

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

In the Matter of: James Redemann, Former Director and Agent Evergreen, Bank, N.A., Poy Sippi, Wisconsin))))))	AA-EC-98-27
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STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (Comptroller) has initiated cease and desist and civil money penalty proceedings against James Redemann (Respondent) pursuant to 12 U.S.C. §§ 1818(b)(6) and (i)(2) (as amended), through the issuance of Notice of Charges for Restitution and Assessment of a Civil Money Penalty (Notices) 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 the above matter, the Comptroller and Respondent desire 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, N.A., Poy Sippi, Wisconsin (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 a director and an independent contractor of the Bank and, as a director and/or an independent contractor, 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 and civil money penalty removal and prohibition proceedings against him pursuant to 12 U.S.C. §§ 1818(b)(6) and (i)(2).

Article II

CEASE AND DESIST ORDER FOR RESTITUTION

(1) Without admitting or denying any wrongdoing, Respondent hereby consents to the payment of restitution to the Bank or its successor in interest in accordance with any terms of any plea agreement, judgment and conviction, or any other

final order between Respondent and any representatives of the United States District Court for the Eastern District of Wisconsin.

(2) If no final order as identified above occurs prior to January 1, 2001, Respondent shall pay restitution to the Bank or its successor(s) in interest in the amount of one hundred thousand dollars (\$100,000), which shall be due and payable on August 1, 2004. Payments shall be made in five equal annual payments of \$20,000 beginning August 1, 2004.

(3) Respondent shall deliver a copy of each check to Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 250 E St., S.W., Washington, D.C., 20219.

(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 (b), (h) and/or (i) (as amended).

Article III

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 shall be due and payable in accordance with the following schedule:

(a) \$5,000 payable upon execution of this Stipulation;

(b) \$70,000 payable on the later of August 1, 2004, or the date on which the Respondent is no longer subject to supervised release as a result of a conviction for related conduct in the United States District Court for the Eastern District of Wisconsin. Payment shall be made in four equal annual installments of \$15,000 and a final installment of \$10,000.

(2) If under the above provision, the time for payment exceeds the statute of limitations provided for in 28 U.S.C. § 2462, the Respondent expressly promises and agrees to waive and not plead, argue, or otherwise raise any statute of limitations, laches or other similar defense based on time limitations relative to the claim set forth in the petition in this matter for a period of 120 days following the date such payment is due.

(3) Respondent shall make payment in full by check made payable to the Treasurer of the United States which 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 IV

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 his new address within seven (7) days of such change in address.

Article V

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) 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 alleged 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 and the 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 VI

(1) 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 Comptroller's assertion, pursuant to 11 U.S.C. § 523(a)(11) or otherwise, that the restitution obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

Article VII

(1) It is hereby agreed that the provisions of this Stipulation and Consent constitute a settlement of this cease and desist and civil money penalty action contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations contained in the Notices dated December 9, 1998, unless such acts, omissions, or violations reoccur.

(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 as set forth above, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent if, at any time, the Comptroller 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.

(4) Respondent further 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.

/s/ Leann G. Britton

8-24-99

Leann G. Britton
Senior Deputy Comptroller
for Bank Supervision Operations

Date

Signed

8-16-99

James J. Redemann

Date