#N15-001

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

In the Matter of:	)	
William R. Blanton	)	
Former Director and Interim Chief Executive Officer and	)	
Vice Chairman	)	AA-EC-2015-24
United Americas Bank, N.A.	)	
Atlanta, Georgia	)	

NOTICE OF ASSESSMENT OF A CIVIL MONEY PENALTY

Take notice that on a date to be determined by the Administrative Law Judge, a hearing will commence in the Northern District of Georgia unless Respondent consents to another place, pursuant to 12 U.S.C. § 1818(i), concerning the charges set forth herein to determine whether an Order should be issued against William R. Blanton ("Respondent"), former Director and Interim Chief Executive Officer ("CEO") and Vice Chairman ("VC") of United Americas Bank, N.A., Atlanta, Georgia ("Bank"), by the Office of the Comptroller of the Currency ("OCC"), requiring Respondent to pay a civil money penalty.

The hearing afforded Respondent shall be open to the public unless the Comptroller of the Currency ("Comptroller"), in his discretion, determines that holding an open hearing would be contrary to the public interest.

In support of this Notice of Assessment of a Civil Money Penalty ("Notice"), the OCC charges the following:

ARTICLE I

JURISDICTION

At all times relevant to the charges set forth below:

(1) The Bank was an "insured depository institution" as defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was a director and 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 hereof (*see* 12 U.S.C. § 1813(i)(3)).

(3) The Bank was a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A).

(4) Accordingly, 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 civil money penalty action against Respondent pursuant to 12 U.S.C. § 1818(i).

ARTICLE II

BACKGROUND

(5) This Article repeats and realleges all previous Articles in this Notice.

(6) Respondent became a Director of the Bank on or about November 28, 2007.

(7) The Bank's former President and CEO left the Bank on or about April 30, 2010, and thereafter, Respondent assumed many of his duties.

(8) On or about June 7, 2010, the OCC approved the Bank's request for a waiver of the prior notice requirement of 12 U.S.C. § 1831i and 12 C.F.R. § 5.51 allowing Respondent to serve as the Bank's Interim CEO and VC.

(9) Respondent resigned as Interim CEO and VC on or about September 15, 2010.

(10) Respondent resigned as a Director of the Bank on or about October 7, 2010.

ARTICLE III

RESPONDENT RECKLESSLY ENGAGED IN UNSAFE OR UNSOUND PRACTICES AND BREACHED HIS FIDUCIARY DUTY BY ALLOWING A CUSTOMER TO INCUR AND MAINTAIN OVERDRAFTS WITHOUT ENSURING ADEQUATE CONTROLS WERE IN PLACE

(11) This Article repeats and realleges all previous Articles in this Notice.

(12) As described herein, Respondent recklessly engaged in unsafe or unsound practices and breached his fiduciary duty by continuing to allow a customer and his associated entities (collectively, "Customer A"[1]) to incur and maintain overdrafts in accounts at the Bank without ensuring that adequate controls were in place and despite prior OCC criticism and warnings from Bank officers.

(13) During the relevant time period, Customer A maintained over 30 different business and personal deposit accounts at the Bank. Customer A regularly incurred and maintained overdrafts in the accounts, many of which were of a significant dollar amount.

(14) Many of Customer A's overdrafts were incurred because the Bank allowed Customer A to make intrabank transfers from accounts with uncollected or nonsufficient funds. Although Customer A's accounts were typically positive in the aggregate, the Bank lacked a written agreement with Customer A granting the Bank the legal right to offset one Customer A account against another, which exposed the Bank to significant credit risk. The Customer A relationship also posed other risks, including operational risk, compliance risk, and reputation risk.

(15) The Bank's loan policy stated that "[a]n overdraft is an unsecured, undocumented extension of credit . . . ."

[1] The names of entities described by alias herein will be separately disclosed to Respondent.

(16) The OCC informed banks of some of the risks posed by allowing customers to incur overdrafts by drawing against uncollected funds in Advisory Letter 96-6. There, the OCC warned that it "has become aware of instances where banks have incurred significant losses through elaborate schemes to draw against uncollected funds. Typically, the banks most susceptible . . . do not have proper internal controls and reporting systems . . . or have failed to properly enforce internal procedures that already exist. In addition, liberal practices regarding funds availability . . . increase the potential for loss."

(17) Respondent knew or should have known of Customer A's overdraft activity before becoming the Bank's Interim CEO and VC on or about June 7, 2010 because he had been a Director of the Bank since about November 28, 2007. As a Director, Respondent attended meetings of the Bank's Board of Directors ("Board") and received Board packages containing overdraft reports. These overdraft reports regularly listed significant overdrafts in one or more Customer A accounts, the most significant of which included overdrafts of approximately: $123,429.71 as of February 29, 2008; $332,771.51 as of July 31, 2008; $346,724.02 as of February 28, 2009; $511,925.05 and $203,391.65 as of June 30, 2009; $393,563.90 as of August 31, 2009; $1,022,908.00 as of December 31, 2009; and $277,238.23 as of February 28, 2010.

(18) On or about March 23, 2010, while Respondent was serving as Director, the OCC discussed its concerns regarding Customer A's risky overdraft activity with Respondent. Respondent assured the OCC that the Bank would work to address the activity.

(19) On or about May 17, 2010, the Bank's Bank Secrecy Act ("BSA") Officer shared with Respondent the OCC's concern that, on a daily basis, Customer A was making several intrabank transfers from accounts with nonsufficient funds, often resulting in large overdrafts.

(20) As described in paragraphs (21) through (23), on at least three more occasions, the Bank's BSA Officer and Chief Financial Officer ("CFO") informed Respondent in writing that the Bank continued to allow Customer A to make intrabank transfers from accounts with uncollected funds and/or urged Respondent to halt the practice.

(21) On or about May 27, 2010, the Bank's BSA Officer sent the following email to Respondent regarding a Customer A intrabank transfer request: "Bill, [t]hese transfers were requested by [Customer A] yesterday afternoon, as you can see there are two pages worth of internal transfers to cover overdrafts . . . . I remember you told the OCC in our exit meeting that the bank would stop authorizing those internal transfers . . . . When would you like to proceed with this resolution?"

(22) On or about June 17, 2010, the Bank's BSA Officer sent the following email to Respondent and the Bank's CFO regarding another Customer A intrabank transfer request: "These transfers are being originated between accounts with no available funds."

(23) On or about June 17, 2010, the Bank's CFO reminded Respondent in an email: "[W]e are still doing the types of transfers for [Customer A] where we are transferring uncollected funds between his accounts and funds that are not available. . . . Transfers between accounts should be based on collected funds as you know."

(24) Respondent knew or should have known that the dollar amount of Customer A's overdraft activity was significant. For example, the overdraft report as of May 31, 2010 included in the Board package for the June 15, 2010 Board meeting listed one Customer A account with an overdraft balance of $195,532.41 that had been overdrawn 33 days year-to-date.

(25) Notwithstanding the known risks, Respondent failed to take appropriate and timely action to address Customer A's overdraft activity, which continued through the remaining months he served as Interim CEO, VC, and Director.

(26) On or about June 21, 2010, Respondent informed the Bank's CFO that "[w]e are working on a cross [guaranty] of all accounts so that all the [Company A] accounts will be considered one corporate entity. We should have the documents executed next week, please make sure that we have collected funds in the aggregate until we have the document signed."

(27) Respondent knew or should have known that Customer A's overdraft activity continued at this time. For example, the overdraft report as of June 30, 2010 included in the Board package for the July 20, 2010 Board meeting listed one Customer A account with an overdraft balance of $31,462.26 that had been overdrawn 78 days year-to-date. In addition, the overdraft report as of July 31, 2010 included in the Board package for the August 23, 2010 Board meeting listed another Customer A account with an overdraft balance of $53,514.30 that had been overdrawn 107 days year-to-date.

(28) On or about August 12, 2010, Respondent received a letter from the OCC in which the OCC urged the Bank to stop allowing Customer A to make intrabank transfers on nonsufficient funds that result in large overdrafts.

(29) In a letter dated August 21, 2010, the Bank informed the OCC that Customer A was still making intrabank transfers on a daily basis, and described the following internal controls that the Bank planned to implement to mitigate the risks posed by Customer A's overdraft activity: (a) an overdraft limit of 10% of the aggregated collected balance of Customer A's accounts; and (b) personal and corporate Cross-Guarantee Agreements granting the Bank the right to offset any one Customer A account against the other.

(30) On or about August 31, 2010, the OCC informed the Bank in writing that the Bank's practice of allowing Customer A to incur and maintain large overdrafts, without the existence of a legal right to offset one Customer A account against the others, posed significant credit risk and was unsafe or unsound, even though Customer A's accounts were typically positive in the aggregate. Respondent acknowledged receiving this written communication on or about September 1, 2010

(31) When Respondent resigned as the Bank's Interim CEO and VC on or about September 15, 2010, the Bank still had not implemented the additional controls described in paragraph (29) above to mitigate the risks posed by Customer A's overdraft activity.

(32) As discussed in paragraphs (33) and (34), after Respondent resigned as Interim CEO and VC on or about September 15, 2010, the Bank's Senior Credit Officer ("SCO"), who assumed many of Respondent's duties, took prompt action to address Customer A's risky overdraft activity.

(33) On or about September 21, 2010, the SCO emailed Customer A about the yet-to-be implemented controls on Customer A's overdraft activity, including the "absolute right of offset by UAB for any overdrafts."

(34) On or about October 8, 2010, after Customer A failed to respond to the SCO's September 21, 2010 email, the SCO informed Customer A via email that "[e]ffective October 12, 2010[,] United Americas Bank will no longer approve intra-bank transfers on uncollected funds between your existing accounts . . . these transfers will be allowed 'only' if there are collected funds in your active accounts . . . . [C]hecks written against insufficient funds will not be honored unless there are collected funds in the account(s) on which the instrument was drawn."

ARTICLE IV

RESPONDENT VIOLATED THE LAW AND BREACHED HIS FIDUCIARY DUTY BY CAUSING THE BANK TO RE-BOOK CHARGED OFF LOANS RESULTING IN THE FILING OF INACCURATE CALL REPORTS

(35) This Article repeats and realleges all previous Articles in this Notice.

(36) As described herein, Respondent violated the law and breached his fiduciary duty by causing the Bank to re-book charged-off loans, which was contrary to Generally Accepted Accounting Principles ("GAAP") and the instructions for the Consolidated Reports of Condition and Income ("call report") and resulted in the filing of materially inaccurate call reports, including for the period ending June 30, 2010.

(37) On or about May 26, 2006, the Bank issued a $2,100,000 loan to Customer B related to the borrower's acquisition and rehabilitation of a 120-unit apartment complex in Atlanta, Georgia. The Bank modified the loan on or about April 25, 2009.

(38) Beginning at least on or about June 30, 2009, the Bank determined that the Customer B loan was impaired and collateral dependent under Financial Accounting Standards Board Statement No. 114 ("FAS 114"). When the Bank reviewed the loan again on or about September 30, 2009 and December 31, 2009, the Bank continued to report the loan as impaired and collateral dependent. As of December 31, 2009, the outstanding balance on the loan was approximately $2,023,093.36.

(39) The Bank issued a $400,000 loan to Customer C on or about February 13, 2007 and a $1,839,500 loan to Customer C on January 31, 2008. The loans were related to the borrower's purchase of homes and lots in a subdivision and its intention of building new homes. The Bank modified the loans on or about May 29, 2009, September 1, 2009, and February 28, 2010.

(40) Beginning at least on or about June 30, 2009, the Bank determined that the Customer C loans were impaired and collateral dependent under FAS 114. When the Bank reviewed the loans again on or about September 30, 2009 and December 31, 2009, the Bank continued to report the loans as impaired and collateral dependent. As of December 31, 2009, the outstanding balances on the loans were approximately $390,323 and $1,694,432.18.

(41) The OCC reviewed the Customer B and Customer C loans during the examination of the Bank that commenced on or about February 15, 2010, using financial information as of December 31, 2009. The OCC concurred with the Bank's determination that the loans were collateral dependent and impaired, directed the Bank to obtain new appraisals on the relevant collateral properties, and indicated that charge-offs would likely be required after the Bank received the new appraisals.

(42) On or about April 5, 2010, the Bank received an updated appraisal on the Customer B loan's collateral property. The appraisal determined that the market value of the property as of March 24, 2010 was $470,000.

(43) On or about April 16, 2010, the Bank charged off, effective December 31, 2009, $1,539,003.00 in connection with the Customer B loan.

(44) On or about April 16, 2010, the Bank received an updated appraisal on the Customer C loans' collateral properties. The appraisal determined that the market value of the properties as of April 9, 2010 was $960,000.

(45) On or about April 26, 2010, the Bank charged off $1,124,755.30 in connection with the Customer C loans.

(46) On or about May 18, 2010, the Board, including Respondent, unanimously approved the Customer B and Customer C charge-offs, which totaled $2,663,758.30.

(47) As discussed in paragraphs (48) through (50), in the days following the Board's approval of the charge-offs, however, Respondent discussed with the OCC via email the possibility of re-booking the charged-off Customer B and Customer C loans.

(48) On or about May 23, 2010, Respondent indicated to the OCC, via email, that the Bank was successful in reaching an agreement with Customer B and received a favorable response from Customer C about pledging additional collateral on their loans and, consequently, that it planned to re-book the Customer B and Customer C charge-offs.

(49) On or about May 24, 2010, the OCC informed Respondent, via email, that the call report instructions clearly state that re-booking a charged-off loan after a bank concludes that the prospects for recovering the charge-off have improved is not an acceptable accounting practice.

(50) On or about May 24, 2010, Respondent, via email, acknowledged that the statement made in his May 23, 2010 email to the OCC was incorrect.

(51) According to the minutes of the June 15, 2010 Board meeting, Respondent informed the Board that "the bank is going to take a second look at the application of FAS 114 on several of the end of year charge-offs mandated by the OCC in an attempt to recover the charge-offs. From this second look, the bank might recover[] $3MM." Respondent assured the Board that the Bank's external auditor "would be willing to write up a document supporting the bank's assertions."

(52) The call report instructions in effect during the relevant time period, however, made clear that re-booking charged-off loans is not permissible. "When a bank makes a full or partial direct write-down of a loan or lease that is uncollectible, the bank establishes a new cost basis for the asset. Consequently, once a new cost basis has been established for a loan or lease through a direct write-down, this cost basis may not be 'written up' at a later date. ***Reversing the***

previous write-down and 're-booking' the charged-off asset after the bank concludes that the prospects for recovering the charge-off have improved . . . is not an acceptable accounting practice" (emphasis added).

(53) On or about July 7, 2010, the Bank re-booked the Customer B and Customer C charge-offs, which totaled $2,663,758.30, effective December 31, 2009.

(54) At the time the Bank re-booked the Customer B and Customer C loans on or about July 7, 2010, both loans were past due.

(55) In addition, at the time the Bank re-booked the Customer B and Customer C loans on or about July 7, 2010, Respondent's own conditions precedent to the re-bookings, while irrelevant, had not occurred. Specifically, the Bank had not successfully reached agreement with Customer B or Customer C to pledge any additional collateral, as Respondent had previously indicated to the OCC, and the Bank had yet to receive even a draft of the "document supporting the bank's assertions" from its external auditor that Respondent represented to the Board the Bank would receive.

(56) On or about July 13, 2010, the Bank's CFO, via email, sent a draft of the "document supporting the bank's assertions" to the external auditor and stated: "[Respondent] requested that I ask you to look over the attachment and make any suggestions and cite any sources . . . to support the bank's FAS 114 position that was discussed with you earlier this month. He wants you to lend your weight to the write-up. . . . In the write up . . . I started to identify the information on each loan, but the information was not available per [Respondent] yet."

(57) On or about July 13, 2010, the external auditor sent a revised draft of the "document supporting the bank's assertions" to the CFO and asked him to "fill in some of the details" regarding the guarantors' cash flow and the value of any additional collateral.

(58) On or about July 13, 2010, the CFO responded to the external auditor, via email, that he requested information from Respondent regarding the guarantors' cash flow and the value of any additional collateral but that "we could not provide as of yet."

(59) According to minutes of the July 20, 2010 Board meeting, which was the next Board meeting after the July 7, 2010 re-booking of the Board-approved Customer B and Customer C charge-offs, Respondent failed to inform the Board at the meeting that the Bank had re-booked the charge-offs, that the re-bookings were contrary to the OCC's May 24, 2010 instructions, and that the Bank, contrary to Respondent's representation at the June 15, 2010 Board meeting, had not received any "document supporting the bank's assertions" from its external auditor before re-booking the charge-offs.

(60) On or about July 27, 2010, Respondent informed the brother of Customer B's principal, who was also the Bank's Chairman, that several loans, including Customer B's loan, "are past due and we are trying to get them cleard [sic] up by month end."

(61) On or about July 30, 2010, the Bank filed its June 30, 2010 call report, which it re-filed on or about August 16, 2010. The $2,663,758.30 in Board-approved charge-offs were not reflected in either version of the June 30, 2010 call report and their omission resulted in material errors on both call report filings.

(62) On or about August 5, 2010, a Customer C principal informed Respondent that Customer C "did not have sufficient collateral to cover the Customer C loan deficiency."

(63) On or about September 2, 2010, Respondent was informed that Customer B had been "administratively dissolved in Georgia in 2008."

(64) On or about September 15, 2010, when Respondent resigned as the Bank's Interim CEO and VC, the "document supporting the bank's assertions" from its external auditor still had not been finalized, as Respondent had failed to provide specific information to the auditor about the guarantors' cash flow and the value of any additional collateral.

(65) On September 23, 2010, the OCC directed the Bank to charge-off, effective December 31, 2009, $1,306,410 in connection with the Customer C loans and $1,528,713 in connection with the Customer B loan. The increase in the Customer B loan's required charge-off amount resulted from the OCC's discovery of an additional appraisal for the Customer B loan's collateral property, providing an appraised value of $875,000 as of February 2, 2010, that had not previously been disclosed to the OCC.

(66) On or about September 27, 2010, the Bank charged off, as of December 31, 2009, $1,306,410 in connection with the Customer C loans and $1,528,713 in connection with the Customer B loan.

(67) On or about November 18, 2010, the Bank revised its June 30, 2010 call report to include the Customer B and Customer C charge-offs, totaling approximately $2,835,123.

ARTICLE V

LEGAL BASES FOR REQUESTED RELIEF

(68) This Article repeats and realleges all previous Articles in this Notice.

(69) By reason of Respondent's misconduct as described in Articles III and IV, the Comptroller seeks imposition of a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i) on the following grounds:

(a) Respondent violated the law, including 12 U.S.C. § 161, recklessly engaged in unsafe or unsound practices, and breached his fiduciary duty to the Bank; and

(b) Respondent's violation, practice, and/or breaches were part of a pattern of misconduct.

ANSWER AND OPPORTUNITY FOR HEARING

Respondent is directed to file a written Answer to this Notice within twenty (20) days from the date of service of this Notice in accordance with 12 C.F.R. § 19.19(a) and (b). The original and one copy of any Answer shall be filed with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondents are encouraged to file any Answer electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov. A copy of any Answer shall also be filed with the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219, hearingclerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to Answer within this time period shall constitute a waiver of the right to appear and contest the allegations contained in this Notice, and shall, upon the OCC's motion, cause the Administrative Law Judge or the Comptroller to find the facts in this Notice to be as alleged, upon which an appropriate order may be issued.**

Respondent is also directed to file a written request for a hearing before the Comptroller, along with the written Answer, concerning the Civil Money Penalty assessment contained in this Notice within twenty (20) days after date of service of this Notice, in accordance with 12 U.S.C. § 1818(i) and 12 C.F.R. § 19.19(a) and (b). The original and one copy of any request shall be

filed, along with the written Answer, with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any request electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov. A copy of any request, along with the written Answer, shall also be served on the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, hearingclerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to request a hearing within this time period shall cause this assessment to constitute a final and unappealable order for a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i).**

PRAYER FOR RELIEF

The OCC prays for relief in the form of the issuance of an Order of Civil Money Penalty Assessment against Respondent in the amount of Ten Thousand Dollars ($10,000) pursuant to 12 U.S.C. § 1818(i).

Witness, my hand on behalf of the OCC, given at Washington, DC this 30th day of June, 2015.

S/Henry Fleming

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Henry Fleming
Director
Special Supervision Division