

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

<b>In the Matter of:</b> Albert S. Palacci former bank officer Safra National Bank of New York	) ) ) ) ) )	OCC-AA-EC-08-70
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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 against Albert S. Palacci (“Respondent”) pursuant to 12 U.S.C. § 1818(e) on the basis of Respondent’s activities during 2006 while serving as a bank officer at Safra National Bank of New York (“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(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:

Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

Article I

JURISDICTION

(1) Safra National Bank of New York (“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. § *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 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 this prohibition proceeding against him pursuant to 12 U.S.C. § 1818(e).

Article II

COMPTROLLER’S FINDINGS

The Comptroller makes the following findings:

(1) Respondent, currently age 28, was an account officer at the Bank during 2006 and 2007. His duties included servicing customer accounts.

(2) Respondent introduced Customer A to the Bank in 2006. She opened an account with the Bank in April 2006 and Respondent was listed as the account officer.

(3) During June of 2006, Respondent falsified Bank records to make it appear that Customer A had \$332,950 on deposit with the Bank. In fact Customer A had only \$244,950 on deposit in her account during June 6, 2006 to June 15, 2006 and Respondent arranged to funnel those funds to her account from a member of Respondent's family.

(4) Respondent prepared a false verification of deposit declaring a balance of \$332,950 in the account of Customer A as of June 14, 2006.

(5) Respondent engaged in the foregoing conduct to give a false impression of Customer A's financial condition and thereby assist her to obtain a loan from another financial institution to purchase property from Respondent's family member.

(6) As a result of the foregoing conduct, Respondent engaged in a violation of law and unsafe or unsound banking practices, received a financial gain or other benefit, and demonstrated personal dishonesty and willful and continuing disregard for the safety and soundness of the Bank.

### Article III

#### ORDER OF 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 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).

(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

#### 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.
- (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, 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 prohibition 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), 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*

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Ronald G. Schneck  
Director  
Special Supervision Division

*1/08/2009*

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Date

*/s/ Albert S. Palacci*

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Albert S. Palacci

*12/26/2008*

\_\_\_\_\_  
Date

Initials: \_\_\_\_\_  
Date: \_\_\_\_\_