

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

In the Matter of:	)	
B. Stevens Plowman	)	AA-CE-2014-95
Director and Former President and Chief Executive Officer of	)	
	)	
F&M Bank and Trust Company	)	
Hannibal, Missouri	)	

STIPULATION AND CONSENT ORDER

**WHEREAS**, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against B. Stevens Plowman (“Respondent”), pursuant to 12 U.S.C. § 1818(i) on the basis of Respondent’s actions while a member of the Board of Directors and President and Chief Executive Officer of F&M Bank and Trust Company, Hannibal, Missouri (“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, the Comptroller and the Respondent, without admitting or denying any wrongdoing, desire to enter into this Stipulation and Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(i); and

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

ARTICLE I

Jurisdiction

(1) The Bank is a Federal Savings Association, chartered and examined by the Comptroller pursuant to the Home Owners’ Loan Act of 1933, as amended, 12 U.S.C. § 1461 *et seq.* The Bank is a “savings association” within the meaning of 12 U.S.C. §§ 1813(b) and

1462(2). Accordingly, the Bank is an “insured depository institution” within the meaning of 12 U.S.C. §§ 1813(c) and 1818(b)(1).

(2) Respondent is a member of the Board of Directors, was President and Chief Executive Officer 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 enforcement proceedings against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(i).

## ARTICLE II

### COMPTROLLER’S FINDINGS

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

(1) Respondent, at all times pertinent to the events described herein, was the President, Chief Executive Officer, and a Director of the Bank.

(2) While a member of the Board of Directors, President, and Chief Executive Officer of the Bank, Respondent:

(a) Failed to ensure compliance with federal law and regulations and did not take appropriate actions in response to previous criticisms and violations relating to the Bank’s compliance with the Flood Disaster Protection Act; the Real Estate

Settlement Procedures Act; the Truth in Lending Act; and their implementing regulations; and

(b) Failed to ensure compliance with the Consent Order entered into between the Bank and the OCC on August 12, 2012 (“Consent Order”), and did not take appropriate actions in response to previous criticisms and violations relating to the Bank’s compliance with the Consent Order.

(3) By reason of the foregoing conduct, Respondent caused, brought about, participated in, counseled, or aided or abetted the Bank’s violations of law, regulation, and the Consent Order. Respondent’s actions and/or inactions caused, allowed, brought about, or contributed to, violations of the Flood Disaster Protection Act, 42 U.S.C. § 4001 *et seq.*, and implementing regulation, 12 C.F.R. Part 172; the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.*, and implementing regulation, 12 C.F.R. Part 1024; the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, and implementing regulation, 12 C.F.R. Part 1026; and the Consent Order. Respondent’s actions and/or inactions also constituted breaches of his fiduciary duty to the Bank and reckless unsafe or unsound banking practices. Respondent’s actions and/or inactions were part of a pattern of misconduct.

### ARTICLE III

#### ORDER FOR A CIVIL MONEY PENALTY

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of five thousand dollars (\$5,000.00), which shall be paid in full upon execution of this Order.

(2) Respondent shall make payment in full 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-CE-2014-95) shall be entered on the submitted payment. Respondent shall provide a photocopy of the check along with the signed original copy of this Order to the District Counsel, Office of the Comptroller of the Currency, 440 South LaSalle Street, Suite 2700, Chicago, Illinois 60605.

(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

##### Waivers

- (1) By executing this Order, Respondent hereby waives:
  - (a) The right to the issuance of a Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818;
  - (b) All rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818 and 12 C.F.R. Part 109;
  - (c) All rights to seek any type of administrative or judicial review of this Order;
  - (d) All rights to challenge or contest the validity of the Order in any way; 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. § 145.121 and Part 359. In addition, 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. § 145.121 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 the civil money penalty proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, violations, or breaches set forth in Article II above, unless such acts, omissions, violations, or breaches reoccur, or the Comptroller learns that the Respondent has made any false statement or representation to the Comptroller or any of his agents or employees in connection with the investigation or review of this matter. However, the specific acts, omissions, or violations described in Article II of this Order may be used by the Comptroller in future enforcement actions to establish a pattern or practice of misconduct or the continuation of a pattern or practice of misconduct.

(5) This Order shall not be construed as an adjudication on the merits and, except as set forth above in Paragraph (4) of this Article, it is further agreed that the provisions of this Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the 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) 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.

(7) 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. Respondent expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the United States Department of the Treasury, 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.

(8) This order is "issued with the consent of the depository institution" pursuant to 12 U.S.C. § 1818(h)(2).

(9) 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.

