

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

<b>In the Matter of:</b>	)	
	)	
Colleen Kimmel	)	AA-ENF-2023-69
Former General Counsel	)	
	)	
Sterling Bank and Trust, FSB	)	
Southfield, Michigan	)	
	)	

**CONSENT ORDER**

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist proceedings against Colleen Kimmel (“Respondent”) pursuant to 12 U.S.C. § 1818(b) on the basis of Respondent’s activities while serving as Corporate Counsel and then General Counsel of Sterling Bank and Trust, FSB, Southfield, Michigan (“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);

WHEREAS, Respondent has cooperated with and continues to fully cooperate with the OCC;

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).

(2) Respondent was an officer 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 action against Respondent pursuant to 12 U.S.C. § 1818(b).

**ARTICLE II**  
**COMPTROLLER’S FINDINGS**

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

(1) Respondent was employed at the Bank between approximately 2012 and 2023. Between 2012 and 2016, Respondent was the Bank’s Corporate Counsel. Between 2016 and 2023, Respondent was the Bank’s General Counsel. For certain periods during her employment, Respondent also managed the Bank’s compliance and Bank Secrecy Act (“BSA”), Community Reinvestment Act, Information Security, and Human Resource functions. Others at the Bank constrained Respondent’s authority and resources to carry out legal, compliance, and BSA functions at the Bank.

(2) Between approximately mid-2011 and December 2019, the Bank offered the Advantage Loan Program (“ALP”), a low-document residential loan program, which was one of the Bank’s primary loan products during this period. The ALP presented high risks for fraud, money laundering, and lending misconduct and therefore required strong monitoring and controls. The Bank originated numerous ALP loans that had false or fraudulent loan applications.

(3) Beginning in 2017, Respondent had information that suggested the Bank originated ALP loans that had false or fraudulent loan applications. Others at the Bank told Respondent they were investigating certain information and constrained Respondent’s ability to act to some degree, but Respondent did not ensure the Bank conducted or suggest to the Board that the Bank conduct a thorough investigation into concerns related to ALP until 2019. Respondent lacked the authority to engage external counsel or incur expenses without prior approval from the Bank’s Chief Executive Officer.

(4) Between at least 2018 and 2019, Respondent and others did not ensure the Bank’s BSA program had an adequate system of internal controls as required by 12 C.F.R. § 21.21(d)(1). Respondent and others did not timely report suspicious activity related to ALP loans to the United States Financial Crimes Enforcement Network as required by 12 C.F.R. § 163.180(d).

(5) By reason of the foregoing conduct, Respondent 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 otherwise affiliated with any depository institution as defined in 12 U.S.C. § 1813(c)(1) or otherwise becomes an institution-affiliated party as defined in 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws and regulations applicable to the institution, including laws and regulations related to BSA;
- (b) Not engage or participate in any unsafe or unsound practice, as that term is used in Title 12 of the United States Code;
- (c) Fulfill her fiduciary duties of loyalty and care;
- (d) Adhere to the institution's written policies and procedures, or receive written permission from appropriate authorized individuals to do otherwise; and
- (e) If Respondent serves as in-house legal counsel to the institution, ensure that the institution's management thoroughly investigates any significant concern or escalate the concern to the Board of Directors of the institution.

(2) Respondent shall fully cooperate with and provide substantial assistance to the OCC, including the provision of information, testimony, documents, in connection with any investigation, litigation, or administrative proceeding involving any current or former institution-affiliated party of the Bank with respect to any matter relating to this Order or the ALP. Nothing herein shall preclude Respondent from seeking indemnification for any expenses incurred while complying with this paragraph.

(3) If Respondent is currently an institution-affiliated party, she shall provide the President or Chief Executive Officer of the institution with a copy of this Order within ten (10) days of execution of this Order.

(4) Prior to accepting any offer of a position that causes Respondent to become an institution-affiliated party, she shall provide the President or Chief Executive Officer of the institution with a copy of this Order.

(5) Within ten (10) days of satisfying the requirements of paragraphs (3) and/or (4) of this Article, Respondent shall provide written certification of her compliance to the OCC by mail to the Director of Enforcement, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 or by email to the address provided by the OCC.

(6) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) or (2) of this Article, or if Respondent is uncertain about her duties arising from such paragraph, she shall obtain, at her own expense, and abide by the written advice of counsel regarding her 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.

(7) 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**

##### **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 under 12 U.S.C. § 1818(b);

- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) 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. § 7.2014 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. § 7.2014 and Part 359.

(3) Respondent acknowledges that she 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 any 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 her hand.

/s/

2/7/24

\_\_\_\_\_  
Colleen Kimmel

\_\_\_\_\_  
Date

**IT IS SO ORDERED.**

//s// Digitally Signed, Dated: 2024.02.08

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Michael R. Brickman  
Deputy Comptroller for Specialty Supervision