

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

In the Matter of:)	
John Douglas, Jr.)	
Former Merchant Services Manager)	AA-EC-05-40
Fidelity National Bank)	
(now known as Fidelity Bank))	
Norcross, Georgia)	

STIPULATION AND CONSENT ORDER

WHEREAS, the Acting Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist and civil money penalty proceedings against John Douglas, Jr. (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) (as amended) through the issuance of a Notice of Charges for an Order to Cease and Desist and a Notice of Civil Money Penalty Assessment for unsafe or unsound banking practices and breaches of fiduciary duties related to the completion and submission of unauthorized commission reports while serving as a Merchant Services Manager at Fidelity National Bank, Norcross, Georgia (“Bank”) (now known as Fidelity Bank); 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, Respondent, without admitting or denying any wrongdoing, desires to enter into this Stipulation and 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 her duly authorized representative, and

Respondent that:

Article I

JURISDICTION

(1) The Bank was a national banking association until approximately May 2003, 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 was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was a Merchant Services Manager 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 her by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that, whenever Respondent is employed by, or is offered employment at, an insured depository

institution or otherwise becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws and regulations applicable to any insured depository institution with which he is or may become affiliated;
- (b) Avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
- (c) Not breach the fiduciary duties of loyalty or care owed to any insured depository institution with which he is or may become affiliated and shall, at all times, avoid placing his own interests above those of the insured depository institution; and
- (d) Adhere to the written policies and procedures of any insured depository institution with which he is or may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise.

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

(3) To comply with Paragraph (2) of this Article, Respondent shall engage counsel who is in no way affiliated with the institution and who has never been subject to any formal sanctions by any Federal banking agency, either by agency order or consent, as disclosed on the banking agencies' web sites.

(4) Prior to accepting any offer of a position that causes Respondent to become an institution-affiliated party of an insured depository institution, Respondent shall provide the chief executive officer of the institution with a copy of this Order and shall provide written notice of such acceptance to the Director, Enforcement and Compliance, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219, along with a written certification of his compliance with this Paragraph within ten (10) days after acceptance of such position.

(5) If Respondent is currently an institution-affiliated party of an insured depository institution, he shall provide the chief executive officer of the institution with a copy of this Order at or before execution of the Order and provide written certification of his compliance with this Paragraph to the Director, Enforcement & Compliance, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219 within ten (10) days of the execution of this Order.

(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

CIVIL MONEY PENALTY ORDER

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of five thousand dollars (\$5,000.00), which shall be paid upon execution of this Order.

(2) Respondent shall make payment in full by a 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 case number should be entered on the memo line of the check. Respondent shall send a copy of the check to the Director, Enforcement & Compliance, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219.

(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 for an Order to Cease and Desist 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 successor, 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 successor, 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 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 on the first page 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 above in Paragraph (4), shall not

inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting Respondent if, at any time, he/she deems it appropriate to do so to fulfill the responsibilities placed upon him/her 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.

Signed _____
Ronald G. Schneck
Director, Special Supervision Division

7/20/05

Date

Signed _____
John Douglas, Jr.

June 28, 2005

Date