

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

In the Matter of	)	
	)	
<b>MATTHEW THOMASON</b> , Former Institution-Affiliated	)	AA-EC-2019-3
Party	)	
	)	
Northwestern Bank, N.A.	)	
Dilworth, MN	)	

**CONSENT ORDER**

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) initiated prohibition, cease and desist, and civil money penalty proceedings against Matthew Thomason (“Respondent”), pursuant to 12 U.S.C. § 1818(b), (e), and (i) through the issuance of a Notice of Charges for Order of Prohibition, Order to Cease and Desist Requiring Indemnification, and Assessment of a Civil Money Penalty dated April 11, 2019 (“Notice”);

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 consent to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (e);

NOW, THEREFORE, it is stipulated by and between the OCC, through the duly authorized representative of the Comptroller of the Currency (“Comptroller”), and Respondent that:

## ARTICLE I

### JURISDICTION

(1) Northwestern Bank, N.A., Dilworth, Minnesota (“Bank”) is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an officer and/or employee of the Bank and was 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 Bank is a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*

(4) 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 these prohibition and cease and desist actions against Respondent pursuant to 12 U.S.C. § 1818(b) and (e).

## ARTICLE II

### ORDER OF PROHIBITION

Respondent consents to, and it is ORDERED that:

(1) With respect to the institutions and agencies set forth in paragraph (2) of this Article, Respondent hereby agrees that he shall not:

- (a) participate in any manner in the conduct of their affairs;
- (b) solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights;
- (c) violate any voting agreement previously approved by the “appropriate Federal banking agency,” as defined in 12 U.S.C. § 1813(q); or

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(d) vote for a director, or serve or act as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u).

(2) The prohibitions in paragraph (1) of this Article apply to the following institutions and agencies:

- (a) any insured depository institution, as defined in 12 U.S.C. § 1813(c);
- (b) any institution treated as an insured bank under 12 U.S.C. § 1818(b)(3), (b)(4) or (b)(5);
- (c) any insured credit union under the Federal Credit Union Act;
- (d) any institution chartered under the Farm Credit Act of 1971;
- (e) any appropriate Federal depository institution regulatory agency; and
- (f) the Federal Housing Finance Agency and any Federal Home Loan Bank.

(3) The prohibitions of paragraphs (1) and (2) of this Article shall cease to apply with respect to a particular institution if Respondent obtains the prior written consent of both the OCC and the institution’s “appropriate Federal financial institutions regulatory agency,” as defined in 12 U.S.C. § 1818(e)(7)(D).

(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.

### **ARTICLE III**

#### **ORDER TO CEASE AND DESIST REQUIRING INDEMNIFICATION**

Respondent consents to, and it is ORDERED that:

(1) With respect to the Bank loan to Individual B<sup>1</sup> referenced in Article IV of the Notice that remains outstanding on the date the OCC issues the Order,<sup>2</sup> Respondent shall guarantee the Bank against Bank losses incurred on such loan. Immediately upon execution of this Order, Respondent shall provide written notice to the Bank's Board of Directors of his obligation to guarantee the Bank against loss on the loan attributable to him, and instruct the Bank to demand payment from him if a loss occurs. Respondent shall provide a copy of the written notice required by this paragraph to the Director of Enforcement and Compliance, 400 7th Street, SW, Washington, DC 20219.

(2) Respondent shall make any payment required by paragraph (1) of this Article within ten (10) days of receiving demand from the Bank, by certified check or money order, and shall deliver the payment to the Board of Directors, Northwestern Bank, N.A., Dilworth, MN. Respondent shall send a copy of each check or money order to Director, Enforcement and Compliance Division, 400 7th Street, SW, Washington, DC 20219.

(3) If Respondent is unable to comply with the requirements of paragraph (2) of this Article within the stated timeframes, Respondent may request relief by submitting a written request to the Director for Special Supervision, 400 7th Street, SW, Washington, DC 20219. The request shall state the amount of additional time requested and shall include a statement setting forth in detail, with relevant supporting documentation, the facts and circumstances that support Respondent's request for additional time to achieve compliance. The Director's decision concerning any request submitted pursuant to this paragraph is final and not subject to further review.

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<sup>1</sup> The name of Individual B has been separately disclosed to Respondent in a letter dated April 11, 2019.

<sup>2</sup> The outstanding loan and Respondent's related obligations thereto was identified in a separate letter dated May 3, 2019, provided to Respondent, along with the Consent Order.

(4) Effective immediately, Respondent and his related interests shall not seek new extensions of credit from the Bank unless the extensions of credit are fully secured at all times by certificates of deposit maintained at the Bank.

(5) For purposes of this Article, the terms “extension of credit” and “related interest” shall have the definitions set forth at 12 C.F.R. §§ 215.3 and 215.2(n), respectively.

(6) 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 become final pursuant to 12 U.S.C. § 1818.

#### **ARTICLE IV**

#### **BANKRUPTCY**

(1) If Respondent files for bankruptcy protection, Respondent shall notify the Enforcement Director within ten (10) days of the filing and shall provide a copy of the filing to the Enforcement Director.

(2) In any bankruptcy proceeding in which it is or may be contended that Respondent’s obligation to pay indemnification to the Bank pursuant to this Order is subject to discharge, Respondent will in no manner contest the assertion of the OCC or any officer, employee, or agent of the OCC or any agent, officer, or representative of the United States, pursuant to 11 U.S.C. § 523(a) or otherwise, that the indemnification obligation in the Order arises out of acts which result in claims not dischargeable in bankruptcy.

## **ARTICLE V**

### **CLOSING**

- (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(b) and/or (e) 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; and
  - (d) any and all claims for fees, costs, or expenses against the United States, the OCC, or any officer, employee, or agent of the OCC, 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 of the Bank) 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 of the Bank) with respect to such amounts except as permitted by 12 C.F.R. § 7.2014 and Part 359.
  
- (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 OCC 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 any proceedings arising out of the facts, omissions, or violations described in the Notice. The OCC agrees not to institute the proceedings referenced in the Notice for the specific acts, omissions, or violations described in the Notice unless such acts, omissions, or violations reoccur. However, the specific acts, omissions, or violations described in the Notice 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 in paragraph (4) above, shall not inhibit, estop, bar, or otherwise prevent the OCC from taking any action affecting Respondent if, at any time, the OCC deems it appropriate to do so to fulfill the responsibilities placed upon the OCC by the several laws of the United States.

(6) Nothing in this Order shall preclude any proceedings brought by the OCC 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, 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 bank 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//  
\_\_\_\_\_  
Matthew Thomason

May 5, 2019  
\_\_\_\_\_  
Date

**IT IS SO ORDERED.**

//s// Digitally Signed, Date: 2019.05.06  
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Michael R. Brickman  
Deputy Comptroller for Special Supervision