

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

_____)	
In the Matter of:)	
)	AA-EC-11-67
Raymond A. Lamb, former Chairman and)	
Chief Executive Officer,)	
)	
First National Bank of Arizona,)	
Scottsdale, AZ (merged and closed))	
_____)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), intends to initiate an enforcement proceeding pursuant to 12 U.S.C. § 1818 against Raymond A. Lamb, former chairman and chief executive officer of First National Bank of Arizona, Scottsdale, Arizona (merged and closed) (“Bank”);

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to this matter, Mr. Lamb, without admitting or denying any wrongdoing, desires to enter into this Consent Order (“Order”) issued pursuant to section 1818;

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

ARTICLE I

JURISDICTION

(1) Until June 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” under 12 U.S.C.

§ 1813(c)(2). The Bank merged into one of its affiliates, First National Bank of Nevada, Reno, Nevada (“FNB Nevada”) in June 2008. On July 25, 2008, the Office of the Comptroller of the Currency (“OCC”) closed FNB Nevada and its remaining affiliate, First Heritage Bank, N.A., Newport Beach, California, and appointed the Federal Deposit Insurance Corporation (“FDIC”) as receiver.

(2) Mr. Lamb is a former officer and director of the Bank. He is an “institution-affiliated party” of the Bank pursuant to 12 U.S.C. § 1813(u), having served in these capacities within six years before the effective date of this Order. *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 of the Bank. Therefore, Mr. Lamb is subject to the authority of the Comptroller to initiate and maintain this proceeding against him pursuant to 12 U.S.C. § 1818.

ARTICLE II

COMPTROLLER’S FINDINGS

The Comptroller finds, and Mr. Lamb neither admits nor denies, the following:

(1) Mr. Lamb and others had oversight responsibility for the Bank’s residential mortgage lending program. He relinquished the title of chief executive officer in 2006. After 2006, Mr. Lamb remained the chairman of the board of the Bank. The Lamb family controlled the Bank through its ownership of the Bank’s holding company, First National Bank Holding Company.

(2) The Bank’s residential mortgage lending peaked at \$7.2 billion in 2006. The Bank was involved in limited-documentation Alt-A loans, including “stated income” and “no doc” loans. While the Bank performed certain reasonableness tests, the Bank did not seek

borrower income information for its “stated income” or “no doc” loans, although income is a primary determinant of a borrower’s repayment ability and the Bank’s lending policies required that the Bank “must be able to ascertain that in underwriting a mortgage loan the borrower has the ability and the willingness to repay the loan under the terms and conditions that are being reviewed.”

(3) The Bank adopted a policy of selling its residential mortgage loans to securitizers and other investors in the secondary market, partly in order to avoid the credit risk of limited-documentation Alt-A loans. It was the Bank’s intent to sell its Alt-A loans into the secondary market as quickly as possible to minimize the time the loans were on the Bank’s books.

(4) The OCC issued guidance in 2003 as described below, and, in 2007, the OCC issued a directive to the Bank with respect to its Alt-A lending procedures.

(A) On February 21, 2003, the OCC issued Advisory Letter 2003-2, entitled Guidelines for National Banks to Guard against Predatory and Abusive Lending Practices, to the chief executive officers of national banks. The advisory letter stated, in relevant part, that “[a] national bank that makes a loan to a consumer based predominantly on the liquidation value of the borrower’s collateral, rather than on a determination of the borrower’s repayment ability, including current and expected income . . . is engaging in a fundamentally unsafe and unsound banking practice that is inconsistent with established lending standards.” The Bank’s lending policies acknowledged that the Bank placed “increased emphasis” on collateral values for limited-documentation Alt-A loans.

(B) In January 2007, the OCC directed the Bank’s board of directors to ensure that the Bank’s Alt-A lending procedures “identify how an underwriter effectively evaluates and documents a borrower’s repayment capacity.”

(5) On or about February 22, 2007, the Bank was unable to complete a sale of certain limited-documentation Alt-A loans. Instead of closing down the Alt-A lending business at that time, the Bank took the loans it could not sell into portfolio. The Mortgage Division continued to originate another \$1.5 billion of additional Alt-A loans between March 2007 and August 21, 2007, when the Bank shuttered the bulk of the Mortgage Division. Many of the loans were unmarketable. The Bank never completed compliance with the OCC's January 2007 directive, even after Mr. Lamb received notice from the OCC in June 2007 that the Bank was not in compliance. The Mortgage Division reported more than \$270 million of operating losses during February 2007 through the closure of the Bank in July 2008.

(6) By reason of the foregoing conduct, Mr. Lamb (a) engaged in unsafe and unsound banking practices; (b) caused the Bank to violate, and demonstrated a reckless disregard for, the requirements of 12 C.F.R. § 34.62, which obligated the Bank not only to adopt, but to maintain safe and sound real estate lending policies, with supporting documentation requirements; and (c) breached his fiduciary duty to protect the Bank from unsafe and unsound practices and violations of law and regulations. The Bank and the deposit insurance fund suffered significant losses, which resulted from a willful and continuing disregard for the safety and soundness of the Bank.

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:

ARTICLE III

ORDER OF PROHIBITION

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Mr. Lamb 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, 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 Mr. Lamb 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), (h), (i) or (j) (as amended).

ARTICLE IV

CEASE AND DESIST ORDER FOR REIMBURSEMENT OF LOSS

(1) Mr. Lamb shall reimburse the deposit insurance fund for loss to the extent required by his concurrent settlement agreement with the FDIC. The overall reimbursement to be received by the deposit insurance fund from all parties to the settlement agreement includes (a) payment of \$3,510,000, and (b) a contribution from the insurance coverage under liability insurance policies for the Bank's officers and directors.

(2) Reimbursement of the deposit insurance fund pursuant to the settlement agreement with the FDIC shall satisfy the requirements of this Article.

(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), (h), or (i) (as amended).

ARTICLE V

ORDER FOR CIVIL MONEY PENALTY

(1) Mr. Lamb consents to the payment of a civil money penalty in the amount of \$750,000, which shall be paid to the Treasurer of the United States after execution of this Order by the OCC, as described further in Paragraph (2) of this Article.

(2) Mr. Lamb's payment of the civil money penalty in the amount of \$750,000 described in Paragraph (1) of this Article ("OCC Payment") shall be made concurrently with Mr. Lamb's payment to the deposit insurance fund described above in Paragraph (1) of Article IV as follows:

- (a) Mr. Lamb shall execute this Order on the same date as full execution of the settlement agreement with the FDIC, as referenced above in Paragraph (1) of Article IV;
- (b) The Comptroller, through his authorized representative, shall execute this Order after Mr. Lamb executes this Order, but in any event not later than on or before the (9th) business day following the execution of this Order by Mr. Lamb;
- (c) The OCC shall notify Mr. Lamb that it has executed this Order by sending a copy of the signed Order via e-mail to Mr. Lamb's counsel, Robert J. Novak, at rnovak@jsslaw.com, on or before the ninth (9th) business day following the execution of this Order by Mr. Lamb;
- (d) Mr. Lamb's OCC Payment shall be made on or before the tenth (10th) business day following the execution of this Order by Mr. Lamb;

(e) Mr. Lamb shall make payment, as referenced herein, by wire transfer. Mr. Lamb shall send the wire transfer to the Comptroller's account #[], ABA Routing #[]. Mr. Lamb shall send a copy of the wiring instructions to the Director of the Enforcement & Compliance Division, Office of the Comptroller of the Currency ("Director") upon completion of the wire transfer.

(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) or (i) (as amended).

ARTICLE VI

WAIVERS

- (1) By executing this Order, Mr. Lamb waives:
 - (a) Any and all rights to a hearing and final agency decision pursuant to 12 U.S.C. § 1818 and 12 C.F.R. part 19;
 - (b) Any and all rights to seek judicial review of this Order;
 - (c) Any and all rights to contest the validity of this Order in any way;
 - (d) 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

(e) Any and all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for the issuance of this Order.

(2) This Order constitutes a settlement of the enforcement proceeding against Mr. Lamb contemplated by the Comptroller. The Comptroller agrees not to institute further proceedings based on any of Mr. Lamb’s conduct with respect to the Bank, FNB Nevada, or First Heritage Bank. This Order resolves all restitution or reimbursement claims or rights the OCC may be entitled to assert against Mr. Lamb relating to the Bank under any applicable statute, law, or equitable principle, including, but not limited to, 12 U.S.C. § 1818(b)(6). This release shall not preclude or affect any right of the OCC to determine and ensure compliance with the terms and provisions of this Order.

(3) This Order is not an adjudication on the merits. If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States to take any action affecting Mr. Lamb, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing, except as specified in paragraph (2) of this Article. This Order does not limit any right, power or authority of any other federal agency, or the United States, including, but not limited to, the Department of Justice, to bring actions as these entities deem appropriate.

ARTICLE VII

CLOSING

(1) This Order is and shall become effective upon its execution by the Comptroller, through his authorized representative whose hand appears below. The Order shall remain

effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(2) Any time limitations imposed by this Order shall begin to run from the effective date of this Order, as shown below, unless the Order specifies otherwise. The time limitations may be extended in writing by the Deputy Comptroller for Special Supervision, Office of the Comptroller of the Currency (“Deputy Comptroller”) for good cause, upon written application by Mr. Lamb. Any request to extend any time limitation shall include a statement setting forth in detail the special circumstances that prevent Mr. Lamb from complying with the time limitation, and shall be accompanied by relevant supporting documentation. The Deputy Comptroller’s decision regarding the request is final and not subject to further review.

(3) All notices and submissions to the Director or Deputy Comptroller required by this Order shall be sent to 250 E Street SW, Washington, DC 20219.

(4) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818, and expressly does not form, and may not be construed to form, a contract binding the Comptroller or the United States. Mr. Lamb expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of those entities, to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

(5) This Order is “issued with the consent of . . . the institution-affiliated party concerned,” pursuant to 12 U.S.C. § 1818(h)(2).

(6) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

(7) No separate promise or inducement of any kind has been made by the Comptroller, or his officers or employees, to cause or induce Mr. Lamb to consent to the issuance of this Order and/or execute it.

(8) The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Order.

IN TESTIMONY WHEREOF, the undersigned has hereunto set his hand.

/s/Raymond A. Lamb
Raymond A. Lamb

August 26, 2011
Date

IT IS SO ORDERED, this 30th day of August, 2011.

/s/ Kristina B. Whittaker

Kristina B. Whittaker
Deputy Comptroller for Special Supervision
Office of the Comptroller of the Currency