

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

<u>In the Matter of:</u>)	
Daniel Minick)	
)	AA-EC-16-70
Former employee of)	
)	
Westfield Bank, FSB)	
Westfield Center, Ohio)	

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist and civil money penalty proceedings against Daniel Minick (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities while serving as a commercial loan officer of Westfield Bank, FSB (“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, Respondent, without admitting or denying any wrongdoing, desires to consent to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (i);

NOW, THEREFORE, it is stipulated by and between the OCC, through the duly authorized representative of the Comptroller of the Currency (“Comptroller”), and Respondent that:

ARTICLE I

JURISDICTION

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

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(2) Respondent was an employee 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 within six (6) years from the date of this Order. *See* 12 U.S.C. § 1818(i)(3).

(3) The Bank is a Federal savings association within the meaning of 12 U.S.C. § 1813(q)(1)(C), and is chartered and examined by the OCC. *See* 12 U.S.C. §§ 1461 *et seq.*, 5412(b)(2)(B).

(4) The OCC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain this cease and desist and civil money penalty action against Respondent pursuant to 12 U.S.C. § 1818(b) and (i).

ARTICLE II

COMPTROLLER’S FINDINGS

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

(1) From approximately April to June 2014, Respondent provided altered documents and made false or misleading statements to a title company to obtain a clean title policy for collateral supporting a Bank loan. Respondent provided the clean title policy to the Bank, causing the Bank to have inaccurate records and to disburse funds believing it held a first lien on the collateral, as required by the Bank’s conditional approval of the loan.

(2) From approximately May to June 2014, Respondent represented to a potential Bank borrower that the Bank had approved a \$500,000 line of credit, although the Bank had not approved an extension of credit to the borrower.

(3) By reason of the foregoing conduct, Respondent engaged in violations of law and engaged in unsafe or unsound practices.

ARTICLE III

ORDER TO CEASE AND DESIST

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by, or is offered employment at, a depository institution (as defined in 12 U.S.C. § 1813(c)(1)) 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 depository institution with which he is affiliated;
- (b) Avoid engaging in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code; and
- (c) Fulfill the fiduciary duties of loyalty and care owed to any 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) Not make false or misleading statements or provide false or misleading documents to the depository institution or its customers;
- (e) Not prepare false or misleading depository institution documents or records;
- (f) When engaged in lending and credit administration activities, including (but not limited to) loan underwriting, loan document preparation, title administration, and disbursements of any kind, adhere to the depository institution's written policies, procedures and standards and act within the written authority granted him by the depository institution's Board and, if applicable, loan committee;

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- (g) Provide the Board of Directors of the depository institution of which Respondent is an institution-affiliated party with a copy of this Order. Respondent shall provide written certification of compliance with this paragraph to the Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219, within ten (10) days of execution of this Order; and
- (h) With respect to any future employment, prior to accepting a position as an institution-affiliated party, provide the President or Chief Executive Officer of the depository institution with a copy of this Order. Respondent shall provide written notice of such acceptance to the Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 400 7th 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) 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.

(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

ORDER FOR CIVIL MONEY PENALTY

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of five thousand dollars (\$5,000), which shall be paid in full according to the following payment schedule:

- (a) Five hundred dollars (\$500) shall be paid upon Respondent's execution of this Order;
- (b) Five hundred dollars (\$500) shall be paid no later than December 31, 2016;
- (c) One thousand dollars (\$1,000) shall be paid no later than March 31, 2017;
- (d) One thousand dollars (\$1,000) shall be paid no later than June 30, 2017;
- (e) One thousand dollars (\$1,000) shall be paid no later than September 30, 2017; and
- (f) The final installment of one thousand dollars (\$1,000) and any outstanding balance shall be paid no later than December 31, 2017.

(2) Respondent shall make payment in full by cashier's or certified check made payable to the Treasurer of the United States, and shall deliver the payment to: Office of the Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000. The docket number of this case (AA-EC-16-70) shall be entered on the submitted payment.

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

(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.

(5) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of the Enforcement & Compliance Division (“Enforcement Director”) of the address of his current place of residence, by completing the form attached hereto as Appendix A.

(6) Until the civil money penalty is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall notify the Enforcement Director of his new address within seven (7) days of such change in address, by sending written notice to the Enforcement Director, 400 7th Street, S.W., Washington, DC 20219.

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 a civil money penalty pursuant to this Order is subject to discharge, Respondent will in no manner contest the assertion of the OCC or any officer, employee, or agent of the OCC or any agent, officer, or representative of the United States,

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pursuant to 11 U.S.C. § 523(a) or otherwise, that the civil money penalty 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 Charges for Issuance of an Order to Cease and Desist and Notice of Civil Money Penalty Assessment 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 109;
 - (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 United States, the OCC, or any officer, employee, or agent of the OCC, 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 of the Bank) to incur, directly or indirectly, any 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 of the Bank) with respect to such amounts except as permitted by 12 C.F.R. § 145.121 and Part 359;

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provided, however, Respondent may not obtain or accept such indemnification with respect to payment of the civil money penalty.

(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 OCC or any officer, employee, or agent of the OCC 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 cease and desist and civil money penalty proceedings arising out of the facts, omissions, or violations described in the Comptroller's Findings (Article II of this Order). The OCC agrees not to institute the proceedings referenced in the first whereas clause of this Order for the specific acts, omissions, or violations described in Article II of this Order unless such acts, omissions, or violations reoccur. 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 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 in paragraph (4) above, shall not inhibit, estop, bar, or otherwise prevent the OCC from taking any action affecting Respondent if, at any time, the OCC deems it appropriate to do so to fulfill the responsibilities placed upon the OCC by the several laws of the United States.

(6) Nothing in this Order shall preclude any proceedings brought by the OCC 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 on the United States, the OCC, or any officer, employee, or agent of the OCC. Respondent expressly acknowledges that no officer, employee, or agent of the OCC has statutory or other authority to bind the United States, the United States Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer, employee, or agent of those entities, to a contract affecting the OCC's exercise of its 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 OCC, through the Comptroller's duly 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 OCC, through the Comptroller's duly authorized representative.

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

//S// Daniel Minick

12/1/16

Daniel Minick

Date

IT IS SO ORDERED.

//s//Joseph N. Meinhardt

2/15/17

Joseph N. Meinhardt
Acting Deputy Comptroller for Special Supervision

Date