

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

In the Matter of:)	
)	
Alexander Hamilton)	AA-EC-2018-14
Chairman of the Board)	
)	
High Desert Bank)	
Bend, Oregon)	

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist proceedings against Alexander Hamilton (“Respondent”) pursuant to 12 U.S.C. § 1818(b) on the basis of Respondent’s activities while serving as Chairman of the Board of Directors of High Desert Bank, Bend, Oregon (“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, consents to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b);

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 is a director of 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 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 is Chairman of the Bank’s Board of Directors (“Board”), and has served in such capacity since July 2013.

(2) In August 2013, the Bank and a third-party loan servicer (“Third Party”) entered into a Sub-servicing Agreement (“SSA”). Pursuant to the terms of the SSA, the Bank would sub-service approximately 20 loans over which the Third Party held contractual servicing rights. After execution of the SSA, the Third Party, without the existence of a separate written agreement, continued to perform servicing activities with respect to those loans and did so in the Bank’s name.

(3) The Third Party, among other things, received and processed loan payments payable to the Bank for the approximately 20 loans, communicated with borrowers and a state

regulator in the Bank's name, and filed forms with the Internal Revenue Service in the Bank's name without the Bank's consent.

(4) The Board approved the Bank's entry into the SSA despite the absence of adequate due diligence and sufficient risk management processes. The Board failed to ensure the Bank adopted and implemented a program to oversee, monitor, and control the Third Party's performance under the SSA or that there was a written agreement covering the Third Party's servicing of loans under the SSA.

(5) The Bank's relationship with the Third Party with regard to servicing of loans covered by the SSA in the Bank's name constituted an unsafe or unsound use of the Bank's charter by the Third Party.

(6) The Bank did not suffer actual loss by reason of the foregoing conduct.

(7) 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;
- (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 his fiduciary duties of loyalty and care and, at all times, avoid placing his own interests above those of the institution;
- (d) Adhere to the institution's written policies and procedures, or receive written permission from appropriate authorized individuals to do otherwise; and
- (e) Not approve or renew, participate in the approval or renewal of, or influence the approval or renewal of, any new or existing contract or engagement with a third party, unless that contract or engagement is consistent with safe and sound risk management principles for third-party relationships and does not result in an unsafe or unsound arrangement.

Refer to OCC Bulletin 2013-29, Third Party Relationships: Risk Management Guidance (October 30, 2013) for more information on safe and sound third-party risk management principles.

(2) If Respondent is currently an institution-affiliated party, he 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.

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

(4) Within ten (10) days of satisfying the requirements of paragraphs (2) and/or (3) of this Article, Respondent shall provide written certification of his compliance to the Director, Enforcement & Compliance Division, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219.

(5) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) of this Article, or if Respondent is uncertain about his duties arising from such paragraph, he shall obtain, not at the Bank's expense, the written advice of counsel regarding his 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.

(6) 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. § 145.121 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. § 145.121 and Part 359.

(3) Respondent acknowledges that he 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 his hand.

s/ Alexander Hamilton

6/11/2018

Alexander Hamilton

Date

IT IS SO ORDERED.

s/ Michael R. Brickman

6/15/2018

Michael R. Brickman
Deputy Comptroller for Special Supervision

Date