

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

<b>In the Matter of:</b> Lance Schwanke Senior Vice President The Lake Bank, N.A. Two Harbors, MN	) ) ) ) ) )	AA-EC-05-45
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**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist and civil money penalty proceedings against Lance Schwanke (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) (as amended); 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, without admitting or denying any wrongdoing, desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (i);

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 Lake Bank, N.A., Two Harbors, MN (“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 a Senior Vice President 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

### PERSONAL CEASE AND DESIST ORDER

(1) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that, effective immediately, Respondent shall:

- (a) Not supervise, directly or indirectly, other commercial lenders. For purposes of this subparagraph, the term “supervise” shall mean approving commercial loans originated by other loan officers; rating the performance of other commercial loan officers; and approving actions taken on commercial loans by other lenders, such as extensions, downgrades or upgrades in risk ratings, workout plans, and exceptions to loan policy;
- (b) Not risk rate commercial loans originated by other lenders unless a senior executive reviews and approves in writing the risk rating;
- (c) Not originate any commercial loans until a senior executive has ensured that Respondent has:

- (i) obtained complete borrower financial information sufficient to support and document the borrower's ability to repay the debt under the proposed terms of the loan; and
  - (ii) obtained and documented the value of the collateral, and that the documentation includes a verifiable source of valuation;
- (d) Legally perfect the collateral for any loans originated by him within a reasonable time frame from the date of origination; and
- (e) Not renew, extend, or alter the loan agreement or collateral position of a borrower who has any loans that the institution or its regulator have classified as substandard, doubtful, loss or any combination of such classifications without first developing a written plan of action that is approved in writing by a senior executive.

(2) 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.

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

(4) 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.

(5) Within ten (10) days after his acceptance of any position described in Paragraph (4) of this Article, Respondent shall provide written notice of such acceptance to the Enforcement Director along with a written certification of his compliance with Paragraph (4).

(6) 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).

### Article III

#### ORDER FOR CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of two thousand dollars (\$2,000), which shall be paid upon execution of this Order.

(2) 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 979012, St. Louis, Missouri 63197-9000. The docket number of this case should be entered on the check.

(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 IV

#### WAIVERS

- (1) By executing this Order, Respondent waives:
  - (a) the right to the issuance of a Notice of Charges and a Notice of Civil Money Penalty Assessment 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 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 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, 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 contemplated by the Comptroller. The

Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in the first whereas clause, hereof, 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 above in paragraph 4, 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  
Director for Special Supervision

10/24/05  
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Date

/s/  
\_\_\_\_\_  
Lance Schwanke

09/29/05  
\_\_\_\_\_  
Date