

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

In the Matter of:	)	
Gary Kies	)	
Director	)	AA-CE-2016-83
	)	
Clare Bank, National Association	)	
Platteville, Wisconsin	)	

**CONSENT ORDER FOR CIVIL MONEY PENALTY**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate civil money penalty proceedings against Gary Kies (“Respondent”) pursuant to 12 U.S.C. § 1818(i) on the basis of Respondent’s activities while a Director of Clare Bank, National Association, Platteville, Wisconsin (“Bank”), which resulted in violations of 12 U.S.C. § 161; and

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 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 Respondent that:

## Article I

### JURISDICTION

(1) Clare Bank, National Association, Platteville, Wisconsin (“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) 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 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 civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i).

## Article II

### COMPTROLLER’S FINDINGS

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

(1) During the time period of at least September 2012 through December 2015 (“Relevant Period”) Respondent, as a director of the Bank, had a duty to ensure the Bank filed accurate and timely Reports of Condition and Income (“Call Reports”).

(2) During the Relevant Period, Respondent failed to ensure:

Initials: GK  
Date: 10-27-16

- (i) the Bank's Call Report preparation and reporting process was managed by qualified and competent personnel;
- (ii) adjustments made in the transfer of data from the Bank's general ledger to the Call Report were documented and accounted for; and
- (iii) the Bank had an effective secondary review process to prevent Call Report errors.

(3) The Bank's September 30, 2012 Call Report contained several errors resulting in the Bank refiling the Report.

(4) The Bank's March 31, 2014 Call Report contained a material error that required refiling.

(5) The Bank's June 30, 2015 Call Report contained several errors resulting in the Bank refiling the report.

(6) The Bank filed its September 30, 2015 Call Report after the filing deadline and the report contained material errors, which required refiling.

(7) The Bank filed its December 31, 2015 Call Report after the filing deadline and the report contained a material error, which required refiling.

(8) By reason of the foregoing conduct over an extended period of time, Respondent recklessly engaged in unsafe or unsound practices, breached his fiduciary duty, and violated 12 U.S.C. § 161 on several occasions, constituting a pattern of misconduct.

Article III

ORDER FOR CIVIL MONEY PENALTY

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of five thousand dollars (\$5,000.00), which shall be paid in full upon Respondent's execution of this Order.

(2) Respondent shall make payment in full by cashier's check or certified 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 (AA-CE-2016-83) shall be entered on the submitted payment.

(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).

Article IV

CLOSING

(1) By executing this Order, Respondent waives:

(a) the right to the issuance of a Notice of Assessment of a Civil Money Penalty 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;

Initials: GK  
Date: 10-27-16

- (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) Respondent shall not cause, participate in, or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any expense relative to the negotiation and issuance of this Order except as permitted by 12 C.F.R. § 7.2014 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 thereof) with respect to such amounts except as permitted by 12 C.F.R. § 7.2014 and Part 359; provided, however, that Respondent may not obtain or accept such indemnification with respect to payment of the civil money penalty.

(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 Comptroller 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 the civil money penalty proceedings contemplated by the Comptroller based on the acts and 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 and violations described in this Order unless such acts or violations reoccur. However, the specific acts 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 above in paragraph (4), shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting 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.

(6) Nothing in this Order shall preclude any proceedings brought by the Comptroller 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,

Initials: GK  
Date: 10-27-16

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 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/  
\_\_\_\_\_  
Gary Kies

10-27-16  
\_\_\_\_\_  
Date

**IT IS SO ORDERED.**

/s/  
\_\_\_\_\_  
Blake Paulson  
Deputy Comptroller  
Central District Office

11/3/16  
\_\_\_\_\_  
Date