

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

In the Matter of: Mark S. McMinn Former Loan Officer Douglass National Bank Kansas City, Missouri))))))	AA-EC-08-55
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CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate prohibition and civil money penalty proceedings against Mark S. McMinn (“Respondent”), former loan officer at Douglass National Bank, Kansas City, MO (“Bank”), pursuant to 12 U.S.C. §§ 1818(e) and (i) (as amended);

WHEREAS, in the interest of cooperation and to avoid the costs associated with administrative and judicial proceedings with respect to the above matter, and without admitting or denying any wrongdoing, Respondent desires to enter into this Consent Order (“Order”);

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) Douglass National Bank, Kansas City, MO (“Bank”) was 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*, during the period relevant to this proceeding. Accordingly, the Bank was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was a loan officer at the Bank during January 2004 through April 2005 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 these prohibition and civil money penalty proceedings against him pursuant to 12 U.S.C. §§ 1818(e) and (i).

Article II

COMPTROLLER’S FINDINGS

The Comptroller finds, and Respondent neither admits nor denies, the following:

(1) Respondent was a loan officer at the Bank during the period January 2004 through April 2005.

(2) During the period August 2004 though December 2004, Respondent made three improperly documented and/or unauthorized loans to Borrower A totaling \$59,325.

(3) In December 2004, Respondent obtained Bank Board approval of a \$1.856 million credit facility for Borrower A, subject to several preconditions. At the time of the December 2004 Board approval, Respondent failed to disclose to the Board three of the six loans outstanding to Borrower A. The three undisclosed loans totaled \$156,000.

(4) During the first quarter of 2005, Respondent caused the Bank to disburse additional funds to (or on behalf of) Borrower A totaling \$176,991, which increased the Bank's

credit exposure related to Borrower A to approximately \$475,000. Respondent caused these funds to be disbursed without obtaining a promissory note from the borrower, without properly documented approvals, and without meeting the preconditions contained in the Board's December 2004 approval.

(5) During the first quarter of 2005, Respondent misrepresented to Borrower A that the Bank had approved a \$2.5 million credit facility for Borrower A.

(6) The Bank sustained a \$300,000 loss related to loans Respondent facilitated to Borrower A.

(7) During the period July 2006 through November 2006, Respondent was employed as a loan officer at Banner Bank, Walla Walla, WA ("Banner"), an insured depository institution.

(8) While at Banner, Respondent made an unauthorized loan modification that increased the principle amount by \$100,000 and extended the term by one year.

(9) By reason of the foregoing conduct, Respondent breached his fiduciary duty and engaged in unsafe or unsound banking practices at more than one insured depository institution. Respondent's conduct caused loss to the Bank and demonstrated personal dishonesty and a continuing and/or willful disregard for the safety or soundness of the insured depository institutions.

Article III

PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees that he 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 bank under 12 U.S.C. §§ 1818(b)(3), (b)(4), or as a savings association 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; any appropriate Federal depository institution regulatory agency; and 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).

(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(e), (i), (j), and (h) (as amended).

Article IV

CIVIL MONEY PENALTY

Respondent hereby consents to, and it is Ordered that:

(1) Respondent shall pay a civil money penalty in the amount of five thousand dollars (\$5,000). The civil money penalty shall be payable in the following manner: Respondent shall pay \$1,000 by September 15, 2008. Respondent shall make quarterly payments of \$1,000 each by December 15, 2008, March 15, 2009, June 15, 2009, and September 15, 2009.

(2) Respondent shall make all payments 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 (AA-EC-08-55) shall be entered on the check.

(3) The amount of the civil money penalty has been reduced or mitigated based on Respondent's submission of a personal financial statement disclosing his current financial condition dated December 31, 2007 and submitted subject to penalties for false statements provided by 18 U.S.C. § 1001. If the Comptroller subsequently learns that the Respondent's December 31, 2007 personal financial statement is materially incorrect or misleading, the Comptroller may consider imposition of a greater civil money penalty up to and including a total amount of twenty five thousand dollars (\$25,000).

(4) Respondent shall notify the Director of the Enforcement & Compliance Division ("Enforcement Director") of his social security number and the current address of his current place of residence by completing and returning the form attached hereto as Appendix A upon execution of this Order.

(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) 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 V

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.

(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 VI

WAIVERS

By executing this Order, Respondent waives:

- (1) The right to issuance of a Notice under 12 U.S.C. § 1818;
- (2) all rights to a hearing and a final agency decision pursuant to 12 U.S.C.

§§ 1818(e) and (i) and 12 C.F.R. Part 19;

- (3) all rights to seek judicial review of this Order;
- (4) all rights in any way to contest the validity of this Order; and
- (5) 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 VII

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 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 the civil money penalty except in accordance with 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 in accordance with 12 C.F.R. § 7.2014 and Part 359.

(2) 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 or to execute this Order.

(3) It is hereby agreed that the provisions of this Order constitute a settlement of these prohibition and civil money penalty prohibition 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.

(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), shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the 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 the 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, and Respondent shall not 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

9/17/08

Ronald G. Schneck
Director for Special Supervision
Office of the Comptroller of the Currency

Date

/s/Mark S. McMinn
Mark S. McMinn

9/8/08

Date