

UNITED STATES OF AMERICA  
BEFORE  
THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

In the Matter of

BRYAN T. POSEY

A former institution-affiliated party  
of Security Bank,  
Tulsa, Oklahoma

Docket Nos. 11- 058 - E-I  
11- 058 - CMP-1

Notice of Assessment of a Civil  
Money Penalty and Notice of  
Intent to Prohibit Pursuant to  
Section 8 of the Federal  
Deposit Insurance Act, as amended

The Board of Governors of the Federal Reserve System (the “Board of  
Governors”) is of the opinion or has reasonable cause to believe that:

(A) Bryan T. Posey, a former President and Director of Security Bank, Tulsa, Oklahoma (the “Bank”), a state-member bank, engaged in unsafe and unsound practices, breaches of fiduciary duty, and violations of law. The practices, breaches and violations related to Posey’s making of and administration of business loans and commercial real estate loans to several borrowers. The conduct included (1) making loans to “straw borrowers,” the proceeds of which were used to make payments on deteriorating credits for which Posey was the loan officer, and thereby concealing their impaired status from other senior bank management, the Bank’s board of directors, and regulators; (2) making loans beyond his own lending authority without obtaining the approval from other senior management or directors as required by the Bank’s loan policy; (3) advancing funds on construction/rehabilitation loans without evidence that the construction/rehabilitation was being performed; (4) releasing collateral from a loan secured by a

certificate of deposit, thereby causing the Bank to suffer a loss; (5) directing Bank employees to alter entries in the Bank's books in order to remove loans from the Bank's internal "past due" report, thereby concealing the impaired status of loans that Posey had made. In connection with the misconduct described herein, the Bank suffered financial loss or other damage and the interests of the Bank's depositors were prejudiced; and

(B) The misconduct described herein involves personal dishonesty on Posey's part, or demonstrates willful or continuing disregard for the safety and soundness of the Bank.

Accordingly, the Board of Governors hereby institutes this Combined Notice of Assessment of Civil Money Penalties and Notice of Intent to Prohibit (the "Notice") for the purpose of determining whether an appropriate order should be issued:

- i. Permanently barring Posey from participating in any manner in the conduct of the affairs of any institution specified in 12 U.S.C. § 1818(e)(7)(a), pursuant to section 8 (e) of the Federal Deposit Insurance Act, as amended (the "FDI Act"), 12 U.S.C. § 1818(e); and
- ii. Assessing a civil money penalty against Posey pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i).

In support of this Notice, the Board of Governors alleges as follows:

### **JURISDICTION**

1. During the period from approximately January 2000 through August 2007, Posey was employed as President of the Bank and was a member of the Bank's board of directors. Based on that relationship, Posey was an institution-affiliated party ("IAP") of the Bank, as defined in section 3(u) of the FDI Act, 12 U.S.C. § 1813(u).

2. The Bank is, and at all material times was, a state chartered bank and member of the Federal Reserve System. Accordingly, the Board of Governors is the appropriate Federal Banking Agency to bring charges against IAPs of the Bank within the meaning of section 3(q)(2) of the FDI Act, 12 U.S.C. § 1813(q)(2).

## **FACTUAL ALLEGATIONS**

### ***Overview***

3. At all relevant times, Posey was employed as President of the Bank. His responsibilities included acting as a loan officer in the Bank's Tulsa location. In that capacity, Posey was responsible for assisting the Bank's customers in applying for loans; ensuring that customer applications were supported by accurate financial and other information; ordering and reviewing credit reports and property appraisals; analyzing the credit-worthiness of loan applicants; and recommending approval or disapproval of loans based on the Bank's policies and procedures and on safety and soundness considerations. In the case of construction loans approved by the Bank, Posey was also responsible for ensuring that additional funds were not advanced until the property in question was inspected to confirm that the construction project had progressed to a point that warranted the advance. Posey reported to the Bank's chief executive officer and chairman of the board of directors. Posey was a member of the Bank's board of directors and sat on the Bank's loan committee. Posey also owned approximately seven percent of the outstanding shares of the Bank.

4. At all relevant times, Posey's personal lending authority under the Bank's loan policy was limited to secured loans of \$100,000 and unsecured loans of \$10,000. Posey was required to obtain written approval from other senior management officials for loans to a single borrower when the aggregate of outstanding loans to the borrower, including his or her related interests

exceeded these amounts. For indebtedness above \$600,000, the Bank's loan policy required the additional approval of an outside director. Above \$1,500,000, the loan policy required the participation of an outside lender unless approved by the Board of Directors. In order to obtain approval of a loan above his lending authority, Posey was responsible for preparing a Loan Worksheet proposal from a Bank template that summarized the personal and financial information submitted by the applicants, the purpose, amount, and terms of the loan, and other relevant information.

5. During the period from February 2005 through July 2007, Posey recommended and obtained approvals for a series of Bank loans to Gary Young, a local businessman, and companies owned and controlled by Young, as well as to several individual borrowers who transferred all or a substantial portion of the proceeds of Bank loans for the benefit of Young or his companies. Posey was also responsible for the administration of these lending relationships.

6. During the period from at least June 2006 through July 2007, Posey also recommended and obtained approvals for Bank loans to Kevin Walsh, a local businessman and real estate developer, and companies owned and controlled by Walsh. Posey was also responsible for the administration of these lending relationships.

### ***The Gary Young-related Loans***

#### ***Background***

7. Beginning before February 2005 and continuing until his departure from the Bank in or about July 2007, Posey was the loan officer for a series of loans directly or indirectly for the benefit of Gary Young ("Young"). Young owned and operated two fitness centers doing business under the name of COR Fitness & Tanning South ("COR Fitness"). In addition, the Bank had made other loans to certain other businesses owned by Young. By June 2007, Young's

direct indebtedness to the Bank amounted to over \$791,000 (not including an additional approximately \$800,000 that was guaranteed by the Small Business Administration (SBA)).

8. In February 2005, the Bank, on Posey's recommendation, issued a \$600,000 loan (partially SBA-guaranteed) to COR Fitness ("Young Loan 1"). The Bank's portion of the loan was \$150,000. The purpose of the Bank's loan was to refinance another partially SBA-guaranteed loan that the Bank had previously made to COR Fitness's predecessor, and which had been partially paid down by two investors/guarantors who were then released from their guaranties on the previous loan. Young Loan 1 was secured by the assets of COR Fitness and personally guaranteed only by Young. Young Loan 1 had a term of 10 years, and a fixed rate of interest, with monthly interest-only payments beginning March 20, 2005, and with monthly principal and interest payments of \$7,156.36 commencing in August 2005.

9. In May 2005, the Bank, on Posey's recommendation, issued a line of credit to COR Fitness stated to be for "business purposes" in the amount of \$121,000 ("Young Loan 2"). The line of credit was also secured by the assets of COR Fitness and personally guaranteed by Young. The line of credit was increased to \$131,000 in June 2005, with the purported approval of the loan committee and an outside director, according to Posey's handwritten notations on the loan worksheet. Posey increased the line of credit to \$136,000 in July 2005, without obtaining necessary approvals of the loan committee and an outside director as required under the Bank's loan policy. The original terms of the Young Loan 2 line of credit were interest at prime plus 2% with monthly interest-only payments beginning July 2, 2005, with all principal and interest due on July 6, 2006. In July 2005, contemporaneous with increasing the line of credit to \$136,000, the terms were modified to a fixed rate of 6.5% with monthly interest-only payments beginning August 5, 2005, and all principal and interest due in full on July 5, 2006. In July 2006, the terms

were modified again to prime plus .5% with monthly interest-only payments beginning August 6, 2006, and all principal and interest due in full on July 5, 2007.

10. In August 2005, Posey extended the terms of Young Loan 1 to monthly interest-only payments beginning on September 20, 2005 with monthly principal and interest payments of \$7,156.36 beginning December 20, 2005.

11. In December 2005, on Posey's recommendation, the Bank made another Young-related loan: a \$350,000 partially SBA-guaranteed loan to COR Fitness ("Young Loan 3"). The Bank's portion of the loan was \$87,500. This loan was also secured by the assets of COR Fitness and personally guaranteed by Young. The terms of Young Loan 3 were for monthly interest-only payments beginning January 15, 2006 until June 2006, and with monthly principal and interest payments of \$4,386.44 commencing in July 2006, and the full amount due in June 2007.

12. By June 2006, it became apparent to Posey that Young and his businesses were suffering financial stress. From June 2006 until at least May 2007, payments on Young Loan 1 were late every month; although, Posey routinely reversed the late charges assessed by the Bank. During this same period, Young's COR Fitness checking account maintained at the Bank was overdrawn on an almost daily basis, often in amounts approaching \$20,000 or more.

13. In August 2006, Posey extended Young Loan 1 to monthly interest-only payments beginning on August 20, 2006, with monthly principal and interest payments of \$7,803.58 beginning February 20, 2007.

14. In August 2006, Posey extended the term of Young Loan 3 to monthly interest only payments beginning August 15, 2006 with monthly principal and interest payments of \$4,386.44 commencing in February 2007.

15. In September 2006, the Bank, upon Posey's recommendation, made a \$399,400 loan directly to Gary Young ("Young Loan 4"). The terms were interest-only for one year with all principal and interest due in full in September 2007. The stated purpose of the loan was to refinance four other existing Young-related business and personal loans that did not involve the COR Fitness credits. In addition to authorizing the disbursement of \$367,374 to pay off these other Young-related loans, Posey also authorized nine principal disbursements to Young totaling an additional \$32,000 beginning shortly after the loan was approved in September 2006 and continuing through November 2006. Several of these disbursements were used to make payments on Young Loan 1 (\$1,852.63 on September 25, 2006 and \$2000 on November 30, 2006) and Young Loan 3 (\$3,068.40 on October 23, 2006), contrary to the stated purpose of the loan. Proceeds from Young Loan 4, totaling \$2,656.34, were disbursed on November 8, 2006 to the already overdrawn COR Fitness checking account. The November interest payment on that loan was made the same day from that account. It was contrary to the stated purpose of the loan for loan proceeds to be used to make payments on the same loan. On November 30, Posey authorized a final draw on Young Loan 4 in the amount of \$9,959.19 that was used to eliminate an overdraft in the COR Fitness checking account that had been in overdraft status.

***Young's Deteriorated Financial Condition and the Straw Borrowers***

16. By late 2006, Young's direct indebtedness to the Bank was approximately \$770,000 (not including the additional \$712,500 SBA-guaranteed portion).

17. By at least January 2007 and continuing until at least July 2007, it became apparent to Posey that Young's financial condition was such that he could no longer service his loans at the Bank. During this period, Young's COR Fitness checking account maintained at the Bank was overdrawn on an almost daily basis, often in amounts higher than \$20,000. Given the continued

deterioration in his financial condition, it is unlikely that the Bank's loan committee and the outside director would have approved additional loans for Young's benefit.

18. Beginning in late 2006 and continuing through May 2007, Young recruited three individuals to act as straw or nominee borrowers on his behalf: L.J. Mier, a purported business associate of Young's; William Bryant, an employee at one of Young's fitness centers; and Billy Butterfield, a neighbor of Young's. Posey arranged a series of loans to enable these three borrowers to obtain loans from the Bank totaling \$248,608.16. These loans were designed to deceive other senior Bank management that the true beneficiary of the loans was Young and to conceal from other senior Bank managers, and the board of directors the extent and persistent deterioration of Young's financial condition. At least \$219,940 of the proceeds from these loans was used for the benefit of Gary Young. At least \$59,209.75 of these proceeds were directly used to make all but one of the loan payments on the four Young-related Bank loans that were outstanding from January 2007 through at least May 2007. The sole remaining loan payment, for March 2007 on Young Loan 1, was paid indirectly with \$22,680.04 in nominee loan funds funneled through the overdrawn COR Fitness checking account. Posey was aware that these three borrowers were straw or nominee borrowers for Young.

#### ***Straw Borrower 1***

19. During the period between October 2006 and January 2007, Posey proposed and approved a series of loans that were nominally to L.J. Mier DBA Source Mortgage totaling \$48,489.62. The stated purpose of the loans was for business expenses; however, Young received the benefit of at least \$32,952.82 of the loan proceeds, which was never disclosed in the loan file. The checking account for Source Mortgage that was opened at the Bank two weeks after the first loan was made listed Young as the sole authorized signatory. Moreover, a loan



history card dated January 23, 2007 found in the Bank's records listed Young as a 100 percent guarantor on the loan, although no actual guaranty signed by Young was in the Bank's file. The loan proceeds were used to make loan payments for two of the Young-related loans from in January 2007 and to cover overdrafts in Young's COR Fitness checking account at the Bank:

- a. In October 2006, Posey authorized the advance of \$7,000 of the loan proceeds to COR Fitness; and
- b. In January 2007, Posey expressly authorized that \$25,952.92 of the loan proceeds be used for Young's benefit: \$11,993.52 to make loan payments on each of the four Young-related loans (\$5,273.70 on January 23, 2007 for Young Loan 1; \$991.67 on January 23, 2007 for Young Loan 2; \$2973.60 on January 23, 2007 for Young Loan 3; and \$2,779.55 on January 23, 2007 for Young Loan 4); and \$13,959.30 to cover an insufficient check for Young.

20. Even without considering the fact that Young was the true beneficiary of the Mier nominee loans, Posey's underwriting of the loans was unsafe and unsound. Mier listed no assets on his loan application, his credit report demonstrated that he was not a credit worthy borrower, he provided no federal income tax return, and the value of the collateral—listed as "accounts of whatever kind"—was never verified.

21. By granting the straw or nominee loans to Mier in this manner, Posey hid from other senior Bank management both that the true beneficiary of the loans was Young and the extent and persistent deterioration of Young's financial condition. By reason of the actions of Posey described above, the Bank has suffered losses of \$48,489.62 in connection with the Mier nominee loans.

*Straw Borrower 2*

22. During the period between January 2007 and May 2007, Posey proposed and approved a series of loans that were nominally to one of Young's employees, William Bryant, totaling \$150,000. The first two of the four loans were partially secured by real estate owned by Young. Posey falsely stated in the loan proposals that the purposes of the loans were to make "improvements," to "increase line of credit for business," and to "finance equipment" respectively, when at least \$141,982.38 of the loan proceeds were used for the benefit of Young, which was never disclosed in the loan file. The proceeds were used to make a series of loan payments for each of the four outstanding Young-related loans from February 2007 through May 2007 and to cover overdrafts in Young's COR Fitness checking account at the Bank:

- a. On February 20, 2007, \$20,000 was advanced to cover overdrafts in Young's COR Fitness checking account at the Bank;
- b. On February 27 and 28, 2007, \$9,935 was advanced to cover overdrafts in Young's COR Fitness checking account;
- c. On February 28, 2007, Posey authorized that \$12,241.90 of the loan proceeds be used to make loan payments on each of the four Young-related loans: \$5,221.07 for Young Loan 1; 1,027.72 for Young Loan 2; \$3,027.73 for Young Loan 3; and \$2,923.38 for Young Loan 4;
- d. On March 27, 2007, \$5,411.16 in loan proceeds was used to make loan payments on two of the Young-related loans: \$1,024.72 for Young Loan 2; and \$4,386.44 for Young Loan 3.

- e. In March 2007, an additional \$26,742.04 was advanced to cover overdrafts in Young's COR Fitness checking account and to make the March 30, 2007 \$7,803.58 loan payment on Young Loan 1;
- f. On April 24, 2007, \$13,115.58 in loan proceeds was used to make loan payments on three of the Young-related loans: \$7803.58 for Young Loan 1; \$925.56 for Young Loan 2; and \$4,386.44 for Young Loan 3.
- g. In April 2007, \$24,600.02 was advanced to cover overdrafts in Young's COR Fitness checking account;
- h. On May 31, 2007, Posey authorized that \$16,201.46 in loan proceeds be used to make loan payments on each of the four Young-related loans: \$7,803.58 for Young Loan 1; \$1,024.72 for Young Loan 2; \$4,386.44 for Young Loan 3; and \$2,923.39 for Young Loan 4.
- i. In May 2007, \$11,759.42 was advanced to cover overdrafts in Young's COR Fitness checking account.

23. Even without considering the fact that Young was the true beneficiary of the Bryant nominee loans, Posey's underwriting of the loans was unsafe and unsound. Bryant's credit report demonstrated that he was not a credit worthy borrower, he provided no federal income tax return as required, and the value of the collateral—listed as "all business assets" as well as a second real estate mortgage on a home owned by Young—was never verified. The loans were secured, in part, by real estate owned by Young.

24. Bryant's nominal indebtedness to the Bank, by virtue of his final straw loan, exceeded \$100,000. Posey, therefore, did seek the approval of one other senior Bank officer as required

under the Bank's loan policy. However, Posey did not disclose to the other senior Bank officer that the proceeds of the loan were to be used simply to benefit Young.

25. By granting the straw or nominee loans to Bryant in this manner, Posey hid from other senior Bank management and the board of directors both that the true beneficiary of the loans was Young and the extent and persistent deterioration of Young's financial condition. By reason of the actions of Posey described above, the Bank has suffered losses of \$150,118.54 in connection with the Bryant nominee loans.

### ***Straw Borrower 3***

26. In March 2007, Posey proposed and approved a loan that was nominally to a neighbor of Young's, Billy Butterfield, in the amount of \$50,000. The loan was partially secured by real estate owned by Young. Posey falsely stated in the loan proposal that the purpose of the loan was for "operating expenses for construction business" when at least \$49,485.46 of the loan proceeds was used for the benefit of Young, which was never disclosed in the loan file. The proceeds were used to make two loan payments on one of the outstanding Young-related loans in March and April 2007 and for other purposes that directly benefited Young:

- a. On March 7, 2007, \$10,000 in loan proceeds was advanced to Young;
- b. On March 27, 2007, \$2,926.80 in loan proceeds was used to make a loan payment on Young Loan 4;
- c. On March 29, 2007, \$1,660.88 in loan proceeds was advanced for the benefit of Young;
- d. On April 3, 2007, \$5,000 in loan proceeds was advanced to Young;
- e. On April 30, 2007, \$2,640.48 in loan proceeds was used to make a loan payment on Young Loan 4; and
- f. On June 14, 2007, \$27,357.30 was advanced for the benefit of Young.

27. Even without considering the fact that Young was the true beneficiary of the Butterfield nominee loans, Posey's underwriting of the loans was unsafe and unsound. There was no financial information on Butterfield, no credit report was obtained, no federal income tax return was provided, and the value of the collateral—listed as “all business assets” as well as a third real estate mortgage on a home owned by Young—was never verified. Butterfield never came to the Bank and his signature is forged on the promissory note and security agreement. The Young-owned real estate that also secured the loan was already encumbered by two real estate mortgages totaling almost \$450,000.

28. By granting the straw or nominee loan to Butterfield in this manner, Posey hid from other senior Bank management both that the true beneficiary of the loans was Young and the extent and persistent deterioration of Young's financial condition. By reason of the actions of Posey described above, the Bank has suffered losses of \$50,000 in connection with the Butterfield nominee loan.

***Posey Acts to Conceal the Past Due Status of the Young-Related Loans***

29. In late June 2007, each of the four loans that Posey had made to Young or COR Fitness directly was past due. The COR Fitness checking account maintained at the Bank had been overdrawn regularly since at least January 2007. On June 27, 2007, in order to deceive other senior Bank management regarding the continuing deterioration of Young's financial condition, Posey advanced Young \$21,104.18 above his fully extended \$136,000 line of credit, which was also 54 days past due, increasing the balance on the line of credit to \$157,104.18. Posey authorized the advance to cover an overdraft balance for that same amount in Young's COR Fitness checking account maintained at the Bank. Posey failed to seek the requisite approvals of the Bank's loan committee and an outside director under the Bank's loan policy. The Bank

ultimately charged off the entire balance of the line of credit as a loss.

30. Beginning in January 2007 and continuing to at least May 2007, the loan payments on Young Loans 1, 2, 3, and 4 were only made from the proceeds of loans made to Straw Borrowers 1, 2, and 3, all of which were fully drawn by the end of May 2007.

31. At all relevant times, the Bank maintained a Delinquency by Days Late report and a File Maintenance Transactions report (collectively referred to as the "Past Due report") in the ordinary course of its business to track the status of any loans that were past due. The Past Due report sorted loans by the number of days late into two segments: 10 to 30 days late and 31 to 60 days late. A Past Due report was prepared as of the last business day of every month for review by senior Bank management at a Past Due meeting scheduled during the first week of the next month.

32. On the Past Due report created on June 29, 2007, each of the four loans that Posey had made to Young or COR Fitness directly was reported as being past due from 39 to 54 days. Three additional loans to two other borrowers for whom Posey served as the loan officer were reported as being past due from 33 to 46 days: Customer 1 in the amount of approximately \$1,343,000, and Customer 2 in the amounts of \$18,000 and \$45,000 respectively.

33. On or about June 29, 2007, to conceal from other senior Bank management the past due status of these loans, Posey directed junior level Bank staff to manipulate the Bank's books and records to reflect that the Past Due report created on June 30, 2007, which would be presented and reviewed by senior Bank management at the next Past Due meeting in early July 2007, showed each of the four loans that Posey had made to Young or COR Fitness directly, and the loans made to Customer 1 and Customer 2, were current.

34. At the July 2007 Past Due meeting discussing the Past Due report created on June 30,

2007, a senior Bank manager questioned why the loan for Customer 1 did not appear on the report. Upon further investigation, senior Bank management determined that the loan to Customer 1 was 33 days past due. Senior Bank management learned that Posey had directed a junior level Bank employee to “bump” the due day for Customer 1’s loan to reflect that it was current. Senior Bank management confronted Posey after the July 2007 past due meeting regarding the status of Customer 1’s loan, who was known to be a customer of Posey. Posey initially denied authorizing the removal of that loan from the month-end Past Due Report; however, he ultimately acknowledged that he had directed its removal and stated that it was “not a big deal.” Posey failed to inform senior Bank management that he had similarly concealed the past due status of each of the four loans that he had made to Young or COR Fitness directly and the loans to Customer 2.

35. By reason of each of the actions of Posey described above, the Bank filed false call reports and suffered losses of \$791,418.54 in connection with the four Young-related loans.

#### ***The Kevin Walsh-related Loans***

36. Beginning in March 2004 and continuing until at least July 2007, Posey made a series of loans directly or indirectly for the benefit of Kevin Walsh (“Walsh”) or entities owned and controlled by Walsh, a local real estate developer. Walsh’s outstanding indebtedness to the Bank from these loans was well in excess of \$4 million. The Bank ultimately charged off \$4,653,436.48 as a loss on these Walsh-related loans.

#### ***The Oakley Group Purchase and Rehabilitation Loans***

37. From March 2004 until August 2006, Posey proposed and obtained approvals on a series of 28 loans to the Oakley Group, Inc., a Walsh-related entity, totaling \$3,267,345 (the “Oakley Group Purchase and Rehabilitation Loans”). The purpose of the loans was for the purchase and

rehabilitation of individual properties, which the Oakley Group had purchased for a total of \$2,066,950 and served as collateral for the loans. Posey, without the knowledge of other senior Bank management, authorized the advance of the entire amount of the loans, totaling \$1,200,395 in excess of the actual purchase prices of the underlying properties, without taking reasonable steps to ensure that the progress of the rehabilitation work warranted the advances.

38. While each of these 28 loans was fully advanced, virtually none of the rehab work was ever completed. In or about April or early May 2007, Posey requested that Walsh write a letter to the Bank acknowledging that virtually no rehab work had been done. Walsh delivered a draft of the letter on May 3, 2007 to Posey stating that the proceeds of the Bank's rehab loans had been used for purposes other than the rehabilitation of the acquired real estate. Posey, however, failed to forward Walsh's letter to other senior Bank management or otherwise inform them of the true condition of the Walsh rehab loans.

39. By reason of the actions of Posey described above, the Bank suffered losses in excess of \$729,000 in connection with the Oakley Group rehab loans. Portions of several of the loans were participated to other banks, who have sought to have the Bank reimburse an additional approximately \$350,000 in losses.

#### ***The Walsh CD-Secured Loan***

40. On October 25, 2006, Posey approved a loan to Walsh in the amount of \$150,199. Posey falsely stated in the loan worksheet that the loan was entirely secured by a certificate of deposit; which would not have required further approvals under the Bank's loan policy, and that the purpose of the loan was for "business expenses." The loan proceeds, however, were not used for business expenses, but were instead used to *purchase* the certificate of deposit that was to serve as security for the loan. Two days later, Posey authorized a release on the collateral hold on the



certificate of deposit and proceeded to authorize a series of five withdrawals to Walsh over the next two months, totaling \$150,346.89, rendering the loan completely unsecured. Posey did not have the authority to either release the hold on the certificate of deposit or to authorize the withdrawals of the certificate of deposit.

41. In late December 2006, after the loan had been rendered completely unsecured, Posey sought to re-collateralize the loan with a second mortgage on other real estate owned by Walsh. Posey did not have the authority to release the hold on the certificate of deposit, authorize the withdrawals of the certificate of deposit, or substitute the collateral on the loan.

42. By reason of the actions of Posey described above, the Bank has suffered a loss of \$149,976 in connection with the Walsh “certificate of deposit” secured loan.

***The Oakley Group Loans Secured by Walsh’s Personal Residence***

43. Beginning in mid-2006 and extending through April 2007, Posey proposed and obtained approvals for a series of four Bank loans to the Oakley Group totaling over \$2 million: a) an approximately \$150,000 loan in May 2006; b) an approximately \$250,000 loan in January 2007; c) an approximately \$325,000 loan in March 2007; and d) an approximately \$300,000 loan in April 2007. In seeking the approvals of other senior Bank management for three of the four loans: the May 2006 \$150,000 loan, the January 2007 \$250,000 loan, and the April 2007 \$300,000 loan, Posey represented in the loan worksheets that the loans were secured by Walsh’s personal residence located in Tulsa, Oklahoma. However, Posey failed to disclose to other senior Bank management that the Bank’s security interest in the property was behind two other lenders whose mortgages totaled at least approximately \$2.4 million.

44. In the case of the March 2007 \$325,000 Oakley Group loan, Posey concealed that he was advancing “new money” to the Walsh interests without adequate security, thereby circumventing

the required approval of other senior Bank management. On March 6, 2007, Walsh paid off a \$1.35 million loan, which Posey had made in August 2006 to consolidate four different Walsh notes and which had been secured by Walsh-owned real estate in Owasso, Oklahoma. The collateral on that loan was released. Posey, using the same loan number as had been in place on the \$1.35 million loan, authorized three separate advances totaling approximately \$325,000 between March 12, 2007 and March 23, 2007 to the Oakley Group.

45. Posey attempted to collateralize the March 2007 Oakley Group \$325,000 loan by “substituting” Walsh’s already encumbered personal residence in Tulsa, Oklahoma for the Walsh-owned real estate in Owasso, Oklahoma that had secured the August 2006 \$1.35 million loan. Posey did not have the authority to make this substitution.

46. By reason of the actions of Posey described above, the Bank has suffered a loss of \$1,035,205 in connection with these four Walsh-related Oakley Group loans.

#### ***The Stardust Straw Borrower Loan***

47. On July 13, 2007, Walsh used an entity, Stardust Properties, Inc., to act as a straw or nominee borrower on his behalf. Posey arranged the loan to enable Stardust Properties to obtain a loan from the Bank totaling \$200,000. This loan was designed to deceive other senior Bank management that the true beneficiary of the loans was Walsh. The loan was secured by all business assets of Stardust Properties and was personally guaranteed by Audrey Burns, who was Walsh’s grandmother. According to the loan worksheets prepared by Posey, Burns resided at Walsh’s personal residence. According to the corporate documents for Stardust Properties in the Bank’s loan files, Burns was listed as the vice-president; however, Walsh was listed as the company’s president and director. Walsh directed Posey’s assistant by email on July 16, 2007 regarding the disposition of the loan proceeds, stating that “[he] had [an employee] bring by the

Stardust Line so we could fund.” The loan proceeds were used for the benefit of Walsh in part to cover an overdraft in an account maintained at the Bank for a Walsh-related entity.

48. Even without considering the fact that Walsh was the true beneficiary of the Stardust Properties nominee loan, Posey’s underwriting of the loans was unsafe and unsound. Burns, the personal guarantor, provided no federal income tax return or corporate balance sheet as required and the value of the collateral—listed as “all business assets”—was never verified.

49. By reason of the actions of Posey described above, the Bank has suffered a loss of \$200,000 in connection with the Stardust Properties loan.

***Posey’s Departure from Bank***

50. On or about July 24, 2007, Posey abruptly left his position at the Bank, after other senior Bank management had learned that Posey had apparently “bumped” the past due dates on the Past Due Report for Customer 2. Posey gave no prior notice or explanation for his departure.

**VIOLATIONS OF LAW AND REGULATION, UNSAFE AND  
UNSOUND PRACTICES AND BREACHES  
OF FIDUCIARY DUTY BY POSEY**

**COUNT I: Violations of 18 U.S.C. § 1005**

51. At all relevant times, 18 U.S.C. § 1005 provided that, “[w]hoever makes any false entry in any book, report, or statement of [a Federal Reserve member] bank ... with intent to injure or defraud such bank ... or to deceive any officer of such bank ... shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both . . . .”

52. As set forth in Paragraphs 31-34, above, Posey, without authority, generated false documents and accepted and made false documents a part of the Bank’s books, reports, and statements with the intent to injure or defraud the Bank or to deceive other senior officers of the

Bank with respect to the past due status of the Young-related and other loans for which he was the loan officer.

**COUNT II: Unsafe and Unsound Banking Practices**

53. As set forth in Paragraph 1 above, Posey was President and a director of Security Bank and, therefore, had an obligation to ensure that the Bank's operations were conducted in a safe and sound manner.

54. Posey engaged in the following acts or practices:

- a. As set forth in paragraph 15, without the approval required by the Bank's loan policy, Posey granted Young Loan 4 for an amount that exceeded (by \$32,000) the amount needed to refinance existing Young-related loans, which were being paid off with the proceeds, and then permitting some of the \$32,000 to be used to make payments on Young Loans 1 & 3, contrary to the stated purpose of the loan;
- b. As set forth in paragraphs 19, 21, 22, 24, 25, 26 and 28, Posey made loans to Straw Borrowers 1, 2 and 3, most of the proceeds of which were used to make payments on Young-related loans and the COR Fitness checking account;
- c. As set forth in paragraphs 20, 23 and 27, Posey failed in the underwriting process to obtain information concerning Straw Borrowers 1, 2, and 3 that would support a judgment that Straw Borrowers 1, 2 and 3 had the capacity to repay the loans;
- d. As set forth in paragraph 29, Posey advanced to Young an additional \$21,204.18 in June 2007 above the limit on the Young Loan 2 line of credit, and permitted the proceeds to be used to cover overdrafts in the COR Fitness checking account;

- e. As set forth in paragraphs 31-34, in June 2007, Posey instructed Bank employees to alter the Bank's books and records with respect to the payment of Young-related and other loans, so as to remove past due loans from the Bank's Past Due loan report;
- f. As set forth in paragraphs 37 through 39, Posey failed to require evidence that rehabilitation work was being performed before authorizing advances on the Oakley Group Purchase and Rehabilitation Loan;
- g. As set forth in paragraph 38, Posey failed to inform other senior Bank management that Walsh had acknowledged that proceeds of the Oakley Group Purchase and Rehabilitation Loan had been used for purposes other than as stated in the loan documents, and failed to inform other senior Bank management that the loan had been fully extended, but that virtually no rehabilitation work had been accomplished;
- h. As set forth in paragraphs 40 and 41, Posey granted the Walsh CD-secured loan, based on loan documents that stated that Walsh was pledging an existing certificate of deposit when in fact the proceeds of the loan were used to purchase the certificate of deposit, and then permitted Walsh to make withdrawals from the certificate of deposit, leaving the loan inadequately secured or unsecured;
- i. As set forth in paragraph 43, Posey proposed that the Bank make the Oakley Group loans secured by Walsh's personal residence without disclosing that the Bank's security interest in the property was in the third position, behind two lien holders, and without requiring an updated appraisal, while permitting a mortgage on another property to be released that had been collateral for the existing loans;
- j. As set forth in paragraphs 44, Posey did not obtain the approval required by the Bank's loan policy for the \$325,000 Oakley Group March 2007 loan, and permitted the loan

proceeds to be used for a purpose other than repaying existing indebtedness with the Bank, the stated purpose of the loan;

- k. As set forth in paragraph 45, Posey failed to appropriately collateralize the \$325,000 Oakley Group March 2007 loan;
- l. As set forth in paragraph 47, Posey made loans to Stardust Properties, most of the proceeds of which were used for the benefit of Kevin Walsh; and
- m. As set forth in paragraphs 48, Posey failed in the underwriting process to obtain information concerning Stardust Properties or its guarantor that would support a judgment that Stardust Properties or the guarantor had the capacity to repay the loan.

55. The loans that were made and funded as a result of the practices set forth above have resulted in losses to the Bank of at least \$2,419,894.34, as set forth in Paragraphs 7-49.

56. Posey's conduct described in Paragraph 55 was contrary to generally accepted standards of prudent bank operation the consequences of which, if continued, would be abnormal risk or loss or damage to the Bank, or the deposit insurance fund.

### **COUNT III: Breaches of Fiduciary Duties**

57. As set forth in Paragraphs 1 and 4 above, Posey was a President and director of Security Bank and, therefore, owed fiduciary duties of care and loyalty to the Bank.

58. Posey engaged in the following conduct:

- a. As set forth in paragraph 15, without the approval required by the Bank's loan policy, Posey granted Young Loan 4 for an amount that exceeded (by \$32,000) the amount needed to refinance existing Young-related loans, which were being paid off with the proceeds, and then permitting some of the \$32,000 to be used to make payments on Young Loans 1 & 3, contrary to the stated purpose of the loan;

- b. As set forth in paragraphs 19, 21, 22, 24, 25, 26 and 28, Posey made loans to Straw Borrowers 1, 2 and 3, most of the proceeds of which were used to make payments on loans on Young-related loans and the COR Fitness checking account;
- c. As set forth in paragraphs 20, 23 and 27, Posey failed in the underwriting process to obtain information concerning Straw Borrowers 1, 2, and 3 that would support a judgment that Straw Borrowers 1, 2 and 3 had the capacity to repay the loans;
- d. As set forth in paragraph 29, Posey advanced to Young an additional \$21,204.18 in June 2007 above the limit on the Young Loan 2 line of credit, and permitting the proceeds to be used to cover overdrafts in the COR Fitness checking account;
- e. As set forth in paragraphs 31-34, in June 2007, Posey instructed Bank employees to alter the Bank's books and records with respect to the payment of Young-related and other loans, so as to remove past due loans from the Bank's Past Due loan report;
- f. As set forth in paragraphs 37 through 39, Posey failed to require evidence that rehabilitation work was being performed before authorizing advances on the Oakley Group Purchase and Rehabilitation Loans;
- g. As set forth in paragraph 38, Posey failed to inform other senior Bank management that Walsh had acknowledged that proceeds of the Oakley Group Purchase and Rehabilitation Loans had been used for purposes other than as stated in the loan documents, and failed to inform other senior Bank management that the loan had been fully extended, but that virtually no rehabilitation work had been accomplished;
- h. As set forth in paragraphs 40 and 41, Posey granted the Walsh CD-secured loan, based on loan documents that stated that Walsh was pledging an existing certificate of deposit when in fact the proceeds of the loan were used to purchase the certificate of deposit, and

then permitted Walsh to make withdrawals from the certificate of deposit, leaving the loan inadequately secured or non secured;

- i. As set forth in paragraph 43, Posey proposed that the Bank make the Oakley Group loans secured by Walsh's personal residence without disclosing that the Bank's security interest in the property was in the third position, behind two lien holders, and without requiring an updated appraisal, while permitting a mortgage on another property to be released that had been collateral for the existing loans;
- j. As set forth in paragraphs 44, Posey did not obtain the approval required by the Bank's loan policy for the \$325,000 Oakley Group March 2007 loan, and permitted the loan proceeds to be used for a purpose other than repaying existing indebtedness with the Bank, the stated purpose of the loan;
- k. As set forth in paragraph 45, Posey failed to appropriately collateralize the \$325,000 Oakley Group March 2007 loan;
- l. As set forth in paragraph 47, Posey made loans to Stardust Properties, most of the proceeds of which were used for the benefit of Kevin Walsh; and
- m. As set forth in paragraphs 48, Posey failed in the underwriting process to obtain information concerning Stardust Properties or its guarantor that would support a judgment that Stardust Properties or the guarantor had the capacity to repay the loan.

59. As a result of such conduct, Posey breached his fiduciary duties of care and loyalty to the Bank.

60. The loans that were made and funded as a result of the practices set forth above have resulted in losses to the Bank of at least \$2,419,894.34, as set forth in paragraphs 35, 39, 42, 46,



#### COUNT IV

61. Section 6 of the Federal Reserve Act, 12 U.S.C. § 324, and section 7(a) of the Federal Deposit Insurance Act, 12 U.S.C. § 1817(a), require that state member banks and insured depository institutions, respectively, file accurate reports of condition (“call reports”).

62. The Bank filed an inaccurate call report for the second quarter of 2007, in that the call report, as a result of Posey’s concealment of the true condition of the outstanding Young- and Walsh-related loans set forth in this Notice, did not accurately set forth the level of past due and non-accrual loans held by the Bank, or the actual net income of the Bank.

63. As a result of the conduct set forth in paragraph 62, Posey participated in a violation of section 6 of the Federal Reserve Act and section 7(a) of the Federal Deposit Insurance Act.

#### **REQUESTED RELIEF**

##### ***PROHIBITION ACTION***

64. Notice is hereby given that a hearing will be held on June 14, 2011, at the United States Courthouse, Northern District of Oklahoma, 333 West Fourth Street, Tulsa, OK 74103, or any place designated by the presiding administrative law judge, for the purpose of taking evidence on the charges specified herein, in order to determine whether an appropriate order should be issued under section 8(e) of the FDI Act to prohibit the future participation of Posey in the affairs of any insured depository institution, holding company thereof, foreign bank, or any institution specified in section 8(e)(7)(A) of the FDI Act, 18 U.S.C. § 1818(e)(7)(A). As set forth above, by reason of Posey’s violations of law, unsafe and unsound practices, and breaches of fiduciary duty the Bank has suffered or will probably suffer damage, or the interests of its depositors have been or could be prejudiced; and the violations of law, unsafe and unsound practices, and breaches of fiduciary duty involved personal dishonesty or continuing or willful disregard for the safety and

soundness of the Bank on Posey's part.

***CIVIL MONEY PENALTY ASSESSMENT***

65. During the relevant time period, the violations, practices and breaches set forth in Counts I-IV permit the assessment of civil money penalties under section 8(i)(2)(B) of the FDI Act, 12 U.S.C. § 1818(i)(2)(B), in a daily amount not to exceed \$32,500, pursuant to 12 C.F.R. § 263.65(b)(2)(ii).

66. Posey engaged in violations of law and regulation, recklessly engaged in unsafe and unsound practices and breached his fiduciary duties for a period beginning no later than September 14, 2006, and continuing at least until his employment was terminated in or about July 24, 2007, as set forth in Counts I-IV, a total of at least 313 days. Posey's violations of law and regulation, unsafe and unsound practices, and breaches of fiduciary duty, as set forth in Counts I-IV, constituted a pattern of misconduct and caused more than a minimal loss to the Bank.

67. After taking into account the size of Posey's financial resources, his good faith, the gravity of the violations, the history of previous violations, and such other matters as justice may require, the Board of Governors hereby assesses a civil money penalty of \$100,000 against Posey for his violations of 18 U.S.C. § 1005, for recklessly engaging in unsafe and unsound practices, and breaching his fiduciary duty, as set forth in this Notice. Posey shall forfeit and pay the penalty as hereinafter provided.

68. The penalty set forth in this Notice is assessed by the Board of Governors pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i) and subparts A and B of the Board of Governors' Rules of Practice for Hearings ("Rules of Practice"), 12 C.F.R. § 263.1 *et seq.*

69. Remittance of the penalty set forth herein shall be made within 60 days of the date of this

Notice, in immediately available funds, payable to the order of the Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, who shall make remittance of the same to the Treasury of the United States.

70. Notice is hereby given, pursuant to section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2) and section 263.23 of the Rules of Practice, 12 C.F.R. § 263.23, that Posey is afforded an opportunity for a formal hearing before the Board of Governors concerning this assessment.

**Any request for such a hearing must be filed with the Office of Financial Institution Adjudication ("OFIA"), 3501 N. Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500, and with the Secretary of the Board of Governors, Washington, D.C. 20551, within 20 days after the issuance and service of this Notice on Posey, with regard to the civil money penalty proceedings against Posey. Posey is encouraged to file any request for a hearing by electronic mail with the Office of Financial Institution Adjudication at [ofia@fdic.gov](mailto:ofia@fdic.gov). A hearing, if requested, will be public, unless the Board of Governors shall determine that a public hearing would be contrary to the public interest, and in all other aspects will be conducted in compliance within the provisions of the FDI Act and the Rules of Practice before an administrative law judge to be designated pursuant to applicable law as in effect at the time of such hearing. The hearing described above may, in the discretion of the Board of Governors, be combined with any other hearing to be held on the matters set forth in this Notice.**

#### ***PROCEDURES GENERALLY***

71. The hearings referred to in Paragraphs 64 and 70 hereof shall be held before an administrative law judge to be appointed from OFIA, pursuant to section 263.54 of the Rules of Practice, 12 C.F.R. § 263.54. The hearing shall be public, unless the Board of Governors determines that a public hearing would be contrary to the public interest, and in all other aspects

shall be conducted in compliance with the provisions of the FDI Act and the Rules of Practice.

72. **Posey is hereby directed to file an answer to this Notice within 20 days of the service of this Notice, as provided by section 19 of the Rules of Practice, 12 C.F.R. § 263.19, with OFIA. Posey is encouraged to file any answer to this Notice by electronic mail with the Office of Financial Institution Adjudication at [ofia@fdic.gov](mailto:ofia@fdic.gov).** Pursuant to section 263.11(a) of the Rules of Practice, 12 C.F.R. § 263.11(a), any answer filed with OFIA shall also be served on the Secretary of the Board of Governors. As provided in section 263.19(c)(1) of the Rules of Practice, 12 C.F.R. § 263.19(c)(1), the failure of Posey to file an answer required by this Notice within the time provided herein shall constitute a waiver of his right to appear and contest the allegations of this Notice in which case the presiding officer is authorized, upon proper motion, to find the facts to be as alleged in the Notice and to file with the Secretary of the Board of Governors a recommended decision containing such findings and appropriate conclusions. Any final order issued by the Board based upon a failure to answer is deemed to be an order issued by consent.


73. Posey may submit to the Secretary of the Board of Governors, within 20 days of the service of this Notice, a written statement detailing the reasons why the hearings described herein should not be public. The failure to submit such a statement within the aforesaid period shall constitute a waiver of any objection to a public hearing.

74. Authority is hereby delegated to the Secretary of the Board of Governors to designate the time and place and presiding officer for any hearing that may be conducted on this Notice and to take any and all actions that the presiding officer would be authorized to take under the Board's Rules of Practice for Hearings with respect to this Notice and any hearing to be conducted hereon, until such time as a presiding officer shall be designated.

By order of the Board of Governors of the Federal Reserve System, effective this 21<sup>st</sup> day of April, 2011.

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM

By: \_\_\_\_\_

  
Robert deV. Frierson  
Deputy Secretary of the Board