

#2010-166

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

In the Matter of:)
)
) AA-EC-2010-39
Intercredit Bank, NA)
Miami, Florida)

CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has supervisory authority over Intercredit Bank, NA, Miami, Florida (“Bank”).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of a Consent Order, dated 6/21/10 (“Stipulation and Consent”), that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

Pursuant to the authority vested in it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

ORDER FOR A CIVIL MONEY PENALTY

(1) Without admitting or denying any wrongdoing, the Bank hereby consents to the payment of a civil money penalty in the amount of two hundred thousand dollars (\$200,000.00), which shall be paid upon execution of this Order.

- (a) If a check is the selected method of payment, the check shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000.
- (b) If a wire transfer is the selected method of payment, it must be sent to the Comptroller's account #XXXX-XXXX, ABA Routing # XXXXXXXXXX.
- (c) The Bank shall submit a copy of the check or proof of the wire transfer to the Director, Enforcement and Compliance Division, 250 E Street, S.W., Washington, D.C. 20219.

(2) 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(h) and (i) (as amended).

ARTICLE II

CLOSING

(1) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(2) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his 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 Comptroller.

(3) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(i), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(4) 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.

IT IS SO ORDERED, this 21st day of June, 2010.

/s/Henry Fleming

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:)	
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Intercredit Bank, NA)	
Miami, Florida)	

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate a civil money penalty proceeding against Intercredit Bank, NA, Miami, Florida (“Bank”) pursuant to 12 U.S.C. § 1818(i) for its failure to maintain a system of internal controls to assure ongoing compliance with the Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.*, in violation of 12 C.F.R. § 21.21, and for its failure to file Suspicious Activity Reports in violation of 12 C.F.R. § 21.11 all of which occurred at the Bank during the years 2006-2007; and

The Bank represents it is taking steps to correct these failures, and in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated 6/21/10 (“Order”);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

JURISDICTION

(1) The 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.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(i).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(i).

ARTICLE II

AGREEMENT

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller.

(2) The Bank further agrees that said Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities.

ARTICLE III

WAIVERS

(1) The Bank, by signing this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation and Consent”), hereby waives:

- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
- (b) any and all procedural rights available in connection with the issuance of the Order;
- (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i) and 12 C.F.R. Part 19;
- (d) all rights to seek any type of administrative or judicial review of the Order; and
- (e) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

OTHER ACTION

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, it deems it appropriate to do so to fulfill the responsibilities placed upon it by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/s/Henry Fleming
Henry Fleming
Director
Special Supervision Division

6/21/10
Date

