

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

In the Matter of: Timothy J. Lapke President The First National Bank of Logan Logan, Iowa)))))	AA-EC-10-30
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CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist and civil money penalty proceedings against Timothy J. Lapke (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities while President of The First National Bank of Logan, Logan, Iowa (“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(b) and (i);

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

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Article I

JURISDICTION

(1) The 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. § 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 is President 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 proceedings 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) Respondent’s actions and/or inactions during 2006, 2007 and 2008, while serving as President of the Bank caused, brought about, or aided violations of law, including but not limited to, 12 U.S.C. §§ 161, 371(c), 375(a), 375(b) and Respondent engaged in unsafe or unsound banking practices as described below.

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(2) Respondent caused the Bank to make extensions of credit to himself and to a limited liability corporation (“LLC”), in which he owned a 33% interest, on terms more favorable than those available to other borrowers. Respondent’s account was overdrawn for approximately 31 days in November and December of 2006; Respondent approved his own loans. Respondent failed to notify the Board of extensions of credit made to himself (loans or overdrafts) and failed to submit financial statements in advance to the Board to correspond to those extensions of credit. Respondent also failed to maintain adequate records of Bank loans to insiders.

(3) Respondent failed to adequately supervise the affairs of the Bank so as to prevent the Bank’s Executive Vice President and the Bank’s Operation’s Officer –Vice President from engaging in certain violations of law and/or unsafe and unsound practices, including but not limited to committing a pattern or practice of violations of Regulation O and filing materially false Consolidated Reports of Condition (“Call Reports”).

(4) Respondent’s conduct constituted a breach of fiduciary duty, a reckless unsafe or unsound banking practice and a violation of law in accordance with 12 U.S.C. § 1813(v). Further in accordance with 12 U.S.C. § 1818(i)(2)(B), the violations and/or breaches were part of a pattern of misconduct, caused a personal benefit to Respondent and/or caused or were likely to cause more than a minimal loss to the Bank.

Article III

PERSONAL CEASE AND DESIST ORDER

(1) 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, whenever Respondent is employed by, or is offered employment at, an insured depository institution or becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- (a) comply fully with all laws, regulations, and policies applicable to any insured depository institution with which he is or may become affiliated including, but not limited to, laws, regulations, and policies concerning transactions between himself and the insured depository institution and between the insured depository institution and any affiliate (as defined in 12 C.F.R. § 223);
- (b) recuse himself from involvement in any manner (including but not limited to participating in loan application, approval, disbursement, collection and servicing) in loans or extensions of credit from an insured depository institution of which he is an IAP to, or for the benefit of: (1) himself, (2) any family member of Respondent (defined as any spouse, parent, sibling, child, stepchild, grandparent, grandchild, or any parent, sibling, or grandparent of his spouse, or any member of his household); or (3) any related interest of Respondent (defined as any corporation, company, firm, partnership or other business enterprise, nonprofit organization, or educational or

other institution in which he is an employee, owner (defined as owning 10% or more of any class of stock, shares, or other ownership interest), director, member, trustee, partner, advisor, consultant, or in which he holds any office).

- (c) comply fully with all laws, rules, and regulations, including 12 C.F.R. § 215 (Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks – Regulation O), 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.
- (d) avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
- (e) fulfill the fiduciary duties of loyalty and care owed to any insured depository institution with which he is or may become affiliated and shall, at all times, avoid placing his own interests above those of the institution;
- (f) familiarize himself with, and adhere to, the written policies and procedures of any insured depository institution or agency with which he is or may become affiliated. In the event that the

Respondent is affiliated with an insured depository institution or

agency with written policies and procedures that are more stringent than the provisions of this Order, the Respondent shall adhere to the written policies and procedures of such insured depository institution or agency;

- (g) provide the board of directors of the insured depository institution of which Respondent is currently an IAP with a copy of this Order.

Respondent shall provide written certification of compliance with this paragraph (4)(e) to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219, within ten (10) days of execution of this Order; and

- (h) for as long as Respondent serves as President of the Bank, he shall adequately supervise the Bank to ensure proper management and administration of the institution.

(2) If, at any time, Respondent is uncertain whether a situation implicates paragraph one of this Article or if Respondent is uncertain about his duties arising from such paragraph, he shall obtain, at his own expense, and abide by the written advice of counsel regarding his duties and responsibilities with respect to the matter. To comply with this paragraph, Respondent shall engage counsel who is in no way affiliated with the institution; and who has never been subject to any formal sanctions by any Federal

banking agency, either by agency order or consent, as disclosed on the banking agencies' web sites.

(3) 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).

Article IV

ORDER FOR CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of \$20,000 dollars (\$20,000.00), which shall be paid no later than May 21, 2010.

(2) 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 all checks.

(3) 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).

(4) 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 his current place of residence, by completing the form attached hereto as Appendix A.

Article V

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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 civil money penalty 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 civil money penalty obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

Article VI

WAIVERS

(1) By executing this Order, Respondent waives:

(a) the right to the issuance of Notice of Charges for Issuance of an Order to Cease and Desist and Notice of Civil Money Penalty Assessment

under 12 U.S.C. § 1818(b) and (i);

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- (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 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.

(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 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.

(5) The provisions of this Order constitute a settlement of cease and desist and civil money penalty proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in the Article II, hereof, unless such acts, omissions, or violations reoccur.

(6) 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.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/S/ Henry Fleming
Henry Fleming
Director for Special Supervision

5/17/10
Date

/S/ Tim Lapke
Timothy J. Lapke

4-27-10
Date

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