

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

<b>In the Matter of:</b> Dyann R. Thomas-Nicholson Former Teller Huntington National Bank Columbus, Ohio	) ) ) ) ) )	AA-EC-04-72
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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) contends that Dyann R. Thomas-Nicholson (“Respondent”), while employed as a teller at Huntington National bank, Columbus, Ohio (“Bank), embezzled twenty-seven thousand, eight hundred (\$27,800) dollars by fraudulently recording in her teller journal that she cashed several non-existent checks for customers and by then diverting those monies for personal use.

WHEREAS, the Comptroller intends to initiate these removal and cease and desist proceedings against Respondent pursuant to 12 U.S.C. §§ 1818(b) and (e) (as amended); and

WHEREAS, Respondent, in the interest of cooperation and without admitting or denying any wrongdoing, consents to the issuance of this Stipulation and Consent Order to the issuance of an Order of Prohibition and to the issuance of a Cease and Desist Order for Restitution (“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, as amended, 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 a teller 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), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain these removal and cease and desist proceedings against her pursuant to 12 U.S.C. §§ 1818(b) and (e).

## Article II

### PROHIBITION AND REMOVAL

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees that she 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 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) Respondent hereby consents to the payment of restitution to the Bank in the amount of twenty-seven thousand, eight hundred dollars (\$27,800). Respondent shall pay this restitution according to the procedure and schedule set out in this Order.

- (a) On or about October 29, 2004, Respondent shall pay eight hundred dollars (\$800);
- (b) In addition to the payment required by paragraph (1) (a) of this Article, beginning on or before November 15, 2004, and continuing thereafter on or before the 15th of every month until restitution is paid in full, Respondent shall make a minimum monthly payment in the amount of two hundred and fifty dollars (\$250); and
- (c) In addition to the payments required by paragraphs (1) (a) and (b) of this Article, beginning on or before May 15, 2005, and continuing thereafter on or before the 15th of May of every year until restitution is paid in full, Respondent shall make a minimum annual payment in the amount of one thousand five hundred dollars (\$1,500). These annual payments shall be in addition to the monthly payments required by paragraph (1) (b) of this Article. Therefore, on or before the 15th of May of every year until restitution is paid in full, Respondent shall make both a monthly payment in the amount of two hundred and fifty dollars (\$250) and an annual payment of one thousand five hundred dollars (\$1,500).

- (d) Respondent shall make all payments due in connection with this Article by check or money order and made payable to Huntington National Bank. The checks shall be delivered to Huntington National Bank, Corporate Security Division, MI 9157 – Dave Evans, One North Main Street, Suite 221, Mt. Clemens, Michigan 48043. The docket number of this case should be entered on the certified check or money order.
- (e) Respondent shall deliver a copy of each check to Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E St., S.W., Washington, D.C. 20219.
- (f) If Respondent fails to make any payment as provided in this paragraph, the entire balance of the restitution amount described in this paragraph shall become immediately due and payable.

(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).

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

(4) 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.

## Article IV

### 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) 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 V

### WAIVERS

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of Notice under 12 U.S.C. § 1818(b) and (e);
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (e) 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 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 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 these removal and cease and desist proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations, 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) 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, to bring other actions deemed appropriate.

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

*/s/ Ronald G. Schneck*

9/29/04

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Ronald G. Schneck  
Director  
Special Supervision Division

\_\_\_\_\_  
Date

Signed \_\_\_\_\_  
Dyann R. Thomas-Nicholson

9/6/04

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Date