

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY
WASHINGTON, D.C.

In the Matter of)
)
DALE E. WASHBURN)
Equal Access to Justice Applicant)

AA-EC-01-15

DECISION and ORDER

This matter is before the Comptroller of the Currency on requests from the Applicant and from Enforcement Counsel for agency review under 31 C.F.R. § 6.15 of the Administrative Law Judge's Initial Decision denying Applicant's application for attorney fees and related expenses under the Equal Access to Justice Act, 5 U.S.C. § 504. Applicant, who is the former president of Peoples National Bank, Seneca, Missouri, filed the application after the Comptroller of the Currency, through his designee, withdrew a Notice of Assessment of Civil Money Penalty. The Administrative Law Judge concluded that Applicant was the "prevailing party" but that the OCC's position in initiating the civil money penalty proceeding was "substantially justified" within the meaning of the statute.

The Comptroller finds that deciding the "prevailing party" issue is unnecessary in light of the Administrative Law Judge's soundly reasoned analysis of whether the OCC's position was "substantially justified." Accordingly, the Comptroller adopts the Administrative Law Judge's

analysis and conclusion on the latter, and denies the parties' requests for agency review.

SO ORDERED this 27 day of May, 2002.

JOHN D. HAWKE, JR.
Comptroller of the Currency