

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

In the Matter of:)	
Robert C. Hobgood)	
Former President and Chairman of the Board)	AA-EC-04-45
First National Bank)	
Lubbock, Texas)	

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate proceedings for a cease and desist order for restitution, an order for prohibition, and assessment of a civil money penalty against Robert C. Hobgood (“Respondent”), pursuant to 12 U.S.C. § 1818(b), (e), and (i) (as amended);

WHEREAS, the Comptroller alleges that Respondent engaged in a pattern of extending credit in an unsafe and unsound manner, violated the law, and breached his fiduciary duty, specifically: (a) the Comptroller alleges that Respondent failed to follow prudent underwriting procedures; (b) the Comptroller alleges that Respondent failed to supervise the activities of a subordinate who issued cashier’s checks against uncollected funds; (c) the Comptroller alleges that Respondent extended credit to insiders or their related interests on preferential terms or in amounts that exceeded the Bank’s lending limit; (d) the Comptroller alleges that Respondent failed to correct violations pertaining to loans to insiders; (e) the Comptroller alleges that Respondent extended credit to

immediate family members without conducting prudent underwriting, and receiving the benefit of those loans; and (f) the Comptroller alleges that Respondent failed to monitor and manage credit risk; thereby causing substantial loss to the Bank and gain to himself;

WHEREAS, Respondent neither admits nor denies any wrongdoing; 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 Comptroller and Respondent desire 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) First National Bank (“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 formerly the 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 capacities 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, the Comptroller has the authority to initiate and maintain these proceedings for a cease and desist order for restitution, an order for prohibition, and assessment of a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(b), (e), and (i).

ARTICLE II

CEASE-AND-DESIST ORDER FOR RESTITUTION

(1) The Comptroller hereby orders that Respondent shall pay restitution to the Bank in the amount of fifty thousand dollars (\$50,000) according to the following payment schedule:

- (a) Monthly payments of at least \$250, due on the 15th of the month, for twelve (12) months, commencing February 15, 2005, through January 15, 2006;
- (b) Monthly payments of at least \$500, due on the 15th of the month, for twelve (12) months, commencing February 15, 2006, through January 15, 2007;
- (c) Monthly payments of at least \$750, due on the 15th of the month, for twelve (12) months, commencing February 15, 2007, through January 15, 2008;

- (d) Monthly payments of at least \$1,000, due on the 15th of the month, for twelve (12) months, commencing February 15, 2008, through January 15, 2009;
- (e) Monthly payments of at least \$1,500, due on the 15th of the month, for twelve (12) months, commencing February 15, 2009, through January 15, 2010; and
- (f) A final payment of \$2,000 (or the balance of the restitution due, if less), due by February 15, 2010.

(2) Respondent shall make payments by certified check made payable to First National Bank. The checks shall be delivered to Vice President Stacy Hodges, First National Bank, 5701 82nd Street, Lubbock TX 79424. The case number, AA-EC-04-45, should be entered on the memo line of each check.

(3) Respondent shall deliver a copy of each payment to Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, DC 20219 (“Enforcement Director”). To ensure prompt receipt, Respondent may also fax a copy of each payment to the Enforcement Director at (202) 874-5301.

(4) If Respondent fails to make any payment as provided in this Article, the entire balance of the restitution amount described in this Article shall become immediately due and payable.

(5) Respondent has delivered to the Enforcement Director a signed and notarized Affidavit for Judgment by Confession, dated Feb 10, 2005, agreeing to the entry of a judgment against him for the unpaid balance of the restitution obligation owed to the

Bank, with the provision that the judgment will not be abstracted or executed upon, unless and until the first instance in which Respondent is three months in arrears on the payment schedule described in this Article.

(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), (h), or (i) (as amended).

ARTICLE III

ORDER FOR PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, the Comptroller further orders that Respondent 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 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), (h), (i), and (j) (as amended).

ARTICLE IV

ORDER FOR CIVIL MONEY PENALTY

(1) It is further ordered that Respondent shall pay a civil money penalty in the amount of twenty thousand dollars (\$20,000), to be paid in full by February 15, 2010. Respondent shall make payment in full by a certified check made payable to the Treasurer

of the United States and shall deliver the payment to: Comptroller of the Currency, P.O. Box 9012, St. Louis, MO 63197-9012. The case number, AA-EC-04-45, should be entered on the memo line of the check.

(2) If Respondent fails to make any payment as provided in this Order, the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable.

(3) Respondent has delivered to the Enforcement Director a signed and notarized Affidavit for Judgment by Confession, dated Feb 10, 2005, agreeing to the entry of a judgment against him for the unpaid balance of the civil money penalty, with the provision that the judgment will not be abstracted or executed upon before May 15, 2010, or before three months have elapsed after the civil money penalty described in this Article becomes due and payable, whichever date is earlier.

(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).

(5) Within seven (7) days from the issuance of this Order, Respondent shall notify the Enforcement Director of his current home street address, by completing the form attached hereto as Appendix A and mailing it to: Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, DC 20219. To ensure prompt receipt, Respondent may also fax a copy of Appendix A to the Enforcement Director at (202) 874-5301.

(6) Until the civil money penalty is paid in full, upon each and every subsequent change in address, if any, Respondent shall notify the Enforcement Director of his new address within seven (7) days of such change in address, by mailing notification to: Director, Enforcement & Compliance, Office of the Comptroller of the Currency, 250 E Street S.W., Washington, DC 20219.

ARTICLE V

BANKRUPTCY

(1) In any bankruptcy proceeding, Respondent 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 restitution and civil money penalty obligations in the Order arise out of acts which result in claims not dischargeable in bankruptcy.

ARTICLE VI

WAIVERS

- (1) By executing this 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;

- (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.

ARTICLE VII

CLOSING

(1) 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 restitution 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.

(2) 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 his employees to cause or induce the Respondent to agree to consent to the issuance of this Order or to execute this Order.

(3) It is hereby agreed that the provisions of this Order constitute a settlement of the proceedings for a cease and desist order for restitution, an order for prohibition, and assessment of a civil money penalty contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations contained in the letter from the OCC to Respondent dated January 14, 2004, unless such acts, omissions, or violations reoccur.

(4) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits but, instead, as a settlement of the dispute 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.

(5) 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. Schneek

2/18/2005

Ronald G. Schneck
Director
Special Supervision Division

/s/

Robert C. Hobgood

Date

February 1, 2005

Date