

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

<hr/> <b>In the Matter of:</b>	)	
Colleen Adams	)	
Mortgage Loan Consultant	)	AA-EC-10-12
Wachovia Bank, N.A.	)	
Cartersville, Georgia	)	
	)	
Succeeded in interest by:	)	
Wells Fargo Bank, N.A.	)	
Sioux Falls, South Dakota	)	
<hr/>		

**NOTICE OF INTENTION TO PROHIBIT FURTHER PARTICIPATION  
AND NOTICE OF CHARGES FOR ISSUANCE OF AN ORDER  
TO CEASE AND DESIST REQUIRING PAYMENT OF RESTITUTION**

On a date to be determined by the Administrative Law Judge, a hearing will commence in Cartersville, GA, pursuant to 12 U.S.C. § 1818(e), concerning the charges set forth herein to determine whether an Order should be issued against Colleen Adams (“Respondent”), former Mortgage Loan Consultant at Wachovia Bank, N.A., Cartersville, GA, (“Wachovia” or “Bank”) (a division of Wells Fargo Bank, N.A., Sioux Falls, SD), prohibiting Respondent from participating in any manner in the conduct of the affairs of any federally insured depository institution or any other institution, credit union, agency or entity referred to in 12 U.S.C. § 1818(e), as amended; and requiring Respondent to make restitution to the Bank pursuant to 12 U.S.C. § 1818(b)(6).

The hearing afforded the Respondent shall be open to the public unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

After examination and investigation into the affairs of the Bank, the Comptroller is of the opinion that:

- Respondent has engaged in unsafe or unsound practices in conducting the affairs of the Bank and/or breached her fiduciary duty.
- By reason of Respondent's practices and/or breaches, the Bank has suffered or will have suffered financial loss or other damage.
- Such practices and/or breaches involved personal dishonesty on the part of Respondent and/or demonstrated a willful or continuing disregard for the Bank's safety and soundness.
- Respondent was unjustly enriched in connection with such practices and/or Respondent's violations or practices involved a reckless disregard for law, regulation, or order.

The Comptroller intends to: a) prohibit Respondent, pursuant to 12 U.S.C. § 1818(e), from further participation in any manner in the conduct of the affairs of any federally insured depository institution and any other institution, credit union, agency and entity referred to in 12 U.S.C. § 1818(e); and b) order Respondent to pay restitution to Wells Fargo Bank in the amount of Thirteen Thousand Three-Hundred and Eleven Dollars (\$13,311), or such other amount as justice may require, representing the unjust enrichment to Respondent and the Bank's loss attributable to Respondent's misconduct, pursuant to 12 U.S.C. § 1818(b)(6).

In support of this Notice of Intention to Prohibit Further Participation and Notice of Charges for Issuance of an Order to Cease and Desist Requiring Payment of Restitution, the Comptroller charges the following:

**ARTICLE I**

**JURISDICTION**

At all times relevant to the charges set forth below:

(1) The 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.*

(2) The Bank was an “insured depository institution” as defined in 12 U.S.C. § 1813(c)(2) and within the meaning of 12 U.S.C. § 1818(i)(2).

(3) The Comptroller is the “appropriate Federal banking agency” within the meaning of 12 U.S.C. § 1813(q)(1) and for the purposes of 12 U.S.C. § 1818(e), to initiate and maintain an enforcement proceeding against an institution-affiliated party.

(4) Respondent was an employee at 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)). Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain an enforcement proceeding against Respondent pursuant to 12 U.S.C. § 1818.

**ARTICLE II**

**RESPONDENT MADE WITHDRAWALS FROM CUSTOMER ACCOUNTS WITHOUT PROPER AUTHORITY OR PURPOSE**

(5) Respondent was employed as a Mortgage Consultant at the Cartersville, Georgia branch of Wachovia from on or about January 27, 2005, until her termination on February 13, 2006.

(6) While employed at Wachovia, Respondent made unauthorized withdrawals from the accounts of two separate Bank customers for her own personal use.

(7) Respondent originated a mortgage loan for Customers A and B. The mortgage closed on December 22, 2005.

(8) On October 5, 2005, upon Respondent's advice, Customers A and B authorized Respondent to debit their account in the amount of \$8,500 for the purpose of paying closing costs up front to lock in the mortgage interest rate. Customers A and B acted with the understanding that the funds would be credited against their mortgage.

(9) On October 5, 2005, Respondent debited the account of Customers A and B in the amount of \$8,500. Instead of withdrawing the funds in the form of an official check payable to the Bank and applied to the mortgage, Respondent withdrew the funds in cash and used them personally, without the authorization of Customers A and B.

(10) Customers A and B also understood that \$2,811 would be refunded to them at the mortgage closing, which did not occur. Subsequent to closing, Respondent told Customers A and B that a check in the amount of \$2,811 would be sent to them, which also did not occur.

(11) On December 23, 2005, Respondent, debited \$2,811 via a teller withdrawal slip from the account of Customers A and B, without their authorization.

(12) When confronted by Customers A and B, Respondent represented the transaction as an accident in executing the wrong form.

(13) Respondent then requested that Customers A and B send her an e-mail authorizing Respondent to debit the account in an attempt to legitimize the unauthorized debit

and prevent her termination. On January 23, 2006, Customer B reluctantly sent the e-mail authorizing the debit in the amount of \$2,811.

(14) On January 23, 2006, Customer A & B's account was credited for \$2,811 in a transaction completed by Respondent. The deposit consisted of an official Bank check in the amount of \$2,000 and \$811 in cash.

(15) The source of the official check was another official check in the amount of \$2,000 drawn against the Bank, made payable to "Johnson and Dickerson PC" and endorsed "not used for purpose intended," with a corresponding debit from the account of Customer C. This transaction was initiated by Respondent on January 11, 2006.

(16) Customer C had previously granted Respondent permission to debit his account in the amount of \$2,000 to pay off an outstanding loan, but did not authorize use of the funds to purchase the check credited against the account of Customers A and B. Customer C was not familiar with "Johnson and Dickerson" and did not authorize Respondent to debit his account for the purpose of making payment to "Johnson and Dickerson."

### **ARTICLE III**

#### **GROUNDS FOR AN ORDER OF PROHIBITION** **GROUNDS FOR AN ORDER TO CEASE AND DESIST REQUIRING PAYMENT OF** **RESTITUTION**

(17) As evidenced by Respondent's actions described in Article II above, Respondent engaged in unsafe or unsound practices and breached her fiduciary duty by withdrawing funds from customer accounts without proper authorization or purpose.

(18) Respondent demonstrated both personal dishonesty and a willful and/or continuing disregard for the Bank by initiating unauthorized transactions, withdrawing Bank funds for personal use, and using funds from Customer C's account to reimburse Customers A and B without proper authorization.

(19) Respondent's conduct resulted in a loss to the Bank of \$13,311.

(20) Respondent's misappropriation of Bank funds for personal use resulted in her own unjust enrichment.

#### ARTICLE IV

#### OPPORTUNITY FOR A HEARING

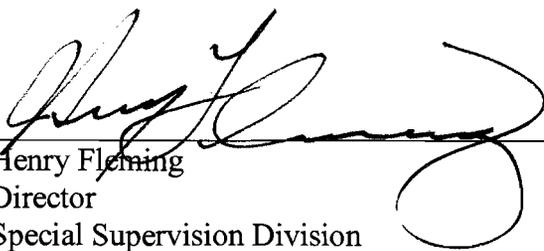
Respondent is directed to file a written answer to this Notice within twenty (20) days from the date of service of this Notice in accordance with 12 C.F.R. § 19.19(a) and (b). The original and one copy of any answer shall be filed with the Office of Financial Institution Adjudication, Federal Deposit Insurance Corporation, 3501 N. Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any answer electronically with the Office of Financial Institution Adjudication at [ofia@fdic.gov](mailto: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, 250 E Street, SW, Washington, D.C. 20219 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 Comptroller'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.**

**PRAYER FOR RELIEF**

The Comptroller prays for relief in the form of the issuance of a final Order of Prohibition and an Order to Cease and Desist Requiring Payment of Restitution in the amount of Thirteen Thousand Three-Hundred and Eleven Dollars (\$13,311), or such other amount as justice may require.

Witness, my hand on behalf of the Office of the Comptroller of the Currency, given at Washington, D.C., this 29<sup>th</sup> day of September 2010.

  
Henry Fleming  
Director  
Special Supervision Division

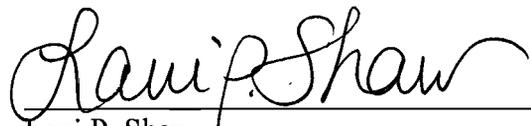
**UNITED STATES OF AMERICA  
DEPARTMENT OF THE TREASURY  
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:	)	
Colleen Adams	)	
Former Mortgage Loan Consultant	)	<b>AA-EC-10-12</b>
Wachovia Bank, N.A.	)	
Cartersville, GA	)	

**NOTICE OF APPEARANCE**

I, Lani P. Shaw , declare that I am a Senior Attorney, Enforcement and Compliance Division, with the Office of the Comptroller of the Currency, Washington, D.C. I am qualified and authorized to represent the Office of the Comptroller of the Currency in the captioned matter, as provided in 12 C.F.R. § 19.6(a)(1). I am a member in good standing of the South Carolina Bar and have been admitted to practice before the courts of the state of South Carolina.

Respectfully submitted this 29th day of September, 2010.



Lani P. Shaw  
Senior Attorney  
Enforcement and Compliance Division  
250 E St., SW  
Washington, DC 20219  
(202) 874-4800  
(202) 874-5301

## CERTIFICATE OF SERVICE

I hereby certify I caused copies of the *Notice of Intention To Prohibit Further Participation, Notice of Charges for Issuance of an Order to Cease and Desist Requiring Payment of Restitution* and *Notice of Appearance for Lani P. Shaw* to be served upon the following by the means indicated:

Personal Service via Process Server, Regular Mail and Overnight Delivery:

Colleen Adams  
159 Connesena Road  
Kingston, Georgia 30145

Personal Service:

Hearing Clerk  
Office of the Comptroller of the Currency  
Washington, D.C. 20219

Electronic Service:

Office of Financial Institutions Adjudication  
1700 G Street, N.W.  
Washington, D.C. 20552

Respectfully submitted this 29th day of September 2010.



Lani P. Shaw  
Senior Attorney  
Enforcement and Compliance Division  
Office of the Comptroller of the Currency  
Washington, D.C. 20219  
(202) 874-1259/Dig. Fax (301) 433-7365  
Email: Lani.Shaw@occ.treas.gov