

and between the Comptroller, through his duly authorized representative, and the Respondent that:

Article I

JURISDICTION

(1) Hamilton Bank, N.A., Miami, Florida (closed) (“Bank”) was 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. Accordingly, the Bank was an “insured depository institution,” as that term is defined in 12 U.S.C. § 1813(c)(2), at all times relevant to this Order.

(2) The Respondent was the president and a member of the board of directors of the Bank and is an “institution-affiliated party” of the Bank 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) and 12 U.S.C. § 1818(i)(3), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against institution-affiliated parties. Therefore, the Respondent is subject to the authority of the Comptroller to initiate and maintain removal and prohibition, cease and desist, and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(b), (e), and (i).

Article II

PROHIBITION AND REMOVAL

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any wrongdoing or liability, the Respondent hereby agrees that he shall not:

- (a) participate in any manner in the conduct of their affairs;
- (b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights;
- (c) violate any voting agreement previously approved by the “appropriate Federal banking agency,” as defined in 12 U.S.C. § 1813(q) (as amended); or
- (d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u) (as amended).

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

- (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c);
- (b) any institution treated as an insured bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as 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 any Federal Home Loan Bank.

(3) The prohibitions of paragraphs (1) and (2) of this Article shall cease to apply with respect to a particular institution if the Respondent obtains the prior written consent 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).

(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(e), (i), (j), and (h) (as amended).

Article III

CEASE AND DESIST ORDER FOR RESTITUTION

(1) Without admitting or denying any wrongdoing or liability, the Respondent hereby consents to the payment of restitution to the Bank in the amount of two hundred and ten thousand dollars (\$210,000), which shall be paid as follows:

- (a) The Respondent shall make payment in full of one hundred thousand dollars (\$100,000), upon execution of this Order, which shall constitute restitution for the bonus received by the Respondent for 1998.

- (i) The check shall be made payable to the Federal Deposit Insurance Corporation, as Receiver for Hamilton Bank, N.A., and shall be delivered to Robert J. DeHenzel, Jr., Counsel, Federal Deposit Insurance Corporation, 550 17th Street, N.W., H-11016, Washington, D.C. 20429. The docket number of this case should be entered on the check.
 - (ii) The Respondent shall deliver a copy of the check to the Director of the Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E St., S.W., Washington, D.C. 20219 (“Director”), with reference to the docket number of this case.
- (b) The Respondent shall pay the remaining one hundred and ten thousand dollars (\$110,000), thirty-five thousand dollars (\$35,000) of which is restitution for the bonus received by Respondent for 1999, and seventy-five thousand dollars (\$75,000) of which is restitution for losses described in the Notices, as follows:
- (i) Respondent shall make monthly payments, beginning thirty (30) days from the execution of this Order, and then on the thirtieth (30th) day of each month thereafter, of one thousand eight hundred and thirty-three dollars and thirty-four cents (\$1833.34), for sixty (60) months.
 - (ii) The check shall be made payable to the Federal Deposit Insurance Corporation, as Receiver for Hamilton Bank, N.A., and shall be delivered to Robert J. DeHenzel, Jr., Counsel, Federal Deposit Insurance

Corporation, 550 17th Street, N.W., H-11016, Washington, D.C. 20429.

The docket number of this case should be entered on the check.

- (iii) The Respondent shall deliver a copy of the check to the Director, with reference to the docket number of this case.

(2) 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), (h) or (i) (as amended).

Article IV

CIVIL MONEY PENALTY

(1) Without admitting or denying any wrongdoing or liability, the Respondent hereby consents to the payment of a civil money penalty in the amount of forty thousand dollars (\$40,000.00). The civil money penalty shall be paid in full over five (5) years in the amount of six hundred and sixty-six dollars and sixty-seven cents (\$666.66) per month. The first payment shall be due upon execution of this Order, and the remaining monthly payments shall be due on the thirtieth (30th) day of each month thereafter for a period of 59 months.

- (a) The Respondent shall, make each check payable to the Treasurer of the United States, each check shall be delivered to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. The docket number of this case should be entered on every check.

(b) The Respondent shall deliver a copy of every check to the Director, with reference to the docket number of this case.

(2) 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 V

ADDRESS NOTIFICATION

Within seven (7) days from the issuance of this Order, the Respondent shall notify the Director of his current address on the form attached hereto as Appendix A.

Article VI

BANKRUPTCY

In any bankruptcy proceeding in which it is or may be contended that the Respondent's obligation to pay restitution or a civil money penalty pursuant to this Order is subject to discharge, the Respondent will in no manner contest the Comptroller's assertion, pursuant to 11 U.S.C. § 523(a)(11) or otherwise, that the civil money penalty or restitution obligations in this Order arise out of acts which result in claims not dischargeable in bankruptcy.

Article VII

WAIVERS

(1) By executing this Order, the Respondent waives:

- (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b), (e), and (i) and 12 C.F.R. Part 19;
- (b) all rights to seek judicial review of this Order;
- (c) all rights in any way to contest the validity of this Order;
- (d) 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
- (e) 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) The Respondent shall not cause, participate in or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any expense for the payment of restitution and 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, the 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.

(3) The 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 Notices, including all of the removal and prohibition, cease and desist, and civil money penalty proceedings contemplated by the Comptroller in such Notices. The Comptroller agrees not to institute proceedings for the acts, omissions, or violations contained in the Notices, unless such acts, omissions, or violations reoccur. The Temporary Cease and Desist Order issued to the Respondent on May 14, 2003, is hereby withdrawn. The OCC agrees to enter into a stipulation, within five (5) days of receiving an acceptable proposed stipulation from the Respondent, which would dismiss with prejudice the Respondent as a party from all actions related to the Temporary Cease and Desist Order issued to the Respondent that are pending in the United States District Court for the Southern District of Florida.

(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) The 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 the 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 and the Federal Deposit Insurance Corporation, to bring other actions deemed appropriate.

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

/s/

10/31/03

Ronald Schneck
Director, Special Supervision/Fraud

Date

10/29/03

/s/

Carlos Bernace

Date