

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

<b>In the Matter of:</b>	)	
Nelson D. Hogg	)	
Former President and	)	AA-EC-04-12
Chairman of the Board	)	
First National Bank of O'Donnell	)	
O'Donnell, Texas	)	

**STIPULATION AND CONSENT TO THE  
ASSESSMENT OF A CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) contends that Nelson D. Hogg (“Respondent”), as President and Chairman of the Board of Directors of First National Bank of O’Donnell, O’Donnell, Texas (“Bank”), violated 12 U.S.C. § 375a and 12 C.F.R. Part 215 (Regulation O), violated the June 13, 2002 Formal Agreement by and between the Bank and the Office of the Comptroller of the Currency, recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank, and breached his fiduciary duty to the Bank;

WHEREAS, the Comptroller has assessed a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i), with respect to these contentions, as set forth in the Notice of Assessment of a Civil Money Penalty against Respondent dated May 6, 2004; and

WHEREAS, Respondent, in the interest of cooperation and without admitting or denying any wrongdoing, consents to the assessment of a civil money penalty against him and to the issuance of this Stipulation and Consent to the Assessment of a Civil Money Penalty (“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 President and Chairman of the Board 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 civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(i).

Article II

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 one hundred thousand dollars (\$100,000), to be made in four installments of twenty-five thousand dollars (\$25,000) each. The Respondent shall pay the first installment immediately upon the execution of this Order. Respondent shall pay the second installment on or before August 31, 2005, the third installment on or before August 31, 2006, and the fourth and final installment on or before August 31, 2007.

(2) Respondent shall make all payments required by this Order by check made

payable to the Treasurer of the United States and shall deliver the payments to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. Respondent shall deliver a copy of each check to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St. SW, Washington, DC, 20219.

(3) 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 III

#### WAIVERS

(1) By executing this Order, Respondent waives:

- (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i) 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) 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 required by 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 civil money penalty proceedings initiated by the Comptroller. The Comptroller agrees not to institute further 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*

9/2/04

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Ronald G. Schneck  
Director  
Special Supervision Division

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Date

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Signed  
Nelson D. Hogg

8-20-04

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Date