

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

In the Matter of:)	
)	
John Paul Austin III)	AA-ENF-2022-30
Former Chairman of the Board of Directors)	
)	
CornerstoneBank)	
Atlanta, Georgia)	
)	

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist and civil money penalty proceedings against John Paul Austin III (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities while serving as Chairman of the Board of Directors of CornerstoneBank, Atlanta, Georgia (“Bank”);

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 (i);

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) The Bank was an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was a director 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 was a Federal savings association within the meaning of 12 U.S.C. § 1813(q)(1)(C), and was chartered and examined by the OCC. *See* 12 U.S.C. §§ 1461 *et seq.*, 5412(b)(2)(B).

(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 this cease and desist and civil money penalty action against Respondent pursuant to 12 U.S.C. § 1818(b) and (i).

ARTICLE II

COMPTROLLER’S FINDINGS

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

(1) On December 11, 2012, the OCC issued a Consent Order against the Bank, which required the Bank to obtain a written determination of no supervisory objection (“NSO”) before significantly deviating from the Bank’s strategic plan. This Consent Order remained in place until December 2021.

(2) From approximately June 2017 to February 2019, Respondent was a director of the Bank, and from approximately December 2017 to February 2019, Respondent was Chairman of the Bank’s Board of Directors.

(3) During the period of approximately June 2017 to June 2018, Respondent caused Bank employees to open approximately eighteen (18) accounts for non-U.S. businesses without obtaining NSO from the OCC as required by the Consent Order and without ensuring the Bank had the requisite controls commensurate with the increased risk of the accounts.

(4) Approximately 12 of these accounts were opened after the OCC rejected the Bank's NSO request to open such accounts.

(5) In approximately December 2017, Respondent entered into a contract on behalf of the Bank's holding company with a third-party to provide securities monitoring services to the Bank. The Bank paid for these services. Respondent failed to obtain NSO from the OCC as required by the Consent Order.

(6) Between approximately June 2018 and February 2019, Respondent and his personal clients used this service without disclosing this use to the Bank's Board of Directors.

(7) In approximately October 2018, Respondent worked with a Bank director to obtain payment for a third-party contractor. With Respondent's knowledge, the Bank director submitted a false invoice to the Bank, which the Bank did not pay.

(8) By reason of the foregoing conduct, Respondent engaged in a violation of 18 U.S.C. § 1344, caused the Bank to violate an order, engaged in unsafe or unsound practices, and breached his fiduciary duty to the Bank; which violations, practices, or breaches were part of a pattern of misconduct.

ARTICLE III

ORDER FOR CIVIL MONEY PENALTY

Respondent consents to, and it is ORDERED that:

Initials: JA
Date: 9-9-22

(1) Respondent shall pay a civil money penalty in the amount of fifty thousand dollars (\$50,000), which shall be paid in full according to the following payment schedule:

- (a) five thousand dollars (\$5,000) shall be paid upon Respondent's execution of this Order;
- (b) fifteen thousand dollars (\$15,000) shall be paid no later than November 30, 2022;
- (c) fifteen thousand dollars (\$15,000) shall be paid no later than September 1, 2023; and
- (d) the final installment of fifteen thousand dollars (\$15,000) and any outstanding balance shall be paid no later than September 1, 2024

(2) Respondent shall make payments via pay.gov or wire transfer, in accordance with instructions provided by the OCC. The docket number of this case (AA-ENF-2022-30) shall be referenced in connection with the submitted payment.

(3) If Respondent fails to comply with any provision of this Order, then the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable.

(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.

(5) Within seven (7) days from the issuance of this Order, Respondent shall provide written notification to the OCC of the address of his current place of residence by completing the form attached hereto as Appendix A and sending the completed form by mail to the Director of

Enforcement, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 or by email to the address provided by the OCC.

(6) Until the civil money penalty is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall provide written notification to the OCC of his new address within seven (7) days of such change in address by mail to the Director of Enforcement, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 or by email to the address provided by the OCC.

ARTICLE IV

ORDER TO CEASE AND DESIST

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by or is otherwise affiliated with any depository institution as defined in 12 U.S.C. § 1813(c)(1) or otherwise becomes an institution-affiliated party as defined in 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws, regulations, and orders applicable to the institution;
- (b) Not engage or participate in any unsafe or unsound practice, as that term is used in Title 12 of the United States Code;
- (c) Fulfill his fiduciary duties of loyalty and care and, at all times, avoid placing his own interests above those of the institution;
- (d) Adhere to the institution's written policies and procedures, including but not limited to, those relating to corporate governance, conflicts of interest, self-dealing, and vendor contracting, and maintain accurate bank records of any deviations or exceptions to those policies and procedures; and

(e) Not make decisions concerning Bank Secrecy Act/anti-money laundering risk management without the review and approval of the institution's Board of Directors.

(2) If Respondent is currently an institution-affiliated party, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order within ten (10) days of execution of this Order.

(3) Prior to accepting any offer of a position that causes Respondent to become an institution-affiliated party, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order.

(4) Within ten (10) days of satisfying the requirements of paragraphs (2) and (3) of this Article, Respondent shall provide written certification of his compliance to the OCC by mail to the Director of Enforcement, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 or by email to the address provided by the OCC.

(5) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) of this Article, or if Respondent is uncertain about his duties arising from such paragraph, he shall obtain, at his own expense, and abide by the written advice of counsel regarding his duties and responsibilities with respect to the matter. To comply with this paragraph, Respondent shall engage counsel who is in no way affiliated with the institution; and who has never been subject to any formal sanctions by any Federal banking agency, either by agency order or consent, as disclosed on the banking agencies' websites.

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

ARTICLE V

CLOSING

- (1) By executing this Order, Respondent waives:
- (a) the right to a Notice of Charges for Issuance of an Order to Cease and Desist and Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818(b) and (i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (i) and 12 C.F.R. Part 109;
 - (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 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; provided, however, 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 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 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, omissions, or violations described in Article II of this Order unless such acts, omissions, or violations reoccur. However, the specific acts, omissions, 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 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/

John Paul Austin III

9-9-22

Date

IT IS SO ORDERED.

//s// Digitally Signed, Dated: 2022.09.12

Michael R. Brickman
Deputy Comptroller for Specialty Supervision