

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CHARLES F. BUCCIERI, on behalf of
himself and all others similarly situated,

CASE NO.:

Plaintiff,

v.

FRANKLIN BANK CORP., ANTHONY
J. NOCELLA, and RUSSELL MCCANN,

**CLASS ACTION COMPLAINT FOR
VIOLATIONS OF THE FEDERAL
SECURITIES LAWS**

Defendants.

JURY TRIAL DEMANDED

1. Plaintiff, Charles F. Buccieri ("Plaintiff"), alleges the following as his Complaint in the above-captioned matter. Plaintiff so alleges individually and on behalf of all persons and entities (the "Class") who purchased or otherwise acquired the common or preferred stock of Franklin Bank Corp. ("Franklin," the "Company," or the "Bank"), between April 26, 2007, and May 1, 2008, inclusive (the "Class Period").

2. The allegations contained herein are made upon information and belief, except as to the allegations about Plaintiff and his counsel, which are made upon personal knowledge. Plaintiff's information and belief are based, among other things, on investigations made by and through his attorneys. Such investigations have included, but have not been limited to, the review and analysis of: (a) filings made by Franklin with the United States Securities and Exchange Commission (the "SEC"); (b) press releases issued by the Company; (c) newspaper, magazine, and other periodical articles relating to Franklin and

the allegations contained herein; and (d) other matters of public record.

NATURE OF THE ACTION

3. This is a class action on behalf of all purchasers of Franklin common and preferred stock between April 26, 2007, and May 1, 2008, inclusive, seeking to pursue remedies under the Securities Exchange Act of 1934 (the "Exchange Act").

4. Franklin operates as the bank holding company for Franklin Bank, S.S.B., a savings and loan that provides community banking products and services, and commercial banking services to corporations and other business clients, and originates single family residential mortgage loans primarily in the State of Texas.

5. On May 1, 2008, the Company issued a press release announcing that "the Bank [had] determined that the accounting for certain delinquent single family loans ...[,] other real estate owned, and the Bank's newly created single family loan modification programs ... should be revised."

6. As a result of these anticipated accounting restatements, Franklin warned investors that its quarterly report for the period ended September 30, 2007 (filed with the SEC on form 10-Q on November 9, 2007), would have to be amended and should not be relied upon. The Company also informed investors that its January 31, 2008, press release--reporting its results of operations for the three months and year ended December 31, 2007--was no longer accurate and should not be relied upon.

7. As the Company would later reveal in a May 19, 2008, press release, Franklin's misreported financial results had been uncovered by a ten-week investigation by the audit committee of the Bank's board of directors. Assisted by the law firm of Baker Botts LLP and a forensic accounting firm, the committee had focused its investigation on Franklin's single family residential business. After "conduct[ing] numerous interviews, review[ing] e-mail records ... and analyz[ing] other documents and information provided by the Bank," the committee identified a litany of accounting improprieties. Among other things, according to the committee's investigatory findings, Franklin failed to:

- i. properly account for certain single family mortgage loan modification programs developed and implemented as part of an effort to reduce delinquencies and mitigate foreclosure losses;
- ii. charge off certain uncollectible single family second lien loans;
- iii. record, and in some instances write-down, Real Estate Owned and in-substance foreclosures in connection with foreclosures in its single family mortgage portfolio; and
- iv. properly record certain mark-to-market write downs on loans transferred from "Held for Sale" to "Held for Investment."

8. Franklin's board of directors accepted the committee's findings in full and, in response, immediately adopted a series of remedial measures--including the "accelerated retirement" of Anthony J. Nocella, the Bank's Chief Executive Officer ("CEO") during the

Class Period, and the establishment of “a formal disclosure committee to review and approve all public statements of Franklin.”

9. The accounting frauds committed by the Bank and the other Defendants have ravaged Franklin's share price. For example, while the Company's common stock traded as high as \$7.78 during the Class Period, it recently sold for as little 83 cents per share. According to the *Houston Chronicle*, “[t]he [Bank's] shares have lost almost all of their value,” and Franklin is now the subject of an official probe by the SEC. In only a matter of months, the Company's market capitalization has dwindled to just \$26 million, and Plaintiff and other Franklin investors have collectively lost tens of millions of dollars due to Defendants' misconduct.

JURISDICTION AND VENUE

10. This Court has jurisdiction over this action pursuant to: (a) Section 27 of the Exchange Act, 15 U.S.C. § 78aa; and (b) 28 U.S.C. §§ 1331 and 1337.

11. This action arises under and pursuant to: (a) Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b); (b) Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240.10b-5; and (c) Section 20(a) of the Exchange Act, 15 U.S.C. § 78l(a).

12. Venue is proper in this District pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa.

13. In furtherance of and in connection with the acts alleged herein, Defendants (as defined below), directly or indirectly, used the means and instrumentalities of interstate

commerce, including, but not limited to, the mails, interstate telephonic communications, the Internet, and the facilities of the American Stock Exchange (the "AMEX") and the NASDAQ, both national securities exchanges.

PARTIES

14. Plaintiff purchased the Company's preferred stock during the Class Period, as set forth in his attached Certification, and was damaged thereby.

15. Defendant Franklin Bank Corp. is a corporation organized under the laws of Delaware. Franklin maintains its principle place of business at 9800 Richmond Avenue in Houston, Texas. Its common stock trades on the NASDAQ, under the ticker symbol "FBTX," and its preferred stock trades on the AMEX, under the ticket symbol "FBK-P." Defendant Franklin may be served at 9800 Richmond Avenue, Suite 680, Houston, Texas 77042.

16. At all relevant times, Anthony J. Nocella ("Nocella") was Franklin's CEO. Defendant Nocella may be served at 9800 Richmond Avenue, Suite 680, Houston, Texas 77042.

17. At all relevant times, Russell McCann ("McCann") was Franklin's Chief Financial Officer. Defendant McCann may be served at 9800 Richmond Avenue, Suite 680, Houston, Texas 77042.

18. Herein, (a) the Company, (b) Nocella, and (c) McCann are collectively referred to as "Defendants."

SUBSTANTIVE ALLEGATIONS

19. Franklin, formerly known as BK2, Inc., was founded in 1993. As of December 31, 2006, it operated 38 community banking offices in Texas; 7 regional commercial lending offices in Florida, Arizona, Michigan, Pennsylvania, Colorado, California, and Washington, D.C.; and 37 retail mortgage origination offices in 19 states.

20. Through its community banking offices, Franklin offers various consumer banking products, including checking, money market, and savings accounts, certificates of deposit, auto loans, home improvement loans, home equity loans, and mortgage loans, as well as investment services. It also provides commercial banking services, such as financing for single family builders and commercial real estate, including retail, industrial, office buildings, and multi-family properties, and mortgage banking warehouse lines. In addition, the bank is involved in mortgage banking activities and originates mortgage loans through retail and wholesale channels.

21. According to Franklin's investor relations department, the Bank's senior management team has "extensive experience building high quality, profitable financial services franchises in our niche products." See "Franklin Bank, Investor Relations," available at <http://www2.snl.com/IRWebLinkX/corporateprofile.aspx?IID=4089011> (last visited June 13, 2008). The Company's niche products include home and commercial loans.

22. On April 26, 2007, Franklin reported its first quarter 2007 financial results, in a release which stated in part:

Franklin Bank Corp. (Franklin or Company), the parent company of Franklin Bank, S.S.B., today announced net income of approximately \$6.2 million or \$.26 per diluted share for the first quarter 2007.

Anthony J. Nocella, President and CEO of Franklin Bank Corp., stated: "Franklin Bank continues to make significant progress toward becoming the largest community based commercial bank in Texas with its pending acquisition of First National Bank of Bryan, which will increase our community banking deposits to approximately \$1.9 billion. Not only does this acquisition continue our transformation to a commercial bank, it contributes significantly to the bank's growth in net income in the second half of 2007."

Business Highlights:

- * At the end of January 2007, Franklin sold approximately \$580 million in single family loans, or 20% of the single family loan portfolio.
- * Franklin expects to close First National Bank of Bryan ("FNB") during the first week of May. FNB had approximately \$530 million in total assets and \$466 million in community banking deposits as of December 31, 2006.
- * On April 18th Franklin issued \$100 million in contingent convertible debt for funding the FNB acquisition.

Looking Forward:

- * Franklin continues to expect 2007 diluted earnings per share to be \$1.34 – \$1.44. The guidance excludes any one-time merger related costs associated with the FNB acquisition.
- * Following the FNB acquisition, Franklin's single family loans will be reduced to 51% of its total loans compared to 68% at March 31, 2006.
- * With the addition of \$466 million of community banking deposits from FNB, Franklin will have approximately \$1.9 billion in community banking deposits.

* * *

Business Update

Franklin Bank continues to monitor each of its business lines on an ongoing basis for such things as asset quality, profitability, market trends and expectations, and delinquencies. We conduct these monitoring activities aggressively through internal and external tools.

Franklin's single family portfolio has an overall average FICO score of 711 and an average loan-to-value (LTV) of 72%. Dan Cooper, EVP and Managing Director of Mortgage Banking stated: ***"As a result of an extensive analysis of our single family portfolio, we believe that our delinquent loans are not the result of systemic credit issues. The majority of our delinquencies are the result of normal life event circumstances."***

As a result of the current housing market conditions, some of Franklin's builder customers have slowed or moderated construction compared to last quarter and last year. Mike Davitt, EVP and Managing Director of Commercial Lending stated: ***"Most of our customers have been customers for many years. These customers are experienced builders/developers and have managed through homebuilding cycles."*** Davitt continued: "The expected growth from the regional builder business is largely attributed to the stabilization of the three new regional commercial lending offices that opened during 2006. In addition, Franklin's management team monitors third party market reports and market analysis for each regional market."

As it has done since its founding, Franklin continues to pursue additional acquisitions inside its community banking markets. Glenn Mealey, EVP and Managing Director of Administration, who is responsible for merger and acquisitions, stated that, "The FNB acquisition is expected to close the first week of May. FNB will bring experienced bankers, loan officers, and additional loan products to Franklin."

During the first quarter Franklin filed a shelf registration for \$175 million of equity, debt or other capital products. Franklin issued \$100 million of 4% contingent convertible debt in April 2007. Franklin intends to use the net proceeds from the offering to finance a portion of the purchase price of the FNB acquisition. Nocella stated: "The decision to issue \$100 million of 4% contingent

convertible debt was primarily based on our recent stock price, the relatively low dilution to our shareholders, and the low interest rates on these notes. For example, a 50% increase in our stock price will only dilute the current shareholders 1.2%.”

Looking Forward

Franklin Bank continues to transition into a commercially-oriented community bank. Future growth is expected to come from commercial and community banking loans. Commercial and community banking loans are expected to exceed 50% of total loans during 2007 including the addition of the commercial and community banking loans from the FNB acquisition.

Franklin’s goal for 2007 is to grow community banking deposits by 35%, including the deposits acquired from FNB.

In 2007, Franklin’s net income, available to common stockholders, targets will be announced on a quarterly basis. Franklin’s guidance is based on the following assumptions: 1) the exclusion of one-time merger related expenses for FNB; 2) the yield curve will remain relatively flat and the housing recession will not worsen; 3) completion of the acquisition of FNB in the second quarter; and 4) calculation of EPS estimates are based on an estimated 24.2 million common shares.

With this announcement, *Franklin reaffirms its annual earnings guidance for 2007 of \$1.34 to \$1.44 per diluted share*. On a quarterly basis earnings are expected to be as follows: second quarter \$.30 to \$.33, the third quarter \$.37 to \$.41 per diluted share, and the fourth quarter \$.41 to \$.44 per diluted share. The increase in earnings per share from the second quarter to the fourth quarter is the accretive effect of the restructuring of the balance sheet, the expected growth in the commercial loan portfolio, the accretive effect of the FNB acquisition, and the \$100 million in contingent convertible notes issued to fund a portion of the FNB acquisition.

Over the next 12 months, Franklin has set a goal of increasing its tangible book equity ratio to approximately 4.50%.

The net earnings from the banking segment are expected to be approximately 80% for 2007 compared with 60% last year. This progress will

continue throughout the year.

23. On June 21, 2007, Franklin filed a Prospectus Supplement with the SEC for the sale of 1,592,356 shares of its stock for gross proceeds of \$25 million. Defendants knew that this offering would not be successful if Franklin disclosed the impairment in its assets.

24. On July 24, 2007, Franklin reported its second quarter 2007 financial results, in a release which stated in part:

Franklin Bank Corp., the parent company of Franklin Bank, S.S.B., today announced net income of approximately \$7.1 million or \$0.30 per diluted share for the second quarter 2007.

"With the acquisition of First National Bank of Bryan on May 8, 2007 we continue to make significant progress toward becoming the largest community-based commercial bank in Texas", Anthony J. Nocella, President and CEO of Franklin Bank Corp., stated. "In fact, we marked a major milestone when our commercial and consumer loans reached 51% of total loans, compared to 47% at March 31, 2007."

* * *

"Additionally, during the quarter we raised \$25 million in a common stock offering that was a major step in increasing our tangible equity. After this capital raise, earnings will be our main driver in reaching our goal," Nocella added.

Financial Results:

* * *

Nonperforming assets, as a percentage of total assets, remained stable at 0.85% of total assets and total \$47.2 million as of June 30, 2007 compared to \$41.8 million as of March 31, 2007. The increase in real estate owned is the result of the previously reported commercial loan in Arizona.

Franklin's allowance for credit losses was \$15.6 million, or 0.37% to total loans, an increase of 7 basis points from March 31, 2007. We determine the amount of our allowance by applying a formula to the first year of the loan using loss factors by type. At June 30, 2007, \$3.3 million was allocated to single family loans, or 0.16% of single family loans and \$12.3 million was allocated to the commercial and consumer loans, or 0.57% of commercial and consumer loans. From July 2004 to June 2007, Franklin's annual average net charge offs were \$347,000 for single family loans and \$2.4 million for commercial and consumer loans. Our reserves are equal to 9.4 years of average charge offs allocated to single family loans and 5.2 years of average charge offs allocated to commercial and consumer loans.

Business Update

The acquisition of FNB closed May 8, 2007. In addition to expanding our presence in the Central Texas market, the acquisition of FNB created new additions to Franklin's existing product offerings, including student loans, which will be made available throughout our existing branch network.

Franklin's stock price has been adversely affected over the last five months due to continued negative news on the mortgage and home builder businesses. "We believe that a substantial amount of this negative pressure is misplaced," said Nocella. "As we have stated in the past, Franklin's mortgage business is based on traditional mortgage loans. Our loan underwriting never permitted exotic negative amortization loans or subprime lending for our portfolio. We believe that our homebuilding customers are addressing the slowdown in the market, and while the growth in this business will not in the short term reach original expectations, the overall credit quality remains stable."

25. On October 29, 2007, Franklin issued a press release announcing its results for the quarter ended September 30, 2007. Among other things, the Company reported earnings of \$7.5 million, or \$0.30 per diluted share, and assured investors that "[c]ore earnings [are] in line with guidance."

26. In the October 29th release, the Bank also noted that "Franklin's allowance for credit losses was \$16.8 million at September 30, 2007, or 0.42% of total loans held for investment." During the third quarter, according to the press release, "Franklin recorded provisions of \$2.5 million and incurred net charge-offs against single family loans of \$1.3 million."

27. The press release continued, elaborating on its nonperforming loans and loan charge offs:

For the quarter ended September 30, 2007, net charge-offs declined \$483,000 when compared to the quarter ended June 30, 2007.

Nonperforming loans, as a percentage of total loans, are 0.39% of total loans and total \$16.6 million as of September 30, 2007, compared to \$16.3 million as of June 30, 2007. The allowance for credit losses is 101% of nonperforming loans.

28. "We are satisfied with our third quarter performance," Nocella said in the press release, adding that the Bank is "better positioned for the future." In that regard, the release emphasized that "Franklin still expects earnings for the fourth quarter to be \$0.34 to \$0.36 per share."

29. On October 30, 2007, Franklin filed with the SEC, on Form 8-K, a current report that included the October 29th press release as an exhibit. McCann signed the Form 8-K.

30. Shortly thereafter, on November 9, 2007, Franklin filed with the SEC, on Form 10-Q, its quarterly report for the period ended September 30, 2007 (the "10-Q").

The 10-Q repeated the financial results announced in the October 29th press release.

Pursuant to the certification requirements of the Sarbanes-Oxley Act of 2002, Nocella and McCann both attested that the 10-Q "does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading." They further certified that "the financial statements, and other financial information included in [the 10-Q] fairly present in all material respects the financial condition, results of operations and cash flows of the [Bank]"

31. The 10-Q, the October 29th press release, and the October 30th 8-K, including the financial results reported therein, were false and misleading because, as described below, the Company's accounting treatment of its portfolio of residential real estate loans materially understated delinquent, nonperforming, and uncollectible loans and thereby misrepresented Franklin's financial condition and results, including its overall and per-share profits. Indeed, the Bank would later admit that it failed to charge off uncollectible loans and to mark its loans to market--in other words, to revalue them based on current market rates.

32. On January 31, 2008, Franklin issued a press release announcing its results for the quarter and full year ended December 31, 2007. The Company reported "a net loss of approximately \$45.2 million or \$1.85 per diluted share for 2007 compared to earnings of \$15.5 million or \$0.65 per diluted share for 2006." For just the fourth quarter, Franklin

reported "a net loss of \$66.1 million ... compared to a net loss of \$4.0 million in the fourth quarter of 2006."

33. In the January 31st press release, Nocella commented that Franklin was "position[ed] ... to weather the current challenging economic environment." The release also stated that "Franklin Bank continues to be well capitalized" and that "asset quality ... remains excellent."

34. In the press release, the Company was clear that it "experienced income growth" and "expects this to continue." The "banking business continues to grow profitability and perform well," according to the release, and Franklin investors were again assured that the Bank "is well positioned for the future."

35. Under the heading "Financial Condition," Franklin reported total assets of \$5.7 billion, of which \$4.1 billion was attributed to the Company's loan portfolio. The largest component of the Bank's portfolio was single family loans, comprising approximately \$1.8 billion in assets.

36. The January 31st press release discussed in detail the Company's ostensible exposure to charge-offs and other loan losses:

Franklin increased its allowance for loan losses by \$23.5 million to \$40.3 million at December 31, 2007 from \$16.8 million at September 30, 2007. ... The \$29.2 million provision for credit losses recorded during the fourth quarter consisted of \$19.6 million for commercial and consumer loans and \$9.6 million for single family loans. For 2007, Franklin increased its allowance for loan losses by \$28.7 million, or 3.1 times net charge-offs of \$9.2 million for the year. Net charge-offs for 2007 were 0.21% of average outstanding loan balances.

At December 31, 2007, \$11.0 million of the allowance was allocated to single family loans, or 0.62% of the single family portfolio loans, and \$23.6 million was allocated to the builder lines, or 1.91% of the builder line portfolio. Overall, the allowance was 1.03% of loans held for investment.

Nonperforming assets as a percentage of total assets increased to 2.18% or \$124.6 million as of December 31, 2007. This compares to 1.20% or \$68.9 million as of September 30, 2007 and 0.62% or \$34.5 million at December 31, 2006. The allowance for credit losses for non-performing loans and REO was adjusted to the expected realizable value.

37. On February 1, 2008, Franklin filed with the SEC, on Form 8-K, a current report that included the January 31st press release as an exhibit. McCann signed the Form 8-K.

38. The January 31st press release and February 1st 8-K, including the financial results reported therein, were false and misleading because, as described below, the Company's accounting treatment of its residential real estate loans materially understated delinquent, nonperforming, and uncollectible loans and thereby misrepresented Franklin's financial condition and results, including its overall and per-share losses and the fair asset value of its mortgage loan portfolio.

39. In a notification filed with the SEC on March 17, 2008, the Bank revealed that it would be unable to timely file its annual report for the year ended December 31, 2007:

In February 2008, Franklin Bank Corp.'s ("Franklin") Board of Directors learned of possible accounting, disclosure and other issues related to single-family residential mortgages and residential real estate owned that could affect Franklin's

2007 financial statements. Upon learning of these matters, Franklin's Audit Committee commenced an independent internal investigation into these issues with the assistance of independent legal and accounting advisors.

The Audit Committee's investigation is not yet complete. Franklin and the Audit Committee are working diligently to complete the review and to finalize and file the Form 10-K for the year ended December 31, 2007 as promptly as possible, but Franklin does not anticipate that it will be in a position to file the Form 10-K on or before the fifteenth calendar date following the required filing date as prescribed in Rule 12b-25.

At this time, Franklin is unable to estimate the potential accounting effects that might result from the investigation.

40. On March 26, 2008, Franklin announced that it had received notice from the AMEX that it was in danger of having its preferred stock delisted from the exchange:

Franklin Bank Corp. (Nasdaq: FBTX; Amex: FBK-P.LF) ("Franklin") announced today that it has received a letter from the staff of The American Stock Exchange ("AMEX") indicating that Franklin is not in compliance with AMEX Rules 134 and 1101 of the continued listing standards due to the previously announced delayed filing of its annual report on Form 10-K for the year ended December 31, 2007. The Company's Series A Non-Cumulative Perpetual Preferred Stock (the "Preferred Stock") trades on AMEX.

The AMEX letter requires Franklin to submit a plan by April 3, 2008, advising AMEX of any action Franklin has taken, or will take, to file its Form 10-K for the year ended December 31, 2007, and bring Franklin into compliance by no later than June 17, 2008. Franklin intends to submit a Plan to AMEX by April 3, 2008.

The Company's Preferred Stock will trade under the symbol "FBK-P.LF" until Franklin is in compliance with all applicable AMEX continued listing standards.

41. On April 7, 2008, Franklin announced that it had received a similar delisting notice from the NASDAQ in connection with its common stock.

42. On May 1, 2008, the Company took investors by surprise when it issued a press release announcing that it would have to restate certain of its 2007 financial results:

HOUSTON, May 1, 2008 (PRIME NEWSWIRE)—On April 30, 2008, Franklin Bank, S. S. B. (the "Bank"), a subsidiary of Franklin Bank Corp. (Nasdaq:FBTX) (AMEX:FBK-P.LF) ("Franklin"), submitted to the Federal Deposit Insurance Corporation (the "FDIC") its call report for the quarter ended March 31, 2008. In addition, the Bank also submitted to the FDIC amended call reports for the periods ended September 30, 2007 and December 31, 2007.

The Bank is required to submit to the FDIC, on a quarterly basis, its Consolidated Reports of Condition and Income, referred to herein as "call reports." The Bank's call reports are prepared in accordance with instructions issued by the Federal Financial Institutions Examination Council and include a balance sheet, income statement, changes in equity capital and other supporting schedules as of the end of the period covered by each call report. ...

As previously reported, Franklin's filing of its annual report on Form 10-K for the year ended December 31, 2007 has been delayed. Based on Franklin's ongoing review and evaluation of its 2007 financial statements, certain changes to the Bank's previously submitted call reports are necessary.

The findings requiring the amendments to the Bank's call report for the period ended September 30, 2007 will result in an amendment of Franklin's Form 10-Q previously filed for that period (the "September Form 10-Q"). ***Accordingly, the information contained in the September Form 10-Q should no longer be relied upon. Franklin will file an amended Form 10-Q for the quarter ended September 30, 2007 as soon as practicable.***

On January 31, 2008, Franklin made a press release reporting its results of operation for the three months and year ended December 31, 2007. ***In light of the amendments to the Bank's call report for the period ended December 31, 2007, the information contained in the January 31, 2008 press release should no longer be relied upon.***

43. On May 7, 2008, due to the Bank's deteriorating market capitalization, Standard & Poor's dropped Franklin from its SmallCap 600 index.

44. On May 19, 2008, the Company issued a press release explaining that Franklin's misreported 2007 financial results had been uncovered by a ten-week investigation by the audit committee of the Bank's board of directors. Assisted by the law firm of Baker Botts LLP and a forensic accounting firm, the committee had centered its investigation on Franklin's single family residential business. After "conduct[ing] numerous interviews, review[ing] e-mail records ... and analyz[ing] other documents and information provided by the Bank," the committee identified a series of accounting improprieties. According to the committee's investigatory findings, Franklin failed to:

- i. properly account for certain single family mortgage loan modification programs developed and implemented as part of an effort to reduce delinquencies and mitigate foreclosure losses;
- ii. charge off certain uncollectible single family second lien loans;
- iii. record, and in some instances write-down, Real Estate Owned and in-substance foreclosures in connection with foreclosures in its single family mortgage portfolio; and
- iv. properly record certain mark-to-market write downs on loans transferred from "Held for Sale" to "Held for Investment."

45. Franklin's board of directors accepted the committee's findings in full, remarking that the "[c]ompletion of the investigation is an important milestone for all shareholders as we take the necessary steps to implement the recommendations of the

Audit Committee." Franklin then announced the following steps--including the immediate replacement of Nocella as CEO--to begin implementing the committee's recommendations:

Lewis S. Ranieri will continue in his role as Chairman of the Board of Directors of Franklin and will assume the role of Chief Executive Officer of Franklin until a new chief executive officer is identified and retained.

Anthony J. Nocella, Franklin's current Chief Executive Officer, will accelerate his personal plans to retire. Mr. Nocella, a founder and director of Franklin since 2002, will continue as a director of Franklin and will continue to serve as Chairman of the Bank. Through his membership on the Executive Committee of the Bank, as described below, Mr. Nocella will continue in a consultative capacity to assist Franklin until his retirement by December 31, 2008.

Alan E. Master, a director of Franklin since 2002 and with more than 40 years experience in banking, will assume the role as President of Franklin until a new chief executive officer is identified and retained. Mr. Master will resign his memberships on the Board's Audit, Compensation and Nominating and Corporate Governance committees.

The Bank will establish an Executive Committee consisting of Alan E. Master, Robert A. Perro, Andy Black and Anthony J. Nocella (the "Executive Committee") to oversee the Bank's day to day business activities and exercise the powers of the chief executive. Mr. Perro, a director of Franklin since 2002 who is Vice Chairman of CardWorks, Inc., will serve as Chair of the Executive Committee.

Franklin's Nominating and Corporate Governance Committee will oversee a search for a new chief executive officer for Franklin and the Bank, and at least one additional independent director for Franklin's Board of Directors.

With the assistance of the Audit Committee, Franklin will establish a formal disclosure committee to review and approve all public statements of Franklin. In connection with establishing the disclosure committee, the Board will conduct a review of the charters of its standing committees, to determine if any revisions are warranted to strengthen its internal governance processes.

The Executive Committee, in cooperation with the Audit Committee, will commence a thorough review of the operations, processes and systems of Franklin and the Bank, including data intake, personnel qualifications and staffing levels, technology, internal procedures for the verification of policy compliance and internal procedures governing the interaction of management with independent accountants, internal auditors and regulatory bodies with a view to fostering a culture of cooperation and open communication within the organization and externally with regulatory agencies and others. The purpose of this review, to be completed within 60 days, will be to identify those areas, if any, in which internal controls over financial reporting, and disclosure controls and procedures, should be further strengthened.

46. These revelations came as a shock to the market and analysts following the Company. "We are disappointed and surprised at the extent of the accounting weaknesses," said Jon Arfstrom, an analyst at RBC Capital Markets Corp. *"The specifics of the announcement are clearly troubling and the fundamental issues at Franklin may be too severe to correct without additional capital or other strategic alternatives."*

(Emphasis added.)

**APPLICABILITY OF PRESUMPTION OF RELIANCE:
FRAUD-ON-THE-MARKET DOCTRINE**

47. At all relevant times, the market for Franklin common and preferred stock was an efficient market for the following reasons, among others:

- i. Franklin common and preferred stock was listed and actively traded, respectively, on the NASDAQ and the AMEX, both highly efficient markets;
- ii. As a regulated issuer, the Company filed periodic public reports with

the SEC;

- iii. Franklin stock was followed by securities analysts employed by major brokerage firms who wrote reports which were distributed to the sales force and certain customers of their respective brokerage firms. Each of these reports was publicly available and entered the public marketplace;
- iv. Franklin regularly issued press releases which were carried by national news wires. Each of these releases was publicly available and entered the public marketplace.

48. As a result, the market for Franklin securities promptly digested current information with respect to the Company from all publicly-available sources and reflected such information in the Company's stock price. Under these circumstances, all purchasers of Franklin common and preferred stock during the Class Period suffered similar injury through their purchase of stock at artificially inflated prices and a presumption of reliance applies.

NO SAFE HARBOR

49. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint. The specific statements pleaded herein were not identified as "forward-looking statements" when made. Nor was it stated with respect to any of the statements forming the basis of this complaint that actual results "could differ materially from those projected." To

the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements. Alternatively, to the extent that the statutory safe harbor does apply to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking was made the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking statement was authorized and/or approved by an executive officer of the Company who knew that those statements were false when made.

SCIENTER ALLEGATIONS

50. As alleged herein, Defendants acted with scienter in that Defendants knew that the public documents and statements, issued or disseminated by or in the name of the Company were materially false and misleading; knew or recklessly disregarded that such statements or documents would be issued or disseminated to the investing public; and knowingly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violators of the federal securities laws. Defendants, by virtue of their receipt of information reflecting the true facts regarding the Company and its business practices, their control over and/or receipt of the Company's allegedly materially misleading misstatements and/or their associations with the Company which made them privy to confidential proprietary information concerning Franklin were active and culpable

participants in the fraudulent scheme alleged herein. Defendants knew and/or recklessly disregarded the falsity and misleading nature of the information which they caused to be disseminated to the investing public. This case does not involve allegations of false forward-looking statements or projections but instead involves false statements concerning the Company's business, finances, and operations. The ongoing fraudulent scheme described in this complaint could not have been perpetrated over a substantial period of time, as has occurred, without the knowledge and complicity of the personnel at the highest level of the Company, including Defendants.

51. Among other reasons, Defendants engaged in such a scheme to inflate the price of Franklin securities in order to: (a) protect and enhance their executive positions and the substantial compensation and prestige they obtained thereby; and (b) enhance the value of their personal holdings of Franklin securities.

LOSS CAUSATION

52. Franklin stock promptly declined in value in response to corrective disclosures made by Defendants during the class period and to the materialization of risks that had been concealed by Defendants.

53. For example, the Company's preferred stock closed at \$10.95 per share on Friday, March 14, 2008. That evening, Franklin issued a press release disclosing that it would be unable to timely file its 2007 10-K. On the next day of trading, before the market opened, the Bank filed an 8-K with the SEC attaching the March 14th press release as an

exhibit. Reacting to this news, the preferred shares dipped to \$7.50, a decline of over 30%.

54. The truth was fully revealed after the close of business on May 1, 2008, and Franklin's common stock plunged in value when the markets reopened. While shares ended the day at \$1.72 on May 1st, they had fallen to \$1.03--a decline of over 40%--in just the next two days of trading. The Bank's preferred shares suffered a similarly sharp decline: they retreated from \$7.55 to \$4.85 per share on May 2nd alone, a decline of over 35%.

CLASS ACTION ALLEGATIONS

55. Plaintiff brings this action as a class action pursuant to Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure on behalf of a Class, consisting of all persons who purchased or otherwise acquired Franklin common or preferred stock between April 26, 2007, and May 1, 2008, inclusive, and who were damaged thereby. Excluded from the Class are Defendants, members of the immediate family of each of the Defendants, any subsidiary or affiliate of Franklin and the directors, officers, and employees of Franklin or its subsidiaries or affiliates, or any entity in which any excluded person has a controlling interest, and the legal representatives, heirs, successors and assigns of any excluded person.

56. The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff believes that there are thousands of members of the Class located throughout the United States. Throughout the Class Period, Franklin common and preferred stock was listed and actively traded,

respectively, on the NASDAQ and the AMEX, both open and efficient markets. Record owners and other members of the Class may be identified from records maintained by the Company and/or its transfer agents and may be notified of the pendency of this action by mail, using a form of notice similar to that customarily used in securities class actions.

57. Plaintiff's claims are typical of the claims of the other members of the Class as all members of the Class were similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

58. Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

59. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- I. whether the federal securities laws were violated by Defendants' acts and omissions as alleged herein;
- II. whether Defendants participated in and pursued the common course of conduct complained of herein;
- III. whether documents, press releases, and other statements disseminated to the investing public and the Company's shareholders during the Class Period misrepresented material facts about the business, finances, financial condition, and prospects of Franklin;

- IV. whether statements made by Defendants to the investing public during the Class Period misrepresented and/or omitted to disclose material facts about the business, finances, value, performance, and prospects of the Company;
- V. whether the market price of Franklin common and preferred stock during the Class Period was artificially inflated due to the material misrepresentations and failures to correct the material misrepresentations complained of herein; and
- VI. the extent to which the members of the Class have sustained damages and the proper measure of damages.

60. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it impossible for members of the Class to individually redress the wrongs done to them. There will be no difficulty in the management of this suit as a class action.

COUNTS

FIRST CLAIM

(Violations Of Section 10(b) Of The Exchange Act And Rule 10b-5 Promulgated Thereunder Against All Defendants)

61. Plaintiff repeats and realleges each and every allegation contained above.

62. Each of the Defendants: (a) knew or recklessly disregarded material adverse non-public information about the Company's financial results and then existing business conditions, which was not disclosed; and (b) participated in drafting, reviewing and/or approving the misleading statements, releases, reports, and other public representations of and about Franklin.

63. During the Class Period, Defendants, with knowledge of or reckless disregard for the truth, disseminated or approved the false statements specified above, which were misleading in that they contained misrepresentations and failed to disclose material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

64. Defendants have violated § 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder in that they: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices and a course of business that operated as a

fraud or deceit upon the purchasers of Franklin stock during the Class Period.

65. Plaintiff and the Class have suffered damage in that, in reliance on the integrity of the market, they paid artificially inflated prices for Franklin stock, which subsequently declined in value as a result of the revelation of the misrepresentations and omissions alleged herein. Plaintiff and the Class would not have purchased Franklin stock at the prices they paid, or at all, if they had been aware that the market prices had been artificially and falsely inflated by Defendants' false and misleading statements.

SECOND CLAIM

(Violation Of Section 20(a) Of The Exchange Act Against Defendants Nocella and McCann)

66. Plaintiff repeats and realleges each and every allegation contained above.

67. The individual Defendants (Nocella and McCann) acted as controlling persons of the Company within the meaning of § 20(a) of the Exchange Act. By reason of their senior executive and/or Board positions they had the power and authority to cause the Company to engage in the wrongful conduct complained of herein.

68. By reason of such wrongful conduct, Defendants Nocella and McCann are liable pursuant to § 20(a) of the Exchange Act. As a direct and proximate result of these Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in connection with their purchases of Franklin stock during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

1. Determining that this action is a proper class action and certifying Plaintiff as a class representative under Rule 23 of the Federal Rules of Civil Procedure;
2. Awarding compensatory damages in favor of Plaintiff and the other Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;
3. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and
4. Such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: June 13, 2008

Respectfully submitted,

SCHWARTZ JUNELL GREENBERG
& OATHOUT, LLP

By: /s/ Roger B. Greenberg
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Attorneys for Plaintiff

CLASS ACTION CERTIFICATION

I, CHARLES BUCCIERI, declare as to the claims asserted under the federal securities laws that:

1. I have reviewed the complaint prepared by Shalov Stone Bonner & Rocco LLP, which I designate as my counsel in this action for all purposes. I authorize the filing of the complaint on my behalf.

2. I did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under the federal securities laws.

3. I am willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary.

4. I executed the following transactions relating to Franklin Bank Corp. Common stock and/or Franklin Bank Corp. preferred stock:

Purchase date	No. Shares	Price per Share	Exchange	Sale date	No. Shares	Price per Share	Exchange
1/3/08	500	4.50	NASDAQ	5/21/08	500	.96	NASDAQ
3/1/08	500	3.15	"	"	500	.96	"
5/5/08	300	1.10	"	"	300	.96	"
5/15/08	400	1.57	"	"	400	.96	"

(If you require additional space, please attach additional pages in the same format as above.)

5. In the past three years, I have not sought to serve nor served as a representative party on behalf of a class in an action filed under the federal securities laws.

6. I will not accept any payment for serving as a representative party on behalf of a class beyond my pro rata share of any recovery, except such reasonable costs and expenses (including lost wages) directly relating to the representation of the Class as ordered or approved by the Court.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 9 day of JUNE, 2008.

Signed: Charles F. Buccieri Print Name: CHARLES F. BUCCIERI
 Address: 10 W 15th St Apt 403 Telephone: 212-243-0124
NY NY 10011 E-mail: bc Buccieri@aol.com

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Charles F. Buccieri, on behalf of himself and all others similarly situated,

(b) County of Residence of First Listed Plaintiff New York County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roger B. Greenberg, Schwartz Junell Greenberg & Oathout LLP
909 Fannin, Ste. 2700, Houston, TX 77010 PH: 713/752-0017

DEFENDANTS

Franklin Bank Corp., Anthony J. Nocella and Russell McCann

County of Residence of First Listed Defendant Harris
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 USC Section 78j(b), Rule 10b-5 promulgated thereunder, 17 CFR Section 240.10b-5

Brief description of cause:
Claims on behalf of those who purchased common or preferred stock of Franklin Bank Corp. between


VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE Hon. Samuel B. Kent DOCKET NUMBER 4:08-CV-1810

DATE 6/13/08 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____