

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

In the Matter of:)	
Thomas Kime)	
Former President)	AA-NE-05-27
National Bank of Geneva)	
Geneva, New York)	

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against Thomas Kime (“Respondent”), as well as others, pursuant to 12 U.S.C. § 1818(i) (as amended) for activities detailed in a letter dated July 23, 2004; 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 Comptroller and Respondent, without admitting or denying any alleged violations of law, desire 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) National Bank of Geneva (“Bank”) is 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 is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) From 1989 until 2003, Respondent was the President 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

FINDINGS OF FACT

(1) On January 17, 2002, the Bank's Board of Directors passed a blanket approval of \$4,500,000 for extensions of credit and future advances to one of the directors of the Bank and that director's related interests for 2002.

(2) On a daily basis, between January 2, 2002 and January 2, 2003, Respondent, with the knowledge and consent of the Bank's Board of Directors, including the Chief Executive Officer of the Bank's Holding Company, allowed the director and his related interests to significantly overdraw their demand deposit accounts for the purpose of supporting the director's business operations.

(3) The overdrafts were not preferential. However, when combined with the extensions of credit to the director and his related interests and other combinable loans, the total extensions of credit to the director and his related interests at times exceeded the Board's "blanket approval" of \$4,500,000. At such times, the Bank was in violation of 12 U.S.C. § 375b and 12 C.F.R. § 215.4, as neither the Respondent nor anyone else at the

Bank sought Board approval for the extensions of credit that exceeded the “blanket approval.”

(4) The director and his related interests subsequently paid the overdrafts and all overdraft fees assessed by the Bank.

Article III

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 two thousand five hundred dollars (\$2,500.00), which shall be paid upon execution of this Order. Respondent shall make payment in full by check made payable to the Treasurer of the United States and shall deliver the payment to: Comptroller of the Currency, P.O. Box 9012, St. Louis, MO 63197-9012. The docket number of this case should be entered on all checks.

(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).

Article IV

WAIVERS

(1) By executing this Order, Respondent waives:

(a) the right to the issuance of 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.

(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 contained in the Notice letter dated July 23, 2004, unless such acts, omissions, or violations reoccur, and nothing in this Order precludes Respondent's continued participation in the affairs of any insured depository institution.

(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 in the event the Respondent fails to pay the civil money penalty, 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/

1-6-2006

Toney Bland
Deputy Comptroller
Northeastern District

Date

1-6-06

/s/

Thomas Kime

Date