

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES ACT OF 1933**  
**Release No. 9606 / June 25, 2014**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 72471 / June 25, 2014**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3560 / June 25, 2014**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-15946**

**In the Matter of**

**JEFFREY C. KUEHR AND**  
**MICHAEL J. WILLOUGHBY,**

**Respondents.**

**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS AND IMPOSING REMEDIAL SANCTIONS, CEASE-AND-DESIST ORDERS, AND PENALTIES**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Jeffrey C. Kuehr (“Kuehr”) and Michael J. Willoughby (“Willoughby”) (collectively, the “Respondents”).

**II.**

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Cease-And-Desist Proceedings Pursuant To Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act Of 1934, Making Findings and Imposing Remedial Sanctions, Cease-And-Desist Orders, and Penalties, as set forth below.

**III.**

On the basis of this Order and Respondents' Offers, the Commission finds<sup>1</sup> that:

### **SUMMARY**

This proceeding arises from the misconduct of the Respondents and Thomas A. Neely, Jr., ("Neely") while employed by Regions Bank and its parent holding corporation, Regions Financial Corporation ("Regions"). During the quarter ended March 31, 2009, in accordance with Regions' policies and procedures, personnel within Regions Bank's Special Asset Department ("SAD") who reported up to the Respondents, initiated the procedures to place approximately \$168 million of certain commercial loans (the "Loans") into non-accrual status. In March 2009, the Respondents and Neely, arbitrarily and without supporting documentation, took steps to keep the Loans in accrual status. Such steps by the Respondents and Neely to evade existing policies and procedures constituted a fraudulent scheme, prevented Regions from appropriately measuring impairment in accordance with Generally Accepted Accounting Principles ("GAAP"), rendered Regions' financial statements for the quarter ended March 31, 2009 materially misstated and not prepared in conformity with GAAP, and evidenced a failure by Regions to maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Loans were recorded as necessary to permit the preparation of financial statements in conformity with GAAP.

### **RESPONDENTS**

1. Jeffrey C. Kuehr, 50, was formerly an Executive Vice President and the head of Regions' SAD. During the relevant period, Kuehr reported to Willoughby who at the time was Regions' Chief Credit Officer ("CCO"). Kuehr's employment with Regions concluded on December 29, 2010.

2. Michael J. Willoughby, 68, was formerly a Senior Executive Vice President and Regions' CCO. As CCO, Willoughby directly reported to Regions' Chief Risk Officer. Willoughby's employment with Regions concluded on November 30, 2010.

### **RELATED PERSON AND ENTITY**

3. Thomas A. Neely, Jr., 53, was formerly an Executive Vice President for Regions' Risk Management Credit Division where he reported to Willoughby. Neely also oversaw Regions' Risk Analytics Group and together with Kuehr functionally controlled Regions' SAD. Neely's employment with Regions concluded on November 30, 2010.

4. Regions Financial Corporation is a Delaware financial holding corporation headquartered in Birmingham, Alabama. Regions conducts its banking operations through its subsidiary Regions Bank, which is a member of the Federal Reserve System. Regions' common stock is registered with the Commission pursuant to Section 12(b) of the Securities Act and trades on the New York Stock Exchange under the symbol "RF." As of December 31, 2013, Regions had approximately \$117 billion in assets.

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<sup>1</sup> The findings herein are made pursuant to Respondents' Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

## FACTS

### Regions' Tracking of Non-Accrual Loans

5. Throughout the relevant time-period, including the quarter ended March 31, 2009, Region's tracked and recorded its non-performing loans ("NPLs") as part of both internal performance metrics and its regular financial reporting. NPLs at Regions primarily consisted of loans in a non-accrual status.<sup>2</sup>

6. Regions' policies and procedures required that loans be placed on non-accrual status when it was determined that payment of all contractual principal and interest was in doubt, or the loan was past due 90 days or more as to principal and interest, unless the loan was well-secured and in the process of collection. When a loan was placed in non-accrual status, uncollected interest accrued during the current year would be reversed and reduce Regions' interest income. In addition, placing a loan on non-accrual status served as a trigger for Regions to consider whether the specific loan was impaired and thus how to determine an allowance for loan and lease losses in accordance with GAAP.

7. Regions' policies and procedures provided that the decision to place a loan in non-accrual status was to be made by Relationship Managers ("RMs") within SAD. RMs were responsible for reviewing loan file details, monitoring payments and communicating with borrowers. Under Regions' policies and procedures, RMs had the greatest degree of knowledge within SAD of the relevant loan status and a borrower's ability to make payments of principal and interest.

8. Regions' policies and procedures required that when RMs initiated an action to place a loan on non-accrual status, they would submit a supporting form to their regional manager that showed their conclusion and justified how they determined a loan should be placed in non-accrual status. Regions' policies and procedures then provided for the regional manager to conduct a detailed review of the loan with the responsible RM, after which the approval was granted by the regional manager.

9. Once approval for non-accrual classification was granted by the regional manager, Regions' policies and procedures specified that any subsequent exception to classifying the loan in non-accrual status was required to be fully documented and justified on an approved "Recommendation to Continue Accrual Status" form.

10. Once the RM and the regional manager recommended that a loan should be classified in non-accrual status, it was then listed by SAD managers in the Asset Quality Forecast report ("AQF"). The AQF identified which loans had been recommended by the RM and regional manager for being placed on non-accrual status, and it forecasted charge-offs and nonperforming assets for the quarter.

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<sup>2</sup> GAAP does not provide guidance regarding placing loans on a non-accrual status.

11. The AQF was a principal forecasting tool of SAD that was prepared under the direction of the Respondents and Neely. The AQF was discussed weekly at meetings regularly conducted and attended by the Respondents. Neely and Willoughby also regularly utilized the AQF in presentations to Regions' Executive Council, which consisted of, among others, Regions' Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), in discussing current trends in NPLs.

12. The SAD, under the control of the Respondents and Neely, had authority over the preparation, content, and dissemination of the AQF. Once a loan recommended for non-accrual status by the RMs and regional managers was included on the AQF, the responsible RMs would complete information required for a processing list and submit it to Regions' Risk Analytics Group. The processing list was designed as an electronic record documenting the specific actions for individual loans to be formally taken by Regions and reflected in Regions' accounting systems. Neely maintained final authority over the processing list. Following Neely's approval, his subordinates would submit the processing list for the identified loans to be recorded as non-accrual in Regions' accounting systems.

Respondents' Misclassification of Loans and Evasion  
of Regions' Policies and Procedures during the Quarter Ended March 31, 2009

13. As of the beginning of March 2009, Regions' AQF identified NPLs of approximately \$1.6 billion. Kuehr, Neely and Willoughby had discussed between themselves the then current AQF and NPLs. The AQF and related NPLs tracking for the quarter were made available to Regions' CEO and CFO.

14. On or about March 13, 2009, Kuehr, Neely and Willoughby were informed by a subordinate that an error had resulted in an underreporting of NPLs by an amount approximating \$200 million, or 13% as reported in the AQF data made available to Regions' CEO and CFO.

15. On or about March 17, 2009, Willoughby was actively tracking and calculating how NPLs could be decreased by approximately \$200 million so as to more closely approach the previously identified NPL target.

16. On or about March 17, 2009, Neely suggested to Willoughby and Kuehr that a \$6.8 commercial million loan be recorded as an accruing loan despite being recommended for non-accrual status by the assigned RM and regional manager. This loan was prevented by Neely, without objection from Willoughby and Kuehr, from being placed on the AQF or a processing list and was classified by Regions as being in accrual status as of March 31, 2009. Contrary to Regions' policies and procedures, Respondents prevented the subject loan from being classified as non-accrual without any documentation or justification.

17. On or about March 18, 2009, Neely and Willoughby instructed subordinates to take specific actions to remove from the AQF approximately \$150 million of commercial loans that had been recommended by the assigned RMs and regional managers, in accordance with Regions' policies and procedures, as being classified as non-accrual. Neely and Willoughby issued such instructions to their subordinates without any documentation or justification supporting the removal of these loans from the AQF, in direct contravention of Regions' policies

and procedures. Kuehr, then head of SAD, thereafter was made aware of and did not object to this action by Neely and Willoughby. The ultimate effect of these instructions was the improper classification of the Loans, representing approximately \$168 million, as being in accrual status. Had Regions classified the relevant loans on non-accrual status in accordance with its policies, it would have prompted a determination that the identified loans were impaired in accordance with GAAP. That determination would have resulted in Regions recording a higher allowance for loan and lease losses.

18. On or about March 23, 2009, Willoughby and Neely attended a meeting at which they provided false information regarding NPLs for the quarter to certain senior executives, including Regions' CFO.

19. In taking the undocumented and unjustified steps above, Respondents and Neely collectively circumvented Regions' policies and procedures regarding the classification of loans into non-accrual status. Respondents and Neely's scheme directly resulted in the improper classification of the Loans pursuant to Regions' policies, and further prevented Regions from appropriately determining those Loans were impaired in accordance with GAAP at the quarter ended March 31, 2009.

20. In accordance with Regions' policies and procedures, the Loans were required to have been classified in non-accrual status at the quarter ended March 31, 2009. Had Regions classified the Loans on non-accrual status with its policies, it would have prompted a determination that the Loans were impaired in accordance with Statement of Financial Accounting Standard No. 114, Accounting by Creditors for Impairment of a Loan ("SFAS No. 114").<sup>3</sup>

#### Impact of Respondents' Misconduct on Regions' Financial Statements

21. Respondents circumvented Regions' internal accounting controls through their recording and reporting of the Loans in a manner that was not in accordance with Regions' policies and procedures. As a result, Regions failed to maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Loans were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

22. Respondents' misconduct resulted in Regions' failing to make and keep books, records, and accounts, in reasonable detail, which accurately and fairly reflected the Loans. Further, Regions' accounts were falsified through the misconduct of the Respondents.

23. The books, records and accounts reflecting the Loans were incorporated into Regions' consolidated financial statements for the quarter ended March 31, 2009. As a result of failing to properly account for the Loans in accordance with GAAP, for the quarter ended March 31, 2009, Regions' income before income taxes was overstated by \$16 million, its net income

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<sup>3</sup> See SFAS No. 114, which states that "a loan is impaired when, based on current information and events, it is probable that a creditor will be unable to collect all amounts due according to the contractual terms of the loan agreement" and it requires lenders to measure impairment based on the present value of expected cash flows or an observable fair value of the collateral (i.e., an appraisal) if the loan is collateral dependent.

applicable to common shareholders was overstated by approximately \$11 million, and its earnings per common share was overstated by approximately \$.02 per share.

24. The above misstatements were included in Regions' April 21, 2009 press release included in its Form 8-K dated April 21, 2009 and filed with the Commission on April 21, 2009, in its exhibits to its Form 8-K dated May 20, 2009 and filed with the Commission on May 20, 2009, in its March 31, 2009 Form 10-Q filed May 11, 2009, and two subsequent amendments to its March 31, 2009 Form 10-Q filed on May 13, 2009 and June 9, 2009, in a Form S-4 filed on May 20, 2009 and in three subsequent amendments to this registration statement on May 22, 2009, June 4, 2009, and June 9, 2009, and in a Form S-8 filed on August 28, 2009 (collectively, the "Public Filings").

25. The Public Filings did not include other information as was necessary to ensure that the statements made in the Public Filings were not, under the circumstances, materially misleading.

26. The Respondents, through false statements and/or misleading omissions in sub-certification letters they signed in April 2009 in connection with the preparation of the reports on Form 10-Q above, misled Regions' Controller and Chief Accounting Officer and its Director of Internal Audit, both accountants, regarding Regions' books, records, accounts, and internal controls.

## **VIOLATIONS**

27. Section 17(a) of the Securities Act prohibits any person, in the offer or sale of any security, from using the means and instrumentalities of interstate commerce and of the mails, directly or indirectly, to: (a) employ any device, scheme, or artifice to defraud; (b) obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

28. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit fraudulent conduct in connection with the purchase or sale of securities.

29. Section 20(b) of the Exchange Act makes it unlawful for any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the Exchange Act or any rule or regulation thereunder through or by means of any other person.

30. Section 13(a) of the Exchange Act and Rules 13a-11, 13a-13 and 12b-20 thereunder, requires every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and current and quarterly reports as the Commission may require, and mandate that current and periodic reports contain such further material information as may be necessary to make the required statements not misleading.

31. Section 13(b)(2)(A) of the Exchange Act requires reporting companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

32. Section 13(b)(2)(B) of the Exchange Act requires all reporting companies to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP.

33. Section 13(b)(5) of the Exchange Act prohibits any person from knowingly circumventing or knowingly failing to implement a system of internal accounting controls, and from knowingly falsifying any book, record, or account, required under Section 13(b)(2) of the Exchange Act.

34. Rule 13b2-1 of the Exchange Act prohibits any person from directly or indirectly falsifying or causing to be falsified any book, record or account subject to Section 13(b)(2)(A) of the Exchange Act.

35. Rule 13b2-2 of the Exchange Act prohibits, among other things, officers of issuers from directly or indirectly making or causing to be made a materially false or misleading statement, or omitting to state any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with any quarterly review or the preparation or filing of any document or report required to be filed with the Commission.

36. As a result of the Respondents' scheme to misclassify the Loans as in accrual status as of the quarter ended March 31, 2009, the Respondents violated Section 17(a) of the Securities Act, which prohibits fraudulent conduct in the offer or sale of securities, and Exchange Act Section 10(b) and Rule 10b-5 thereunder, which prohibits fraudulent conduct in connection with the purchase or sale of securities.

37. As a result of the conduct described above, the Respondents acted through Regions to make material misrepresentations in the Public Filings, and as a result, violated Sections 20(b) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder.

38. As a result of the conduct described above, the Respondents caused Regions to violate Section 13(a) of the Exchange Act and Rules 13a-11, 13a-13 and 12b-20 thereunder because its financial statements for the quarter ended March 31, 2009, included in current and quarterly reports, failed to record the Loans in conformity with GAAP.

39. As a result of the conduct described above, the Respondents caused Regions to violate Section 13(b)(2)(A) of the Exchange Act because it did not keep books, records or accounts that accurately reflected the Loans.

40. As a result of the conduct described above, the Respondents caused Regions to violate Section 13(b)(2)(B) of the Exchange Act because it failed to maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Loans were recorded as necessary to permit preparation of its financial statements in accordance with GAAP.

41. As a result of the conduct described above, the Respondents violated Section 13(b)(5) of the Exchange Act when they knowingly circumvented Regions' system of internal

accounting controls and knowingly falsified Regions' books, records, and accounts related to the Loans.

42. As a result of the conduct described above, the Respondents violated Rule 13b2-1 of the Exchange Act by directly or indirectly falsifying or causing to be falsified Regions' books, records and accounts relating to the Loans, which were subject to Section 13(b)(2)(A) of the Exchange Act.

43. As a result of the conduct described above, the Respondents violated Rule 13b2-2 of the Exchange Act when they directly or indirectly made or caused to be made materially false or misleading statements, or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to accountants in connection with the preparation or filing of documents and reports which were required to be filed with the Commission.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in each Respondents' Offers.

Accordingly, it is hereby ORDERED that:

A. Respondent Kuehr cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, including committing or causing any such violations directly or indirectly through or by means of any other person, as prohibited by Section 20(b) of the Exchange Act, and cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 12b-20, 13a-11, 13a-13, 13b2-1, and 13b2-2 thereunder.

B. Respondent Kuehr be, and hereby is prohibited for a period of five (5) years from entry of this Order, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

C. Respondent Kuehr shall pay a civil money penalty in the amount of \$70,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$5,833.37 is due on the first of the month following entry of this Order, followed by eleven (11) additional payments of \$5,833.33 due on the first of each consecutive following month, constituting twelve (12) payments totaling \$70,000. Payment of the entire remaining balance may be made at any point in time on or before it would otherwise be due under the terms of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance, plus any additional interest accrued pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Jeffrey C. Kuehr as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Aaron W. Lipson, Division of Enforcement, Securities and Exchange Commission, 950 East Paces Ferry Road, N.E., Atlanta, GA 30326-1382.

D. Respondent Willoughby cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, including committing or causing any such violations directly or indirectly through or by means of any other person, as prohibited by Section 20(b) of the Exchange Act, and cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act, Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 12b-20, 13a-11, 13a-13, 13b2-1, and 13b2-2 thereunder.

E. Respondent Willoughby be, and hereby is prohibited for a period of five (5) years from entry of this Order, from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

F. Respondent Willoughby shall pay a civil money penalty in the amount of \$70,000 to the Securities and Exchange Commission. Payment shall be made in the following installments: \$5,833.37 is due on the first of the month following entry of this Order, followed by eleven (11) additional payments of \$5,833.33 due on the first of each consecutive following month, constituting twelve (12) payments totaling \$70,000. Payment of the entire remaining balance may be made at any point in time on or before it would otherwise be due under the terms of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance, plus any additional interest accrued pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Michael J. Willoughby as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Aaron W. Lipson, Division of Enforcement, Securities and Exchange Commission, 950 East Paces Ferry Road, N.E., Atlanta, GA 30326-1382.

By the Commission.

Jill M. Peterson  
Assistant Secretary