

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

<u>In the Matter of:</u>	)	
	)	
Sedona Pacific Housing Partnership,	)	
San Antonio, Texas	)	
	)	
D/B/A	)	
	)	AA-EC-03-26
Sedona Pacific Properties	)	
San Antonio, Texas	)	
	)	
Agent for:	)	
	)	
Clear Lake National Bank	)	
San Antonio, Texas	)	

**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, examines Lone Star Capital Bank, N.A., San Antonio, Successor in Interest to Clear Lake National Bank, San Antonio, Texas (“Bank”);

WHEREAS, Sedona Pacific Housing Partnership, doing business as Sedona Pacific Properties, San Antonio, Texas (“Sedona”), acted as an agent of the Bank;

WHEREAS, the Bank, through its former vice president and loan officer Michael K. Muckleroy (“Muckleroy”), offered tax lien loans to Bank customers, which were marketed, originated, serviced, and collected primarily through the Bank and Encino Financial Inc., San Antonio, Texas (“Encino”), and also originated and collected through Sedona, acting as the Bank’s agent;

WHEREAS, such tax lien loans included duplicative fees, fees charged for services not performed, and lacked certain disclosures required by law;

WHEREAS, in connection with the conduct engaged in by the Bank, Muckleroy, Sedona, and Encino, the Comptroller is prepared to charge Sedona with violations of the consumer protection provisions of the Home Ownership Equity Protection Act (“HOEPA”) and its implementing regulations; with violations of the Truth In Lending Act (“TILA”) and its implementing regulations; with violations of the Real Estate Settlement Procedures Act (“RESPA”) and its implementing regulations; and with violations of the Federal Trade Commission Act (“FTC Act”) as a result of the unfair practices inherent in the tax lien loans; and

WHEREAS, in the interest of cooperation, compromise, and settlement, and to avoid the costs associated with future administrative and judicial proceedings, the Comptroller and Sedona desire to enter into this Consent Order (“Order”);

NOW THEREFORE, Sedona, by and through its authorized agent, David D. Gonzalez, in the interest of cooperation, compromise, and settlement, while neither admitting nor denying any of the foregoing violations of law and regulations, has executed a “Stipulation and Consent to the Issuance of a Consent Order” dated 11/19/03, that is accepted by the Comptroller of the Currency (“Comptroller” or “OCC”). By this Stipulation and Consent, which is incorporated by reference herein, Sedona has consented to the issuance of this Order by the Comptroller.

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

## ARTICLE I

### FUTURE ACTIVITIES

(1) Effective immediately, Sedona shall not enter into any agreement, written or oral, to provide services to any national bank or to any subsidiary of a national bank, including, but

not limited to, the marketing, solicitation, origination, servicing or collection of any tax lien loan, without first obtaining a prior written determination of no objection from the OCC.

(2) Any request to obtain a prior written determination of no objection, as required by paragraph (1) of this Article, shall:

- (a) be made at least ten (10) business days prior to entering into any agreement referenced in paragraph (1) of this Article;
- (b) be made in writing to the Assistant Deputy Comptroller, San Antonio Field Office, 10101 Reunion Place Boulevard, Suite 402, San Antonio, Texas 78216-4165 (“Assistant Deputy Comptroller”); and
- (c) include a full and complete description of the services to be performed by Sedona, the name(s) of the national bank(s) and/or subsidiary(ies) for which the services will be provided, and a copy of any draft contract(s) governing the relationship between Sedona and any such national bank(s) or subsidiary(ies).

(3) The Assistant Deputy Comptroller will respond to any written request pursuant to paragraphs (1) and (2) of this Article within ten (10) business days, provided that the ten-day period shall not commence until Sedona has complied with paragraph (2)(c) and the Assistant Deputy Comptroller has notified Sedona in writing that the request is deemed to be complete. Such supervisory non-objection shall not be unreasonably withheld.

## ARTICLE II

### CLOSING

(1) 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 Sedona, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(2) 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 Sedona.

(3) 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.

(4) 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 Comptroller or the United States.

(5) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 19th day of November, 2003.

/s/

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Randall R. Jennings  
Assistant Deputy Comptroller  
San Antonio North Field Office

11/19/03

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Date

**UNITED STATES OF AMERICA  
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San Antonio, Texas	)	
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**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 Sedona Pacific Housing Partnership, San Antonio, Texas, doing business as Sedona Pacific Properties, San Antonio, Texas (“Sedona”), pursuant to 12 U.S.C. § 1818(b).

Sedona, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated 11/19/03 (“Order”);

In consideration of the above premises, the Comptroller, through his authorized representative, and Sedona, through its authorized representative David D. Gonzalez, hereby stipulate and agree to the following:

## ARTICLE I

### Jurisdiction

(1) Lone Star Capital Bank, N.A., San Antonio, Texas, successor in interest to Clear Lake National Bank, San Antonio, Texas (“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.* Accordingly, the Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) Sedona was an agent of the Bank and is an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u).

(3) The Comptroller is “the appropriate Federal banking agency” regarding Sedona pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

## ARTICLE II

### Agreement

(1) Sedona, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller.

(2) Sedona 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). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by Sedona under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. Sedona expressly acknowledges that neither Sedona nor the Comptroller has any intention to enter into a contract.

(3) Sedona also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of its supervisory responsibilities.

### ARTICLE III

#### Waivers

- (1) Sedona, 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

#### Other Action

(1) Sedona 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 Sedona if, at any time, the Comptroller deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.



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

/s/  
\_\_\_\_\_  
Randall R. Jennings  
Assistant Deputy Comptroller  
San Antonio North Field Office

11/19/03  
\_\_\_\_\_  
Date

IN TESTIMONY WHEREOF, the undersigned, an authorized representative of Sedona, has hereunto set his hand on behalf of Sedona.

/s/  
\_\_\_\_\_  
David D. Gonzalez

October 22, 2003  
\_\_\_\_\_  
Date