

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

<b>In the Matter of:</b>	)	
Dwane Timm	)	
President and Chairman of the Board	)	AA-EC-2012-143
First National Bank	)	
Goodland, Kansas	)	

**CONSENT ORDER**

**WHEREAS**, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist and civil money penalty proceedings against Dwane Timm (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities as President, Chairman of the Board, or senior loan officer of First National Bank, Goodland, Kansas (“Bank”); 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, without admitting or denying any wrongdoing, desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (i);

**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) 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.

Initials: DLT  
Date: 4-25-13

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 and Chairman of the Board 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 cease and desist and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(b) and (i).

## ARTICLE II

### COMPTROLLER’S FINDINGS

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby finds, and Respondent neither admits nor denies, the following:

(1) While serving as the Bank’s President, Chairman of the Board, or senior loan officer, Respondent caused, brought about, participated in, counseled, or aided or abetted the Bank’s violations of 12 C.F.R. Part 215, 12 U.S.C. § 161, and 12 U.S.C. § 371c-1 and engaged in unsafe or unsound banking practices, some of which resulted in financial loss to the Bank.

### ARTICLE III

#### PERSONAL CEASE AND DESIST ORDER

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:

(1) Whenever Respondent is employed by, or is offered employment at, an insured depository institution (as defined in 12 U.S.C. § 1813(c)(2)) or becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws, regulations, and policies applicable to any insured depository institution with which he is or may become affiliated;
- (b) Avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
- (c) Fulfill the fiduciary duties of loyalty and care owed to any insured depository institution with which he is or may become affiliated and shall, at all times, avoid placing his own interests above those of the institution;
- (d) Provide the Board of Directors of the insured depository institution of which Respondent is currently an institution-affiliated party with a copy of this Order. Respondent shall provide written certification of compliance with this paragraph to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW, Washington, DC 20219, within ten (10) days of execution of this Order; and
- (e) With respect to any future employment, prior to becoming an institution-affiliated party, provide the President or Chief Executive Officer of the

insured depository institution with a copy of this Order. Respondent shall provide written notice of such acceptance to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW, Washington, DC 20219, along with a written certification of his compliance with this paragraph within ten (10) days after acceptance of such position.

(2) Respondent shall receive appropriate training within six (6) months of the date of the execution of this Order regarding the requirements of and the Bank's compliance with 12 C.F.R. Part 215 (Regulation O). Respondent shall provide written certification of compliance with this paragraph to the Director, Special Supervision Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> Street, SW, Washington, DC 20219, within ten (10) days after such training is completed.

(3) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) of this Article, or if Respondent is uncertain about his duties arising from such paragraphs, he shall obtain, at his own expense, and abide by the written advice of counsel regarding his duties and responsibilities with respect to the matter. To comply with this paragraph, Respondent shall engage counsel who is in no way affiliated with the institution; and who has never been subject to any formal sanctions by any Federal banking agency, either by agency order or consent, as disclosed on the banking agencies' websites.

(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(b).

## ARTICLE IV

### ORDER FOR CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of Ten Thousand Dollars (\$ 10,000), which shall be paid 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-2012-143) shall be entered on all checks. Respondent shall provide a photocopy of each check to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 400 7<sup>th</sup> 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(h) and (i) (as amended).

## ARTICLE V

### WAIVERS

(1) By executing this Order, Respondent waives:

- (a) the right to the issuance of Notice of Charges for Issuance of an Order to Cease and Desist and Notice of Assessment of a Civil Money Penalty under 12 U.S.C. § 1818(b) and (i);
- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) 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 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.

(3) 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.

(4) This Order constitutes a settlement of 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 or practice of misconduct or the continuation of a pattern or practice of misconduct.

(5) 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 0, 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 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/ Kristina B. Whittaker  
Kristina B. Whittaker  
Deputy Comptroller for Special Supervision

May 6, 2013  
Date

/s/ Dwane Timm  
Dwane Timm

4-25-13  
Date