

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

In the Matter of:)
ALBERT THORN,)
Former Teller,)
Wachovia Bank, N.A., Charlotte, NC (Philadelphia Office))
Formerly First Union National Bank, Philadelphia, PA)

OCC-AA-EC-04-92

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (Comptroller) intends to initiate an action against Albert Thorn (“Respondent”) pursuant to 12 U.S.C. § 1818(b)(6)(F), seeking affirmative relief requiring Respondent to provide notice of this action to any insured depository institution with which Respondent may seek to become associated; and pursuant to 12 U.S.C. § 1818(b)(7), to limit the activities and/or functions of Respondent at any insured depository institution where Respondent is, or might be, employed,; 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 Respondent desires to enter into this Stipulation and Consent Order (Order);

NOW, THEREFORE, in consideration of above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

**Article I
Jurisdiction**

(1) Wachovia Bank, N.A., Charlotte, NC (Philadelphia Office), formerly First Union National Bank, Philadelphia, PA (hereinafter “Bank”), was and 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 employed as a Teller at the Bank during the period including approximately December 1998 through approximately February 11, 1999, 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 proceedings against him to obtain the affirmative relief of providing notice of this Order to any insured depository institution and to limit Respondent’s activities and/or functions at any insured depository institution, pursuant to 12 U.S.C. §§ 1818(b)(6)(F) and 1818(b)(7), respectively.

Article II Alleged Acts Resulting in Loss

(1) Beginning on or about December 22, 1998, and through on or about December 31, 1998, Respondent, in his role as Teller at the Bank, allegedly assisted various individuals in fraudulently obtaining funds from the Bank totaling approximately \$40,000, by Respondent’s cashing of approximately eight counterfeit checks. In return for providing this assistance, Respondent allegedly was given approximately \$1000 by one or more of these individuals.

(2) Respondent, in cashing these checks, was allegedly aware of the high probability that the checks were stolen, altered and/ or forged, but chose not to discover the truth. Respondent also failed to adhere to Bank procedures in dealing with such checks, which procedures would have led to the checks being rejected and the reasonable possibility that the

presenters would have been identified.

(3) Respondent, by so acting and failing to act, as described in paragraphs (1) and (2), above, committed an unsafe or unsound practice and violated the law.

(4) Respondent, after providing the Bank with a written and signed statement about his activities concerning the above-described counterfeit checks, was terminated by the Bank on or about February 11, 1999.

Article III Required Notice for Certain Future Association

(1) Without admitting or denying any wrongdoing, Respondent hereby agrees that if Respondent ever seeks, or is offered, a position as an institution-affiliated party, as defined by 12 U.S.C. § 1813(u), with respect to any insured depository institution, Respondent shall, prior to accepting such position, disclose to such institution the existence of this Order and provide such institution with a complete copy of the Order.

(2) The term “insured depository institution” specified in paragraph (1) of this Article applies to the following institutions and agencies:

- (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c), or any subsidiary of such institution;
- (b) any institution treated as an insured bank under 12 U.S.C. §§ 1813(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) Respondent's possible association as an "institution-affiliated party" with an "insured depository institution," as specified in paragraph (1) of this Article, means that, with respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees that he shall provide the notice specified in paragraph (1) in connection with his possible association as:

- (a) director, officer, employee, or controlling stockholder (other than a bank holding company) of, or agent for, an insured depository institution;
- (b) any other person who has filed or is required to file a change-in-control notice with the appropriate Federal banking agency under 12 U.S.C. § 1817(j);
- (c) any shareholder (other than a bank holding company), consultant, joint venture partner, and any other person as determined by the appropriate Federal banking agency (by regulation or case by-by-case) who participates in the conduct of the affairs of an insured depository institution; and
- (d) any independent contractor (including any attorney, appraiser, or accountant).

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

Article IV
Limitation on Activities

(1) Without admitting or denying any wrongdoing, Respondent, pursuant to 12 U.S.C. § 1818(b)(7), hereby consents that his activities and/or functions at any “insured depository institution,” as that term is defined paragraph (2) of Article III, above, shall be limited to exclude positions of teller or any other position that involves the handling of cash.

Article V
Waivers

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of a notice of charges under 12 U.S.C. § 1818(b);
 - (b) 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;
 - (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 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 legal (or other professional)

expense relative to the negotiation and issuance of this Order; and, in accordance with 12 C.F.R. § 7.2014, 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) It is hereby agreed that the provisions of this Order constitute a settlement of a proceeding pursuant to 12 U.S.C. §§ 1818(b)(6) and 1818(b)(7) brought by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations, unless such acts, omissions, or violations reoccur.

(4) 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.

(5) 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.

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(6) 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.

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

/s/ Ronald G. Schneck

11/4/04

Ronald Schneck
Director
Special Supervision

Date

Signed
Albert Thorn

10-25-04

Date