

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

In the Matter of:	)	
	)	
Robert Gunville, Jr.	)	AA-CE-2014-63
Former Chairman of the Board of Directors	)	
The First National Bank of Niagara	)	
Niagara, Wisconsin	)	
	)	

**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate civil money penalty proceedings against Robert Gunville, Jr. (“Respondent”), former Chairman of the Board of Directors of The First National Bank of Niagara, Niagara, Wisconsin (“Bank”), pursuant to 12 U.S.C. § 1818(i), on the basis of Respondent’s violation of the Consent Order dated April 8, 2013 (“2013 Order”);

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 to pay a civil money penalty (“CMP 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 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.* Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was Chairman of the Board of Directors of the Bank and was an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity from February 20, 1990 to April 8, 2013.

(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

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

(1) From February 20, 1990 to April 8, 2013, Respondent was the Chairman of the Board of Directors of the Bank.

(2) On April 8, 2013, the Comptroller and Respondent entered into the 2013 Order, based upon the Comptroller’s findings that Respondent engaged in or caused the Bank to engage in numerous violations of law and unsafe or unsound banking practices

and that Respondent engaged in numerous breaches of his fiduciary duty to the Bank. Such violations, practices and breaches were for Respondent's financial gain and to the detriment of the Bank.

(3) Respondent failed to close or otherwise remove all transactional deposit accounts belonging to him personally, or any of his related interests, from the Bank, within sixty (60) days of the date of the 2013 Order, in violation of Article IV, Paragraph (3) of the 2013 Order. Respondent violated this provision of the 2013 Order for three hundred and one (301) days.

(3) Respondent failed to pay off or otherwise remove all extensions of credit he and his related interests maintain at the Bank, other than those that are fully secured by certificates of deposit held at the Bank, within sixty days of the date of the 2013 Order, in violation of Article IV, Paragraph (4) of the 2013 Order. Respondent continues to violate this provision of the 2013 Order and has been in violation since June 14, 2013.

### **Article III**

#### **ORDER FOR CIVIL MONEY PENALTY**

Respondent consents to, and it is ORDERED that:

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of fifteen thousand dollars (\$15,000).

(2) Respondent shall make payment, no later than December 15, 2014, 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-2014-63) shall be

entered on the submitted payment, and a copy of the check or money order shall be returned to the OCC along with this original executed CMP Order.

(3) Respondent shall notify the OCC of the address of his current place of residence by completing the form attached hereto as Appendix A and returning it, along with the original executed CMP Order and a copy of the check or money order used to pay the CMP, to District Counsel, Central District Office, Office of the Comptroller of the Currency, 440 South LaSalle Street, Suite 2700, Chicago, IL, 60605

(4) 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.

#### **Article IV**

#### **WAIVERS**

- (1) By executing this CMP Order, Respondent waives:
- (a) the right to the issuance of a Notice of Assessment of Civil Money Penalty 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 19;
  - (c) all rights to seek judicial review of this CMP Order;
  - (d) all rights in any way to contest the validity of this 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 this CMP 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 has read and understands the premises and obligations of this CMP Order and declares that no separate promise of 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 CMP Order or to execute this CMP Order.

(4) This CMP Order constitutes a settlement of the civil money penalty proceedings contemplated by the Comptroller and arising out of the specific acts, omissions, or violations described in the Comptroller's Findings (Article II of this CMP Order). 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) The provisions of this CMP Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (4), 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.

(7) Respondent expressly acknowledges that no officer or employee of the OCC has statutory or other authority to bind the United States, the United States Department of the Treasury, the OCC, any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/s/

12-8-14

\_\_\_\_\_  
Bert A. Otto  
Deputy Comptroller  
Central District

\_\_\_\_\_  
Date

/s/

11/21/14

\_\_\_\_\_  
Robert Gunville, Jr.

\_\_\_\_\_  
Date