

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

In the Matter of:)
American Express Bank, FSB) AA-EC-2012-117
Salt Lake City, Utah))

CONSENT ORDER FOR A CIVIL MONEY PENALTY

The Comptroller of the Currency of the United States of America (“Comptroller”), through his authorized representatives, has examined the affairs of American Express Bank, FSB, Salt Lake City, Utah (hereinafter the “Bank”), and has identified deficiencies in the Bank’s practices that resulted in violations of Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a)(1), related to collection of consumer debt.

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty, dated October 1, 2012 (“Stipulation and Consent”), that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated herein by reference, the Bank has consented to the issuance of this Consent Order for a Civil Money Penalty (“Order”) by the Comptroller.

ARTICLE I

COMPTROLLER’S FINDINGS

The Comptroller finds, and the Bank neither admits nor denies, the following:

- (1) In the collection of consumer debt from January 2003 through March 2012, the Bank misrepresented in debt solicitations to certain customers that a debt settlement with the Bank would be reflected on the consumer’s credit report and could improve the consumer’s credit score despite the fact that at the time the statement was made the debt was no longer being reported by the Bank to credit reporting agencies.

(2) In the collection of consumer debt from January 1, 2003 through June 30, 2012, certain debt settlement letters sent by the Bank to customers stated that upon payment of an agreed upon settlement amount the consumer's remaining debt would be "waived," but failed to prominently disclose that payment of the full debt balance was required before the bank would process any future credit card application.

(3) By reason of the foregoing debt collection practices described in paragraphs (1) and (2) of this Article, the Bank engaged in deceptive practices in violation of Section 5 of the FTC Act.

(4) The Bank's violations of Section 5 of the FTC Act caused consumer injury or were likely to cause consumer injury.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(i), the Comptroller hereby ORDERS that:

ARTICLE II

ORDER FOR A CIVIL MONEY PENALTY

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i), the Comptroller orders, and the Bank consents to the following:

(1) The Bank shall make payment of a civil money penalty in the amount of five hundred thousand dollars (\$500,000), which shall be paid upon the execution of this Order.

(a) If a check is the selected method of payment, the check shall be made payable to the Treasurer of the United States and shall be delivered to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000.

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**STIPULATION AND CONSENT TO THE ISSUANCE
OF AN ORDER FOR A CIVIL MONEY PENALTY**

The Comptroller of the Currency of the United States of America (“Comptroller”), intends to initiate a civil money penalty proceeding against American Express Bank, FSB, Salt Lake City, Utah (“Bank”), pursuant to 12 U.S.C. § 1818(i), for its violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), related to collection of consumer debt.

The Bank, in the interest of compliance and cooperation, enters into this Stipulation and Consent to the Issuance of an Order for a Civil Money Penalty (“Stipulation”) and consents to the issuance of a Consent Order for a Civil Money Penalty, dated October 1 2012 (“Consent Order”).

In consideration of the above premises, the Comptroller, through his 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 Federal savings association which was chartered and examined by the Office of Thrift Supervision (“OTS”) pursuant to the Home Owners’ Loan Act, as amended, 12 U.S.C. § 1461 *et seq.*

(2) Pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010), all functions of the OTS related to Federal savings associations were transferred to the Comptroller.¹

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

(4) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(i).

(5) For purposes of, and within the meaning of 12 C.F.R. § 163.555, the Consent Order shall not be construed to be a “cease and desist order” or “consent order,” unless the Comptroller informs the Bank otherwise in writing.

ARTICLE II

CONSENT

(1) The Bank, without admitting or denying any wrongdoing, consents and agrees to issuance of the Consent Order by the Comptroller.

(2) The Bank consents and agrees that the Consent Order shall be deemed an “order issued with the consent of the depository institution” pursuant to 12 U.S.C. § 1818(h)(2), and consents and agrees that the Consent Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller pursuant to 12 U.S.C. § 1818(i).

(3) Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

¹ See Dodd-Frank Act § 312(b), 12 U.S.C. § 5412.

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

(5) The terms and provisions of the Stipulation and the Consent Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Stipulation or the Consent Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Stipulation or the Consent Order.

ARTICLE III

WAIVERS

- (1) The Bank, by consenting to this Stipulation, waives:
 - (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(i);
 - (b) any and all procedural rights available in connection with the issuance of the Consent Order;
 - (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19;
 - (d) all rights to seek any type of administrative or judicial review of the Consent 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 the Consent 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

- (f) any and all rights to challenge or contest the validity of the Consent Order.

ARTICLE IV

CLOSING

(1) The provisions of this Stipulation shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, it deems it appropriate to do so to fulfill the responsibilities placed upon it by the several laws of the United States of America.

(2) Nothing in this Stipulation shall preclude any proceedings brought by the Comptroller to enforce the terms of the Consent Order, and nothing in this Stipulation constitutes, nor shall the Bank contend that it constitutes, a waiver of any right, power, or authority of any other representative of the United States or an agency thereof, including, without limitation, the United States Department of Justice, to bring other actions deemed appropriate.

(3) The Comptroller releases and discharges the Bank from all potential liability for a civil money penalty that has been or might have been asserted by the Comptroller based on the banking practices described in the Comptroller's Findings set forth in Article I of the Consent Order, to the extent known to the Comptroller as of the effective date of the Consent Order. However, the banking practices alleged in Article I of the Consent Order may be utilized by the Comptroller in other future enforcement actions against the Bank or its institution-affiliated parties, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations. This release shall not preclude or affect any

right of the Comptroller to determine and ensure compliance with the terms and provisions of this Stipulation or the Consent Order.

(4) The terms of the Stipulation and the Consent Order are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

//signed//

Vance S. Price
Deputy Comptroller
Large Bank Supervision

October 1, 2012

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.

<u>//signed//</u>	<u>September 28, 2012</u>
Thomas G. Anderson	Date

<u>//signed//</u>	<u>September 27, 2012</u>
Scott C. Godderidge	Date

<u>//signed//</u>	<u></u>
Roger O. Goldman	Date

<u>//signed//</u>	<u>September 28, 2012</u>
Peter A. Lefferts	Date

<u>//signed//</u>	<u>September 28, 2012</u>
Robert E. Phelan	Date

<u>//signed//</u>	<u>September 28, 2012</u>
Peter C. Sisti	Date

<u>//signed//</u>	<u>September 27, 2012</u>
Jay B. Stevelman	Date

<u>//signed//</u>	<u>September 28, 2012</u>
Roslyn M. Watson	Date