

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

In the Matter of:)	
Roger A. Luhring)	
Former vice president and senior loan officer)	AA-EC-07-45
The First National Bank of Bellevue)	
Bellevue, Ohio)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist and civil money penalty proceedings against Roger A. Luhring (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities during the period 2003 – 2006 while he was a vice president and senior loan officer at The First National Bank of Bellevue, Bellevue, Ohio (“Bank”); 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(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 Bellevue, Bellevue, Ohio (“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 is a former vice president and senior loan 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 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

The Comptroller hereby makes the following findings:

(1) During 2002, the Bank’s Board of Directors (“Board”) approved a \$2.75 million construction loan to Customer A, with instructions to Respondent, as the

Personal Cease & Desist and Civil Money Penalty Order

loan officer, to sell participations in the loan and to obtain a U.S.D.A. guarantee to cover 80% of the loan amount. These steps were necessary to comply with the Bank's legal lending limit to a single borrower, pursuant to 12 U.S.C. § 84 and 12 C.F.R. § 32.3. During the relevant period, the Bank's legal lending limit to a single borrower fell within the range \$1.86 - \$1.96 million.

(2) Respondent failed to sell participations in the construction loan, contrary to his instructions from the Board. In addition, although Respondent filed an application for the U.S.D.A. guarantee on the construction loan to Customer A, it was not granted.

(3) On multiple occasions during the period 2003 through 2005, Respondent caused the Bank to advance funds to Customer A in aggregate amounts that exceeded the Bank's legal lending limit to a single borrower, causing multiple violations of 12 U.S.C. § 84 and 12 C.F.R. § 32.3, as follows:

- (a) The construction loan to Customer A exceeded the Bank's legal lending limit of \$1,881,000 in May 2003, when Respondent caused the Bank to advance \$230,888 to Customer A, thereby raising his outstanding principal loan balance to \$1,976,655.
- (b) During the periods November 2003 through January 2004 and February through April 2005, Respondent caused the Bank to make nine (9) additional advances of loan funds to Customer A, in violation of the Bank's legal lending limit, thereby raising his outstanding principal loan balance to \$3.2 million as of April 2005.

(4) On October 23, 2003, the Bank's Loan Committee approved a \$350,000 cost overrun loan and a \$150,000 line of credit for Customer A on the basis of Respondent's false and misleading representations. Respondent falsely reported to the Loan Committee that the U.S.D.A. guarantee was in place for 80% of Customer A's existing construction loan. The Loan Committee approved the cost overrun loan and the line of credit, on the condition that Respondent obtain an 80% U.S.D.A. guarantee on the cost overrun loan to Customer A. Respondent failed to obtain a U.S.D.A. guarantee for either the construction loan or the cost overrun loan to Customer A.

(5) On October 30, 2003, Respondent again falsely reported to the Loan Committee that the U.S.D.A. guarantee was in place on Customer A's construction loan.

(6) At a Board meeting on October 18, 2005, Respondent withheld material information from the Board about the past-due status of three loans that he administered. Respondent knew that each of the three loans, with an aggregate outstanding balance of more than \$5 million, had outstanding unpaid amounts due in August and September 2005. As a result of Respondent's failure to disclose information about the past-due loans, the sum of approximately \$2 million in past-due loans reported to the Board was understated by more than \$5 million.

(7) By reason of the foregoing conduct, Respondent caused the Bank to exceed its legal lending limit to a single borrower on multiple occasions, in violation of 12 U.S.C. § 84 and 12 C.F.R. § 32.3. He also recklessly engaged in unsafe or unsound

banking practices, constituting a pattern or practice of misconduct, and breached his fiduciary duty to the Bank.

Article III

PERSONAL CEASE AND DESIST ORDER: NOTICE REQUIRED

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:

(1) In the event that Respondent is currently an “institution-affiliated party” (as defined in 12 U.S.C. §1813(u)) of any insured depository institution (as defined in 12 U.S.C. § 1813(u)(2) and (3)), he shall immediately provide a copy of this Order to the chief executive officer of the institution and, within ten (10) days of his disclosure, provide written certification of his compliance with this disclosure obligation to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E Street S.W., Washington, DC 20219.

(2) 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 insured depository institution (as defined in 12 U.S.C. § 1813(u)(2) and (3)), Respondent shall provide the chief executive officer of the institution with a copy of this Order.

(3) Within ten (10) days of his acceptance of any position described in paragraph (2) of this Article, Respondent shall provide written notice of such acceptance

to the Director of the Enforcement and Compliance Division, at the address above, together with a written certification of his compliance with paragraph (2) of this Article.

Article IV

PERSONAL CEASE AND DESIST ORDER: OBLIGATIONS

(1) In connection with Respondent's current or future status as an "institution-affiliated party" (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution (as defined in 12 U.S.C. § 1813(u)(2) and (3)), Respondent:

(a) Shall not originate any loans unless and until Respondent has complied with:

- (i) all applicable laws, rules, and regulations pertaining to the lending function of the institution;
- (ii) all applicable policies and procedures approved by the board of directors of the institution, unless Respondent receives written permission from appropriate, authorized individuals to do otherwise; and
- (iii) all directions or instructions from the board of directors of the institution, except to the extent that such directions or instructions conflict with applicable laws, rules, or regulations, in which circumstances, Respondent shall provide to the board of directors a

written statement explaining why he cannot comply with the board's instructions.

- (b) Shall comply fully with all laws, rules, and regulations pertaining to the institution, including 12 U.S.C. § 84 and 12 C.F.R. Part 32.
- (c) Shall make full and complete disclosure to his superiors and the board of directors of all material information known to or in the possession of Respondent related to the business of the institution.
- (d) Shall not engage in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code, in the conduct of the affairs of the institution.
- (e) Shall fulfill his fiduciary duties of loyalty and care owed to the institution and shall, at all times, avoid placing his own interests above those of the institution.

(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(b).

Article V

ORDER FOR CIVIL MONEY PENALTY

Respondent hereby consents, and it is ordered that:

Personal Cease & Desist and Civil Money Penalty Order

(1) Respondent shall pay a civil money penalty in the amount of twenty thousand dollars (\$ 20,000.00), which is due in full by June 1, 2009, and shall be paid as follows:

- (a) Initial payment of \$ 5,000 is due upon execution of this Order;
- (b) Additional payment of \$ 5,000 is due on or before June 1, 2008;
- (c) Additional payment of \$ 5,000 is due on or before December 1, 2008; and
- (d) Final payment of \$ 5,000 is due on or before June 1, 2009.

(2) Respondent shall make payment by certified check or money order made payable to the Treasurer of the United States and shall deliver payments to: Comptroller of the Currency, P.O. Box 979012, St. Louis, MO 63197-9000. The docket number of this case, AA-EC-07-45, shall be entered on the item line of the payment checks.

(3) 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.

(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).

(5) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of the Enforcement & Compliance Division (“Enforcement Director”) of the address of his current place of residence, by completing the form attached hereto as Appendix A.

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

Article VI

BANKRUPTCY

(1) If Respondent files for bankruptcy protection, Respondent shall notify the Director of the Enforcement and Compliance Division within ten (10) days of the filing and shall provide a copy of the filing to the Director of the Enforcement and Compliance Division at the address provided in Article III of this Order.

(2) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to pay 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 the Order arises out of acts which result in claims not dischargeable in bankruptcy.

Article VII

WAIVERS

(1) By executing this Order, Respondent waives:

- (a) the right to the issuance of a Notice of Charges for Issuance of an Order to Cease and Desist and 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) 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) Any failure by Respondent to comply with this Order shall be subject to enforcement for the longer of (a) the period allowed by the applicable statute of limitations, or (b) five (5) years following the failure to comply.

(4) 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 or 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.

(5) It is hereby agreed that the provisions of this Order constitute a settlement of these cease and desist and civil money penalty proceedings arising out of the specific acts, omissions, or violations described in the Comptroller's Findings (Article II). However, the specific acts, omissions, or violations described in Article II may be used by the OCC in future enforcement actions to establish a pattern or practice of misconduct or the continuation of a pattern or practice of misconduct.

(6) 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 (5), 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.

(7) Respondent further agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, the specific acts, omissions, or violations referenced in this Order, or otherwise creating the impression that this Order is without factual basis. If Respondent violates this provision, the OCC may set aside this Personal Cease & Desist and Civil Money Penalty Order

settlement and commence administrative proceedings on the actions alleged herein.

Nothing in this paragraph shall affect Respondent's testimonial obligations.

(8) 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 for Special Supervision

12/7/07

Date

/s/

Roger A. Luhring

11/25/07

Date