

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

In the Matter of:)
TCF National Bank)
Sioux Falls, South Dakota)
)
)

AA-EC-2012-155

CONSENT ORDER FOR THE ASSESSMENT OF A CIVIL MONEY PENALTY

The Comptroller of the Currency of the United States of America (“Comptroller”), through his authorized representatives, has examined the affairs of TCF National Bank, Sioux Falls, South Dakota (“Bank”), and has identified deficiencies in the Bank’s practices that resulted in violations of 12 CFR § 21.11 (requirement to file Suspicious Activity Reports).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a “Stipulation and Consent to the Issuance of a Consent Order for a Civil Money Penalty,” dated January 25, 2013, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order for the Assessment of a Civil Money Penalty (“CMP Order”) by the Comptroller.

ARTICLE I

COMPTROLLER’S FINDINGS

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

- (1) The OCC previously determined that the Bank failed to establish and maintain procedures reasonably designed to assure and monitor the Bank’s compliance with the Bank Secrecy Act (“BSA”), 31 U.S.C. § 5311 *et seq.*, and cited the Bank for violations of 12 C.F.R. § 21.11 (Suspicious Activity Report violations) and § 21.21 (BSA compliance program violation),

which resulted in the issuance of a Consent Order to the Bank on July 20, 2010 (“2010 BSA Order”).

(2) Pursuant to Article VII (Account/Transaction Activity Review (“look-back”)) of the 2010 BSA Order, the Bank retained a consultant to conduct a look-back to review certain account and transaction activity specified by the OCC for the period November 2008 through July 2010. The look-back resulted in the Bank’s late-filing 2,357 SARs addressing suspicious activities with a transaction amount of approximately \$70 million. The suspicious activities primarily consisted of cash transactions indicative of structuring, wire transfers where the source and purpose of the funds was unknown, and other activity out of the ordinary for the particular customer being investigated. This resulted in violations of 12 C.F.R. §§ 21.11(c) and (d).

(3) Later, as a result of a follow-up BSA exam commenced in November 2011, the OCC found 13 instances of the Bank’s failure to properly file SARs related to transactions indicative of possible terrorist financing. The OCC determined that the Bank’s systems and processes had identified and alerted on these suspicious transactions and the activity was properly investigated and determined to be suspicious. However, the SARs filed by the Bank to report the activity to law enforcement were not adequate and of poor quality. Specifically, the “terrorist financing” box on the SAR had not been checked even though the narrative section of the SAR made reference to possible terrorist financing, and in some cases the narrative section of the SAR did not clearly communicate the nature of the suspicious activity that was identified by the Bank. This resulted in violations of 12 C.F.R. § 21.11(c). Management agreed to re-file the 13 SARs addressing suspicious activity in the amount of about \$7.2 million and conduct appropriate employee training.

(4) As a result of the numerous violations of 12 CFR § 21.11 described above, the Comptroller has determined to assess a ten million dollar (\$10,000,000) civil money penalty against the Bank.

ARTICLE II

ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in the Comptroller by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller Orders, and the Bank consents to the following:

(1) The Bank shall make payment of a civil money penalty of ten million dollars (\$10,000,000.00) to the United States Treasury upon execution of this CMP Order.

(a) The Bank shall pay the penalty by wire transfer to the United States Treasury, as instructed by the OCC.

(b) Upon payment of the penalty, the Bank shall send photocopies of the confirmation of the wire transfer by e-mail and overnight delivery to the Director of Enforcement & Compliance, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

(2) This CMP 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) and (i).

ARTICLE III

OTHER PROVISIONS

(1) This CMP Order is and shall become effective upon its execution by the Comptroller, through his duly authorized representative whose hand appears below, and shall remain effective and enforceable against the Bank and its successors in interest, except to the

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**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER FOR A CIVIL MONEY PENALTY**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to assess a civil money penalty against TCF National Bank, Sioux Falls, South Dakota (“Bank”), pursuant to 12 U.S.C. § 1818(i)(2) for violations of 12 C.F.R. § 21.11, promulgated pursuant to the Bank Secrecy Act (31 U.S.C. §§ 5211 *et seq.*).

The Bank, in the interest of compliance and cooperation, enters into this Stipulation and Consent to the Issuance of a Consent Order for the Assessment of a Civil Money Penalty (“Stipulation”) and consent to the issuance of a Consent Order for the Assessment of a Civil Money Penalty, dated January 25, 2013 (“CMP Order”).

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, stipulate and agree to the following:

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.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Branch pursuant to 12 U.S.C. §§ 1813(q) and 1818(i).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(i).

ARTICLE II

CONSENT

(1) The Bank hereby consents and agrees to the issuance of the CMP Order by the Comptroller.

(2) The Bank consents and agrees that the CMP Order shall (a) be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), (b) become effective upon its execution by the Comptroller through his authorized representative, and (c) be fully enforceable by the Comptroller pursuant to 12 § 1818(i).

(3) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(4) The Bank expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the CMP Order and/or execute the CMP Order.

(6) The terms and provisions of this Stipulation and the CMP Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Stipulation or the CMP 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 Stipulation or the CMP Order.

ARTICLE III

WAIVERS

- (1) The Bank, by consenting to this Stipulation, hereby waives:
- (a) the issuance of a Notice of Assessment of a Civil Money Penalty pursuant to 12 U.S.C. § 1818(i)(2);
 - (b) any and all procedural rights available in connection with the issuance of the CMP Order;
 - (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. §§ 1818(h) and (i)(2)(as amended) and 12 C.F.R. Part 19; and
 - (d) all rights to seek any type of administrative or judicial review of the CMP Order;
 - (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 the CMP Order, whether arising under common law or under the

IN TESTIMONY WHEREOF, the undersigned, as duly elected and acting Board of

Directors of the Bank, have hereunto set their hands on behalf of the Bank:

/s/
Craig Dahl

1/24/13
Date

/s/
Michael Jones

1/24/13
Date

/s/
William Cooper

1/24/13
Date

/s/
Thomas Jasper

1/24/13
Date

/s/
Earl Stratton

1/24/13
Date

/s/
Barry Winslow

1/24/13
Date

/s/
Mark Nyquist

1/24/13
Date