

#2005-143

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

In the Matter of:)
First National Bank of Arvada)
Arvada, Colorado)

AA-EC-05-81

CONSENT ORDER OF CIVIL MONEY PENALTY

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate this civil money penalty proceeding against the First National Bank of Arvada, Arvada, Colorado (“Bank”) pursuant to 12 U.S.C. § 1818(i) (as amended) through the issuance of a Notice of Civil Money Penalty Assessment dated September 16, 2005, for a violation of 12 U.S.C. § 84, and the Office of the Comptroller of the Currency’s (“OCC’s”) implementing regulation at 12 C.F.R. Part 32.

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 Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(i);

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and the Bank that:

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).

(2) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain an enforcement proceeding against the Bank. Therefore, the Bank is subject to the authority of the Comptroller to initiate and maintain this civil money penalty proceeding against it pursuant to 12 U.S.C. § 1818(i).

ARTICLE II

FINDINGS AND CONCLUSIONS

(1) In or about November 1998, the Bank entered into a banking relationship with PC Financial, LLC; REMO Enterprises, LLC; and Texas Mortgage, LLC (collectively referred to in this Notice as “PCF” or “PC Financial”). The Bank purchased participations from PC Financial on a regular basis. Through a consistent course of conduct between the Bank and PC Financial, an agreement existed between the parties such that PC Financial agreed to repurchase the loans from the Bank when the loans reached approximately forty-five (45) days past due. Therefore, the participation purchases from PC Financial are not bona fide sales and there is and was no pro rata transfer of the risk of loss from PC Financial to the Bank. All participations are therefore treated as a loan to PC Financial for lending limit purposes. As a result, the Bank violated 12

U.S.C. § 84, and the OCC's implementing regulation at 12 C.F.R. Part 32.

ARTICLE III

ORDER FOR CIVIL MONEY PENALTY

(1) The Bank hereby consents to the payment of a civil money penalty in the amount of fifty thousand dollars (\$50,000), which shall be paid upon execution of this Order .

(2) The Bank shall make payment in full by check made payable to the Treasurer of the United States and shall deliver the payment to: Comptroller of the Currency, P.O. Box 9790012, St. Louis, Missouri 63197-9000. The docket number of this case should be entered on all checks.

(3) If the Bank fails to comply with any provision of this Order, then the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable.

(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) (as amended).

ARTICLE IV

WAIVERS

- (1) By executing this Order, the Bank waives:
 - (a) the right to the issuance of a Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818(i);
 - (b) 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;

- (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 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 acknowledges that it 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 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) 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, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/s/ Ronald G. Schneck
Ronald G. Schneck
Director for Special Supervision

10/11/05
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.

Signed 9/20/05

James R. Cook

Date

Signed

9/20/05

Dick Easterly

Date

Signed

9/20/05

Harvey D. Hoff

Date

Signed

9-20-05

James W. Randall

Date

Signed

9/20/05

Daniel L. Tanner

Date

Signed

9/20/05

Thomas G. Thomas

Date