

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

In the Matter of:)	
Matt Hogg)	
Former Employee)	AA-EC-04-15
First National Bank of O'Donnell)	
O'Donnell, Texas)	

**STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO
CEASE AND DESIST FOR AFFIRMATIVE RELIEF AND FOR THE
ASSESSMENT OF CIVIL MONEY PENALTIES**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) contends that Matt Hogg (“Respondent”), as an employee of the First National Bank of O’Donnell, O’Donnell, Texas (“Bank”), recklessly engaged or participated in unsafe or unsound banking practices in conducting the business of the Bank, that benefited Respondent personally and caused more than a minimal loss to the Bank by: 1) charging personal expenses, including vacation, travel, and leisure expenses, to the Bank’s corporate credit card in at least nine different months; and 2) failing to reimburse the Bank for these expenses.

WHEREAS, the Comptroller is prepared to initiate these cease and desist proceedings and civil money penalty proceedings against Respondent pursuant to 12 U.S.C. §§ 1818(b) and (i), with respect to these contentions; and

WHEREAS, Respondent, in the interest of cooperation and without admitting or denying any wrongdoing, consents to the issuance of this Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief (“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 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 is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an employee 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 cease and desist and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(b) and (i).

Article II

PRIOR NOTICE

The Comptroller hereby orders that:

(1) If the Respondent is currently an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide the chief executive officer of the institution with a copy of this Order.

(2) Within ten (10) days from the date of the execution of this Order, Respondent shall provide written certification of his compliance with paragraph (1) to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St. SW, Washington, DC, 20219.

(3) Prior to accepting any new position that causes him to become an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide the chief executive officer of the institution with a copy of this Order.

(4) Within ten (10) days from and after his acceptance of any position described in paragraph (3), Respondent shall provide written notice of such acceptance to the Director of the Enforcement and Compliance Division along with a written certification of his compliance with paragraph (3).

Article III

DUTIES AND RESPONSIBILITIES

(1) It is further ordered that in the event Respondent is or ever becomes an “institution-affiliated party” as defined in 12 U.S.C. § 1813(u), he shall comply with the following provisions:

- a. Respondent shall at all times comply with all applicable laws and regulations;
- b. Respondent shall avoid engaging in any unsafe or unsound practices (as that term is used in 12 U.S.C. § 1818);
- c. Respondent shall adhere to the written policies and procedures of any insured depository institution with which he may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise;
- d. Respondent shall not breach his duties of loyalty or care owed to any insured depository institution with which he may become affiliated and shall, at all times, avoid placing his own interests above those of the institution; and
- e. Prior to expending the funds of the institution, Respondent must first request in writing and receive written approval from an individual who is (i) an “Executive Officer” (as defined in 12 C.F.R. Part 215.2(e)(1)) of that agency or institution, and (ii) a superior of Respondent’s. To comply with this requirement, Respondent’s written request for approval must set forth in detail the proposed use of the funds and a justification for the use.

Article IV

CIVIL MONEY PENALTY ORDER

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the amount of four thousand dollars (\$4,000), which shall be paid within ten (10) days of the execution of this Order. Respondent shall make payment in full by check made payable to the Treasurer of the United States and shall deliver the payment to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Respondent shall deliver a copy of the check to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St. SW, Washington, DC, 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(h) and (i) (as amended).

Article V

WAIVERS

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of Notices under 12 U.S.C. § 1818(b) and (i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (i) 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; and
- (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.

(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 the civil money penalty under this Order, or any legal (or other professional) expense relative to the negotiation and issuance of this Order except as permitted by 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 as permitted by 12 C.F.R. § 7.2014 and Part 359.

(3) 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.

(4) It is hereby agreed that the provisions of this Order constitute a settlement of these cease and desist and civil money penalty proceedings contemplated by the

Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations set forth in the first paragraph of this Order, 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 in Paragraph (4) of this Article, 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

Ronald G. Schneck
Director
Special Supervision Division

Signed _____
Matt Hogg

6/7/04

Date

05/24/2004

Date