

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

In the Matter of:)	
DAVID A. BARRETT)	
Former Chairman of the Board)	OCC-AA-EC-05-30
Guaranty National Bank)	
Tallahassee, FL)	

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate these cease and desist and civil money penalty proceedings against David A. Barrett (“Respondent”), who served as Chairman of the Board of Directors of Guaranty National Bank, Tallahassee, Florida (“Bank”), pursuant to 12 U.S.C. § 1818(b) and (i) (as amended); and

WHEREAS, if charges were brought, Comptroller would allege that Respondent, as Chairman of the Board of the Bank, engaged in unsafe and unsound practices and/or breached his fiduciary duty to the Bank by: (a) by his continued unreasonable disregard of the examination findings and direction of the OCC; (b) by repeatedly failing to insure that Bank management for which he was responsible took steps to accurately report the Bank’s condition, as required by 12 U.S.C. § 161; and (c) while acting as the Bank’s outside counsel, by failing to obtain approval of the Bank’s Board of Directors and failing to apprise the OCC of his law firm’s stipulation to an injunction against the Bank in a suit against the Bank, which stipulation consented to an encumbrance of all of the Bank’s assets; and

WHEREAS, to resolve this matter, Respondent neither admits nor denies any wrongdoing in this Stipulation; 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 desires 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) Guaranty National Bank (“Bank”), which Bank was closed by the Comptroller on March 12, 2004, was, prior to its closure, 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, at all relevant times the Bank was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was Chairman of the Board of Directors 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) Prior to becoming an institution-affiliated party to any insured depository

institution, Respondent shall disclose to the board of directors of such institution a complete copy of this Order and provide written notice of such acceptance of position to the Director of the Enforcement and Compliance Division (“Enforcement Director”).

(2) Should Respondent become an institution-affiliated party with regard to any insured depository institution, Respondent:

- (a) Shall be restricted from providing any legal advice or consultation to such institution;
- (b) Shall be restricted from involving himself in any loan or extension of credit issued by such institution, without written concurrence of a majority of the board of such institution;
- (c) Shall be restricted from entering into contracts with third party vendors without written concurrence of a majority of the board of such institution;
- (d) If Respondent may experience a direct or indirect benefit in connection with any matter coming before such institution, apart from the benefit experienced by directors, employees, or stockholders generally of the institution, shall disclose, in a timely manner, to the board of such institution all information in his possession relevant to any matter before the board, and shall abstain from all discussions of the merits of the matter and recuse himself from all votes and decisions on any such matter before the board;
- (e) Shall comply fully with all laws, regulations, and policies applicable to any such institution, including promptly and fully notifying that institution’s federal financial regulator of any issue or development at the institution that appears to Respondent to be within the area of supervisory interest of the appropriate federal

financial regulator;

(f) Shall avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code; and

(g) Shall not breach the fiduciary duties of loyalty or care owed to any such institution, and shall, at all times, avoid placing his own interests above those of the institution.

(3) If, at any time, Respondent is uncertain whether a situation implicates paragraph (2) of this Article, or if Respondent is uncertain about his duties arising from such paragraph, Respondent shall obtain, at his own expense, and abide by the written advice of counsel regarding his duties and responsibilities with respect to the matter. To comply with this paragraph, Respondent shall engage counsel who is in no way affiliated with the institution; and who has never been subject to any sanctions by any Federal banking agency, either by agency order or consent.

(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(b) and (h) (as amended).

Article III

CIVIL MONEY PENALTY

(1) To resolve this matter, without admitting or denying any wrongdoing in this Stipulation, Respondent hereby consents to the payment of a civil money penalty in the amount of twenty seven thousand five hundred dollars (\$27,500.00), ten thousand dollars (\$10,000.00) of which shall be paid within sixty (60) days of the date of execution hereof and the remainder of which shall be paid within twelve (12) months of the date of execution of this Order.

Respondent shall make payments by checks made payable to the Treasurer of the United States and shall deliver the payments to: Comptroller of the Currency, P.O. Box 979012, St. Louis, MO 63197-9000. The docket number of this case should be entered on the check.

(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).

(3) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of the Enforcement & Compliance Division (“Enforcement Director”) of his current address, by completing the form attached hereto as Appendix A.

(4) Until the civil money 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.

Article IV

BANKRUPTCY

(1) If Respondent files for bankruptcy protection, Respondent shall notify the Enforcement Director within ten (10) days of the filing and shall provide a copy of the filing to the Enforcement Director.

(2) In any bankruptcy proceeding, Respondent agrees that he 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 civil money penalty obligation in this Order arises out of acts or claims which result in claims not dischargeable in bankruptcy.

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;
 - (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; and
- (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 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.

(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, 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, 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.

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(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

6/24/2005

RONALD G. SCHNECK
Director
Special Supervision Division
Office of the Comptroller of the Currency

Date

/s/

DAVID A. BARRETT

6/15/2005

Date