

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

<b>In the Matter of:</b> Kermit Blane Scarberry Former Chief Operating Officer The First National Bank of Germantown Germantown, OH	) ) ) ) )	AA-EC-06-63
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**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) has initiated cease and desist and civil money penalty proceedings against Kermit Blane Scarberry (“Respondent”) pursuant to 12 U.S.C. §§ 1818(b) and (i) (as amended);

WHEREAS, the Comptroller contends that Respondent violated 12 C.F.R. Part 215; and engaged in unsafe or unsound banking practices and breached his fiduciary duty by making improper accounting entries and charging personal expenses to the Bank;

WHEREAS, Respondent neither admits nor denies any wrongdoing and has asserted numerous defenses; and

WHEREAS, in the interest of cooperation, compromise and settlement, 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 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 his duly authorized representative, and Respondent that:

Article I

JURISDICTION

(1) The First National Bank of Germantown, Germantown, OH (“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) Respondent was the Chief Operating Officer 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 cease and desist proceeding 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 him 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 becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- (a) comply fully with all laws, regulations, and policies applicable to any insured depository institution at which he is employed;
- (b) not charge any expenses to any credit card, debit card, or other charge card provided to him by any insured depository institution at which he is employed as part of his employment without obtaining prior approval from his supervisor;
- (c) not use any funds belonging to any insured depository institution at which he is employed, including, but not limited to, cash, cashier's checks, and money orders, to purchase any items without obtaining prior approval from his supervisor;
- (d) within one business day of making any accounting entries on behalf of the insured depository institution at which he is employed, provide those entries to his supervisor for review and written approval;

(e) maintain documentation showing the written approval of any accounting entries that he has made, as required by Paragraph 1(d) of this Article.

(2) If the Respondent is currently an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide the chief executive officer of the institution or another senior executive officer approved in advance by the Director of Enforcement & Compliance (“Enforcement Director”) with a copy of this Order.

(3) Within ten (10) days from the date of the execution of this Order, Respondent shall provide written certification of his compliance with Paragraph (2) of this Article to the Director of Enforcement & Compliance, Office of the Comptroller of the Currency, 250 E St., SW, Washington, DC 20219.

(4) Prior to accepting any new position that causes him to become an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide the chief executive officer of the institution or other senior executive officer approved in advance by the Enforcement Director with a copy of this Order.

(5) Within ten (10) days after his acceptance of any position described in Paragraph (4) of this Article, Respondent shall provide written notice of such acceptance to the Enforcement Director along with a written certification of his compliance with Paragraph (4).

(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

#### ORDER FOR CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of ten thousand dollars (\$10,000), which shall be paid pursuant to the schedule and terms set forth in this Article.

(2) Respondent shall pay five thousand dollars (\$5,000) upon execution of this Order and five thousand dollars (\$5,000) on or before December 31, 2007.

(3) Respondent shall make all payments by check payable to the Treasurer of the United States and shall deliver the payments to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000. The docket number of this case should be entered on the check.

(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(h) and (i) as amended.

### Article IV

#### WAIVERS

(1) By executing this Order, Respondent waives:

- (a) 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;

- (b) all rights to seek judicial review of this Order;
- (c) all rights in any way to contest the validity of this Order; and
- (d) 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 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) 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 this cease and desist and civil money penalty proceedings initiated by the Comptroller.

(5) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits and 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  
Ronald G. Schneck  
Director  
Special Supervision

1/17/07  
Date

/s/ K. Blane Scarberry  
Kermit Blane Scarberry

1/11/07  
Date