

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

In the Matter of:

Lovic J. Marbury,
Former Loan Officer

Albany Bank & Trust, N.A. (n/k/a AB&T National
Bank), Albany, Georgia

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AA-EC-09-27

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate proceedings for an order to cease & desist against Lovic J. Marbury (“Respondent”) pursuant to 12 U.S.C. §§ 1818(b) on the basis of Respondent’s activities during the period of January 2005 through May 2006, while serving as a loan officer at Albany Bank & Trust, N.A., Albany, Georgia (n/k/a AB&T National Bank) (collectively the “Bank”) for unsafe or unsound banking practices; 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, consents to the issuance of this Consent Order (“Order”);

NOW, THEREFORE, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

Initials _____
Date _____

Article I

JURISDICTION

(1) Albany Bank & Trust, N.A. (“Bank”) merged into its affiliate, AB&T National Bank, in March 2009. During all times relevant to this action, the 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*, and an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was a loan 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 cease and desist and civil money penalty actions against him pursuant to 12 U.S.C. §§ 1818(b) and (i).

Article II

COMPTROLLER’S FINDINGS

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

(1) During the period of November 2005 through May 2006, Respondent made payments of approximately \$3,500 from his personal funds on the accounts of at least ten

delinquent Bank loan customers. Respondent also used personal funds to reimburse overdraft fees to overdrawn bank customers. Respondent's conduct prevented the Bank from discovering the true financial condition of the affected borrowers and the resulting increased credit risk to the Bank.

(2) Respondent improperly used his position to make withdrawals of more than \$6,000 from the accounts of family members, over which he did not have signature authority, on three occasions in January and August 2005.

(3) By reason of the foregoing conduct, Respondent engaged in unsafe or unsound practices.

Article III

PERSONAL CEASE AND DESIST ORDER

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by, or is offered employment at, an insured depository institution (as defined in 12 U.S.C. § 1813(c)(2)) or otherwise becomes an institution-affiliated party ("IAP") within the meaning of 12 U.S.C. § 1813(u),

Respondent shall:

- (a) prior to becoming an IAP, or within ten (10) days of consenting to this Order if currently an IAP, provide a copy of this Order to the board of directors or chief executive officer or any other senior management officer, provided that such officer has been approved by the OCC for this purpose, of the insured depository institution;

- (b) provide written certification of his compliance with the foregoing disclosure requirement to the Director of the Enforcement and Compliance Division, 250 E Street, S.W. Washington, DC 20219 (“Enforcement Director”) within ten (10) days of compliance;
 - (c) not use his personal funds to make payments on the accounts or extensions of credit, as defined in 12 C.F.R. § 32.2(k), of borrowers of any institution with which he is affiliated;
 - (d) not use his position as an IAP to effect withdrawals for his own benefit from accounts over which he is not a signatory;
 - (e) comply fully with all laws, rules, and regulations while employed, directly or indirectly, by any insured depository institution (as defined in 12 U.S.C. § 1813(c)(2)), as well as all other laws, regulations, and policies pertaining to such insured depository institution;
 - (f) not engage in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
 - (g) fulfill the fiduciary duties of loyalty and care owed to any insured depository institution with which he is or may become affiliated and, at all times, not place his own interests above those of the institution;
- and

- (h) adhere to the written policies and procedures of any insured depository institution or agency to which he may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise.

(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.

Article IV

OTHER PROVISIONS

(1) By consenting to the issuance of this Order, Respondent waives:

- (a) the right to the issuance of Notice(s) under 12 U.S.C. §§ 1818(b) and (i);
- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b) and (i) 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:

- (a) He 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 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 he 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.
- (b) He has read 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 him to agree to consent to the issuance of this Order or to execute this Order.

(3) This Order constitutes a settlement of the cease and desist proceedings arising out of the specific acts, omissions, or violations described in the Comptroller's Findings (Article II of this Order). 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) 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) Nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and 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 has hereunto set his hand.

/s/Lovic J. Marbury
Lovic J. Marbury

6-02-09
Date

IT IS SO ORDERED.

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

6/25/09
Date