

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

In the Matter of:	)	
	)	
Civil Money Penalty Assessment Against	)	AA-WE-10-56
American National Bank	)	
Omaha, Nebraska	)	
	)	

**STIPULATION AND CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate a civil money penalty proceeding against American National Bank, Omaha, Nebraska (“Respondent”), pursuant to 12 U.S.C. § 1818(i) through the issuance of a Notice of Intent to Assess a Civil Money Penalty, alleging participation in violations of the Home Mortgage Disclosure Act, 12 U.S.C. § 2801 *et seq.*, (“HMDA”), and its implementing Regulation C, 12 C.F.R. Part 203;

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, desires to enter into this Stipulation and Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(i); and

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

## **Article I**

### **JURISDICTION**

(1) American National Bank, Omaha, Nebraska, 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 enforcement proceedings against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain civil money penalty proceedings against it pursuant to 12 U.S.C. § 1818(i).

## **Article II**

### **COMPTROLLER’S FINDINGS**

(1) Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby finds, and Respondent neither admits or denies, that Respondent had reporting inaccuracies outside of the allowable margin of error in reporting HMDA Loan Application Registry data for the years 2005, 2006, 2007 and 2008.

### **Article III**

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

(1) Respondent hereby consents to the payment of a Civil Money Penalty in the amount of thirteen thousand four hundred fifty dollars (\$13,450), which shall be paid upon execution of this Order.

(2) Respondent 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 979012, St. Louis, Missouri 63197-9000. The docket number of this case shall be entered on the check. Respondent shall provide a photocopy of the check along with the signed original copy of this Order to the attention of the Deputy Comptroller of the Western District of the Office of the Comptroller of the Currency, 1225 17<sup>th</sup> Street, Suite 300, Denver, Colorado 80202.

(3) 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, Respondent waives:
- (a) 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;
  - (b) All rights to seek judicial review of this Order;
  - (c) All rights in any way to contest the validity of this Order;

- (d) 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; and
- (e) All rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for issuance of this Order.

(2) It is hereby agreed that the provisions of this Order constitute a settlement of any and all formal enforcement actions contemplated by the Comptroller against Respondent, all the directors, all employees and any subsidiaries of Respondent, for the specific acts, omissions or violations that form the basis for the Civil Money Penalty discussed herein. However, the specific acts, omissions, or violations that form the basis for the Civil Money Penalty discussed herein, relating to violations of HMDA, maybe used by the OCC in future enforcement actions to establish a pattern of misconduct or the continuation of a pattern of misconduct.

(3) It is hereby agreed that the provisions of this Order constitute a settlement of the civil money penalty proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, violations or breaches set forth in Article II above, unless such acts, omissions, violations or breaches reoccur, or the Comptroller learns that Respondent has made any

false statement or misrepresentation to the Comptroller or any of his agents or employees in connection with the investigation or review of this matter.

(4) Except as set forth in paragraph (3) of this article, it is further agreed that the provisions of this Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent 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) Respondent 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 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.

(6) Respondent expressly acknowledges that no officer or employee of the OCC has statutory or other authority to bind the United States, the United States Department of the Treasury, the OCC, any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities.

IN TESTIMONY WHEREOF, the undersigned has hereunto set her hand this  
22nd day of June 2010.

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

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 this \_\_\_\_ day of June 2010.

*Resigned in 2009  
No longer a Director*

/s/

\_\_\_\_\_  
Roger Crane

\_\_\_\_\_  
John F. Kotouc

/s/

/s/

\_\_\_\_\_  
William A. Cutler, III

\_\_\_\_\_  
Lorie Lewis

/s/

/s/

\_\_\_\_\_  
Robert Dwyer

\_\_\_\_\_  
Allen G. Lozier

/s/

/s/

\_\_\_\_\_  
Wm. Tate Fitzgerald

\_\_\_\_\_  
Steven Ritzman

/s/

/s/

\_\_\_\_\_  
Bill Goedken

\_\_\_\_\_  
Kelly Roberts

/s/

/s/

\_\_\_\_\_  
Doug Goodman

\_\_\_\_\_  
Herman Weist

/s/

/s/

\_\_\_\_\_  
Mike Hall

\_\_\_\_\_  
Thomas D. Whitson

/s/

/s/

\_\_\_\_\_  
Mark Huber

\_\_\_\_\_  
Craig Wilkins

/s/

\_\_\_\_\_  
Ed Kelleher