

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

In re WESTERN SAVINGS AND LOAN	)	MDL Docket No. 995
ASSOCIATION/RTC SECURITIES	)	No. CIV 93-131-PHX-SMM
LITIGATION	)	
	)	
_____	)	

NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION

ALL PERSONS WHO PURCHASED THE 15 5/8% SUBORDINATED CAPITAL NOTES DUE JUNE 15, 1995 ("NOTES") ISSUED BY WESTERN SAVINGS AND LOAN ASSOCIATION ("WESTERN") DURING THE PERIOD COMMENCING WITH THE ISSUANCE OF THE NOTES IN JUNE, 1985 THROUGH AND INCLUDING JUNE 15, 1989, INCLUSIVE.

PLEASE READ THIS NOTICE CAREFULLY  
THIS NOTICE RELATES TO A PROPOSED  
SETTLEMENT OF THIS CLASS ACTION AND, IF YOU  
ARE A CLASS MEMBER, CONTAINS IMPORTANT INFORMATION  
AS TO YOUR RIGHTS CONCERNING THE  
SETTLEMENT AS FURTHER DESCRIBED BELOW

YOU ARE HEREBY NOTIFIED, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and an Order of the United States District Court for the District of Arizona (the "Court"), that a settlement in the amount of One Million Seven Hundred Fifty Thousand (\$1,750,000.00) Dollars (the "Settlement") of the captioned litigation (the "Litigation") has been reached by the parties, which Settlement is subject to approval by the Court, and which, if approved, will result (a) in the creation of the Settlement Fund; and, (b) in the dismissal of the Class Action and the release of the Released Claims (as defined below) as against the Defendants and other Released Persons (as defined below).

This Notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations in the Class Action or the merits of the claims or defenses asserted. This Notice is to advise you of the proposed Settlement thereof and of your rights in connection therewith.

I. DEFINITIONS

As used in this Notice, the following terms have the meanings specified below:

1. "Person" means an individual, corporation, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, government or any political subdivision or agency thereof and any business or legal entity and their spouses, heirs, predecessors, successors, representatives or assignees.
2. "Settlement Class" means all persons and entities who purchased Western Notes during the Settlement Class Period. The Settlement Class is divided into three subclasses: (1) purchasers in the initial offering, (2) purchasers after the initial offering but before information regarding the imminent failure of Western was widely disseminated, and (3) purchasers after information regarding the imminent failure of Western was widely disseminated. Excluded from the Settlement class are Western; the Defendants herein, any entity in which the Defendants have or had a controlling interest, and the legal representatives, heirs, successors or assigns of the Defendants; and those persons who timely and validly request exclusion from the Class pursuant to the "Notice of Pendency and Settlement of Class Action."
3. "Settlement Class Member" or "Member of the Settlement Class" means a Person who falls within the definition of the Settlement Class as set forth above.
4. "Settlement Class Period" means the period commencing with the issuance of Western Notes in June, 1985 through and including June 15, 1989, inclusive.
5. "Plaintiffs" means Representative Plaintiffs Hyman Brazlin, Humberto S. Lopez, Czarina M. Lopez, Milton Saper, Garry Shuster, Manuel Wilkey and George Johnson.
6. "Streich Lang" means Streich Lang, a Professional Association, f/n/a Streich Lang Weeks & Cardon, a Professional Association; the Streich Lang partnership; any and all predecessor law firms; and each of their current and past directors, partners, income directors, income partners, counsel, attorneys, associates and employees, and the past and present spouses of each such individuals, including without limitation, Thomas J. Lang, Kathleen Lang, Harvey E. Streich, Hilda Streich, Earl E. Weeks, Janet Weeks, Marriner P. Cardon, Dan M. Durrant, Joyce Durrant, Preston J. Steenhoek, Mary Steenhoek, James K. LeValley, Nancy Phillipi, William S. Hawgood II, A. Ennis Dale, Susan B. Dale, Louis A. Stahl, Mary Kathleen Stahl, John J. Dawson, Michael A. Yarnell, Karen Alice Yarnell, Ronald Jay Cohen, Ruth Cohen, Jock Patton, Sonchen Patton, Laurie B. Craig, Pamela R. Craig,

Lawrence A. Katz, Ellen Katz, Kent W. Stevens, Linda L. Stevens, Robert E. Miles, Linda Miles, Deana S. Peck, Don P. Martin, Charles W. Jirauch, Dana Jirauch, David E. Weiss, Sharon Weiss, Robert T. Bailes, Connie Bailes, Jeffrey Willis, Susan Willis, Christopher D. Johnson, Christine Johnson, Donald L. Gaffney, Debbie Gaffney, Dale Pontius, Jeffrey L. Gage, James F. Morrow, Bruce B. May, Deborah Sue May, Kent E. Cammack, Noelene Cammack, Anne M. Hanyak, Frank M. Placenti, Barbara Placenti, Edwin Baird Wainscott, Robin Wainscott, Michael F. McNulty, Linda McNulty, Steven D. Pidgeon, Kathryn Pidgeon, Ellen L. Canacakos, Jeffrey Murphy, Robert K. Ferland, Sandra Ferland, Douglas O. Guffey, Teddyleen Guffey, Susan G. Boswell, Arthur L. Boswell, E. Jeffrey Walsh, Cheryl Walsh, Francis J. Burke, Mary Burke, Craig D. Hansen, Thomas J. Salerno, Tricia N. Salerno, Ronald P. Platner, Mary S. Platner, Richard Underwood, Kerry Moore, N. Gregory Smith and Gayle Smith; and the Branch Seven Properties partnership, and its former partners and their spouses, including without limitation Thomas J. Lang, Kathleen Lang, Marriner P. Cardon, Dan M. Durrant, Joyce Durrant, Preston J. Steenhoek, Mary Steenhoek, William S. Hawgood II, Jock Patton and Sonchen Patton.

7. "Western" means Western Savings and Loan Association and all of its predecessors, successors, and all present and former parents, subsidiaries, divisions and related or affiliated entities.

8. "Notes" means the 15 5/8% Subordinated Capital Notes due June 15, 1995 issued by Western.

9. "Defendants" means Streich Lang; it is expressly understood and agreed that "Defendants" does not include any other defendant in the Litigation, or any other person who later may be named as a defendant in the Litigation.

10. "Related Parties" means each of a Person's past or present directors, officers, employees, partners, principals, agents, underwriters, issuers, insurers, co-insurers, reinsurers, controlling shareholders, any entity in which the Person has a controlling interest, attorneys, accountants, auditors, banks or investment bankers, advisors, personal or legal representatives, predecessors, successors, parents, subsidiaries, divisions, joint ventures, assigns, spouses, heirs, associates, related or affiliated entities.

11. "Released Persons" means the Defendants and their Related Parties; it is expressly understood and agreed that "Released Persons" does not include any other person who is a defendant in the Litigation, or any other person who later may be named as a defendant in the Litigation.

## II. THE RIGHTS OF SETTLEMENT CLASS MEMBERS

If you are a member of the Settlement Class, you may receive the benefit of and you will be bound by the terms of the proposed settlement described in Part III of this Notice, upon approval of it by the Court. If you do not wish to be included in the Class and you do not wish to participate in the proposed settlement described in this Notice, you may request to be excluded. To do so, you must so state in writing no later than \_\_\_\_\_, 1997. You must set forth the name of this Litigation (Western Savings Securities Litigation (Brazlin, et al. v. Streich Lang Weeks & Cardon, et al.)), No. CIV-93-131-PHX-SMM, your name, address and telephone number, and the name and address of the record owner if different from your own. You must also set forth the number of Western Notes purchased during the Settlement Class Period, the purchase price of the Notes, the dates of such purchase(s), the sales price of those Notes, and the dates of such sale(s), if any. The exclusion request should be addressed as follows:

Western Savings Securities Litigation  
(Brazlin v. Streich Lang)  
c/o Gilardi & Co.  
P.O. Box 8040  
San Rafael, CA 94912-8040

NO REQUEST FOR EXCLUSION WILL BE CONSIDERED VALID UNLESS ALL OF THE INFORMATION DESCRIBED ABOVE IS INCLUDED IN ANY SUCH REQUEST.

If you validly request exclusion from the Class, (a) you will be excluded from the Class, (b) you will not share in the proceeds of the Settlement described herein, (c) you will not be bound by any judgment entered in the Litigation, (d) you will not be precluded, by reason of your decision to request exclusion from the Class, from otherwise prosecuting an individual claim, if timely, against the Defendants based on the matters complained of in the Litigation.

If you are a member of the Settlement Class, you may, but are not required to, enter an appearance through counsel of your own choosing at your own expense. If you do not do so, you will be represented by Plaintiffs' Settlement Counsel: Keith F. Park and Helen J. Hodges, Milberg Weiss Bershad Hynes & Lerach, 600 West Broadway, Suite 1800, San Diego, CA 92101.

### III. THE PROPOSED SETTLEMENT

A settlement has been reached in the litigation between the Plaintiffs and the Defendants which is embodied in a Stipulation of Settlement (the "Stipulation") dated as of \_\_\_\_\_, 1997, on file with the Court. The attorneys for Plaintiffs, on the basis of, among other things, a thorough investigation of the facts and the law relating to the acts, events, and conduct complained of and the subject matter of the Class Action, and a consideration of the Court's recent order dismissing with prejudice the Third Amended Complaint and the motion to reconsider that order, have concluded that the proposed settlement is fair to and in the best interests of the Settlement Class. While the Defendants deny all charges of wrongdoing and deny liability, they have agreed to settle the Class Action on the basis proposed in order to put to rest all further controversy and to avoid substantial expenses and the inconvenience and distraction of burdensome and protracted litigation.

The following description of the proposed Settlement of the Class Action is only a summary, and reference is made to the text of the Stipulation, on file with the Court, for a full statement of its provisions:

1. The settlement fund ("Settlement Fund") consists of \$1,750,000.00 in cash plus interest accruing at the federal funds targeted rate beginning June 1, 1997, which will be deposited into an interest bearing escrow account on August 31, 1997.

2. Upon approval of the Stipulation by the Court and entry of a judgment that becomes a final judgment and upon satisfaction of the other conditions to the Settlement, described below, a portion of the Settlement Fund will be allocated as follows:

(a) To pay fees to counsel for Representative Plaintiffs, reimburse Representative Plaintiffs and their counsel for the out-of-pocket expenses and costs incurred in connection with this litigation, if and to the extent allowed by the Court; and

(b) To pay the reasonable costs incurred in the preparation of any tax returns required to be filed on behalf of the Settlement Fund as well as the taxes (and any interest and penalties determined to be due thereon) owed by reason of the earnings of the Settlement Fund, including all Taxes and Tax Expenses as defined in the Stipulation.

3. A Plan of Allocation will be developed at the conclusion of the related cases which have been filed on behalf of purchasers of Western Notes, Brazlin v. Western Savings, No. CIV-91-0078-PHX-SMM and Brazlin v. First Interstate, No. CIV-92-1789-PHX-SMM. Subject to the approval of such Plan of Allocation, the balance of the Settlement Fund, less any deductions for costs and expenses allowed by the Court and taxes due, will be invested by the Escrow Agent in instruments backed by the full faith and credit of the United States Government or fully insured by the United States Government or an agency thereof for the benefit of the Settlement Class. A previous settlement in Brazlin v. First Interstate recovered \$150,000. A second settlement in a related case with Gary Driggs has been signed and you will receive a separate notice relating to that settlement. Other defendants in the related cases are Deloitte & Touche and several former officers and directors of Western Savings and Loan.

4. The Settlement Fund, less any deductions for costs and expenses allowed by the Court and taxes due, will be maintained by the Escrow Agent for the benefit of the Settlement Class, as provided in the Stipulation.

5. If the proposed Settlement is approved by the Court, the Court will enter a Judgment which will dismiss the Class Action as against the Defendants with prejudice, and bar and permanently enjoin the Plaintiffs and each Settlement Class Member, from prosecuting the Released Claims against the Released Persons, and any such Settlement Class Member will be conclusively deemed to have released any and all such Released Claims against the Released Persons. The Court will retain jurisdiction over implementation of the Settlement and disposition of the Settlement Fund, hearing and determining any application by Plaintiffs' counsel for attorneys' fees, costs, and expenses (including fees and costs of experts and/or consultants), and enforcing and administering the Stipulation, including any releases executed in connection therewith.

As used above, the "Released Claims" will mean all claims (including "Unknown Claims" as defined below), demands, rights, liabilities and causes of action of every nature and description whatsoever, known or unknown, asserted or that might have been asserted, including, without limitation, claims for negligence, gross negligence, breach of duty of care and/or breach of duty of loyalty, fraud, negligent misrepresentation, conspiracy, breach of fiduciary duty, breach of contract or violations of any state or federal statutes, rules or regulations, by any Settlement Class Member against the Released Persons arising out of, relating to, or in connection with both: (i) a Settlement Class Member's ownership, purchase(s) or sale(s) of Western Notes during the Class Period; and (ii) the facts, transactions, events, occurrences, acts, disclosures, statements, omissions or failures to act which were alleged or could have been alleged in the Litigation based upon the facts which were alleged.

"Unknown Claims" as used in the above definition of Released Claims means any Released Claims which any Representative Plaintiff or any Settlement Class Member does not know or suspect to exist in his, her or its favor at the time of the release of the Released Persons which, if known by him, her or it, might have affected his, her or its settlement with and release of the Released Persons, or might have affected his, her or its decision not to object to this Settlement. With respect to any and all Released Claims, upon the Effective Date, the Representative Plaintiffs and the Settlement Class Members will be deemed to have, and by operation of the Judgment will have waived any and all provisions, rights and benefits conferred by any law of any state or territory of the United States, or principle of common law, which is similar, comparable or equivalent to §1542 of the California Civil Code, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

The Representative Plaintiffs and Settlement Class Members may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Released Claims, but each Representative Plaintiff and Settlement Class Member, upon the Effective Date, will be deemed to have, and by operation of the Judgment will have, fully, finally, and forever settled and released any and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without regard to the subsequent discovery or existence of such different or additional facts.

IV. NOTICE TO BANKS, BROKERS, AND OTHER NOMINEES

Banks, brokerage firms, institutions, and other persons who are nominees who purchased Western Notes for the beneficial interest of other persons as of any day from June, 1985 through and including June 15, 1989 are requested within ten (10) days of receipt of the Notice, (1) to provide Plaintiffs' Settlement Counsel with the names and addresses of such beneficial purchasers, or (2) to forward a copy of the Notice to each such beneficial purchaser and provide Plaintiffs' Settlement Counsel with written confirmation that the notice has been so forwarded. The reasonable costs and expenses of complying with this provision will be paid upon submission of appropriate documentation. Additional postage pre-paid copies of the Notice may be obtained from Plaintiffs' Settlement Counsel for forwarding to such beneficial owners. All such correspondence to Plaintiffs' Settlement Counsel should be addressed as follows:

Western Savings Securities Litigation  
(Brazlin v. Streich Lang)  
c/o Gilardi & Co.  
P.O. Box 8040  
San Rafael, CA 94912.

V. ATTORNEYS' FEES, COSTS AND EXPENSES OF PLAINTIFFS' ATTORNEYS

Counsel for plaintiffs in the Class Action will not apply to the Court for an award of attorneys' fees from the Settlement Fund at this time. Plaintiffs' counsel will apply for reimbursement of litigation expenses and disbursements actually incurred in connection with this litigation which, if granted by the Court, will be paid from the Settlement Fund. Prior to entry of the Judgment, counsel for plaintiffs will apply to the Court for an award of attorney's fees, which, if granted by the Court, will be paid from the Settlement Fund.

VI. THE HEARING

A hearing (the "Hearing") will be held before the Honorable Stephen M. McNamee at United States District Court, District of Arizona, 6077 U.S. Courthouse, Phoenix, AZ 85025, on \_\_\_\_\_ 1997, at \_\_\_\_\_m., for the purpose of determining whether the proposed Settlement is fair, reasonable, adequate and in good faith and whether it should be approved by the Court; whether Judgment should be entered dismissing the Class Action on the merits and with prejudice as against the Defendants. The Hearing may be adjourned from time to time by the Court at the Hearing or any adjourned session thereof without further notice.

Any member of the Class who has not requested exclusion may appear at the hearing to show cause why the proposed Settlement should not be approved, or the Class Action should not be dismissed on the merits with prejudice as against the Defendants, and to present any opposition to the application of Plaintiffs' counsel for costs and expenses; provided, however, that no such person will be heard, unless his or her objection or opposition is made in writing and is filed, together with copies of all other papers and briefs to be submitted by him or her to the Court at the hearing, with the Court no later than \_\_\_\_\_, 1997, and showing due proof of service on:

KEITH F. PARK  
HELEN J. HODGES  
MILBERG WEISS BERSHAD,  
HYNES & LERACH  
600 West Broadway, Suite 1800  
San Diego, CA 92101

and Counsel for Defendants:

JEFFREY D. COLMAN  
JENNER & BLOCK  
One IBM Plaza, Suite 4500  
Chicago, IL 60611

Unless otherwise ordered by the Court, any member of the Settlement Class who does not make his or her objection or opposition in the manner provided will be deemed to have waived all objections and opposition to the fairness, reasonableness and adequacy of the proposed settlement, or to the request of Plaintiffs' counsel for costs and expenses.

VII. EXAMINATION OF PAPERS AND INQUIRIES

This notice contains only a summary of the terms of the proposed Settlement. For a more detailed statement of the matters involved in this Class Action, reference is made to the pleadings, to the Stipulation of Settlement and to other papers filed in this action which may be inspected at the Office of the Clerk of the United States District Court, United States Courthouse, 6077 U.S. Courthouse, Phoenix, AZ 85025, during business hours of each business day.

Inquires regarding the Class Action should be addressed as follows:

Western Savings Securities Litigation  
(Brazlin v. Streich Lang)  
c/o Gilardi & Co.  
P.O. Box 8040  
San Rafael, CA 94912-8040

DO NOT CONTACT THE COURT REGARDING THIS NOTICE.

DATED: \_\_\_\_\_, 1997

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

NBK60815.NO3