

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

---

<b>In the Matter of:</b>	)	
<b>Michelle L. Frisbie</b>	)	
<b>Former Bank Teller</b>	)	<b>OCC-AA-EC-06-18</b>
<b>U.S. Bank N.A. and Bank of America</b>	)	
<b>Joplin, Missouri</b>	)	

---

**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate prohibition and cease and desist proceedings against Michelle L. Frisbie (“Respondent”), former Bank teller at U.S. Bank N.A., Joplin, Missouri (“US Bank”) and Bank of America, Joplin, Missouri (“BofA”) (collectively “Banks”) pursuant to 12 U.S.C. § 1818(b) and (e), (as amended) for violations of law, unsafe and unsound banking practices, and breach of fiduciary duty; and

WHEREAS, if charges were brought, the Comptroller would allege that as a former Bank teller at US Bank and BofA, Respondent engaged in theft of bank funds in the amount of \$3489.00 and \$9500.00 from each Bank, respectively.

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to this matter, 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) U.S. Bank and BofA are national banking associations, 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 Banks are “insured depository institutions” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent served as a bank teller at US Bank and BofA and is an “institution-affiliated party” of both Banks 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 prohibition and cease and desist proceedings against her pursuant to 12 U.S.C. § 1818(b) and (e).

**Article II**

**FINDINGS OF FACT**

(1) Respondent wrongfully obtained \$3489.00 through theft of Bank funds at U.S. Bank.

(2) Respondent wrongfully obtained \$9500.00 through theft of Bank funds at Bank of America.

### Article III

#### **PROHIBITION ORDER**

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article,

Respondent hereby agrees that she 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(b), (e), (h), or (i) (as amended).

#### **Article IV**

#### **CEASE AND DESIST ORDER FOR RESTITUTION**

(1) Respondent hereby consents to the payment of restitution in the amount of Twelve Thousand Nine Hundred and Eighty Nine dollars (\$12,989), which shall be paid under the following terms:

##### **Restitution to US Bank National Association**

- (a) Respondent shall make a payment in the amount of \$3489.00 on or before October 30, 2006 to US Bank National Association.
- (b) Respondent shall make payment by check made payable to US Bank N.A. The check shall be delivered to the attention of Mr. Terry Gerling, Director of Corporate Security, US Bank NA, 811 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202.

Restitution to Bank of America

- (c) Respondent shall make a payment in the amount of \$1900.00 on or before October 30, 2007 to BofA. On or before October 30<sup>th</sup> each successive year thereafter, Respondent shall make a payment to BofA in the amount of \$1900.00, until such time as Respondent has paid restitution in full to BofA in the amount of \$9500.00.
- (d) Respondent shall make each installment payment by check made payable to BofA. The check shall be delivered to the attention of Bank of America, c/o John H. Huffstutler, Associate General Counsel, 101 Tryon Street, NC1-002-29-01, Charlotte, NC 28255.

(2) For each of the above referenced payments, Respondent shall also deliver a copy of the check to Director, Enforcement & Compliance Division, (“Enforcement Director”) Office of the Comptroller of the Currency, 250 E St., S.W., Washington, D.C. 20219. The docket number of this case, AA-EC-06-18, should be entered on the memo line of the check. To ensure prompt delivery, Respondent may also fax a copy of the check to the Enforcement Director at (202) 874-5301.

(3) In the event Respondent fails to make payment in accordance with the terms and schedule prescribed in paragraph (1) above, the entire unpaid balance of the total amount of civil money penalty shall become immediately due and payable.

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

#### **Article V**

#### **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 she 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 VI**

#### **WAIVERS**

(1) By executing this Order, Respondent waives:

- (a) the right to the issuance of Notice of Charges and a Notice of Intention to Prohibit Further Participation, and a Notice of Civil Money Penalty Assessment 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.

(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 or restitution 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 she 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 prohibition, civil money penalty and cease and desist 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 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.

*/Ronald G. Schneck*

05-09-2006

\_\_\_\_\_  
Ronald G. Schneck  
Director  
Special Supervision Division

\_\_\_\_\_  
Date

04-27-2006

*/Michelle L. Frisbie*

\_\_\_\_\_  
Michelle L. Frisbie

\_\_\_\_\_  
Date

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2006 by Michelle L. Frisbie.

Sworn to before: \_\_\_\_\_

(Signature): \_\_\_\_\_

Notary Public, In and for  
County of  
State Of

Commission Expires: \_\_\_\_\_

Initialed \_\_\_\_\_

Date \_\_\_\_\_