

**OPTIMUMBANK HOLDINGS, INC.  
WHISTLEBLOWER POLICY**

**I. Introduction**

OptimumBank Holdings, Inc. and OptimumBank (individually and collectively, the “Company”) have designed this Whistleblower Policy (the “Policy”) to comply with the listing requirements of the NASDAQ Global Stock Market and the Securities and Exchange Commission (the “SEC”) regulations promulgated pursuant to Section 301 of the Sarbanes-Oxley Act of 2002. <sup>(1)</sup> It is the Company’s policy to comply fully with all applicable laws, rules and regulations (the “Laws”) relating to corporate reporting, accounting, internal accounting controls, auditing and financial disclosure matters, including all SEC and securities-related Laws (collectively, the “Financial Practices”). The Company expects every director, officer and employee, when appropriate, to assist the Company with its practice of full and accurate financial disclosure.

It is of utmost importance to the Company to investigate all claims or complaints of fraudulent or otherwise illegal or inappropriate acts relating to its Financial Practices. The Company will take all appropriate action to remedy such violations should they occur, but the Company’s ultimate goal is to prevent and deter all violations of Financial Practices Laws. To accomplish this goal, the Company encourages all employees and other interested persons to report any potential violations of Financial Practices Laws. In addition, the Company believes that employees and other interested persons should be able to make such complaints confidentially and anonymously and without the threat of retaliation.

**III. Reporting a Complaint**

If an employee or other interested person believes that the Company or any of its directors, officers, employees or agents has engaged in fraudulent or otherwise illegal or inappropriate acts relating to the Company’s Financial Practices, that person should report the potential violation to the interim Chair of the Audit Committee of the Company. Currently, Mr. Krinsky holds that position. His contact information is:

Mr. David Krinsky  
Maxim Properties  
21 East 40<sup>th</sup> St., 12<sup>th</sup> Floor  
New York, NY 10016  
212-338-0200  
[dk@maximproperties.com](mailto:dk@maximproperties.com)

If the complaint involves Mr. Krinsky, employees should report the violation to the other member of the Audit Committee. The contact information for this individual is:

Larry Willis  
Annette Willis Insurance  
18401 NW 27 Avenue  
Miami, FL 33056  
305-625-2403  
[larrywillis@bellsouth.net](mailto:larrywillis@bellsouth.net)

Employees or other interested persons may make complaints anonymously if they so choose. The complaint may be delivered by mail (including electronic mail) or in person. All complaints should be marked “Confidential” and “Private” when possible.

Complaints may be oral, but employees or other interested persons are encouraged to put their complaints in written format. The complaint should be detailed and should contain as much factual information as possible rather than speculation or guessing. The Company may or may not decide to pursue an investigation of the complaint, based upon the content of the complaint.

All complaints should be made in good faith and with the reasonable belief that a violation has occurred or may occur in the future. If the complaint is found to have been made maliciously or in bad faith, the employee making the bad faith complaint will face appropriate disciplinary action, which may include discharge.

### **III. Investigating a Complaint**

After reviewing the complaint, the Chair of the Audit Committee will use his reasonable judgment to determine whether enough evidence exists to begin a formal investigation. The Chair of the Audit Committee may confer with other internal (e.g., management) and external (e.g., outside counsel or independent auditors) advisors in making this determination. The Chair of the Audit Committee shall communicate his decision to the person who made the complaint (unless it was made anonymously), the full Audit Committee and Board of Directors and members of management when appropriate.

All parties involved with a complaint or subsequent investigation shall treat all correspondence confidentially and shall not reveal any information about the complaint to another party unless such a communication is necessary and authorized in conjunction with the investigation or this Policy.

If the Chair of the Audit Committee determines that a formal investigation should be made, the full Audit Committee shall review all of the facts and evidence then existing and make a determination as to whether a formal investigation should proceed. If the full Audit Committee decides that a formal investigation is appropriate, then the Chair of the Audit Committee shall oversee and conduct the formal investigation in accordance with the guidelines in this Policy. The Chair of the Audit Committee shall regularly report his progress to the full Audit Committee, and shall make a final report to the Audit Committee and the Board of Directors when the investigation is completed. The Chair of the Audit Committee may retain outside counsel or other advisors if he deems it necessary to carry out the investigation.

If the Chair of the Audit Committee determines that there is insufficient evidence to proceed with a formal investigation, then he shall report this finding to the Audit Committee and the Audit Committee shall retain any documents associated with the initial investigation in accordance with Section VII of this Policy.

### **IV. Corrective Action**

After the formal investigation, the Audit Committee shall determine what corrective action, if any, is appropriate. The Audit Committee shall, when appropriate, inform Company management of a violation so that management may take the appropriate or required corrective action, including reporting the violation to the appropriate governmental authorities. Any

employee who violates any Law or Company policy regarding Financial Practices will face appropriate disciplinary action, which may include discharge.

#### **V. Retaliation not Permitted**

The Company, employees and/or agents of the Company may not discharge, demote, suspend, threaten, harass or in any other manner discriminate against an employee with respect to the employee's employment because of any lawful act done by the employee:

- to provide information or otherwise assist in an investigation by a federal regulatory authority, law enforcement agency or any person authorized to investigate a complaint or with supervisory authority over the employee relating to or involving a violation of any federal fraud statute, SEC rules or regulations or any other Law relating to fraud against shareholders;
- to file, cause to be filed, testify, participate in or otherwise assist in a proceeding or investigation relating to or involving a violation of any federal fraud statute, SEC rules or regulations or any other Law relating to fraud against shareholders; or
- to submit a complaint pursuant to this Policy (unless submitted in bad faith). An employee who retaliates against another employee in violation of this Policy will face appropriate disciplinary action, which may include discharge.

#### **VII. Retention of Documents**

All complaints submitted in written form and all written materials produced or acquired pursuant to an investigation under this Policy shall be kept confidential to the extent possible (consistent with the need to conduct an adequate investigation) and shall be retained by the Audit Committee for not less than seven years.

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(1) Following a series of U.S. corporate scandals, in 2002 the U.S. Congress adopted the Sarbanes-Oxley Act, which, among many other things, requires companies listed on U.S. stock exchanges to establish anonymous reporting procedures for employee complaints to audit committees regarding fraud in accounting, auditing, and financial reporting. Specifically, audit committees of publicly traded companies are required to establish "procedures for the receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls or auditing matters; and the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters." Sarbanes-Oxley, Section 301 (4); SEC 1934 Act Section 10A(m)(4). Implementing SEC Rule 10A-3(b)(3)(ii) further requires each audit committee to establish procedures for the confidential, anonymous submission by employees of the listed issuer of concerns regarding questionable accounting or auditing matters. NASDAQ has further incorporated this requirement in its issuer listing rules as well as the requirement that such responsibility be specified in the issuer's audit committee charter. NASDAQ Rule 4350 and IM-4350. The Company has included this responsibility in its Audit Committee Charter as required by NASDAQ.