

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

<b>In the Matter of:</b> Eric Anderson Former Community President and Loan Officer  Peoples National Bank, Colorado Springs, Colorado	) ) ) ) ) ) )	AA-EC-11-02
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**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 Eric Anderson (“Respondent”), former Community President and Loan Officer for Peoples National Bank, Colorado Springs, Colorado (“Bank”), pursuant to 12 U.S.C. § 1818 (b) and (i) on the basis of Respondent’s activities while employed at the 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:

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 was a Community President and 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 personal cease and desist and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818.

Article II

COMPTROLLER’S FINDINGS

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

(1) During at least the period from December 2005 through February 2006, Respondent was the Bank’s assigned loan officer for Customer A.

(2) In November 2005, Respondent sought authorization from the Bank’s Loan Committee for a \$200,000 loan to Customer A. The proceeds of the loan were disbursed in December 2005 (“December 2005 Loan”). While the Bank was closing on the December 2005

Loan for Customer A, Respondent made a \$50,000 loan to Customer A. Respondent failed to disclose his personal loan of \$50,000 to Customer A to the Bank.

(3) By not disclosing the \$50,000 personal loan to Customer A, Respondent not only violated the Bank's lending and conflicts of interest policies, but also deprived the Bank of material information critical to the Bank's lending decision.

(4) In February 2006, Respondent sought authorization from the Bank's Loan Committee for another loan in the amount of \$167,310 for Customer A. The proceeds of the loan were disbursed in February 2006 ("February 2006 Loan"). In February 2006, Respondent made a personal loan of approximately \$16,000 to Customer A at or around the time of the Bank was closing on the February 2006 Loan. The personal loan of approximately \$16,000 from Respondent to Customer A served as the downpayment for the property purchased with the February 2006 Loan. Respondent failed to disclose the personal loan of approximately \$16,000 to Customer A to the Bank.

(5) By failing to disclose his \$16,000 personal loan to Customer A, Respondent not only violated the Bank's lending and conflicts of interest policies, but also deprived the Bank of material information critical to the Bank's lending decision.

(6) These personal loans to Customer A resulted in a personal gain of at least \$5,000 to Respondent.

(7) By reason of the foregoing, Respondent engaged in recklessly unsafe or unsound banking practices and/or a breach of fiduciary duty.

### 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 (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;
- (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) For each transaction, obtain prior written approval from the board of the depository institution of which Respondent is an IAP to engage in personal business with any customer, borrower, or applicant of the depository institution;
- (e) Disclose any personal interests in the business of a borrower, an applicant or other customer of the depository 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, Respondent shall adhere to the written policies and procedures of such insured depository institution or agency;

- (g) Provide the President or Chief Executive Officer 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 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) With respect to any future employment, prior to accepting any offer of a position that causes Respondent to become an IAP of an insured depository institution, provide the President or Chief Executive Officer 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 within ten (10) days after acceptance of such position.

(2) If, at any time, Respondent is uncertain whether a situation implicates any of the items in paragraph (1) 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.

(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.

#### Article IV

##### ORDER FOR CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of five thousand dollars (\$5,000), which shall be paid upon execution of this Order.

(2) Respondent shall make payment in full 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.

(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.

#### Article V

##### WAIVERS

- (1) By executing this Order, Respondent waives:
- (a) the right to the issuance of a Notice of Charges 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.

(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 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 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) This Order constitutes a settlement of the personal cease and desist and civil money penalty proceedings contemplated by the Comptroller and arising out of the specific acts,

omissions, or violations described in Article II of this Order. However, the specific acts, omissions or violations described in Article II 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.

(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 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  
Office of the Comptroller of the Currency

2/2/11  
Date

/s/Eric Anderson  
Eric Anderson

1/24/11  
Date