

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

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In the Matter of:)	
)	
David Moffat)	
President, Chief Executive Officer, Director)	AA-EC-07-25
)	
First National Bank)	
St. Marys, Georgia)	
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CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against David Moffat (“Respondent”) pursuant to 12 U.S.C. § 1818(i) on the basis of Respondent’s unsafe and unsound banking practices, breach of fiduciary duty, and violation of law during June 2001 through March 2005, while associated with First National Bank, St. Marys, Georgia (“Bank”) as a President, Chief Executive Officer and Director; 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 Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(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) First National Bank, St. Marys, Georgia (“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 President, Chief Executive Officer and a Director 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 civil money penalty against him pursuant to 12 U.S.C. § 1818(i).

Article II

COMPTROLLER'S FINDINGS

(1) During the period of about June 2001 through March 2005, Respondent, in breach of his fiduciary duty to the Bank, caused the Bank to make approximately \$5.9 million in unsafe and unsound loans to Digital Technology Systems LLC, a Florida Corporation (“Digital”), its principals and affiliates (hereinafter the “Digital loans”).

(2) As a result of Respondent’s unsafe and unsound lending and breach of fiduciary duty, the Bank charged off approximately \$5.3 million of the Digital loans as loss.

(3) During the period of about November 2002 through May 2004, Respondent, in breach of his fiduciary duty to the Bank, caused the Bank to make approximately \$3.2 million in unsafe and unsound loans to Centurion Transportation Systems, Inc., a Florida Corporation (“Centurion”) and its principal.

(4) As a result of Respondent’s unsafe and unsound lending and breaches of fiduciary duty, the Bank classified over \$3 million in loans made to Centurion and its principal as “substandard” due to well-defined weaknesses in the loans and the likelihood that the loans eventually will be charged off as loss.

(5) During the period of about September 12, 2004 through March 5, 2005, Respondent improperly caused the Bank to refund him overdraft fees in the approximate amount of \$1,085 in violation of 12 C.F.R. § 215.4(e)(2)(ii). The refund of the overdraft

fees constituted improper preferential credit to a Bank officer and personal gain to Respondent. The Bank recovered the fees from Respondent's Bank account.

Article III

ORDER FOR CIVIL MONEY PENALTY

Respondent hereby consents to and it is Ordered that:

(1) Respondent shall pay a civil money penalty in the amount of forty thousand dollars (\$ 40,000.00) as follows:

(a) Respondent shall pay five thousand dollars (\$5,000.00) upon execution of this Order.

(b) Respondent shall pay the remaining thirty-five thousand dollars (\$35,000) in quarterly increments of two thousand dollars (\$2,000.00), commencing July 1, 2008. Thereafter, Respondent shall pay two thousand dollars (\$2,000.00) each quarter for fourteen (14) quarters, with each payment becoming due on the first day of each calendar quarter.

(c) Respondent shall make a final payment of five thousand dollars (\$5,000), which shall be due on April 1, 2012.

(2) Respondent shall make payment according to the schedule set forth above by 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 docket number of this case shall be entered on all checks.

(3) There is no penalty for early payment.

Civil Money Penalty Order

Initials: _____

Date: _____

(4) Respondent shall forward a signed original copy of this order together with a photocopy of his first payment and a copy of the completed form attached hereto as Appendix A, to the attention of the Director of the Enforcement & Compliance Division of the Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219. Respondent shall also forward a photocopy of each quarterly payment check thereafter to the Director at the foregoing address.

(5) Until the civil money penalty is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall notify the Enforcement Director of his new address within seven (7) days of such change in address.

(6) If Respondent fails to comply with any provision of this Order, then the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable

(7) 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

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.

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Initials: _____

Date: _____

(2) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to a civil money penalty pursuant to this Order is subject to discharge, Respondent 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 which result in claims not dischargeable in bankruptcy.

Article V

WAIVERS

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of Notice(s) 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; 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 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) 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 the civil money penalty proceeding arising out of the specific acts, omissions, or violations described in Article II hereof.

(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 in paragraph (4) of this Article, 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.

Civil Money Penalty Order

Initials: _____

Date: _____

