

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

In the Matter of:

Robert Todd

Former President, Director and Loan Officer

The First National Bank of Stratton

Stratton, Colorado

AA-EC-08-88

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate enforcement proceedings against Robert Todd (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i)(2) on the basis of Respondent’s activities during the period 2002 – 2007 while President, Director and Loan Officer 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(b) and (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

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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 Cease and Desist Order and Civil Money Penalty.

(2) Respondent was President, Director and Loan Officer 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(b) and (i)(2).

Article II

COMPTROLLER'S FINDINGS

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

(4) During 2002 – 2004, while President, Director and Loan Officer of the Bank, Respondent made 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 President, Director and Loan Officer of the Bank, Respondent made loans 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 did not ensure that the loan files contained a loan application, a statement of loan purpose, current financial statements or a financial analysis. In addition, Respondent did not obtain an appraisal on certain real property securing the loan.

(6) In 2005, while President and 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 President and Director of the Bank, Respondent failed to ensure compliance with a 2007 Order

issued by the 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 make and 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

CEASE AND DESIST ORDER

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

(10) In the event that Respondent is currently an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), he shall immediately provide a copy of this Order to the chief executive officer and board of directors of the institution or agency and, within ten (10) days of his disclosure, provide written certification of his compliance with this disclosure obligation to the Director of the Enforcement and Compliance

Division, Office of the Comptroller of the Currency, 250 E Street S.W., Washington, D.C. 20219.

(11) Prior to accepting any new position that causes him to become an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), Respondent shall provide the chief executive officer and board of directors of the institution or agency with a copy of this Order.

(12) Within ten (10) days of his acceptance of any position described in paragraph (11) of this Article, Respondent shall provide written notice of such acceptance to the Director of the Enforcement and Compliance Division, at the address above, together with a written certification of his compliance with paragraph (2) of this Article.

(13) At any time that Respondent is an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), Respondent:

- (a) Shall not engage in any lending-related activity;
- (b) Shall not participate in, or seek to influence, any lending activity, including, but not limited to, soliciting loans, loan document preparation, underwriting, approval, or ongoing credit management for any extension of credit, including extensions or renewals, made

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by any insured depository institution or agency to which he is or may become affiliated;

- (c) Shall comply fully with all laws, rules, and regulations and outstanding enforcement action(s) pertaining to the institution or agency to which he is or may become affiliated;
- (d) Shall not engage in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code, in the conduct of the affairs of the institution or agency to which he is or may become affiliated;
- (e) Shall fulfill his fiduciary duties of loyalty and care owed to the institution or agency to which he is or may become affiliated and shall, at all times, avoid placing his own interests above those of the institution;
- (f) Shall adhere to the written policies and procedures of any depository institution or agency to which he is or may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise.

(14) If, at any time, issues arise concerning Respondent's ability to comply with the requirements of this Article, Respondent shall consult with counsel and obtain written advice regarding appropriate compliance with the terms of this Article.

Article IV

ORDER FOR CIVIL MONEY PENALTY

Respondent hereby consents to, and it is Ordered that:

(15) Respondent shall pay a civil money penalty in the amount of twelve thousand dollars (\$12,000.00) upon execution of this Order.

(16) 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.

(17) 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.

(18) 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

WAIVERS

- (19) By executing this Order, Respondent waives:
- (a) the right to the issuance of Notice under 12 U.S.C. § 1818(b) and (i);
 - (b) all rights to 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;
 - (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

(20) 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

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or affiliate thereof), with respect to such amounts except as permitted by 12 C.F.R. § 7.2014 and Part 359.

(21) 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.

(22) 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 (21), 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.

(23) 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.

(24) 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

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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.

(25) 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

09/17/09

Ronald G. Schneck
Director
Special Supervision Division

Date

/s/ Robert Todd

09-5-09

Robert Todd

Date