

STEVE WISE  
Assistant Vice President



March 25, 2009

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steve.wise@atl.frb.org

Leigh Ann Smith

[REDACTED]  
Hartselle, Alabama 35640

Re: Criminal Conviction – Prohibition from Banking Industry

Dear Ms. Smith:

The Federal Reserve Bank of Atlanta has become aware that you were convicted upon a plea of guilty of bank fraud in connection with your employment by First American Bank. A copy of your judgment of conviction is attached. Because you have been convicted of a crime involving dishonesty or breach of trust, you are automatically subject to the prohibitions set forth in Section 19 of the Federal Deposit Insurance Act, as amended ("Section 19") (12 U.S.C. § 1829) for banking organizations and in Section 205 of the National Credit Union Act, as amended ("Section 205(d)") (12 U.S.C. § 1785(d)) for insured credit unions.

Section 19 and Section 205(d) prohibit you from becoming or continuing as an institution-affiliated party with respect to any of the banking organizations or credit unions described below. This means that you may not, among other things, act as an employee, officer, director, or agent of these banking organizations or credit unions. Nor may you otherwise participate, directly or indirectly, in the conduct of the affairs of any of these organizations. You are also prohibited from directly or indirectly owning or controlling any insured depository institution or holding company. These statutes do not prohibit you from being a normal, arms-length customer of a banking organization or credit union, such as having a loan, checking or savings account.

The prohibitions of Section 19 and Section 205(d) cover all insured depository institutions, including, but not limited to, any bank, savings association or credit union, and their holding companies, as well as Edge corporations and Agreement corporations. The Federal Deposit Insurance Corporation may grant written consent for you to engage in otherwise prohibited conduct with respect to insured depository institutions, and the Federal Reserve may grant written consent with respect to bank holding companies and Edge and Agreement corporations. The Office of Thrift Supervision may grant consent with respect to savings and loan association holding companies. The National Credit Union Administration Board may grant consent for insured credit unions. The automatic prohibition does not cover non-bank subsidiaries of bank holding companies or uninsured branches or agencies of foreign banks, unless the appropriate federal banking agency takes further action against you.

Should you engage in prohibited conduct without obtaining the required consent from the appropriate agency, you could be subject to daily criminal fines of up to \$1,000,000 or up to five years imprisonment.

This letter will be posted on the website of the Board of Governors of the Federal Reserve System. If you believe that the prohibitions of Section 19 and Section 205(d) do not apply to you, because, for example, your conviction has been reversed on appeal, or for any other reason, please contact Assistant Vice President Kathryn Hinton in writing at this Reserve Bank.

Sincerely,



Steve Wise

cc: Stephen Meyer  
Assistant General Counsel  
Board of Governors  
Legal Division – Mail Stop 13  
Washington, D.C. 20551

Director, Department of Supervision  
National Credit Union Administration  
700 Central Parkway  
Suite 1600  
Atlanta, Georgia 30328

Brenda Canterbury  
Senior Vice President  
RBC Bank  
(formerly First American Bank)  
1927 First Avenue North  
Birmingham, Alabama 35203

Pierce Nelson  
Public Affairs  
Federal Reserve Bank of Atlanta

Special Activities Section  
Division of Supervision  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street N.W.  
Washington, D.C. 20429

Superintendent of Banks  
State Banking Department  
Post Office Box 4600  
Montgomery, Alabama 36103-4600

Ane R. Debro  
Assistant U.S. Attorney  
U.S. Attorney's Office  
400 Meridian Street, Suite 304  
Huntsville, Alabama 35801

Michael P. Hanle  
1330 21<sup>st</sup> Way South  
Suite 200  
Birmingham, Alabama 35205

UNITED STATES DISTRICT COURT  
Northern District of Alabama

UNITED STATES OF AMERICA

v.

Case Number CR 08-RDP-0317-NE

LEIGH ANN SMITH  
Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, LEIGH ANN SMITH, was represented by Michael P. Hanle.

The defendant pleaded guilty to count one. Accordingly, the defendant is adjudged guilty of the following count, involving the indicated offense:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Count Number</u>
18 USC 1344 (1)	Bank Fraud	One

As pronounced on January 8, 2009, the defendant is sentenced as provided in pages 2 through 6 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, for count one, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Signed this 9th day of January, 2009.

  
**R. DAVID PROCTOR**  
UNITED STATES DISTRICT JUDGE

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Defendant: LEIGH ANN SMITH  
Case Number: CR 08-RDP-0317-NE

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of ONE (1) WEEKEND.

The defendant shall surrender to the United States marshal for this district no later than 5:00 p.m. on Friday, February 20, 2009 and to be released no later than 5:00 p.m. on Sunday, February 22, 2009.

**RETURN**

I have executed this Judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_ at \_\_\_\_\_  
\_\_\_\_\_, with a certified copy of this Judgment.

\_\_\_\_\_  
United States Marshal

By

\_\_\_\_\_  
Deputy Marshal

Defendant: LEIGH ANN SMITH  
Case Number: CR 08-RDP-0317-NE

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be on supervised release for a term of 60 months. The Probation Office shall provide the defendant with a copy of the standard conditions and any special conditions of supervised release.

#### **STANDARD CONDITIONS OF SUPERVISED RELEASE**

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall not commit another federal, state or local crime; specifically, the defendant shall not illegally possess a controlled substance and shall not own or possess a firearm or destructive device.
- 2) The defendant shall not leave the judicial district without permission of the Court or probation officer.
- 3) The defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five (5) days of each month.
- 4) The defendant shall answer truthfully all inquiries by the probation officer, shall provide the probation officer access to requested financial information, and shall follow the instructions of the probation officer.
- 5) The defendant shall support his or her dependents and meet other family responsibilities.
- 6) The defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons.
- 7) The defendant shall notify the probation officer ten (10) days prior to any change in residence or employment. (On change of residence to a new jurisdiction of a person convicted either of a crime of violence or of a drug trafficking offense, the Probation Office is responsible for complying with the notice provisions of 18 U.S.C. § 4042(b).)
- 8) The defendant shall refrain from excessive use of alcohol, except that a defendant while in the Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) shall consume no alcohol. The defendant shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances.
- 9) The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered.
- 10) The defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer.
- 11) The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer.
- 12) The defendant shall notify the probation officer within seventy-two (72) hours of being arrested or questioned by a law enforcement officer.
- 13) The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the Court.
- 14) The defendant shall comply with any directions from the probation officer to serve notice of third party risks the defendant may pose, and shall cooperate with the officer's efforts to confirm compliance.
- 15) The defendant shall comply with the probation office's Policies and Procedures Concerning Court Ordered Financial Obligations to satisfy the balance of any monetary obligation resulting from the sentence imposed in the case. Further, the defendant shall notify the probation office of any change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine, restitution, or assessment fee. If the defendant becomes more than 60 days delinquent in payments of financial obligations, the defendant may be (a) required to attend a financial education or employment preparation program under the administrative supervision the probation officer, (b) placed on home confinement subject to electronic monitoring for a maximum period of 90 days under the administrative supervision of the probation officer (with the defendant to pay the cost of monitoring unless the probation officer determines that the defendant does not have the ability to do so), and/or (c) placed in a community corrections center for up to 180 days under the administrative supervision of the probation officer (with the defendant to pay the cost of subsistence unless the probation officer determines that the defendant does not have the ability to do so).
- 16) Unless excused by a special condition of probation or supervised release in the Judgment or by a subsequent court order, the defendant shall comply with 18 U.S.C. § 3563 (a) (probation) or § 3583 (d) (supervised release) regarding mandatory drug testing (with the defendant to contribute to the cost of drug testing unless the probation officer determines that the defendant does not have the ability to do so). A positive urinalysis may result in the defendant's placement in the probation office's Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) under the administrative supervision of the probation officer.

Defendant: LEIGH ANN SMITH  
Case Number: CR 08-RDP-0317-NE

**CONTINUATION OF STANDARD CONDITIONS OF SUPERVISED RELEASE**

- (17) Upon imposition of the special condition by the Court or upon a court order entered during the period of probation or supervision for good cause shown, the defendant shall be placed in the Drug and Alcohol Intensive Counseling and Aftercare Service Program (DAICASP) (or comparable program in another district) based upon a history of drug or alcohol abuse, a positive urinalysis, or evidence of excessive use of alcohol. This program includes (a) testing by the probation officer or an approved vendor to detect drug or alcohol abuse; (b) a drug treatment program which includes education, individual or group counseling, or residential treatment, provided by the probation office or an approved vendor; (c) placement in a community corrections center (halfway house) for up to 270 days; and/or (d) home confinement subject to electronic monitoring for up to 180 days. Participation in the program shall be under the administrative supervision of the probation officer, and the defendant shall contribute to the costs of participation unless the probation officer determines that the defendant does not have the ability to do so.
- (18) The defendant may be placed in the probation office's computer restriction/monitoring program (or comparable program in another district) by virtue of a special condition of probation or supervised release contained in the Judgment. This program may include the following: (a) The defendant shall not possess or use any computer or portable electronic device which has the capability of communicating with any other electronic device without the prior approval of the probation officer or the Court. This includes, but is not limited to, any computer, personal digital assistant, satellite equipment, cellular telephone, or services such as computer on-line bulletin board services and/or internet service. The defendant shall notify the probation officer before altering or effecting repairs to any computer he uses. (b) The defendant shall permit the probation officer to conduct periodic, unannounced examinations of any computer and computer-related equipment the defendant uses, other than equipment owned by his/her employer that is maintained at a place of employment other than the defendant's home. The examination may include the retrieval and copying of all data from the computer, and internal or external peripheral equipment, and any software. (c) The defendant, under the administrative supervision of the probation officer, shall allow, at his expense, the installation of any hardware/software on any computer system he uses, other than equipment owned by his employer, to monitor his/her computer use (and/or to prevent access to prohibited materials), and he/she shall submit to such monitoring. The defendant shall consent to the placement of a notice on any computer upon which monitoring hardware/software is installed to warn others of the existence of the monitoring. (d) The defendant shall not use any computer or computer-related equipment owned by his/her employer except for strict benefit of his employer in the performance of his/her job-related duties. (e) The defendant shall consent to third-party disclosure to any employer or potential employer of any computer-related restrictions which have been imposed upon him/her. (f) The defendant shall provide the U.S. Probation Office with accurate information about all hardware and software which comprise any computer system he/she uses; all passwords used by the defendant, and information pertaining to all internet service providers used by the defendant, whether specifically subscribed by the defendant or not. The defendant shall provide written authorization for release of information from the defendant's internet service provider. (g) The defendant shall furnish his/her personal and business telephone records to the probation officer upon request. Furthermore, the defendant shall provide the probation officer with written authorization for release of information from the defendant's telephone service provider. (h) The defendant shall not possess or use any type of data encryption or stenography software or technique. The defendant shall not alter, delete, or hide records pertaining to computer access, retrieval, or storage.
- (19) The defendant shall cooperate in the collection of DNA under the administrative supervision of the probation officer.
- (20) If ordered to a period of supervised release after incarceration, the defendant shall report in person, within 72 hours of release from the custody of the Bureau of Prisons, to the probation office in the district where the defendant is released.
- (21) For a defendant convicted for the first time of a domestic violence crime as defined in 18 U.S.C. § 3561(b), the defendant shall attend a public, private, or private non-profit offender rehabilitation program approved by the court and under the administrative supervision of the probation office, if an approved program is available within a 50-mile radius of the defendant's legal residence.
- (22) For any defendant required to register under the Sex Offender Registration and Notification Act, the defendant shall comply with the terms of the Act under the administrative supervision of the probation officer. Specifically, the defendant, if convicted of a sexual offense as described in 18 U.S.C. § 4042(c)(4) shall report the address where the defendant will reside and any subsequent change of residence to the probation office, and shall register as a sex offender in any State where the defendant resides, is employed, carries on a vocation, or is a student.

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Defendant: LEIGH ANN SMITH  
Case Number: CR 08-RDP-0317-NE

**SPECIAL CONDITIONS OF SUPERVISION**

While the defendant is on supervised release pursuant to this Judgment:

- 1) The defendant shall serve 24 months home detention, which may include electronic monitoring under the administrative supervision of the probation officer. The defendant shall pay the cost of monitoring unless the probation officer determines that the defendant does not have the ability to do so. Upon approval from the probation officer, the defendant will only be allowed to leave her home to travel to and from work and church; to take her children to and pick them up from school and any medical appointments; and to attend any necessary functions of the family.
- 2) The defendant shall not incur any new debts (other than normal debts for utilities and rental expenses, or mortgage payments) or open any new lines of credit without permission of the probation officer unless the defendant is in compliance with the payment of any monetary obligations ordered.
- 3) The defendant shall participate, under the administrative supervision of the probation officer, in mental health rehabilitation programs. The defendant shall contribute to the cost of mental health treatment unless the probation officer determines that the defendant does not have the ability to do so.
- 4) The defendant shall perform 250 hours of community service under the administrative supervision of the probation officer.
- 5) The defendant shall participate in credit counseling, under the administrative supervision of the probation officer.

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Defendant: LEIGH ANN SMITH  
Case Number: CR 08-RDP-0317-NE

**RESTITUTION AND FORFEITURE**

**RESTITUTION**

The court, pursuant to the Victim and Witness Restitution Act, finds that the following is victim of defendant's criminal conduct and has sustained loss in the indicated amounts and orders restitution by the defendant as follows:

<b><u>Name &amp; address of payee</u></b>	<b><u>Amount</u></b>
RBC Bank (formerly First American Bank); P.O. Box 1220; Mail Code 000-906-140; Rocky Mount, NC 27802; REF: Leigh Ann Smith/Credit Card Case	\$287,099.27

Payments of restitution, without interest, are to be made to Clerk, U. S. District Court, for transfer to the payee.

Restitution is due and payable immediately. Payment is due in full no later than the end of the term of supervision.

If there are multiple payees, any payment not made directly to a payee shall be divided proportionately among the payees named unless otherwise specified here:

**FORFEITURE**

The defendant is ordered to forfeit the following property to the United States:

U.S. Currency in the amount of \$290,000.00.

All proceeds collected as a result of the Final Order of Forfeiture is ordered to be applied toward the amount of restitution ordered in this case in accordance with the Attorney General's Guidelines and Procedures for Restoration of Forfeited Property to Crime Victims via Restitution in lieu of Remission.