

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

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<b>In the Matter of:</b>	)	
Harry S. Coin	)	
Former President, CEO, and Chairman and current	)	AA-EC-11-23
Director	)	
	)	
American Bank & Trust Company, N.A.	)	
Davenport, IA	)	
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**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate prohibition, cease and desist, and civil money penalty proceedings against Harry S. Coin (“Respondent”) pursuant to 12 U.S.C. §§ 1818(b), (e), and (i) on the basis of Respondent’s activities while serving as chief executive officer, president, director and chairman of the board of American Bank & Trust Company, N.A., Davenport, IA (“Bank”) during the period of December 2003 through October 2008;

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), (e), and (i);

NOW, THEREFORE, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

Initials: HC  
Date: 4-19-11

## 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 a director and former chief executive officer, president, and chairman of the board of directors 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 prohibition, cease and desist, and civil money penalty actions against him pursuant to 12 U.S.C. §§ 1818(b), (e), and (i).

## Article II

### COMPTROLLER’S FINDINGS

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

(1) Respondent was chief executive officer, president, director, and chairman of the board of directors of the Bank during the period of at least 2003 through 2008, as well as a voting member of the Bank's loan committees.

(2) In January 2007, Respondent caused the Bank to purchase approximately twenty acres of land in Rock Island, Illinois ("Rock Island Property") without conducting any formal analysis or obtaining prior Board approval, as required by the Bank's Branching Policy. The Bank sustained losses related to the purchase, maintenance, and partial sale of the property of approximately \$561,324.

(3) In September 2007, Respondent caused the Bank to deposit \$970,000 in Bank funds into the Bank's account at a correspondent bank in exchange for receiving preferential terms on a personal loan from the correspondent bank, in violation of 12 U.S.C. § 1972(2)(A). The Bank sustained a lost opportunity cost of approximately \$30,526 because the Bank's account did not earn any interest at the correspondent bank. Respondent received personal gain in the form of a lower interest rate on his personal loan, which resulted in lower payments.

(4) Respondent engaged in the following violations of 12 C.F.R. §§ 215.4 and 215.5, prohibiting Bank executive officers from receiving preferential extensions of credit and general purpose credit in excess of \$100,000:

(a) During the period of December 2003 through October 2008, Respondent used a Bank credit card to pay for approximately

\$251,728 in personal expenses for which the Bank paid and Respondent subsequently reimbursed the Bank.

(b) In April 2006, Respondent received a \$200,000 home equity line of credit from the Bank, which he did not use solely for home improvement and which the Bank renewed twice and he paid off in March 2009.

(c) In August 2007, Respondent received the tangible economic benefit of \$150,000 in proceeds from a Bank loan made to a third party since that amount was used to extinguish Respondent's personal debt at another bank.

(5) Respondent failed to disclose his conflicts of interest prior to approval of the following extensions of credit made by the Bank:

(a) In February 2007, Respondent voted to approve three \$400,000 lines of credit to operators of hardware stores. Prior to voting to approve the lines of credit, Respondent failed to disclose his ownership interests in the entities that owned and leased the buildings to the three hardware stores.

(b) In January 2007, Respondent voted to approve a \$300,000 loan to a business associate ("Associate A") for the purpose of purchasing a property from the Bank for commercial development ("Development Property"). Prior to voting to approve the loan, Respondent failed to

disclose his agreement with Associate A to jointly develop and profit from the development.

- (c) On August 14, 2007, the Bank made two loans totaling \$500,000 to another of Respondent's business associates ("Associate B") for the purpose of purchasing the Development Property from Associate A. Although he abstained from voting, prior to approval of the loans, Respondent failed to disclose his agreement with Associate B to jointly develop and profit from the development and that \$150,000 of the loan proceeds would be used to extinguish Respondent's personal debt at another bank. Respondent also voted to renew the two loans in September 2008 without disclosing the development agreement or the economic benefit he received.

(6) By reason of the foregoing conduct, Respondent engaged in violations of law, reckless unsafe or unsound practices, a pattern or practice of misconduct, breached his fiduciary duty to the Bank, and showed a reckless disregard for the law that resulted in personal gain and unjust enrichment to himself and substantial losses to the Bank.

### Article III

#### ORDER OF PROHIBITION

Respondent consents to, and it is ORDERED that:

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees that he shall not:

- (a) participate in any manner in the conduct of their affairs;
- (b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights;
- (c) violate any voting agreement previously approved by the “appropriate Federal banking agency,” as defined in 12 U.S.C. § 1813(q) (as amended); or
- (d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u) (as amended).

(2) The prohibitions in paragraph (1) of this Article apply to the following institutions and agencies:

- (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c);
- (b) any institution treated as an insured depository institution under 12 U.S.C. §§ 1818(b)(3), (b)(4) or (b)(5), including, but not limited to, bank holding companies and any subsidiary of such institution, or

treated as a savings and loan holding company or subsidiary under 12 U.S.C. § 1818(b)(9) (as amended);

- (c) any insured credit union under the Federal Credit Union Act;
- (d) any institution chartered under the Farm Credit Act of 1971;
- (e) any appropriate Federal depository institution regulatory agency; and
- (f) the Federal Housing Finance Board and any Federal Home Loan Bank.

(3) The prohibitions of paragraphs (1) and (2) of this Article shall cease to apply with respect to a particular institution if Respondent obtains the prior written consent of both the Comptroller and the institution's "appropriate Federal financial institutions regulatory agency," as defined in 12 U.S.C. § 1818(e)(7)(D) (as amended).

(4) 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(e).

#### **Article IV**

##### **ORDER FOR CIVIL MONEY PENALTY**

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of ten thousand dollars (\$10,000.00), which shall be paid in full upon execution of this Order.

(2) Respondent shall make payment by cashier's 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 (AA-EC-11-23) shall be entered on the submitted payment.

(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(i).

(4) Respondent shall notify the OCC of the address of his current place of residence by completing the form attached hereto as Appendix A and returning it together with this Order.

## **Article V**

### **ORDER FOR PAYMENT OF RESTITUTION**

Respondent consents to, and it is ORDERED that:

(1) In satisfaction of payment of restitution to the Bank, Respondent shall cause a binding purchase contract to be made for the purchase of the portion of the Rock Island Property still owned by the Bank for no less than five hundred thousand dollars (\$500,000.00) within ten (10) business days of the date of this Order. In addition, Respondent shall cause the transaction for the purchase of the property to be completed and the Bank paid the purchase price of at least \$500,000 within thirty (30) days of the date of this Order.



(2) Respondent shall deliver evidence of the completed transaction described in paragraph (1) of this Article within five (5) business days of the transaction to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E St. S.W., Washington, D.C. 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(b)(6).

## **Article VI**

### **OTHER PROVISIONS**

- (1) By consenting to the issuance of this Order, Respondent waives:
- (a) the right to the issuance of a Notice of Intention to Prohibit Further Participation, 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), (e), and (i);
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(b), (e), 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 acknowledges that:
- (a) He 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 restitution or 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.
  - (b) 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 him to agree to consent to the issuance of this Order or to execute this Order.

(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) This Order constitutes a settlement of prohibition, cease and desist, and civil money penalty proceedings arising out of the specific acts, omissions, or violations described in the Comptroller's Findings (Article II of this Order). 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 of practice of misconduct or the continuation of a patter or practice of misconduct.

(5) This Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (4), 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.

(6) 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.

(7) Nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and 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/Harry S. Coin

4-19-11

\_\_\_\_\_  
Harry S. Coin

\_\_\_\_\_  
Date

**IT IS SO ORDERED.**

/s/ Henry Fleming

4/22/11

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Henry Fleming  
Director for Special Supervision

\_\_\_\_\_  
Date