

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

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**In the Matter of:** )  
Richard M. Thomas )  
Former Chief Executive Officer and President )  
First National Bank of Northern Kentucky )  
Fort Mitchell, Kentucky )

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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist, removal and prohibition, and civil money penalty proceedings against Richard M. Thomas (“Respondent”) pursuant to 12 U.S.C. §§ 1818(b), (e), and (i) for activities detailed in a letter from Ronald G. Schneck, Director for Special Supervision for the Comptroller, to Respondent dated March 5, 2003; 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) The Bank is a national banking association, chartered and examined by the Comptroller, pursuant to the National Bank Act of 1864, 12 U.S.C. § 1 et seq. Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was Chief Executive Officer and President of the Bank until August of 2002 and is therefore 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), the Comptroller is the “appropriate Federal banking agency” to maintain enforcement proceedings against institution-affiliated parties of the Bank. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain these cease and desist, removal and prohibition, and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(b), (e), and (i).

(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), (h), (i), and (j).

## Article II

## PROHIBITION

(1) Without admitting or denying any wrongdoing, Respondent hereby agrees that with respect to the institutions and agencies set forth in paragraph (2) of this Article, 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); or
- (d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u).

(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) and (b)(4), or as a savings association under 12 U.S.C. § 1818(b)(9);
- (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 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).

### Article III

#### CEASE AND DESIST ORDER FOR RESTITUTION

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of restitution to the Bank as directed below.

(2) Respondent shall pay \$50,000 (fifty thousand dollars) in restitution to the Bank according to the procedures and schedule set out below:

- (a) Beginning on September 1, 2004, and on the first business date of September for each year following until the full \$50,000 amount has been paid, Respondent shall pay \$10,000 (ten thousand dollars) to the Bank via a check made payable to the Bank.
- (b) Respondent shall simultaneously deliver a copy of each check to the Director of the Enforcement & Compliance Division of the Comptroller of the Currency ("Enforcement Director").
- (c) If Respondent fails to make any payment as provided in this paragraph, the entire remaining balance of this \$50,000 restitution amount shall become immediately due and payable to the Bank.

(3) Within ten (10) days of the execution of this Order, Respondent shall transfer to the Bank ownership of all shares of stock listed below:

- (a) All stock of FNB Bancorporation, Inc. held individually by Respondent (not less than 25,704 shares);
- (b) All stock of FNB Bancorporation, Inc. held jointly by Respondent and his wife (not less than 9,522 shares).

(4) Respondent shall promptly provide copies of documentation confirming this transfer of stock to the Enforcement Director. This documentation shall include a written certification by Respondent or his counsel stating that all steps necessary to transfer ownership of the aforementioned stock to the Bank have been completed.

(5) Upon execution of this order, Respondent shall immediately commence (to the extent he has not already done so) liquidation of the assets of all retirement accounts held in his name (including but not limited to all accounts containing stock of FNB Bancorporation, Inc.). Upon liquidation and payment of applicable penalties and taxes associated with the liquidation, Respondent shall transfer the remaining proceeds of the retirement accounts to the Bank. Cash proceeds shall be transferred in the form of a check payable to the Bank, a copy of which Respondent shall simultaneously deliver to the Enforcement Director. Furthermore, Respondent shall transfer ownership of all stock in FNB Bancorporation, Inc. remaining from the liquidation of these accounts to the Bank and provide documentation for the transfer as described in paragraph (4) of this Article. Respondent shall then provide to the Enforcement Director a certification signed by

Respondent or his counsel that all retirement accounts held in his name have been liquidated and that the amount transferred to the Bank (including any payments made to the Bank prior to the effective date of this Order) represents the full proceeds of these accounts after penalties and taxes. Respondent shall also provide the Enforcement Director with a copy of all correspondence to and from the administrators of the retirement accounts until he provides the certification, and he shall complete the liquidation, transfer, and certification process no later than ninety (90) days from the effective date of this Order.

#### Article IV

#### 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 \$10,000, 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 deliver the payment to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Respondent shall simultaneously provide a copy of this check to the Enforcement Director.

Article V

BANKRUPTCY

(1) If Respondent files for bankruptcy protection, under the laws of the United States, Respondent shall notify the Enforcement Director within ten (10) days of the filing and provide a copy of the filing to the Enforcement Director.

(2) Without admitting or denying any wrongdoing, in any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to pay restitution pursuant to this Order is subject to discharge, Respondent will in no manner contest the assertion of the Comptroller or any agent, officer or representative of the United States, pursuant to 11 U.S.C. § 523(a)(11) or otherwise, that the restitution obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

Article VI

ADDRESSES

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

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

(3) The address for all payments and correspondence to be made to the Bank shall be: First National Bank of Northern Kentucky, 350 Buttermilk Pike, Ft. Mitchell, Kentucky 41017.

(3) The address for all copies and correspondence to be made to the Enforcement Director shall be: Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, Washington, DC 20219.

## Article VII

### WAIVERS

(1) By executing this Order, Respondent waives:

- (a) the right to the issuance of Notices under 12 U.S.C. §§ 1818(b), (e), and (i);
- (b) 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;
- (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 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 except in accordance with 12 C.F.R. § 7.2014 and Part 359; and 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 except in accordance with 12 C.F.R. § 7.2014 and Part 359.

(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, removal and prohibition, and civil money penalty proceedings contemplated by the Comptroller against Respondent. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations contained in the letter

from Ronald G. Schneck to Respondent dated March 5, 2003, or in the Report of Examination for the examination of the Bank by the Comptroller through his National Bank Examiners that commenced on July 15, 2002, 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) This Order expressly does not form, and may not be construed to form, a contract that could give rise to a claim for damages. Respondent expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other Federal Banking Agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. Respondent further acknowledges 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.

*Ronald G. Schneck*  
Ronald G. Schneck  
Director for Special Supervision

*11-24-03*  
Date

*Richard M. Thomas*  
Richard M. Thomas

*11-21-03*  
Date