1987 meeting. Edwin Gray testified before the House Committee on November 7, 1989, concerning his recollection of the first meeting.

At the second meeting on April 9th, William Black, one of the San Francisco regulators, took detailed notes. Those notes were the predicate for the construction of a purported transcript of the conversation at the meeting. Mr. Black never disclosed that he intended to produce a transcript.

Because Mr. Black was briefed by Mr. Gray about the April 2d meeting, before he attended the April 9th meeting, Mr. Black's note taking may well have been affected by an anticipation stimulated by Mr. Gray's account. But whatever Mr. Black's motive for taking notes, or his state of mind, it is clear that the statements he attributed to Senator Riegle were unremarkable in every respect. Even if we assume for purposes of this discussion that Mr. Black was a talented note taker, it

is indisputable (using Black's transcript) that Senator Riegle, after listening to the assessment of the regulators that Lincoln was close to failure and that some of Lincoln's practices were referred for criminal investigation, was satisfied with the propriety and course of the San Francisco Bank's investigation. Having satisfied himself, it is also indisputable, that Senator Riegle never again had any contact with any banking regulator concerning the regulation of Lincoln or its parent ACC.

Both the conduct of the regulators in the days following April 9th and their recent testimony before the House Committee demonstrate conclusively that Senator Riegle's attendance at the April 9, 1987, meeting had no impact whatsoever on any facet of any ongoing investigation of Lincoln or ACC. After returning to San Francisco, the same regulators who met with Senator Riegle and his colleagues, within days, completed their final report on Lincoln. Approximately 20 days after the April 9th meeting, the San Francisco Bank sent its report (dated May 1, 1987) to the Washington, D.C. supervisory office (ORPOS). The report recommended that Lincoln be placed in receivership or conservatorship, or at least be subjected to a cease and desist order.

The submission on May 1, 1987, of the San Francisco Bank's receivership recommendation was neither delayed nor

hindered by anything that happened at the April 9th meeting. The same can be said for the April 2nd meeting. During his testimony before the House Committee Mike Patriarca, who was in charge of the examination and supervision of thrifts in California and Arizona, explained the reason for delay.

> The issue of delay is another that's been raised by folks reviewing San Francisco's handling of the Lincoln case, specifically, why did it take six months after we concluded our on-site work to send in this recommendation for receivership. I take personal and complete responsibility for the decision that led to that delay.
>
> I came to my job in San Francisco on Monday, August 18, 1986, having ended my OCC career the previous Friday afternoon. During the first week that I was on the job, we had a meeting in Washington about the then on-going problems with the Lincoln examination. During my first month on the job, the Washington Post ran a front-page article in which Lincoln officials and the former deputy general counsel of the Treasury Department, on their behalf, alleged that the Bank Board was harassing Lincoln, that the Bank Board had a personal vendetta against Lincoln's management, that the Bank Board was biased and that the chief means of harassment was our examination of Lincoln.
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> In light of the serious findings that we were coming up with in the examination, and in light of the serious consequences were likely to follow from that I thought, and in view of the loudly

> alleged bias and harassment by these Lincoln folks who were incredibly well-financed and litigious, I decided personally that we were going to cut square corners on the completion of the examination product.[1]

The record is also clear that the treatment by Bank Board staff in Washington of the recommendations emanating from San Francisco in regard to Lincoln was not affected by any contact or input from Senator Riegle or any of the four other Senators. Ed Gray's Chief of Staff, Shannon Fairbanks explained the procedure:

> I would now like to address certain supervisory issues in general, and those relevant to Lincoln Savings in particular, which represented Mr. Keating's opposition to the Board's enforcement of the rule.
>
> During the entire 4-1/2 years that I was at the Bank Board, there was a standard process for handling issues of supervisory concern that involved recommendations from the field for Board action. All federally insured depository thrifts were subjected to regular examination by staff at the regional Federal Home Loan Bank. If the examiners determined that there were significant supervisory concerns those

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[1]This transcript excerpt, as well as those included in the following text, has been taken from what we believe are preliminary transcripts. Only some of these transcripts contain numbered pages. We have indicated the page number, where appropriate, in brackets.

concerns were documented at the Federal Home Loan Bank level and a recommendation for action was forwarded to Washington.

In these cases where a conservatorship or receivership action was recommended by the regional Federal Home Loan Bank examiners, the Federal Home Loan Bank Board's senior supervisory office, variously called OES, ORPOS, or ORA, would review these field reports and develop a recommendation for Board action known as the "S memo." In those cases where a lesser cease and desist order was advised, the DC Office of Enforcement would be responsible for the recommendation. In all cases the Office of General Counsel within the Federal Home Loan Bank Board, would advise its board regarding the legal grounds for action, known as an "L memo."

In December of 1986, a preliminary report on Lincoln Savings was forwarded to the DC Federal Home Loan Bank Board staff. I learned at that time -- I learned of that memo sometime in March of 1987 when I was advised that the final report for supervisory action was being drafted by the appropriate staff in San Francisco. It was at that time that I was first briefed on the full contents of the preliminary supervisory report. My notes from that meeting are handwritten and contained in Exhibit 3 of my testimony. Those notes show that the examiners' fact finding proved that there were serious problems at Lincoln Savings.

I was advised by John Price and Bill Robertson of ORPOS that a recommendation for board action was being prepared by the San Francisco staff and would be

forwarded to the DC office by the end of April. I advised ORPOS that action on that recommendation by the Gray Board was unlikely to be able to be taken in view of the necessary legal reviews needed -- the "S memo" and the "L memos", and Ed [Gray's] departure date of June 30, unless the staff could move the matter to the Board earlier.
Later in the spring I was briefed by Bill Robertson, Director of the DC supervisory office. He advised me that the San Francisco Bank final report on Lincoln had been received, in fact, it was sent on May 1st. The development of the S and L memos, he represented, would take about two months. Following that process, the Board would have to go through a period of briefings on the issues before it met to deliberate and take final action.

Since that timing would clearly move the Lincoln issue beyond Ed Gray's departure date, I took the following actions: I reviewed with the members of the staff the status of their response to the San Francisco May 1st report. I was advised that the issues were well-documented and that the factual case was clear and convincing, yet, they advised me as well that the legal case needed to be more fully documented.

Hallary Quillian (sp), the general counsel of the bank board, advised me to ensure that all deliberate consideration be taken in this case to develop a fully, legally, defensible position, because Mr. Charles Keating had so personalized the debate as one between himself and Mr. Gray, that it would diminish the case for Ed to, quote, "Hurry it along," unquote. In addition, Larry White, the other board member then

sitting at the board, had stated his intention not to act on matters, except on an emergency basis, as a courtesy before Danny Wall, who had now been named came to the board. Pressing for fast action before Ed left was clearly not advised.

As of the middle of May, I told the ORPOS staff to proceed in the normal manner and that Ed would only be involved in an emergency, as needed basis, regarding Lincoln. I then fully advised Chairman Gray on the status of the case. He then briefed the incoming Chairman Danny Wall that the case would be, Quote, "On his -- Wall's -- desk," unquote, when he arrived. It was standard policy at the Federal Home Loan Bank Board for my entire term for a thrift to be permitted to respond to supervisory charges at the local, Federal Home Loan Bank level.

The Bank Board's lawyers precluded the Chairman of the Federal Home Loan Bank Board from such contacts, because as judged (sic) for such cases the Chairman was required to excuse himself -- recuse himself -- if he had prior discussions with the parties to the case. For this reason, Mr. Keating's responses to these concerns were handled in the normal manner by the supervisory staff of the San Francisco bank. During the entire time that Ed was Chairman, that was the normal way to handle institution responses and concerns.

In sum, we left the matter at Lincoln to a new chairman, confident that it would be dealt with on the merits, as we understood them.

During Ed Gary's appearance he was invited numerous times to embrace the suggestion that the Board's regulation of Lincoln was adversely affected by the conduct of any Senator. The notion was consistently rejected.

> REP. ROTH: I wonder, Ms. Fairbanks, did you have any contact with the senators regarding Lincoln?
>
> MS. FAIRBANKS: Absolutely none.
>
> REP. ROTH: Thank you, Mr. Chairman.
>
> REP. NEAL: Will the gentleman yield?
>
> REP. ROTH: Yes, I'd be happy to yield?
>
> REP. NEAL: I'm just curious. Did the Federal Home Loan Bank Board ever take any action based on the comments or this intervention on the part of the senators?
>
> MR. GRAY: No.
>
> REP. NEAL: Well, that's what I'm having trouble understanding here. If the bank board never took any action, what's the significance of all this? I mean, how can you blame these senators for $2.5 billion worth of damage if the Federal Home Loan Bank Board never took any action based on anything they did?
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> MR. GRAY: Let me make clear what I have said. I have tried merely to relate what happened in the meeting.
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> REP. NEAL: No, I'm just trying -- I'm not saying your conclusion. I've heard

others sort of draw a conclusion here that --

REP. ROTH: If I can reclaim my time. There's 51 members of the Banking Committee. We all sat here, we all knew what was going on. None of us took action. Yield back to Congressman --

REP. NEAL: But did anyone take any action? I mean, that's the point, there was --

REP. GONZALEZ: (Bangs gavel) -- if the gentleman will yield to me at this point, all the witness can testify to is what action was or was not taken at the time he was chairman. We will have the subsequent chairman testifying before the committee and at that time, he could be asked what action he took as a result of any intervention. All Mr. Gray can testify to, Mr. Neal, is that during his interim, he did not, in any way, yield to any demand made on the part of that level of government.

REP. NEAL: Well, I just -- exactly. And it just seems to me that that's a very important point because it does also seem to me that Mr. Gray's testimony this morning is very, very important. He's testified that this problem, this several $100 billion problem is the result of not giving the regulators the adequate resources.

REP. : That's correct.

REP. : Precisely.

REP. NEAL: No one's watching the store. He's nodding yes. This is the cause of the problem --

REP. GONZALEZ: The chair --

REP. NEAL: -- and it's going to cost taxpayers several $100 billion and yet we're off on these little tangents that --

REP. GONZALEZ: Mr. Neal, we must proceed in regular order at this point.

REP. NEAL: Well.

X X X

REP. WYLIE: In one report, you said that you did not act on Lincoln because you believed you would be offending five senators at a time when it was critical to get the FSLIC recapitalization bill through Congress.

MR. GRAY: I'm sorry? I said what? Said I would offend five senators? Where did I say this? I don't think I've ever said that.

REP. WYLIE: You didn't say that?

MR. GRAY: No.

REP. WYLIE: That's a misquote.

MR. GRAY: It doesn't sound like me anyway.

REP. WYLIE: Did you not act on Lincoln because you believed you might be offending them at a time when --

MR. GRAY: No.

REP. WYLIE: -- it was critical to get FSLIC recapitalization through Congress?

MR. GRAY: Well, we needed FSLIC recap, of course, desperately, but understand that there are processes in any regulatory agency, which I think Mrs. Fairbanks can talk about, where these issues finally are brought to the decision-makers, and I really think she knows more about this than I do.

MS. FAIRBANKS: Congressman Wylie, could I respond to that question directly?

REP. WYLIE: Of course. I would like to have you. I was just going to ask you if you would.

MS. FAIRBANKS: You asked if he refused or refrained from taking action. The matter was never -- as I detailed, the matter was never brought before the Board for Board action. The process of taking action such as a receivership or a conservatorship or a cease and desist action is something that needs to be buttressed by the legal supports that come to the Board so that they know they are taking defensible actions. That legal support and the documented supervisory report had not been completed, so the matter was not, in effect, before the Board members for their action.

REP. WYLIE: But you knew in December that Lincoln was in trouble.

MS. FAIRBANKS: No.

REP. WYLIE: No?

MS. FAIRBANKS: Excuse me. The December report was a preliminary supervisory report taken from the examiner's findings and summarized and sent to Washington as a "heads up," a flag of

warning saying this train is coming down the path. But there is a normal process you take to go through the pattern of examination fact finding, and then a processing of the supervisor's report. I may -- it may sound tedious, but it is meant to protect all parties so that you're taking legitimate action.

REP. GONZALEZ: Would you yield?

REP. WYLIE: I'll be glad to yield to the Chairman.

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REP. NEAL: Well, let me ask you -- no matter -- whatever, even if you have a disagreement over the appropriateness of direct investment --

MR. GRAY: Right.

REP. NEAL: Well, you know, whether you think of 100 percent home loans or 80 percent with some other mix or 60 percent with some other kind of mix of activities, even that begs the question a little because it's a matter of keeping an eye on those activities that are allowed, isn't it? Isn't that where the system really broke down?

MR. GRAY: Absolutely.

REP. NEAL: Not so much the activities that were allowed or not allowed,but the fact that any activity should have been supervised, or regulated --

MR. GRAY: You're --

REP. NEAL: -- and it simply wasn't. Is that not --

MR. GRAY: You're precisely right. Let me say that I was called a "re-regulator." Now, you know, they said I was a re-regulator because we kept promulgating rules, regulations. We had no choice. We had nobody to go out and do what they do in the banks. We just didn't have the people. What else are you going to do if you don't have the people to -- then, you have to try to make rules.

REP. NEAL: And when you ask for --

MR. GRAY: And hope that they'll observe them.

REP. NEAL: You ask for more people, they wouldn't give them to you.

MR. GRAY: Right.

REP. NEAL: Well, I just think it's important that we focus on this because, you know, no matter what the senators-- and you know, I don't know, I read a memo that was from a -- memo isn't quite the word -- it was someone transcribed notes from one of these meetings, and it's a part of our hearings process here. And, you know, I read through it and -- I'll say once, I didn't study it carefully -- but I didn't see anything that jumped out at me as being particularly inappropriate about it, but I'm not trying to pass judgment on that. The point is that whether it was appropriate or inappropriate, nothing was ever done with it. Is that not correct? In other words, the senators didn't get their way.

MR. GRAY: No.

REP. NEAL: If the senators wanted you to do something differently, you didn't do it. So you can't possibly blame-- whatever it is that they may have wanted -- blame this problem on them, because it didn't happen. Is that correct?

MR. GRAY: No. I think what I was trying to say is that the environment in which there is a lot of money prompts these kinds of meetings where -- well, I can't --I mean, it did in this case. A very unusual kind of meeting --

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MR. RIDGE: did any of the Senators with whom you dealt in that meeting either contact you -- well, first of all, did any of them, after that meeting, other than Senator DeConcini, who set up the second meeting with the regulators, did any of those four ever contact you directly?

MR. GRAY: No.

MR. RIDGE: To your knowledge, did they contact anyone on your staff subsequent to that meeting?

MR. GRAY: To my knowledge, they didn't.

MR. RIDGE: They did not?

MR. GRAY: I don't know, but to my knowledge, they did not.

MR. RIDGE: I understand. Once the regulators advised the group in the meeting of, I think, April 9th vis-a-vis criminal activity, did you personally receive any contact from any of these Senators?

MR. GRAY: What?

MR. RIDGE: Were you contacted -- I am sorry, it was not well-stated. After the meeting with the regulators involving the five Senators, did any of them ever specifically contact you?

MR. GRAY: No.

MR. RIDGE: To your knowledge, did any of them contact anyone on your staff?

MR. GRAY: To my knowledge, they didn't.

On November 21, 1989, the following witnesses, with others, testified before the House Committee: (i) Rosemary Stewart, Director of Enforcement at the Office of Thrift Supervision; (ii) Darrel Dochow, Senior Deputy Director for Supervision Operations at the Office of Thrift Supervision and (iii) Mr. Danny Wall, Chairman of the Federal Home Loan Bank Board (Office of Thrift Supervision).

Ms. Stewart, who was employed under Chairman Gray and who was still employed as a principal manager under Chairman Wall as of the date he resigned, testified that in early 1987 serious disagreement arose between the San Francisco and Washington regulators concerning what action, if any, to take against Lincoln. In her view the controversy degenerated to the point where, "There was also at that time what I would

characterize as a vendetta attitude by members of our agency with respect to Lincoln...."

Ms. Stewart's evaluation of why the Bank Board failed to take action against Lincoln during this time period is fairly portrayed in the following extracts from her testimony. What is notable for purposes of this submission is that Ms. Stewart never claimed that any regulatory action or decision regarding Lincoln was at all impacted by the conduct of Senator Riegle, or for that matter, by the conduct of any of the other four Senators.

> In 1987, there were two very specific areas identified for me that the district wished to have investigated. These matters were investigated during the first half of 1987. Reports of investigation were prepared and criminals referrals were filed on both these matters.
>
> Upon completing these two very specific inquiries into file stuffing and back dating, we once again returned to no requests being made for investigative action, no requests being made to the Office of Enforcement for further investigative work.
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> The second area of serious misrepresentation relates to that May 1, 1987, recommendation for conservatorship or receivership from the San Francisco District to the Washington Headquarters. I am the only one at the table who [p.

> 43] was there when that recommendation came in. I know what happened to it. The recommendation did ask for conservatorship or receivership or, in the alternative, a cease and desist action.
>
> The fact that that recommendation was made and that there was not an immediate action to appoint a conservator or a receiver has been portrayed by the San Francisco witnesses and many members of the press to date as evidence that there must have been an improper politically motivated decision involved here. This is absolutely untrue.
>
> The truth is that the May 1, 1987, memorandum, and the 1986 exam which had just been delivered a month before, did not contain sufficient evidence to support a conservatorship or receivership. [p. 44]

Nevertheless, according to Ms. Stewart, the May 1, 1987, recommendation was fully discussed and considered "within a couple of weeks after receiving it."

> It was the consensus of the meeting at that time that grounds did not exist. The consensus of a room of at least 15 people. There was no disagreement, no protestation by the San Francisco officials who were present at the meeting. We simply moved on to a discussion of the alternative [of] developing a notice of charges for a cease and desist case. In fact, the discussion about the cease and desist case was also punctuated with understand this record does not support an order at this time. We will develop a notice of charges, [p. 46] and we talked about the

> amount of time that we thought that would take. It was going to be several months before a notice of charges could be developed, and that was the conclusion of that meeting. [p. 47].

Ultimately, Lincoln's fate was assigned to the Enforcement Review committee, a new Committee formed in early December of 1987 by Chairman Wall for the professed purpose of "... establish[ing] enforcement policy in a centralized form [so as] not [to] allow 12 districts to set their own policy." Again, according to Ms. Stewart:

> That committee in February of 1988, took on the task of reviewing Lincoln Savings and Loan.
>
> We met for eight separate meetings, we spent more than 22 hours together, and we reviewed volumes of files and information that were presented to us. We heard from the San Francisco representatives. We had an oral presentation that went on for several hours, and we received a volume of additional information after that time. But before that committee, at the time was a very strange collection of facts and confusing information. We had a serious [p. 49] difference of opinion about what was the financial condition of Lincoln Savings. San Francisco was telling us it was hopeless; whereas, Mr. Dochow, following his review, his staff's review of the findings of San Francisco, did not believe that it was as hopeless. He believed that with operational and management changes Lincoln could be placed under control and could be saved. [p. 50].

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Also before the Enforcement Review Committee was the financial condition of Lincoln. And as I said earlier, we didn't know what the financial condition of Lincoln was. I will tell you that I was impressed by a presentation made by Lincoln's independent auditors. The audit partner for Arthur Young came to the committee and told us about a [p. 52] recent review that had been done by Arthur Young of all the major assets and investments of Lincoln and certified to us that they were the correct financial statements that resulted from it, financial statements that disclosed full compliance with the net worth requirements for Lincoln.

Does that mean the committee believed Arthur Young, that we accepted his numbers? No. What it meant was we were looking at a report from an auditor that was brand new, that was looking at assets and investments that our examiners had not looked at. Contrast that with a year-and-a-half old exam report talking about assets that were sold, assets that were no longer properly valued. I tell you that was an important fact, and it caused the committee to want two things very much: new information, a new examination of Lincoln; and, secondly, controls over Lincoln. In my personal opinion, the need for information and the need for controls was what guided the committee through the decisions that we had to make.

We took this responsibility very seriously. We made a recommendation to the Bank Board that did not agree on

exactly how to achieve control over Lincoln, but we were unanimous on one point. That was that a new exam needed to be done and it needed to be done without San Francisco district involvement. That's five people, five different backgrounds, five people unanimously recommending a new exam [p. 53] without San Francisco involvement. And I return to the two reasons that I believe that decision was made. We were in desperate need of information, and we were in desperate need of control. We did not believe that we could get either, a new exam or control over this institution, quickly if we returned it to San Francisco jurisdiction.

It was very clear by that time that San Francisco and Lincoln had such a deteriorated relationship that we would have had World War III had we attempted to get a new exam done by San Francisco. We could not have expected a consent by Lincoln -- I think that's clear -- to any enforcement document being negotiated or handled by San Francisco. And what we contrasted that with was a two-year proceeding that would have been required to put Lincoln under a cease-and-desist order. A cease-and-desist action had never been rejected in the matter of Lincoln. What was rejected was a long period of litigation to get such an order when we felt we could acquire control through another means.

The Federal Home Loan Bank Board met within days of receiving the recommendation of the committee. They relied upon the committee's work, our judgment, and our advice, and the decision was made [to conduct a new examination of Lincoln]. [p. 54].

Mr. Dochow, during his testimony, exhibited a similar lack of regulatory zeal and extraordinary caution in respect to moving against Lincoln, none of which, we emphasize, was fostered by contact with Senator Riegle. The flavor of his testimony is appropriately captured in his recitation of reasons why the Board took so long to act.

> Likewise, while I perceived the three Bank Board Members would like to see this matter resolved amicably, there was a lack of consensus on how to resolve it. Further, I never reviewed instructions from the Board members or the Chairman to recommend any particular action. In fact, my recommendations on the Enforcement Review Committee were really based on the facts that were laid out in the memorandum to the Bank Board, dated April 30, 1988.
>
> But let me add to that, let me add what was really in my mind. First, the appointment of a conservator for Lincoln was considered not to be legally supportable, given what was known at the time. The General Counsel's office and my staff did not think sufficient basis existed in the 1986 [p. 80] examination to support a conservatorship. Subsequent action to the San Francisco District also indicated that they did not really believe a conservatorship was appropriate.
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> Second, there was concern that the Bank Board would likely end up in lengthy court actions that might result in

Lincoln continuing to operate without significant restrictions, for many as long as a year and maybe more. If we had gone to court in a contested battle -- Rosemary Stevart has referred to it, I believe, as all-out-war -- it is very likely, from what I have been told, that we could have ended up with no restrictions of a meaningful nature on Lincoln for a year to two years.

Third, a supervisory agreement that Lincoln would consent to was considered more expeditious to get Lincoln under this type of supervisory control, and it also did something very important to insure that Lincoln would cooperate with us in the next examination and make their personnel available, a [p. 81] critical element to the success of the 1988 examination.

Fourth, we have heard the 1986 examination was dated and, quite frankly, substantial concerns did exist over Lincoln's true condition. Lincoln and their national auditor represented that most of the deficiencies cited in the examination had already been corrected and that Lincoln was not in an unsafe and an unsound condition.

The most current information was from this audit, which gave Lincoln a relatively clean bill of health and was represented to have been reviewed by the national partners at Arthur Young's headquarters, who said, through Mr. Atchinson, in front of the Enforcement Review Committee, that their work was accurate and firm and, in fact, they may sue the Bank Board if we tried to say it was otherwise, because we could not support it. [p. 82].

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Fifth, Lincoln would not escape tough supervision if it were examined by another district or Washington. In fact, it was San Francisco's principal supervisory agent, James Cirona, who strongly, I mean very strongly recommended to me that Lincoln, if it was to receive another examination, should be examined by my office, not another district. In [p. 83] fact, he threw down a gauntlet. He essentially said you take it all or give it all to us and do not oversee our operations any more.

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Sixth, a new independent examination would bolster the [p. 84] Bank Board's ability to take appropriate supervisory action in a litigated environment.

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Seventh, allowing Lincoln to make application to purchase an institution and thereafter be supervised by another district ... was consistent with what any other thrift institution in [p. 85] the United States could do. It was legally permissible and very consistent.

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Eighth, the Lincoln situation was considered unique and complex, in fact, so unique and complex that it would not set precedent for other institutions to receive similar [p. 86] treatment.

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> Ninth, for all practical purposes, communications between Lincoln and the San Francisco District had evolved into a letter-writing litigation posture, an approach that was hindering, seriously hindering the collection of supervisory information and a prompt correction to problems at Lincoln.
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> In summary, my recommendations to the Enforcement Review Committee were geared entirely to try to focus Lincoln on the need to have improvements in its operations. I wanted to correct their problems, not fight the San Francisco District or the current Bank Board over old issues of alleged harassment and improper leaks of information. [p. 87].
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> It was my belie[f] and I believe the belief of my staff and the office of Enforcement that the supervisory agreement that we did enter into more broadly restricted Lincoln, more broadly restricted it sooner then it ever would have been restricted if we had kept on the normal course of fashion. [p. 88]

Chairman Wall, both in his introductory statement and at later places throughout his testimony, categorically denied that any regulatory action or decision regarding Lincoln, was affected by contact from or with Senator Riegle.

> This case has clearly reached a high level of notoriety for, it seems to me, two reasons: alleged political influence by five Senators and on the

former Chairman, Mr. Gray. I can't speak to that. I have not met with those five Senators in that setting. I was not there with Chairman Gray at the time.

There is also, of course, the controversy between the San Francisco Federal Home Loan Bank, and now the District Office, as well as the Bank Board here in Washington, and now the Office of Supervision. [p. 112].

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No political figure influenced my decisions. I do not know how I can say that more emphatically and clearly. It is unfortunate and may be avoidable, the problems between the Federal Home Loan Bank Board here and the Office of Thrift Supervision now and the Federal Loan Bank of San Francisco, and we will be living with that, as we must, and we will be working on that, as we will. [p. 113].

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MR. WYLIE: Thank you very much, Mr. Chairman.

Chairman Wall, in April of 1987, five Senators met with Ed Gray and San Francisco thrift regulators about Lincoln at the time you were the Minority Staff Director of the Senate Banking committee. Were you aware of those meetings when they took place?

MR. WALL: I do not recall having any information or knowledge of them. And with the possibility of rumor until I did have --

MR. WYLIE: When did you find out about them?

MR. WALL: I had to research yesterday as to when it first appeared in print. And it was in, I believe it was, September 28th of 1987. So I was at the Bank Board by then.

MR. WYLIE: You find out about it in September of 1987?

MR. WALL: That is the only time I can put it in a time frame.

MR. WYLIE: Well, in a subtle manner, did the interest of the five Senators in the Lincoln case lead you to meet with Mr. Keating about Lincoln after September of 1987?

MR. WALL: I had met with him by coincidence four days earlier.

MR. WYLIE: You met with him four days--

MR. WALL: Four days earlier than that published indication.

MR. WYLIE: But you did not meet with Mr. Keating afterwards?

MR. WALL: I met with him twice more after that, once each of the succeeding years.

MR WYLIE: After you became Chairman of the Federal home Loan Bank Board?

MR. WALL: Yes.

MR WYLIE: And, as I say, did that cause you to meet with Keating, the interest of the Senators, or did you do that --

MR. WALL: No, no. It was a situation of someone who was in our regulated universe who was having problems with us. I wanted to hear it first-hand. And I reported in my testimony to the extent that I have the detail -- and the detail was maintained by the staff who were present -- of each of those three meetings.

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MR. RIDGE: Thank you, Mr. Chairman.

Mr. Wall, with the exception of the two contacts you had with Senator DeConcini, did any of the other four Senators who were present at the April meeting with the Federal Home Loan Bank Board, did representatives in San Francisco ever contact you in any fashion?

MR. WALL: I had had a telephone call in August or September, as I recall -- I'm sorry, in July or August of 1987, shortly after arriving at the Board, from Senator Cranston, raising the question of this pending application and urging that we make a decision on it, that it had been there for over a year when I got there, acknowledging, of course, that that was not my responsibility, but that it was something that he was urging that we make a decision on,not what the decision should be, but that we should make a decision.

I had another phone call from Senator Cranston in March or April of this year, when he was calling at the time we were considering what was a series of three different proposals to sell, he urged that we give prompt consideration to the

> then pending application to sell, not what our decision should be, but that we should give it prompt consideration, and as I said before, we did not need any urging for that.

MR. RIDGE: Thank you.

What is most remarkable about Chairman Wall's abundant testimony is not his disclaimers that any Senator influenced any regulatory action in regard to Lincoln, but rather his agency's decision to abandon aggressive tactics and to pursue, instead, a protracted, amicable resolution with Lincoln. Toward the end of Chairman Wall's testimony, the finger pointing between the San Francisco and Washington regulators, as each group tried to distance itself from the other, became plainly nasty. That confrontation, and the tension it revealed among the regulators, poignantly demonstrated the reasons why Lincoln was not seized until April of 1989.

Most press accounts, ignoring all of this background, have accused Senator Riegle and four of his colleagues of improperly "intervening" in the regulatory process. These same press accounts have routinely, and we think irresponsibly, alleged that the "intervention" caused a substantial delay in the shutdown of Lincoln at great expense to the taxpayers. A review of even the brief excerpts of testimony

of the regulators quoted above confirms the falsity of these reports.

Senator Riegle's very limited conversation with regulators concerning Lincoln, which is described in his supplemental submission dated December 4, 1989, had absolutely no impact on any decision, action or failure to take action by the Office of Thrift Supervision. For these reasons we respectfully submit that as to Senator Riegle further review of his conduct is not warranted, because there is simply no reason to believe on the basis of information before the Committee that any improper conduct may have occurred.

Sincerely yours,

Thomas C. Green
Attorney for
Senator Donald W. Riegle, Jr.

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