

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

<b>In the Matter of:</b> <b>KENNETH FUQUA</b> <b>Former Director</b> <b>Guaranty National Bank</b> <b>Tallahassee, FL</b>	) ) ) ) )	<b>OCC-AA-EC-05-33</b>
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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate this civil money penalty proceeding against Kenneth Fuqua (“Respondent”), who served as a Director of Guaranty National Bank, Tallahassee, Florida (“Bank”), pursuant to 12 U.S.C. § 1818(i) (as amended); and

WHEREAS, the Comptroller is of the opinion that Respondent, as a Director of the Bank, engaged in unsafe and unsound practices (a) by his continued disregard of the examination findings and direction of the OCC; and (b) by 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;

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 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 a Director 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 this civil money penalty proceeding against him pursuant to 12 U.S.C. § 1818 (i).

## **Article II**

### **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 ten thousand dollars (\$10,000.00), which shall be paid as follows: Within sixty (60) days from the date of execution of this Order, Respondent shall submit a payment of two thousand dollar (\$2,000), and by December 31, 2005, shall submit payment of the balance of eight thousand dollars (\$8,000.00). Respondent shall make payments by check 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 each 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 III**

## **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 IV**

## **WAIVERS**

- (1) By executing this Order, Respondent waives:
  - (a) the right to the issuance of a Notice under 12 U.S.C. § 1818(i);
  - (b) 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;
  - (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
  - (f) all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for issuance of this Order.

(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 this civil money penalty proceeding 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.

(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.

[Signature page follows]

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

*/s/ Ronald G. Schneck*

6/24/2005

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

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Date

*/s/*

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KENNETH FUQUA

6/20/2005

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Date