

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT IN
AND FOR PALM BEACH COUNTY,
FLORIDA

GENERAL JURISDICTION

CASE NO.:

B.H. REAGAN, on behalf of himself
And all others similarly situated,

Plaintiff,

CLASS REPRESENTATION

vs.

NATIONAL CITY CORPORATION,
DAVID A. DABERKO, JEFFREY D.
KELLY, THOMAS A. RICHLOVSKY,
JON E. BARFIELD, JAMES S.
BROADHURST, CHRISTOPHER M.
CONNOR, BERNADINE P. HEALY,
S. CRAIG LINDNER, PAUL A. ORMOND,
GERALD L. SHAHEEN, JERRY SUE
THORNTON, MORRY WEISS,
and DAVID L. ZOELLER,

Defendants.

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CLASS ACTION COMPLAINT

Plaintiff, by and through his attorneys, allege upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters, based upon the investigation conducted by and through his attorneys, which included, *inter alia*, a review of documents filed by defendants with the Securities and Exchange Commission (the "SEC"), news reports, press releases and other publicly available documents, as follows:

SUMMARY OF COMPLAINT

1. On July 27, 2006, National City Corporation ("National City" or the "Company") announced that it had reached a definitive agreement for its acquisition of Fidelity Bankshares,

Inc. (“Fidelity”), the fourth largest publicly traded banking institution based in Florida. Under terms of the merger agreement, Fidelity stockholders could elect to receive \$39.50 in cash or 1.0977 shares of National City common stock subject to allocation procedures that would allow 50% of the Fidelity shares outstanding to receive cash and 50% to receive stock (the “Fidelity Acquisition”).

2. This is a securities class action brought on behalf of all current and former National City shareholders who acquired National City common stock pursuant to and/or traceable to National City’s registration statement filed with the SEC in connection with the Fidelity Acquisition (the “Registration Statement”). The Registration Statement contains materially misleading statements and omissions in violation of the Securities Act of 1933 (the “Securities Act”).

JURISDICTION AND VENUE

3. The claims asserted herein for damages exceed the jurisdictional requirements of this Court, exclusive of interest and costs.

4. The claims alleged herein arise under §§ 11 and 15 of the Securities Act. *See* 15 U.S.C. §§ 77k and 77o. This Court has concurrent jurisdiction over these claims as provided by § 22(a) of the Securities Act. *See* 15 U.S.C. § 77v(a). This case may not be removed to federal court pursuant to § 22(a).

5. Venue in this judicial circuit is proper because National City conducts business in this county, and operates branch offices in this county. Also, National City disseminated the materially false and misleading Registration Statement to Fidelity shareholders in this County. At the time of the Fidelity Acquisition, Fidelity was the fourth largest bank publicly traded bank in Florida and was based in West Palm Beach, Florida.

PARTIES

6. Plaintiff B.H. Reagan is a former shareholder of Fidelity who acquired the common stock of National City pursuant or traceable to the Registration Statement in connection with the Fidelity Acquisition. Plaintiff is a Florida resident residing in Palm Beach County, Florida. Plaintiff has sustained damages as a result of his acquisition of National City common stock. Plaintiff's Certification is attached hereto as Exhibit "A."

7. Defendant National City is a financial holding company that provides commercial and retail banking, mortgage financing and servicing, consumer finance, and asset management services in the United States. The Company is headquartered in Cleveland, Ohio. National City filed the Registration Statement with the SEC so that it could exchange shares of National City common stock for Fidelity common stock pursuant to the Fidelity Acquisition. The Company has over 100 offices in Florida and 44 offices in Palm Beach County, Florida.

8. In addition to the Fidelity Acquisition, National City has completed other significant mergers/acquisitions and divestitures since the beginning of 2006.

9. On December 1, 2006, the Company completed its acquisition of Harbor Florida Bancshares, Inc. ("Harbor"), a banking company. Each share of Harbor common stock was exchanged for 1.2206 shares of National City common stock. Approximately 20 million shares of National City common stock were issued in conjunction with this transaction. The total cost of the transaction was approximately \$1.1 billion.

10. On December 30, 2006, the Company completed the sale of its First Franklin nonprime mortgage origination and servicing platform. Under the terms of the sales agreement, Merrill Lynch Bank & Trust Co., FSBA ("Merrill Lynch") paid a \$1.3 billion purchase price for First Franklin. The proceeds received from this transaction were based on a preliminary

statement of net assets sold. The purchase price was subject to adjustment based on the closing date values of net assets sold, as well as other negotiated matters. On April 13, 2007, the Company received a dispute notice from Merrill Lynch which asserted that the closing date net asset values and related purchase price were overstated by \$67 million.

11. On September 1, 2007, the Company completed its acquisition of MAF Bancorp, Inc. (“MAF”), a banking company. Each share of MAF common stock was exchanged for 1.9939 shares of National City common stock. Approximately 67 million shares of National City common stock were issued in conjunction with this transaction. The total cost of the transaction was approximately \$1.8 billion.

12. Defendant David A. Daberko (“Daberko”) served as National City’s Chairman of the Board of Directors from 1995 to December 2007, and Chief Executive Officer from 1995 to December 2007. Defendant Daberko signed the Registration Statement.

13. Defendant Jeffrey D. Kelly (“Kelly”) served as National City’s Vice-Chairman and Chief Financial Officer during the relevant period. Defendant Kelly signed the Registration Statement.

14. Defendant Thomas A. Richlovsky (“Richlovsky”) served as National City’s Senior Vice President and Treasurer during the relevant period. Defendant Richlovsky signed the Registration Statement.

15. Defendant John E. Barfield (“Barfield”) served as a National City Director during the relevant period. Defendant Barfield signed the Registration Statement.

16. Defendant James S. Broadhurst (“Broadhurst”) served as a National City Director during the relevant period. Defendant Broadhurst signed the Registration Statement.

17. Defendant Christopher M. Connor (“Connor”) served as a National City Director during the relevant period. Defendant Connor signed the Registration Statement.

18. Defendant Bernadine P. Healy (“Healy”) served as a National City Director during the relevant period. Defendant Healy signed the Registration Statement.

19. Defendant S. Craig Lindner (“Lindner”) served as a National City Director during the relevant period. Defendant Lindner signed the Registration Statement.

20. Defendant Paul A. Ormond (“Ormond”) served as a National City Director during the relevant period. Defendant Ormond signed the Registration Statement.

21. Defendant Gerald L. Shaheen (“Shaheen”) served as a National City Director during the relevant period. Defendant Shaheen signed the Registration Statement.

22. Defendant Jerry Sue Thornton (“Thornton”) served as a National City Director during the relevant period. Defendant Thornton signed the Registration Statement.

23. Defendant Morry Weiss (“Weiss”) served as a National City Director during the relevant period. Defendant Weiss signed the Registration Statement.

24. Defendant David L. Zoeller (“Zoeller”) served as National City’s Executive Vice President and General Counsel during the relevant period. Defendant Zoeller signed the Registration Statement.

25. Defendants Daberko, Kelly, Richlovsky, Barfield, Broadhurst, Connor, Healy, Lindner, Ormond, Shaheen, Thornton, Weiss, and Zoeller are collectively referred to in this Complaint as the “Individual Defendants.”

BACKGROUND OF THE FIDELITY ACQUISITION

26. On July 27, 2006, National City and Fidelity announced that they reached a definitive agreement for National City to acquire Fidelity. At that time, Fidelity was the fourth

largest publicly traded banking institution based in Florida with headquarters in West Palm Beach, Florida. Fidelity had \$4.2 billion in total assets and operated 52 branches along Florida's east coast, from Port St. Lucie to Ft. Lauderdale. Under the terms of the agreement, Fidelity stockholders could elect to receive \$39.50 in cash or 1.0977 shares of National City common stock subject to allocation procedures that would allow 50% of the Fidelity shares outstanding to receive cash and 50% to receive stock. The transaction had a total indicated value of approximately \$1 billion. On January 8, 2007, National City announced the completion of its acquisition of Fidelity, effective January 5, 2007.

REGISTRATION STATEMENT

27. On September 18, 2006, National City filed a preliminary Registration Statement on Form S-4 with the SEC for approximately 14.5 million National City common shares to be exchanged for Fidelity common stock in connection with the Fidelity Acquisition. According to the Registration Statement, the Company was offering Fidelity shareholders \$39.50 for each share of Fidelity common stock *or* 1.0977 shares of National City common stock for each share of Fidelity common stock. On October 12, 2006, National City filed its amended Registration Statement on Form S-4 which became effective on October 12, 2006.

28. The Registration Statement incorporates by reference the following documents that have previously been filed with the SEC by National City: Annual Report on Form 10-K for the year ended December 31, 2005; Quarterly Reports on Form 10-Q for the quarters ended March 31, 2006 and June 30, 2006; Current Reports on Form 8-K dated January 17, March 14, March 17, April 18, May 1, June 14, July 10, July 11, July 18, July 27, September 5, September 6, and September 14, 2006; and Definitive Proxy Statement filed on March 8, 2006. Further, the Registration Statement states that it was incorporating by reference "any documents they may

file under Sections 13(a), 13(c), 14 or 15(d) of the Securities Exchange Act of 1934, as amended, after the date of this proxy statement/prospectus and prior to the date of the Fidelity Bankshares special meeting.”

CONSTRUCTION LOANS

29. National City concealed billions of dollars of risky construction loans made by National City’s Mortgage Division (“NCM”) to finance the construction of residential real estate (the “Construction Loans”) from Fidelity shareholders who acquired National City shares in the Fidelity Acquisition.

30. Construction Loans are short-term loans (of approximately 12-18 months duration) used to finance home construction (often including land acquisition costs). When construction is completed, the construction loan is typically paid off by the borrower by taking a subsequent traditional mortgage loan on the finished property. Certain lenders combine these two steps (initial land acquisition and construction loan, subsequent mortgage loan) into one loan package, variously termed “combination” loans, “construction-to-permanent” loans, or “construction-permanent” loans.

31. The Construction Loans originated by NCM were “construction-to-permanent” loans that integrated into a single loan package—a land acquisition loan, a construction loan, and a permanent mortgage. National City would first advance 100% of the amount needed to acquire the land, then, during the construction period it would advance further funds as needed to finance construction. Finally, after construction was completed, National City would convert the loan into a more traditional long-term mortgage.

32. In the Registration Statement, the Company represented that the mortgages produced by NCM were, prime conforming mortgages. This was not the case. Conforming

mortgages are mortgages which are made in accordance with certain quality standards required by government-sponsored enterprises. Contrary to the Company's statements, the Construction Loans were non-conforming and featured characteristics more consistent with subprime mortgages.

33. National City's Registration Statement failed to disclose that the origination standards of the Construction Loans were not prime quality loans. In fact, the Company now admits that the Construction Loans constituted a "serious product deficiency," and the Construction Loans' "bad product design" had exposed such loans to high likelihood of default and extreme loan loss severity. The Company offered its Construction Loans on a "no money down" basis, in which National City first advanced the full amount of the funds necessary to acquire the land, and then advanced funds needed to pay for construction of the residence, all without any equity provided by the borrower. Such characteristics are consistent with high risk subprime loans not prime conforming loans. As a result of property price declines, which began in 2006, borrowers had no economic incentive to continue with construction because they would be left owing more on their mortgages than their property would be worth when finished. This has lead borrowers to default and walk away from the loan leaving the Company with seriously devalued collateral.

34. Also, because of the Construction Loans' 100% loan-to-value ("LTV") structure, the Company experienced severe losses upon default. To begin with, the land would return upon default to National City worth significantly less - given the sharp, intervening property price deflation - than the amount National City had advanced for its purchase. Further, the amounts that National City had advanced for the construction that had been completed were effectively lost. The resulting collateral from the construction loan, such as, plans, permits and partial

residence construction had little value to bidders for the property at foreclosure. As a result, the Company faced significant losses on the land funds and near-total losses on the construction funds.

35. In the Company's Form 10-K filed with the SEC on February 6, 2006, and incorporated into the Registration Statement, an introductory letter from then chief executive officer and chairman David Daberko, stated "National City Mortgage, *our prime mortgage unit....*" (Emphasis added).

36. The February 6, 2006 Form 10-K later provided a more detailed description of NCM's output:

National City Mortgage's residential real estate production is primarily originated in accordance with underwriting standards set forth by the government-sponsored entities (GSEs) of the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the Government National Mortgage Association (GNMA). National City Mortgage production is sold in the secondary mortgage market primarily to the GSEs, the Federal Home Loan Banks (FHLB), and jumbo loan investors. These loans are generally collateralized by one-to-four family residential real estate, have loan-to-collateral value ratios of 80% or less, and are made to borrowers in good credit standing....

National City Mortgage (NCM) *primarily originates conventional residential mortgage and home equity loans....*

(Emphasis added).

37. The February 6, 2006 Form 10-K contrasted NCM and its "prime, conforming loans" to the Company's First Franklin unit, which was responsible for producing the Company's nonconforming mortgages:

Nonconforming mortgage loans are originated by First Franklin Financial Corporation (First Franklin), a business unit within NCF, principally through wholesale channels, including a national

network of brokers and mortgage bankers... Nonconforming mortgages are generally not readily saleable to primary mortgage market aggregators due to the credit characteristics of the borrower, the underlying documentation, the loan-to-value ratio, or the size of the loan, among other factors...

38. Similarly, the Company's Form 10-Q (incorporated into the Registration Statement) filed with the SEC on August 8, 2006 represented NCM's output to be prime, conforming loans:

Mortgage loans originated by NCM generally represent loans collateralized by one-to-four-family residential real estate and are made to borrowers in good credit standing. *These loans are typically sold to primary mortgage market aggregators* (Fannie Mae, Freddie Mac, Ginnie Mae, or the Federal Home Loan Banks) and jumbo loan investors...

39. In a September 5, 2006 press release (filed on Form 8-K with the SEC on September 5, 2006 and incorporated into the Registration Statement), National City announced that the Company had decided to sell off its First Franklin unit (the unit responsible for generating the Company's nonconforming loans) and noted that "*National City Mortgage, [was] our prime mortgage subsidiary...*" (Emphasis added).

40. These statements were materially false and misleading. NCM originated more than \$3 billion of Construction Loans, all of which were nonconforming and many of which featured the worst qualities of subprime, such as borrower income merely "stated" by the borrower rather than verified by the lender; with no down payment or extremely high loan-to-value ratios of as much as and even higher than 95%.

41. The Company admitted that it had "no money down" and high LTV nature Construction Loans on its books on September 6, 2007, during an analyst conference. Such lax loan origination standards created what Defendants termed a "product deficiency" in the Construction Loans.

42. During its September 6, 2007, conference call, the Company stated:

ROWE: ... And then, I do want to discuss in that increasing book I'm going to stress right here the *National City Mortgage investment construction book*.

Approximately \$550 million of that book of business were for investors, folks that wanted to build a home to flip to make some money. Of that \$550 million, \$400 million is in the State of Florida...

Where we have a little bit of a challenge is that *we had a product I would say deficiency* in that we were not getting their equity upfront in the deal like we do on the commercial real estate book of business. ... *This book of business, we were putting the money into the deal day one. And the individual's equity was to come in when they decided -- when they started the vertical construction.*

Okay, so we have \$250 million of loans that it is clear there's not going to be a vertical construction, because it's now a period of time where there is a technical default. And we have now talked too many of these folks and it is not their desire to build because it is just going to accrete to more of a loss.

I will tell you that many of them are still paying interest. However in our discussions with them, it is apparent that that is really not what they would intend and like to do. So given that, we think it is prudent on that to recognize what we think the ultimate default will be on that book, apply a loss severity and come up with a reserve...

We were going to be very conservative in our approach. So that -- *the reserve will be around [\$]60 to \$65 million for that particular book of business.* And as I said, it will be somewhere in the back half of '07 because we still don't have actual dollars of delinquency that would reflect that all these folks have defaulted because they have not. It is just our conversations and working through the process with them.

...we have been having conversations with [the borrowers], because it is clear they are not going to build the home. And it is clear they are not going to be an investor...

...Clearly in my mind, *it was a product deficiency, underwriting deficiency on the investor construction book at NCM, at National City Mortgage Company.* It is part of our legacy that when we're doing deals on the corporate side or on the consumer side, there is

money going in. That was supposed to be the case here. It did not come in at the point in time when the first money went out to buy the land. It was supposed to come in at vertical. Quite frankly, it just was not -- we just did not think about that. We did not think you are going to have significant property price depreciation that would cause people to just walk.

UNIDENTIFIED COMPANY REPRESENTATIVE: I would just make a quick add... As Rob said, *bad product design*. Because the product was originated for sale, it was always structured so to go to a permanent, there was a buyer for the permanent loan. But unlike the products that go through our normal credit process, there wasn't an injection of equity upfront. The injection of equity occurred when the construction went vertical on the property. That was not a good structure...

(Emphasis added).

43. Given the Construction Loans' high risk structure, borrowers only rational economic decision was to default as such decision became the only way for many borrowers *not* to lose money in light of a declining real estate market.

44. Defendants' September 6, 2007 disclosure, however, did not reveal the full picture of the risk presented by the Construction Loans' bad product design. Rather, Defendants represented that the problem, and any consequent losses, were limited to a "\$250 million" segment of Construction Loans made in Florida for investment properties.

45. During an October 24, 2007 conference call, the Company further stated:

There is only one area of the prime first mortgage we want to discuss this morning, and that is the residential construction book: Approximately \$3.1 billion consisting of loans to individuals to finance home construction. The bulk of the portfolio is to individuals to build their primary home. I spoke last month about a particular subset of this portfolio, approximately [\$]400 million representing financing extended to individuals to build speculative properties primarily in Florida.

With the down draft in real estate prices, the economic incentive to do the deal has gone away. And many of the borrowers have decided not to build and have stopped making payments or are

expected to. In essence, National City has a portfolio of lot-development loans to individuals at high loan-to-values because the equity in the deal was not required until construction of the home began. *We have decided to set aside approximately [\$]50 million of reserves for this specific portfolio given our current estimate of defaults and loss severity....*

(Emphasis added).

46. On January 22, 2008, the Company revealed the Construction Loan problem stretched beyond the \$250 million loans it previously identified. Rather, the “bad product design” infected loans throughout the \$3 billion Construction Loan portfolio. The design flaws were applicable as well to properties being built for primary/secondary residences.

47. During their January 22, 2008 conference call, the Company revealed that Construction Loan portfolio problems were not limited to the small subset of homes being built for investment in Florida, but were afflicting the entire portfolio (*i.e.*, homes being built as primary and secondary residences as well). Also, the Company made clear for the first time that Construction Loan loss severities were high. As a result, National City “increased [its] reserves to this portfolio significantly, to reflect both higher frequency of default and higher loss severities.”

48. During the January 22, 2008 call, the Company stated:

ROWE: ... The next part of the residential real estate portfolio to review is the National City [m]ortgage residential construction book...

Since the end of the third quarter, the 90 plus delinquency dollars and delinquency rates has risen for both the investor properties and the primary/second home segment. A fair amount of the delinquent loans have emanated from a cohort of individuals who have decided not to build due to declining home prices. In those instances, the individuals have little equity in the deal and some have decided to default on their obligation. In those instances, our loss severities have and will continue to be quite high. *During the third and fourth quarter, we increased our reserves to this*

portfolio significantly, to reflect both higher frequency of default and higher loss severities. On average we are assuming a 50% loss severity in Florida on this portfolio, with some developments in that state even higher. Please note that we tightened underwriting standards for residential construction lending in late 2006 and into 2007. New lending volumes are negligible.

(Emphasis added).

49. On April 21, 2008, the Company revealed that Construction Loan loss severity was producing losses of 50-95% on the loans that defaulted. Upon default, the property was worth substantially less than the 100% amount fully financed, which National City had advanced for its purchase. Further, partial construction detritus also had little value at foreclosure. As a result, losses on loans financing properties were substantial and construction losses were massive.

50. On April 21, 2008, National City revealed that *imminent* expected losses from the Construction Loans were approximately \$600 million (*i.e.*, more than ten times the October 2007 reserve increase, and approximately ten times the total reserve for the Construction Loans as of October 2007). These Construction Loan losses alone were approximately twice as large as the Company's entire reserves maintained throughout 2007 for its \$25-\$30 billion of residential real estate loans.

51. On April 21, 2008, the Company announced a \$7 billion rescue from the capitalization and liquidity crises into which the Company had been plunged by losses from the Construction Loans, First Franklin Loans, and NHE New Production Loans; financial and operational results for the first quarter of 2008 (including a staggering \$1.39 billion increase to loan loss reserves, more than half a billion dollars of loan charge-offs during the first quarter, and a doubling of expected charge-offs for the year to \$2.0- \$2.4 billion); and estimates of expected losses for the Construction Loans – “\$550 million to \$625 million of remaining losses principally

over the next 15 to 18 months” – as well as for the First Franklin Loans and NHE New Production Loans.

52. The Company’s April 21, 2008 press release attributed sharp rises in loan loss reserves, loan charge-offs, and non-performing asset levels to, *inter alia*, the Construction Loans:

Credit Quality

The provision for loan losses was \$1.4 billion in the first quarter of 2008, \$691 million in the fourth quarter of 2007, and \$122 million in the first quarter of 2007. *The higher provision in 2008 principally reflects further deterioration in the credit quality of residential real estate loans, specifically within the liquidating nonprime and broker-sourced mortgage and home equity portfolios, as well as the residential construction portfolio.* Net charge-offs were \$538 million in the first quarter of 2008, \$275 million in the preceding quarter, and \$147 million in the first quarter of last year. The higher charge-offs are concentrated in the previously identified residential real estate portfolios. Nonperforming assets were approximately \$2.3 billion, up from \$1.5 billion at December 31, 2007, with the increase primarily driven by higher levels of nonprime mortgage, residential construction and formerly held-for-sale mortgage loans.

(Emphasis added).

53. During an April 21, 2008 conference call, National City revealed that Construction Loan loss severity was between 50% and 95% and would be about \$100 million per quarter for the next year:

ROWE: ... In total, net charge-offs for the quarter were \$538 million, compared to a \$1.4 billion provision charge, increasing the allowance for loan losses to \$2.6 billion or 2.23% of loans at quarter end. During our last call we indicated a range for 2008 losses of \$1 billion to \$1.3 billion. We are updating that guidance to a range of \$2 billion to \$2.4 billion. In response, our reserve builds for the quarter was \$855 million. Deterioration in broker-sourced national home equity, the non-prime mortgage book and the residential real estate construction firm portfolios exceeded expectations, resulting in higher first quarter charge-offs and provision charges... [T]he construction firm loan portfolio originated through the mortgage company... Delinquency has

extended to borrowers building their primary residence, not just those building second homes or investment properties. *We now expect losses to continue at about \$100 million a quarter for the next year based on severity assumptions of 75% for undeveloped plans, 95% for in-process homes and 50% to 55% for near completion projects...* We expect remaining losses in national home equity of \$2 billion to \$2.4 billion... The non-prime portfolio losses shown here at \$750 million... For the construction term portfolio the combination of normal construction schedules and the severity rate assumptions reviewed earlier lead to an expectation of \$550 million to \$625 million of remaining losses principally over the next 15 to 18 months.

(Emphasis added).

54. Defendants' misrepresentations and omissions regarding its NCM Construction Loans were clearly material. The undisclosed bad product design made the Company's Construction Loans susceptible to high rates of default and loss. Further, the loss severity on the Construction Loans was high, not simply because of foreclosure costs, high-LTV ratios, and declining land prices, but because of the near-total unrecoverability of amounts disbursed for partial construction. Given the Construction Loans' short-term nature of the loans (12-18 months), Construction Loan losses required high levels of near-term charge-offs.

NONPERFORMING LOANS

55. The loans held by National City in its loan portfolio generated interest income for the Company but also posed credit risks to the Company. Accordingly, the Company disclosed information regarding the nature and quality of the loans being held, the performance of those loans, and expected losses from those loans in its Registration Statement.

56. Among the information disclosed by National City was whether a loan is performing, delinquent or nonperforming. A loan is performing where the borrower is making payments as required under the loan documents. A loan is delinquent if a borrower has failed to make payments as required under the loan documents. After a loan has been delinquent for a

certain time it is classified as nonperforming, and after it has been nonperforming for a certain time, a loss is recognized by applying a “charge-off” in the amount of the loss against the current loan loss reserve. The amount of “nonperforming” loans is thus a primary indicator of a lender’s credit risks and the financial impact from those risks, *i.e.*, defaults and loan losses.

57. The Registration Statement stated that the Company’s policy with respect to designating real estate loans as “nonperforming” assets was as follows:

Commercial loans and leases and *loans secured by real estate are designated as nonperforming when either principal or interest payments are 90 days or more past due* (unless the loan or lease is sufficiently collateralized such that full repayment of both principal and interest is expected and is in the process of collection), terms are renegotiated below market levels, or when an individual analysis of a borrower’s creditworthiness indicates a credit should be placed on nonperforming status...

(Emphasis added).

58. In the Registration Statement, which incorporated annual and quarterly financial statements, National City reported, *inter alia*, the amount of “nonperforming” residential real estate loans that it was holding:

Nonperforming Loans			
Date as of	Real Estate-Residential	Total	SEC Filing
12/31/2005	\$175 million	\$490 million	Form 10-K filed 2/6/06
3/31/2006	\$174 million	\$483 million	Form 10-Q filed 5/9/06
6/30/2006	\$167 million	\$489 million	Form 10-Q filed 8/9/06
9/30/2006	\$176 million	\$470 million	Form 10-Q filed 11/9/06

59. In May 2008, National City disclosed that it was not classifying residential real estate loans as nonperforming until such loans had been delinquent for 180 days – not the 90 days previously stated. As the Company’s May 13, 2008 Form 10-Q disclosed:

CREDIT RISK

* * *

Delinquent Loans:

Residential real estate delinquencies decreased compared to year end due to the designation of certain of these loans as nonperforming at March 31, 2008. After consideration of regulatory guidance in light of the continued deterioration in the market value of the underlying collateral in 2008, ***a total of \$688 million of 90+ days past due residential real estate loans were reclassified as nonperforming.*** These loans included \$294 million of nonprime mortgage, ***\$260 million of residential construction,*** and \$134 million of other mortgage loans. See the corresponding increases in nonperforming loans. ***In prior periods, in consideration of market conditions, the practice had been to designate such loans as nonperforming when they reached 180 days past due.*** Home equity line of credit delinquencies have also decreased compared to year end due to the reclassification of \$74 million of such balances as nonperforming as of March 31, 2008.

(Emphasis added).

60. This “prior period...practice” of waiting 180 days directly contradicted the previously stated policy for “nonperforming” designations. Accordingly, the Registration Statement mislead investors as to when the Company was conferring nonperforming designations.

61. The misrepresentations with respect to nonperforming loans were material because the Company’s residential real estate loans were made to appear to be performing significantly better than they were. Hundreds of millions of nonperforming residential real estate loans were concealed from the public. When the Company ceased application of the undisclosed 180-day policy, more than two-thirds of a billion dollars worth of residential loans appeared as nonperforming, including \$260 million of Construction Loans. Following the May 2008 reclassification, nonperforming loans were revealed to be more than twice the amount previously stated—18.6% of the entire Construction Loan portfolio. At the time of the reclassification, the

Construction Loan portfolio totaled \$2.67 billion. Thus, approximately 10% of the entire portfolio (or \$260 million of Construction Loans) had been nonperforming.

62. As a result of the misrepresentation of the Company's nonperforming loans, a number of other material line-items reported in the Company's quarterly financial statements were also materially false and misleading.

63. First, a primary indicator of the adequacy of reserves is the ratio of reserves to nonperforming loans. If a company's loan loss reserves are a multiple of the amount of its nonperforming loans, the company appears relatively well-reserved for impending loan losses. If, however, a company's loan loss reserves are less than its amount of nonperforming loans, the company appears less well-reserved for impending loan losses and may need to devote future earnings to building up its reserves. By understating nonperforming loans, the company inflated the reserve-to-nonperforming loan ratio.

64. Second, loan "charge-offs" refer to those losses recognized/incurred by the lender on its bad loans. A loan is charged off only after it has been declared nonperforming (or, at best, simultaneously with such declaration). By waiting 180 days to declare loans to be nonperforming, National City delayed charge-offs. This had the effect of understating current loan losses and improperly shifting losses into the future.

UNDERSTATED LOAN LOSS RESERVES

65. A loan loss reserve or allowance is an amount set aside by a company to absorb losses from bad loans.

66. In its Registration Statement National City set forth its policy regarding loan loss allowances:

The allowance for loan losses is maintained at a level believed adequate by management to absorb probable incurred losses within

the loan portfolio and is based on the size and *current* risk characteristics of the loan portfolio, an assessment of individual problem loans and actual loss experience, probable recoveries under lender paid mortgage insurance, *current economic events* in specific industries and geographical areas, including unemployment levels, and other pertinent factors, including regulatory guidance and general economic conditions.

(Emphasis added).

67. In a January 22, 2008 press release the Company acknowledged that it had not been complying with its previously stated policy, stating:

Credit Quality

The provision for loan losses was \$691 million in the fourth quarter of 2007, compared with \$368 million in the preceding quarter and \$325 million in the fourth quarter of 2006. For the year, the provision was \$1.3 billion in 2007 compared with \$489 million in 2006. **The larger provision in 2007 primarily reflects higher credit losses on liquidating portfolios of nonconforming mortgage and out-of-footprint home equity loans, as well as other mortgage loans.** As of December 31, 2007, the allowance for loan losses was \$1.8 billion, or 1.52% of portfolio loans, compared to \$1.1 billion, or 1.18% of portfolio loans, a year ago. *The allowance has increased to reflect estimated probable credit losses within the loan portfolio that have not yet reached charge-off thresholds.*

(Emphasis added).

68. National City's January 22, 2008 revelation that their first massive loss reserve increase had resulted from the inclusion of "estimated probable credit losses within the loan portfolio that have not yet reached charge-off thresholds," revealed that the Company's prior representations regarding loss reserves were materially false and misleading. Unbeknownst to the public, the *Company's prior loss reserves had failed to provide for loans that had not yet reached charge-off thresholds, and instead had been based on loans already at charge-off levels.* In fact, at all times prior to the January 22, 2008 reserve increase, National City had been tying loss reserve provisioning to current charge-off levels and had thus been basing loss

reserves on a retrospective basis.

69. Current charge-offs are lagging, rather than a leading, indicator of loan losses. The effect of tying reserves to charge-offs—waiting 180 days without payment before declaring a loan to be nonperforming and only later charging it off—produced a “time lag” between “current economic events” and the loss reserves. For example, loss reserves established at the end of 2006 were responding to charge-offs of loans that began to be in trouble in the summer of 2006, rather than to loans showing early signs of trouble in the summer of 2006. Thus, by basing reserve provisioning levels on already depressed charge-off levels, the Company was not in fact reserving for “current economic events... and... conditions,” but rather for the conditions approximately half a year in the past.

70. As a result of the undisclosed reserving practices, the Company was forced to increase reserves by ***\$691 million*** on January 22, 2008, and ***\$1.39 billion*** on April 21, 2008.

FALSE FINANCIAL STATEMENTS

71. As a result of the foregoing, the financial statements incorporated into the Registration Statement contained materially false and misleading reported figures for (1) nonperforming loans, (2) loan charge-offs, (3) reserve-to-nonperforming-loan ratios, (4) loan loss reserves, and (5) net income.

72. First, the Company reported the amount of loans on the Company’s portfolio that were nonperforming. These nonperforming loan figures were materially false and misleading. In direct contravention of the Company’s stated policy concerning designation of loans as “nonperforming” delayed designating a loan as “nonperforming” until the loan had gone for 180 days without payment. As a result, *de facto* nonperforming loans were not reported as “nonperforming.” This made the Company’s loan portfolio appear to be performing much better

than it in fact was.

73. On May 12, 2008, the Company disclosed that their practice had been to wait for 180 days without payment before reporting a loan to be “nonperforming,” disclosed that they were now abandoning that practice, and disclosed that, as a result, an additional \$688 million of residential real estate loans had been designated nonperforming. Almost all the loans reclassified as nonperforming in May 2008 were First Franklin subprime loans (\$294 million) and Construction Loans (\$260 million).

74. Given that the entire Construction Loans portfolio was then approximately \$2.6 billion, the reclassification revealed an additional 10% of the Construction Loans portfolio to be nonperforming. First Franklin subprime loans reported as nonperforming increased over 5.5% or the Company’s \$5.3 billion First Franklin Subprime portfolio.

75. Second, the Company reported the amount of loan losses that had been “charged off” against loan loss reserves. These charge-off figures were materially false and misleading. Loans are only “charged off” (*i.e.*, an actual loss is recognized and charged to the current loan reserve) after they have been declared to be nonperforming (or simultaneously with such declaration). By waiting for loans to go 180 days without payment before declaring them nonperforming, the Company delayed its charge-offs. This had the effect of materially under reporting charge-offs as loans that should have been declared nonperforming and should have been charged off and were not declared nonperforming and were not charged off.

76. Third, the Company reported a ratio comparing the funds held in loan loss reserves to the amount of nonperforming loans. These ratios were materially false and misleading. The reserve-to-nonperforming loan ratio is a primary indicator of reserve adequacy. Here, however, National City materially understated the amount of nonperforming loans by

hundreds of millions of dollars. Because nonperforming loans were so understated, the ratio of reserves to nonperforming loans was correspondingly overstated, making it seem as if the Company was more adequately reserved than it was.

77. Fourth, the Company's loan loss provisions were understated because the Company failed to account for the "bad product design" of the Construction Loans portfolio which, as the Company admitted on April 2008, was incurring loss severities between 50% and 95% and would generate \$600 million in losses. Also, the Company did not reserve adequately for residential real estate loans because it tied reserves to current charge-off levels which were a lagging indicator of the "current" loans' risks and current economic conditions. This was further exacerbated by the 180-day delay in designating loans as nonperforming.

78. On January 22, 2008, the Company revealed that loan loss reserves had been tied to current charge-off levels and therefore loan loss reserves did not consider those loans deficient and nonperforming loans which had not reached charge-off status. By tying loss reserves to charge-offs, National City failed to take into account the current and worsening current economic conditions actually being experienced. As a result, in January 2008, the Company revealed its largest reserve increase to date (\$691 million) which increased to \$1.39 billion in April 2008. The reason for this large reserve increase was "to reflect estimated probable credit losses within the loan portfolio *that have not yet reached charge-off thresholds.*"

79. Fifth, the Company reported net income figures were materially false and misleading. Net income is the amount left over after subtracting, from revenues, (1) expenses, (2) taxes, and (3) loan loss reserve provisions and loan charge offs. As stated above, Defendants under reported loan loss reserves and charge offs. Each dollar that Defendants failed to take in provisioning loan loss reserves and in charging off loans was a dollar that flowed into and

inflated reported net income. Net income was therefore overstated by the failure to charge-off nonperforming loans and by the failure to establish adequate reserves.

80. The Company's method of calculating loss reserves did not adequately account for "current risk characteristics" and "current economic events [and] conditions," rendering the reserves established by the Company inadequate to absorb probable incurred losses generated by the current risk characteristics of the Company's residential real estate loans.

CLASS REPRESENTATION ALLEGATIONS

81. Plaintiff brings this action pursuant to Rule 1.220(a) and (b)(3) of the Florida Rules of Civil Procedure.

82. Plaintiff brings this action as a class action on behalf of himself and a class consisting of all persons or entities who acquired shares of National City common stock pursuant to and/or traceable to National City's Registration Statement filed with the SEC in connection with the Fidelity Acquisition and who were damaged thereby (the "Class"). Excluded from the Class are Defendants, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

83. The members of the Class are so numerous that joinder of all members is impractical. 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 in the proposed Class. Approximately 14.5 million shares of National City common stock were restated pursuant to the Registration Statement. Record owners and other members of the Class may be identified from records maintained by National City or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

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

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

86. 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:

- A. whether Defendants violated the Securities Act;
- B. whether the Registration Statement misrepresented and/or omitted material facts about the business, operations and/or management of National City; and
- C. to what extent the members of the Class have sustained damages and the proper measure of damages.

87. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of members is impracticable. There will be no difficulty in the management of this action as a class action.

FIRST COUNT

Violations of Section 11 of the Securities Act Against All Defendants

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

89. This Count is brought pursuant to § 11 of the Securities Act, 15 U.S.C. § 77k, on behalf of the Class, against all Defendants. For purposes of this action, Plaintiff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this action is based solely on claims of strict liability and/or negligence

under the Securities Act.

90. The Registration Statement was false and misleading, contained untrue statements of material facts, was inaccurate and misleading, omitted to state other facts necessary to make the statements made not misleading, and omitted to state material facts required to be stated therein.

91. First, as described above, the Registration Statement misrepresented the nature, quality, and risks of the mortgages being generated by the Company's National City Mortgage unit, and omitted to disclose the nature, quality, and risks of the billions of dollars of residential construction loans being generated by National City Mortgage.

92. Second, as a result of delays in declaring residential real estate loans to be nonperforming, the Registration Statement materially misrepresented and understated the Company's current loan losses. By failing to declare loans to be nonperforming until 180 days (as opposed to 90 days) had elapsed, Defendants delayed taking charge-offs. Had Defendants been following stated policy (as represented in the Registration Statement) with respect to nonperforming loan designation, nonperforming loans and charge-offs would have been materially higher.

93. Third, the Registration Statement misrepresented that the Company's loss reserves were maintained and provisioned at amounts adequate to absorb probable incurred losses given, *inter alia*, "current risk characteristics of the loan portfolio," "current economic events in specific industries and geographical areas" and "general economic conditions." (Emphasis added).

94. Further, as a result of delays in declaring residential real estate loans to be nonperforming, the Registration Statement materially misrepresented the adequacy of the

Company's loan loss reserves. A primary metric of reserve adequacy is the ratio of loan loss reserves to nonperforming loans. Defendants' failure to report nonperforming loans as "nonperforming" resulted directly in inflating the reserve-to-nonperforming loan ratio. Defendants admitted on May 13, 2008, that \$688 million of loans were in fact nonperforming but had not previously been reported as such, as a result of the undisclosed practice of waiting for a loan to go 180 days without payment before declaring it nonperforming.

95. As a result of the foregoing, the Company's financial statements incorporated into the Registration Statement were materially misstated.

96. National City was the registrant for the shares issued to plaintiff and other members of the Class pursuant to the Registration Statement.

97. National City, as the registrant for the shares issued to plaintiff and other members of the Class pursuant to the Registration Statement, issued, caused to be issued and participated in the issuance of materially false and misleading written statements to the investing public which were contained in the Registration Statement. As an issuer of the shares, National City is strictly liable to Plaintiff and the Class for the material misstatements or omissions.

98. The Individual Defendants named herein were responsible for the contents and dissemination of the Registration Statement. Each of the Individual Defendants signed or authorized the signing of the Registration Statement. The Individual Defendants did not make a reasonable investigation and did not possess reasonable grounds for the belief that the statements contained in the Registration Statement were true and without omissions of any material facts and were not misleading.

99. The Defendants named herein were responsible for the contents and dissemination of the Registration Statement. None of the Defendants named herein made a reasonable

investigation or possessed reasonable grounds for believing that the statements contained in the Registration Statement were true and did not omit any material facts and were not materially misleading.

100. At the time the Registration Statement was filed with the SEC and became effective on October 12, 2006, National City's share price was \$36.85. At the time the Fidelity Acquisition was completed on January 5, 2007, National City's share price was \$35.90. As of August 13, 2008, shares of National City were trading at \$4.95.

101. Plaintiff acquired National City shares pursuant to and/or traceable to the Registration Statement for the Offerings. At the time they received National City shares, Plaintiff and other members of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein. Less than one year has elapsed from the time that Plaintiff discovered or reasonably could have discovered the facts upon which this Complaint is based to the time that Plaintiff filed this Complaint. Less than three years elapsed between the time that the securities upon which this Count is brought were offered to the public and the time Plaintiff filed this Complaint.

102. Plaintiff and the Class have sustained damages.

SECOND COUNT

Violations of § 15 of the Securities Act Against The Individual Defendants

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

104. This claim is brought pursuant to § 15 of the Securities Act against the Individual Defendants. For purposes of this action, Plaintiff expressly excludes and disclaims any allegation that could be construed as alleging fraud or intentional or reckless misconduct, as this claim is based solely on claims of strict liability and/or negligence under the Securities Act.

105. Each of the Individual Defendants was a control person of National City by virtue of his or her position as a director, senior officer, and/or major shareholders of National City, which allowed each of these Defendants to exercise control over National City and its operations.

106. Each of the Individual Defendants was a culpable participant in the violations of § 11 of the Securities Act alleged above, based on their having signed or authorized the signing of the Registration Statement and having otherwise participated in the process which allowed the Offerings to be successfully completed.

PRAYER FOR RELIEF

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

- A. Determining that this action is a proper class action and certifying Plaintiff as Class representative;
- B. 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;
- C. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in prosecuting this action, including counsel fees and expert fees;
- D. Awarding rescission or a rescissory measure of damages; and
- E. Such equitable/injunctive or other relief as deemed appropriate by the Court.

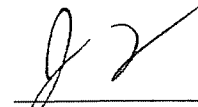
JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: August 25, 2008

Respectfully submitted,

**BERMAN DEVALERIO PEASE
TABACCO BURT & PUCILLO**



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EXHIBIT A

**PLAINTIFF'S CERTIFICATION OF SECURITIES
FRAUD CLASS ACTION COMPLAINT**

I, B.H. Reagan, hereby certify that the following is true and correct to the best of my knowledge, information and belief:

1. I have reviewed the complaint against National City Corporation, et al., (the "Complaint"), that give rise to the claimed violations of the federal securities laws. I have retained Berman, DeValerio Pease Tabacco Burt & Pucillo to represent me in this action, and have authorized the filing of the Complaint on my behalf.

2. I am willing to serve as a representative party on behalf of the class (the "Class") as defined in the Complaint, including providing testimony at deposition and trial, if necessary.

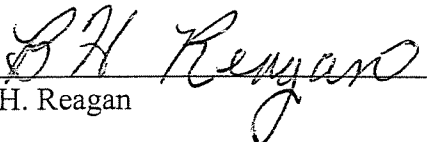
3. I acquired 17,981 shares of National City common stock in the Fidelity Acquisition (as defined in the Complaint).

4. I did not purchase these securities at the direction of my counsel, or in order to participate in any private action arising under the federal securities laws or the Securities Act of 1933.

5. During the three year period preceding the date of my signing this Certification, I have served as a representative on behalf of a class in the following private action arising under the federal securities laws: None.

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

Signed under the penalties of perjury this 13 day of August, 2008.



B.H. Reagan