



25th Anniversary

SPECIAL SUPERVISION AND
ENFORCEMENT ACTIVITIES

SPECIAL SUPERVISION AND ENFORCEMENT ACTIVITIES

The Special Supervision Division of the Mid-Size/Community Bank Supervision department supervises critical problem banks through rehabilitation or through other resolution processes such as orderly failure management or the sale, merger, or liquidation of such institutions. The Special Supervision Division monitors the supervision of delegated problem banks, coordinates safety and soundness examinations, provides training, analyzes and disseminates information, and supports OCC supervisory objectives as an advisor and liaison to OCC management and field staff on emerging problem bank-related issues.

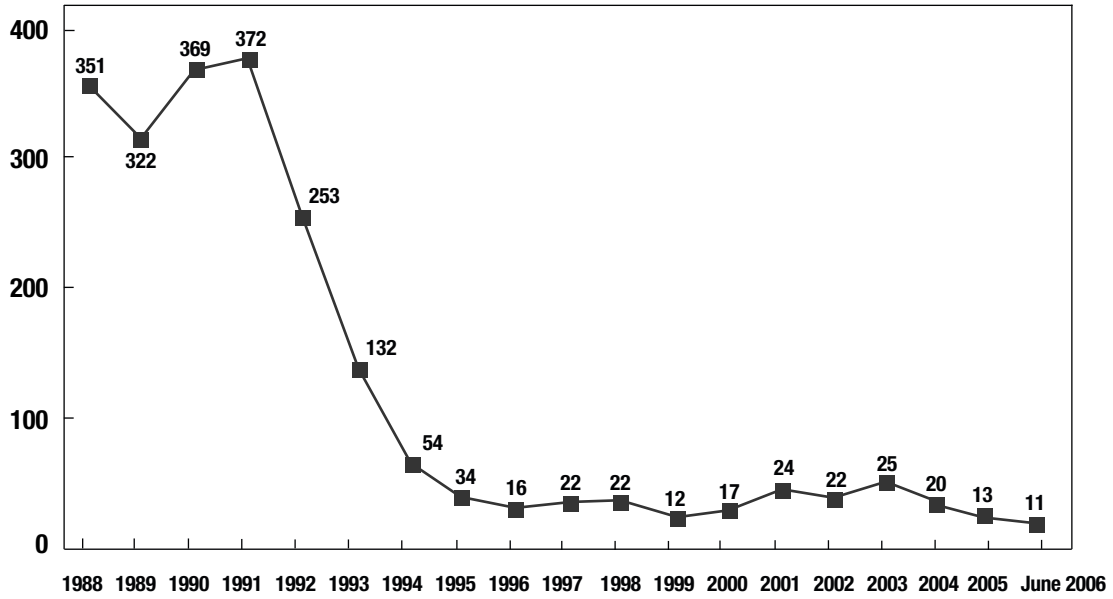
This section includes information on problem national banks, national bank failures, and enforcement actions. Data on problem banks and bank failures is provided by OCC's Special Supervision Division and the FDIC's Department of Resolutions in Washington. Information on enforcement actions is provided by the Enforcement and Compliance Division (E&C) of the Law Department. The latter is principally responsible for presenting and litigating administrative actions on the OCC's behalf against banks requiring special supervision.

Problem National Banks and National Bank Failures

Problem banks represented less than 1 percent of the national bank population as of June 30, 2006. The number of problem banks, those with a CAMELS rating of 4 or 5, has declined in recent years. The CAMELS rating is the composite bank rating based on examiner assessment of capital, asset quality, management, earnings, liquidity, and sensitivity to market risk. The total number of problem banks is 11 at June 30, 2006. This low volume of problem banks reflects the stable economy and generally favorable economic conditions of the past several years. No banks have failed in 2006 as of June 30.

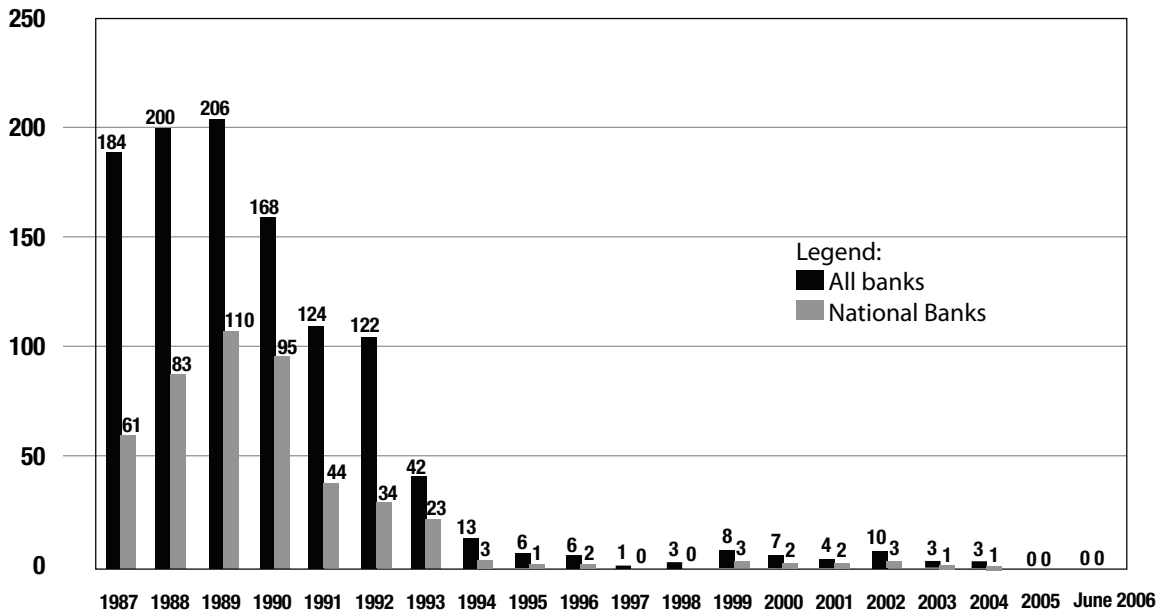
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Figure 1—Problem national bank historical trend line



Source: Special Supervision

Figure 2—Number of bank failures



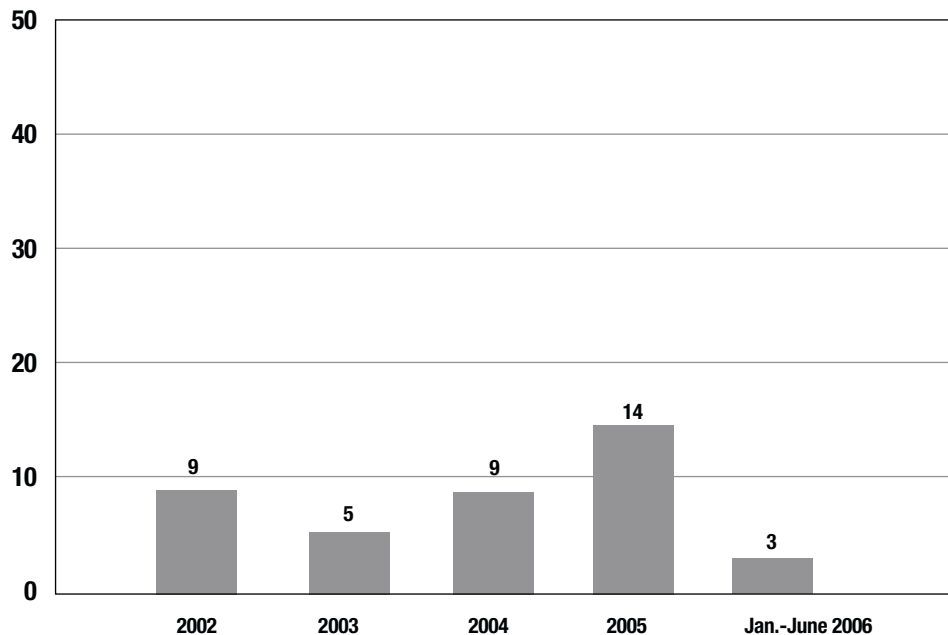
Source: Federal Deposit Insurance Corporation

Enforcement Actions

The OCC has a number of remedies with which to carry out its supervisory responsibilities. When it identifies safety and soundness or compliance problems, these remedies range from advice and moral suasion to informal and formal enforcement actions. These mechanisms are designed to achieve expeditious corrective and remedial action to return the bank to a safe and sound condition.

The OCC takes enforcement actions against national banks, parties affiliated with national banks, and servicing companies that provide data processing and other services to national banks. The OCC's informal enforcement actions against banks include commitment letters and memorandums of understanding (MOUs). Informal enforcement actions are meant to handle less serious supervisory problems identified by the OCC in its supervision of national banks. Failure to honor informal enforcement actions will provide strong evidence of the need for the OCC to take formal enforcement action. The charts below show total numbers of the various types of informal enforcement actions completed by the OCC against banks in the last several years.

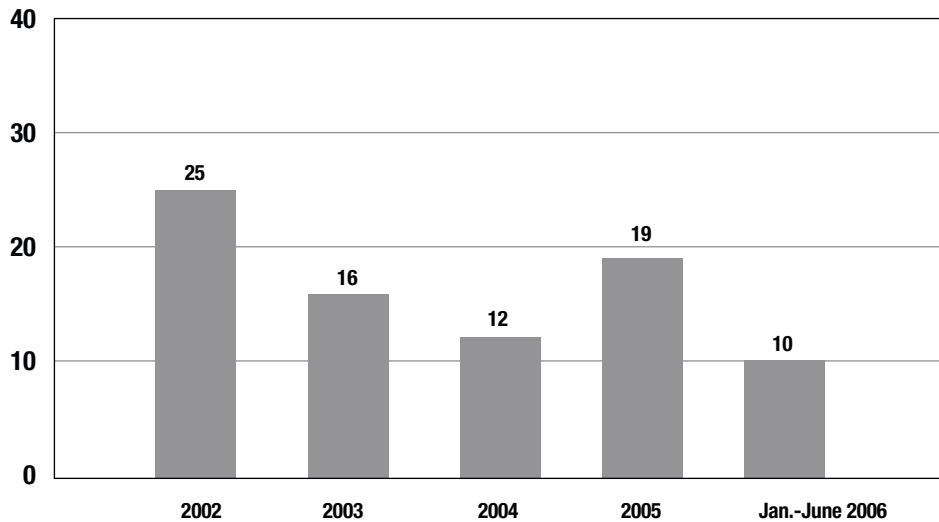
Figure 3—Commitment letters



Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

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Figure 4—Memorandums of understanding

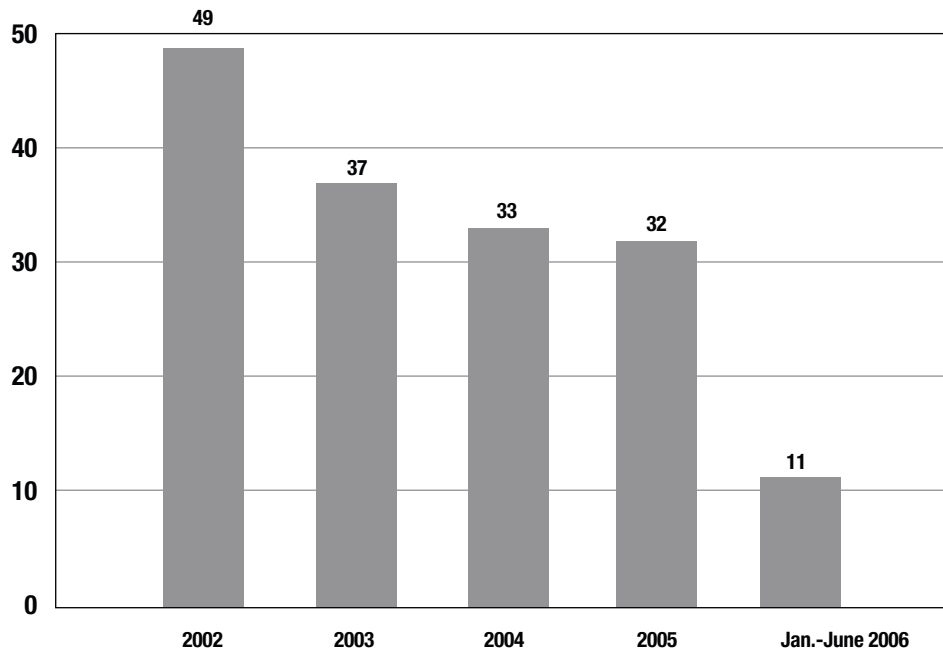


Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

The most common types of formal enforcement actions issued by the OCC against banks over the past several years have been formal agreements and cease-and-desist orders. Formal agreements are documents signed by a national bank's board of directors and the OCC in which specific corrective and remedial measures are enumerated as necessary to return the bank to a safe and sound condition. Cease-and-desist orders (C&Ds), sometimes issued as consent orders, are similar in content to formal agreements, but may be enforced either through assessment of civil money penalties (CMPs) or by an action for injunctive relief in federal district court. The OCC may also assess CMPs against banks, and through June 30, 2006 the OCC assessed CMPs against 5 banks.

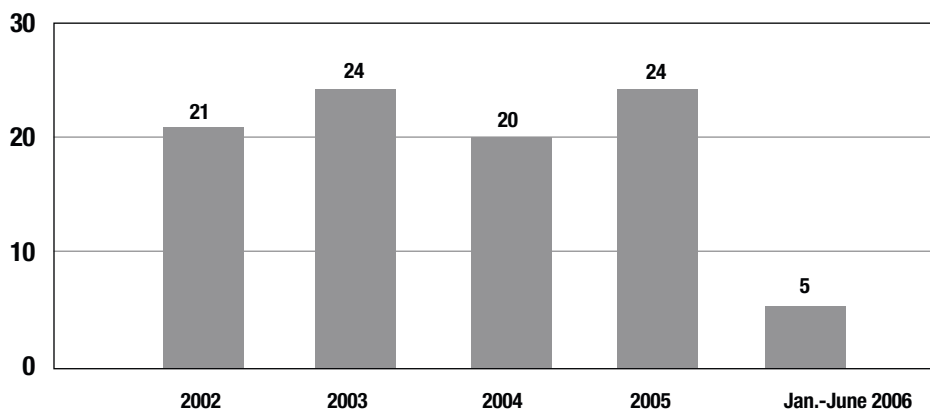
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Figure 5—Formal agreements



Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

Figure 6—Cease-and-desist orders against banks



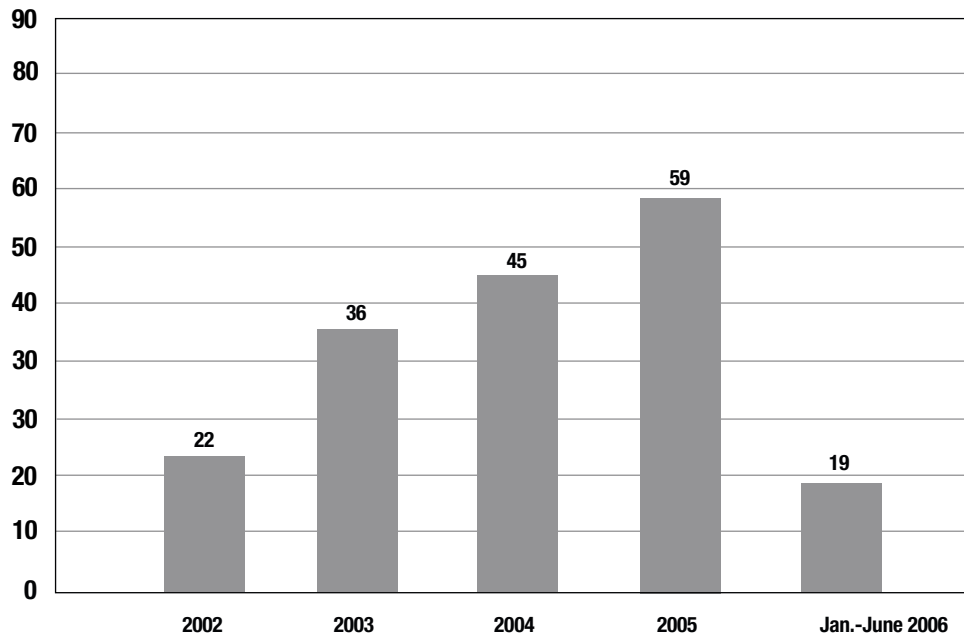
Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

The most common enforcement actions against individuals and other institution-affiliated parties are CMPs, personal C&Ds, and removal and prohibition orders. CMPs are authorized for viola-

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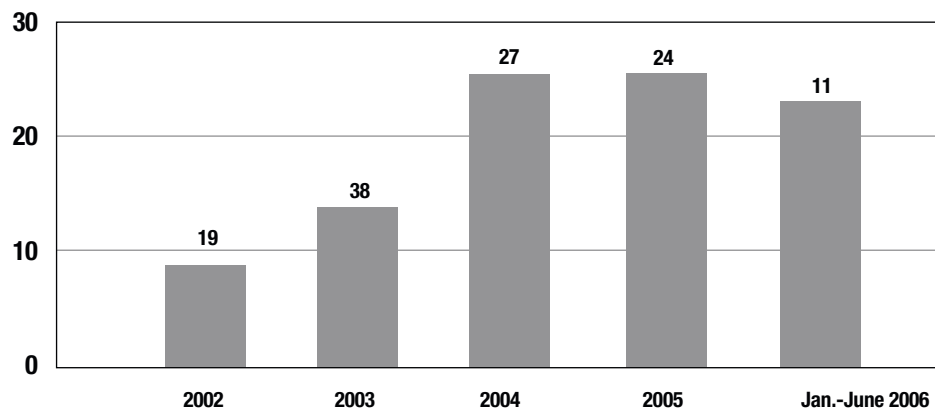
tions of laws, rules, regulations, formal written agreements, final orders, conditions imposed in writing, unsafe or unsound banking practices, and breaches of fiduciary duty. Personal C&Ds may be used to restrict activities, order payment of restitution, or require institution-affiliated parties to take other affirmative action to correct the results of past conduct. Removal and prohibition actions, which are used in the most serious cases, result in lifetime bans from the banking industry.

Figure 7—Civil money penalties against institution-affiliated parties



Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

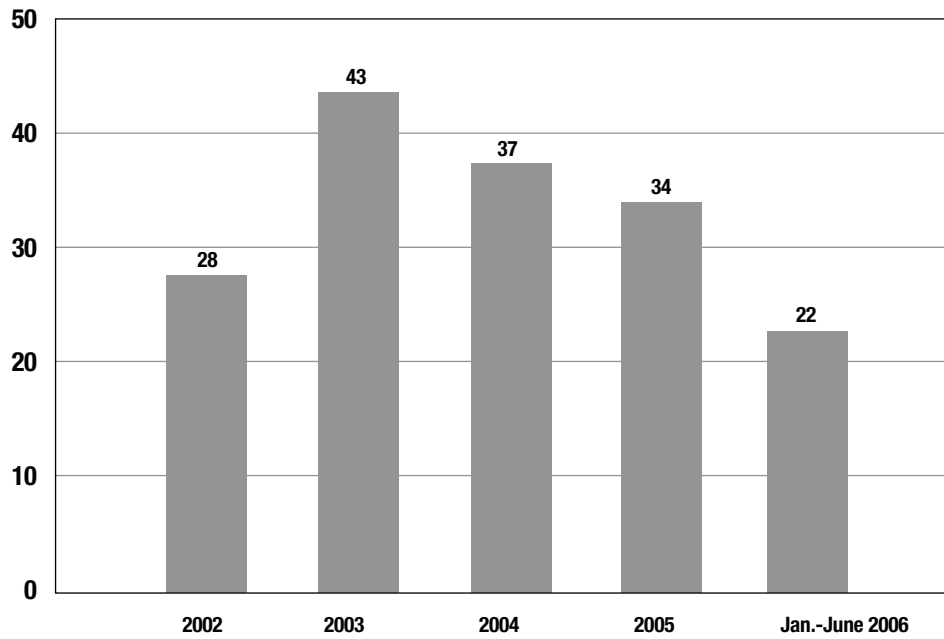
Figure 8—Cease-and-desist orders against institution-affiliated parties



Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

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Figure 9—Removal and prohibition orders



Source: OCC Systems. Note that totals for previous years' completed enforcement actions may be adjusted to reflect revised aggregates.

Recent Enforcement Cases

Below are summaries of the significant cases completed between January 1 and June 30, 2006:

A. Actions Involving Anti-Money Laundering/Bank Secrecy Act Compliance

Banks ordered to comply with BSA/AML provisions. The OCC issued cease-and-desist orders by consent against banks for failing to maintain adequate BSA/AML compliance programs, requiring the banks to take remedial action. *In the Matter of The Summit National Bank, Atlanta, Ga.*, Doc. No. 2006-2 (January 19, 2006); *In the Matter of Pinebank, N.A., Miami, Fla.*, Doc. No. 2006-1 (January 25, 2006).

Federal branch ordered to restrict activities. The federal branch of a foreign bank was found to have internal controls weaknesses. The branch consented to an order requiring it, among other things, to restrict its wire transfer and demand draft activities until such time as it implemented an adequate BSA/AML program. *In the Matter of Bangkok Bank Public Company Limited, New York, N.Y. (federal branch)*, Doc. No. 2006-29 (April 20, 2006).

Federal branch ordered to pay penalty. A federal branch of a foreign bank was found to have failed to implement policies and procedures to ensure compliance with BSA requirements, resulting in inadequate BSA systems and controls, and to have failed to file timely suspicious activity reports. The branch agreed to an order requiring payment of a \$150,000 civil money penalty. *In the Matter of Metropolitan Bank & Trust, New York, N.Y. (federal branch)*, Doc. No. 2006-19 (March 24, 2006).

Order issued against bank, and bank officer prohibited and ordered to pay fine. The OCC issued a cease-and-desist order by consent against a bank for an inadequate BSA/AML program and for failing on multiple occasions to file suspicious activity reports. In addition, the bank's former president and CEO agreed to the OCC's issuance of prohibition and cease-and-desist orders and assessment of a \$100,000 civil money penalty for allegedly issuing and concealing millions of dollars' worth of unsafe or unsound loan guarantees to an entity engaged in suspicious activities. The cease-and-desist order required the former president, among other things, to make restitution of \$407,000 to the bank, reimburse the bank \$100,000 for expenses, and to indemnify the bank for half of any judgments against the bank related to the worthless guarantees. The two orders replaced an earlier order by consent that required the bank to preserve its books and records and to observe restrictions on making loans and allowing overdrafts on customer accounts. *In the Matter of Terrabank N.A., Miami, Fla.*, Doc. No. 2006-41 (May 9, 2006); *In the Matter of Uriel Mendieta*, Doc. No. 2006-45 (May 25, 2006).

B. Actions to Combat Identity Theft

Actions against bank insiders. The OCC issued two prohibition orders by consent and the Federal Reserve issued a prohibition order in proceedings initiated by the OCC against former bank employees in cases involving loss to bank customers due to identity theft committed by bank employees or by third parties who received confidential customer information from bank employees. One individual was ordered to pay a fine and two were ordered to pay restitution. *In the Matter of Onyeacholem Moseri, First North American National Bank, Kennesaw, Ga.*, Doc. Nos. 2006-36 (March 23, 2006) and 2006-30 (March 30, 2006); *In the Matter of Konya M. Owens, First Union National Bank, Charlotte, N.C.*, Doc. No. 2006-37 (April 26, 2006); *In the Matter of Tiffany D. (Holt) Lipscomb, Wachovia Bank, N.A., Charlotte, N.C.*, Doc. No. 2006-78 (May 23, 2006).

C. Actions to Enforce Flood Insurance Requirements

Banks ordered to pay fines for flood insurance violations. During the first half of 2006, the OCC assessed civil money penalties by consent totaling \$14,700 against four banks for failure to comply with federal regulations requiring flood insurance for certain properties located in special flood hazard areas that secure loans made by national banks. The penalties were paid to the National Flood Insurance Program. *In the Matter of The Farmers National Bank of Danville, Danville, Ky.*, Doc. No. 2006-3 (January 18, 2006); *In the Matter of First Fidelity Bank, N.A., Oklahoma City, Okla.*, Doc. No. 2006-20 (March 30, 2006); *In the Matter of Fort Knox National Bank, Radcliff, Ky.*, Doc. No. 2006-31 (April 10, 2006); *In the Matter of First National Bank, Fort Collins, Colo.*, Doc. No. 2006-124 (June 6, 2006).

D. Actions to Combat Insider Abuse

Former bank president prohibited. The OCC issued a prohibition order by consent against a former bank president for allegedly causing the bank to make loans significantly in excess of the bank's legal lending limit (which led to closure of the bank), creating false bank records, and engaging in a fraudulent wire transaction. Criminal proceedings are ongoing. *In the Matter of Mark R. Hardyman, The First National Bank of Blanchardville, Blanchardville, Wis.*, Doc. No. 2006-8 (January 26, 2006).

Former bank president prohibited and ordered to pay fine. The OCC issued a prohibition order by consent and assessed a \$100,000 civil money penalty against a former bank president who allegedly caused the bank to make unauthorized payments for personal expenses totaling at least \$388,000 for himself and his family members. The former president had made restitution of the unauthorized payments, prior to the OCC's action. *In the Matter of Eldon B. "Brac" Thoma III, First National Bank of Tullahoma, Tullahoma, Tenn.*, Doc. No. 2006-64 (June 5, 2006).

E. Early Intervention for Problem Banks

Second order issued against problem bank. In 2005, the OCC issued a cease-and-desist order by consent against a bank and assessed a civil money penalty by consent against an officer of the bank for alleged violations of laws and regulations governing legal lending limits, insider loans, and affiliate transactions. In 2006, the OCC issued a second cease-and-desist order by consent requiring the bank to restore and maintain its books and records in a complete and accurate condition. *In the Matter of The First National Bank of Brewster, Brewster, Minn.*, Doc. No. 2006-12 (February 28, 2006).

Actions against bank's officers and directors. The OCC issued prohibition orders by consent and assessed civil money penalties of \$5,000 each against two former senior bank officers for alleged embezzlement of bank funds and for assisting other executive officers' misconduct. The OCC also assessed civil money penalties ranging from \$7,500 to \$10,000 against four bank directors for inadequate oversight of the affairs of the bank and for the bank's failure to comply with a 2002 formal agreement with the OCC. The bank has been purchased by another financial institution. Further enforcement actions are pending. *In the Matter of Judy R. Davis, First National Bank of Shelby County, Columbiana, Ala.*, Doc. No. 2006-59 (June 5, 2006); *In the Matter of Russell J. Rasco*, Doc. No. 2006-61 (May 31, 2006); *In the Matter of A. Duncan McFarlane*, Doc. No. 2006-60 (June 29, 2006); *In the Matter of Martha B. Ferguson*, Doc. No. 2006-42 (May 31, 2006); *In the Matter of Robert A. Hayes*, Doc. No. 2006-43 (May 31, 2006); *In the Matter of Joe L. Tidmore*, Doc. No. 2006-44 (May 23, 2006).

F. Fast Track Enforcement Cases

The OCC continued its Fast Track Enforcement program, initiated in 1996, which ensures that bank insiders who have engaged in criminal and other serious acts in banks but who are not being criminally prosecuted are prohibited from working in the banking industry. As part of the Fast Track Enforcement program, the OCC secured eight prohibition orders against institution-affiliated parties from January 1, 2006, through June 30, 2006. Four of these orders incorporated restitution to the appropriate bank for losses incurred, and one of the orders incorporated a civil money penalty. During the same period, the OCC sent out notifications to 67 former bank employees who were convicted of crimes of dishonesty; the letters informed them that under federal law they are prohibited from working again in any federally insured depository institution.