

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

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**In the Matter of:** )  
 ) AA-EC-05-24  
Charter One Bank, National Association )  
Cleveland, Ohio )

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**ORDER FOR A CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) has initiated a civil money penalty proceeding against Charter One Bank, National Association, Cleveland, Ohio (“Bank”), pursuant to 42 U.S.C. § 4012a(f), for a pattern or practice of making, increasing, extending or renewing loans in a special flood hazard area in which flood insurance is available under the National Flood Insurance Act without requiring the property securing the loans to be covered by the requisite flood insurance; and failing to provide notice to borrowers that they must obtain flood insurance because the properties securing the designated loans are not covered by flood insurance or are covered by flood insurance in an amount less than is required, or failing to purchase insurance on the borrowers’ behalf as required;

WHEREAS, the Comptroller has initiated a civil money penalty proceeding against Charter One Bank, National Association, Cleveland, Ohio (“Bank”), pursuant to 12 U.S.C. § 1818(i) for a pattern or practice of violating 12 C.F.R. Part 22 and engaging in unsafe and unsound practices in connection with its consumer compliance management;

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”);

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.*

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

(3) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2) and within the meaning of 12 U.S.C. § 1818. The Bank is a “regulated lending institution” as that term is defined at 42 U.S.C. § 4003(a)(10).

(4) 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.

## Article II

### ORDER FOR CIVIL MONEY PENALTY

(5) Without admitting or denying any wrongdoing, the Bank hereby consents to the payment of a civil money penalty in the amount of one hundred and fifteen thousand dollars (\$115,000), which shall be paid in full upon execution of this Order to the Federal Emergency Management Agency.

(a) If a check is the selected method of payment, the check in the amount of \$115,000 shall be made payable to the National Flood Insurance Program and shall be delivered to: National Flood Insurance Program, Federal Emergency Management Agency, 7700 Hubble Drive, Lanham, Maryland 20706.

(b) If a wire transfer is the selected method of payment, it must be made to the National Flood Insurance Program's account #XXXXXXXX, ABA Routing # XXXXXXXXXXX.

(6) Without admitting or denying any wrongdoing, the Bank hereby consents to the payment of a civil money penalty in the amount of three hundred and eighty-five thousand dollars (\$385,000), which shall be paid in full upon execution of this Order to the United States Department of the Treasury.

(a) If a check is the selected method of payment, the check in the amount of \$385,000 shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 9012, St. Louis, Missouri 63197-9012.

(b) If a wire transfer is the selected method of payment, it must be made to the Comptroller's account #XXXX-XXXX, ABA Routing #XXXXXXXXXX.

(7) The Bank shall submit a copy of the checks or wire transfers to the Director, Enforcement & Compliance Division, 250 E St., S.W., Washington, DC 20219.

(8) 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

- (9) 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 February 18, 2005, from Delora Jee, Deputy Comptroller for Large Bank Supervision, constitutes a valid substitute notice;
  - (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;
  - (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.

(10) 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.

(11) It is hereby agreed that the provisions of this Order constitute a settlement of the civil money penalty proceeding contemplated by the Comptroller.

(12) 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), 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.

(13) 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.

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IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

*/s/ Delora Ng Jee*  
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Delora Ng Jee  
Deputy Comptroller  
Large Supervision

*5-17-05*  
\_\_\_\_\_  
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  
\_\_\_\_\_  
James B. Fitzgerald

*4/18/05*  
\_\_\_\_\_  
Date

Signed  
\_\_\_\_\_  
Mark J. Formica

*4/14/05*  
\_\_\_\_\_  
Date

Signed  
\_\_\_\_\_  
Thomas J. Hollister

*4/14/05*  
\_\_\_\_\_  
Date

Signed  
\_\_\_\_\_  
Charles J. Koch

*4/14/05*  
\_\_\_\_\_  
Date

Signed  
\_\_\_\_\_  
Melvin J. Rachel

*4/14/05*  
\_\_\_\_\_  
Date