

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

<b>In the Matter of:</b> Janis Malone Former Lead Teller Union Planters National Bank (now Regions Bank) Memphis, TN	) ) ) ) ) )	AA-EC-08-68
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**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) initiated these cease and desist and prohibition proceedings against Janis Malone (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (e) on the basis of Respondent’s activities while a Lead Teller at Union Planters National Bank (now Regions Bank), Memphis, TN (“Bank”) through the issuance of a Notice of Charges for the Issuance of an Order to Cease and Desist for Restitution and Notice of Intention to Prohibit Further Participation on October 8, 2008 (“Notice of Charges”) for unsafe and unsound practices and breaches of fiduciary duties relating to her misappropriation of Bank funds to a customer without the Bank’s knowledge or authorization, and her manipulation of the Bank’s general ledger; 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 (e) and ;

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) Union Planters National Bank (now Regions Bank), Memphis, TN (“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. 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 Lead Teller 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 of the Notice of Charges (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 cease and desist and prohibition proceedings against her pursuant to 12 U.S.C. § 1818(b) and (e).

Article II

ORDER OF PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees 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).

(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 III

#### CEASE AND DESIST ORDER FOR RESTITUTION

(1) Respondent hereby consents to the payment of restitution to the Bank in the amount of eight thousand dollars (\$8,000), which shall be paid according to the following schedule: \$1,000 by March 27, 2009, and the balance in four equal annual payments beginning one year from the signing of this order.

- (a) Respondent shall make payments by check made payable to Regions Bank. The checks shall be delivered to Regions Bank, c/o Ronnie Fernandez, Esq., Greenberg Traurig, 1221 Brickell Avenue, Miami, FL 33131.
- (b) Respondent shall deliver a **copy** of each check to Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E St., S.W., Washington, D.C. 20219. The docket number of this case shall be entered on all checks.
- (c) If Respondent fails to comply with any provision of this Order, then the entire balance of the restitution amount described in this paragraph shall become immediately due and payable.

- (d) 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 her current place of residence, by completing the form attached hereto as Appendix A.
- (e) Until the restitution amount is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall notify the Enforcement Director of her new address within seven (7) days of such change in address.

(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), (h) or (i) (as amended).

#### Article IV

#### 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 restitution 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

restitution obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

Article V

WAIVERS

- (1) By executing this Order, Respondent waives:
  - (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (e) and 12 C.F.R. Part 19;
  - (b) all rights to seek judicial review of this Order;
  - (c) all rights in any way to contest the validity of this Order; and
  - (d) 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 restitution 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 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.

(5) It is hereby agreed that the provisions of this Order constitute a settlement of these cease and desist and prohibition proceedings initiated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in the first whereas clause, hereof, unless such acts, omissions, or violations reoccur.

(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 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.





**APPENDIX A TO  
STIPULATION AND CONSENT ORDER**

I, Janis Malone, certify to the Office of the Comptroller of the Currency that my social security number is:

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I, Janis Malone, certify to the Office of the Comptroller of the Currency that my present residential address is (no post office boxes):

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I understand that I must file this form within seven (7) days of the execution of the Order and that, within seven (7) days of the date upon which I move to any new address, I must notify the Director, Enforcement & Compliance Division, 250 E. Street S.W., Washington, D.C. 20219 of each change.

I certify that the above information is true and correct. I acknowledge that there are penalties for false statements, pursuant to 18 U.S.C. § 1001 (\$10,000 fine and/or five years' imprisonment), and acknowledge that this form is submitted by me to affect action by the Office of the Comptroller of the Currency.

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Janis Malone

Date

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