

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

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In the Matter of:)
Demian Kruchten)
Former Director, Vice Chairman, General Counsel,)
and Vice President)
)
First Integrity Bank, N.A. (closed))
Staples, MN)
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AA-EC-09-100

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate personal cease and desist and civil money penalty proceedings against Demian Kruchten (“Respondent”), former Director, Vice Chairman, General Counsel, and Vice President of First Integrity Bank, N.A., Staples, MN (“Bank”), pursuant to 12 U.S.C. § 1818(b) and (i) for unsafe or unsound practices and breaches of fiduciary duties relating to undisclosed personal interests in a Bank transaction and for violations of 12 U.S.C. §§ 371c(a)(4); 371c(c)(1); and 371c-1(a)(1)(B) and 12 C.F.R. § 7.3001; 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”); 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:

ARTICLE I

JURISDICTION

(1) At the time of its closure in May 2008, 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. Accordingly, the Bank was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent served as Director, Vice Chairman, General Counsel, and Vice 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 one or more of these capacities 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 personal cease and desist and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818.

ARTICLE II

PERSONAL CEASE AND DESIST ORDER

(4) 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 (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) 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) Avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
- (c) 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;
- (d) 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;
- (e) 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

- (f) Prior to accepting any offer of a position that causes Respondent to become an IAP of an insured depository institution, provide the board of directors of the insured depository institution with a copy of this Order. Respondent shall provide written notice of such acceptance to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219, along with a written certification of his compliance with this paragraph (4)(f) within ten (10) days after acceptance of such position.

(5) If, at any time, Respondent is uncertain whether a situation implicates paragraph (4) of this Article, or if Respondent is uncertain about his duties arising from these or any other requirements of this Order, 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 insured depository 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.

(6) 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 III

ORDER FOR CIVIL MONEY PENALTY

(7) Respondent hereby consents to the payment of a civil money penalty in the amount of six thousand dollars (\$6,000), which shall be paid in four equal installments of one thousand five hundred dollars (\$1,500) each. The due dates for the four installment payments shall be September 1, 2010, January 1, 2011, May 1, 2011, and September 1, 2011.

(8) Respondent shall make each installment payment by certified check or money order 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. Respondent shall send a copy of the check to the Director, Enforcement and Compliance Division, 250 E St., SW, Washington, DC 20219.

(9) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St., SW, Washington, D.C. 20219 of the address of his current place of residence by completing the form attached hereto as Appendix A. Until the civil money penalty amount is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall notify the Director, Enforcement and Compliance Division, of his new address within seven (7) days of such change in address.

(10) 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

BANKRUPTCY

(11) If Respondent files for bankruptcy protection prior to making payment in full of the civil money penalty required by this Order, Respondent shall notify the Director, Enforcement and Compliance Division, 250 E St., SW, Washington, DC 20219, within ten (10) days of the filing and shall provide a copy of the filing to the Director.

(12) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to pay the 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 V

OTHER PROVISIONS

- (13) By executing this Order, Respondent waives:
- (a) the right to the issuance of a Notice of Charges for Issuance of an Order to Cease and Desist and Notice of Assessment of a Civil Money Penalty under 12 U.S.C. § 1818;
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818 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.

(14) 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.

(15) 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.

(16) Respondent 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.

(17) This Order constitutes a settlement of the cease and desist and civil money penalty proceedings contemplated by the Comptroller and arising out of the specific acts, omissions, or violations described in the first Whereas clause of this Order. However, the specific acts, omissions or violations described in the first Whereas clause of this Order

may be used by the Comptroller in future enforcement actions to establish a pattern or practice of misconduct or the continuation of a pattern or practice of misconduct.

(18) The provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (17), 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.

(19) 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 has hereunto set his hand.

/s/Demian Kruchten
Demian Kruchten

5/21/10
Date

IT IS SO ORDERED

/s/Henry Fleming
Henry Fleming
Director
Special Supervision Division

6/29/2010
Date