

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9714 / January 28, 2015

SECURITIES EXCHANGE ACT OF 1934
Release No. 74161 / January 28, 2015

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3622 / January 28, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16363

In the Matter of

**FIRST NATIONAL COMMUNITY
BANCORP INC. AND WILLIAM LANCE,**

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 A
CEASE-AND-DESIST ORDER**

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 First National Community Bancorp Inc. (“FNCB”) and William Lance (“Lance”).

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 a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

SUMMARY

1. First National Community Bancorp ("FNCB" or "the Company"), the holding company of First National Community Bank located in Dunmore, Pennsylvania, materially understated the provision for other-than-temporary impairment ("OTTI" or "losses") for its investment securities portfolio in FNCB's financial statements filed with its Annual Report on Form 10-K for the year-ended December 31, 2009 ("2009 Annual Report") and quarterly reports on Form 10-Q for the first and second quarters of 2010.

2. In 2009, FNCB's investment securities portfolio included certain pooled trust preferred securities, and other securities. Pursuant to generally accepted accounting principles ("GAAP"), FNCB was required to report in its financial statements filed with the Commission the amount of OTTI on the securities in its investment portfolio. FNCB's methodology for determining the amount of OTTI did not comply with GAAP and, as a result, FNCB understated OTTI for the relevant reporting periods.

3. During 2009, FNCB's former Principal Financial Officer, William Lance, was responsible for establishing and maintaining accounting policies and procedures to ensure that FNCB calculated OTTI in accordance with GAAP. Lance, however, failed to establish and maintain the necessary policies and procedures and, as a result, he caused FNCB to record materially understated OTTI in its 2009 annual financial statement filed with the Commission. The material understatement of OTTI at year-end 2009 also resulted in FNCB reporting materially misstated OTTI in its quarterly reports for the first and second quarters of 2010. Lance, however, had resigned from FNCB prior to the preparation and filing of the quarterly reports Form 10-Q for the period ended March 31, 2010 and June 30, 2010.

4. On October 27, 2010, FNCB disclosed that the Company's 2009 Annual Report and the financial statements filed for the quarters-ended March 31, 2010 and June 30, 2010, should no longer be relied upon. FNCB further disclosed that the previously filed financial statements contained errors relating to, among other things, the accounting for OTTI on certain investment securities. On December 2, 2011, over a year later, FNCB filed restated financial statements for the year-ended December 31, 2009 ("2009 Restatement"), which provided for additional pre-tax losses of \$31.5 million, increasing the originally reported net loss before income taxes of \$21.4 million to \$52.9 million. FNCB also concluded that its disclosure controls and procedures and internal controls over financial reporting of OTTI losses during the relevant reporting period were materially deficient.

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

5. In the 2009 Restatement, FNCB increased OTTI losses by \$14.4 million for a reported total of \$20.6 million - more than 230 percent over the originally reported \$6.2 million OTTI amount. Approximately \$13.6 million of the \$14.4 million increase was attributed specifically to the flawed methodology used by FNCB for the original OTTI valuations.

6. In August 2010, approximately two months before FNCB publically announced its intention to restate its financial statements, FNCB sold 100,000 shares of unregistered stock to a private investor. The subscription agreement used in the sale incorporated by reference the materially misstated financial statements for year-end 2009 and the first quarter of 2010.

7. As a result, FNCB violated several provisions of the federal securities laws, including the reporting, internal controls, and books and records provisions. Lance was a cause of FNCB's reporting, internal controls, and books and records violations with regard to the 2009 Annual Report.

RESPONDENTS

8. First National Community Bancorp Inc. ("FNCB"), the holding company of First National Community Bank, is located in Dunmore, Pennsylvania. FNCB's common stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act, and currently trades under the symbol "FNCB" and is quoted on the OTCQB.

9. William Lance ("Lance") was the Principal Financial Officer ("PFO") and Executive Vice President at FNCB in 2009. Lance resigned from FNCB in February 2010.

FACTS

A. FNCB's Assets in 2009 Included a Portfolio of Investment Securities For Which an Analysis of OTTI was Required Pursuant to GAAP.

10. As of December 31, 2009, FNCB's investment securities portfolio was valued at \$273.6 million. The portfolio was comprised of pooled trust preferred securities that were marketed as Preferred Term Securities, Ltd. ("PreTSLs"),² as well as U.S. Government agency securities, tax-exempt obligations of states and political subdivisions, government sponsored agency and private label collateralized mortgage obligations, residential mortgage-backed securities, and corporate debt and equity securities.

11. The PreTSLs in FNCB's investment portfolio were reported as available-for-sale securities ("AFS"). AFS are reported at fair value with net unrealized gains and losses included

² "PreTSLs" are a proprietary product developed and marketed by two broker-dealers. They are collateralized debt obligations created by pooling and securitizing trust preferred securities issued by community and regional banks and thrifts, insurance companies, and/or real estate investment subsidiaries.

in accumulated other comprehensive income, which is a component of shareholders' equity.³ When the fair value of FNCB's PreTSLs declined below their amortized cost, FNCB was required to assess whether the decline in fair value was other than temporary. GAAP requires that an OTTI loss be recognized in the statement of operations when the present value of cash flows expected to be collected from a security is below its amortized costs.⁴ In other words, to determine whether the decline in fair value of its PreTSLs was other-than-temporary, FNCB needed to assess whether these securities had experienced a credit loss as a result of a decrease in expected cash flows to be received on the securities. To measure credit losses to be recognized in the statement of operations, GAAP requires the holder of a security to estimate expected future cash flows considering all available information relevant to the collectability of the security, including information about past events, current conditions, and reasonable and supportable forecasts.⁵

12. Banks and other financial institutions may retain consultants to create models to calculate the present value of expected cash flows which are used to estimate the amount of OTTI to be recognized for investment securities. In order for the models used by valuation experts to measure OTTI in a manner consistent with GAAP, the selection of the assumptions to estimate expected future cash flows must be reasonable and supportable. The work of a consultant does not relieve a reporting company or its management of the ultimate responsibility for accurately reporting the amount of OTTI for its investment securities.

B. FNCB's Methodology for Determining OTTI Losses on the PreTSLs Did Not Comply with GAAP.

13. Lance was responsible for developing and implementing policies and procedures to ensure that FNCB recorded OTTI in accordance with GAAP. Lance failed to do so. Lance relied on OTTI calculations that were not based on reasonable and supportable assumptions in preparing the OTTI disclosures in FNCB's 2009 Annual Report.⁶

³ ASC 320-10-25 and ASC 320-10-35. In July 2009, the Financial Accounting Standards Board issued the *FASB Accounting Standards Codification* ("ASC") as the single source of authoritative nongovernmental U.S. generally accepted accounting principles. The Codification was effective for annual periods ending after September 15, 2009. All existing accounting standards documents were superseded.

⁴ ASC 320-10-35-33C.

⁵ ASC 320-10-35-33G.

⁶ Both prior to and during the time when Lance was supervising the preparation of FNCB's 2009 Annual Report, the staff of the Commission's Division of Corporation Finance questioned FNCB about its OTTI methodology, including the manner in which FNCB chose the assumptions on which it based its OTTI estimates. In particular, in a letter to FNCB dated September 25, 2009, the staff asked FNCB, among other things, to identify all of the "key assumptions" that it used, including whether it considered "the specific collateral underlying *each* individual security" (emphasis in the original) and had "different estimates of deferrals and defaults for each security," and explain how FNCB determined that the assumptions were appropriate and consistent with GAAP. Lance reviewed the comment letter and coordinated the preparation of FNCB's response. The Commission staff again wrote to FNCB, in January 2010, prior to Lance's departure and before FNCB's 2009 Annual Report had been filed, specifically raising concerns about FNCB's practice of applying the same deferral and default rate to all of the

14. During 2009 and as of year-end 2009, FNCB used the services of two private valuation consultants, Valuation Firm A (“VFA”) and Valuation Firm B (“VFB”) to assist it in estimating OTTI on the PreTSLs in its investment portfolio.⁷

15. VFA was the vendor from whom FNCB had purchased the PreSTL securities. In 2009, VFA offered Lance a selection of pre-determined assumption scenarios for use with its OTTI valuation model, each representing a different combination of outcomes for, among other things, default and deferral rates, loss severity, prepayment speeds, and other factors that are to be taken into account in determining OTTI. The scenarios ranged from a scenario that resulted in little or no impairment (referred to as “Scenario 6,” which, among other things, assumed the lowest default rate and the highest recovery rate) to a scenario that yielded significant impairment. However, it was Lance’s responsibility to select for each individual security in FNCB’s portfolio a set of assumptions or factors (whether a pre-determined scenario, such as those developed by VFA, or some other combination of factors that was appropriate to each security) to be used in measuring OTTI for each PreSTL held by FNCB.

16. Instead of evaluating what would be reasonable and supportable cash flow assumptions for each security prior to each periodic report by appropriately considering the characteristics of each security, including the underlying collateral, changes in default and deferral rates, and other relevant criteria, Lance chose to apply a single valuation scenario provided by VFA – “Scenario 6” – to all of the PreTSLs held by FNCB. According to Lance, Scenario 6 projected defaults based on the long-term historical loss rates for FDIC-insured banks, which Lance conceded was “obviously a very low number” and he acknowledged that “[l]osses were occurring at a higher rate at that point.” Lance chose the scenario that yielded the least amount of impairment, but testified that he did so based on an expectation that bank failures and, therefore, default and deferral rates would not continue at the then-current levels for an extended period of time. Lance did not document his rationale or why he believed such assumptions were reasonable and supportable. Scenario 6, the scenario that Lance selected, was applied by VFA to model OTTI for all of the PreTSLs in FNCB’s portfolio as of year-end 2009.

17. VFB also calculated OTTI for the PreTSLs held by FNCB at year-end 2009. VFB’s model relied upon unreasonable assumptions regarding future cash flows and the timing of the liquidation of the collateral related to issuers that had deferred or defaulted. Lance did not

PreTSLs in FNCB’s portfolio, without regard to, among other things, differences in the collateral underlying each PreTSL and other individual characteristics of each security. In the January 2010 letter, the Commission staff commented, “[W]e believe you must look at the specific collateral of each individual security to develop the credit deferral/default assumptions for your estimated cash flows and that simply using the same credit default assumption . . . for all of your securities is not a reasonable methodology consistent with the guidance.”

⁷ FNCB had used VFA to model the amount of impairment of the PreTSLs since their purchase. By mid-2009, in response to questions raised by its regulators, FNCB sought the assistance of a second valuation expert to model OTTI impairment for its securities investments. FNCB considered both models in determining the amount of OTTI to record.

know, and never inquired about, the assumptions that VFB used to model the OTTI for the PreTSLs in FNCB's investment portfolio and, for that reason, was unable to assess whether the assumptions used by VFB were reasonable in light of the particular circumstances, and the condition of the collateral underlying each, of the securities in question.

18. VFB modelled OTTI for the PreTSLs in FNCB's portfolio using assumptions that it chose and concluded that there was no material impairment for all but one of the PreTSLs. VFB, however, calculated a material impairment for the security denominated "PreTSL-XXVIII" and provided Lance with a range of potential impairment for that security from \$4.1 million to \$1.1 million. Despite having failed to determine whether the assumptions used by VFB were reasonable and supportable, Lance caused FNCB to record the lowest amount of impairment on the range: \$1.1 million.

C. FNCB Recorded Materially Misstated OTTI at Year-End 2009 and Lance Was a Cause of That Failure.

19. Lance relied on the analyses provided by VFA and VFB and caused FNCB to record OTTI that had been estimated using models that did not include reasonable and supportable assumptions and therefore did not estimate OTTI credit losses consistent with GAAP, despite the concerns raised by the Commission staff. As a result, FNCB materially understated OTTI for the PreTSLs in FNCB's portfolio as of year-end 2009. In the 2009 Restatement, FNCB re-calculated estimated future cash flows based on revised assumptions consistent with GAAP requirements and as a result recorded an additional OTTI loss of approximately \$13.6 million for the PreTSL securities, including an additional loss of approximately \$5.9 million for PreTSL-XXVIII.

20. Lance resigned from FNCB on or about February 11, 2010, a month before FNCB filed its 2009 Annual Report with the Commission on March 10, 2010. However, he was primarily responsible for compiling FNCB's 2009 year-end financial statements that were filed with the Annual Report, including with respect to the methodology and calculation of OTTI. Lance did not participate in the preparation of FNCB's quarterly reports for the first and second quarters of 2010.

D. FNCB Materially Misstated OTTI in its Quarterly Reports for the First and Second Quarters of 2010.

21. FNCB materially misstated OTTI in its Form 10-Qs for the quarters ended March 31, 2010 and June 30, 2010, as a result of the same accounting errors, including the flawed OTTI methodology, and books and records and internal control deficiencies that affected the 2009 Annual Report.

22. For the periods ending March 31 and June 30, 2010, the application of FNCB's revised OTTI methodology for the PreTSLs resulted in increased impairment losses. However, FNCB determined that certain of the first quarter losses reflected impairments that had existed as of the fourth quarter of 2009. Accordingly, in its restatement, FNCB recorded a portion of the increased losses for the first quarter of 2010 in its restated 2009 Annual Report, rather than in the

restated quarterly report for the first quarter of 2010. Consequently, net OTTI losses for the first quarter of 2010 as restated decreased from \$0.9 million to \$0.3 million. For the second quarter of 2010, however, net OTTI losses as restated increased from \$0.6 million to \$2.6 million.

23. FNCB also revised its prior financial disclosures regarding internal control over financial reporting to reflect FNCB's conclusion that internal control over financial reporting were not effective at the time the original financial statements were filed, and that FNCB had failed to keep accurate books and records and implement policies and procedures to enable it to prepare financial statements for these periods that complied with GAAP.

E. FNCB Provided Materially Misstated Financial Statements to an Investor Who Purchased FNCB Stock.

24. On August 4, 2010, FNCB sold 100,000 shares of unregistered common stock at \$3.60 per share to a private investor for a total purchase price of \$360,000. The subscription agreement for this sale of securities expressly incorporated by reference the materially misstated 2009 annual and first quarter 2010 financial statements.

VIOLATIONS

25. As a result of the conduct described above:

a. FNCB violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)], and Rules 12b-20, 13a-1, and 13a-13 thereunder [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13], which require every issuer of a security registered pursuant to Section 12 of the Exchange Act to file with the Commission information, documents, and annual and quarterly reports as the Commission may require, and mandate that periodic reports contain such further material information as may be necessary to make the required statements not misleading.

b. Lance caused FNCB's violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m (a)], and Rules 12b-20 and 13a-1 thereunder [17 C.F.R. §§ 240.12b-20 and 240.13a-1] by failing to ensure that FNCB's OTTI estimates were based on reasonable and supportable assumptions and by causing FNCB to record materially understated OTTI for a portion of its investment portfolio in its 2009 Annual Report.

c. FNCB also violated Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] which 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.

d. Lance caused FNCB's violation of Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] by failing to ensure the FNCB made and kept books, records, and accounts which in reasonable detail accurately and fairly reflected the amount of OTTI to be recorded at year-end 2009.

e. FNCB also violated Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)], which 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 generally accepted accounting principles.

f. Lance caused FNCB's violation of Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] by failing to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that FNCB's financial statements, and, in particular its valuation of OTTI, were prepared in accordance with generally accepted accounting principles.

g. With respect to FNCB's sale of stock, FNCB violated Section 17(a)(2) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)(2)], which makes it unlawful for anyone in the offer or sale of securities, to 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 the light of the circumstances under which they were made, not misleading.

IV.

UNDERTAKING

Lance has agreed to the following undertaking:

Lance shall, within ten (10) days of the entry of the Order, make a payment in the nature of a penalty in the amount of \$20,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Such payment shall be made in one of the following ways:

1. Lance may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
2. Lance 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. Lance 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 Lance 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:

Antonia Chion, Associate Director
Division of Enforcement
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-5720.

In determining whether to accept Lance's Offer, the Commission has considered this undertaking. Lance agrees that, if he fails to timely comply with this undertaking, the Division of Enforcement may petition the Commission to reopen this matter to determine whether additional sanctions are appropriate.

V.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, FNCB cease and desist from committing or causing any violations and any future violations of Sections 17(a)(2) of the Securities Act and Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.

B. Pursuant to Section 21C of the Exchange Act, Lance cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder.

C. FNCB shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$175,000 to the Securities and Exchange Commission. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

1. FNCB may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

2. FNCB 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. FNCB 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 FNCB 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:

Antonia Chion, Associate Director
Division of Enforcement
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-5720.

By the Commission.

Brent J. Fields
Secretary