

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION



IN RE:
FREDERICK M. MCCARTNEY

Administrative Proceeding No.: 0632-FI-04/09

EMERGENCY ORDER OF SUSPENSION AND PROHIBITION
WITH NOTICE OF RIGHTS

The State of Florida, Office of Financial Regulation (hereinafter "Office"), gives notice that it, having determined that Frederick M. McCartney (hereinafter "McCartney"), a financial institution-affiliated party, has been charged with felony violations involving fraud, currency transaction reporting, money laundering, theft, or moral turpitude, files this Emergency Order of Suspension and Prohibition with Notice of Rights (hereinafter "Emergency Order"), pursuant to the provisions of Sections 655.012 and 655.037(6)(b), Florida Statutes, against McCartney, immediately suspending McCartney from serving as an employee of Capital City Bank ("Bank") and as a financial institution-affiliated party of any state financial institution, subsidiary, or service corporation, and immediately prohibiting McCartney from participation in any manner in the affairs of any state financial institution, subsidiary, or service corporation.

STATEMENT OF FACTS AND CONCLUSIONS OF LAW

1. Capital City Bank is a Florida state chartered Bank, charter number 240, with its principal place of business at 217 North Monroe Street, Tallahassee, Florida 32301, and thus a state financial institution, as that term is defined in Section 655.005(1)(p), Florida Statutes.
2. McCartney was employed by the Bank since December 2, 1983 and was appointed Trust Officer in April, 2000. At all times material hereto, Frederick McCartney was a full-time employee of the Bank working as a Trust Officer in the Main Office at 217 North Monroe Street,

Tallahassee. Thus, McCartney was a financial institution-affiliated party, as that term is defined in Section 655.005(1)(i), Florida Statutes.

3. As a Trust Officer, McCartney was authorized to conduct transactions, such as transferring funds between accounts, for the benefit of the trust customers to whom he was assigned.

4. On May 11, 2009, a one count Information was filed by the United States Attorney in the United States District Court for the Northern District of Florida charging that McCartney did “knowingly, willfully, and with the intent to injure and defraud Capital City Bank, embezzle, abstract, purloin and misapply approximately \$316,946.19 in moneys, funds, and credits belonging to and entrusted to the custody and care of Capital City Bank” in violation of 18 U.S.C. § 656. The case, styled United States of America v. Frederick McCartney was assigned number # 4:09-cr-00031-RH-WCS. The Information, which is attached as Exhibit 1, is hereby incorporated by reference as if set forth in its entirety.

5. A violation of 18 U.S.C. § 656 as described in the information is a Class B felony.

6. On May 15, 2009, McCartney entered a plea of guilty in the case. A copy of the signed Plea Agreement is attached as Exhibit 2. The Agreement is hereby incorporated by reference as if set forth in its entirety. McCartney is scheduled to be sentenced on July 29, 2009.

7. The Office is responsible for the enforcement of the laws governing financial institutions authorized or chartered by the State of Florida, and financial institution-affiliated persons associated with such institutions, including, but not limited to, directors and officers as well as employees. §§ 655.001, 655.005(1)(i) and (j), 655.012, 655.037(1), (6)(b), and (8), Florida Statutes.

8. McCartney's resignation, termination of employment or participation, or separation from Capital City Bank on December 19, 2008, does not affect the jurisdiction and authority of the Office to issue any notice and proceed against McCartney under Section 655.037, Florida Statutes. Section 655.037(8) states:

The resignation, termination of employment or participation, or separation from a state financial institution, subsidiary, or service corporation of the financial institution-affiliated party does not affect the jurisdiction and authority of the office to issue any notice and proceed under this section against such financial institution-affiliated party, if such notice is served before the end of the 6-year period beginning on the date such person ceases to be such a financial institution-affiliated party with respect to such state financial institution, subsidiary, or service corporation.

9. Section 655.037(6)(b), Florida Statutes, states, in pertinent part:

Whenever any financial institution-affiliated party is charged with a felony in a state or federal court, or in the courts of any foreign country with which the United States maintains diplomatic relations, and such charge alleges violation of any law involving fraud, currency transaction reporting, money laundering, theft, or moral turpitude and the charge under such foreign law is equivalent to a felony charge under state or federal law, the office may enter an emergency order suspending such financial institution-affiliated party or restricting or prohibiting participation by such financial institution-affiliated party in the affairs of that particular state financial institution, subsidiary, or service corporation or any other financial institution, subsidiary, or service corporation, upon service of the order upon the state financial institution, subsidiary, or service corporation and the financial institution-affiliated party so charged.

10. McCartney's continued service and participation as a financial institution-affiliated party of a state financial institution, subsidiary or service corporation, poses a threat to the interests of the state financial institution, subsidiary, or service corporation, and poses a threat to the interests of the state financial institution's, subsidiary's, or service corporation's depositors, members, or stockholders. Furthermore, McCartney's continued service and participation as a

financial institution-affiliated party of a state financial institution, subsidiary, or service corporation impairs public confidence in the state financial institution, subsidiary, or service corporation, and the state banking system in general.

11. Although it is unnecessary to find or demonstrate that an immediate danger to the public health, safety, or welfare exists in the context of an emergency suspension and prohibition pursuant to the provisions of Section 655.037(6)(b), Florida Statutes, the Office nevertheless finds that an immediate danger to the public welfare exists.

12. Although it is unnecessary to find or demonstrate that the reasons for concluding that the procedures employed herein are fair under the circumstances, since this action is in the context of an emergency suspension and prohibition pursuant to the provisions of Sections 655.012(3) and 655.037(6)(b), Florida Statutes, the Office nevertheless finds that the procedures used are fair, since the Office has merely used the procedures contained within the provisions of Sections 655.012(3) and 655.037(6)(b), Florida Statutes.

13. The Office concludes, pursuant to Section 655.0321, Florida Statutes, that this Emergency Order shall be a public document, and should McCartney request a post-suspension hearing or appeal this Emergency Order, said hearings and proceedings shall be conducted as public proceedings, and that all documents related to such hearing be public documents unless subject to a protective order or made confidential pursuant to federal or Florida law.

AGENCY ACTION

14. Based on the foregoing Statement of Facts and Conclusions of Law, it is ORDERED that:

- a. McCartney is hereby IMMEDIATELY suspended from any and all positions he holds

at any state financial institution, subsidiary, or service corporation.

b. McCartney is hereby IMMEDIATELY suspended from serving in the capacity of a financial institution-affiliated party, as the term is defined in Section 655.005(1)(i), Florida Statutes, of any state financial institution, subsidiary, or service corporation he may be a financial institution-affiliated party of.

c. McCartney is hereby IMMEDIATELY prohibited from serving in the capacity of a financial institution-affiliated party, as the term is defined in Section 655.005(1)(i), Florida Statutes, of any state financial institution, subsidiary, or service corporation.

d. McCartney is hereby IMMEDIATELY prohibited from participation in any manner in the affairs of any state financial institution, subsidiary, service corporation, or affiliate. This prohibition includes, but is not limited to, matters of corporate governance and the following prohibitions regarding stock ownership, transfer, and voting:

(1) McCartney shall not vote any stock he owns or controls in any state financial institution, any subsidiary, service corporation or any affiliate, without the prior written permission of the Office.

(2) McCartney shall not solicit, procure, vote, or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any state financial institution, or any subsidiary, service corporation or affiliate.

(3) McCartney shall not solicit or procure any additional stock in any other state financial institution, or any subsidiary, service corporation or affiliate.

(4) McCartney shall not transfer or attempt to transfer: a) any stock he owns or controls in any state financial institution, or any subsidiary, service corporation or affiliate, without the

prior written permission of the Office; or b) any proxy, consent, or authorization with respect to any voting rights in any state financial institution, or any subsidiary, service corporation or affiliate, without the prior written permission of the Office.

e. McCartney is hereby IMMEDIATELY suspended from serving as a consultant or independent contractor for any state financial institution, or any subsidiary, service corporation or affiliate.

f. McCartney is hereby IMMEDIATELY prohibited from serving as a consultant or independent contractor, or other similar position, for any state financial institution, or any subsidiary, service corporation or affiliate, unless, prior to accepting appointment with, and prior to providing any services to, any state financial institution, subsidiary or service corporation as a consultant or independent contractor, or other similar position:

(1) McCartney provides a copy of this Emergency Order to the chief executive officer of the state financial institution, subsidiary, service corporation or affiliate, with which McCartney seeks to serve as a consultant or independent contractor, or other similar position; and

(2) McCartney, and the chief executive officer and the chairman of the board of directors of the state financial institution, or subsidiary, service corporation or affiliate, with which McCartney seeks to serve as a consultant or independent contractor, or other similar position, provides written notification to the Office describing in detail the duties and responsibilities of the services McCartney desires to provide to the state financial institution, or subsidiary, service corporation or affiliate; and

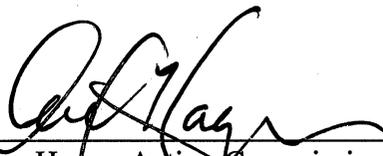
(3) the Office, in its sole discretion, authorizes McCartney to accept appointment with the state financial institution, or subsidiary, service corporation or affiliate, as a consultant or

independent contractor, or other similar position.

g. The Office will only rescind or otherwise modify this Emergency Order upon the issuance of an Office Order finding that McCartney has demonstrated through a postsuspension hearing that his continued service to or participation in the affairs of the state financial institution, subsidiary, or service corporation does not pose a threat to the interests of the state financial institution's depositors, members, or stockholders, or threaten to impair public confidence in the state financial institution.

h. This Emergency Order shall immediately become final as a result of McCartney's May 15, 2009 guilty plea to a felony involving fraud, currency transaction reporting, money laundering, theft, or moral turpitude.

DONE AND ORDERED in Tallahassee, Florida, this 21ST day of May, 2009.



Alex Hager, Acting Commissioner
Office of Financial Regulation

NOTICE OF RIGHTS

NOTICE IS HEREBY provided that the foregoing Emergency Order is entered pursuant to section 655.037(6)(b), Florida Statutes, and is accordingly effective immediately. McCartney

is entitled to seek judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure, and are commenced by filing the original notice of appeal with the Clerk of the Office of Financial Regulation, Legal Services Office, The Fletcher Building, Suite 526, 200 East Gaines Street, Tallahassee, Florida 32399-0379, and a copy of the notice of appeal, accompanied by the filing fees prescribed by law, with the First District Court of Appeal, 301 Martin Luther King, Jr. Blvd., Tallahassee, Florida 32399, or the District Court of Appeal in the appellate district where the party resides, or as otherwise provided by law. The notice of appeal must be filed within thirty (30) days of rendition of the Emergency Order.

McCartney may also request a post-suspension hearing, to be conducted in accordance with the provisions of sections 120.569 and 120.57, Florida Statutes. Requests for such a post-suspension hearing must comply with the provisions of Rule 28-106.104(2) and either Rule 28-106.201(2) or 28.106.301(2) Florida Administrative Code, and must be filed with:

Clerk
Office of Financial Regulation
Legal Services Offices
The Fletcher Building, Suite 526
200 East Gaines Street
Tallahassee, Florida 32399-0379
(850) 410-9896

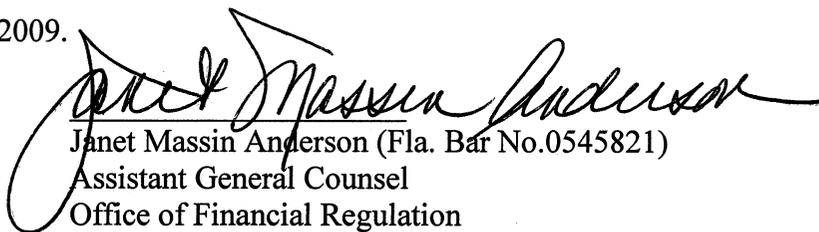
within twenty-one (21) days after McCartney, or his agent or representative, receives a copy of this Emergency Order. Should McCartney request a post-suspension hearing, he will have the right to be represented by counsel or other qualified representative; to offer testimony, either written or oral; to call and cross-examine witnesses; and to have subpoenas and subpoenas duces tecum issued on McCartney's behalf. Failure to respond within twenty-one (21) days of receipt

of this Emergency Order shall be deemed to be a waiver of all rights to a post-suspension hearing, and this Emergency Order shall, without further notice, remain in effect.

Note that the acquittal of the financial institution-affiliated party charged, or the final unappealed dismissal of all charges against such person, will dissolve the Emergency Order, but will not prohibit the Office from instituting proceedings under Section 655.037(1), Florida Statutes. Pursuant to section 120.573, Florida Statutes, McCartney is advised that mediation is not available.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Emergency Order of Suspension and Prohibition with Rights has been furnished via U.S. Mail, return receipt requested, delivery to addressee only, to Frederick McCartney, 1323 Landover Court, Tallahassee, Florida 32311, and via U.S. Mail, Return Receipt Requested, to Bill Smith, President and Chief Executive Officer, Capital City Bank, 217 North Monroe Street, Tallahassee, Florida 32301, this 22 day of May 2009.


Janet Massin Anderson (Fla. Bar No.0545821)
Assistant General Counsel
Office of Financial Regulation
The Fletcher Building, Suite 526
200 East Gaines Street
Tallahassee, Florida 32399-0379

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

UNITED STATES OF AMERICA

v.

INFORMATION

FREDERICK MCCARTNEY

4:09 cr 31- RH

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

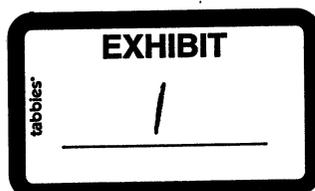
That between in or about February 2005, and on or about December 15, 2008, in the Northern District of Florida and elsewhere, the defendant,

FREDERICK MCCARTNEY,

being an agent and employee of Capital City Bank in Tallahassee, Florida, the deposits of which were then insured by the Federal Deposit Insurance Corporation, did knowingly, willfully, and with intent to injure and defraud Capital City Bank, embezzle, abstract, purloin and misapply approximately \$316,946.19 in moneys, funds, and credits belonging to and entrusted to the custody and care of Capital City Bank, in violation of Title 18, United States Code, Section 656.

CRIMINAL FORFEITURE

The allegations in Count One of this Information are re-alleged and incorporated herein for the purpose of alleging forfeiture to the United States of America.



OFFICE OF CLERK
U.S. DISTRICT CT.
NORTHERN DIST. FLA.
TALLAHASSEE, FLA.

2009 MAY 11 AM 9:42

am
FILED

Upon conviction of the offense alleged in Count One of this Information, the defendant,

FREDERICK MCCARTNEY,

shall forfeit to the United States of America pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting, and derived from, proceeds the defendant obtained directly or indirectly, as the result of such violation.

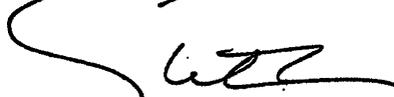
If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- i. cannot be located upon the exercise of due diligence;
- ii. has been transferred or sold to, or deposited with, a third party;
- iii. has been placed beyond the jurisdiction of this court;
- iv. has been substantially diminished in value; or
- v. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p)(1), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendant.



THOMAS F. KIRWIN
United States Attorney



ERIC K. MOUNTIN
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 4:09CR31-RH

FREDERICK MCCARTNEY

PLEA AGREEMENT
PARTIES TO AGREEMENT

This agreement is entered into by and between FREDERICK MCCARTNEY ("Defendant"), Matthew K. Foster, Esq., attorney for Defendant, and the United States Attorney for the Northern District of Florida. This agreement specifically excludes and does not bind any other state or federal agency, including other United States Attorneys and the Internal Revenue Service, from asserting any civil, criminal, or administrative claim against Defendant.

TERMS

The parties agree to the following terms:

1. FREDERICK MCCARTNEY will plead guilty to Count One of the Information. On Count One, defendant faces a sentence of imprisonment of up to thirty (30) years, a fine of up to \$1,000,000, a term of supervised release of at least five (5) years, and a \$100 special monetary assessment. Defendant agrees to pay the special monetary assessment on or before the date of sentencing.
2. FREDERICK MCCARTNEY further agrees not to become, or continue serving, as an



(the Federal Deposit Insurance Act, as amended), or participate in any manner in the conduct of the affairs of any institution or agency specified in Title 12, U.S.C., §1818(e)(7)(A), without prior approval of the appropriate federal financial institution regulatory agency as defined in Title 12, U.S.C., §1818(e)(7)(D).

3. FREDERICK MCCARTNEY is pleading guilty because defendant is in fact guilty of the charges contained in Count One of the Information. In pleading guilty to these offenses, FREDERICK MCCARTNEY acknowledges that were this case to go to trial, the government could present evidence to support these charges beyond a reasonable doubt.

4. Upon the District Court's adjudication of guilt of FREDERICK MCCARTNEY for these violations of Title 18, U.S.C. §656, the United States Attorney, Northern District of Florida will not file any further criminal charges against FREDERICK MCCARTNEY arising out of the same transactions or occurrences to which defendant has pleaded.

5. Nothing in this agreement shall protect FREDERICK MCCARTNEY in any way from prosecution for any offense committed after the date of this agreement.

6. The parties agree that the sentence to be imposed is left solely to the discretion of the District Court, which is required to consult the United States Sentencing Guidelines and take them into account when sentencing defendant. The parties further understand and agree that the District Court's discretion in imposing sentence is limited only by the statutory maximum sentence and any mandatory minimum sentence prescribed by statute for the offense.

7. The United States Attorney agrees not to recommend a specific sentence. However, the United States Attorney does reserve the right to advise the District Court and any other authorities of its version of the circumstances surrounding the commission of the offenses by

Defendant, including correcting any misstatements by defendant or defendant's attorney, and reserves the right to present evidence and make arguments pertaining to the application of the sentencing guidelines and the considerations set forth in Title 18 United States Code, § 3553(a).

8. FREDERICK MCCARTNEY understands that any prediction of the sentence which may be imposed is not a guarantee or binding promise. Because of the variety and complexity of issues which may arise at sentencing, the sentence is not subject to accurate prediction. The Court is not limited to consideration of the facts and events provided by the parties. Adverse rulings, or a sentence greater than anticipated shall not be grounds for withdrawal of defendant's plea.

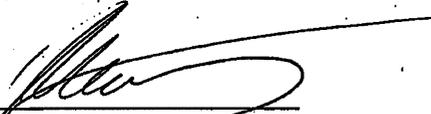
9. Defendant understands that conviction on this charge may adversely affect his immigration status and may lead to defendant's deportation.

10. The parties reserve the right to appeal any sentences imposed.

11. In every case in the Tallahassee Division of the Northern District of Florida in which the parties enter into a Plea Agreement, the Court requires the parties to enter a Supplement to the Plea Agreement indicating whether or not the Defendant agrees to cooperate with the United States Attorney.

12. The parties agree to the Supplement to Plea Agreement entered in this case.

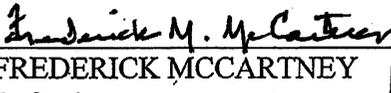
FREDERICK MCCARTNEY, Defendant, does enter this agreement knowingly, voluntarily, and upon the advice of counsel.



MATTHEW K. FOSTER, Esq.
Attorney for Defendant

5/8/09

Date

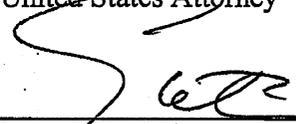


FREDERICK MCCARTNEY
Defendant

5/8/09

Date

THOMAS F. KIRWIN
United States Attorney



ERIC K. MOUNTIN
Texas Bar No. 00784649
Assistant U.S. Attorney
Northern District of Florida
111 North Adams Street, 4th Floor
Tallahassee, Florida 32301
(850) 942-8430

5/8/09

Date