

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

In the Matter of:)	
)	
Robert Downey)	AA-EC-08-91
Former Director)	
The First National Bank of Stratton)	
Stratton, Colorado)	
)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against Robert Downey (“Respondent”) pursuant to 12 U.S.C. § 1818(i)(2) on the basis of Respondent’s activities during 2002 – 2007 while a Director at the former The First National Bank of Stratton, Stratton, Colorado (“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, the Respondent, without admitting or denying any wrongdoing, desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818 (i)(2); and

WHEREAS, it is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits;

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

Initials: _____
Date: _____

that:

Article I

JURISDICTION

(1) The First National Bank of Stratton, Stratton, Colorado (“Bank”) was a national banking association, chartered and previously examined by the Comptroller, pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.* Accordingly, the Bank was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2) at the time of the examinations that form the basis for this Civil Money Penalty.

(2) Respondent was a Director of the Bank until March 2008 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 enforcement proceedings against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain cease and desist proceedings and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(i)(2).

Article II

COMPTROLLER'S FINDINGS

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

(4) During 2002 – 2004, while Director of the Bank, Respondent approved or had knowledge of loans to a historically delinquent Bank customer (“Customer A”), which failed to contain sufficient credit and collateral analysis or documentation and which ultimately caused loss to the Bank in excess of \$300,000.

(5) During 2006 – 2007, while Director of the Bank, Respondent approved loans made to an executive officer that failed to contain sufficient credit and collateral analysis or documentation, in violation of 12 U.S.C. § 375(b)(2) and 12 C.F.R. § 215.4(a)(1). Specifically, Respondent approved loans to an executive officer without assuring that the loans were properly underwritten and documented with a loan application, statement of purpose, current financial statements, financial analysis, and a verifiable source of collateral valuation. In addition, Respondent failed to ensure that the loans to the executive officer were not made on any preferential terms.

(6) In 2005, while Director of the Bank, Respondent approved the Bank’s purchase of residential property in violation of 12 C.F.R. § 7.1000(a)(2)(iv)(A).

(7) During the period of about April 2007 through March 2008, while Director of the Bank, Respondent failed to ensure compliance with a 2007 Order issued by the

Initials: _____
Date: _____

Comptroller against the Bank, which required the Bank, among other things, to improve its credit risk management, including credit underwriting and administration, lending policies and procedures, risk rating and problem loan management.

(8) In violation of the 2007 Order, Respondent continued to approve loans that failed to adhere to the credit underwriting and administration requirements of the 2007 Order.

(9) By reason of the foregoing conduct, Respondent engaged in violations of law, regulations and the 2007 Order issued to the Bank by the Comptroller, and engaged in unsafe or unsound banking practices.

Article III

ORDER FOR CIVIL MONEY PENALTY

Respondent hereby consents to, and it is Ordered that:

(10) Respondent shall pay a civil money penalty in the amount of five thousand dollars (\$5,000.00) upon execution of this Order.

(11) Respondent shall make payment in full 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 shall be entered on the check. Respondent shall provide a photocopy of the check together with the signed original copy of this Order to the attention of the Director

of Enforcement and Compliance Division of the Office of the Comptroller of the Currency (the "OCC"), 250 E Street, SW, Washington, DC 20219.

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

(13) 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 IV

WAIVERS

(14) By executing this Order, Respondent waives:

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

(15) 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 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.

(16) It is hereby agreed that the provisions of this Order constitute a settlement of this enforcement 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.

(17) 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 16, 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.

(18) 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.

(19) 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.

(20) 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

9/17/2009

Ronald G. Schneck
Director
Special Supervision Division

Date

/s/ Robert Downey

09/08/09

Robert Downey

Date