THE STATE OF ALABAMA
STATE BANKING DEPARTMENT

IN THE MATTER OF:	)	
	)	
Marc Corey Mitchell,	)	CASE NO. 2008-01
	)	
Respondent.	)	

ORDER OF REMOVAL AND PROHIBITION FROM PARTICIPATION

The Alabama Banking Department (the "Department"), under the direction of its Superintendent, John D. Harrison (the "Superintendent"), hereby makes and enters the Findings of Fact and Conclusions of Law set forth below.

FINDINGS OF FACT

1. The Superintendent has acquired and maintains jurisdiction over Respondent by virtue of Code of Alabama (1975), Sections 5-2A-12 and 5-3A-6.

2. Respondent has the right to a hearing and to appeal from any hearing, pursuant to Code of Alabama (1975), Section 5-2A-12.

3. The Department, under the direction of the Superintendent, investigated certain of the activities of the Respondent during the time Respondent was an employee of Acceptance Loan Company of Jackson, Alabama ("ALC"), a subsidiary of First United Security Bank of Thomasville, Alabama. First United Security Bank is an Alabama chartered bank that operates under the supervision of the Department. The Superintendent determined that the Respondent made, directed or concurred in the making of various false entries in the books, reports or

statements of ALC that are prohibited by, among other things, Code of Alabama (1975), Section 5-3A-6. The false entries identified by the Superintendent include:

(i) From approximately May 1, 2001 until May 8, 2007, the Respondent caused (i) vehicles that were repossessed by ALC to be placed on the business premises of I-65 Motors and Graves Automotive in Calera, Alabama, where such vehicles were sold by I-65 Motors or Graves Automotive, as seller (rather than by ALC), and (ii) the repossession accounts of ALC for such vehicles not to be paid, but instead, caused the accounts to remain on the books of ALC as open loan accounts. During the course of these transactions, the Respondent knowingly participated in an arrangement in which I-65 Motors or Graves Automotive made periodic payments to ALC which were allocated among the defaulted retail loans secured by the repossessed vehicles on the premises of I-65 Motors or later at Graves Automotive. This arrangement was intended by the Respondent to minimize detection of the loan delinquencies by the management of ALC. The foregoing practices also resulted in instances in which ALC had two or more retail loans supposedly secured by a first priority lien on the same vehicle.

(ii) From approximately May 1, 2001 until May 8, 2007, the Respondent caused ALC to make fictitious loans to "borrowers" that were unaware of the credit transaction. In some instances, the Respondent also caused ALC to make loans to employees of Graves Automotive for the purpose of concealing other delinquent loans on the books of ALC and the identification of vehicles that had been repossessed by ALC, and covertly providing operating capital to Graves Automotive.

(iii) According to ALC policy, Branch Managers of ALC were required to prepare and submit monthly reports identifying all new or renewal loans in excess of $5,000.00. Such reports were then to be delivered to the District Manager for approval, who was then required to send the report to the ALC home office for review by its Board of Directors. From time to time, the Respondent, as District Manager, instructed Branch Managers to omit or delete certain loans in excess of $5,000.00 from the monthly reports, thereby concealing the identity and frequency of delinquent loans of ALC.

(iv) According to ALC policy, Branch Managers of ALC were required to prepare and submit monthly reports identifying all collateral repossessions. Such reports were then to be delivered to the District Manager for approval, who was then required to forward the reports to the ALC home office for review by its Board of Directors. From time to time, the Respondent, as District Manager, instructed Branch Managers to exclude from the reports the repossession of various vehicles that had been sold by I-65 Motors or Graves Automotive pursuant to retail financing provided by ALC, thereby concealing the identity and frequency of delinquent loans of ALC and the volume of its repossessed collateral.

(v) On or about October 3, 2002, the Respondent sold his personal vehicle, a 1998 Jeep Wrangler, to Teresa Richiutti. The sale was financed pursuant to a loan that the Respondent caused ALC to make to Richiutti. Approximately four days later, Richiutti returned the vehicle to the Respondent due to mechanical problems, at which time the Respondent told Richiutti that the Respondent would return her cash payment and reverse her loan from ALC. However, rather than canceling

the loan, the Respondent left it as an open loan account on the books of ALC, to which the Respondent applied from time to time payments made by Graves Automotive which were less in amount and less frequent than those required by the terms of the loan. Such conduct concealed the failure of the Respondent to return the loan proceeds to ALC.

(vi) From time to time during the employment of the Respondent by ALC, the Respondent or others at the direction of the Respondent added or caused to be added fictitious collection, repossession or repair charges to one or more loans and then applied those proceeds to other delinquent loans for the purpose of concealing such defaults from the management of ALC.

CONCLUSIONS OF LAW

4. Alabama Code Section 5-3A-6 provides in pertinent part:

> "...Any officer, director, agent, or employee of any bank, any affiliate of any bank, or any agency of any foreign bank who (1) makes any false entry in any book, report, or statement of such bank, affiliate of such bank, or agency of such foreign bank ...shall be subject to removal or imposition of civil money penalties by the superintendent as provided in this title...."

5. The Department, acting by and through the Superintendent, concludes that the statutory grounds specified in Sections 5-2A-12 and 5-3A-6 for the removal of an employee, and for prohibiting that employee's participation in the conduct of the affairs of any bank or other entity subject to the jurisdiction of the Department have, in each and any one of the actions of the Respondent set forth in 3(i) to 3(vi) above, been met, and that this Order should be issued.

ORDER

6. Respondent (a) is removed as an officer, director and/or employee of First Financial Bank of Bessemer, Alabama, and (b) is prohibited from participation as an employee or in any other capacity or manner in the business or affairs with any state-chartered bank or an affiliate of any state-charted bank in the State of Alabama or with an agency of any foreign bank that is subject to the jurisdiction of the Department.

7. The Department hereby orders that the Respondent shall pay a civil money penalty in the amount of Twenty Five Thousand Dollars ($25,000.00), which amount is payable by the Respondent to the Department.

8. This order shall be stayed for a period of twenty (20) days from the date set forth below. If the Respondent files a notice of appeal with the Banking Board within such time, the order shall not become effective except in connection with the appeal until such appeal has concluded.

Dated: September 30, 2008.

JOHN D. HARRISON
SUPERINTENDENT