

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

**EA#99-25**

<b>In the Matter of:</b>	)	
Todd Doherty	)	
Former Director and Officer	)	AA-EC-98-26
Evergreen Bank, N.A.	)	
Poy Sippi, Wisconsin	)	

**STIPULATION AND CONSENT ORDER**

**WHEREAS**, the Comptroller of the Currency of the United States of America (Comptroller) has initiated a Prohibition, Cease and Desist and Civil Money Penalty proceeding against Todd Doherty (Respondent), pursuant to 12 U.S.C. § 1818(e) (as amended), through the issuance of a Notice of Intention to Prohibit, Notice of Charges for Restitution, and Notice of Civil Money Penalty Assessment (“Notice”), dated December 9, 1998; and

**WHEREAS**, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to this matter, the Comptroller and Respondent agree to enter into this Stipulation and Consent Order;

**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) Evergreen Bank, Poy Sippi, Wisconsin (Bank) was 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 a director and 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 an enforcement proceeding against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain a cease and desist, CMP, and prohibition proceedings against Respondent pursuant to 12 U.S.C. §§ 1818(b)(6), (e), and (i)(2).

**Article II**

**Prohibition**

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, and without admitting or denying any wrongdoing, 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) (as amended); or
- (d) vote for a director, or serve or act as an "institution-affiliated party," as defined in 12 U.S.C. § 1813(u) (as amended).

(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 as a savings association under 12 U.S.C. § 1818(b)(9) (as amended);
- (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 Board 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) (as amended).

(4) This Stipulation and Consent 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(e), (i), (j), and (h) (as amended).

### **Article III**

#### **Cease and Desist Order for Restitution**

Respondent shall pay restitution to the Bank or its successor in interest in the amount of one hundred seventy thousand dollars (\$170,000), payable in accordance with the terms of the Plea Agreement between Respondent and the United States of America, by its attorneys, Thomas P. Schneider, United States Attorney for the Eastern District of Wisconsin, and Joseph R. Wall, Assistant United States Attorney.

### **Article IV**

#### **Civil Money Penalty**

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of a civil money penalty in the amount of seventy-five thousand] dollars (\$75,000), which may be paid following completion of the restitution payment required in the Plea Agreement referenced in Article IV, but which, at a minimum, must be paid prior to April 1, 2004.

(2) Prior to April 1, 2004, Respondent may make a written request to establish a payment schedule for the civil money penalty acceptable to the Comptroller. Such

request should be sent to Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, Washington, D.C. 20219.

(3) Respondent's civil money penalty payments shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 73150, Chicago, Illinois 60673-7150. The docket number of this case should be entered on all checks.

(4) This Stipulation and Consent 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) (as amended).

#### **Article V**

##### **Notice of Address to OCC**

(1) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of the Enforcement & Compliance Division (Director) of his current address on the form attached hereto as Appendix A. Until the restitution and civil money penalty is paid in full, upon each and every subsequent change in address, if any, Respondent shall notify the Director of Respondent's new address within seven (7) days of such change in address.

#### **Article VI**

##### **Waivers**

- (1) By executing this Stipulation and Consent Order, Respondent waives:
- (a) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b), (e) and/or (i) and 12 C.F.R. Part 19;

- (b) all rights to seek judicial review of this Order;
- (c) all rights in any way to contest the validity of this Order;
- (d) 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 and/or the 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; and
- (e) all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for issuance of this Order.

(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 restitution or civil money penalty under this Order, or any legal (or other professional) expense relative to the negotiation and issuance of this Order; and, in accordance with 12 C.F.R. § 7.2014, 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.

**Article VII**

Closing

(1) It is hereby agreed that the provisions of this Stipulation and Consent constitute a settlement of this Cease and Desist, Prohibition and civil money penalty action contemplated by the Comptroller.

(2) It is further agreed that the provisions of this Stipulation and Consent shall not be construed as an adjudication on the merits and, except with respect to the acts, violation and/or omissions currently known to the Comptroller which form the basis for the issuance of this Stipulation and Consent 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.

(3) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Stipulation and Consent, 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.

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

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Leann G. Britton  
Senior Deputy Comptroller  
for Bank Supervision Operations

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April 20, 1999  
Date

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Todd Doherty

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April 14, 1999  
Date



**APPENDIX A TO  
STIPULATION AND CONSENT ORDER**

I, Todd Doherty, certify to the Office of the Comptroller of the Currency that my social security number is:

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I, Todd Doherty, certify to the Office of the Comptroller of the Currency that my present address is:

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I understand that I must file this form within seven (7) days of the execution of the Order and that, within seven (7) days of the date upon which I move to any new address, I must notify the Director, Enforcement & Compliance Division, 250 E. Street S.W., Washington, D.C. 20219 of each change.

I certify that the above information is true and correct. I acknowledge that the penalties for false statements provided by 18 U.S.C. § 1001 (\$10,000 fine and/or five years' imprisonment) and acknowledge that this form is submitted by me to affect action by the Office of the Comptroller of the Currency.

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Todd Doherty

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Date

Other stuff to do:

- the Communications & Financial Services form
- the EARS form
- the SMS entry

(The completed date is the date that the OCC signature official signed because that is the usually the latest signature date)