

**#2002-41**

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

In the Matter of: )  
First National Bank at Darlington )  
Darlington, Wisconsin )

CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller), through his National Bank Examiner, has examined the First National Bank at Darlington, Darlington, Wisconsin (Bank), and his findings are contained in the Report of Examination, dated September 30, 2001 (ROE).

The Bank, by and through its duly elected and acting Board of Directors (Board), has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated May 7, 2002, that is accepted by the Comptroller. By this Stipulation and Consent, that is incorporated by reference, the Bank has consented to the issuance of this Consent Order (Order) by the Comptroller.

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

**ARTICLE I**

**BANK SECRECY ACT PROGRAM**

(1) Within one hundred eighty (180) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures to ensure

compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 - 5330), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C (collectively referred to as the Bank Secrecy Act). At a minimum, this written program shall establish:

- (a) a system of internal controls and independent testing and auditing to ensure ongoing compliance with the Bank Secrecy Act;
- (b) operating procedures for both the opening of new accounts and the monitoring of high risk accounts;
- (c) adequate controls and procedures to ensure that all suspicious and large currency transactions are identified and reported. Procedures should be comprehensive as to all points of cash entry and exit;
- (d) procedures to ensure that records are maintained on monetary instrument transactions and funds transfers, as required by the Bank Secrecy Act;
- (e) comprehensive procedures to identify and report to appropriate management personnel:
  - (i) frequent or large volume cash deposits or wire transfers or book entry transfers to or from offshore or domestic entities or individuals;
  - (ii) wire transfers or book entry transfers that are deposited into several accounts;
  - (iii) receipt and disbursement of wire transfers or book entry transfers without an apparent business reason;
  - (iv) receipt and disbursement of wire transfers or book entry transfers

- when they are inconsistent with the customer's business;
- (v) receipt and disbursement of currency or monetary instruments when they are inconsistent with the customer's business; and
  - (vi) bank accounts opened in the name of any "financial institution" as defined in 31 C.F.R. § 103.11(n) (bank, broker/dealer, currency dealer or exchanger, issuer or seller or redeemer of traveler's checks or money orders, transmitter of funds, telegraph company, casino, etc.);
- (f) a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of and compliance with the requirements of the Bank Secrecy Act, including the currency reporting and monetary instrument and funds transfer recordkeeping requirements, and the reporting requirements associated with Suspicious Activity Reports (SARs) pursuant to 12 C.F.R. Part 21, Subpart B; and
- (g) an effective audit program designed to assist in ensuring the Bank's compliance with the Bank Secrecy Act, which program shall include:
- (i) testing of the adequacy of internal controls designed to ensure compliance with the provisions of the Bank Secrecy Act;
  - (ii) prompt management response and follow-up to all audit exceptions or other recommendations of the Bank's auditor; and
  - (iii) a risk based approach to Bank Secrecy Act compliance that includes transactional testing and verification of data for higher risk accounts or geographic areas of specific concern.

(2) Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## **ARTICLE II**

### **OFFICE OF FOREIGN ASSET CONTROL PROGRAM**

(1) Within one hundred eighty (180) days the Board shall adopt comprehensive guidelines, procedures, and systems for compliance with the rules and regulations of the Office of Foreign Assets Control (OFAC). At a minimum, this written program shall establish:

- (a) procedures to ensure all new accounts, including loans, are compared to the current OFAC list of entities whom the bank is prohibited from dealing;
- (b) procedures to ensure existing accounts are compared to new entities and individuals added to the OFAC list;
- (c) procedures to ensure that the current OFAC list being used to review accounts; and
- (d) a plan to ensure all employees with customer contact receive annual training on the requirements of OFAC, and the bank's procedures for OFAC compliance.

(2) Upon completion, a copy of this program shall be submitted to the Assistant

Deputy Comptroller for review.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

### **ARTICLE III**

#### **BANK SECRECY ACT OFFICER**

(1) Within thirty (30) days, the Board shall appoint a capable officer of the Bank who shall be vested with sufficient authority to monitor and ensure the Bank's compliance with the Bank Secrecy Act, and the rules and regulations of the Office of Foreign Assets Control (OFAC). This officer shall report directly to the Board, and shall be responsible for the complete and timely filing of all reports required under the Bank Secrecy Act, including, but not limited to, Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs).

(2) Prior to appointing the Bank Secrecy Act Officer, the Board shall submit the qualifications of the proposed Bank Secrecy Act Officer to the Assistant Deputy Comptroller who shall have the power of veto. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer.

## ARTICLE IV

### CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Assistant Deputy Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(5) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the

OCC's exercise of its supervisory responsibilities. The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

IT IS SO ORDERED, this 7 day of May, 2002.

/s/ Donelle Ward for  
Bert A. Otto  
Deputy Comptroller  
Central District

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

In the Matter of: )  
First National Bank at Darlington )  
Darlington, Wisconsin )

STIPULATION AND CONSENT TO THE ISSUANCE  
OF A CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller) has initiated cease and desist proceedings against the First National Bank at Darlington, Darlington, Wisconsin (Bank) pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated May 7, 2002 (Order);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is "the appropriate Federal banking agency" regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).



(3) The Bank is an "insured depository institution" within the meaning of 12 U.S.C. § 1818(b)(1).

## ARTICLE II

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller. The Bank further agrees that said Order shall be deemed an "order issued with the consent of the depository institution" as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i).

## ARTICLE III

- (1) The Bank, by signing this Stipulation and Consent, hereby waives:
- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
  - (b) any and all procedural rights available in connection with the issuance of the Order;
  - (c) all rights to seek any type of administrative or judicial review of the Order; and
  - (d) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he/she deems it appropriate to do so to fulfill the responsibilities placed upon him/her by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his/her representative, has hereunto set his/her hand on behalf of the Comptroller.

/s/Donelle Ward for  
Bert A. Otto  
Deputy Comptroller  
Central District

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

signed 5/7/02  
John Knellwolf

signed 5/7/02  
John McDaniel

signed 5/7/02  
William McDaniel

\_\_\_\_\_  
Edwin Roelli

signed \_\_\_\_\_  
Steven Roelli

signed \_\_\_\_\_  
Donald Schultz