

STATE OF FLORIDA
DEPARTMENT OF BANKING AND FINANCE



IN RE:)
)
EMEL UNER)
_____)

DBF Case No. 3947-B-11/00

FINAL ORDER AND NOTICE OF RIGHTS

The Department of Banking and Finance (hereinafter "Department"), having received a Motion to Set Aside or, in the alternative, to Modify the Department's Final Order in the case styled Department of Banking and Finance v. Uner, DOAH Case No. 98-3719 (DBF No. 3719-B-9/97), hereby denies the Motion to Set Aside/Modify and in support thereof, states the following:

FINDINGS OF FACT

1. On February 25, 2000, the Department entered a final order in the case styled Department of Banking and Finance v. Uner, DOAH Case No. 98-3719 (DBF No. 3719-B-9/97) (hereinafter "Final Order"). The Final Order, which is attached hereto as Exhibit 1 and incorporated by reference as if set forth in its entirety, adopted a Stipulation and Consent Agreement (hereinafter "Stipulation") which Uner and the Department had entered into.
2. Uner did not appeal the Final Order.
3. On or around November 9, 2000, the Department received a letter from Uner, which is attached hereto as Exhibit 2 and incorporated by reference as if set forth in its entirety. Uner's letter is deemed to constitute a Motion to Set Aside or, in the alternative, to Modify the Final Order.

CONCLUSIONS OF LAW

4. The Department has jurisdiction to consider a motion to set aside or modify a Department final order which involved disciplinary action. See Mann v. Department of Professional Regulation, Bd. of Dentistry, 585 So.2d 1059, 1060 (Fla. 1st DCA 1991).

5. However, before the Department may exercise its inherent authority to reopen a closed case and set aside or modify a final order, the Department must have jurisdiction to revisit the final order. Russell v. Department of Business and Professional Regulation, 645 So.2d 117, 119 (Fla. 1st DCA 1994).

6. The Department lacks jurisdiction to revisit a final order in the absence of a material change in circumstances or a demonstrated public need. Id.

7a. A complete review of the material contained within the Department's files relating to the case styled Department of Banking and Finance v. Uner, DOAH Case No. 98-3719 (DBF No. 3719-B-9/97), demonstrates that the Motion to Set Aside/Modify does not evidence a material change in circumstances or a demonstrated public need.

b. Paragraphs one through four of the Motion to Set Aside/Modify primarily reiterate claims made by Uner at various times; claims that appear to be refuted by various documents and sworn testimony contained within the Department's files.

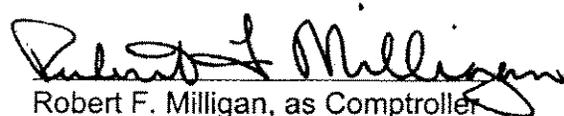
c. Paragraph five merely recounts Uner's legal action against Hendry County Bank, informs the Department that the matter between Uner and Hendry County Bank was settled after entry of the Final Order, and asserts that Uner entered into the Stipulation with the Department in order to pursue his claims against Hendry County Bank.

8. The Department is without jurisdiction to revisit the Final Order. Russell, 645 So.2d at 119.

FINAL ORDER

NOW THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, and having determined that the Department lacks jurisdiction to revisit the Final Order, the Departemnt concludes that Uner must continue to comply with the Final Order's terms and conditions.

DONE and ORDERED in Tallahassee, Leon County, Florida this 16th day of January, 2001.


Robert F. Milligan, as Comptroller
and Head of the Department of
Banking and Finance

NOTICE OF RIGHTS TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES (1999). REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE AND ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BANKING AND FINANCE, SUITE 526, THE FLETCHER BUILDING, 101 E. GAINES ST., TALLAHASSEE, FL. 32399, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE FIRST DISTRICT COURT OF APPEAL, 301 MARTIN L. KING BLVD., TALLAHASSEE, FL. 32399, OR THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BY FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished,
via U.S. Mail to Emel Uner, 2062 Sunset Point Road #68, Clearwater, FL 33765 this 16th
day of January, 2001.



Robert Alan Fox
Assistant General Counsel
Office of the Comptroller

copies furnished to:

Alex Hager, Director
Division of Banking

John Alcorn, Financial Specialist
Division of Banking

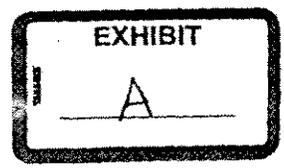
STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BANKING AND)	
FINANCE, DIVISION OF BANKING,)	
)	
Petitioner,)	DOAH Case No. 98-3719
)	(DBF No. 3719-B-9/97)
vs.)	
)	
EMEL UNER,)	
)	
Respondent.)	

STIPULATION AND CONSENT AGREEMENT

This Stipulation and Consent Agreement is entered into by Emel Uner (Respondent), and the Department of Banking and Finance (Department). In consideration for the mutual promises and other good and valuable consideration, receipt of which is hereby acknowledged, the Respondent and the Department, agree on the last date executed below:

1. The Department is the regulatory agency of the State of Florida charged with the duty and responsibility for the civil and administrative enforcement of the Financial Institutions Code, as that term is defined in § 655.005(j), Fla. Stat.
2. (a) On July 24, 1998, the Department issued an Administrative Complaint for Prohibition with Notice of Rights (Administrative Complaint) against Respondent, a former president, chief executive officer and director of Hendry County Bank. See Exhibit 1, which is hereby incorporated by reference as if set forth in its entirety. Respondent was served with a copy of the Department's Administrative



Complaint for Removal and Prohibition with Notice of Rights on July 30, 1998.

(b) On or about December 15, 1999, the Department served upon Respondent's counsel a More Definite Statement of the alleged misconduct. See Exhibit 2, which is hereby incorporated by reference as if set forth in its entirety.

3. The Department is of the opinion that grounds exist to continue administrative proceedings against Respondent pursuant to § 655.037, Fla. Stat. Respondent denies the allegations made against him in the Administrative Complaint and Respondent has filed a Petition for Formal Hearing denying there is a basis for continuing administrative proceedings against him. Respondent herein also denies the allegations made against him in the Department's More Definite Statement. Nevertheless, it is the desire of Respondent to settle; however, in doing so it is clear he is not admitting the matters alleged in the Administrative Complaint. As such, Respondent stipulates and agrees to the terms herein in consideration of the Department's forbearance from continuing administrative action against Respondent.

4. At the time of Respondent's alleged misconduct, Hendry County Bank was a state-chartered financial institution operating under the jurisdiction of the Florida Department of Banking and Finance. Respondent, as a former president, chief executive officer and director of a state-chartered financial institution, is subject to the Department's authority to initiate and maintain removal and prohibition proceedings against him pursuant to § 655.037, Fla. Stat.

5. Effective upon the Department's execution of this Stipulation and Consent Agreement, Respondent shall voluntarily withdraw his petition for formal hearing in DOAH Case No. 98-3719. The Parties agree that upon full execution, this Stipulation

and Consent Agreement shall constitute a notice of withdrawal of Respondent's petition for formal hearing in DOAH Case No. 98-3719. Furthermore, Respondent agrees to the Department's filing of a Motion For Order Relinquishing Jurisdiction, pursuant to Rule 106.204, Fla. Admin. Code, in DOAH Case Nos. 98-3719, to the Department for entry of the Final Order incorporating this Stipulation and Consent Agreement. Within fifteen (15) days after entry of an Order Relinquishing Jurisdiction by the Administrative Law Judge, the Department's Final Order adopting this Stipulation and Consent Agreement, subject to the Comptroller's final approval, will be entered. The Final Order will not make any findings that Respondent committed the acts alleged in the Administrative Complaint.

6. Respondent represents that he is not presently serving as a financial institution-affiliated party, as that term is defined in § 655.005(l), Fla. Stat., for any financial institution, service corporation or subsidiary, as those terms are defined in § 655.005(h), (o), and (q), Fla. Stat.

7. (a) Respondent agrees that he will not serve as a financial institution-affiliated party, as that term is defined in § 655.005(l), Fla. Stat., for any financial institution, service corporation or subsidiary, as those terms are defined in § 655.005(h), (o), and (q), Fla. Stat., for a period of five (5) years after the date of entry of the Department's Final Order adopting this Stipulation and Consent Agreement.

(b) Respondent agrees that he will not serve as a president, chief executive officer or director for any financial institution, service corporation or subsidiary, as those terms are defined in § 655.005(h), (o), and (q), Fla. Stat., for a period of seven (7) years after the date of entry of the Department's Final Order

adopting this Stipulation and Consent Agreement.

8. The Parties agree that this Stipulation and Consent Agreement will be incorporated by reference into a Final Order.

9. The Parties agree that the accompanying Final Order, which incorporates this Agreement, is issued pursuant to § 655.037, Fla. Stat., and shall constitute final agency action by the Department, for which the Department may seek enforcement pursuant to Chapters 655, 658 and 120, Fla. Stat.

10. Respondent knowingly and voluntarily waives:

- a. Any right to receipt of Notice of Rights or any other notice required pursuant to Chapter 120, Fla. Stat.;
- b. Any notice required pursuant to Chapters 655 or 658, Fla. Stat.;
- c. Any right to an administrative hearing or issuance of a recommended order provided by Chapter 120, Fla. Stat., or Chapters 655 or 658, Fla. Stat., or Chapter 28 of the Florida Administrative Code;
- d. Any requirement that the Department's Final Order contain stated Findings of Fact and Conclusions of Law or a Notice of Rights;
- e. Any right to contest the validity of any term, condition, obligation, or duty created hereby in any judicial or administrative forum; and
- f. Any and all objections to or challenges in any judicial proceeding or forum, including but not limited to, appeal pursuant to § 120.68, Fla. Stat., any aspect, provision, or requirement concerning the content, issuance, procedure, or timeliness of the Final Order adopting this agreement or the final order relating to DOAH Case No. 98-3719.

11. (a) Both Parties agree that each party herein shall be solely responsible for their own separate costs and expenses, including legal fees, incurred as a result of or relating to this matter up to and including the entry of the Final Order in this matter.

(b) Respondent hereby waives, releases, and forever discharges the Department and its agents, representatives, and employees from any and all causes of action in law or equity he may now have, or may have in the future, arising out of the Department's administrative action, including but not limited to, any action for libel, slander, violation of a constitutionally protected right, tortious interference with advantageous contractual relationships and the like. The Department accepts this release and waiver by Respondent without acknowledging, while expressly denying, that any cause or causes of action exist.

12. This Stipulation and Consent Agreement shall resolve only the matter stated herein as between the parties hereto and shall not be construed to resolve any matters other than those contained in the Administrative Complaint and the Department's More Definite Statement in the above-styled proceeding. See Exhibits 1 and 2. Nothing herein shall be construed to waive or restrict the Department's right to undertake any action under any provision of the Florida Statutes, arising out of any facts or circumstances not expressly set forth in the Administrative Complaint or the Department's More Definite Statement. See Exhibits 1 and 2. Any administrative action shall be initiated and conducted in accordance with the provisions of Chapter 120, Fla. Stat., and the procedural safeguards contained therein.

13. The Parties agree that if any provisions of this Stipulation and Consent Agreement or Final Order, or the applicability to any person or circumstance is held

invalid, the invalidity shall not affect the remaining provisions of this Stipulation and Consent Agreement and Final Order, which can be given effect without the invalid provision.

14. The Parties herein acknowledge that they have read this Agreement and that they fully understand the rights, obligations, terms, representations, conditions, duties, and responsibilities with respect to its contents and are acting upon the advice of good and competent legal counsel.

15. Respondent agrees to comply with the terms and conditions of the Final Order upon issuance and stipulates that the Final Order, as described herein, complies with all applicable requirements of law.

16. In consideration of the foregoing, the Department and Respondent hereby acknowledge and agree to the terms and conditions of the foregoing Stipulation and Consent Agreement by written consent on the last date indicated below:



Emel Uner, Respondent

1/18/00
Date

DEPARTMENT OF BANKING AND FINANCE:

By: 

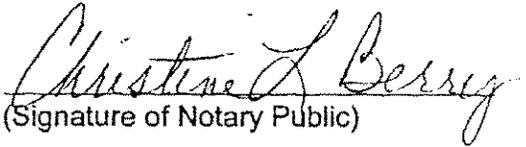
Mr. Arthur Simon, Director
Division of Banking

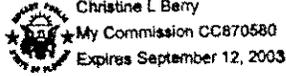
1/25/00
Date

STATE OF)
COUNTY OF)

BEFORE ME, the undersigned person, Emel Uner, personally appeared, and, being duly sworn, states that he has read the foregoing Stipulation and Consent Agreement and that he understands the foregoing Stipulation and Consent Agreement and voluntarily signed the Stipulation and Consent Agreement.

SWORN to and subscribed before me this 19th day of January, 2000.


(Signature of Notary Public)



(Print, Type, or Stamp Commissioned
Name of Notary Public)

Personally Known OR Produced Identification _____

Type of Identification Produced _____

STATE OF FLORIDA
DEPARTMENT OF BANKING AND FINANCE
DIVISION OF BANKING

IN RE:

EMEL UNER,

Respondent.

Administrative Proceeding
No. 3719-B-9/97

**ADMINISTRATIVE COMPLAINT FOR ORDER OF
PROHIBITION WITH NOTICE OF RIGHTS**

The State of Florida, Department of Banking and Finance, Division of Banking ("Department"), having reason to believe that Emel Uner (hereinafter "Uner"), the former president of Hendry County Bank (hereinafter "Bank"), LaBelle, Florida, has engaged in acts and practices which demonstrated a willful, continuing disregard for the safety and soundness of a financial institution and is unfit to hold any office or participate in any manner in the conduct of the affairs of a financial institution, files this Administrative Complaint for Prohibition with Notice of Rights barring Uner from future service as an officer, director, committee member, employee, or other person participating in the conduct of the affairs of a state-chartered financial institution in this state. The Department alleges as follows:

1. At all times material hereto, Uner was president and chief executive officer of the Bank.
2. At all times material hereto, the Bank was operating pursuant to a Cease and Desist Order.
3. At all times material hereto, the Bank carried on its books an asset under



the name "ABC Farms Property" (hereinafter "ABC property"). The ABC property consisted of a warehouse building and real property located in Immokalee, Collier County, Florida.

4. The ABC property had been adversely classified as substandard by both the Federal Deposit Insurance Corporation and the Department since 1991.

5. Unbeknownst to bank examiners, Uner, on or about April 22, 1996, requested that a new appraisals be performed by A.R.E.A. Real Estate Appraisers, Inc. relative to the ABC property (hereinafter "the A.R.E.A. appraisal"). The A.R.E.A. appraisals opined that the market value of the subject warehouse building and real property totaled \$800,000.00 dollars.

6. At the time of Uner's receipt of the appraisals, the ABC property was listed on the Bank's financial statements as an asset having a value of \$1,342,000 dollars.

7. Upon receipt of the appraisals, Uner instructed Wilson Studstill (hereinafter "Studstill"), the Bank's then senior loan officer, to hide the A.R.E.A. appraisals and not show them to anyone so the Bank would not be required to write down the asset and show the loss on its books. Studstill complied with Uner's directive by placing the A.R.E.A. appraisals in his desk drawer, and not showing the appraisals to anyone.

CONCLUSIONS OF LAW

8. Based upon the foregoing, the Department concludes that Uner's conduct, more particularly described in paragraphs five (5) through seven (7) above, constitutes:

(a) an unsafe or unsound banking practice, for which an Order of Prohibition may be imposed against Uner pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997);

(b) a prohibited act or practice, pursuant to §§ 655.0322(3)(d) and (e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Uner pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997); and

(c) a willful violation of a Department Order, for which an Order of Prohibition may be imposed against Uner pursuant to the provisions of § 655.037(1)(g), Fla. Stat. (1997).

9. The Department concludes, pursuant to § 655.0321, Fla. Stat. (1997), that all evidentiary hearings and other proceedings relating to this Administrative Complaint for the Entry of an Order of Prohibition with Notice of Rights should be conducted as public proceedings, and that all documents related to such hearings be public documents, unless said documents are subject to a protective order.

PROPOSED AGENCY ACTION

10. Based on the foregoing statements of fact and conclusions of law, NOTICE IS HEREBY PROVIDED to the Bank and Uner that the Department will enter a Final Order in this matter, subject only to the Notice of Rights herein, barring Uner from future service as an officer, director, committee member, employee, or other person participating in the conduct of the affairs of a state-chartered financial institution in this state without the prior, express written consent of the Department.

NOTICE OF RIGHTS

Uner is advised that he may request a hearing to be conducted in accordance with the provisions of §§ 120.569 and 120.57, Fla. Stat. (1997). Requests for such a hearing must comply with the provisions of Rule 28-106.104(2) and either Rule 28-106.201(2) or 28-106.301(2), Fla. Admin. Code (1998), and must be filed with:

Clerk
Office of the Comptroller
Department of Banking and Finance
Comptroller's Legal Office
Suite 526, The Fletcher Building
101 E. Gaines St.
Tallahassee, FL 32399-0350
(850) 488-9896

within twenty-one (21) days after Uner receives a copy of this Administrative Complaint.

As indicated, failure to respond within twenty-one (21) days of receipt of this denial shall be deemed to be a waiver of all rights to a hearing, and a Final Order will be entered without further notice. Should Uner request a 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 Uner's behalf.

Pursuant to § 120.573, Fla. Stat. (1997), Uner is advised that mediation is not available.

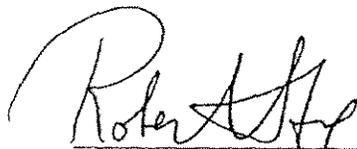


Robert Alan Fox
Office of the Comptroller
The Fletcher Bldg., Suite 526
101 East Gaines Street
Tallahassee, Florida 32399-0350
(850) 488-9896

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Administrative Complaint for Order of Prohibition with Notice of Rights was sent by certified U.S. Mail, restricted delivery, return receipt requested (Z 392 965 671) to Emel Uner, 656 Turtle-

lane, LaBelle, Florida, 33935, and via U.S. certified mail, addressee only, return receipt requested (P 339 227 689) to Hendry County Bank c/o Acting President Thomas M. Whalen, 155 N. Bridge Street, LaBelle, Florida 33935, this 24th day of July, 1998.



Robert Alan Fox
Office of the Comptroller
The Fletcher Bldg., Suite 526
101 East Gaines Street
Tallahassee, Florida 32399-0350
(850) 488-9896

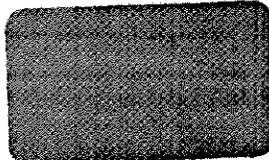
**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF BANKING AND FINANCE, DIVISION OF BANKING,)	
)	
Petitioner,)	DOAH Case No. 98-3719
)	(DBF No. 3719-B-9/97)
vs.)	
)	
EMEL UNER,)	
)	
Respondent.)	
_____)	

DEPARTMENT'S MORE DEFINITE STATEMENT

On July 24, 1998, the Department issued an Administrative Complaint (Complaint) for Order of Prohibition against Respondent. While the Complaint generally described Respondent's actions, the Complaint did not completely specify the ramifications of Respondent's acts in depth; in fact, there are a number of unsafe and unsound practices and violations of §§ 655.0322(3)(d) and (e), Fla. Stat. (1997), springing from Respondent's decision to hide the A.R.E.A. appraisals and not show them to anyone so the Bank would not be required to write down the asset and show the loss on its books. Department's counsel has made these numerous violations known to Respondent's former counsel, Ms. Rebecca O'Hara, through conversations and various depositions. However, the Department is unaware whether Respondent's present counsel, Mr. Bill Hyde, has been informed of the Department's positions. Thus, in an attempt to avoid any confusion, the Department states the following:

1. a. Respondent's order directing Studstill to hide the A.R.E.A. appraisals and not show them to anyone is an unsafe and unsound practice, for which an Order of



Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

b. Respondent's order directing Studstill to hide the A.R.E.A. appraisals and not show them to anyone is a willful violation of a Department Order, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(g), Fla. Stat. (1997).

2. a. Respondent's failure to write down, or have written down, the ABC farms property on the bank's books is an unsafe and unsound practice, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

b. Respondent caused a false entry to be made on the bank's books by failing to write down, or have written down, the ABC farms property. Respondent knew that the entry was false at the time the entry was made. Respondent intended to deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

c. Respondent's failure to write down, or have written down, the ABC farms property on the bank's books is a willful violation of a Department Order, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(g), Fla. Stat. (1997).

3. Call Report instructions required Respondent to write down, or have written down, the ABC farms property. Respondent intentionally failed to follow the Call Report instructions. Thus, Respondent's actions led to the filing of Call Reports that were materially false and misleading (overstating the assets and earnings of the financial institution) and in violation of law and regulation.

a. Falsification of Hendry County Bank's Consolidated Report of Condition for Insured Commercial and State-Chartered Savings Banks ("Call Report") for June 30, 1996 is an unsafe and unsound practice, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

b. Falsification of Hendry County Bank's Call Report for September 30, 1996 is an unsafe and unsound practice, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

c. Falsification of Hendry County Bank's Call Report for December 31, 1996 is an unsafe and unsound practice, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

d. Falsification of Hendry County Bank's Call Report for March 31, 1997 is an unsafe and unsound practice, for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(a), Fla. Stat. (1997).

4. a. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for June 30, 1996, Respondent caused a false entry to be made on the June 30th Call Report. Respondent knew that the entry was false at the time the entry was made. Respondent intended that the entry

deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

b. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for September 30, 1996, Respondent caused a false entry to be made on the September 30th Call Report. Respondent knew that the entry was false at the time the entry was made. Respondent intended that the entry deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

c. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for December 31, 1996, Respondent caused a false entry to be made on the December 31st Call Report. Respondent knew that the entry was false at the time the entry was made. Respondent intended that the entry deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a

prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

d. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for March 31, 1997, Respondent caused a false entry to be made on the March 31st Call Report. Respondent knew that the entry was false at the time the entry was made. Respondent intended that the entry deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

5. a. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for June 30, 1996, Respondent caused a fraudulent or false Call Report (report of income/report of condition), which Respondent knew was fraudulent or false as to a material matter, to be delivered or disclosed to the Department. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

b. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for September 30, 1996, Respondent caused a fraudulent or false Call Report (report of income/report of

condition), which Respondent knew was fraudulent or false as to a material matter, to be delivered or disclosed to the Department. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

c. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for December 31, 1996, Respondent caused a fraudulent or false Call Report (report of income/report of condition), which Respondent knew was fraudulent or false as to a material matter, to be delivered or disclosed to the Department. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

d. By not writing the ABC farms property down, or having the property written down, on Hendry County Bank's Call Report for March 31, 1997, Respondent caused a fraudulent or false Call Report (report of income/report of condition), which Respondent knew was fraudulent or false as to a material matter, to be delivered or disclosed to the Department. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

6. a. By not writing the ABC farms property down, or having the property written down, on the 1996 Annual Report to Stockholders for H.C. Financial Corp. and its Subsidiary Hendry County Bank, Respondent caused a false entry to be made on

the Annual Report. Respondent knew that the entry was false at the time the entry was made. Respondent intended that the entry deceive: 1) Hendry County Bank; 2) persons seeking to acquire Hendry County Bank; 3) the Department; 4) the Federal Deposit Insurance Corporation (FDIC); and/or 5) FDIC examiners appointed to examine Hendry County Bank. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(d), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

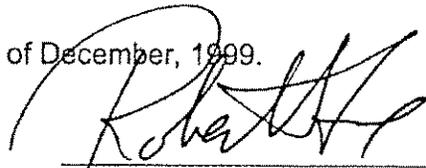
b. By not writing the ABC farms property down, or having the property written down, on the 1996 Annual Report to Stockholders for H.C. Financial Corp. and its Subsidiary Hendry County Bank, Respondent caused a fraudulent or false Annual Report, which Respondent knew was fraudulent or false as to a material matter, to be delivered or disclosed to the Department. This constitutes a prohibited act or practice, pursuant to §§ 655.0322(3)(e), Fla. Stat. (1997), for which an Order of Prohibition may be imposed against Respondent pursuant to the provisions of § 655.037(1)(b), Fla. Stat. (1997).

7. Prohibiting Respondent from working in any state financial institution is appropriate, should this Tribunal find that any or all of the aforementioned allegations are true. The interests of the depositors, members, or shareholders of Hendry County Bank have been, and could have been, seriously prejudiced by reason of Respondents' violations or practices; in fact, the interests of the depositors, members, or shareholders of Hendry County Bank could still be seriously prejudiced by reason of Respondents' violations or practices. The interests of the depositors, members, or shareholders of Florida Community Bank have been seriously prejudiced by reason of

Respondents' violations or practices. Respondent has received financial gain by reason of such violations and practices; by not disclosing the true financial situation to the board of directors, etc., Respondent was able to obtain a substantial raise in his salary, based primarily upon Respondent's erroneous portrayal of the favorable financial performance of the bank. Respondents' violations and practices involve personal dishonesty, and evidence a continuing disregard for the safety or soundness of the state financial institution.

8. Although unlikely, should Respondent's counsel feel he needs more time for final hearing, the Department states herein that it will not oppose a motion for continuance for a reasonable amount of time.

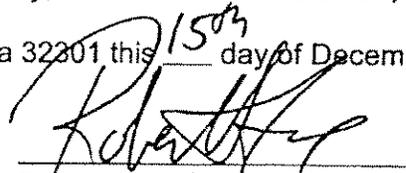
Respectfully submitted this 15th day of December, 1999.



Robert Alan Fox
Assistant General Counsel
Office of the Comptroller
The Fletcher Building, Suite 526
101 E. Gaines Street
Tallahassee, FL 32399

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail to Bill Hyde, Esq., Gunster, Yoakley, Valdes-Fauli and Stewart, 215 South Monroe Street, Suite 830, Tallahassee, Florida 32301 this 15th day of December, 1999.



Robert Alan Fox
Office of the Comptroller

STATE OF FLORIDA
DEPARTMENT OF BANKING AND FINANCE

DOCKETED
2/25/00
mh

DEPARTMENT OF BANKING AND FINANCE, DIVISION OF BANKING,)
)
)
Petitioner,)
)
vs.)
)
EMEL UNER,)
)
Respondent.)
_____)

DOAH Case No. 98-3719
(DBF No. 3719-B-9/97)

FINAL ORDER AND NOTICE OF RIGHTS

THIS CAUSE has come before the undersigned on the basis of a Stipulation and Consent Agreement, last dated January 25, 2000 and attached hereto as Exhibit A, entered into by the Department and Respondent. With jurisdiction revested in the Department, Exhibit B, it is, therefore,

ORDERED:

1. That the Stipulation and Consent Agreement ("Stipulation"), which is hereby incorporated by reference as if set forth in its entirety, is adopted as the Final Order of the Department.
2. That the Department and Respondent are ordered to comply with the Stipulation's terms and conditions.

DONE and ORDERED in Tallahassee, Leon County, Florida this 25th day of February, 2000.

Robert F. Milligan
Robert F. Milligan, as Comptroller
and Head of the Department of
Banking and Finance

1



NOTICE OF RIGHTS TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES (1999). REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE AND ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BANKING AND FINANCE, SUITE 526, THE FLETCHER BUILDING, 101 E. GAINES ST., TALLAHASSEE, FL. 32399, AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE FIRST DISTRICT COURT OF APPEAL, 301 MARTIN L. KING BLVD., TALLAHASSEE, FL. 32399, OR THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BY FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished, via U.S. Mail to Respondent, through his attorney Bill Hyde, Esq., Gunster, Yoakley, Valdes-Fauli and Stewart, 215 South Monroe Street, Suite 830, Tallahassee, Florida 32301, this 25th day of February, 2000.



Robert Alan Fox
Assistant General Counsel
Office of the Comptroller

copies furnished to:

Art Simon, Deputy Comptroller
Department of Banking and Finance

Linda Townsend, Chief of Fin. Inst. Dist I
Division of Banking

November 6, 2000

RECEIVED
DIRECTOR'S OFFICE
DIVISION OF BANKING
F/U _____ FILE _____

Mr. Owen A. Hager, Director
State of Florida, Division of Banking
101 E. Gaines Street, Suite 636
Tallahassee, FL 32399-0350

NOV 09 2000

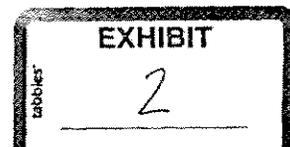
RT: _____ CY: _____

RE: Stipulation and Consent Agreement dtd 7/24/98 (DBF No. 3719-B-9/97)

Dear Alex,

Thank you for the opportunity to speak with you this morning regarding the above referenced administrative proceeding and allowing me to explain several relevant issues pertaining to the Order. To simplify the issues I will arrange them in chronological order.

1. The Complaint was brought by Wilson Studstill, Sr.V.P. Commercial Lending, alleging that I instructed him to "hide" a third appraisal on the ABC Farms Packing House property. This is untrue. There were three appraisals performed on this property with the following values \$2,800,000., \$1,380,000. and \$450,000. I ordered the second and third appraisals and upon receipt of the second appraisal gave instruction to write the OREO property down to what I then believed to be fair market value. The third appraisal was ordered to substantiate a negotiation with a prospective buyer who informed me that the original purchase price of the property was only \$200,000. Given the enormous discrepancies between the appraisals, the new information relative to value, and the warnings by Examiners, Baggot "Beau" Fryar and FDIC-Examiner John Rungo that they suspected Hendry County Bank had previously engaged in "bust out loan transactions", I instructed Studstill to hold the appraisal and schedule an auction on the property ASAP. In my best business judgement I believed that an auction was the only means of determining fair market value. Despite my constant prodding, Studstill took an inordinate and protracted length of time in scheduling the auction. However, when the auction was held the property sold for \$225,000, which substantiated my fears of the property being overvalued from the beginning. Following the auction, several bidders informed me that the auction results were \$25,000. more than the original purchase price.
2. Soon after the auction, I was forced to terminate Studstill for forcing Mrs. Teddy Robarts, AVP Lending, to make a loan, in excess of \$5000., to an individual who was incarcerated in Lee County. The purpose of the loan was documented as being "to obtain a driver's license" and collateral was an assignment of a Workmen's Compensation medical benefits claim against AIG in Tampa. This loan violated several policies of the Bank and was an imprudent act for which Studstill could not provide a reasonable explanation.



3. Soon after the auction and after the termination of Studstill, I was wrongfully terminated for a host of vague and spurious reasons. The underlying reason for my termination, in my opinion, was the knowledge that I possessed regarding the actions of Director's Nobles, Rasmussen and Curtis in their transactions involving one Mr. Frank Nichols (then deceased) for which they were named in a civil suit, the overvaluing of the ABC property, and the Board's request for Director Curtis' resignation.
4. Following my termination, the Bank re-hired Studstill as Senior Lender. At this instance, the FDIC refused to accept him in that capacity and he was terminated for a second time by the Bank. It was only then that he made the false allegations and complaint against me.
5. After my termination, I filed a suit against Hendry County Bank and its Directors for wrongful termination, breach of contract and the whistleblower statutes under FIRREA. The bank through its legal counsel dragged the suit out for 2 1/2 years but finally settled with me in May, 2000 in the amount of \$200,000. During this same period of time I incurred a cost exceeding \$25,000. in defending myself in the Administrative Complaint and could not afford an additional \$10,000. to bring the matter to trial. Counsel recommended at that point, I stipulate and consent to the enforcement action by the Division of Banking in order to pursue my civil claim.

Alex, my goal is to return to my banking career, as it is my sole educational and experiential background. I feel that at all times, throughout the course of the above described acts, I acted in a prudent and appropriate manner in exercising my business judgement and avoided making a knowingly false entry on the records of Hendry County Bank. The auction results verify that my suspicions were validated. At this time, I beseech the Division of Banking to consider allowing me to return to banking in the State of Florida.

Sincerely,



Emel Uner
2062 Sunset Point Road #68
Clearwater, FL 33765
(727) 447-3598