

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

In the Matter of )  
 )  
Gary W. Votapka )  
Former President, CEO and Director )  
 )  
Mission Oaks National Bank )  
Temecula, CA )

AA-EC-11-89

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against Gary W. Votapka (“Respondent”) pursuant to 12 U.S.C. § 1818(i) on the basis of Respondent’s activities while serving as the President, Chief Executive Officer (“CEO”) and a Director of Mission Oaks National Bank, Temecula, CA (“Bank”);

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”);

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

Article I

JURISDICTION

(1) Mission Oaks National 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 the President, CEO and a Director 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 civil money penalty actions against him pursuant to 12 U.S.C. § 1818(i).

## Article II

### COMPTROLLER’S FINDINGS

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

(1) Respondent caused the Bank to file three materially inaccurate Call Reports, dated as of December 31, 2008, June 30, 2009, and June 20, 2010.

(2) The cause of the inaccuracies in each Call Report was a materially inadequate Allowance for Loan and Lease Losses (“ALLL”) methodology, which contained substantial deviations from the applicable guidance for calculating the ALLL and which resulted in inaccuracies in the Bank’s reported financial condition.

(3) Respondent was primarily responsible within the Bank for developing the Bank’s ALLL methodology and for calculating the Bank’s ALLL balance.

(4) Respondent signed each Call Report and certified that it was “true and correct to the best of his knowledge and belief,” pursuant to 12 U.S.C. § 161.

(5) The Bank re-filed each Call Report, which reflected substantial increases in ALLL provision expenses that caused significant increases in the Bank's reported net losses.

### Article III

#### 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 five thousand dollars (\$5,000) upon execution of this Order.

(2) Respondent shall make the 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-11-89) shall be entered on the submitted payment, a copy of which shall be submitted to the OCC Director of Enforcement at 250 E Street, 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 IV

#### OTHER PROVISIONS

(1) By consenting to the issuance of this Order, Respondent waives:

- (a) the right to the issuance of a Notice under 12 U.S.C. § 1818(i);
- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(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 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 the premises and obligations of this Order and declares that no separate promise or inducement of any kind has been made by the Comptroller or 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) This Order constitutes a settlement of the civil money penalty proceeding 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 or practice of misconduct or the continuation of a pattern or practice of misconduct.

(4) This Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (3), 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.

(5) 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 have hereunto set their hands.

/s/ Michael R. Brickman

1/14/13

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Michael R. Brickman  
Director for Special Supervision

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Date

/s/ Gary W. Votapka

1/10/2013

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Gary W. Votapka

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Date