#N14-001

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

In the Matter of:	)	
	)	
James E. Plack	)	OCC AA-EC-2014-90
President, Chief Executive Officer, and Director	)	
	)	
American Bank	)	
Rockville, Maryland	)	

NOTICE OF CHARGES FOR REMOVAL AND PROHIBITION AND NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY

Take notice that on a date to be determined by the Administrative Law Judge, a hearing will commence in the District of Maryland, pursuant to 12 U.S.C. § 1818(e) and (i), concerning the charges set forth herein to determine whether an Order should be issued against James E. Plack ("Respondent"), President, Chief Executive Officer, and Director of American Bank in Rockville, Maryland ("Bank"), by the Comptroller of the Currency of the United States of America ("Comptroller" or "OCC"), removing from office and prohibiting Respondent from participating in any manner in the conduct of the affairs of any federally insured depository institution or any other institution, credit union, agency or entity referred to in 12 U.S.C. § 1818(e), and requiring Respondent to pay a civil money penalty.

After taking into account the financial resources and any good faith of Respondent, the gravity of the violations, the history of previous violations, and such other matters as justice may require, as required by 12 U.S.C. § 1818(i)(2)(G), and after soliciting and giving full consideration to Respondent's views, the Comptroller hereby assesses a civil money penalty in the amount of two hundred fifty thousand dollars ($250,000) against Respondent, pursuant to the provisions of 12 U.S.C. § 1818(i). This penalty is payable to the Treasurer of the United States.

The hearing afforded Respondent shall be open to the public unless the Comptroller, in his discretion, determines that holding an open hearing would be contrary to the public interest.

In support of this Notice of Charges for Removal and Prohibition, and Notice of Assessment of Civil Money Penalty ("Notice"), the Comptroller charges the following:

ARTICLE I

JURISDICTION

At all times relevant to the charges set forth below:

(1) The Bank is a Federal savings association within the meaning of 12 U.S.C. § 1813(b)(2) and 12 U.S.C. § 1462(3).

(2) The Bank is an "insured depository institution" as defined in 12 U.S.C. § 1813(c)(2) and within the meaning of 12 U.S.C. § 1818(i)(2).

(3) The OCC is the "appropriate Federal banking agency" within the meaning of 12 U.S.C. § 1813(q)(1) and for purposes of 12 U.S.C. § 1818(e) and (i) to initiate and maintain enforcement proceedings against an institution-affiliated party of the Bank.

(4) Respondent is the President, Chief Executive Officer, and Director, 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 hereof (*see* 12 U.S.C. § 1818(i)(3)).

(5) Respondent is subject to the authority of the Comptroller to initiate and maintain removal and prohibition and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(e) and (i).

ARTICLE II

BACKGROUND

Respondent's Duties and Responsibilities

(6) Respondent served as President and Chief Executive Officer ("CEO") of the Bank beginning in approximately March 2005 through the present. Respondent served as a Director of the Bank from October 2007 through the present.

(7) As a Director, President, and CEO of the Bank, Respondent was obligated to comply with all applicable laws and regulations, ensure an effective system of internal controls, and to otherwise carry out his duties and responsibilities in a safe and sound manner.

(8) As a Director, President, and CEO of the Bank, Respondent knew he was obligated to comply with all applicable laws and regulations, ensure an effective system of internal controls, and to otherwise carry out his duties and responsibilities in a safe and sound manner.

(9) As a Director, President, and CEO of the Bank, Respondent owed fiduciary duties of care and loyalty to the Bank.

(a) The fiduciary duty of care required that Respondent act in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner reasonably believed to be in the best interests of the Bank; and ensure the Bank's compliance with laws and regulations.

(b) The fiduciary duty of loyalty required that Respondent disclose material information to the Bank's Board of Directors ("Board") and refrain from engaging in self-dealing at the expense of the Bank.

(10) As a Director, President, and CEO of the Bank, Respondent knew he owed fiduciary duties of care and loyalty to the Bank.

Overview of Supervisory History of the Bank

(11) The Office of Thrift Supervision ("OTS") issued an Order to Cease and Desist against the Bank on September 4, 2008 ("2008 C&D") that required the Bank, among other things, to reduce its credit risk and submit a business plan to the OTS for supervisory non-objection. The 2008 C&D required the Bank to adhere to its business plan upon supervisory non-objection, and to submit any material modifications of the business plan to the OTS Regional Director at least forty-five (45) days prior to implementation.

(12) The Bank's credit risk, as measured by non-performing assets, was increasing throughout 2010. By the fourth quarter of 2010, the Bank had not achieved compliance with the 2008 C&D.

(13) In late 2010, the OTS began the process of placing the Bank under a new Cease and Desist Order that required, among other things, a new business plan, a growth restriction, problem asset reductions, and maintenance of an 8.5 percent tier 1 capital ratio and 13 percent total risk-based capital ratio.

(14) The OTS presented a draft of the new Cease and Desist Order to the Bank in November 2010, and negotiations took place in December 2010 ("2011 C&D"). The 2011 C&D was signed by the Bank's Board, and it became effective on January 6, 2011, when it was signed by the designated representative of the OTS.

(15) Respondent was a signatory to the 2008 C&D and 2011 C&D.

Adjusted Price Trading

(16) Federal savings associations are required to follow generally accepted accounting principles ("GAAP") when making certain regulatory filings.

(17) GAAP requires that when an institution buys or sells assets, such asset transfers be recorded on the institution's books at the assets' fair value on the date of the transfer.

(18) GAAP defines fair value as the price that an institution would receive to sell an asset in an orderly transaction between independent market participants as of the transaction date.

(19) Adjusted price trading occurs when one party, "A", sells an asset or assets above their fair value to a counterparty, "B", and, as part of the same transaction, A purchases from B another asset or assets above their fair value. Party A then records both transactions on its books at the inflated values. The purpose of the transaction, from A's perspective, is to sell assets while concealing losses that would be recognized if the assets were sold in an orderly transaction between independent market participants. Adjusted price trading, as described in this paragraph, is an unsafe or unsound banking practice.

ARTICLE III

RESPONDENT CAUSED THE BANK TO ENGAGE IN A FRAUDULENT ADJUSTED PRICE TRADE

(20) From at least 2009, Respondent solicited interested parties to purchase real estate owned ("REO") by the Bank and its Holding Company, American Bank Holdings, Inc. ("Holding Company"). The Bank held the majority of its REO properties under two subsidiaries, Marketshare Properties, Inc. and Bryant, LLC.

(21) Respondent's efforts included, on at least one occasion in 2009, making an offer to a third party to have the Bank purchase loans from the third party above their fair value, in

exchange for the third party purchasing the Bank's REO for the amount at which the Bank was carrying the REO on its books. This proposed transaction was not consummated.

(22) During the fourth quarter of 2010, Respondent was responsible for implementing a plan to reduce the Bank's problem assets by, among other things, seeking to sell the Bank's REO.

(23) The Bank received bids from Counterparty A[1] to purchase pools of REO on or about September 16, 2010, October 20, 2010, November 16, 2010, and December 7, 2010. Bank employee G.D. conveyed these bids to Respondent.

(24) In December 2010, Respondent caused the Bank to agree in principle to sell 23 of its REO properties to Counterparty A for approximately $3.2 million.[2]

(25) Also during November and/or December 2010, Respondent directed M.S., a Bank employee, to find a pool of approximately $35 million in home equity lines of credit ("HELOCs") for the Bank to purchase.

(26) After M.S. located such a pool, on December 21, 2010, Respondent caused the Bank to agree to purchase the HELOC pool for 68.375 percent of the par value of the loans. Since the par value of the pool was just under $35 million, the negotiated price of 68.375 percent of par equaled approximately $23.7 million. The HELOC pool was owned by Counterparty B.

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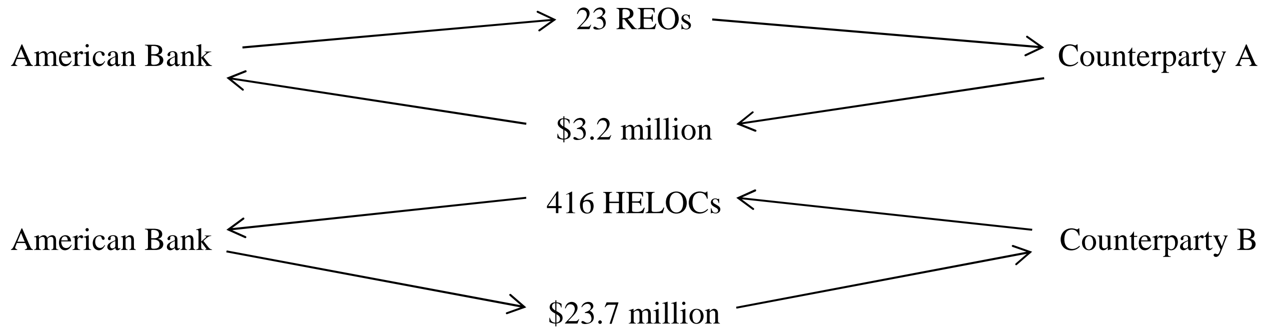
[1] The actual names of entities and individuals described by alias herein will be separately disclosed to Respondent.
[2] The agreement also included the sale of two additional REO properties owned by the Holding Company for approximately $200,000.

(27) Thus, as of December 21, 2010, the Bank had arranged two transactions in principle, one with Counterparty A and one with Counterparty B, as follows:



(28) However, prior to the HELOC or REO transactions being consummated, during December 2010, Respondent approached J.S., an associate of his, about participating in both the HELOC and REO transactions.

(29) Respondent proposed to J.S. that an entity owned by J.S. would serve as an intermediary between the Bank and Counterparties A and B in both transactions.

(30) On December 27, 2010, J.S. incorporated Intermediary C as an entity under the laws of the State of Maryland.

(31) On December 30, 2010, Counterparty A requested that the Bank remove one of the 23 original Bank properties from the transaction. The Bank agreed, and the property was dropped from the transaction and not transferred from the Bank to Intermediary C with the other properties.

(32) On December 31, 2010, the Bank sold 22 of its REO properties to Counterparty A through Intermediary C. After the property noted in paragraph (31) was removed from the transaction, the price paid by Counterparty A for the remaining 22 Bank-owned properties dropped from approximately $3.2 million to $3 million.

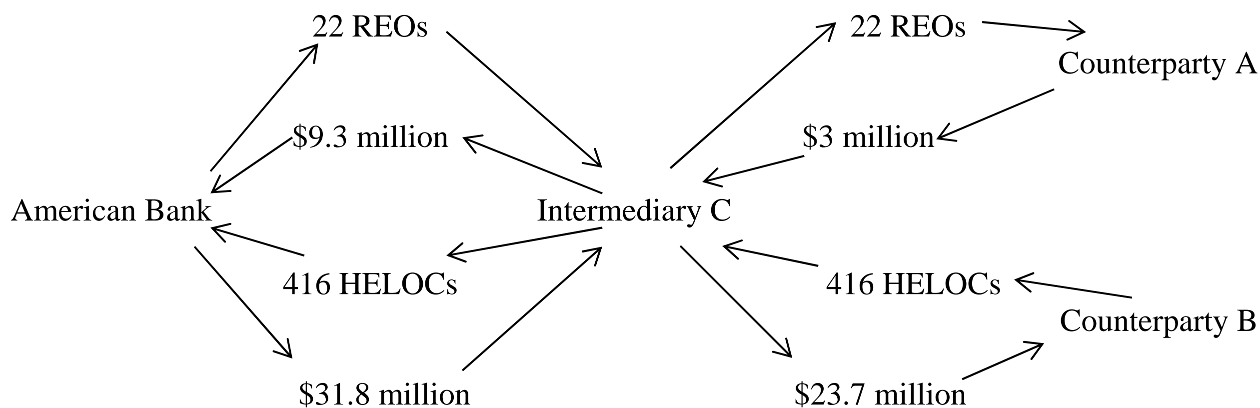
(33) Simultaneously, on December 31, 2010, the Bank purchased the HELOC pool from Counterparty B through Intermediary C. Counterparty B received $23.7 million, which corresponded to 68.375 percent of the par value of the HELOC pool.

(34) However, Respondent caused the transaction amounts between the Bank and Intermediary C to be artificially inflated above the amounts negotiated with Counterparties A and B.

(35) The Bank nominally sold its 22 REO properties to Intermediary C for approximately $9.3 million, over $6 million more than the price at which Intermediary C resold them to Counterparty A.

(36) The Bank nominally purchased the HELOC pool from Intermediary C for approximately $31.8 million, approximately $8.1 million more than the price at which Intermediary C purchased the pool from Counterparty B.

(37) The final REO transaction was recorded by the parties as a sale of 22 REO properties from American Bank to Intermediary C for $9.3 million and a resale of the same properties from Intermediary C to Counterparty A for $3 million[3]; the final HELOC transaction was recorded by the parties as a sale of 416 HELOCs from Counterparty B to Intermediary C for $23.7 million and a resale of the same HELOCs from Intermediary C to the Bank for $31.8 million, as follows:



(38) The REO sale and HELOC purchase amounts recorded between the Bank and Intermediary C were not indicative of the fair value of the assets exchanged.

(39) To facilitate the transactions, on December 31, 2010 American Bank placed $31.8 million into an escrow account.

(40) On the same date, Counterparty A placed $3.3 million into the same escrow account, to bring the total funds in the escrow account to approximately $35.1 million.

(41) Of the $3.3 million paid by Counterparty A, approximately $3 million went to purchase the 22 REO properties from the Bank, and the remaining funds went to purchase two Holding Company properties and pay certain fees associated with the REO transaction.

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[3] The Holding Company also sold two REO properties to Counterparty A through Intermediary C in the same transaction.

(42) Intermediary C's nominal $9.3 million purchase of the Bank's REO and $23.7 million purchase of Counterparty B's HELOCs came out of the $35.1 million escrow. Intermediary C did not contribute any of its own funds to the transactions.

(43) The remainder of the $35.1 million escrow was distributed to the various brokers, realty, title, and settlement companies involved, including approximately $1.2 million to Intermediary C.

(44) Intermediary C only held the REO properties and HELOCs for an instant in time.

Reporting of the Year-End Transactions

(45) Respondent's structuring of the Year-End Transactions caused the Bank to pay approximately $8.1 million more for the HELOCs than their fair value – the negotiated purchase price with Counterparty B ($31.8 million v. $23.7 million).

(46) The Bank's Thrift Financial Report ("TFR") as of December 31, 2010 was materially inaccurate because it reflected the Bank's condition with the HELOCs valued at approximately $31.8 million.

(47) Respondent's structuring of the Year-End Transactions also caused the Bank to fail to record approximately $6 million in losses on the REO sale, based on the difference between the Bank's REO carrying value of over $9 million and the fair value – the Counterparty A purchase price – of approximately $3 million.

(48) By failing to record the losses on the REO sale, the Bank materially overstated its earnings and capital in its TFR as of December 31, 2010.

(49) Had the Bank properly recognized the approximately $6 million loss on the REO sale, it would have been in non-compliance with the capital requirements of the 2011 C&D, upon issuance.

Non-Compliance with the 2008 C&D

(50) The 2008 C&D required the Bank to develop a comprehensive business plan, including detailed financial projections for the period from June 30, 2008 to December 31, 2010, and required the Bank to adhere to and implement the plan upon receipt of approval by the OTS Regional Director. The Bank implemented its approved business plan in 2008.

(51) Provision 8 of the 2008 C&D required the Bank to submit advance notice to the OTS Regional Director at least forty-five (45) days prior to implementing any material modifications to the business plan, unless the time period was waived in writing by the Regional Director.

(52) Provision 9 of the 2008 C&D provided that a deviation from the business plan would be considered material if it was more than 10 percent greater than or less than the target amounts established in the business plan.

(53) The Bank's approved business plan projected a steady decline in the balance of its "Home Equity/2nd Mortgage" loan category, from \$48.7 million as of June 30, 2008 to a target balance of \$33.7 million as of December 31, 2010.

(54) As a result of the Bank's purchase of the HELOC pool in the Year-End Transactions, the "Home Equity/2nd Mortgage" loan category balance grew from \$29.4 million as of September 30, 2010 to \$59.1 million as of December 31, 2010, ending the year over seventy-five (75) percent above the projected \$33.7 million balance.

(55) The Bank did not submit notice of a material modification to its business plan to the OTS Regional Director prior to engaging in the Year-End Transactions, nor did it receive a waiver of the notice requirement from the OTS Regional Director.

(56) By causing the Bank to engage in the Year-End Transactions, Respondent caused the Bank to materially deviate from the business plan, in violation of the 2008 C&D.

Respondent Misrepresented the Year-End Transactions to Obtain Board Approval

(57) In order to obtain approval for the Bank's purchase of HELOCs and sale of REO, Respondent portrayed the Year-End Transactions to the Bank's outside auditor, Chief Financial Officer, regulatory counsel, and Board of Directors as an exchange of assets at "fair value" with an unaffiliated third party.

(58) In December 2010, Respondent engaged the Bank's regulatory counsel to provide an opinion on the proposed Year-End Transactions, as described to counsel by Respondent. Respondent described the Year-End Transactions as a purchase of HELOCs from an unaffiliated third party at "market value," and a sale of troubled assets to the same third party.

(59) On December 17, 2010, Respondent and two other Bank personnel met with the Bank's outside auditors to discuss the Bank's planned accounting treatment for the Year-End Transactions. In that meeting, Respondent explained that the Bank would be selling REO at the Bank's carrying value and buying HELOCs from the same entity at "fair value."

(60) On December 22, 2010, Respondent caused the Bank to seek an estimated valuation of the HELOC pool from a third party ("Valuation Firm"). The Consulting Agreement with the Valuation Firm, signed by Respondent, indicated that the Valuation Firm "will not make any independent evaluation of the information provided to it" … and that the resulting valuation was "not intended to be nor may [it] be relied upon by the [Bank] as the sole or principal source on which the [Bank] makes a determination as to what price to value or whether to invest in or divest any asset analyzed by [the Valuation Firm] or at what price to do so."

(61) The Valuation Firm based its discounted cash flow valuation of the HELOC pool at least in part on information and assumptions provided by the Bank.

(62) On December 27, 2010, Respondent informed the Board that the transaction was consistent with the Bank's business plan and that Bank counsel had reviewed the transaction. The Board gave its preliminary approval of the transaction based on Respondent's representations.

(63) Respondent failed to disclose to the Bank's outside auditor, Chief Financial Officer, regulatory counsel, Board of Directors, or Valuation Firm that prior to involving Intermediary C in the transactions, Respondent negotiated the HELOC purchase with Counterparty B at 68.375 percent of par and negotiated the REO sale at $3.2 million with Counterparty A.

(64) Respondent's portrayal of the Bank's transactions as an exchange with an unaffiliated third party at fair value was false.

<u>Respondent Received a $100,000 Bonus Shortly After the Year-End Transactions</u>

(65) The Bank's compensation committee awarded Respondent a $100,000 performance bonus in part for his 2010 efforts to comply with the 2008 C&D. The compensation committee also based the award on Respondent's execution of the Board strategy, on the Bank's improvement in regulatory ratings, and on Respondent's initiatives to improve key metrics, including reduction of REO.

(66) Respondent's employment agreement provided for payment of annual performance bonuses, subject to a determination by the Boards of Directors of the Bank and Holding Company that Bank business had been conducted in a safe and sound manner within the guidelines of the Boards.

ARTICLE IV

<u>RESPONDENT MISLED AND MADE FALSE STATEMENTS TO REPRESENTATIVES OF THE OTS AND THE COMPTROLLER</u>

<u>Misrepresentation to Examiners</u>

(67) On December 28, 2010, Respondent informed a representative of the OTS during a brief telephone call that the Bank planned to engage in several year-end transactions.

(68) On the December 28, 2010 call, Respondent did not disclose material aspects of the year-end transactions, particularly that the transactions would not be recorded at the assets' fair value. Respondent did not request or receive a supervisory non-objection from the OTS on any of the proposed transactions.

(69) During the February 2011 interim OTS examination, the Bank indicated to examiners that the HELOC portfolio and REO properties were purchased and sold, respectively, by the Bank at their fair values.

(70) Respondent failed to disclose to examiners that he had caused the HELOC purchase and REO sale prices to be negotiated with Counterparties A and B prior to causing different prices to be used between the Bank and Intermediary C.

(71) Further, Respondent failed to disclose to examiners that the negotiated purchase and sale prices between Intermediary C and Counterparties A and B were materially lower than those recorded between Intermediary C and the Bank.

<u>Misrepresentations in Sworn Testimony</u>

(72) On September 30, 2013, representatives of the OCC took the sworn testimony of Respondent.

(73) In his sworn testimony, Respondent falsely claimed that he had no knowledge of a transaction between Intermediary C and Counterparty A.

(74) For example, Respondent stated the following regarding the REO sale:

(a) "[A]t the time, I wasn't sure what [Intermediary C was] going to do with the REO."

(b) "I know now that [Intermediary C] sold it, only because, you know, OCC came in and showed us a bunch of stuff."

(c) "I did not know that [Intermediary C] was immediately selling it to somebody else."

(75) In his sworn testimony, Respondent falsely claimed the Bank was not seeking to purchase HELOCs and only did so because it was required by Intermediary C.

(76) In his sworn testimony, Respondent falsely claimed he had no knowledge of the price paid by Intermediary C to Counterparty B for the HELOCs.

ARTICLE V

RESPONDENT CAUSED THE BANK TO MAKE A LOAN THAT CONCEALED UNRECOGNIZED LOSSES

(77) In 2006, the Bank's insurance premium finance ("IPF") division began doing business with an insurance agent/broker, JRC. J.R. was the principal of JRC, and JRC's Controller was K.R.

(78) At the time it entered the IPF business, the Bank put in place various controls to protect itself, including a policy not to fund agents/brokers directly.

(79) However, Respondent directed Bank employees to make an exception to this policy for JRC.

(80) By sending the funding for insurance premiums directly to JRC, the Bank exposed itself to the risk of fraud by JRC.

(81) By summer 2008, Bank employees suspected that JRC was defrauding the Bank by misappropriating funds, including insurance premium refunds on cancelled insurance policies, which were supposed to be returned to the Bank. These concerns were shared with Respondent.

(82) By June 2009, JRC owed over $1 million to the Bank in stale receivables associated with the cancelled insurance policies.

(83) Pursuant to GAAP and the Bank's IPF Loan Policy, the Bank should have charged off these receivables.

(84) Instead of charging off the receivables owed by JRC, Respondent sought to cause the Bank to make a new personal loan to J.R. and K.R. to pay off the receivables.

(85) Over the course of 2009, Respondent repeatedly threatened JRC and K.R. by email that unless they repaid the amounts owed by JRC or put up collateral and signed documents to convert JRC's corporate debt into a personal loan, Respondent would report them for fraud to various criminal and regulatory authorities, including insurance regulators, state attorneys general, and the Federal Bureau of Investigation.

(86) Respondent's email exchanges included the following:

(a) May 11, 2009

(i) Respondent to K.R.: "[K.] we need to get these issues resolved or I will be forced to contact the Insurance Commissioner of all states in which [JRC] is licensed….either we get paid ASAP or [JRC] will be out of the insurance business."

(b) June 11, 2009

(i) Respondent to K.R.: "I am turning you, [J.R.], and [JRC] over to the following governmental officials and agencies. American Bank

is owed approximately $1,000,000 from [JRC] and my patience is spent….I will be drafting a letter summarizing my actions and sending a copy of this letter to all insurance carriers that have ever done business with [JRC]. I will also be sending one to every Insurance Commissioner in the United States. I suspect that since fraud has occurred on a federal banking institution, these letters will be taken seriously."

(ii) K.R. reply to Respondent: "Jim obviously we do not want this to occur please advise how to avoid."

(iii) Respondent reply to K.R.: "How much of the $1,000,000 do you have access to via cash, collateral, lines of credit etc that you can liquidate to pay me today before 5pm?"

(c) October 29, 2009

(i) Respondent to K.R.: "EITHER WE CLOSE THE LOAN OR I CONTINUE TO SPEAK WITH NJ AND NY INSURANCE COMMISSIONERS. I WILL ALSO MAKE CERTAIN TO SEND A LETTER TO ALL OF YOUR INSURANCE COMPANIES AND GENERAL AGENTS OUTLINING THE EXCESSIVE FRAUD THAT YOURAGENCY [sic] PARTICIPATES IN[.]"

(87) During his sworn testimony on September 30, 2013, Respondent explained that the purpose of his communications with K.R. was to "throw some fear into [her]" and that it was "a scare tactic."

(88) The Bank closed on a $1,150,000 personal loan to J.R. and K.R. on October 30, 2009, and took security interests in two highly leveraged real estate properties. The loan proceeds were used to pay off JRC's corporate debt to the Bank.

(89) The personal loan was not underwritten in accordance with the Bank's lending policies or safe and sound lending practices.

(90) The personal loan had the effect of concealing the losses incurred from the Bank's IPF business, and delayed the Bank's recognition of those losses on its books and regulatory reports.

(91) In or around April 2010, JRC and J.R. filed for corporate and personal bankruptcy, respectively, the loan went into default, and Respondent ordered a Bank employee to begin foreclosure proceedings.

(92) However, the Bank did not charge-off the personal loan to J.R. and K.R. until directed to do so by the OTS examiners in June 2010.

ARTICLE VI

LEGAL BASES FOR REQUESTED RELIEF

(93) This Article repeats and realleges all previous Articles in this Notice.

(94) By reason of Respondent's misconduct as described in Articles III through IV, the Comptroller seeks a Removal and Prohibition Order against Respondent pursuant to 12 U.S.C. § 1818(e) on the following grounds:

(a) Respondent violated laws and regulations, including 12 U.S.C. § 1464(v) (Reports of condition); 18 U.S.C. §§ 1001 (Statements or entries generally), and

1005 (Bank entries, reports and transactions); and 12 C.F.R. §§ 562.1[4] (Regulatory reporting requirements), 562.2 (Regulatory reports), 563.170(c) (Establishment and maintenance of records), 563.180(a) (Periodic reports) and 563.180(b) (False or misleading statements or omissions); violated the 2008 C&D; engaged in unsafe or unsound practices in conducting the affairs of the Bank; and/or breached his fiduciary duties to the Bank as a Director, President, and CEO.

(b) By reason of his misconduct, Respondent caused financial loss or other damage to the Bank, the interest of the Bank's depositors could be prejudiced, and Respondent received personal financial gain or other benefit.

(c) Respondent's violations, unsafe or unsound practices, and/or breaches of fiduciary duty involved personal dishonesty and demonstrated a willful or continuing disregard for the safety or soundness of the Bank.

(95) By reason of Respondent's misconduct as described in Articles III through V, the Comptroller seeks imposition of a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i)(2)(A) and (B) on the following grounds:

(a) Respondent violated laws and regulations, including 12 U.S.C. § 1464(v) (Reports of condition); 18 U.S.C. §§ 873 (Blackmail), 1001 (Statements or entries generally), and 1005 (Bank entries, reports and transactions); and 12 C.F.R. §§ 562.1 (Regulatory reporting requirements), 562.2 (Regulatory reports), 563.170(c) (Establishment and maintenance of records), 563.180(a) (Periodic reports) and 563.180(b) (False or misleading statements or omissions); violated the 2008

[4] The 500 series of Title 12 of the Code of Federal Regulations was reissued as the 100 series in 2011. However, this Notice of Charges refers to the 500 series because that was the numbering system in place at the time that the violations occurred.

C&D; recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank; and/or breached his fiduciary duties to the Bank as a Director, President, and CEO.

(b) Respondent's violations, practices, and/or breaches of his fiduciary duty were part of a pattern of misconduct that resulted in pecuniary gain or other benefit to Respondent and more than minimal loss to the Bank.

Answer and Opportunity for Hearing

Respondent is directed to file a written answer to this Notice within twenty (20) days from the date of service of this Notice in accordance with 12 C.F.R. § 109.19(a) and (b). The original and one copy of any answer shall be filed with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any answer electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov. A copy of any answer shall also be filed with the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, HearingClerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to answer within this time period shall constitute a waiver of the right to appear and contest the allegations contained in this Notice, and shall, upon the Comptroller's motion, cause the administrative law judge or the Comptroller to find the facts in this Notice to be as alleged, upon which an appropriate order may be issued.**

Respondent is also directed to file a written request for a hearing before the Comptroller, along with the written answer, concerning the Civil Money Penalty assessment contained in this Notice within twenty (20) days after date of service of this Notice, in accordance with 12 U.S.C.

§ 1818(i) and 12 C.F.R. § 109.19(a) and (b). The original and one copy of any request shall be filed, along with the written answer, with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any request electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov. A copy of any request, along with the written answer, shall also be served on the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, HearingClerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to request a hearing within this time period shall cause this assessment to constitute a final and unappealable order for a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i).**

PRAYER FOR RELIEF

The Comptroller prays for relief in the form of the issuance of an Order of Removal and Prohibition pursuant to 12 U.S.C. § 1818(e) and an Order of Civil Money Penalty Assessment in the amount of two hundred fifty thousand dollars ($250,000) against Respondent pursuant to 12 U.S.C. § 1818(i)(2)(A) and (B).

Witness, my hand on behalf of the Office of the Comptroller of the Currency, given at New York, New York, this 29th day of December, 2014.

s/Kristin Kiefer

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Kristin Kiefer
Acting Deputy Comptroller