

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

In the Matter of: )  
BRIAN STULL, ) OCC-AA-EC-04-34  
FORMER OFFICER, )  
INTEGRA BANK, N.A., )  
EVANSVILLE, INDIANA )

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate prohibition, civil money penalty and reimbursement/restitution proceedings against Brian Stull (“Respondent”), pursuant to 12 U.S.C. § 1818(b), (e) and (i) (as amended), for certain violations of law, unsafe or unsound practices, and breaches of fiduciary duty by Respondent, as described more fully in Article II, hereinafter;

WHEREAS, Respondent’s actions and omissions that constitute the violations, practices and breaches referred to above occurred while he was serving as an officer of Integra Bank, N.A., Evansville, Indiana (“Integra”), and as an officer and director of West Kentucky Bank, Sebree, Kentucky (“WKY”), an institution that merged into Integra;

WHEREAS, in the interest of cooperation and to avoid the costs associated with administrative and judicial proceedings with respect to this matter, Respondent desires to enter into this Stipulation and Consent Order (“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) Integra 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.* Pursuant to a merger agreement consummated on or about January 31, 2001, WKY merged with and into Integra. Accordingly, WKY is the same institutional entity as Integra, within the meaning of 12 U.S.C. § 215a(e) and 12 U.S.C. § 1818. For purposes of this Order, the terms “Bank” and “Integra” apply to WKY as well as to Integra. Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) As a result of the following, Respondent is an “institution-affiliated party” of the Bank, as that term is defined in 12 U.S.C. § 1813(u), having served in such capacities within six (6) years from the date hereof (see 12 U.S.C. § 1818(i)(3)): From approximately 1999 until on or about January 31, 2001, Respondent was President and a director of WKY; and from on or about January 31, 2001, until on or about June 4, 2001, Respondent was a branch president or manager of Integra.

(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, the Comptroller has the authority to initiate and maintain these prohibition, reimbursement/restitution, and civil money penalty proceedings against Respondent, pursuant to 12 U.S.C. § 1818(b), (e) and (i).

(4) Respondent, while a director and/or officer of the Bank, was, as a matter of law, a fiduciary. This relationship carried with it a duty to not place his own interests above those of the Bank, and to conduct the affairs of the Bank with scrupulous honesty, loyalty and candor.

(5) Respondent, while a director and/or officer, was vested with responsibility for managing the Bank's affairs through the exercise of reasonable skill, care and diligence. This duty of care included the duty to operate, or to ensure the operation of, the Bank in a safe and sound manner, and to act in all instances in the best interests of the Bank and its depositors.

## **ARTICLE II**

### **OCC FINDINGS OF FACT**

(1) For all the paragraphs in this Article, the Comptroller finds and Respondent neither admits nor denies:

(2) (a) During the time periods that Respondent was associated with WKY and Integra, as specified in paragraph (2) of Article I, above, Respondent's duties included acting as the primary loan officer for all loans extended to [redacted] and his business interests, and on occasion supervision of junior loan officers when they acted as primary loan officers for [redacted] credits.

(b) Also during these time periods, Respondent maintained his own business relationship with [redacted] in a company named [redacted]. Respondent's personal business relationship with [redacted] contributed to Respondent's placing his own interests above those of the Bank.

(3) On or about November 5, 1999, and shortly following [redacted]'s having reached WKY's one million dollar in-house lending limit, Respondent, after having sought credit for [redacted] at other Banks, procured a loan of \$450,000 for [redacted] at Dixon Bank, Dixon, KY. Dixon Bank made the loan upon Respondent's providing Dixon Bank on behalf of WKY two items of support for the loan, as follows:

(a) Respondent subordinated collateral that [redacted] had given WKY in support of WKY's loan to him on or about October 1, 1999, which subordination was not timely placed in [redacted]'s credit file at WKY; and

(b) Respondent gave Dixon Bank a guaranty on behalf of WKY that [redacted]'s loan to Dixon Bank would be repaid, which guaranty was not timely placed in [redacted]'s loan file at WKY, and which guaranty was in any event impermissible under Kentucky law.

(4) On or about June 9, 2000, Respondent approved a nominee loan to [redacted], with the borrower identified as [redacted], [redacted]'s mother-in-law, for approximately \$33,602, for the purchase of a vehicle. The borrower defaulted on the loan and the Bank suffered a loss.

(5) On or about November 9, 2000, upon Dixon Bank's request to Respondent, Respondent renewed the 1999 guaranty described in paragraph 3(b) of this Article, above, and again failed to place the document in the [redacted] credit file.

(6) On or about March 16, 2001, after the Integra/WKY merger had been consummated, Respondent made a nominee loan for \$8067 to [redacted], with the borrower identified as [redacted], a new [redacted] business entity. Respondent, in his loan write-up, furthered the nominee status of the loan by disguising [redacted]'s involvement in [redacted]. Respondent distributed the proceeds in cash to [redacted]'s agent, and took back \$2000 of the proceeds as partial payment for money he believed [redacted] owed him for their joint business venture in [redacted], (which relationship is noted in paragraph 2 of this Article, above.) The borrower defaulted on this loan and the Bank lost the entire principal plus unpaid interest.

(7) On or about March 23, 2001, Respondent made another nominee loan to [redacted] for \$22,092, again with the borrower identified as [redacted] and again with Respondent disguising [redacted]'s involvement in the business. The borrower defaulted on this loan and the Bank lost the entire principal plus unpaid interest.

(8) The above acts and omissions by Respondent set out in this Article constitute violations of law, unsafe or unsound practices, and/or breaches of fiduciary duty; and by reason of Respondent's violations, practices and/or breaches, the Bank has suffered financial loss or other damage, the interests of its depositors have been or could be prejudiced, and/or Respondent has received financial gain or other benefit; and such violations, practices and/or breaches by Respondent involve personal dishonesty by Respondent and/or demonstrate willful or continuing disregard by Respondent for the safety and soundness of the Bank

### **ARTICLE III**

#### **ORDER OF PROHIBITION**

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any of the allegations in Article II, Respondent hereby agrees that he 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 only 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 IV**

##### **ORDER OF REIMBURSEMENT/RESTITUTION**

(1) Without admitting or denying any of the allegations in Article II, Respondent hereby consents to pay restitution and/or reimbursement to Integra in a total amount of thirty eight thousand five hundred forty four dollars (\$38,544).

(a) Respondent shall pay this amount upon execution of this Order by check payable to Integra Bank, N.A., Evansville, IN, and by noting on the check that it for "reimbursement/restitution pursuant to Stipulation and Consent Order with the OCC."

Respondent shall deliver the check to the Chief Executive Officer, Integra Bank, N.A., Post Office Box No. 868, Evansville, IN 47705.

(b) Respondent shall, at the same time, deliver a copy of the check to Director, Enforcement & Compliance Division (“Enforcement Director”), Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

(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).

## **ARTICLE V**

### **CIVIL MONEY PENALTY ORDER**

(1) Without admitting or denying any of the allegations in Article II, Respondent hereby consents to the payment of a civil money penalty in the amount of twenty five thousand dollars (\$25,000). Respondent consents to pay this entire amount in accordance with the following schedule:

(a) Beginning on June 1, 2004, and on the first day of each month thereafter, Respondent shall make minimum monthly payments of three hundred fifty dollars (\$350), with the further condition that Respondent shall have paid: [i] at least \$8,333.33 of his \$25,000 obligation by May 1, 2005; [ii] at least \$16,666.66 of his \$25,000 obligation by May 1, 2006; and [iii] all of his \$25,000 obligation by May 1, 2007.

(b) Respondent shall make payment(s) by check(s) or money order(s) payable to “Treasurer of the United States” and shall deliver the payment(s) to: Comptroller of the Currency, P.O. Box 73150, Chicago, IL 60673-7150. The docket number of this case, AA-EC-04-03, should be entered on all checks.

(2) If Respondent fails to make any payment as provided in this Article, and after seven (7) days of Respondent's receipt of written notice by the Comptroller of such failure by Respondent, the entire balance of the civil money penalty amount set out in this Article shall become immediately due and payable.

(3) Until the civil money penalty is paid in full, upon each and every change in address, if any, Respondent shall, within fourteen (14) days of such change in address, notify the Enforcement Director of each such change in address, by sending the Director written notice of such change.

(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(h) and (i) as amended.

## **ARTICLE VI**

### **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 shall provide a copy to the Enforcement Director.

(2) In any bankruptcy proceeding, Respondent agrees that he 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) or otherwise, that the civil money penalty and/or restitution/reimbursement obligations in this Order arise out of acts or claims which result in claims not dischargeable in bankruptcy.



## ARTICLE VII

### WAIVERS

- (1) By executing this Stipulation and Consent Order, Respondent waives:
  - (a) the right to the issuance of Notices under 12 U.S.C. § 1818 (b), (e) and (i);
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b), (e) and (i), and 12 C.F.R. Part 19;
  - (c) 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 the 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) 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 reimbursement and the civil money penalty 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.

## **ARTICLE VIII**

### **ACKNOWLEDGMENTS**

(1) 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 Respondent to agree to consent to the issuance of this Order or to execute this Stipulation.

## **ARTICLE IX**

### **RELEASE OF CLAIMS**

(1) It is hereby agreed that the provisions of this Order constitute a settlement of the entire combined administrative action against Respondent contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations alleged in Article II of this Order, unless such alleged acts, omissions, or violations reoccur, or if Respondent fails or refuses to fulfill the obligations described in Articles III, IV and V of this Order.

(2) 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.

(3) Respondent understands and agrees 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.

[Signature page follows]

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

*/s/ Ronald G. Schneck*

6/7/04

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RONALD G. SCHNECK  
Director  
Special Supervision  
Office of the Comptroller of the Currency

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Date

Signed

5-20-04

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BRIAN STULL

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Date