

**A REPORT TO THE  
NEBRASKA LEGISLATURE  
CONCERNING THE THREE (3) FAILED FINANCIAL  
INSTITUTIONS OF COMMONWEALTH SAVINGS COMPANY,  
STATE SECURITY SAVINGS COMPANY,  
AND  
AMERICAN SAVINGS COMPANY**

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## INDEX

	PAGE
I. Introduction	ii
II. Glossary of Terms	v
III. Statement of Facts	1
A. Commonwealth Savings Company	1
1. Newton Copple Property	20
2. Marvin Copple Property	22
3. S.E. Copple Property	25
B. State Security Savings	38
1. Shoppers Fair	40
2. Analysis of State Security Committee Report	65
C. American Savings Company	79
IV. Conclusion	81
V. Statement Pertaining to Attachments	83
VI. Table of Documents Cited	84
<b>ATTACHMENTS</b>	

## I. INTRODUCTION

This report to the Nebraska Legislature is a serious and powerful indictment of the Nebraska banking community and, in our opinion, shows corruption at the highest level of the banking establishment to include the Nebraska Department of Banking and Finance, (Department) the previous office of the Governor, and certain members of the Nebraska Legislature.

These highly trusted officials consciously permitted the reckless "taking" of assets belonging to the depositors of three (3) failed Nebraska lending institutions, namely; Commonwealth Savings Company (CWS), State Security Savings Company (SSS) and American Savings Company (ASC). It is our belief that these individuals evaded Nebraska laws which were designed to protect and ensure the safety of deposits in our financial institutions.

We have discovered that bank regulators not only failed to take action against those engaged in corruption, but in several instances these same bank regulators allowed and assisted in the corruption which took place.

Paul Amen (Amen), Director of the Department and/or the Department, prior to and immediately following the failure of CWS, assisted "big bankers" in coercing S.E. Copple (SE) into turning over millions of dollars in personal assets to secure previously unsecured loans.

Roger Beverage (Beverage), Director of the Department from

December, 1983 to June, 1985, assisted in disguising statutory violations occurring in SSS and allowed the depositors to suffer financial loss created by the owners of that institution and their business associates.

The corruption which has taken place over the past seven years continues into the present. In the case of the CWS failure, the investigation became little more than a "witch hunt" and a convenient ladder for political aspirants. The SSS investigation was, in our opinion, a white-wash of the "deal making" between bankers and political figures. The investigation into American Savings Company (ASC) was abandoned due to time constraints on the part of your legislative investigative committee. It is our opinion that the dealings which occurred in ASC must have been so outrageous that the committee chose to leave the facts surrounding the failure dormant. And finally, the investigative committee is presently involved in the investigation of Franklin Credit Union. Even at these early stages, we have recognized the all too familiar signals indicating a "cover up".

We are the first to admit that the investigative bodies appointed to investigate bank failures did not do so by their own choosing. Those duties were delivered to them, with the requirement that they take all necessary action, by laws created by legislation and by rules and regulations promulgated by the Governor and the Attorney General. These investigative bodies were paid by the taxpayer to carefully examine the cause of banking

failures. Finally, these investigative bodies were to submit a true, accurate, and well documented report of their findings. These findings were then to be made available to the public.

Your committees which were charged with the responsibility of investigating the cause of failure of these three institutions had available to them all of the information concerning the conduct of certain bankers, political figures, and department heads. This information was deliberately withheld from the depositors and the general public, thus preventing them from taking appropriate remedial measures.

Having carefully analyzed the various reports which you have presented to the public, we recognize the inherent conflict built into the investigative process. On the one hand, you had a duty to minimize the impact of a failing banking industry, and on the other hand you had an obligation to be truthful to the public, and more specifically, to the depositors. It is the recognition of this conflict that has prompted us to submit this report.

## II. GLOSSARY OF TERMS

AIG	=	American Investment Group
AMEN	=	Paul Amen
ASC	=	American Savings Company
BEVERAGE	=	Roger Beverage
CB	=	City Bank Lincoln
CBC	=	City Bank Crete
COMMITTEE	=	Legislative Committee on Banking, Commerce and Insurance
DEPARTMENT	=	Department of Banking and Finance
DOMINA	=	David Domina
DOUGLAS	=	Paul Douglas
ED	=	Ed Copple
EPP	=	East Park Plaza
FCB	=	Fillmore County Bank
FNB	=	First National Bank
FNBO	=	First National Bank Omaha
FTB	=	First Tier Bank
FOSDICK	=	Mike Fosdict
HAKE	=	Ken Hake
HARRIS	=	Bill Harris
HB	=	Havelock Bank
KERREY	=	Robert Kerrey
LAHNERS	=	Ron Lahners
LIESKE	=	Gustave Lieske
MARVIN	=	Marvin Copple
MILLER	=	John Miller
NBC	=	National Bank of Commerce
NEWTON	=	Newton Copple
OLSEN	=	Leon Olsen
PHIPPS	=	Joel Phipps
PLESSMAN	=	Attorney Alan Plessman
PP	=	Pioneer Plaza
RENTFRO	=	Robert Rentfro
RJS	=	Rentfro, Joyce and State Security Savings Partnership
RJW	=	Rentfro, Joyce and Tom White Partnership
SE	=	S.E. Copple
SF	=	Shoppers Fair
SFC	=	Security Financial Corporation (Holding Company of SSS)
SIC	=	Security Investment Corporation (Subsidiary of SSS)

SSS = State Security Savings  
STUART = James Stuart, Jr.  
TIC = TransAmerican Investment Company  
WHITE = Tom White  
WRIGHT = William Wright

### III. STATEMENT OF FACTS

#### A. COMMONWEALTH SAVINGS COMPANY

The facts prior to and following the failure of the Commonwealth Savings Company (CWS), are infinite. Certain events, when viewed in isolation, appear detached and insignificant to the failure. However, when these same events are blended together, a more distinct picture begins to form, allowing exposure of the truths surrounding this devastating story.

Our concern then, is away from the "criminals" which have been associated with the failure, and focused more on the conduct of our Nebraska Department of Banking and Finance (Department), the previous office of the Governor, the Nebraska banking community, and the inherent conflict on the part of our legislative investigative bodies and law enforcement agencies in relationship to this failure and others.

To begin unravelling the CWS story, a logical point of beginning is just prior to the election of Governor Robert Kerrey (Kerrey) in mid-1982.

Kerrey, in early 1982 had announced his intent to seek the office of Governor for the State of Nebraska. By mid-year, he had gained the support of several long time friends in his campaign efforts. These friends were James Stuart (Stuart), chairman of the board of the Commerce Group, the holding company which owns the majority stock in National Bank of Commerce (NBC), William Wright (Wright), a stockholder in the State Security Savings Company

(SSS), and personal legal counsel and advisor to Kerrey, and Roger Anderson (Anderson), who had ownership interests in four (4) Nebraska lending institutions; namely, Havelock Bank (HB), City Bank (CB), City Bank of Crete (CBC), and Fillmore County Bank of Geneva (FCB).

Kerrey and his three associates were involved in numerous real estate projects both separately and together. Kerrey obtained much of the funding for his various projects through the lending institutions in which his banker friends had interests.<sup>1</sup>

The "deals" and "deal-making" between Kerrey and these bankers were numerous. Wright, through a corporation, borrowed a million or more from Anderson's City Bank, Stuart borrowed from Wright's SSS, Kerrey, primarily through various partnerships and corporations, borrowed from at least two of the bankers and, perhaps, from each of them. And, it is unknown how much Anderson borrowed from Stuart and Wright.<sup>2</sup>

These banker-to-banker and banker-to-Governor loans involved a multitude of land developments in Lincoln; Prairie Life, Taylor Meadows, Quail Valley Apartments, Wallbangers, Racquetball Courts, Grandmother's Skillet at both 70th and A and West O, Shopper's Fair

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<sup>1</sup>David Domina and John R. Miller, A Special Report of the Investigation of Public Officials (Jan. 20, 1984).

<sup>2</sup>Committee on Banking, Commerce and Insurance, 89th Nebraska Legislature, Report on the Investigation of State Security Savings Company, Lincoln, Nebraska (Jan. 6, 1987).

and Pioneer Plaza, to name a few.<sup>3</sup>

Because most of these developments were held in the names of Corporations or partnerships, the average citizen would be unaware and would have no interest in these relationships if not for the importance they would later play in this story.

During his campaign for Governor, Kerrey received massive news coverage by Lincoln's major Republican newspaper, the Lincoln Journal. Oddly enough, Kerrey was a registered Democrat, while his chief advisor, Wright, served on the Board of Directors for the Lincoln Journal. In November, 1982, Kerrey won the nomination for Governor for the State of Nebraska and was sworn into office in January of 1983.

Immediately following his election, Kerrey named Wright as his transition team leader. The previous administration had been Republican and we assume Kerrey was anxious to replace many of the Republican appointees with fellow Democrats. Ultimately, it was decided that one of the few Republicans to be retained would be Paul Amen (Amen) as the Director for the Nebraska Department of Banking and Finance (Department).

Before Amen was initially appointed as Director for the Department, he served as President of NBC until 1973, when he became Chairman of the Board of Directors and an officer in a number of NBC affiliated holding companies. He continued as

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<sup>3</sup>Id.

Chairman of the Board until January, 1979, when he was appointed Director of the Department by Governor Charles Thone.<sup>41</sup>

Sometime prior to 1981, the banking industry in the State of Nebraska began experiencing financial difficulties. By 1982, these difficulties had become serious and the Department observed an increase in bank violations and ultimately criminal violations.<sup>5</sup> Included among these financially stressed lending institutions were American Savings Company (ASC), CWS, First Security Savings Company (FSS) and First Security Bank and Trust (FSB&T) of Beatrice, HB, CB, CBC, FCB, and SSS.

Amen, became quite alarmed at the growing number of violations occurring during this period.<sup>6</sup> Amen and Barry Lake (Lake), legal counsel for the Department, decided that it was necessary to request additional staff to assist in the investigation of these violations and sought help from Attorney General Paul Douglas (Douglas) for a special attorney from his office.

As early as 1981, law enforcement agencies on both the State and Federal level, had begun investigations into criminal activity in several lending institutions in the State. Those with direct knowledge of the investigations were Amen, Kerrey, U.S. Attorney Ron Lahners (Lahners), Douglas and Lake.

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<sup>4</sup>Domina Report, Supra.

<sup>5</sup>Id. (Lake & Amen Testimony).

<sup>6</sup>Id.

The State investigated numerous institutions, to include ASC, FSS, CWS and the Anderson related institutions. On the Federal level, the U.S. Attorney's Office, through FBI Agent John Campbell, targeted all of the Anderson banks and was investigating FSB&T in Beatrice.<sup>7</sup>

In review of the Amen and Lake testimony in the Domina Report,<sup>8</sup> we believe that law enforcement agencies, the Department, the Governor's office and the banking Community had adapted a mutual philosophy of secrecy regarding criminal activities in banking. It appears that their theory resulted from the belief that if the public was made aware of the criminal activity that was occurring in banking, it would cause a major "run" throughout the industry.

In the January term of the 1983 Legislature, LB 58, the Multi-bank Holding Company Bill, <sup>9</sup>12 was again introduced by Senator John DeCamp. LB 58 would allow corporations to acquire banks in the same manner as individuals and partnerships. It would further increase to nine (9) the number of banks that could be purchased by a bank holding company.

For the first time in the seven (7) year history of LB 58,

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<sup>7</sup>Affidavit of Newton Copple (Dec. 8, 1989); Transcript of Jury Trial at 2637-2640, United States of America v. Newton E. Copple, et. al., doc. CR84-00035-1, (D.Neb. June 19, 1985).

<sup>8</sup>See generally, Domina Report, Supra.

<sup>9</sup>L.B. 58, 85th Nebraska Legislature (1983).

there was an agreement among all large commercial banks in support of the Bill.<sup>10</sup> Both Stuart and Anderson had been long time supporters of multi-bank holding company legislation. For years they had pushed its passage, without success. It was not until their close friend, Kerrey, was elected Governor that the bill finally passed.

Many small banks and farmers in rural Nebraska were originally opposed to the passage of LB 58, fearing the elimination of small personalized banking facilities. Two weeks after taking office, Kerrey reaffirmed his support of LB 58 and announced his intent to pursue a new Ten Million (\$10,000,000.00) Dollar agricultural lending program to assist credit-pinched farmers.<sup>11</sup> This program would be known as the Nebraska Agricultural Recovery Fund.

On January 24, 1983, while testifying before the Legislature, Kerrey advised the Senators that he had instructed Amen to develop the recovery program whereby farmers would be assured needed financial aid and protection from forced foreclosures. In our opinion, this clever strategy had the effect of convincing the farmers that LB 58 would not harm them and that they should no longer oppose its passage. Amen, who had previously maintained neutrality with regard to LB 58, also testified on January 24,

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<sup>10</sup>Multi-Bank Holding Company Legislation, Hearings on LB 58 before the Committee on Banking, Commerce and Insurance, 85th Nebraska Legislature (1983).

<sup>11</sup>Id.

1983, this time speaking in favor of passage.<sup>12</sup>

Farmers throughout the State of Nebraska can now bear witness to the reality of the promises made to them regarding this new lending program and its protection from forced foreclosures.

Immediately following Amen's reappointment to the Department in January of 1983, Amen explained to Kerrey the seriousness of the problems occurring in the banking industry. He also stressed the need for additional legislation.<sup>13</sup> Amen was aware that the FBI and State law enforcement agencies were involved in criminal investigations in CWS and its President, S.E. Copple (S.E.) and FSS and FSB&T and its President, James Gillette (Gillette), the grandson-in-law of S.E.

According to Amen, he specifically advised Kerrey of the FBI investigation into FSS and FSB&T which he indicated could have a "spill over" effect into CWS. We believe that Kerrey knew that Anderson was also being investigated by the FBI because of his close social and business ties with Anderson.

It was due to the problems in Beatrice and other failing institutions that Amen anticipated the need for LB 241, the "Failing Bank Bill", and expressed the same to Kerrey.

On February 8, 1983, Lake, with the approval of Kerrey and

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<sup>12</sup>Id.

<sup>13</sup>Domina Report and State Security Savings Report, Supra.

Amen, appeared on behalf of the Department in favor of LB 241.<sup>14</sup> This bill would allow the Department to act swiftly to merge a failing financial institution into a healthy bank or allow a bank holding company to acquire a failing institution.

Lake indicated to the committee that although there were no current problems in the banking industry, the legislation was needed to be consistent with changes created by deregulation (emphasis added).<sup>15</sup> At the moment Lake was speaking, the Department was inundated with investigations into criminal activity and the failure of many Nebraska banks. We believe Lake had been instructed by the Department and Kerrey to mislead the Legislator's about the serious problems in the industry.

Following the passage of LB 241, First National Bank of Omaha (FBNO) acquired the majority of outstanding stock in the two failing Beatrice lending institutions; namely, FSS and FSB&T.<sup>16</sup>

Amen was concerned about public exposure regarding the FBI investigations into Beatrice because of the family relationship of SE to Gillette, and their respective lending institutions. Amen

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<sup>14</sup>Merger or Acquisition of Certain Financial Institutions, Hearings on LB 241 before the Committee on Banking, Commerce and Insurance, 85th Nebraska Legislature (1983).

<sup>15</sup>Id.

<sup>16</sup>Agreement, dated April 10, 1983, between First National Bank of Omaha, First Security Bank and Trust Company of Beatrice and the Nebraska Depository Institution Guaranty Corporation and Agreement, dated April 10, 1983, between First National Bank of Omaha, First Security Savings Company of Beatrice and the Nebraska Depository Institution Guaranty Corporation.

knew that criminal violations had occurred in the CWS and the Beatrice institutions and wanted to keep the investigations quiet for fear of a "run".<sup>17</sup> Amen had maneuvered the acquisition of the two Beatrice facilities by FNBO and was hopeful that the criminal investigations could be kept from the public long enough to solve the problems in CWS.

Amen, as Director for the Department, had an enormous job on his hands. The financial problems in the industry were not simply a matter of the general borrowing population finding themselves unable to repay loans which they had obtained. It was much more serious. In addition to generally poor economic conditions, bankers had borrowed millions of dollars from each other and in most cases the loans were secured by only a financial statement.<sup>18</sup> This massive borrowing and the banker's inability to repay the loans, contributed to the strain on an already burdened industry.

These bankers, finding themselves in financial trouble and unable to repay their debt to other banks, created a hardship on those banks, thus, causing a domino affect in the industry.

It is our opinion that Amen, although he had a duty to protect the depositors, found himself helping bankers to secure unsecured loans owed by other bankers, even when it included removing assets which should have been available to the depositors following the

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<sup>17</sup>Domina Report, Supra.

<sup>18</sup>Id.

failure of an institution. In the case of CWS, we have discovered that many millions of dollars in personal assets were obtained by big bankers, and with the assistance of the Department just prior to the failure of that lending institution.<sup>19</sup> These personal assets belonged to three Copple family members; S.E., Marvin, and Newton. There has been a unified effort on the part of banks and government officials to keep these facts from the public.

While Amen was actively involved in assisting certain bankers to secure themselves from losses resulting from the financial failures of other banks, he along with law enforcement agencies were busy keeping information about the condition of SSS, CWS and the four Anderson banks, from the public.<sup>20</sup>

By September, 1983, with the help of Amen, FNL, FNBO, and SSS, NBC had obtained millions of dollars in real estate which secured previously unsecured Copple debt.<sup>21</sup>

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<sup>19</sup>P. Amen, A History of the Major Events at Commonwealth Savings Company (Nov. 15, 1983); Tort Claim, First National Bank Omaha v. State of Nebraska (Apr. 8, 1985); Letter from Atty. Kenneth S. Copple to Atty. Stephen H. Nelson, dated May 11, 1983, (Capitol Beach Inc. property & the Dept. of Banking & Finance).

<sup>20</sup>(Lake Testimony) Domina Report, Supra.

<sup>21</sup>See generally, In re S.E. Copple, a/k/a/ Sumner E. Copple, Debtor, Case No. Bk 85-1847, filed July 14, 1985 (Bankr. Neb.); Trustee's Deed, dated June 17, 1983, executed by S.E. Copple, Trustee and filed in the Office of the Register of Deeds of Lancaster County, Nebraska, as Instrument Number 83-12412; and Deed of Trust, Assignment of Rents and Security Agreement, dated August 19, 1983, executed by Marvin E. Copple and Joan H. Copple to John S. Pierce, Trustee for the Benefit of First National Bank and Trust Company of Lincoln, National Bank of Commerce Trust and Savings Association and State Security Savings Co.

On October 31, 1983, Kerrey held a press conference and announced that the Department was monitoring CWS. On November 1, 1983, the following morning, there was a run on the deposits and the State took the institution into Receivership.<sup>22</sup>

On November 2, 1983, the day following the CWS failure, an article appeared in the Lincoln Journal which read; "No Commonwealth Probe Asked".<sup>23</sup> The sense of that story was that Amen had not requested an investigation into the CWS failure by the Attorney General.

In reviewing the Domina Report, the following testimony by Lake is consistent with the Department's understanding with law enforcement and the Governor that the existence of criminal violations in banking would be kept secret.

LAKE:

- A. I would like to mention one thing about it, just as an example of it. We had been involved with an industrial savings company we had to close in 1981 and do a weekend merger. We had done an exhaustive investigation up there and I'd been up there for weeks at a time. And Paul was concerned about me being gone from the office so much. For us to do an investigation like this, literally we'd take our whole examination crew and stop examining institutions for weeks. I'd go up there, we'd just do nothing but try to complete this investigation. Once we got pretty close to being done all the industrials were saying, gosh, we can't file criminal charges on this quite yet. God, if it gets out this place was

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<sup>22</sup>Domina Report, Supra.

<sup>23</sup>No Commonwealth Probe Asked, Lincoln Journal, Nov. 2, 1983.

closed we're going to have a run on the rest of us. Everyone was always concerned, anything about industrials, about the--because of the fact that there were under insured, had a small guaranty, if you got a lot of public exposure to them, everybody wants to pull their money out of a bunch of them would cause a failure. So when we are involved in criminal investigation and filing of charges in the Omaha one there was always concern about a number of industrials. Not that we don't file them, but we have proper timing of what we do.

Q. But have you ever had a half million dollar theft?

A. Oh, the one in Omaha is a lot more than that.

Q. Was there a conviction?

A. Yeah, a conviction and believe it or not a probation, this year.<sup>24</sup>

Two days after the "No Probe" article, a statement from Omaha was "leaked" to the press and two entirely different articles appeared in the Lincoln Journal. One article was based on a foreclosure action filed by CWS against Dana Saylor-Robinson (Saylor-Robinson). That article quoted from an Answer filed by Saylor-Robinson's Omaha attorney, Warren Zwieback (Zwieback), which alleged fraud in the Commonwealth.<sup>25</sup> In a lawsuit dated October 18, 1985, Saylor-Robinson brought a malpractice action against Zwieback for filing an Answer which implicated her in criminal activity. The second article appearing in the Lincoln Journal

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<sup>24</sup>(Lake Testimony) Domina Report, Supra.

<sup>25</sup>Fraud Alleged in Commonwealth Loan, Lincoln Journal, Nov. 4, 1983; Commonwealth Savings Company v. Dana R. Saylor, Case No. 375-59, Answer, filed in Lancaster County District Court (Oct. 26, 1983).

indicated that Attorney General Douglas had been linked to questionable loan transactions in Commonwealth.<sup>26</sup>

It appears to us that Douglas was betrayed by his colleagues and that a plan was devised by Kerrey, Wright, and others linking him to alleged wrong-doings in CWS, which was in turn tied to FSS and FSB&T in Beatrice.

We further believe that Amen was re-appointed as Director of the Department to "take the heat" for the CWS failure.

Attorney General Douglas was an elected official. The only way he could be replaced during his term was by his own resignation, by death, or through impeachment proceedings. The only viable alternative for those seeking his removal was to discredit him publicly and push for his impeachment.

We do not wish to imply that we condone Douglas' involvement in the borrowing and lending practices which occurred at CWS. However, in reviewing the facts, his involvement in CWS was minuscule when contrasted to the involvement of Kerrey in SSS.

As Attorney General for the State, Douglas would have had access to all information pertaining to criminal violations in all Nebraska lending institutions. More specifically, he would have known the true extent of involvement between the Copple-related institutions of CWS and FSS and FSB&T, Beatrice. The public was made to believe there was serious financial and criminal

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<sup>26</sup>Id.

involvement between the two institutions. However, documentation substantiating those facts does not exist.

Douglas was also a long time friend to the Copple family and although we believe he would have declared a conflict in the direct investigation, we believe he would have, nevertheless, afforded the Copples a fair and just investigation into their alleged wrong doing.

In the case of the Anderson-related institutions, Douglas would have had information regarding those connections to SSS, Kerrey, Stuart, and Wright.

We find it interesting that the so-called "leak" would come from Omaha, where Warren Zwieback was the attorney then representing not only Saylor-Robinson, but also Anderson in his bank related matters. Zwieback was also a law partner to Patricia Lamberty, wife of Lou Lamberty, the Kerrey appointee as Director of the Department of Roads.

On November 15, 1983, John Miller (Miller) was appointed to replace Amen, as Interim Banking Director. Miller had previously been appointed by Kerrey to the Liquor Control Commission.

On November 18, 1983, David Domina was appointed as Special Assistant Attorney General to replace Attorney General Douglas. Domina was an attorney who had previously been appointed by Kerrey to the Educational Lands and Funds Board and who had worked as a law clerk in the law firm of Wright and Rembolt. Domina and Miller were assigned, among other things, to investigate the involvement

of public officials and their involvement, if any, in relationship to the failed CWS.

Senator John DeCamp (DeCamp), apparently found Kerrey's decision to have his two appointees, Domina and Miller, investigate matters surrounding the failure inappropriate. DeCamp addressed two letters to Kerrey. The first letter was dated November 7, 1983, and stated the following:

"As Governor, you are the "officer in charge" of enforcement of almost all laws governing the financial institutions in question and you are the only one with total access to all the information. Tragically, even though I am Chairman of the Banking Committee, I have only been able to obtain information "on the street", from "reporters" and similar means rather than from you."<sup>27</sup>

The second letter dated November 21, 1983, stated:

"It would appear at this time in point, Governor, that the question of any liability or potential liability of the State of Nebraska for reimbursement of any depositor's funds lost in this matter will be completely from determination as to whether there was any negligence, misfeasance, malfeasance other improper acts by officials of the State of Nebraska in the enforcement of any pertinent banking laws. And if there is not guilt, obviously there should not even be any potential liability by the state.

And Governor, it would be most unfair and unreasonable to expect your own people, Mr. Domina, Mr. Miller, and yourself for example, to investigate yourselves since you are the administrative officials in charge of the

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<sup>27</sup>Letter from Sen. John DeCamp to Gov. Robert Kerrey (Nov. 7, 1983) (inability to obtain pertinent info. from Gov. concerning Commonwealth failure).

Banking Department and since the Attorney General's office is the attorney with the responsibility of providing the legal guidance to the Banking Department and to you. In short, it simply becomes impossible for you and unfair to you to expect you to investigate yourselves on these very serious matter."<sup>28</sup>

During the course of Domina's investigation, Domina and Miller concluded that Lake was inept in his duties as legal counsel for the Department and he was terminated.

By the time the Domina Report was released on January 20, 1983, Lake had been terminated, Amen had resigned and the reputation of Douglas had been seriously tarnished. With Kerrey and his new appointees in total control, they could now modify and redirect the information they chose to release to the public.

The conclusion of the Domina Report was filled with speculation and "Who Dunits" and the final analysis determined that Kerrey was an innocent by-stander, Amen and Lake exercised poor judgement, and Douglas was guilty of a multitude of crimes surrounding the failure of the financial institution.

The Domina Report was highly publicized, with the primary focus placed on how to catch the criminals. The public, caught up in the massive news accounts of shocking depravities surrounding the failure, was unaware that they were being, purposefully, infested with legal confusion. While their backs were turned, so

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<sup>28</sup>Letter from Sen. John DeCamp to Gov. Robert Kerrey (Nov. 21, 1983) (discussing potential liability of the State of Nebraska for reimbursement of depositor's funds).

to speak, the powers that be, would go about the fixing-up and covering-up of their previous deeds.

In retrospect, we must ask ourselves why Domina so carefully orchestrated his questioning procedures, causing the omission of vital information which should have been imparted to the public.

In our judgement, many broad areas of questioning and many specific questions -- questions which we feel would have cleared up an abundance of ambiguity, were not asked. For instance, Ed Copple (Ed) had served on the Board of Directors of CWS until 1980, but was not requested to give a statement. We think Ed could have answered many serious questions regarding Kerrey's relationship with Anderson and certain SBA loans and their respective dealings with CWS, SSS and Anderson's lending institutions.

In examining Kerrey, it appears to us that Domina failed to ask any questions about Ed. He also intentionally glossed over any subject which might have been difficult or embarrassing for the Governor to answer. He simply asked Kerrey to answer a few questions and it appears that Domina accepted Kerrey's response at face value.

One of our very important areas of concern to do with Domina involves property located at 40th and Old Cheney Roads in Lincoln. As has been previously discussed, this property was purchased by Saylor-Robinson in April of 1981 and involved two notes made payable to CWS in the amounts of Three Hundred Eighty-Five Thousand (\$385,000.00) Dollars and Seven Hundred Thirty Nine Thousand Four

Hundred and Thirty Three (\$739,433.00) Dollars, respectively.<sup>29</sup>

Domina was fully aware that in April of 1983 the Department had coerced SE into pledging the Seven Hundred Thirty Nine Thousand (\$739,000.00) Dollars Saylor-Robinson note to FNBO as collateral on a previously unsecured Copple debt.<sup>30</sup> Further, Domina purposefully mislead the reader into believing that the Seven Hundred Thirty Nine Thousand (\$739,000.00) Dollar note had been pledged as collateral against Newton-Copple's debt in Beatrice.<sup>31</sup> This type of deception prevented the CWS depositors and the public from knowing the seriousness of the State's involvement in the attempted removal of CWS assets just prior to its takeover.

One of the most important areas of concern to us has been the disposition of millions of dollars worth of Copple family personal assets, which were systematically taken by several banks with the approval of the Department immediately prior to the failure of CWS.

Not only did the State assist in the removal of the Copple family assets from the depositors grasp, they took great measures

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<sup>29</sup>Petition, Commonwealth Savings Company v. Dana R. Saylor, Doc. 375, Page 59 (D. Ct. Lancaster County, filed Sept. 21, 1983).

<sup>30</sup>(Lake Testimony), Domina Report, Supra.

<sup>31</sup>Id., Tort Claim, First National Bank Omaha v. State of Nebraska. (Apr. 8, 1985); Promissory Note, dated Dec. 28, 1983, executed by S.E. Copple, Trustee in favor of First National Bank and Bank of Omaha in principal amount of \$728,193.00.

to help disguise renewal loans as new loans requiring security.<sup>32</sup>

It now appears that the Domina Report was little more than a politically motivated vehicle used to cover-up the past transgressions of Kerrey and the Department.

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<sup>32</sup>In re S.E. Copple, Case No. Bk 87-00937, (Bankr. Ariz., Feb 19, 1987). Letter from Atty. Kenneth S. Copple and Atty. Stephen H. Nelson, dated May 11, 1983, (Capitol Beach Inc. property; Department of Banking and Finance).

## COPPLE FAMILY ASSETS

### 1. Newton Copple Trust Property

Newton Copple had approximately Fifteen Million (\$15,000,000.00) Dollars in real estate, all under the control of his father, S.E., as Trustee. This is verified by an Irrevocable Trust Agreement, dated November 14, 1983.<sup>33</sup>

It appears that Newton had debt in various lending institutions which totalled Seven Million (\$7,000,000.00) Dollars. Prior to and immediately following the failure of the CWS, S.E. quietly pledged all of the Newton's Trust property as collateral to NBC and FNBO.<sup>34</sup> In the case of FNBO, Twenty Square Blocks of prime undeveloped property was pledged as collateral on only a Seven Hundred Twenty Eight Thousand (\$728,000) Dollar debt.

As depositors, we were pleased when we learned that the CWS Receiver had filed a lawsuit naming Newton as a defendant, thus, giving us an opportunity to proceed against Trust property in an effort to recover a portion of our losses.<sup>35</sup> We were quite disappointed, however, when the Receiver amended the petition

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<sup>33</sup>Newton E. Copple, Real Estate Agreement, dated Nov. 14, 1983 (filed as Inst. No-82-4034) with Lancaster County Registrar of Deeds).

<sup>34</sup>Dennis O'Neil, Memorandum to Executive Committee, dated Jan. 9, 1984, (S.E. Copple indebtedness to FNBO).

<sup>35</sup>Petition, The Department of Banking and Finance of the State of Nebraska, Receiver of Commonwealth Savings Co., vs. S.E. Copple and Tekla Copple, Husband and Wife, et al., Doc. 377, Page 004, filed in Lancaster County District Court (November 21, 1983).

removing Newton from the lawsuit.

Immediately following the failure of CWS, Newton filed a petition with the Lancaster County Court requesting the removal of S.E. as Trustee for his Estate.<sup>36</sup> This request was denied by the Court.

In Newton's petition, he complained that he had been unable to obtain financial records from S.E. regarding the status of the Trust property. Newton was concerned that S.E. had been persuaded by FNBO and the Department to use the Trust Property to secure exaggerated amounts of Newton Copple debt.

On November 18, 1983, the Receiver for CWS, in a haphazard attempt to impress the public, filed a lawsuit naming S.E. Copple, Tekla Copple, Marvin Copple, Newton Copple, Judy Driscoll, and Dana Saylor-Robinson as parties-defendant.<sup>37</sup> We believe this defective document was filed simply as a way to make it appear to the public that Newton was responsible for the CWS failure to keep a financial connection between CWS and the two failed Beatrice institutions.

In searching the records, we find no evidence of Newton ever having been on the Board of Directors of CWS, employed by CWS, or as having any outstanding debt in the institution.

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<sup>36</sup>Petition, Newton E. Copple v. S.E. Copple, Trustee, filed in Lancaster County District Court (Nov. 1983).

<sup>37</sup>See Petition at n. 35, Supra.

## 2. Marvin Copple Property

On July 13, 1983, Marvin executed a Deed of Trust in favor of FNB and NBC involving twenty-five (25%) percent stock ownership in Capitol Beach, Inc. At this time, eight parcels of Capitol Beach property were deeded to FNBL, NBC & SSS.<sup>38</sup> In reviewing the property, it is clear that these banks obtained the premium property in Capitol Beach, leaving inferior parcels for the depositors.

In addition, several other parcels of land were turned over to the above-named banks. These parcels can be identified as follows:

- Tract 1: 110 Acres, located approximates one-quarter mile West of Coddington and West A Streets.
- Tract 2: 40 Acres, located at Southwest 40th and East "O" Streets.
- Tract 3: Great Plains Motel, located at the Northeast corner of 27th and "O" Streets.
- Tract 4: 315 Acres, located one and one-half mile East of 84th and "O" Streets.

On August 19, 1983, Marvin executed a Promissory Note in the amount of Two Hundred Eighty-Six Thousand, Three Hundred Fifty-Two and Eighty Seven Hundredths (\$286,352.87) Dollars, to State Security Savings Company. This note was a renewal note and secured by a joint Deed of Trust Assignment of Rents and Security Agreement, dated August 19, 1983, for the benefit of FNBL, NBC, and

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<sup>38</sup>See, In the Matter of Marvin E. Copple at n. 32, Supra.

SSS, in the combined sum of Three Million, Four Thousand, Eight Hundred Forty-Two and Thirty-Nine Hundredths (\$3,004,842.39) Dollars.<sup>39</sup>

On August 19, 1983, Marvin executed an additional Promissory Note in the amount of One Million, Three Hundred Forty-Five Thousand, Nine Hundred Forty and Ninety-Three Hundredths (\$1,345,940.93) Dollars, to First National Bank and Trust Company Lincoln. This note was a renewal note and secured by a joint Deed of Trust Assignment of Rents and Security Agreement dated August 19, 1983, for the benefit of FNBL, NBC, and SSS, in the combined sum of Three Million, Four Thousand, Eight Hundred Forty-Two and Thirty-Nine Hundredths (\$3,004,842.39) Dollars.<sup>40</sup>

On August 19, 1983, Marvin executed a third Promissory Note in the amount of One Million, Three Hundred Seventy-Two Thousand, Five Hundred Forty-Eight and Fifty-Nine Hundredths (\$1,372,548.59) Dollars, to National Bank of Commerce Trust and Savings Associates. This note was a renewal note and secured by joint Deeds of Trust Assignment of Rents and Security Agreement, dated August 19, 1983, for the benefit of FNBL, NBC, and SSS, in the combined sum of Three Million, Four Thousand, Eight Hundred Forty-Two and Thirty-nine Hundredths (\$3,004,842.39) Dollars.<sup>41</sup>

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<sup>39</sup>See, Deed of Trust, Assignment of Rents and Security Agreement at n. 21, Supra.

<sup>40</sup>Id.

<sup>41</sup>Id.

The above specified tracts of land were the underlying security mentioned in the Deed of Trust Assignment of Rents and Security Agreement.

We believe that these bankers were aware that CWS was failing and hastily obtained the Marvin Copple assets as security against previously unsecured notes. We further believe that the Department was instrumental in the obtaining of Marvin Copple's assets just prior to the CWS failure.

### 3. S.E. Copple Property

In the case of FNB, three loans totalling more than One Million, Eight Hundred Seventy-One Thousand, Two Hundred Fifty-Five (\$1,871,255.00) Dollars were renewed by SE only four months prior to the failure of CWS. These loans had been obtained by SE at least one year, and perhaps more, prior to the renewal date, but had always been unsecured.<sup>42</sup>

In Amen's report to Governor Kerrey, dated November 15, 1983, Amen makes reference to a meeting on May 24, 1983, between S.E., the Department and FNB representatives, for the purpose of discussing how Capitol Beach property could be used to satisfy (S.E.'s) FNB debts and to recapitalize CWS.<sup>43</sup>

By June 1983, immediately following the May 24, 1983 meeting, SE renewed the previously unsecured notes and this time renewed them with shares of stock in Capitol Beach real estate.<sup>44</sup> The deeds were filed by FNB on July, 1983, giving FNB first choice of the most valuable, on-shore lots at Capitol Beach.<sup>45</sup>

On September 16, 1983 S.E., as President of Capitol Beach,

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<sup>42</sup>See, In re S.E. Copple, a/k/a/ Sumner E. Copple, Debtor at n. 21, Supra.

<sup>43</sup>See, A History of the Major Events at Commonwealth Savings Company at n. 19, Supra.

<sup>44</sup>See, In re Copple, a/k/a Sumner E. Copple, Debtor at n. 21, Supra.

<sup>45</sup>Deed of Trust. Capitol Beach Inc. to First National Bank and Trust of Lincoln.

Inc., deeded certain properties of Capitol Beach property to CWS.<sup>46</sup>

We believe the Department and FNB acted together to enable FNB to acquire the most valuable Capitol Beach property, ahead of the depositors.

Shortly following the failure of CWS, S.E., and Tekla Copple were forced to sell their personal residence which was located on Surfside Drive in Capitol Beach.<sup>47</sup> The Lincoln Journal news release regarding that sale, indicated that Mrs. Copple had received the proceeds of the sale, which totalled Forty Six Thousand and Fifty-Five (\$46,055.00) Dollars. The article indicated that Mrs. Copple would keep the proceeds of the sale and that the CWS Receiver was unable to prevent the proceeds of the sale from going to Mrs. Copple.

The CWS depositors were, of course, outraged because the Receiver had done nothing by this time to secure the personal assets belonging to the Copple family members. The depositors did not realize that the Receiver knew the Copple's personal assets had already been obtained by many local bankers in anticipation of the failure.

The truth of the matter in the sale of the Copple residence, is that the proceeds of the sale actually totalled Ninety-Two

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<sup>46</sup>Deed of Trust. Capitol Beach, Inc. to Commonwealth Savings Company, (July 12, 1983).

<sup>47</sup>See, In re S.E. Copple, a/k/a Sumner E. Copple, Debtor, at n. 21., Supra.

Thousand, One Hundred and Ten (\$92,110.00) Dollars.<sup>48</sup> S.E. and Mrs. Copple each received one-half of the total proceeds. Mrs. Copple retained her portion of the proceeds while S.E. was made to pay his portion to FNB. On May 11, 1984, FNB credited an S.E. loan with the exact amount he had received as his portion of the proceeds from the sale of his personal residence.<sup>49</sup>

There are many questions surrounding the personal assets of S.E., many of those facts are still being investigated. We are particularly curious about the property known as Airport Heights located in West Lincoln.

On May 11, 1984, Union Bank of Lincoln filed a Release of Judgment Lien against nineteen (19) lots located in Airport Heights.<sup>50</sup> On May 18, 1983, FNB made a handwritten entry on their books which stated the following:

Per agreement dated March 3, 1983 (or '84) between FNB, S.E. Copple, Capitol Beach, Inc. and S.E. Copple Investments (see collection file) we are crediting this note \$57,000.00 (\$3,000 per lot) for 19 lots in Airport Heights, deeded to us by S.E. This is written entry only to be used in calculation of interest. Principal due but not entered in computer of G.L (general ledger) per DLP.<sup>51</sup>

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<sup>48</sup>Id.

<sup>49</sup> (Proof of Claim) In re S.E. Copple, a/k/a Sumner E. Copple, Debtor at n. 21., Supra.

<sup>50</sup> (Release of Judgement Lien) Union Bank and Trust Company, A Corporation v. S.E. Copple, doc. 376, page 148 (filed with Clerk, Lancaster County District Court May 11, 1984).

<sup>51</sup> See generally, Proof of Claim at n. 49, Supra.

The significance of these acts committed by certain bankers and the Department demonstrate once again that the bankers and the State put their interests far ahead of the depositors. These entities had all knowledge available to them regarding the condition of the CWS, the assets held by the Copples, and the approximate date of its failure. This knowledge was used to the detriment of the depositors.<sup>52</sup>

At the time of the CWS failure, S.E. was eighty-six years old. Without doubt, he was suffering the fear of the potential failure of his lending institution, and at the same time, it is obvious that he maintained hopes of keeping the institution open. It is clear from reviewing all the facts surrounding the events just prior to the failure, that both bankers and the Department, took full advantage of S.E.'s fears and hopes.

In conclusion, we would like to quote from the Committee hearing transcripts, a statement made by Senator DeCamp in a discussion regarding S.E. Copple and his desire to discuss certain matters concerning banking as a whole:

SENATOR DECAMP: ...shortly before Mr. Copple was finally to go to prison he called me, and I went and spent an entire afternoon with him. He provided me, at that time, I don't remember all of it, I marked some of it down, a lot of information which I think, if his mind is still capable of working, would be very helpful. He can show you, could show you the incredibly intimate and absolute iron-

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<sup>52</sup>See, Dennis O'Neil, Memorandum at n. 34, Supra.

clad relationship between State Security Savings and Commonwealth and the principles. I had hoped at that time that if he received a pardon or some other thing, or a non-prison sentence that he would be able to disclose this information. Unfortunately or fortunately, I guess depending upon your view, he went on to prison and even though he, personally, wanted to do it, his attorney refused to let him ever delve into that.

...

SENATOR HIGGINS: As Chairman of the Banking Committee did you have any obligation for a sharing of this information with the Banking Committee?

SENATOR DECAMP: I tried to share it with the Banking Committee. In fact I set up a hearing and tried to bring them. I brought in S.E. Copple. I talked to the Governor about it. He vigorously, vigorously opposed my bringing Mr. Copple in and excoriated me for even attempting to do so. Mr. Copple then, at the hearing, testified some, but he was stopped by his attorney from going into the things I wanted to go into, the relationships.

SENATOR HIGGINS: What I'm talking about is why you didn't just tell the rest of us what he told you. I mean why now? Why weren't we apprised of this before as members of the committee?

SENATOR HABERMAN: Cause...

SENATOR HIGGINS: Rex, I'm asking John.

SENATOR DECAMP: Very simply, as I say, I was doing everything I could as Chairman to obtain information, and at every step the authority to do anything was being taken away from this committee, and was taken away. When I tried to get Vard and the other committee to bring these individuals in and take their deposition before that committee, they refused. Therefore, I did hold the one committee where I got Copple to come in that day.

...

SENATOR DECAMP: And I might just add parenthetically when I talked to Mr. Copple he was not, as I recall, defending some of the things that occurred, so much as he was just saying, hey, yes, I know what happened at Commonwealth and so does everybody else, and there were some things wrong, and I should have been watching things more carefully and on and on. But what makes you think this is the only thing? This was all part of a sanctioned program, so to speak, an accepted thing that was going on, and if you think there isn't a reason for looking at State Security Savings you are a fool because...that was basically the thrust of it, not that he was innocent or going...you know.<sup>53</sup>

On July 10, 1984, S.E. Copple gave a fifteen page prepared statement to the news media. In his statement, Copple explained the following:

"I have desperately wanted to take this means of talking with depositors and I have wanted to get involved in finding a solution to the Commonwealth dilemma."

S.E. explained that he had not been allowed to speak publicly because of the pending charges against him and had maintained silence on the advise of his legal counsel..Copple stated further,

"I would like to make some statements to the depositors and the public in an attempt to clear up some of the misconceptions surrounding the Commonwealth affair..."

"...some officials have tried to create the myth that I have taken off to all parts of the world with a large bundle of depositor's money. That is untrue."

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<sup>53</sup>See, Committee Report at n. 2, Supra.

"Contrary to what many people probably assumed, we did not spend the winter loafing in the Arizona sun. We moved back to the upper Midwest and endured the cold winter along with everyone else in this region."

Copple said his birthday wish on his 87th birthday in May "was then, as it has at all times been, that I be allowed to actively participate in assisting Commonwealth depositors, and that, as my life comes to its conclusion, I be allowed to devote my energies to such a useful purpose."

Finally, Copple stated:

"I will always believe that we could have sold the Commonwealth...had panic not been precipitated...the public reports and articles were the crushing blow for the Commonwealth and its depositors."<sup>4</sup>

As was indicated by Senator DeCamp, S.E., in his public statement, made no mention of SSS because his attorney, John Stevens Berry, had instructed him to keep silent in that regard.

It is also clear from this report that S.E. did not run away with depositors money. The "money" had already been taken by big banks long before S.E. moved from the State of Nebraska. Whatever money the bankers found left over after the CWS failure, they immediately snatched up.

In his Memorandum issued to the Executive Committee of FNBO dated January 9, 1984, Dennis O'Neal outlined procedures which FNBO would use to acquire certain properties from S.E. In the memorandum, O'Neal stated that FNBO would seek ownership of

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<sup>4</sup>S.E. Copple, Statement by S.E. Copple, date July 9, 1984.

property located at 14th and Superior Streets in Lincoln. He valued the property at Eight Hundred and Fifty Thousand (\$850,000.00) Dollars and stated that S.E. owned the property free and clear.

In his memorandum, O'Neal stated that Dorothy Gartner and William Haggerty held title interest in this property and had agreed to quit-claim their interest to S.E.

O'Neal further stated that the 14th and Superior Street property was not presently booked as an asset of FSS in Beatrice, and he thought the property could be booked as an asset to FNBO at some value, with the approval of the Department. (Emphasis Added)<sup>55</sup>

The key factors in the memorandum are, once again, big banker involvement in the removal of Copple assets with the approval of the Department.

Another key factor in this particular transaction is the fact that both Dorothy Gartner and William Haggerty were named as Defendants in a Eighteen Million (\$18,000,000.00) Dollar lawsuit, filed by the CWS Receiver and dated November 18, 1983.<sup>56</sup> These two individuals were later dismissed from the lawsuit.<sup>57</sup> It is most unbelievable to us the Receiver would let such a conflict between

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<sup>55</sup>See, Dennis O'Neil, Memorandum at n. 34, Supra.

<sup>56</sup>See, Petition at n. 37, Supra.

<sup>57</sup>Amended Petition, The Department of Banking and Finance of the State of Nebraska, Receiver of Commonwealth Savings Co. v. S.E. Copple, Doc. 377, Page 004, filed in Lancaster County District Court, (Jan. 20, 1984).

big bankers and the Department, result in the deceit which took place in this transaction.

Even as laymen, we are aware of the paper trail that was available to the Receiver in the case of the 47th and Superior transaction. It is impossible for them not to have known that S.E. owned the property, that Gartner and Haggerty held title to the property, and that it was available to the Receiver for the benefit of the depositors. Very little research into the matter was required. It appears to us that the Receiver intentionally looked the other way while this property was removed from their grasp.

We have additional questions regarding certain Copple/CWS properties. On September 14, 1989, a CWS Receiver's Deed to Pinnacle Point Development Inc., was filed with the Lancaster County Register of Deeds office.<sup>58</sup> This document showed a purchase price of approximately Three Hundred, Sixty Seven Thousand (\$367,000.00) Dollars for the purchase of the following properties:

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<sup>58</sup>Receiver's Deed, dated Sept. 12, 1989, executed by Joseph H. Badami, Receiver, and filed in the Office of the Registrar of Deeds of Lancaster County, Nebraska, as Instrument Number 89-26420.

	LOTS	LOCATION
1.	Nine (9)	Fox Hollow
2.	One (1)	Capitol Beach East
3.	Seven (7)	Chez Ami Knolls
4.	Twenty (20)	Coddington Mill
5.	One (1)	Colonial Hills
6.	One (1)	Second East Park Addition
7.	Five (5)	Green Prairie Acres
8.	Eight (8)	Groveland Place
9.	Twenty (20)	LaMont Addition
10.	Twenty-Eight (28)	Olympic Heights
11.	Eight (8)	West Brook
12.	Six (6)	Normandy Square
13.	One Hundred One (101)	Airport Heights
14.	One (1)	Woods Brothers Lakeview Acres
15.	Eight (8)	Cornhusker Industrial Park
16.	One (1)	Commercial - N.W. Corner West o and Sunvalley Blvd.
17.	Twelve (12)	Capitol Beach Park
18.	More than fifty (50)	acres of undeveloped property located on the South side of Capitol Beach Lake, South of Surfside Drive, extending from I-80 East to just west of Capitol Beach Blvd.

The selling price for these properties, approved by Joseph Badami, Receiver for CWS, appears to be less than fifty (50) percent of the fair market value.

Our research into Pinnacle Point Development Inc. leaves us with even more questions. Wally Richardson, Incorporator for Pinnacle Point Development Inc., causes this transaction to smack of big banker involvement, once again. Richardson is the managing partner in the law firm of Knudsen, Berkheimer, Richardson and Endacott. This law firm represents NBC and is located in the NBC center.

Although we are unable at this time to connect NBC to Pinnacle Point Development Inc., the past involvement by NBC in Copple and CWS matters, points out that our suspicions are not unfounded.

There are many things which bother us regarding the sale of CWS assets---too many to mention in this report. However, we will continue to look into matters resulting from these transactions and eventually we will ascertain a better understanding of the gambling away of depositor assets. The sad fact is, that we are able to discover these kinds of transactions only after they have taken place.

Joel Phipps, a CWS employee from May 1979 to November 1985, recently felt compelled to make a statement regarding certain events which took place immediately following the take over by the State.<sup>5\*</sup>

Phipps, who was a loan officer and assistant Vice President at CWS, stated that one of his main concerns following the closing was maintaining the integrity of the information in the institution. He said that the closing of the institution resulted in his dismissal for a few days. He was concerned because he couldn't tell whether other former employees had been allowed to remain in the institution to help prevent the possibility of information leaving the premises.

Phipps said that the initial investigation in CWS was done

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<sup>5\*</sup>Affidavit of Joel Phipps (Dec. 19, 1989).

entirely by untrained law enforcement officers who had no formal training in the white collar crime area. He said that on numerous occasions it was necessary for him to show them the history of accounts and to dispel incorrect assumptions. He further stated that he felt an apparent breach of integrity resulted when a large contingency of personnel from various lending institutions (First Tier, First National, American Charter and NBC) were allowed to come into CWS to help sort out the records.

The implications, Phipps said, was that several of these institutions or creditors who were given privy to the assets would later attach them to the direct deprivation of the depositors. Phipps said that since there was no attempt to freeze the assets to protect the depositors the larger institutions would then be able to dissect the assets to their liking.

Finally, Phipps explained that Irwin Deutcher, Financial Consultant to the Department in the CWS matters, had a private conversation with Phipps just prior to his death. Phipps explained that Deutcher had said that the Copples' assets should have been frozen by the Court. He said further, that CWS should have been placed in bankruptcy so time could be gained for a work out-plan. According to Phipps, Deutcher said that there was enough there to work with to salvage.

The only plausible explanation we can find for the types of acts and omissions which occurred following the CWS failure is greed and the necessity to confuse and conceal information. Mr.

Phipps was interviewed by David Domina during his investigation but made no mention of the above-mentioned facts were found in the Domina Report.

It is crystal clear, however, as we untangle these previously hidden facts, that the Department worked hand-in-hand with big banks, to remove millions of dollars in valuable Copple assets from the potential receipt of the depositors, both prior to and following the failure of CWS.

## B. STATE SECURITY SAVINGS COMPANY\*\*

Those of you who were involved in the investigations into failing lending institutions in the State of Nebraska, consistently linked the CWS with the demise of SSS. In keeping with your philosophy, we will, for purposes of our report on the failure of SSS, do the same.

On approximately December 9, 1983, Governor Kerrey issued a statement to the public. This statement was in reference to his receipt of a report from Domina and Miller concerning the history of efforts by the Nebraska Department of Banking to regulate Commonwealth Savings Company. Kerrey made reference to a report from Amen, dated November 15, 1983, which provided a history of the major events with regard to CWS. Kerrey stated the following:

1. The tone and context of the Miller and Domina report is in striking contrast to the Amen report and chronicles a disturbing series of events where statutory violations on the part of Commonwealth Savings were either ignored or lightly regarded.
2. It is clear that appropriate and effective action was not taken when it should have been. The clearest example is the FBI letter of March, 1983. This letter should have prompted immediate and decisive action. It did not. Its contents should have been immediately communicated to me. They were not.
3. Statutory violations which should have been

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\*\*All information regarding Shopper's Fair was gleaned from State Security Committee Report of Committee on Banking, Commerce and Insurance and a video produced on same subject. This later item may be obtained in the office of the Nebraska Attorney General and/or the Lancaster County Attorney's Office.

investigated and prosecuted were not; even though the Department has full and complete authority to do so.

...

5. Finally, it should be clearly understood that this is a report of the history of efforts by the Nebraska Department of Banking. It is not a chronicle of efforts by the Nebraska Legislature nor the Nebraska Depository Insurance Corporation, both of whom have responsibilities in this matter.

On the day Kerrey issued his statement to the people, we read the statement with great interest. As a result of this strong statement, we felt assured that the events surrounding CWS would never happen again in our State.

We believed that Kerrey would make certain that his next appointee as Director to the Department, would in fact, protect the people from similar activities in the banking community.

We further believed that Kerrey had been misled by Amen and that Amen had not shared his knowledge of the FBI letter with the Governor.

We also believed that Kerrey would make certain that any and all statutory violations which occurred in our lending institutions in the future would be swiftly and harshly dealt with.

Many years later, we read Kerrey's statement once again and are saddened by the revelation of his lies. In the following section of our report, a true example of this is exposed. It is overwhelming to imagine the acts Kerrey committed which are yet to be uncovered, not to mention the potential harm that could result

from his powerful position as a United States Senator.

Our report on SSS is limited to that material presented to the public by your Legislative Investigative Committee. Due to time constraints, your report was largely regulated to a discussion of the real estate project known as Shopper's Fair and you elected not to investigate ASC.

#### 1. Shopper's Fair

Robert Rentfro (Rentfro) and Jerry Joyce (Joyce) entered the real estate and construction business approximately twenty-five years ago. Over the years they had obtained funding for their many projects from most of the lending institutions in Lincoln, Nebraska. They enjoyed many successes and had established good working relations with not only the lending institutions, but with city government as well.

In approximately September, 1976, Rentfro and Joyce had an opportunity to become involved in a partnership development commonly known as Seven Oaks. Seven Oaks was a residential subdivision comprised of 160 acres of land at approximately 27th and Old Cheney Road in Lincoln, Nebraska. It was agreed between Rentfro and Joyce and SSS that a general partnership would be formed. SSS would own a 50% share in the partnership and Rentfro and Joyce would own a 50% share. The general partnership would be called RJS (Rentfro, Joyce and SSS).

In November of 1976, the parties entered into the partnership agreement which stipulated that Rentfro and Joyce would develop the

property, while SSS would supply the financing to the partnership at preferred and specifically favorable interest rates. SSS would also participate with Rentfro and Joyce in the promotion, marketing and sales of the development.

At the time in question, ownership of SSS was held, primarily, by Clyde Card and Alfred Adams. On June 7, 1978, the institution was purchased by Security Financial Corporation (SFC) through a leveraged buy-out. The majority of stock in SFC was split among three stockholders; Wright with a thirty-two (32%) percent share, Leon Olsen (Olsen) with a thirty-two (32%) percent share and Kenlon Hake (Hake) with a thirty-two (32%) percent share. Wright's stock in SFC was not held personally, but rather through his corporation known as American Consolidated Corporation, and later through Marmat Corporation. Hake's stock was later transferred to Marken Equities, LTD. Hake became and remains the chief executive officer of SSS. Mike Fosdick (Fosdick) was and remains an officer of the Institution. The remaining four (4%) percent stock was held by Grant Whitney.

The purchase price for SSS was Five Million Seven Hundred Fifty Thousand (\$5,750,000.00) Dollars. The sellers (Card and Adams) carried Four Million Three Hundred Fifty Thousand (\$4,350,000.00) Dollars in a purchase contract to be paid by the sellers over a period of eight years at nine (9%) percent interest, and with aggregate annual payments of approximately Seven Hundred Eighty Five Thousand (\$785,000.00) Dollars beginning on June 7,

1979. The stock was held in escrow by the sellers and was to be transferred to the buyers upon final payment of the contract. At the time of purchase, One Million Four Hundred and Eight Thousand (\$1,408,000) Dollars was paid in cash to the previous stockholders. This sum was raised by individual contributions of the Security Financial stockholders; Wright, One Hundred and Ten Thousand (\$110,000.00) Dollars; Olson, One Hundred and Ten Thousand (\$110,000.00) Dollars; Hake, One Hundred and Ten Thousand (\$110,000.00) Dollars; and Whitney, Eighty Eight Thousand (\$88,000.00) Dollars, and a loan from Anderson's CB to Security Financial in the amount of One Million (\$1,000,000.00) Dollars. The CB loan was to be amortized over an 8-year period at nine (9%) percent interest, with annual payments of One Hundred and Thirty Seven Thousand (\$137,000.00) Dollars. Security Financial pledged its interest in the stock purchase contract as collateral, and the principals also personally guaranteed the loan. In October 1978, SSS reorganized its corporate structure.

Prior to and following the acquisition of SSS by SFC, Rentfro and Joyce were actively involved in the development of Seven Oaks. They had other projects under construction in addition to Seven Oaks. One, in particular, was a commercial property known as Shoppers Fair (SF). The sale of this property would become a significant factor in Joyce's desire to pursue legal action against specific individuals who will be mentioned later.

SF was a strip shopping center comprised of approximately

70,000 square feet of retail space. It is located at 6800 "P" Street, Lincoln, Nebraska. SF is adjacent to another strip center known as East Park Plaza (EPP) and within walking distance of Lincoln's only regional shopping center, Gateway Mall.

RJW was a partnership comprised of three individuals, Robert Rentfro, Jerry Joyce and Tom White. Later, additional partners were added. The additional partners were Harold Sears and two brothers, Don and Ron Brester. Eventually, Rentfro and Joyce held a fifty-five (55%) percent equity share with the additional partners holding the balance of forty-five (45%) percent.

RJW had obtained a construction loan for the development of SF from NBC. By March of 1983 the first mortgage on the development was One Million Nine Hundred Thousand (\$1,900,000.00) Dollars. NBC had the exclusive agent right to obtain permanent financing of SF with a fee of up to two (2%) percent. NBC, although they had many opportunities, never placed permanent financing on the project. The lack of permanent financing later impaired Rentfro and Joyce's ability to sell the property at the highest fair market value.

In mid-1979 a decline in the housing market was evident. Throughout 1979 and for several years thereafter, Rentfro and Joyce had difficulty servicing the debt they incurred with SSS. Beginning in 1978, after the new owners took control of SSS, Rentfro and Joyce were made to pay higher interest rates, in contravention of the general partnership agreement between Rentfro and Joyce and

SSS. Not only had the new owners imposed higher interest rates, but they were no longer allowing one year notes. In addition to the higher interest rates, interest was compounded monthly. Housing sales had plummeted during this time while interest rates exceeded twenty (20%) percent. Together, these factors made it difficult to regularly service their debt. Rentfro and Joyce had several discussions with the new owners with regard to the agreement to keep lower and preferred interest rates available to them. The new owners indicated that they did not feel bound by that agreement and refused to lend at preferred rates.

Rentfro and Joyce could clearly see the seriousness of the economic conditions for the housing market. Although they had traditionally been involved in the residential housing market, they now decided they should apply their efforts in the commercial markets. The sale of homes in the Seven Oaks residential development had come to a virtual standstill. Rentfro and Joyce, along with most land developers in the country, were suffering the results of very poor economic conditions.

By June 1979, Rentfro and Joyce had obtained a construction loan commitment in the amount of \$600,000 from NBC. They would begin the development of the strip shopping center previously referred to as SF. Rentfro and Joyce were involved in other developments at this same time, but felt that SF was a viable development which would create enough cash flow to help service their debt at SSS. They felt that this project would carry them

through the rough times if NBC lived up to their agreement to find permanent financing for the development.

For the remainder of 1979 and until December, 1981, NBC "piece-mealed" financing to Rentfro and Joyce for the construction of Shoppers Fair. Rentfro and Joyce had successfully obtained substantial leases from anchor tenants and it appeared that the center was a success. By the end of 1982, SF was valued at Three Million Five Hundred Thousand (\$3,500,000.00) Dollars with a first mortgage balance of One Million Nine Hundred Thousand (\$1,900,000.00) Dollars at NBC.

On or before February 25, 1983, Rentfro and Joyce received an offer from SSS of their intent to purchase two properties then owned by the two men. One was SF, with an offer of Two Million Six Hundred Fifty Thousand (\$2,650,000.00) Dollars and the other was Pioneer Plaza (PP), an office building located at 33rd and Pioneer Blvd. The offer on PP was One Million Three Hundred Fifty Thousand (\$1,350,000.00) Dollars. Neither of these properties were financed by SSS. At the time of this offer, Ken Hake, negotiating on behalf of SSS, indicated that the offer was good for 45 days and if the offer was not accepted and the debt at SSS reduced in that same timeframe, SSS would begin foreclosure proceedings against other properties which were financed at that institution.

As a result, Rentfro and Joyce began negotiating with SSS. They were under the impression that SSS was going to purchase both of the properties and resell them on the open market. It was their

understanding that the proceeds of the sale of SF to SSS, minus the debt, would be used to reduce their debt at SSS.

On March 31, 1983, Rentfro and Joyce attended the closing on the sale of SF and PP to SSS. Both Rentfro and Joyce were dissatisfied with the offer they had received from SSS. They knew they could sell SF for Three Million Two Hundred Thousand (\$3,200,000.00) Dollars to Three Million Five Hundred Thousand (\$3,500,000.00) Dollars, if they had additional time. As it turned out, all parties realized that EPP had a 45-day option for first right of refusal to purchase SF. It was agreed at the closing that Rentfro and Joyce would sign the deed to sell. The space provided for the buyer on the deed for SF was left blank. It was agreed that the documents would be held in escrow for the 45-day option period. It was further agreed that during that option period Rentfro and Joyce would continue to look for another buyer who would pay a higher price for the property, further reducing the debt to SSS.

On March 31, 1983, title to PP was transferred to SSS and then sold by land contract to a real estate partnership, known as TransAmerican Investment Company (TIC). This company included as partners, Stuart, and Wright. They borrowed Five Hundred Thousand (\$500,000.00) Dollars from SSS as part of the purchase price, and received a preferential interest rate of twelve (12%) percent on the loan.

Several other things occurred on that same date that were then

unknown to Rentfro and Joyce. On that day, American Investment Group (AIG) signed a Deed of Trust to SSS on a loan in the amount of Seven Hundred Fifty Thousand (\$750,000) Dollars at a preferred twelve (12%) percent interest rate, for the purchase of SF. Also on March 31, 1983, Hake received a letter from Stuart which indicated that AIG agreed to pay SFC One Hundred Fifty Thousand (\$150,000.00) Dollars for locating and negotiating the purchase of SF. SFC owned and was the holding company for SSS. Stuart and Wright also paid an additional Fifty Thousand (\$50,000.00) Dollars to SFC for locating and negotiating the purchase of PP. Both of these transactions were later to become the subject of an investigation by the Nebraska Legislative Senate Committee on Banking and Finance. Also, certain of these loan documents have not been included in the Committee report, although referred to, for the public record.

After March 31, 1983, Rentfro and Joyce actively pursued other buyers for SF. They did not realize that, in fact, SF had already been sold to AIG. Rentfro and Joyce referred potential buyers to both SSS and NBC to discuss permanent financing on the property. Ken Hake, on behalf of SSS, and Lyle Davis (Davis), on behalf of NBC, would tell the potential buyers that SF was not for sale. In one instance, Davis indicated to a potential buyer that not only was SF not for sale, it was not worth the Three Million Two Hundred Thousand (\$3,200,000.00) Dollars they had offered Rentfro and Joyce. When the potential buyers made no further contact with

Rentfro and Joyce the two assumed that the buyers had become disinterested in the purchase. It was much later that Rentfro and Joyce discovered what had really been told to the potential buyer.

Shortly before the 45-day option period had expired, EPP had negated their option for first right of refusal for the purchase of SF. At approximately the same time, Rentfro and Joyce received an offer from a Chicago group to purchase the property for Three Million Two Hundred Thousand (\$3,200,000.00) Dollars. They immediately went to Hake and Fosdick of SSS to inform them of the offer they had received. They explained that the Chicago offer was substantially higher than the offer from SSS, and that they were going to accept the Chicago offer because the option period to EPP had not yet expired.

Before the Chicago offer could be explored, Hake and Wright instructed the escrow agent to file the deed on SF.

Rentfro and Joyce had contacted both SSS and State Title requesting that the deed NOT be filed because of the Chicago offer to purchase. Hake indicated to Rentfro and Joyce that he was going to have the deed filed regardless. As a last resort to deter the filing of the deed, Rentfro and Joyce requested a Temporary Restraining Order from the District Court to prevent the filing of the deed. The Restraining Order was granted, but became moot because the deed had already been filed.

When Wright and Hake instructed the escrow agent to file the deed, the agent was reluctant because he was aware that the

agreement made March 31, 1983, instructed him to hold the deed in escrow for a 45-day period of time. The agent requested and received a hold harmless agreement from SSS before he filed the deed.

Rentfro and Joyce felt that SSS with the help of NBC representatives had virtually stolen SF from them. In the months that followed they would realize the accuracy of their conclusions.

As time passed, Rentfro and Joyce learned that SF had not been purchased by SSS, but rather by AIG. Eventually, they learned that AIG was originally comprised of two partners; namely, Dr. Fred Kiechel and Stuart. AIG was formed on March 31, 1983. Dr. Kiechel during an investigation of this matter, testified that he knew prior to the execution of the partnership agreement on March 31, 1983, that additional partners would be included in the partnership. Dr. Kiechel understood that the additional partners would be Governor Kerrey and Wright.

On April 18, 1983, additional partners were made a part of AIG. They were Kerrey, Dean Rasmussen, Kerrey's brother-in-law, and Wright. It appeared to Rentfro and Joyce that AIG had been formed for the sole purpose of acquiring SF. They later learned that on March 1, 1983, thirty days prior to the sale of SF to AIG, that AIG had received a written appraisal by Fosdick of SSS, on SF. It would be safe to assume that the request for the appraisal would have been made in February, 1983 which was approximately the same time frame in which SSS had given Rentfro and Joyce the ultimatum

to sell the property or foreclosure proceedings would begin on loans at SSS. The appraisal indicated that SF would have "a great potential income" derived from its leases. Fosdick further indicated that if the buyer could get "the twelve (12%) percent financing", the project would be worth \$3 million.

Rentfro and Joyce also became aware of the Exchange Agreement between their partner, Tom White and SSS, dated March 31, 1983. White had agreed to sell out his interest in SF in exchange for certain properties. The remaining partners in RJW, Harold Sears and two brothers, Don and Ron Brester, had been bought out, receiving a premium return on their investment. The remaining fifty-five (55%) percent was held by Rentfro and Joyce.

After realizing that SF had been sold as of March 31, 1983, and that the forty-five (45) days to seek another buyer was merely a frivolous agreement by SSS. Rentfro and Joyce knew they would one day seek legal action. Rentfro and Joyce were reluctant to seek the legal action because it would include two lending institutions on which they depended for real estate loans and would also include the Governor for the State of Nebraska.

From March 31, 1983, and for more than a year following, the original One Million Nine Hundred Thousand (\$1,900,000.00) Dollars first mortgage at NBC against SF remained in the name of Rentfro and Joyce. In a February 25, 1983 letter of intent to purchase SF, SSS set out in their proposal that the offer was contingent upon the purchaser assuming the existing first mortgage note of One

Million Nine Hundred Thousand (\$1,900,000.00) Dollars with a final due date in three years. It further set out that the interest on such note shall be tied to NBC prime rate not to exceed sixteen (16%) percent, with a floor of twelve (12%) percent, adjusted monthly. It stated that the Buyer shall have four (4) business days after the seller's acceptance of the offer to obtain a commitment from NBC that fulfills these assumption requirements. In the event the commitment cannot be obtained, the offer was to become null and void at the buyer's option. Although the Mortgage Assumption guidelines were set out in the letter of intent to purchase, the One Million Nine Hundred Thousand (\$1,900,000.00) Dollar first mortgage remained in the names of Rentfro and Joyce for approximately thirteen months. The two made repeated attempts to have their names removed from the mortgage but could get no response from NBC, SSS, or AIG. It appears that Kerrey, Stuart, Dr.Kiechel and Wright disguised their One Million Nine Hundred Thousand (\$1,900,000.00) Dollar loan at NBC by leaving it in the names of Rentfro and Joyce for over one year. Bank examiners, when reviewing this loan, would not realize that this loan was actually a loan to Stuart, the Chairman of the Board of the Holding Company which owned NBC, and his partners Kerrey, Wright, and Kiechel.

When this transaction was investigated by the County Attorneys office, it was determined to be proper borrowing and lending procedures. We ask then, why did this same type of borrowing procedure provoke criminal charges in the case of CWS' principals?

On October 31, 1983, Governor Kerrey issued a press release relative to the adverse financial condition of the CWS. Kerrey's announcement caused a run on the deposits. Amen, the Director for the Department declared the CWS insolvent on November 1, 1983. Within days there were accusations of improprieties and criminal activity surrounding the failure of the institution. Massive press releases regarding losses to the depositors, criminal activity, pending litigation, acts of public officials, and information concerning investigations, both State and Federal, were provided to the public on a daily basis. The City was in an uproar. Within a short period of time, Kerrey ousted his banking director, Amen, with Amen taking the heat for the banking failure. Amen lost all public credibility and it appears he tried desperately to stay out of the public eye. Attorney General Douglas was accused of having knowledge that the failed Industrial Bank was in trouble due to criminal activity and was eventually to face Impeachment proceedings. Douglas finally resigned after weeks of embarrassing news coverage and ultimately was found guilty on a very weak count of Perjury. He was never imprisoned but had his license to practice law revoked. Douglas and Amen were both Republicans.

Immediately following the failure of CWS, Kerrey denied having any knowledge of the financial problems at CWS prior to the week before his press release which caused the run on the deposits. Amen, having lost credibility, did not come forth to dispute Kerrey's denial of knowledge. It is speculated that Amen was

fearful of liability since he had been held responsible for the failure. He remained in the background until he testified before your committee.

With great speed, Kerrey set about replacing public officials, requesting reports from those who should have prevented the failure, and making certain that all his press releases were favorable to his Administration.

Kerrey carefully encircled himself with protectors--old friends were appointed to key positions. Domina was, on November 19, 1983, appointed Special Assistant Attorney General to replace Paul Douglas. Miller from Blair, Nebraska was appointed Interim Banking Director and assumed that position November 15, 1983. In the following months, Kerrey appointed four separate Banking Directors, none of whom were particularly qualified for the position. Each of the appointees were friends and/or business associates of Kerrey and/or Wright.

In the weeks that followed, it continued to remain unknown to the public or to the state legislature that Kerrey had earlier been given the "trouble" list by Amen. The public and most everyone else was unaware that SSS was in worse financial condition than CWS. Through daily news reports of investigations into criminal activity at the CWS, all public attention was focused away from SSS and other troubled lending institutions. The depositors of CWS learned that the Nebraska Depository Insurance Guaranty Corporation (NDIGC) was a private corporation which was bankrupt. Their

deposits were not insured at the time of the CWS failure. Public disillusionment was running high.

On November 7th and again on November 21st, Nebraska Senator, DeCamp, addressed a letter to Kerrey stressing his concern that an objective investigation into the failure of CWS was not taking place. DeCamp suggested that Kerrey had appointed "certain" individuals to investigate matters when they had personal and business conflicts. DeCamp suspected that SSS was in financial trouble and was alarmed by the level of input Kerrey was allowing Wright. Within four months, thereafter, DeCamp was charged by Lancaster County Attorney, Mike Heavican, with sexual child abuse. These charges were later determined unfounded and dropped, but, of course, later lost his bid for re-election. DeCamp, so outraged by the sexual abuse allegations, appears to have vigorously pursued the idea of a bank-related conspiracy between Kerrey and his associates.

In late October 1983, Rentfro and Joyce concluded that it was appropriate to pursue legal action against SSS and AIG. They retained a local attorney by the name of Patrick Healey. Healey initiated a settlement with SSS, but did not aggressively pursue the matter when SSS failed to respond. Rentfro and Joyce dismissed Healey and retained another local attorney by the name of Alan Plessman (Plessman). During the meetings with Plessman, the idea of a video tape outlining Rentfro and Joyce's grievances evolved. On March 12, 1984, Rentfro and Joyce signed a fee agreement with

Plessman and the following day, March 13, the video was sent to the defendants SSS and the principals of AIG. The video basically outlined the following:

- A. That SSS Company had failed to stand behind its agreement with RJS to give preferential interest rates on loans to the Seven Oaks project, thus causing financial distress.
- B. That Wright, Stuart, and Governor Kerrey, both personally and through their lending institutions, created a deceptive scheme to deprive Rentfro and Joyce of title to SF and to PP.
  - 1. That all defendants knew prior to March 31, 1983, that AIG would be the buyer of SF and not SSS.
  - 2. That Davis of NBC and Hake of SSS dissuaded potential buyers from purchasing SF.
  - 3. That on March 31, 1983, all parties, with the exception of Rentfro and Joyce, knew that AIG had obtained a loan in the amount of \$750,000 from SSS for the purchase of SF. That Stuart had obtained a loan in the amount of \$500,000 for the purchase of PP, and that fraud had been committed against RJW by SSS and AIG with the knowledge and assistance of NBC principals.

The intent behind the video was to show SSS, AIG and NBC the strength of Rentfro and Joyce's case against those parties.

Rentfro and Joyce preferred to settle out of court because of the high visibility the lawsuit would promote. A letter accompanied the video stating that RJW wanted to settle out of court. It further stated that if a settlement was not agreeable to the parties concerned, a lawsuit would be filed on a specific date.

Copies of the video were furnished to Wright, Stuart, Kerrey, and Hake. Hake immediately turned the video over to the Kerrey appointed Banking Director, Roger Beverage (Beverage). Beverage, in turn, gave the video to Lancaster County Attorney, Heavican. Kerrey turned his copy of the video over to his attorney, Bill Campbell and Campbell delivered copies to the U.S. Attorney's office, the FBI and to the Nebraska Attorney General Spire (Spire) (a Kerrey appointee). Wright turned copies of the video over to all State and Federal agencies who might be interested.

In news releases, Kerrey, Stuart, and Wright were quoted as saying that Rentfro and Joyce, by making the video, were involved in extortion attempts. The local news media covered the story over the next several weeks. Beverage gave numerous press releases regarding the extortion attempt. His comments were very protective of Kerrey, Stuart, Wright, and SSS.

The Lancaster County Attorney's Office investigated Kerrey, Stuart and Wright's allegations of extortion against Rentfro and Joyce.

During the massive news media coverage on the SF transaction, Rentfro and Joyce became alarmed at the potential outcome. They

were deeply concerned about obtaining future construction loans from any local lending institutions. Their financial future depended on their ability to obtain bank loans for the development of the many properties they owned. Their concern was also focused on their families and their personal reputations. The two men were conservative by nature and were extremely unnerved by the negative public attention and the State and Federal investigations into the SF matter.

On May 4, 1984, Plessman on behalf of Rentfro and Joyce, forwarded a Settlement Proposal to the attorneys for AIG. On May 7, 1984, Plessman received a letter stating that AIG had rejected the Rentfro and Joyce proposal, dated May 4, 1984. Plessman did not pursue any additional settlement proposals with AIG even though the partners of AIG along with Hake, personally, were responsible for the fraud committed against his clients.

On Thursday, June 21, 1984, the Lincoln Journal headline read as follows: NBC Sued Over SF; State Security Makes Settlement. The article explained that an Eight Hundred Sixty Five Thousand (\$865,000.00) Dollar lawsuit had been filed in Lancaster County Court on Thursday, June 21, 1984, by RJW Partnership. That lawsuit claimed that RJW suffered financial damage because of alleged negligence and carelessness on the part of NBC officers and employees by failing to advise Rentfro and Joyce about certain long-term loan financing for the SF property that was reportedly available through First Federal Savings and Loan Association of

York, Nebraska.

According to Joyce, he and Rentfro had earlier in the day instructed Plessman not to file the lawsuit against NBC. Joyce's first knowledge that the lawsuit had been filed was when he returned to his home on the evening of June 21, 1984, and read the article regarding the lawsuit in the Lincoln Journal. Eventually a Motion for Summary Judgment was rendered in favor of NBC.

In the midst of the investigations, Tom White, whose interest in RJW had been purchased by SSS, was the focal point of a four column news article. The article stated that White was "now occupying a desk in a Lincoln office suite leased to companies in which William Wright and James Stuart are investors". The article displayed a large picture of the names of the businesses which occupied space in the National Bank of Commerce Center, with the address clearly visible. Included in the list of business names was "KERREY FOR GOVERNOR COMMITTEE". The article suggested to the reader that Rentfro and Joyce's allegations against Kerrey, Wright and Stuart were probably unfounded. The article diluted the seriousness of the allegations, leaving the reader to conclude that if Tom White would share offices with the very men he had sued, the matter was probably more of a personal altercation than a conspiratorial pilfering of property. Many politically astute Lincolnites speculated, however, that Wright used his influence as a board member of the newspaper, in the release of such a large, but trivial, news article. With the new-found knowledge that

their partner, White, had shifted loyalties to Kerrey, Wright, and Stuart, Rentfro and Joyce concluded that these three financial and political leaders had immense, impenetrable and far-reaching power. Rentfro and Joyce could not compete with and survive such power.

On March 30, 1984, the Department issued an Order and Notice of Hearing. The purpose of the hearing was to investigate the allegations made by Rentfro and Joyce against SSS. The order stated that on March 27, 1984, L.B. 1039 was signed by Kerrey and became effective March 28, 1984. (Emphasis added) It further stated that pursuant to L.B. 1039, the Director for the Department of Banking and Finance was empowered to require that any person or corporation who has allegedly violated any provision of Chapter 8 of the Nebraska Revised Statutes shall appear at a time and place specified to answer the allegations surrounding the alleged violation. L.B. 1039 further provided that in the event an emergency was found to exist which required immediate action to protect the safety and soundness of the institution involved, an order may be issued requiring such action as may be deemed necessary to meet the emergency without the necessity for a notice to be served at least 10 days before the hearing. On March 29, 1984, the Department was officially advised that a criminal investigation was being conducted by the Lancaster County Attorney's Office. The investigation included an alleged extortion attempt by Rentfro, Joyce, and their attorney, Plessman, as well

as an alleged violation of Section 8-409.03 (involving insider loan transactions) by Wright at SSS. The Department was also advised that an investigation was being conducted into the alleged conspiracy in which Wright, Hake, and others, including Kerrey, were purportedly involved. It was ordered, by the Department, that an emergency existed which required immediate action to be taken to investigate the allegations which had been made in order to protect the safety and soundness of the institution. Finally, it was ordered that all parties involved with the criminal allegations were to appear before the DBF on April 2, 1984 at 9:30 A.M. Subpoenas were issued to each of the involved parties. It appears to us that Kerrey promoted legislation which caused SSS to be held responsible for acts committed by himself and others, causing great monetary loss to SSS depositors.

On May 29, 1984, in the matter of SSS, an Industrial Loan and Investment Company, an Order was issued by the Department pursuant to the authority granted by L.B. 1039 of the Eighty-eighth Legislature, Second Session, 1984. The Order stated that:

Evidence was adduced, and Findings of Fact and Conclusions of Law were adopted by the Department. The institution has had an opportunity to review the Department's proposed Findings of Fact and Conclusions of Law, and to submit exceptions and suggestions. Both were duly considered by the Department."

The Order further stated that:

"Pursuant to said Findings of Fact, and Conclusions of Law, an order is hereby entered to prohibit the practice of receiving funds

directly by Security Financial Corporation, holding company for State Security Savings Company from a borrower under the guise of a "buy-down" of the interest rate on the borrower's loan from State Security Savings without having first paid that amount to State Security Savings Company, the wholly-owned subsidiary."

It stated that this practice is unacceptable and is specifically disapproved and prohibited by the Department.

Finally, it was ordered that the costs of the hearing would be taxed to SSS in the amount of One Thousand Three Hundred Sixty Four Dollars and Eight Five Cents (\$1,364.85). Although a small amount of money, the costs of the hearings were assessed against SSS (or the depositors), for acts committed by Hake, Kerrey, Kiechel and Wright.

Within twenty-four hours of the issuance of the Order by the Department, the Department issued a press release. The press release stated that the Department had conducted a series of hearings into the allegations of potential misconduct by officers and directors of SSS in the purchase and subsequent transfer of a piece of property known as SF in Lincoln, Nebraska. It stated that based upon the evidence which had been received, Department was convinced that SSS had not been damaged or harmed financially as a result of the purchase and sale of SF. It stated that the transactions which were involved with this specific transfer of property in fact strengthened the financial position of SSS. Finally, it said that the Department had turned over all evidence

which it had obtained during the course of the hearings to the Attorney General and the Lancaster County Attorney's office. The Department, from the standpoint of its regulatory responsibilities, had completed its investigation into the SF matter. It is inconceivable to us that Beverage would make such ludicrous statements regarding the sale and purchase of SF not having harmed SSS financially. Very simple mathematic skills show a loss to the institution and, ultimately, the depositors. And further, the transaction certainly did not strengthen the financial position of SSS.

On May 15, 1984, the DBF issued an Order requiring Notice and Approval. The Order basically stated that "the allegations of impropriety which were the subject of a hearing convened pursuant to L.B. 1039 on April 2, 1984", had resulted in the possible out-of-court settlement between SSS and Joyce and Rentfro. It ordered that the Director of the Department had determined that it would be in the public interest and in furtherance of his statutory responsibilities to review and approve the proposed final settlement of the Rentfro/Joyce claims if the monies to fund such are to be taken from any accounts, capital or otherwise, of SSS, its parent holding company, or any of its affiliates, so that a determination could be made as to its affect on the safety and soundness of the Institution.

On June 13th through the 20th, a settlement agreement between SSS, Joyce and Rentfro was signed. Rentfro and Joyce felt the

pressure of accelerated efforts by their own attorney, Plessman, as well as Hake and Fosdick of SSS to get the Settlement Agreement signed. Both Rentfro and Joyce wanted a traditional "closing" with accurate calculations of the transactions, time to examine and evaluate all documents and with proper attachments accompanying the Settlement Agreement. According to Joyce, the final closing, at least for him, took place on July 9, 1984, in his back yard, the very day SSS filed Chapter 11 Bankruptcy.

The only parties present were Joyce, his wife, and his attorney, Plessman. Joyce indicated to his attorney that he needed time to examine documents and calculations that had been prepared by SSS. Plessman assured Joyce that everything was in order and if Joyce did not sign that moment, the entire deal would fall apart. Joyce and his wife signed the documents. They were weary of all the investigations, news releases, and future problems they anticipated from lending institutions with regard to obtaining funding for land development. This settlement was never reviewed or approved by the Department at the time of the settlement. Only months following the bankruptcy filing by SSS did the Department give approval of the Settlement. At that point, all records were sealed from public scrutiny.

On Monday, July 9, 1984, SSS filed Chapter 11 Bankruptcy. The bankruptcy action froze Thirty Two Million (\$32,000,000.00) Dollars in deposits to Six Thousand (6,000) customers. In a news release, Hake explained that the failure of the CWS had a domino effect on

SSS. It was later learned that at the time of the CWS failure, SSS was in a bad, or perhaps, worse financial condition than CWS. Hake explained, further, that in an eight month period of time, deposits fell from Fifty Million (\$50,000,000.00) Dollars to Thirty Two (\$32,000,000.00) Dollars with company assets of about Thirty Six Million (\$36,000,000.00) Dollars. He stated that SSS was committed to a one hundred (100%) percent pay-out to all their savings customers. Time, however, has revealed Mr. Hake's true commitment to the words and promises made in July of 1984 to the depositors.

In numerous news articles regarding the failure of SSS, Beverage explained that the Department had prepared to take over the Institution at 1:00 A.M., July 10, 1984. He said that he had called in the State Patrol and made arrangements for a locksmith to change the locks on the building. Although we find this story most unbelievable, we read with interest Beverage's explanation that earlier in the day, he sat in a meeting with SSS officials, expecting to announce the State take-over. Instead, Beverage said he was told that SSS had just filed for protection under federal Bankruptcy Laws. Beverage told the public that he had not told Governor Kerrey of the pending take-over because of Kerrey's close relationship with one of the owners, Wright. Again, these kinds of fabrications are insulting to the public and do nothing more than illustrate the scheming and plotting methods these men consistently used. SSS reopened approximately one year after filing bankruptcy as a federally insured building and loan corporation.

On January 9, 1985, the heirs of one or both of the original stockholders of SSS brought legal action against Hake, Wright, Olsen, and SFC, the holding company which owned SSS. The lawsuit alleged violations of various sections of the Security and Exchange Act, both federal and state. As part of the alleged fraudulent act, the lawsuit stated that the defendants allegedly devised a scheme whereby they would cause the stock of the plaintiffs to be purchased on an installment basis and would make future payments on stock without using their own funds, but would rely solely upon the earnings and proceeds of liquidation of the assets of SSS.

The lawsuit further alleged that in 1983, a commercial development known as SF and an additional parcel of property were sold to AIG by a SSS customer (Rentfro/Joyce). SSS made a loan secured by a second deed of trust to the AIG as part of said transaction. The AIG paid Two Hundred Thousand (\$200,000.00) Dollars to SFC due to a buy-down to below market levels of the interest rate on the loan which was made by SSS. It was alleged that at the direction of Hake, SSS received no part of the Two Hundred Thousand (\$200,000.00) Dollar fee for the interest rate concession that it made. This lawsuit was eventually settled out of court.

## **2. Analysis of State Security Committee Report**

On June 25, 1985, Beverage resigned as Director for the Department and Kerrey appointed Roger Hirsch on July 5, 1985 as Interim Director. In September, 1985, Kerrey appointed James C.

Barbee as Director of the Department.

On September 24, 1985, Senator Jerome Warner, joined by Senator's Vickers, Remmers, Lamb, and Nichol, introduced Legislative Resolution 1 requesting that the Legislature convene a panel consisting of the Legislature's Banking, Commerce and Insurance Committee along with four additional legislators to "study all aspects of any potential liability, exposure or responsibility of the State of Nebraska with regard to the failure of SSS and American Savings Company (ASC)...." LR1 was debated on the floor of the Legislature as well as in a meeting of the Legislature's Executive Board, chaired by Chris Beutler. However, no formal action was taken on the resolution when the Legislature adjourned on September 25, 1985.

Nevertheless, in response to the concern generated by Senator Jerome Warner's resolution, and in cooperation with Senator Chris Beutler, Senator DeCamp, as chairman of the Banking Committee appointed Senator Bill Harris (Harris) of Lincoln to chair a special subcommittee of the Banking Committee to examine the SSS and the ASC matters. Shortly thereafter, Senator Beutler endorsed the appointment of the special subcommittee, but in his directive to Senator Harris on September 30, 1985, limited the subcommittee's work to a "preliminary investigation", for the purpose of determining "whether further investigation by a larger and more formalized investigative committee would be in order". Senator Bill Harris thereupon appointed seven legislators to the

subcommittee. Between October, 1985, and July, 1986, the subcommittee held several meetings and deliberated on the information collected and presented by its legal counsel, Mr. Gary Rex. The subcommittee issued its recommendations to the Banking, Commerce and Insurance Committee on July 9, 1986, which recommendations stated that; "It is appropriate for the Legislature's Executive Board to take the necessary steps to conduct a formal investigation of the facts and circumstances leading up to and surrounding the bankruptcies of SSS and American Savings...." Mr. Gary Rex also served as counsel for the Banking, Commerce and Insurance Committee.

Following receipt of the subcommittee's recommendations for an in-depth examination of the two failed lending institutions, the Committee met for the first time on July 21, 1986. The Committee thereupon approved a resolution proposing that the Executive Board authorize the Committee to conduct such a study. The Committee's resolution further spelled out the scope of the recommended inquiry, and requested that Twenty Five Thousand (\$25,000.00) Dollars be allocated for funding of the endeavor.

On July 30, 1986, the Executive Board met to consider the Banking Committee's proposal. During the meeting, Senator DeCamp offered an amendment that the investigation be open to the public unless a witness specifically requested that his or her testimony be given in closed session. The Board unanimously adopted the Committee's request, as amended, and appropriated the Twenty Five

Thousand (\$25,000.00) Dollars for the Committee's use. The Committee commenced its investigation on September 17, 1986, and concluded the investigation on November 21, 1986. Only the conclusion drawn by the Committee was readily made available to the public.

Prior to and during the Committee's investigation of SSS, there were numerous news accounts involving Kerrey's dislike of Senator DeCamp, referring to the investigation as a "witch hunt". Senator DeCamp, in a news account, remarked that "Kerrey is afraid of what the investigation will reveal". Senator DeCamp did not hesitate to let the public know that it was his feeling that many improprieties took place at SSS which involved the Governor and his close friend and business associate, Wright. During the Committee's investigation, Kerrey, on several occasions, called a special session which interrupted the Committee's investigation. DeCamp let it be known that it was the Committee's feeling that Kerrey was trying to disrupt the investigation.

In a memorandum, dated September 27, 1985, from Senator DeCamp, to all members of the Executive Board, all members of the Banking, Commerce and Insurance Committee, and all other interested parties, DeCamp wrote, "Governor Robert Kerrey has expressed outward hostility towards my conducting the investigation or study as chairman and has suggested that if I were to chair the study, the study would be a "witch hunt...".

The investigation of SSS by the Committee revealed several

items of interest in the instant case. The Committee learned that on May 28, 1986, a confidential, hand-delivered letter was taken to James Barbee, Director of the Department. The letter stated;

"That the subcommittee, during their investigation, became aware of information relating to the "Shoppers Fair" transaction involving State Security Savings which disturbs us very much. We learned that when the partnership entitled American Investment Group (AIG) purchased Shoppers Fair from the partnership called "RJW" on March 31, 1983, a portion (\$750,000) of the purchase price was financed by State Security at 12% interest. As part of that transaction, and in consideration for the preferential interest rate charged by State Security, AIG agreed to pay a "buy-down" fee of \$150,000.00..."

They went on to say,

"Specifically, on June 6, 1983, three of the partners of AIG signed a note to Union Bank and Trust for \$150,000.00 (at 14% interest), which proceeds were deposited to the account of Security Financial Corporation on June 7, 1983. Also, another \$50,000.00 was received by Security Financial Corporation on June 7, 1983, which represents a buy-down fee relating to a loan from State Security to TransAmerican Corporation for the acquisition of Pioneer Plaza... While we do not feel that it is our responsibility to specify which criminal statute was violated, or by whom, we have been advised by our legal counsel that three criminal provisions may apply... It is our belief that we have an obligation to bring our concern to your attention... ..because the statutory limitation on initiating prosecution in this case may expire on June 7, 1986, we feel that we have no choice but to forward this request for your consideration in this matter. We urge you to consult immediately with the appropriate law enforcement authorities to determine whether criminal prosecution is warranted..."

When the Committee learned that law enforcement agencies and the Department had not taken their letter regarding the criminal violations seriously, they began efforts to subpoena certain individuals to explain their reasons for not prosecuting. During that discussion, several Senators made the following statements:

SENATOR BEYER: ...first of all find out why they didn't prosecute and what avenues we have based on the information. If they say there is no way we could win on a prosecution, then where are we?

GARY REX: I think you should also delve into why the decision was not made to prosecute it during an earlier era as well. I think you might as well examine that issue not only in June of this year but throughout the entire time.

...

SENATOR BEYER: Whatever you think, but I think we ought to get the answer from them because if they just say there is flat no chance of prosecution here, whatever way, why spin our wheels the rest of the time investigating.

SENATOR HIGGINS: Then we come out publicly and say they have this information, they refuse to prosecute. I mean then you can do it to them like anybody does it to whoever. They are public officials. They are responsible to the public. The public has a right to know.

SENATOR BEYER: We are going to get criticized whatever we do. You might as well understand that, Marge

...

SENATOR HIGGINS: What bothers me is up here, am I doing the right thing. That is all. ...

...

GARY REX: ...we do not know what Roger Beverage's schedule is. I am sure that he would like to be here as well as some of the other individuals involved, they are going to be asking for time to review the Banking Department records before they appear so they can be familiar with it.

SENATOR HIGGINS: I don't give a damn. I mean we are here. He was Banking Director, he has seen all this. He got out. He knows what is here.

GARY REX: I'm just saying that is the response they are going to give the Chairman.

SENATOR HIGGINS: Good. They can give any response they want. But the time to be Mrs. Good Guy is over. I mean those people played hard ball with a lot of people's money and thought they got away with it, and I don't think this is any time for this committee or any member of the committee to say let's be courteous. Courtesy be damned, its time to be honest...

...

SENATOR HIGGINS: ...I am sick and tired of this pussyfooting around with these boys.

SENATOR SCHMIT: ...at the same time the statute will have expired and the people that needed to be protected will have been protected, that is putting it very bluntly.

Of course, no prosecution ever took place and when subpoenaed to testify before the Committee, both County Attorney, Mike Heavican and Attorney General Robert Spire explained that they had the exclusive discretion for prosecution...and they choose not to prosecute in this case. Heavican and Spire refused to explain why they had made such a decision. As a result of their decisions,

these men have caused a great financial loss to many people and this will be rememberd when it is time to re-elect these officials.

The Committee's investigation also revealed that beginning almost immediately after Hake, Wright, and Olsen purchased SSS, they began "spinning off" the assets of SSS for their own personal benefit. By November, 1983, when the CWS had failed, SSS was in as bad or worse shape than the CWS. This fact was not known, however, until the investigation into SSS in 1986. With the knowledge that Kerrey possessed from the beginning of his governorship, that is, that SSS was on the Department's "trouble" list, it has become clear that Kerrey was protecting his interests, both directly and indirectly, in SSS.

Kerrey had a long loan history with SSS and several of his major development projects had been financed through that institution. Kerrey's relationship with SSS began in 1972 and lasted until mid-July, 1984 when SSS filed Chapter 11 Bankruptcy. On July 19, 1984, a letter from SSS to Kerrey, Young, Stuart, and Keichel, in care of Real Property Services, Inc. (another corporation formed by these individuals to manager their Quail Valley Apartment complex), indicated that all their loans had been paid off at SSS by Commerce Savings. Commerce Savings was an industrial bank owned by James Stuart.

Although the Committee obtained many documents pertaining to Kerrey's business dealings with SSS, it was more than difficult to

ascertain the depth of the borrowing that took place. When the Committee requested all financial information from Kerrey, at the advice of his attorney, Kerrey objected. Kerrey would not release financial information which involved partnerships. Because most of Kerrey's dealings were in the form of partnerships and corporations, the financial picture on him was, at best, limited. It should also be noted that of all of those persons requested to testify before your Committee, Kerrey was the only individual who did not testify under oath.

Throughout the investigation by the Committee, the reader could clearly see that the investigators knew that Kerrey, Stuart, and Wright had taken special care to guide the public awareness away from the problems in the banking and lending community. As far as the public knew, there were only a few problems in the banking industry around the state. The truth was that over sixty lending institutions in the State of Nebraska failed from June 30, 1983 to May 31, 1985 and this does not include bank mergers.

It was evidenced during the Committee's investigation, that the assets belonging to SSS had been intentionally drained with the proceeds going to SFC. The investigation also revealed from bank examination reports in February, 1984, that although SSS showed massive deterioration, with over a One Million (\$1,000,000.00) Dollar loss, Two Hundred Thousand (\$200,000.00) Dollars was paid nevertheless to SFC in lieu of a dividend.

According to the FSLIC examination of SSS in 1984, SIC, a

subsidiary of SSS, was "a dumping ground" for substandard assets and fifty percent (50%) of the loans were without appraisals. The FSLIC report indicated that SIC was unprofitable from its inception and was used primarily for disposal of undesirable properties.

The Banking Committee investigation revealed that FNB purchased several million dollars in assets from SSS and/or SIC. Included in this package was the Seven Hundred Fifty Thousand (\$750,000.00) Dollar loan from SSS to AIG. The loan was discounted at an approximate loss to SSS of One Hundred Thousand (\$100,000.00) Dollars and it is not known if that loan was ever satisfied.

The following transactions are even more alarming to us. In 1982 SFC, the holding company for SSS, obtained a Three Million, Five Hundred Thousand (\$3,500,000.00) Dollar line of credit from FNB. This line of credit was obtained without personal guarantees, by Wright, Hake, and Olsen. The proceeds of this loan was used to pay off a One Million (\$1,000,000.00) Dollar loan which had been obtained years prior through Wright, from City Bank for the purchase of SSS and to restructure the financing for the SSS from Mrssers. Card and Adams. In other words, the original purchase amount was reduced and the original owners received cash in return for the reduction in the purchase price.

During the September 17, 1986 Committee hearings, Senators Harris, Beyers, and DeCamp confirmed that the above mentioned Three Million Five Hundred Thousand (\$3,500,000.00) Dollar loan was paid off by the use of the Four Million (\$4,000,000.00) Dollars the

FSLIC loaned SSS when they reopened. The Four Million ended up in the pockets of FNB. FNB had returned all the substandard paper they purchased from SIC and apparently disposed of or kept the performing paper.

When SSS reopened, Two Million (\$2,000,000.00) Dollars was borrowed from FNB and a group of Lincoln banks, allegedly the purpose of the loan was to increase from Eleven Million (\$11,000,000.00) Dollars to Thirteen Million (\$13,000,000.00) Dollars the amount of money available to the depositors when the institution reopened. However, the Two Million (\$2,000,000.00) Dollar loan was obtained by SIC and the security on the loan was from assets of SIC, the entity which had been used as a dumping ground for the substandard loans and assets before SSS declared bankruptcy. This transaction will result in at least Two Million Dollars less available for the depositors when assets in SIC are finally sold. It may, however, be much worse than that. We believe the true purpose of this loan was to accommodate the lenders, FNB, and a group of Lincoln Banks.

We believe the banks will mishandle the marketing of the property securing the loan to the disadvantage of the depositors, and to their own advantage ...as was done with Capitol Beach and other Copple properties.

It appears that the Two and Four Million Dollar loans will cause, at least, a Six Million (\$6,000,000.00) Dollar loss to the depositors of the new Security Federal Savings.

The conclusion of the investigation into the matters of SSS by the Committee was very disappointing. The actual testimony, documentation, and discussion led the reader to believe that the entire SF matter, the truth about the unusual and contrived news media attention given to the CWS failure, and the true facts involving Kerrey, Stuart, and Wright and their involvement in the taking of the SF property would be disclosed. It was believed by the readers, if only for a moment, that criminal charges would be filed against Stuart and Wright for their violations. And, for a brief moment, one could believe that Senator DeCamp was going to expose Kerrey's overwhelming control over certain governmental departments. The Conclusion Report issued by the Investigating Committee was more than a disappointment, it was barely worth reading. A six month investigation produced a 36 page Conclusion Report with only three pages dedicated to the investigation of SSS. The balance of the report was, once again, a report on the Commonwealth.

In an affidavit dated December 8, 1989, and signed by Gustave Lieske, Lieske stated that according to Senator Loran Schmit the conclusion report issued by the Committee, on the investigation into SSS, was designed to protect Kerrey and his involvement in improprieties in SSS, from the public. Lieske stated that the conclusion report that was issued to the public would simply be

another report on the CWS.<sup>61</sup>

Even without Mr. Lieske's statement regarding the conclusion report of SSS, it is more than clear that the Committee had taken special effort to disguise their findings.

After much effort on our part, we were finally able to acquire a copy of the report by Gary Rex, legal counsel for the Subcommittee of Banking, Finance and Insurance, who initially investigated the SSS matters. Eventually, we were able to obtain the transcripts of the dialogue between the Senators during their investigation, along with the testimony given by thirteen individuals who testified before the Committee. There were many more documents and testimonial transcripts which we have been unable to obtain thus far.

As the result of all the investigation and the testimony given by a number of individuals, it appears, after all, the CWS and SSS were, indeed linked. Not, however, by shady dealings between the two institutions, but rather by our own state government.

We conclude that certain members of the Legislative bodies, in charge of investigating the many banking failures were held hostage, in a sense, from releasing the truth to the public. Their fears were repeatedly reinstated by each other, by the Department and by their own knowledge of the wrong doings by prominent bankers and political figures -- if the public should know the truth,

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<sup>61</sup>Affidavit of Gustave Lieske (Dec. 8, 1989).

depositors throughout the State would remove their deposits from the banks fearing, and rightfully so, theft by the very people charged with the duty of protecting our deposits.

### C. AMERICAN SAVINGS COMPANY

In the case of the American Savings Company failure, there is little information. The Committee on Banking, Commerce and Insurance charged with the duty to investigate the American Savings failure, elected not to conduct such an investigation due to time constraints. However, on September 18, 1986, Gary Rex, legal counsel for the Committee, explained the following:

There was between CWS and SSS one connection I've already mentioned, that is the reciprocal purchase of Capitol Notes. Another connection is that there was an Omaha Industrial, by the name of Industrial Savings Company, that was not a member of the NDIGC, that was about ready to collapse. So at the time the owner of American Savings in Omaha felt that his institution had the most to lose if Industrial Savings went down because it was an Omaha industrial and it might cause a run on his. So he got together with ten other industrials in the State and they all chipped together to recapitalize and to purchase Industrial Savings. The president of the corporation that was formed to purchase Industrial Savings was Ken Hake. As it turned out State Security Savings bought I think a total of \$200,000 worth of stock in Industrial Savings, American Savings, though, owned the larger share, about 26 or 27 percent. Eventually American Savings merged with Industrial Savings Company, which was one of the reasons for its downfall, since Industrial Savings had so many problems. To facilitate that merger the NDIGC contributed \$500,000...I better check on that as far as the second 500. I know there is another \$500,000 but I think that might have been when MorAmerica purchased it, they gave the half million, that was it. So there is only \$500,000 that went from the NDIGC as a loan in the Industrial Savings

situation.<sup>62</sup>

As mentioned in a prior section of this report, it is the feeling of these writers that in the case of American Savings, the underhanded dealings by those in control must have been so outrageous that it was decided by your Committee that those inequities should remain concealed.

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<sup>62</sup>See, Committe Report at N.2, Supra.

#### IV. CONCLUSION

We have shown to this Legislature that our inability to obtain the full return of our deposits has everything to do with a failing banking industry and a corrupt State Government.

As the result of an unstable banking industry, millions of dollars in banker-to-banker lending and deal making, criminal violations, and a Banking Department acting in direct conflict with its duties to protect the deposits of the people, has forced these depositors to suffer the consequences of a system out of control.

This is no longer a simple case of a few depositors fighting for their lost savings. As evidenced by this report, this has become a case involving serious Government fraud...beyond anything we ever imagined. This fraud is far reaching and extends to all the people living in the State of Nebraska.

Those bankers and political figures...the esteemed of our community, have severely insulted the intelligence of the people of this State. The deceit committed by these people should not go unanswered any longer.

Each of you Legislators knew many years ago the true facts surrounding all the failed lending institutions in this State. And yet, you chose to close your eyes to the crimes that had been committed.

This submissive attitude is frightening to the citizens of this State. It is conspiratorial in itself...precipitating continued fraud and deceit by these same individuals.

As the result of our findings which have been submitted to you, we firmly believe that we are entitled to be paid our full loss, to include compounded interest at fair market rate. We further believe that the interest should accrue from the date of the declaration of insolvency at each institution, to present.

It is our hope that the decision to unconditionally reimburse this money will be made during this Legislative Session.

In closing, we ask each of you to examine your conscience in not only the decision to reimburse our deposits, but also in the matters we have outlined for your, Honorable Legislative Body. We trust that you will make a sincere effort to make a fair and just decision, both now and in the future, with regard to these serious matters.

Respectfully submitted,



Reuben Worster

cc: Nebraska Legislature

## V. STATEMENT PERTAINING TO ATTACHMENTS

Due to the voluminous records involved in this report, it is impossible to attach them to each copy of the report. It has, therefore, been determined that Reuben Worster will be the Custodian of Documents. These materials are filed in the order in which they appear in this report and will be made available to you, upon request.

You may contact Mr. Worster at (402)489-3106 to schedule a review of the records.

## VI. TABLE OF DOCUMENTS CITED

1. Affidavit of Gustave Lieske, (Dec 8, 1989).
2. Affidavit of Joel Phipps (Dec. 19, 1989).
3. Affidavit of Newton Copple (Dec. 8, 1989)
4. Agreement, dated April 10, 1983, between First National Bank of Omaha, First Security Bank and Trust Company of Beatrice and the Nebraska Depository Institution Guaranty Corporation.
5. Agreement, dated April 10, 1983, between First National Bank of Omaha, First Security Savings Company of Beatrice and the Nebraska Depository Institution Guaranty Corporation.
6. Amended Petition, The Department of Banking and Finance of the State of Nebraska, Receiver of Commonwealth Savings Co. v. S.E. Copple, Doc. 377, Page 004, filed in Lancaster County District Court, (Jan. 20, 1984).
7. Committee on Banking, Commerce, and Insurance, 89th Nebraska Legislature Report on the Investigation of State Security Savings Company, Lincoln, Nebraska (Jan. 6, 1987).
8. David Domina and John P. Miller, A Special Report of the Investigation of Public Officials (Jan. 20, 1984).
9. Deed of Trust, Assignment of Rents, and Security Agreement, dated August 19, 1983, executed by Marvin E. Copple and Joan E. Copple to John S. Pierce, Trustee for the benefit of First National Bank and Trust Company of Lincoln, National Bank of Commerce Trust and Savings Association and State Security Savings Co.
10. Deed of Trust. Capitol Beach, Inc. to Commonwealth Savings Company.
11. Deed of Trust. Capitol Beach, Inc. to First National Bank and Trust of Lincoln.
12. Dennis O'Neil, Memorandum to Executive Committee, dated Jan. 9, 1984, (S.E. Copple indebtedness to FNBO).
13. Fraud Alleged in Commonwealth Loan, Lincoln Journal, Nov. 4, 1983; Commonwealth Savings Company v. Dana R. Saylor, Case No. 375- 59, Answer, filed in Lancaster County District Court (Oct. 26, 1983).

14. In re S.E. Copple, a/k/a Sumner E. Copple, Debtor, Case No. Bk. 85-1847, filed Aug. 15, 1985 (Bankr., Neb.).
15. In the Matter of Marvin E. Copple, Case No. Bk 87-00937, (Bankr. Ariz., Feb. 19, 1987).
16. L.B. 58, 85th Nebraska Legislature (1983).
17. Letter from Sen. John DeCamp to Gov. Robert Kerrey (Nov. 7, 1983) (inability to obtain pertinent info. from Gov. concerning Commonwealth failure).
18. Letter from Sen. John DeCamp to Gov. Robert Kerrey (Nov. 21, 1983) (discussing potential liability of the State of Nebraska for reimbursement of depositor's funds).
19. Merger or Acquisition of Certain Financial Institutions, Hearings on LB 241 before the Committee on Banking, Commerce, and Insurance, 85th Nebraska Legislature (1983).
20. Multi-Bank Holding Company Legislation, Hearings on LB 58 before the Committee of Banking, Commerce and Insurance, 85th Nebraska Legislature, (1983).
21. Newton E. Copple, Real Estate Trust Agreement, dated Nov. 14, 1983 (filed as Inst. No. 82-4034 with Lancaster County Registrar of Deeds).
22. No Commonwealth Probe Asked, Lincoln Journal, Nov. 2, 1983.
23. P. Amen, A History of the Major Events at Commonwealth Savings Company (Nov. 15, 1983); Tort Claim, First National Bank Omaha v. State of Nebraska, (Apr. 8, 1985).
24. Petition, Commonwealth Savings Company v. Dana R. Saylor, Doc. 375, Page 59 (D. Ct. Lancaster County, filed Sept. 21, 1983).
25. Petition, Newton E. Copple v. S.E. Copple, Trustee, filed in Lancaster County District Court (Nov. 1983).
26. Petition, The Department of Banking and Finance of the State of Nebraska, Receiver of Commonwealth Savings Co. v. Newton E. Copple, (1985).
27. Petition, The Department of Banking and Finance of the State of Nebraska Receiver of Commonwealth Savings Co., v. S.E. Copple, Doc. 377, Page 004, filed in Lancaster County District Court (Nov. 21, 1983).

28. Promissory Note, dated Dec. 28, 1983, executed by S.E. Copple, Trustee in favor of First National Bank Omaha in principal amount of \$728,193.00.
29. (Proof of Claim) In re S.E. Copple, a/k/a Sumner E. Copple, Debtor at n. 14, Supra.
30. Receiver's Deed, dated Sept. 12, 1989, executed by Joseph H. Badami, Receiver, and filed in the office of the Registrar of Deeds of Lancaster County, Nebraska, as Instrument Number 89-26420.
31. (Release of Judgment and Lien) Union Bank and Trust Company, A Corporation v. S.E. Copple, doc. 376, page 148, (filed with Clark Lancaster County District Court May 11, 1984).
32. Tort Claim, First National Bank Omaha v. State of Nebraska, (Apr. 8, 1985);
33. Transcript of Jury Trial at 2637-2640, United States of America v. Newton E. Copple, et. al., doc. CR84-00035-1, (D. Neb. June 19, 1985).
33. Trustees Deed, dated June 17, 1983, executed by S.E. Copple, Trustee, and filed in the Office of the Register of Deed of Lancaster County, Nebraska, as Instrument Number 83-12412.
34. S.E. Copple, Statement by S.E. Copple, dated July 9, 1984.