

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

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<b>In the Matter of:</b>	)	
	)	
First National Bank of Wahoo	)	AA-WE-2013-30
Wahoo, Nebraska	)	
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**STIPULATION AND CONSENT TO THE ISSUANCE  
OF AN ORDER FOR A CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiners, has supervisory authority over First National Bank of Wahoo, Wahoo, Nebraska (“Bank”);

WHEREAS, the Comptroller intends to initiate a civil money penalty proceeding against the Bank pursuant to section 102(f) of the Flood Disaster Protection Act, as amended, (“Flood Act”) (42 U.S.C. § 4012a(f)) for a pattern or practice of violations of the Flood Act and its implementing regulations, specifically 12 C.F.R. §§ 22.3 (failure to ensure that property securing certain loans had appropriate flood insurance when making, increasing, extending, or renewing such loans), 22.7 (failure to force place insurance after making a determination that the collateral was not covered by appropriate flood insurance), 22.9(a) (failure to provide notice to certain borrowers that the collateral securing the loan is in a special flood hazard area when making, increasing, extending, or renewing such loans), and 22.9(c) (failure to provide notice to certain borrowers, as required by 22.9(a), within a reasonable time before the completion of the transaction);

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 Bank, without admitting or denying any wrongdoing, desires to enter into this Stipulation and Consent Order (“Order”); and

NOW, THEREFORE, in consideration of the above premises, the Comptroller, through his duly authorized representative, and the Bank, through its duly elected and acting Board of Directors, 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.* Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2) and is a “regulated lending institution” as that term is defined in 42 U.S.C. § 4003(a)(10).

(2) Pursuant to 42 U.S.C. §§ 4003(a)(5) and 4012a(f), the Comptroller is “the appropriate Federal entity for lending regulation” to maintain an enforcement proceeding against the Bank for Flood Act violations.

### **Article II**

#### **ORDER FOR CIVIL MONEY PENALTY**

The Bank hereby consents, and the Comptroller orders that:

(1) The Bank shall pay a civil money penalty in the amount of eleven thousand, two hundred, and forty dollars (\$11,240.00) upon execution of this Order.

(2) The Bank shall make payment in full by check made payable to the National Flood Insurance Program and shall deliver the payment to: Kevin Montgomery, Federal Emergency Management Agency, 1800 South Bell Street, Room 510, Arlington, Virginia 20598-3010. The docket number of this action shall be entered on the check.

(3) The Bank shall submit a copy of the check, along with this signed Order, to Lance Cantor, District Counsel, Office of the Comptroller of the Currency, 1225 17th Street, Suite 300, Denver, Colorado, 80202.

(4) 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) and 42 U.S.C. § 4012a.

### **Article III**

#### **WAIVERS**

- (1) By executing this Order, the Bank waives:
  - (a) the right to the issuance of a Notice under 12 U.S.C. § 1818(i) and 42 U.S.C. § 4012a(f)(4), and recognizes that the letter dated May 8, 2013, from Kay E. Kowitz, Deputy Comptroller, constitutes a valid substitute notice (“Notice Letter”);
  - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19, and 42 U.S.C. § 4012a(f)(4);

- (c) all rights to seek judicial review of this Order; and
- (d) all rights in any way to contest the validity of this Order.
- (e) 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 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) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, his agents or employees to cause or induce the Bank to agree to consent to the issuance of this Order and/or to execute this Order.

(3) It is hereby agreed that the provisions of this Order constitute a settlement of the civil money penalty proceeding contemplated by the Comptroller on the basis of the Bank's violations of the Flood Act and its implementing regulations as described in this Order and in the Notice Letter. However, the specific violations described herein and in the Notice Letter may be used by the Comptroller in future enforcement actions to establish a pattern or practice of misconduct or the continuation of a pattern or practice of misconduct.

(4) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (3) of this Article, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any

action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(5) The Bank understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and that nothing herein constitutes, nor shall the Bank 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 has hereunto set her hand.

/s/  
\_\_\_\_\_  
Kay E. Kowitt  
Deputy Comptroller  
Western District

05/17/13  
\_\_\_\_\_  
Date

**IN TESTIMONY WHEREOF**, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/s/  
\_\_\_\_\_  
Michael Collins

05/10/13  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Chris Greenfield

05/10/13  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Jim Irvine

05/12/13  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Douglas Magill

05/15/13  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
William March

05/14/2013  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Robert Tritsch

05/14/2013  
\_\_\_\_\_  
Date

/s/  
\_\_\_\_\_  
Steve Sallenbach

05/10/13  
\_\_\_\_\_  
Date