

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

<b>In the Matter of:</b> Timothy Perry Former Senior Mortgage Loan Originator Barrington Bank and Trust, Barrington, Illinois	) ) ) ) ) ) )	AA-EC-2017-14
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**CONSENT ORDER**

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist and civil money penalty proceedings against Timothy Perry (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities while serving as Senior Loan Originator at Wintrust Mortgage, a division of Barrington Bank and Trust, Barrington, Illinois (“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 is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an 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 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) During the period from June 2014 to July 2014, Respondent transferred certain Bank customer information to another mortgage lender with whom Respondent was engaged in negotiations regarding future employment. Respondent sent completed applications for mortgage loans from four customers from the Bank to his then prospective employer. Additionally, Respondent collected confidential consumer financial information of Bank customers and prospective customers and added it to his personal electronic database (“Database”). Respondent transmitted the Database and the applications from his Bank-owned email address to his personal email account and then to his prospective employer, all without permission from the Bank and all via unencrypted email.

(2) By reason of the foregoing conduct Respondent caused violations of law and regulation, including, but not limited to 12 C.F.R. Part 1016 (Regulation P – Privacy of

Consumer Financial Information). Respondent further engaged in unsafe or unsound banking practices and breached his fiduciary duties to the Bank.

### **ARTICLE III**

#### **ORDER FOR CIVIL MONEY PENALTY**

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of Eight Thousand dollars (\$8,000), which shall be paid in full upon Respondent's execution of this Order.

(2) Respondent shall make payment in full by cashier's or certified check made payable to the Treasurer of the United States, and shall deliver the payment to: Office of the Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000. The docket number of this case (AA-EC-2017-14) shall be entered on the submitted payment.

(3) 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 IV**

#### **ORDER TO CEASE AND DESIST**

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by, or offered employment at, an insured depository institution (as defined in 12 U.S.C. § 1813(c)(2)) or otherwise becomes an institution-affiliated party ("IAP") within the meaning of 12 U.S.C. §1813(u), Respondent shall:

- (a) Prior to becoming an IAP, or within ten (10) days of consenting to this Order if currently an IAP, provide a copy of this Order to the board of directors or chief executive officer or any other senior management

officer, provided such officer has been approved by the OCC for this purpose, of the depository institution.

- (b) Provide written certification of his compliance with the foregoing disclosure requirement to the Director of the Enforcement and Compliance Division, 400 7<sup>th</sup> Street, SW, Washington, DC 20219 (“Enforcement Director”) within ten (10) days of compliance.
- (c) Comply with all policies and procedures of the employer and with all applicable laws, regulations and policies regarding retention and protection of customers’ nonpublic personal information, as that term is defined at 12 C.F.R. § 1016.3(p) (“Nonpublic Personal Information”), obtained by Respondent during the course of such employment.
- (d) Comply fully with all laws, rules and regulations while employed, directly or indirectly, by any insured depository institution (as defined in 12 U.S.C. §1813(c)(2)).
- (e) Not engage in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code.
- (f) Fulfill the fiduciary duties of loyalty and care owed by Respondent to any insured depository institution with which he is or may become affiliated and, at all times, not place his own interests above those of the institution.
- (g) Adhere to the written policies and procedures of any insured depository institution or agency to which he may become affiliated, or seek and receive written permission from appropriate authorized individuals to do otherwise.

(2) As part of the execution of this Order, Respondent certifies that he has returned to the Bank or permanently deleted or destroyed, in accordance with the Bank's directions, all electronic and hardcopy files containing any Nonpublic Personal Information obtained either prior to or during his employment at the Bank.

(3) 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 19;
  - (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/Timothy Perry

5-23-17

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Timothy Perry

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Date

**IT IS SO ORDERED.**

/s/Michael R. Brickman

6-2-17

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Michael R. Brickman  
Deputy Comptroller for Special Supervision.

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Date