

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

_____)	
In the Matter of:)	
)	AA-EC-2015-2
Bank of America, N.A.)	
Charlotte, North Carolina)	
)	
_____)	

CONSENT ORDER FOR A CIVIL MONEY PENALTY

The Comptroller of the Currency of the United States of America (“Comptroller”), through his national bank examiners and other staff of the Office of the Comptroller of the Currency (“OCC”), has conducted examinations of Bank of America, N.A., Charlotte, North Carolina, and FIA Card Services, N.A.,¹ Wilmington, Delaware. The OCC has identified (i) unsafe or unsound practices in connection with Bank of America, N.A.’s (the “Bank’s”) efforts to comply with the Servicemembers Civil Relief Act (“SCRA”), (ii) SCRA violations, and (iii) unsafe or unsound practices in connection with the Bank’s sworn document and collections litigation practices. The OCC has informed the Bank of the findings resulting from the examinations.

The Bank, by and through its duly elected and acting Board of Directors (the “Board”), has executed a Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty,

¹ The FIA Card Services, N.A. charter was consolidated into Bank of America, N.A. in October of 2014.

dated May 29, 2015, that is accepted by the Comptroller (“Stipulation”). By this Stipulation, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Order for a Civil Money Penalty (“Order”) by the Comptroller. The Bank has begun corrective action, and is committed to taking all necessary and appropriate steps to remedy the deficiencies, unsafe or unsound practices, and violations of law identified by the OCC, and to enhance the Bank’s SCRA compliance practices and sworn document and collections litigation practices.

ARTICLE I

COMPTROLLER’S FINDINGS

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

- (1) For purposes of this Order, the following definitions shall apply:
 - (a) “Collections Litigation” refers to attempts by the Bank (or a third party acting on its behalf), through legal proceedings in the United States, to (i) collect, or establish liability for, debts or liabilities in connection with accounts in all lines of business, except home lending, or (ii) establish the Bank’s right, title, and interest in and to collateral and/or realize on and liquidate collateral in connection with such accounts.
- (2) In connection with the Bank’s efforts to comply with the SCRA, the Bank:
 - (a) Failed to have in place effective policies and procedures across the Bank to ensure compliance with the SCRA;
 - (b) Failed to devote sufficient financial, staffing and managerial resources to ensure proper administration of its SCRA compliance processes;

- (c) Failed to devote to its SCRA compliance processes adequate internal controls, compliance risk management, internal audit, third party management, and training; and
- (d) Engaged in violations of the SCRA.

(3) In connection with the Bank's sworn document and Collections Litigation processes, the Bank:

- (a) Filed or caused to be filed in courts affidavits executed by its employees making assertions in which the affiant represented that the assertions in the affidavit were made based on personal knowledge or based on a review by the affiant of the relevant books and records, when, in many cases, they were not based on such personal knowledge or review of the relevant books and records;
- (b) Filed or caused to be filed in courts numerous affidavits when the Bank did not follow proper notary procedures;
- (c) Failed to devote sufficient financial, staffing and managerial resources to ensure proper administration of its sworn document and Collections Litigation processes; and
- (d) Failed to sufficiently oversee outside counsel and other third-party providers handling sworn document and Collections Litigation services.

(3) The unsafe or unsound practices and violations of law identified in this Article were, in part, the result of deficiencies in the Bank's enterprise compliance risk management function, including deficiencies with respect to independent testing, governance routines, risk

assessment, and oversight.

(4) By reason of the conduct set forth above, the Bank recklessly engaged in unsafe or unsound practices and engaged in violations of law, which were part of a pattern of misconduct.

ARTICLE II

ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller orders, and the Bank consents to the following:

- (1) The Bank shall make payment of a civil money penalty in the total amount of thirty million dollars (\$30,000,000), which shall be paid upon the execution of this Order:
 - (a) If a check is the selected method of payment, the check shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000.
 - (b) If a wire transfer is the selected method of payment, it shall be sent in accordance with instructions provided by the Comptroller.
 - (c) The docket number of this case (AA-EC-2015-2) shall be entered on the payment document or wire confirmation and a photocopy of the payment document or confirmation of the wire transfer shall be sent immediately, by overnight delivery, to the Director of Enforcement and Compliance,

Office of the Comptroller of the Currency, 400 7th Street, S.W.,
Washington, D.C. 20219.

(2) 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).

ARTICLE III

OTHER PROVISIONS

(1) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(i)(2), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(2) This Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the practices and violations described in the Comptroller's Findings set forth in Article I of this Order. The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of this Order, to the extent known to the Comptroller as of the effective date of this Order.

Nothing in the Stipulation or this Order, however, shall prevent the Comptroller from:

- (a) Instituting enforcement actions, other than a civil money penalty, against the Bank based on the findings set forth in Article I of this Order;
- (b) Instituting enforcement actions against the Bank based on any other findings;

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**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN ORDER FOR A CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), based upon information derived from the exercise of his regulatory and supervisory responsibilities, intends to initiate a civil money penalty proceeding against Bank of America, N.A., Charlotte, North Carolina (“Bank”), pursuant to 12 U.S.C. § 1818(i), for the Bank’s (i) reckless unsafe or unsound practices in connection with the Bank’s efforts to comply with the Servicemembers Civil Relief Act (“SCRA”), (ii) SCRA violations, and (iii) reckless unsafe or unsound practices in connection with the Bank’s sworn document and collections litigation practices;

WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Board of Directors (the “Board”), has agreed to execute this Stipulation and Consent to the Issuance of an order for a Civil Money Penalty (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by the Bank 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.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(i).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(i).

ARTICLE II

CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order for a Civil Money Penalty (“Consent Order”) by the Comptroller.

(2) The terms and provisions of the Consent Order apply to Bank of America, N.A., Charlotte, North Carolina, and all its subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.

(3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the

Comptroller through his authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(4) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(5) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Consent Order and/or execute this Stipulation.

(6) The Bank 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 any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities.

(7) The Consent Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the practices and violations described in the Comptroller's Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Nothing in this Stipulation or the Consent Order, however, shall prevent the Comptroller from:

- (a) Instituting enforcement actions, other than a civil money penalty, against the Bank based on the findings set forth in Article I of the Consent Order;
- (b) Instituting enforcement actions against the Bank based on any other findings;
- (c) Instituting enforcement actions against the Bank's institution-affiliated parties based on the findings set forth in Article I of the Consent Order, or any other findings; or
- (d) Utilizing the findings set forth in Article I of the Consent Order in future enforcement actions against the Bank or its institution-affiliated parties to establish a pattern or the continuation of a pattern.

Further, nothing in this Stipulation or the Consent Order shall affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

ARTICLE III

WAIVERS

- (1) The Bank, by executing this Stipulation and consenting to the Consent Order, waives:
 - (a) Any and all rights to the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
 - (b) Any and all procedural rights available in connection with the issuance of the Consent Order;
 - (c) Any and all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19;

- (d) Any and all rights to seek any type of administrative or judicial review of the Consent 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 the Consent 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;
- (f) Any and all rights to assert this proceeding, this Stipulation, consent to the issuance of the Consent Order, and/or the issuance of the Consent Order, as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity; and
- (g) Any and all rights to challenge or contest the validity of the Consent Order.

ARTICLE IV

CLOSING

(1) Except as contemplated by paragraph (7) of Article II of this Stipulation, the provisions of this Stipulation and the Consent Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank 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.

(2) Nothing in this Stipulation or the Consent Order shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this

Stipulation or the Consent Order constitutes, nor shall the Bank contend that it constitutes, a release, discharge, compromise, settlement, dismissal, or resolution of any actions, or in any way affects any actions that may be or have been brought by any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice.

(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

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WHEREAS, in the interest of cooperation and to avoid additional costs associated with administrative and judicial proceedings with respect to the above matter, the Bank, through its duly elected and acting Board of Directors (the “Board”), has agreed to execute this Stipulation and Consent to the Issuance of an order for a Civil Money Penalty (“Stipulation”), that is accepted by the Comptroller, through his duly authorized representative;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by the Bank that:

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CONSENT

- (1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the accompanying Consent Order for a Civil Money Penalty (“Consent Order”) by the Comptroller.
- (2) The terms and provisions of the Consent Order apply to Bank of America, N.A., Charlotte, North Carolina, and all its subsidiaries, even though those subsidiaries are not named as parties to the Consent Order.
- (3) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its execution by the

Comptroller through his authorized representative, and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

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(7) The Consent Order constitutes a settlement of the civil money penalty proceeding against the Bank contemplated by the Comptroller, based on the practices and violations described in the Comptroller's Findings set forth in Article I of the Consent Order. The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the practices and violations described in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. Nothing in this Stipulation or the Consent Order, however, shall prevent the Comptroller from:

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Further, nothing in this Stipulation or the Consent Order shall affect any right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

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- (d) Any and all rights to seek any type of administrative or judicial review of the Consent 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 the Consent 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;
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(3) The terms of this Stipulation, including this paragraph, and of the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

Accepted by:

THE COMPTROLLER OF THE CURRENCY

/s/

5/29/15

By:

Ron A. Pasch
Deputy Comptroller
Large Bank Supervision

Date