

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

<b>In the Matter of:</b>	)	
Randy Collier	)	
Former President, Chief Executive Officer, and	)	OCC-AA-EC-14-88
Director	)	
	)	
SCB Bank	)	
Shelbyville, Indiana	)	

**CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate prohibition and cease and desist order proceedings against Randy Collier (“Respondent”), pursuant to 12 U.S.C. § 1818(e) and (b), respectively, on the basis of Respondent’s activities while serving as President, Chief Executive Officer, and Director of SCB Bank (“Bank”) in Shelbyville, Indiana; and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above-captioned matter, Respondent, without admitting or denying any wrongdoing, desires to consent to this Consent Order (“Order”), issued pursuant to 12 U.S.C. § 1818(e) and (b);

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

Initials: RC  
Date: 12/12/14

## **Article I**

### **JURISDICTION**

(1) The Bank is a former Federal savings association within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(3).

(2) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(3) Respondent, at all relevant times, was President, Chief Executive Officer, and 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)).

(4) 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 cease and desist proceedings against him pursuant to 12 U.S.C. § 1818(e) and (b), respectively.

## **Article II**

### **COMPTROLLER’S FINDINGS**

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

(1) In or around October 2002, Respondent joined the Bank, where he remained until his resignation in or around January 2011. Although Respondent served

in different capacities at the Bank, all of the findings discussed within this Order occurred when Respondent acted as Bank President, Chief Executive Officer, and Director.

(2) Respondent participated in loan originations and served as the loan officer on a number of Bank loans (whether in an official or unofficial capacity). At the time of the Bank's failure, Respondent had been actively involved in originating and/or managing a substantial portion of the loans in the Bank's loan portfolio.

(3) Respondent originated a number of loans to straw (or "nominee") borrowers for the benefit of third parties. Respondent originated loans to borrowers who could not receive additional funds from the Bank in their own names without violating the Bank's loan-to-one-borrower limit. Respondent also originated loans to borrowers who possessed inadequate collateral to cover additional Bank loans in their own names. In each of these transactions, Respondent was a knowing and voluntary participant.

(4) In addition to making nominee loans, Respondent originated Bank loans without collecting appropriate collateral or obtaining reasonable assurances that borrowers would or could repay their loans. Respondent originated several large, non-recourse loans to one borrower and relied on outdated collateral valuations when underwriting new Bank loans to that borrower and to other borrowers.

(5) Respondent capitalized past-due interest into loan principal, engaged in extensive loan modifications, extensions, and deferrals, and instructed loan personnel to delay reversal of loan payments when borrowers' payment checks were returned to the Bank for non-sufficient funds for the express purpose of making delinquent loans appear

current. As a result of Respondent's actions, the Bank's records incorrectly reflected that certain delinquent borrowers were current on their loans.

(6) In February 2012, the Comptroller appointed the Federal Deposit Insurance Corporation ("FDIC") as Receiver for the Bank. At that time, the FDIC, acting as Receiver, assumed control of the Bank's assets, including the Bank's loan portfolio. As a result of Respondent's actions while serving as Bank President, Chief Executive Officer, and Director, the FDIC's Deposit Insurance Fund ("DIF") suffered a loss on behalf of the Bank.

(7) By reason of the foregoing conduct, Respondent violated 18 U.S.C. §§ 656 and 1005, committed reckless unsafe or unsound practices, and breached his fiduciary duties to the Bank. His actions caused loss to the Bank, and he demonstrated personal dishonesty and a willful and continuing disregard for the Bank's safety and soundness.

### **Article III**

#### **ORDER OF PROHIBITION**

Respondent consents to, and it is ORDERED that:

(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); or
- (d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u).

(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 bank under 12 U.S.C. § 1818(b)(3), (b)(4) or (b)(5);
- (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 Agency 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).

(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.

#### **Article IV**

#### **CEASE AND DESIST ORDER FOR PAYMENT OF RESTITUTION**

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay restitution in the amount of fifty-thousand-dollars (\$50,000) to the FDIC as Receiver for SCB Bank, FIN No. 10425, FDIC Receivership Lock Box No. 971774, in accordance with the following payment schedule:

- (a) Six-thousand-dollars (\$6,000) shall be paid upon Respondent's execution of this order.
- (b) Four-thousand-four-hundred dollars (\$4,400) shall be paid in bi-annual installments, due on June 30 and December 30 of each year, until the restitution amount is paid in full.

(2) Respondent shall make each payment by cashier's check or certified check made payable to the "Federal Deposit Insurance Corporation." The cashier's check or certified check shall be delivered to "Federal Deposit Receivership Corporation as Receiver for SCB Bank, Fund No. 10425, PO Box 971774, Dallas, Texas 75397-1774."

(3) If Respondent fails to comply with any provision of this Order, then the entire balance of the restitution amount described in this Article shall become immediately due and payable.

(4) Within seven (7) days of each payment, Respondent shall deliver a copy of the submitted payment to the Director, Enforcement and Compliance Division, 400 Seventh St. SW, Mail Stop 9E-11, Washington, DC 20219. The docket number of this case (AA-EC-14-88) shall be entered on the submitted payment.

(5) 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 become final pursuant to 12 U.S.C. § 1818.

## **Article V**

### **BANKRUPTCY**

(1) If Respondent files for bankruptcy protection, Respondent shall notify the Enforcement Director within ten (10) days of the filing and shall provide a copy of the filing to the Enforcement Director.

(2) In any bankruptcy proceeding in which it is or may be contended that Respondent's obligation to pay restitution pursuant to this Order is subject to discharge, Respondent will in no manner contest the assertion of the Comptroller or any agent, officer or representative of the United States, pursuant to 11 U.S.C. § 523(a) or otherwise, that the restitution obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

## **Article VI**

### **CLOSING**

- (1) By executing this Order, Respondent waives:
  - (a) the right to a Notice of Intention to Prohibit Further Participation and Notice of Charges for Issuance of an Order to Cease and Desist under 12 U.S.C. § 1818(e) and (b), respectively;
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(e) and (b) 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. § 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, or 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 any proceedings arising out of the facts, omissions, or violations described in the Comptroller's Findings (Article II of this Order). The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in the first whereas clause, hereof, unless such acts, omissions, or violations reoccur. However, the specific acts, omissions, or violations described in Article II may be used by the Comptroller in future enforcement actions to establish a pattern of misconduct or the continuation of a pattern of misconduct.

(5) This Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (4) above, 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) Nothing in this Order shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and nothing in this Order 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 Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee 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 institution-affiliated party concerned," 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.

(10) The provisions of this Order are effective upon issuance by the Comptroller through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller, through his authorized representative.

IN TESTIMONY WHEREOF, the undersigned has hereunto set his hand.

/s/ Randy Collier  
Randy Collier

12-12-14  
Date

**IT IS SO ORDERED.**

/s/ Kristina B. Whittaker  
Kristina B. Whittaker  
Deputy Comptroller  
Special Supervision Division

12/17/14  
Date

