



## 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 a senior vice president 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 a cease and desist proceeding against her pursuant to 12 U.S.C. § 1818(b).

Article II

PERSONAL CEASE AND DESIST ORDER

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

(2) On or before April 30, 2003, the Respondent shall provide to her immediate supervisor at the insured depository institution where she is currently employed, a copy of this Order, which is based on the OCC's allegations that:

- (a) Respondent engaged in unsafe and unsound practices in connection with her underwriting of a thirteen million dollar (\$13,000,000) asset-based line of credit, approved mid-1999, when she failed to investigate the weaknesses identified in a pre-funding audit of the borrower prior to the facilitating advances on the line of credit; and
- (b) Respondent engaged in unsafe and unsound practices in connection with her management of the line of credit when she facilitated the payment of a series of overdrafts and/or payments against uncollected funds on the borrower's account, despite the borrowers chronic overdraft position and collateral shortfall.

(3) On or before May 14, 2003, Respondent shall ensure that her immediate supervisor certifies to the OCC, in writing, that he or she has received and reviewed this Order.

(4) Moreover, prior to accepting any position that would cause her to become an “institution-affiliated party of any other institution or agency specified in 12 U.S.C. § 1818(e)(7)(A), the Respondent shall provide the chief executive officer and the board of directors of such institution or agency with a copy of this Order.

(5) The Respondent shall comply with all laws and regulations applicable to insured depository institutions.

(6) The Respondent shall familiarize herself with and shall adhere to the written policies and procedures of any insured depository institution or agency to which she is or may become affiliated. In the case that the Respondent is affiliated with an insured depository institution or agency with written policies and procedures that are more stringent than any provision of this Order, the Respondent shall adhere to the written policies and procedures of such insured depository institution or agency.

(7) The Respondent shall avoid engaging in any unsafe or unsound practices, as that term is used in Title Twelve of the United States Code, in the conduct of the affairs of any insured depository institution or agency.

(8) The Respondent shall not breach her fiduciary duties of loyalty or care owed to any insured depository institution with which she is or may become affiliated and shall, at all times, avoid placing her own interests above those of the institution.

(9) The Respondent shall not participate in the approval of, or seek to influence the approval of any extension of credit made by any insured depository institution or agency to which she is or may become affiliated, when she knows or has reason to know that:

- (a) the extension of credit is not properly underwritten in accordance with such depository institution's policies and procedures and in accordance with safe and sound banking practices;
- (b) the extension of credit is not supported by adequate documentation and analysis in accordance with such depository institution's policies and procedures and in accordance with safe and sound banking practices; and/or
- (c) the extension of credit is not in all other respects in accordance with such depository institution's policies and procedures and in accordance with safe and sound banking practices.

### Article III

#### 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) 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; and
- (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.

(2) The Respondent shall not cause, participate in or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, 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 she 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 proceeding contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for any specific acts, omissions, or violations associated with the allegation in paragraph 1(a) of Article II, 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) 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 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.

(7) The provisions of this Order shall become effective upon its execution by the respondent and the Comptroller, through his duly authorized Representative, and shall remain in effect and fully enforceable by the comptroller unless modified, vacated,

rescinded, or otherwise terminated by written order of the Comptroller or his duly authorized representative.

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

*/s/ Ronald Schneck*

4/24/03

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Ronald Schneck  
Director, Special Supervision

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Date

4-16-2003

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Signed  
Alina Cannon

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Date