

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

In the Matter of:)
Jody P. Gwyn)
Former President)
La Coste National Bank)
La Coste, Texas)

AA-EC-10-63

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate this prohibition proceeding against Jody P. Gwyn (“Respondent”) pursuant to 12 U.S.C. § 1818(e) on the basis of Respondent’s activities while President of La Coste National Bank, La Coste, Texas (“Bank”) for violating laws, regulations or orders, committing unsafe or unsound banking practices, and breaching his fiduciary duties; 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 desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(e);

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) La Coste National Bank, La Coste, Texas (“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 is an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served as a Bank employee for eighteen (18) years, including fourteen (14) years as Bank Vice-President and one (1) year as Bank President.

(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 these prohibition and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(e).

Article II

COMPTROLLER’S FINDINGS

The Comptroller finds the following:

(1) Respondent worked at the Bank from 1992 until February 2010. He served as Bank Assistant Vice-President from 1995 until February 2009 and as Bank President from February 2009 to February 2010.

(2) Respondent knowingly executed a scheme to defraud the Bank, which resulted in a loss of approximately \$7,341,236.38.

(3) The fraudulent scheme commenced in or around July 2008 when Respondent began paying significant overdrafts using Bank funds for a commercial loan customer of the Bank. Over the course of the next several months, Respondent converted the customer's overdrafts into loans to the customer and other nominee borrowers. To further conceal the use of Bank funds, Respondent ultimately created two fictitious investment securities that were recorded on the Bank's books as a \$7.3 million asset.

(4) By reason of the foregoing conduct, Respondent violated the law, engaged in unsafe or unsound banking practices, breached his fiduciary duty to the Bank, caused a loss to the Bank, and demonstrated personal dishonesty and willful and/or continuing disregard for the safety and soundness of the Bank.

Article III

ORDER OF PROHIBITION

(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, 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

WAIVERS

- (1) By executing this Order, Respondent waives:
 - (a) the right to the issuance of a Notice of Intention to Prohibit Further Participation under 12 U.S.C. § 1818(e);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(e) 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 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) It is hereby agreed that the provisions of this Order constitute a settlement of these prohibition proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in Article II, hereof, unless such acts, omissions, or violations reoccur.

(6) It is further agreed that 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

8/15/11
Date

/s/Jody P. Gwyn
Jody P. Gwyn

June 30, 2011
Date