

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

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**In the Matter of:** )  
Susan Ann Lyerly )  
Loan Officer ) AA-SO-08-08  
First National Bank & Trust Company, Asheboro, NC )  
)

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**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate this prohibition proceeding, pursuant to 12 U.S.C. § 1818(e), against Susan Ann Lyerly (“Respondent”), former Loan Officer at First National Bank & Trust Company (“Bank”), Asheboro, North Carolina;

WHEREAS, the basis for such proceedings is the Respondent's fraudulent conduct which resulted in a combined loss of approximately \$1,000,000 from three separate banks during the period between November 2001 through February 2004 (“relevant period”);

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(e);

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 & Trust Company, Asheboro, North Carolina (“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 an employee of the Bank from approximately August 2001 through April 2003, 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 removal proceeding against her pursuant to 12 U.S.C. § 1818(e).

## Article II

### COMPTROLLER'S FINDINGS

The Comptroller makes the following findings:

(1) During the relevant period, Respondent was employed as a manager at one of the Bank's branches in Rockingham, North Carolina.

(2) During the relevant period, Respondent filed, or caused to be filed, loan applications with several different banks for the purpose of obtaining loan proceeds totaling approximately \$1,000,000. The applications Respondent used to obtain these loan proceeds contained one, or some combination, of the following false and fraudulent material misrepresentations: fraudulent U.S. Individual Income Tax Returns reporting artificially high levels of income for several years, fraudulent financial statements for several entities purportedly owned by Respondent, and fraudulent representations regarding her ownership of Bank of America stock which she ultimately pledged as collateral for the loan.

(3) In addition, during the relevant period, Respondent avoided repayment of some of her loans by fraudulently obtaining loan extensions, amendments, and modifications, and new loans to pay off the existing loans.

(4) Respondent's fraudulent scheme resulted in a net loss of approximately \$1 Million for the banks involved.

(5) In August 2007, Respondent entered into a plea agreement with the U.S. Attorney's office whereby Respondent agreed to plead guilty to the crime of bank fraud for the foregoing misconduct. On August 30, 2007, Respondent plead guilty to bank fraud, in violation of 18 U.S.C. § 1344(2), in the U.S. District Court for the Middle District of North Carolina.

(6) Also as part of Respondent's August 2007 agreement with the U.S. Attorney's office, Respondent agreed to consent to "any regulatory action taken by a Federal financial institution regulatory agency to permanently...prohibit [Respondent]

from participating, whether as an institution-affiliated party or otherwise, in the conduct of the affairs of any insured depository institution or depository institution holding company, or any other organization or entity provided in Section 8(e) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(e).”

### Article III

#### ORDER OF PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees and it is ordered 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 depository institution under 12 U.S.C. §§ 1818(b)(3), (b)(4) or (b)(5), including, but not limited to, any

subsidiary of such institution, or treated as a savings and loan holding company or subsidiary 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).

#### Article IV

#### WAIVERS

- (1) By executing this Order, Respondent waives:
  - (a) the right to the issuance of a Notice under 12 U.S.C. § 1818(e);
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(e) 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.

## Article V

### OTHER PROVISIONS

(1) 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.

(2) 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 Respondent to agree to consent to the issuance of this Order and/or to execute this Order.

(3) It is hereby agreed that the provisions of this Order constitute a settlement of these enforcement proceedings arising out of the specific acts, omissions, or violations described in 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.

(4) 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 (3) 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.

(5) 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 settlement and commence administrative proceedings on the actions alleged herein. Nothing in this paragraph shall affect Respondent's testimonial obligations.

(6) The invalidity or unenforceability of any provision of this Order shall not affect the validity or enforceability of any other provisions of this Order, which shall remain in full force and effect.

(7) 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.

(8) This Order shall be enforceable to the same extent and in the same manner as a final order issued pursuant to 12 U.S.C. §§ 1818(e) and (h).

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/s/ Ronald G. Schneck  
Ronald G. Schneck  
Director  
Special Supervision Division

5/9/08  
Date

/s/ Susan Ann Lyerly  
Susan Ann Lyerly

4/25/08  
Date