

#2001-110

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:)
Mark Cook)
Institution-Affiliated Party)
Ontario National Bank, Clifton Springs, New York)
Cayuga Lake National Bank, Union Springs, New York)
Redwood National Bank, Alexandria Bay, New York)
_____)

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (Comptroller) intends to initiate cease and desist and civil money penalty proceedings against Mark Cook (Respondent) pursuant to 12 U.S.C. §§ 1818(b) and (i) (as amended); and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter, the Comptroller and Respondent desire to enter into this Stipulation and Consent Order (Order);

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

Article I

JURISDICTION

(1) Ontario National Bank, Cayuga Lake National Bank, and Redwood National Bank (Banks) are national banking associations, chartered and examined by the Comptroller, pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 et seq. Accordingly, the Banks are “insured depository institutions” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an Independent Contractor of the Banks and was an “institution-affiliated party” (IAP) of the Banks as that term is defined in 12 U.S.C. § 1813(u)(4), having served in such capacity within six (6) years from the date hereof (see 12 U.S.C. § 1818(i)(3)).

(3) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain cease and desist and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(b) and (i).

Article II

PERSONAL CEASE AND DESIST ORDER

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any wrongdoing, Respondent hereby agrees that he shall not become an IAP, including an Independent Contractor in any capacity, and shall not otherwise participate in any manner in the conduct of their affairs without first obtaining the written approval of both the Comptroller and the institution's "appropriate Federal financial institutions regulatory agency," as defined in 12 U.S.C. § 1818(e)(7)(D) (as amended).

(2) The prohibition in paragraph (1) of this Article apply to the following institutions and agencies:

- (a) any depository institution, as defined in 12 U.S.C. § 1813(c)(1) and any insured depository institution, as defined in 12 U.S.C. §§ 1813(c)(2) and (c)(3);
- (b) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or a savings association under 12 U.S.C. § 1818(b)(9) (as amended);
- (c) any insured credit union under the Federal Credit Union Act;
- (d) any institution chartered under the Farm Credit Act of 1971;
- (e) any appropriate Federal depository institution regulatory agency; and
- (f) the Federal Housing Finance Board and the Federal Home Loan Bank.

(3) If Respondent obtains the prior written consent of both the Comptroller and the institution's appropriate Federal financial institutions regulatory agency to become an IAP or an independent contractor of the institutions and agencies as defined in paragraph (2) of this Article, or to otherwise participate in any manner in the conduct of their affairs, the Respondent shall comply with the following restrictions and limitations with respect to the institution with which he is affiliated. The respondent shall:

- (a) disclose the existence and contents of this stipulation and consent order to the institution's Board of Directors prior to accepting employment at any institution in paragraph (2) of this Article;
- (b) perform his position in a manner that upholds his fiduciary duties to the institution in paragraph (2) of this article; and
- (c) not use the computer, electronic, network, or other bank systems to make an unauthorized entry into the systems;
- (d) not use the computer, electronic, network, or other bank systems to affect any of his personal accounts; and
- (e) not use his position for personal gain or profit.

(4) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. §§ 1818(b) and (h) (as amended).

Article III

CIVIL MONEY PENALTY

(4) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the amount of two thousand five hundred dollars (\$2,500), which shall be paid upon execution of this Order. Respondent shall make payment in full by check made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, Office of the District Counsel, 1114 Avenue of the Americas, Suite 3900, New York, NY 10036-7780.

(5) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. §§ 1818(h) and (i) (as amended).

Article IV

WAIVERS

- (6) By executing this Order, Respondent waives:
- (a) the right to the issuance of a Notice of Charges under 12 U.S.C. §§ 1818(b) and (i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b) and (i) and 12 C.F.R. Part 19;
 - (c) all rights to seek judicial review of this Order;
 - (d) all rights in any way to contest the validity of this Order;

- (e) any and all claims for fees, costs or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- (f) all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for issuance of this Order.

(7) Respondent shall not cause, participate in or authorize the Banks (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any expense for the payment of the civil money penalty under this Order, or any legal (or other professional) expense relative to the negotiation and issuance of this Order; and, in accordance with 12 C.F.R. § 7.2014, Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate thereof) with respect to such amounts.

(8) Respondent acknowledges that he has read and understands the premises and obligations of this Order and declares that no separate promise or inducement of any kind has been made by the Comptroller, his agents or employees to cause or induce the Respondent to agree to consent to the issuance of this Order and/or to execute this Order.

(9) It is hereby agreed that the provisions of this Order constitute a settlement of the cease and desist and civil money penalty proceedings contemplated by the

Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations that gave rise to this action, unless such acts, omissions, or violations reoccur.

(10) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(11) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and that nothing herein constitutes, nor shall Respondent contend that it constitutes, a waiver of any right, power, or authority of any other representatives of the United States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

Signed

12/3/01

Fred D. Finke
Deputy Comptroller
Northeastern District Office
-signed-

Date

11-27-2001

Mark Cook

Date