

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

In the Matter of: Charles D. Brown Former Appraiser for Whitney National Bank, New Orleans, Louisiana))))))	AA-EC-05-39
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STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF AND TO THE ASSESSMENT OF A CIVIL MONEY PENALTY

WHEREAS, the Acting Comptroller of the Currency of the United States of America (“Comptroller”) is of the opinion that Charles D. Brown (“Respondent”), while acting as an appraiser for Whitney National Bank, New Orleans, Louisiana (“Bank”), knowingly or recklessly violated the Uniform Standards of Professional Appraisal Practice and the regulations codified at 12 C.F.R. Part 34, Subpart C, knowingly or recklessly engaged in unsafe or unsound banking practices, and breached his fiduciary duty to the Bank by:

1. performing inaccurate and improper real estate appraisals regarding at least three condominiums; and
2. receiving improper financial benefit or gratuities in exchange and in return for rendering the inaccurate and improper real estate appraisals; 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 and 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 her 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 an appraiser for 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

CEASE AND DESIST ORDER FOR AFFIRMATIVE RELIEF
APPRAISAL SERVICES FOR INSURED DEPOSITORY INSTITUTIONS

(1) Pursuant to the authority vested in her by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that Respondent shall not perform, sign, supervise, or assist in any manner in the performance or documentation of real estate appraisals or consulting reports of any type for any insured depository institution, as that term is defined in 12 U.S.C. § 1813(c)(2), without the co-signature by a professional review appraiser who does not report to or answer to Respondent.

(2) Respondent expressly acknowledges that he is ultimately responsible for the accuracy and legality of any appraisals or other reports he performs, signs, or supervises, or with which he assists, regardless of who may appear as a co-signer.

(3) In every instance in which Respondent performs, signs, supervises, or assists in any manner in the performance or documentation of real estate appraisals or consulting reports of any type for any insured depository institution, as that term is defined in 12 U.S.C. § 1813(c)(2), Respondent expressly agrees to:

- (a) comply with all applicable laws and regulations, including, but not limited to, the Uniform Standards of Professional Appraisal Practice and the regulations codified at 12 C.F.R. Part 34, Subpart C;
- (b) avoid engaging in any unsafe or unsound practices (as that term is used in 12 U.S.C. § 1818);
- (c) adhere to the written policies and procedures of his employer and the insured depository institution or agency for which he is providing services, or seek and receive written permission from appropriate authorized individuals to do otherwise; and
- (d) comply with his duties of loyalty or care owed to the insured depository institution or agency for which he is providing services, and avoid placing his own interests above those of the institution or agency.

(4) If, at any time, Respondent is uncertain whether a situation implicates Paragraphs (1) through (3) of this Article, or if Respondent is uncertain about his duties arising from such paragraphs, he shall obtain, at his own expense, and abide by the written advice of independent counsel regarding his duties and responsibilities with respect to the matter.

(5) 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) and (h) (as amended).

Article III

PRIOR NOTICE

It is further ordered that:

(1) 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.

(2) Within ten (10) days from and after his acceptance of any position described in paragraph (1), Respondent shall provide written notice of such acceptance to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219 (“Director of Enforcement”), along with a written certification of his compliance with paragraph (1).

(3) In the event Respondent accepts any position described in Paragraph (1) of this Article, he shall at all times thereafter:

- (a) comply with all applicable laws and regulations;
- (b) avoid engaging in any unsafe or unsound practices (as that term is used in 12 U.S.C. § 1818);
- (c) adhere to the written policies and procedures of the insured depository institution or agency with which he may become affiliated, or seek and

receive written permission from appropriate authorized individuals to do otherwise; and

(d) comply with his duties of loyalty or care owed to the insured depository institution or agency with which he may become affiliated, and avoid placing his own interests above those of the institution or agency.

(4) If, at any time, Respondent is uncertain whether a situation implicates Paragraphs (1) through (4) of this Article, or if Respondent is uncertain about his duties arising from such paragraphs, he shall obtain, at his own expense, and abide by the written advice of independent counsel regarding his duties and responsibilities with respect to the matter.

Article IV

CIVIL MONEY PENALTY

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the amount of seven thousand, five hundred dollars (\$7,500), which shall be paid pursuant to the schedule set forth in this Article.

(2) Respondent shall make one payment of three hundred fifty dollars (\$350) within thirty (30) days of the execution of this Order. Respondent shall make one payment of nine hundred dollars (\$900) on or before December 1, 2005. Thereafter, Respondent shall make five (5) payments of one thousand, two hundred fifty dollars (\$1,250). Respondent shall make the first of these payments on or before June 1, 2006, the second payment on or before December 1, 2006, the third payment on or before June 1, 2007, the fourth payment on or before December 1, 2007, and the fifth and final payment on or before June 1, 2008.

(3) Respondent shall make these payments in the form of checks made payable to the Treasurer of the United States and shall deliver all payments to: Comptroller of the Currency,

P.O. Box 979012, St. Louis, MO 63197-9000. Respondent shall also deliver a copy of all payments to the Director of Enforcement.

(4) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of Enforcement, at the address set forth in paragraph (1) above, of his current address, by completing the form attached hereto as Appendix A.

(5) 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) and (h) (as amended).

Article V

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(b), (h) and (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 her 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 any insured depository institution, as that term is defined in 12 U.S.C. § 1813(c)(2), (or any subsidiaries or affiliates 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 any insured depository institution (or any subsidiaries or affiliates 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, her 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 initiated 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, she 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/

8/29/05

Ronald G. Schneck
Director
Special Supervision Division

Date

/s/

7-13-05

Charles D. Brown

Date