

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

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**In the Matter of:** )  
Jian Xiang Wen )  
Also known as Simon Jian )  
Former Employee )  
Bank of China, New York Branch )  
New York, New York )

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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate a cease and desist proceeding pursuant to 12 U.S.C. § 1818(b) (as amended) and a civil money penalty proceeding pursuant to 12 U.S.C. § 1818(i) (as amended) against Jian Xiang Wen, also known as Simon Jian (“Respondent”); and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matters, 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) Bank of China, New York Branch (“Branch”) is a Federal branch licensed and examined by the Comptroller pursuant to the International Banking Act of 1978, as amended, 12 U.S.C. § 3101 *et seq.* The Branch is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an employee of the Branch and is an “institution-affiliated party” of the Branch as that term is defined in 12 U.S.C. § 1813(u), 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 enforcement proceedings against institution-affiliated parties of the Branch. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain a cease and desist proceeding against him pursuant to 12 U.S.C. § 1818(b) (as amended) and Respondent is subject to the authority of the Comptroller to initiate and maintain a civil money penalty proceeding against him pursuant to 12 U.S.C. § 1818(i) (as amended).

## Article II

### PERSONAL CEASE AND DESIST ORDER

(1) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Respondent shall not engage in any personal transaction with,

or accept any personal benefit from, a customer of an insured depository institution, of which he is an “institution affiliated party,” as defined in 12 U.S.C. §1813(u), unless Respondent first provides his supervisor with a detailed written description of such transaction or benefit and receives a written approval from his supervisor to engage in such transaction or receive such benefit.

### Article III

#### CIVIL MONEY PENALTY

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the amount of five thousand dollars (\$5,000.00), which shall be paid in five installments of one thousand dollars (\$1,000.00) each. The first installment shall be payable upon execution of this Order, and the remaining four installments shall be payable on or before the 30th day of September of each of the following four years. Respondent shall make each payment by certified check made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. The name of the Branch and Respondent shall be referenced on each check.

(2) If Respondent fails to make any payment as provided in this Article, the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable.

(3) 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

##### NOTICE OF ADDRESS AND SOCIAL SECURITY NUMBER TO OCC

(1) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of the Enforcement & Compliance Division (“Director”) of his current address and social security number on the form attached hereto as Appendix A.

(2) Until the civil money penalty is paid in full, upon each and every subsequent change in address, if any, Respondent shall notify the Director of his new address within seven (7) days of such change in address.

#### Article V

##### WAIVERS

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of any Notices 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.

(2) Respondent shall not cause, participate in or authorize the Branch (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 Branch (or any subsidiary or affiliate thereof) with respect to such amounts.

(3) 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.

(4) It is hereby agreed that the provisions of this Order constitute a settlement of the cease and desist proceeding and the civil money penalty proceeding contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations, unless such acts, omissions, or violations reoccur.

(5) 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.

(6) 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.

/s/ Ronald G. Schneck

10/31/02

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Ronald G. Schneck  
Director  
Special Supervision/Fraud

\_\_\_\_\_  
Date

Signed  
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Jian Xiang Wen (a/k/a Simon Jian)

October 8, 2002

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Date