

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

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<b>In the Matter of:</b>	)	
Jerry E. Oliver, Jr.	)	
Former Director and Executive Vice President	)	AA-EC-06-31
	)	
First National Bank of Shelby	)	
Columbiana, Alabama (Merged)	)	
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**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate these cease and desist and civil money penalty proceedings against Jerry E. Oliver (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) (as amended) for violations of the October 2002 Formal Agreement entered into with the Comptroller (“2002 Formal Agreement”), as well as unsafe or unsound banking practices and breaches of fiduciary duty; 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”).

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 of Shelby, Columbiana, Alabama (“Bank”) was 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 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, the Bank’s Executive Vice President, and the Bank’s Senior Loan Officer, 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

### COMPTROLLER’S FINDINGS

(1) The Comptroller hereby makes the following findings, which Respondent neither admits nor denies:

(2) As a Director of the Bank, Respondent failed to adequately oversee the affairs of the Bank, and to ensure the Bank’s compliance with the 2002 Formal Agreement.

(3) As the Senior Loan Officer at the Bank, Respondent made a nominee loan to another Bank employee for purposes of benefiting a third-party borrower of the Bank.

(4) The third-party borrower's loan was not current. The loan was brought current by creating a large overdraft in the Bank's demand deposit account of the borrower. The overdraft was then repaid using the proceeds of the nominee loan.

(5) The third-party borrower's loan was brought current in order to conceal non-performance in the loan from the Bank's external loan review function, and the Comptroller. The Bank's external loan review function was required by the 2002 Formal Agreement.

(6) Respondent's misconduct, described above, constituted unsafe or unsound practices, breaches of his fiduciary duty to the Bank, and violations of the 2002 Formal Agreement.

### Article III

#### 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(b), the Comptroller hereby orders that, effective immediately, whenever Respondent is employed, or becomes employed by a federally insured depository institution, seeks such employment, or otherwise becomes an institution-affiliated party, as defined by 12 U.S.C. § 1813(u), Respondent shall:

(a) provide the Chief Executive Officer of any such institution with a copy of this Order prior to accepting any position that would cause him to become an institution affiliated party, or if Respondent is currently employed by any such institution, provide a copy of this Order to the Chief Executive Officer of such institution within ten (10) days of the effective date of this Order; and

(b) within ten (10) days from Respondent's compliance with subparagraph (1)(a) of this Article, Respondent shall provide written certification of such compliance to the Director of the Enforcement and Compliance Division. All such written certifications required by this Order shall be sent to: Director, Enforcement and Compliance Division, 250 E Street, SW, Washington, DC 20219.

(2) The Comptroller further orders that, effective immediately, Respondent shall:

(a) at all times comply fully with all applicable laws, regulations, written agreements, or orders of any applicable financial institution regulatory agency;

(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 care or loyalty owed to any federally insured depository institution to which Respondent is or may become affiliated;

(d) not arrange, approve, or counsel the use of nominee or straw borrowers, regardless of any agreement the nominee or straw borrower may have with the recipient of the extension of credit to repay the nominee or straw borrower;

(e) not supervise, directly or indirectly, other loan officers or lending officials at any federally insured depository institution to which Respondent is or may become affiliated. For purposes of this subparagraph, “supervise” shall mean approving commercial, residential or consumer loans originated by other loan officers or lending officials; rating the performance of other loan officers or lending officials; and approving actions taken or to be taken on loans by other loan officers or lending officials, such as extensions, workout plans, and exceptions to loan policy;

(f) not originate any commercial loans in excess of one hundred fifty thousand dollars (\$150,000) at any federally insured depository institution to which Respondent is or may become affiliated, until Respondent’s supervising lending officer has reviewed and approved the loan, and ensured that Respondent has obtained complete information sufficient to support and document the justification and specific purpose of the loan, as well as documented the borrower’s ability to repay the debt under the proposed terms of the loan; and

(g) adhere to all written policies and procedures of any federally insured depository institution to which Respondent is or may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise.

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

(4) Respondent agrees that 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).

#### Article IV

#### CIVIL MONEY PENALTY ORDER

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of twenty thousand dollars (\$20,000), which shall be paid upon execution of this Order.

(2) Respondent shall make payment in full by a certified payment instrument 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 shall be entered on the payment instrument.

(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).

#### Article V

#### 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 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.

(2) Respondent shall not cause, participate in or authorize the Bank (or any subsidiary or affiliate thereof, or successor in interest) 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, or successor in interest) 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, his 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 in Article II 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 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  
Special Supervision Division

10/25/06  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Jerry E. Oliver

10/12/06  
\_\_\_\_\_  
Date