

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

In the Matter of: Erin L. Novak Former telephone banker Wells Fargo Bank N.A. Sioux Falls, South Dakota))))))	OCC-AA-EC-08-51
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CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate this cease and desist proceeding against Erin L. Novak (“Respondent”) pursuant to 12 U.S.C. § 1818(b) on the basis of Respondent’s activities during 2005 while she was a telephone banker at a Los Angeles branch of Wells Fargo Bank, N.A., Sioux Falls, South Dakota (“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);

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

Initials: _____
Date: _____

Article I

JURISDICTION

(1) Wells Fargo Bank, N.A., Sioux Falls, South Dakota (“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 a telephone banker 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 her pursuant to 12 U.S.C. § 1818(b).

Article II

COMPTROLLER’S FINDINGS

The Comptroller hereby makes the following findings:

(1) During early 2005, Respondent, while an employee of the Bank, disclosed her password and identification numbers to several individuals. Following this disclosure, Respondent did not change or otherwise safeguard her pass word and identification numbers.

(2) During the summer of 2005, some one using Respondent's password and identification numbers, accessed several Bank customer accounts for no legitimate business reasons. As a result, third parties impersonated Bank customers and withdrew money from customer accounts.

(3) The Bank reimbursed its customers the stolen funds.

(4) By reason of the forgoing conduct, Respondent engaged in unsafe and/or unsound banking practices.

Article III

CEASE AND DESIST ORDER

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 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)), she shall immediately provide a copy of this Order to the chief executive officer of the institution and, within ten (10) days of her disclosure, provide written certification of her 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 her 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 her 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 her compliance with paragraph (2) of this Article.

(4) 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)):

(a) Respondent shall safeguard her identification number, pass word and any other codes or personal identifiers issued to her as part of the institution's security system ("security codes").

(b) In the event Respondent discovers that others have access to her personal "security codes" she shall immediately notify her superiors and take immediate steps to change them.

(5) 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 IV

WAIVERS

(1) By executing this Order, Respondent waives:

(a) the right to the issuance of a Notice under 12 U.S.C. § 1818(b);

(b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C.

§ 1818(b) 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 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 or by 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 this cease and desist proceeding 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.

(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) 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 Division

08/13/08
Date

/s/Erin L. Novak
Erin L. Novak

08/07/08
Date