

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

<u>In the Matter of:</u>)	AA-EC-04-85
Tom J. Trammell)	
Former Senior Vice President,)	
)	
Southwest Bank of Texas, NA, Houston, Texas)	
)	
<u>Whitney National Bank, New Orleans, Louisiana</u>)	

STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate removal and prohibition and civil money penalty proceedings against Tom J. Trammell (“Respondent”) pursuant to 12 U.S.C. § 1818(e) and (i); 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, the Respondent, without admitting or denying any wrongdoing, desires to enter into this Stipulation and Consent Order (“Order”);

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through her duly authorized representative, and Respondent that:

Article I

JURISDICTION

(1) Southwest Bank of Texas, NA, Houston, Texas (“SWBT”) and Whitney National Bank, New Orleans, Louisiana (collectively “Banks”) are national banking associations, 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 Banks are “insured depository institutions” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was Senior Vice President of the Banks and is an “institution-affiliated party” of the Banks 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)).

(3) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain enforcement proceedings against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain these removal and prohibition and civil money penalty proceedings against him pursuant to 12 U.S.C. § 1818(e) and (i).

Article II

COMPTROLLER’S FINDINGS

(1) For all the paragraphs of this Article, the Comptroller finds and Respondent neither admits nor denies that:

(2) In connection with his employment as Senior Vice President of SWBT, Respondent violated the Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.*, and/or its implementing regulations found at 24 C.F.R. Part 3500 *et seq.*, by causing, bringing about or aiding or abetting the submission of inaccurate HUD-1 settlement statements to SWBT. The inaccurate HUD-1 settlement statements were prepared by officers or employees of Chicago

Title Insurance Company. These settlement statements concealed numerous irregularities, including payments to Respondent in connection with his making of real estate loans to customers of SWBT. SWBT suffered losses as a result of Respondent's actions.

(3) Respondent also breached his fiduciary duty to SWBT by making, directing or permitting numerous payments to conceal past due status and nonperformance of various SWBT loans, resulting in falsification of SWBT's books and records. SWBT suffered losses as a result of Respondent's actions.

(4) In connection with his employment as Senior Vice President of the Banks, Respondent breached his fiduciary duty to the Banks by making a number of improper loans to straw borrowers, in order to conceal the true identity of the recipient of the loans. The Banks suffered losses as a result of Respondent's actions.

(5) In connection with his employment as Senior Vice President of the Banks, Respondent breached his fiduciary duty to the Banks by accepting payments in connection with his making of loans for the Banks, and/or engaging in business ventures with parties associated with the Banks' loan transactions. The Banks suffered losses as a result of Respondent's actions.

(6) In connection with his employment as Senior Vice President of the Banks, Respondent breached his fiduciary duty to the Banks by making loans to borrowers who were not credit worthy, in violation of the Banks' credit underwriting policies, and/or without appropriate credit analysis or documentation. The Banks suffered losses as a result of Respondent's actions.

(7) The misconduct described in each of the above paragraphs of this Article II additionally constituted unsafe or unsound banking practices.

Article III

PROHIBITION ORDER

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

(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 as a savings association under 12 U.S.C. § 1818(b)(9) (as amended);
- (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 Board 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 Comptroller and the institution's “appropriate Federal financial institutions regulatory agency,” as defined in 12 U.S.C. § 1818(e)(7)(D) (as amended).

(4) Respondent agrees that 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(e) and (h).

Article IV

CIVIL MONEY PENALTY ORDER

(1) Respondent hereby consents to the payment of a civil money penalty in the amount of two hundred fifty thousand dollars (\$250,000), which shall be paid as set forth further below. Respondent shall make each payment by certified check or money order made payable to the Treasurer of the United States and shall deliver the payment to: Comptroller of the Currency, P.O. Box 73150, Chicago, IL 60673-7150. The docket number of this case should be entered on all checks. A copy of each payment instrument shall be mailed to: Director of Enforcement, Comptroller of the Currency, 250 E Street, SW, MS 8-10, Washington, DC 20219.

(2) Within thirty-five (35) days of the execution of this Order, Respondent shall make the initial payment of twenty five thousand dollars (\$25,000). Respondent shall thereafter make annual payments of twenty five thousand dollars (\$25,000) every January 2, for nine (9) years, commencing on January 2, 2006, and terminating on January 2, 2014.

(3) If Respondent fails to make any payment as provided in this Article, 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(h) and (i).

(5) Within seven (7) days from the issuance of this Order, Respondent shall notify the Director of Enforcement, at the address set forth above in paragraph (1), of his current address by completing the form attached hereto as Appendix A.

(6) Until the civil money penalty is paid in full, upon each and every subsequent change in address, if any, Respondent shall notify the Director of Enforcement, at the address set forth above in paragraph (1), of his new address within seven (7) days of such change in address.

(7) If Respondent files for bankruptcy protection under the laws of the United States, Respondent shall notify and provide a copy of the filing to the Director of Enforcement, at the address set forth above in paragraph (1), within ten (10) days of the filing.

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

Article V

WAIVERS

- (1) By executing this Order, Respondent hereby waives:
 - (a) the right to the issuance of Notices under 12 U.S.C. § 1818(e) and (i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(e) and (i) and 12 C.F.R. Part 19;
 - (c) all rights to seek judicial review of this Order;
 - (d) all rights in any way to contest the validity of this Order;

- (e) any and all claims for fees, costs or expenses against the Comptroller, or any of her 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; and
- (f) all rights to assert a “double jeopardy” claim in the event of a criminal prosecution brought by the Department of Justice for the acts which form the basis for issuance of this Order.

(2) Respondent shall not cause, participate in or authorize the Banks (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any expense for the payment of the civil money penalty under this Order, or any legal (or other professional) expense relative to the negotiation and issuance of this Order except in accordance with 12 C.F.R. § 7.2014 and Part 359; and Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Banks (or any subsidiary or affiliate thereof) with respect to such amounts except in accordance with 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 Comptroller, her agents or employees to cause or induce the Respondent to agree to consent to the issuance of this Order and/or to execute this Order.

(4) It is hereby agreed that the provisions of this Order constitute a settlement of these removal and prohibition and civil money penalty proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations described in Article II of this Order, unless such acts, omissions, or violations reoccur.

(5) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent if, at any time, she deems it appropriate to do so to fulfill the responsibilities placed upon her by the several laws of the United States of America.

(6) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and that nothing herein 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.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/S/ Ronald G. Schneck

2/4/05

Ronald G. Schneck
Director
Special Supervision Division

Date

/S/ Tom J. Trammell

Tom J. Trammell

1/10/05

Date

On this 10th day of Jan. 2005, Tom J. Trammell did acknowledge and sign before me this document.

/S/ Shabbir Ahmed Dadabhoy

Public Notary
My Commission Expires 04/14/05