

#2003-4

AGREEMENT BY AND BETWEEN
FIRST NATIONAL BANK OF OSCEOLA COUNTY
KISSIMMEE, FLORIDA
AND
THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

First National Bank of Osceola County, Kissimmee, Florida (Bank) and the Comptroller of the Currency of the United States of America (Comptroller) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller, through his National Bank Examiner, has examined the Bank, and his findings are contained in the Report of Examination for the examination that commenced on April 23, 2002 (ROE).

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (Board), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Assistant Deputy Comptroller
North Florida Field Office
8375 Dix Ellis Trail, Suite 403
Jacksonville, Florida 32256

and

Deputy Comptroller
Comptroller of the Currency
Southeastern District
Marquis One Tower, Suite 600
245 Peachtree Center Avenue, NE
Atlanta, Georgia 30303

ARTICLE II

BANK SECRECY ACT - AUDIT FUNCTION

(1) Within sixty (60) days, the Board shall review and evaluate the level of service and ability of the audit function currently being provided by its outside consultant. Such an

assessment should include the Board's expectations of how this consultant can assist in ensuring the Bank's 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 (including, but not limited to, Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs)) (collectively referred to herein as the Bank Secrecy Act), and the rules and regulations of the Office of Foreign Assets Control.

(2) Within sixty (60) days, the Board shall ensure that the Bank's existing audit procedures include:

- (a) development of a program to test the adequacy of internal controls designed to ensure compliance with the provisions of the Bank Secrecy Act;
- (b) prompt management response and follow-up to all audit exceptions or other recommendations of the Bank's auditor; and
- (c) 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.

(3) Within sixty (60) days, the Board shall retain the services of a qualified independent consultant to develop findings, observations and recommendations on the Bank's internal controls addressing compliance with the Bank Secrecy Act, 12 C.F.R. Part 21, Subpart B (including the Suspicious Activity Report requirements) and the rules and regulations of the Office of Foreign Assets Control, including related regulatory reporting on those subjects. These

findings, observations and recommendations, along with the Bank's response to any such concerns, shall be reviewed by the independent consultant on an annual basis for the term of this Agreement.

(4) A copy of the Bank's Engagement Letter with this independent consultant, and any amendments thereto, shall be submitted to the Assistant Deputy Comptroller for review and determination of no supervisory objection.

(5) Within sixty (60) days, the independent consultant shall conduct a review of account activity at the Bank between June 2002 and September 2002. This review shall include deposit accounts, loan transactions, wire activity, certified check activity, Currency Transaction Report activity (including structuring) and traveler's check activity, in order to ascertain any unusual or suspicious transactions that may have occurred at the Bank during this period. Upon completion of this review, the findings of the independent consultant shall be reported to the Board, with a copy to the Assistant Deputy Comptroller. Within thirty (30) days of receiving the written report of the independent consultant, the Bank shall correct any deficiencies identified during this review.

ARTICLE III

BANK SECRECY ACT - COMPLIANCE OFFICER

(1) Within sixty (60) days, the Board shall appoint a capable officer of the Bank, or shall ensure that a capable officer of the Bank has been appointed, who shall be vested with sufficient authority to monitor and ensure the Bank's 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 herein as the Bank Secrecy Act), and the rules and regulations of the Office of Foreign Assets Control (OFAC). This compliance officer shall report directly to the Board and shall be completely independent of the Bank's management. This officer 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).

ARTICLE IV

BANK SECRECY ACT - INTERNAL CONTROLS

(1) Within ninety (90) 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 and maintain:

- (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 a casa de cambio (money exchange house) or 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 and the Office of Foreign Assets Control (OFAC), 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;
- (g) an officer who will be responsible for filing Currency Transaction Reports (CTRs), Reports of International Transportation of Currency or Monetary Instruments (CMIRs), and Reports of Foreign Bank and Financial Accounts (FBARs);
- (h) comprehensive guidelines and procedures to identify and report both the shipment and receipt of currency or monetary instruments via common couriers, which guidelines should specifically detail procedures that will cover and address improperly labeled courier pouches containing monetary instruments, as well as related procedures for reporting and filing Suspicious Activity Reports for such pouches; and

- (i) comprehensive guidelines, procedures, and systems for compliance with the rules and regulations of the Office of Foreign Assets Control (OFAC).
- (2) Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review. In the event the Assistant Deputy Comptroller recommends changes to the program, the Board shall immediately incorporate those changes into the program.
- (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 V

CLOSING

- (1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or approval, 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 Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.
- (3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), 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(b)(1), 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 Agreement, 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.

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

/s/ Kennard L. Page
Kennard L. Page
Assistant Deputy Comptroller
North Florida Field Office

1/13/03
Date

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
O. Sam Ackley

1/17/03
Date

Signed
James C. Chapman

1/13/03
Date

Signed
Bryan W. Judge, Jr.

1/13/03
Date

Signed
Danny L. Lackey

1/13/03
Date

Signed
Sara S. Lewis

1/13/03
Date

Signed
Samuel L. Lupfer, IV

1/13/03
Date

Signed
Charles H. Parsons

1-13-03
Date

Signed
Ernest S. Pinner

1-13-03
Date

Signed
E. Hampton Sessions

1/13/03
Date

Signed

1/13/03

Larry W. Walter

Date

Signed

1/13/03

James H. White

Date

Signed

1-13-03

Thomas E. White

Date