

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.  
and  
OKLAHOMA STATE BANKING DEPARTMENT, OKLAHOMA CITY, OKLAHOMA

|                                |   |                           |
|--------------------------------|---|---------------------------|
| _____                          | ) |                           |
| In the Matter of               | ) | ORDER TO CEASE AND DESIST |
|                                | ) |                           |
| FIRST STATE BANK OF ALTUS      | ) |                           |
| ALTUS, OKLAHOMA                | ) |                           |
|                                | ) | FDIC-08-287b              |
|                                | ) | OSBD-08-C&D-1             |
| (Insured State Nonmember Bank) | ) |                           |
| _____                          | ) |                           |

The First State Bank of Altus, Altus, Oklahoma (“Bank”), through its board of directors, having been advised of its right to the issuance and service of a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Bank and of its right to a hearing on the alleged charges under section 8(b) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. § 1818(b), and section 204(B) of the Oklahoma Banking Code (the “Code”), Okla. Stat. tit. 6, § 204(B), and the provisions of the Oklahoma Administrative Procedures Act (Okla. Stat. tit. 75, § 250 et seq.), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST (“CONSENT AGREEMENT”) with counsel for the Federal Deposit Insurance Corporation (“FDIC”) and the Commissioner (“Commissioner”) of the Oklahoma State Banking Department (“State”) dated January 7, 2009, whereby, solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and violations of law and/or regulations, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST (“ORDER”) by the FDIC and the State.

The FDIC and the State considered the matter and determined that they had reason to believe that the Bank had engaged in unsafe or unsound banking practices and had violated laws and/or regulations. The FDIC and the State, therefore, accepted the CONSENT AGREEMENT and issued the following:

**ORDER TO CEASE AND DESIST**

**IT IS ORDERED**, that the Bank, Bank-affiliated parties, as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), of the Bank, and its successors and assigns, cease and desist from the following unsafe or unsound banking practices and violations of laws and/or regulations:

- (a) Operating the Bank with an inadequate level of capital protection for the kind and quality of assets held by the Bank.
- (b) Operating the Bank with inadequate earnings to fund growth, support dividend payments, and augment capital.
- (c) Operating the Bank with an excessive level of adversely classified loans or assets, delinquent loans, and/or nonaccrual loans.
- (d) Operating with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans and leases held and/or failing to make provision for an adequate reserve for possible loan losses.
- (e) Engaging in hazardous lending, ineffective and/or lax collection practices, including, but not limited to:
  - (1) Failure to obtain adequate and appropriate supporting loan documentation upon extension and/or renewal.
  - (2) Failure to obtain adequate collateral.

- (3) Failure to establish and monitor collateral margins of secured borrowers.
- (4) Failure to establish and enforce adequate loan repayment programs.
- (5) Failure to obtain current and complete financial information.
- (6) Failure to establish adequate credit administration practices.
- (f) Operating the Bank with inadequate written loan policies and procedures.
- (g) Operating the Bank in contravention of written loan policies and procedures.
- (h) Creating concentrations of credit.
- (i) Operating with inadequate policies to monitor and control asset concentrations and out-of-territory lending.
- (j) Operating the Bank with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits.
- (k) Operating the Bank without adequate supervision and direction by the Bank's board of directors over the management of the Bank to prevent unsafe and unsound banking practices and violations of laws or regulations.
- (l) Operating the Bank in violation of applicable Federal laws and regulations and/or in contravention of Policy Statements regarding Allowance for Loan and Lease Losses.
- (m) Operating the Bank with inadequate internal review policies or procedures and/or internal routines and controls and/or control environment over the

lending function.

- (n) Operating with an inadequate audit program.
- (o) Operating the Bank without adequate liquidity or proper regard for funds management in light of the Bank's asset and liability mix.
- (p) Operating the Bank without an effective loan approval process, appraisal review process, and/or loan review process.
- (q) Operating the Bank without an adequate Ethics and/or Conflicts of Interest Policy.

**IT IS FURTHER ORDERED**, that the Bank, its institution-affiliated parties, and its successors and assigns take affirmative action as follows:

**I. CAPITAL**

**A. *Increase in Capital and Capital Ratios***

1. (a) Within 120 days after the effective date of this ORDER, the Bank shall achieve and maintain, after establishing an allowance for loan and lease losses as required herein: Tier 1 Capital equal to or greater than 8 percent of its average Total Assets ("Tier 1 Capital Ratio"); Tier 1 Risk-Based Capital equal to or greater than 10 percent of Total Risk-Weighted Assets ("Tier 1 Risk-Based Capital Ratio"); and Total Risk-Based Capital equal to or greater than 12 percent of Total Risk-Weighted Assets ("Total Risk-Based Capital Ratio"). (Hereafter sometimes collectively referred to as "Capital Ratios")

(b) By September 30, 2009, and for so long thereafter as this ORDER is outstanding, the Bank shall achieve and maintain, after establishing an allowance for loan and lease losses as required herein: Tier 1 Capital equal to or greater than 10 percent of its average Total Assets ("Tier 1 Capital Ratio"); Tier 1 Risk-Based Capital equal to or greater than 12

percent of Total Risk-Weighted Assets (“Tier 1 Risk-Based Capital Ratio”); and Total Risk-Based Capital equal to or greater than 14 percent of Total Risk-Weighted Assets (“Total Risk-Based Capital Ratio”).

(c) If the Capital Ratios are less than the amounts required herein, as determined at an examination by the FDIC or the State, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director and the Commissioner, present to the Regional Director and the Commissioner a plan to increase the Capital Ratios of the Bank or to take other measures to bring the Capital Ratios to the required amount. After the Regional Director and the Commissioner respond to the plan, the Bank’s board of directors shall adopt the plan, including any modifications or amendments requested by the Regional Director and the Commissioner.

(d) Thereafter, to the extent such measures have not previously been initiated, the Bank shall immediately initiate measures detailed in the plan to increase its Capital Ratios by an amount sufficient to bring the ratios to the amounts required by this ORDER within 30 days after the Regional Director and the Commissioner respond to the plan. Such increase in Capital, and any increase in Capital necessary to meet the ratios required by this ORDER, may be accomplished by:

- (i) The sale of securities in the form of common stock; or
- (ii) The direct contribution of cash subsequent to July 7, 2008, by the directors and/or shareholders of the Bank or by the Bank’s holding company; or
- (iii) Receipt of an income tax refund or the capitalization subsequent to July 7, 2008, of a bona fide tax refund certified as being accurate

by a certified public accounting firm; or

(iv) Any other method approved by the Regional Director and the Commissioner.

(e) If all or part of the increase in Capital required by this ORDER is to be accomplished by the sale of new securities, the Bank's board of directors shall adopt and implement a plan for the sale of such additional securities, including soliciting proxies and the voting of any shares or proxies owned or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with Federal securities laws. Prior to the implementation of the plan, and in any event, not less than 20 days prior to the dissemination of such materials, the plan and any materials used in the sale of the securities shall be submitted to the FDIC, Accounting and Securities Disclosure Section, Washington, D.C. 20429, and to the State for review. Any changes requested to be made in the plan or the materials by the FDIC or the State shall be made prior to their dissemination. If the increase in Capital is to be provided by the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue shall be presented to the Regional Director and the Commissioner for prior approval.

(f) In complying with the provisions of this ORDER and until such time as any such public offering is terminated, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities written notice of any planned or existing development or other change which is materially different from the information reflected in any offering materials used in

connection with the sale of the Bank's securities. The written notice required by this paragraph shall be furnished within 10 days after the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber who received or was tendered the information contained in the Bank's original offering materials.

(g) In addition to the requirements of subparagraphs (a) and (b), the Bank shall comply with the FDIC's Statement of Policy on Risk-Based Capital found in Appendix A to Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325, App. A.

(h) For the purposes of this ORDER, the terms "Allowance for Loan and Lease Losses", "Risk-Weighted Assets", "Tier 1 Capital", "Tier 1 Risk-Based Capital Ratio", "Total Assets", and "Total Risk-Based Capital Ratio" shall be as defined in Part 325 of the FDIC's Rules and Regulations, respectively Sections 325.2(a), (v), and (x), 12 C.F.R. §§ 325.2(a), (s), (v), (w), (x), and (y). "Average Total Assets" shall be calculated according to the methodology set forth in the Report of Examination.

#### **B. *Dividend Restriction***

2. As of the effective date of this ORDER, the Bank shall not declare or pay any cash dividend without the prior written consent of the Regional Director and the Commissioner.

## **II. ASSET QUALITY**

#### **A. *Charge-Off and Planned Reduction of Classified Assets***

3. (a) Within 30 days after the effective date of this ORDER, the Bank shall, to the extent that it has not previously done so, eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss by the FDIC or the State as a result of their examination of the Bank as of July 7, 2008. Elimination or reduction of these assets

through proceeds of loans made by the Bank shall not be considered “collection” for the purpose of this paragraph.

(b) Within 60 days after the effective date of this ORDER, the Bank shall submit a written plan to the Regional Director and the Commissioner to reduce the remaining assets classified Doubtful and Substandard as of July 7, 2008. The plan shall address each asset so classified with a balance of \$500,000 or greater and provide the following:

- (i) The name under which the asset is carried on the books of the Bank;
- (ii) Type of asset;
- (iii) Actions to be taken in order to reduce the classified asset; and
- (iv) Timeframes for accomplishing the proposed actions.

The plan shall also include, at a minimum,

- (i) Review of the financial position of each such borrower, including the source of repayment, repayment ability, and alternate repayment sources; and
- (ii) Evaluation of the available collateral for each such credit, including possible actions to improve the Bank’s collateral position.

In addition, the Bank’s plan shall contain a schedule detailing the projected reduction of total classified assets on a quarterly basis. Further, the plan shall contain a provision requiring the submission of monthly progress reports to the Bank’s board of directors and a provision mandating a review by the Bank’s board of directors.

(c) The Bank shall present the plan to the Regional Director and the

Commissioner for review. Within 30 days after receipt of the Regional Director and the Commissioner's response, the plan, including any requested modifications or amendments, shall be adopted by the Bank's board of directors. The Bank shall then immediately initiate measures detailed in the plan to the extent such measures have not been initiated.

(d) For purposes of the plan, the reduction of the level of adversely classified assets as of July 7, 2008, to quarterly targets expressed as a percentage of Tier 1 Capital plus the Allowance for Loan and Lease Losses may be accomplished by:

- (i) Charge-off;
- (ii) Collection;
- (iii) Sufficient improvement in the quality of adversely classified assets so as to warrant removing any adverse classification, as determined by the FDIC or the State; or
- (iv) Increase of Tier 1 Capital.

(e) While this ORDER is in effect, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss as determined at any future examination conducted by the FDIC or the State.

***B. Reduction of Concentrations***

4. (a) Within 30 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director and the Commissioner for review and comment a written plan to reduce each of the concentrations identified on pages 62 and 63 of the Report of Examination dated July 7, 2008. With regard to individual loan concentrations, the plan shall provide that the Bank shall reduce its exposure to not more than 25 percent of the Bank's total Tier 1 Capital. With regard to the industry, product line, or type of collateral concentrations, the

plan shall provide that the Bank shall reduce its exposure to not more than 100 percent of the Bank's total Tier 1 Capital. Such plan shall prohibit any additional advances that would increase the concentrations or create new concentrations and shall include, but not be limited to:

- (i) Dollar levels to which the Bank shall reduce each concentration;  
and
- (ii) Provisions for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the Bank's board of directors.

(b) For purposes of the plan, "reduce" means to:

- (i) Charge-off;
- (ii) Collect; or
- (iii) Increase Tier 1 Capital.

(c) After the Regional Director and the Commissioner have responded to the plan, the Bank's board of directors shall adopt the plan as amended or modified by the Regional Director and the Commissioner. The plan shall be implemented immediately to the extent that the provisions of the plan are not already in effect at the Bank.

***C. Reduction of Delinquencies***

5. (a) Within 60 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director and the Commissioner for review and comment a written plan for the reduction and collection of delinquent loans. Such plan shall include, but not be limited to, provisions which:

- (i) Prohibit the extension of credit for the payment of interest;

- (ii) Delineate areas of responsibility for implementing and monitoring the Bank's collection policies;
- (iii) Establish specific collection procedures to be instituted at various stages of a borrower's delinquency;
- (iv) Establish dollar levels to which the Bank shall reduce delinquencies within 30 days; and
- (v) Provide for the submission of monthly written progress reports to the Bank's board of directors for review and notation in the minutes of the meetings of the Bank's board of directors.

(b) For purposes of the plan, "reduce" means to:

- (i) Charge-off; or
- (ii) Collect.

(c) After the Regional Director and the Commissioner have responded to the plan, the Bank's board of directors shall adopt the plan as amended or modified by the Regional Director and the Commissioner. The plan will be implemented immediately to the extent that the provisions of the plan are not already in effect at the Bank.

***D. Allowance For Loan And Lease Losses Amendment Of Call Reports***

6. (a) From the effective date of this ORDER, the Bank's Allowance for Loan and Lease Losses ("ALLL") should be funded by charges to current operating income, and should be calculated in accordance with generally accepted accounting standards and ALLL supervisory guidance. Hereafter, the Bank shall maintain a reasonable ALLL. Prior to the end of each calendar quarter, the Bank's board of directors shall review the adequacy of the Bank's ALLL. Such reviews shall include, at a minimum, the Bank's loan loss experience, an estimate

of potential loss exposure in the portfolio, trends of delinquent and non-accrual loans and prevailing and prospective economic conditions. The minutes of the Bank's board of directors' meetings at which such reviews are undertaken shall include complete details of the reviews and the resulting recommended increases in the ALLL.

(b) Within 30 days after the effective date of this ORDER, the Bank must use Financial Accounting Standards Board Statements Numbers 5 and 114 for determining the Bank's allowance for loan and lease losses reserve adequacy. Provisions for loan losses must be based on the inherent risk in the Bank's loan portfolio. The directorate must document with written reasons any decision not to require provisions for loan losses in the Bank's board of directors' minutes.

***E. Restriction of Advances to Classified Borrowers***

7. (a) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to or for the benefit of any borrower whose existing credit has been classified Loss, either in whole or in part, by the FDIC or the State as the result of its examination of the Bank, and is uncollected, or to any borrower who is already obligated in any manner to the Bank on any extension of credit, including any portion thereof, that has been charged-off the books of the Bank and remains uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing credit already extended to a borrower after full collection, in cash, of interest due from the borrower.

(b) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to or for the benefit of any borrower whose extension of credit is classified Doubtful and/or Substandard, either in whole or in part, by the FDIC or the State as the result of its examination of the Bank, and is uncollected, unless the Bank's board of directors has

signed a detailed written statement giving reasons why failure to extend such credit would be detrimental to the best interests of the Bank. The statement shall be placed in the appropriate loan file and included in the minutes of the applicable Bank's board of directors' meeting.

***F. Technical Exceptions***

8. (a) Within 90 days after the effective date of this ORDER, the Bank shall correct the technical exceptions listed in the July 7, 2008, Report of Examination.

(b) Within 90 days after the effective date of this ORDER, the Bank shall implement a system of monitoring loan documentation exceptions on an ongoing basis and implement procedures designed to reduce the occurrence of such exceptions in the future.

***G. Loan Review Requirements***

9. (a) Within 60 days after the effective date of this ORDER, the board of directors shall develop a program of independent loan review that will provide for a periodic review of the Bank's loan portfolio and the identification and categorization of problem credits.

At a minimum, the system shall provide for:

- (i) Prompt identification of loans with credit weaknesses that warrant the special attention of management, including the name of the borrower, amount of the loan, reason why the loan warrants special attention; and assessment of the degree of risk that the loan will not be fully repaid according to its terms;
- (ii) Action plans to reduce the Bank's risk exposure from each identified relationship;
- (iii) Prompt identification of all outstanding balances and commitments attributable to each obligor identified under the requirements of

subparagraph (i), including outstanding balances and commitments attributable to related interests of such obligors, including the obligor of record, relationship to the primary obligor identified under subparagraph (i), and an assessment of the risk exposure from the aggregate relationship;

- (iv) Identification of trends affecting the quality of the loan portfolio, potential problem areas, and action plans to reduce the Bank's risk exposure;
- (v) Assessment of the overall quality of the loan portfolio;
- (vi) Identification of credit and collateral documentation exceptions and an action plan to address the identified deficiencies;
- (vii) Identification and status of violations of laws, rules, or regulations with respect to the lending function and an action plan to address the identified violations;
- (viii) Identification of loans that are not in conformance with the Bank's lending policy and an action plan to address the identified deficiencies;
- (ix) Identification of loans to directors, officers, principal shareholders, and their related interests;
- (x) An assessment of the ability of individual members of the lending staff to operate within the framework of the Bank's loan policy and applicable laws, rules, and regulations; and an action plan to address the identified deficiencies; and

(xi) A mechanism for reporting periodically, but in no event less than quarterly, the information developed in (i) through (viii) above to the board of directors. The report should also describe the action(s) taken by management with respect to problem credits.

(b) The Bank shall submit the program to the Regional Director and the Commissioner for review and comment. Within 30 days from receipt of any comment from the Regional Director and the Commissioner, and after due consideration of any recommended changes, the Bank shall approve the program, which approval shall be recorded in the minutes of the Bank's board of directors' meeting. Thereafter, the Bank shall implement and fully comply with the program.

(c) Upon implementation, a copy of each report shall be submitted to the Bank's board of directors, as well as documentation of the actions taken by the Bank or recommendations to the Bank's board of directors that address identified deficiencies in specific loan relationships or the Bank's policies, procedures, strategies, or other elements of the Bank's lending activities. Such reports and recommendations, as well as any resulting determinations, shall be recorded and retained in the minutes of the meeting of the Bank's board of directors.

#### ***H. Loan Policy***

10. (a) Within 60 days after the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review the Bank's loan policy and procedures for effectiveness and, based upon this review, shall make all necessary revisions to the policy in order to strengthen the Bank's lending procedures and abate additional loan deterioration. The revised written loan policy shall be submitted to the Regional Director and the Commissioner for review and comment upon its completion.

(b) The initial revisions to the Bank's loan policy required by this paragraph, at a minimum, shall include provisions:

- (i) Designating the Bank's normal trade area;
- (ii) Establishing review and monitoring procedures to ensure that all lending personnel are adhering to established lending procedures and that the directorate is receiving timely and fully documented reports on loan activity, including any deviations from established policy;
- (iii) Requiring written procedures for the approval of loans with supporting documentation to ensure that loan authorities have been exercised in accordance with existing Bank policies;
- (iv) Comprehensive guidance on the methodology for determining an appropriate allowance for loan and lease losses;
- (v) Loan pricing guidelines;
- (vi) Requiring that all extensions of credit originated or renewed by the Bank be supported by current credit information and collateral documentation, including lien searches and the perfection of security interests; have a defined and stated purpose; and have a predetermined and realistic repayment source and schedule. Credit information and collateral documentation shall include current financial information, profit and loss statements or copies of tax returns, and cash flow projections, and shall be maintained throughout the term of the loan;

- (vii) Requiring loan committee review and monitoring of the status of repayment and collection of overdue and maturing loans, as well as all loans classified “Substandard”, “Doubtful”, and “Special Mention” in the July 7, 2008, Report of Examination;
- (viii) Requiring the establishment and maintenance of a loan grading system and internal loan watch list;
- (ix) Requiring a written plan to lessen the risk position in each line of credit identified as a problem credit on the Bank’s internal loan watch list;
- (x) Prohibiting the capitalization of interest or loan-related expenses unless the board of directors formally approves such extensions of credit as being in the best interest of the Bank and provides detailed written support of its position in the minutes of the Bank’s board of directors’ meetings;
- (xi) Requiring that extensions of credit to any of the Bank’s executive officers, directors, or principal shareholders, or to any related interest of such person, be thoroughly reviewed for compliance with all provisions of Regulation O, 12 C.F.R. § 337.3 and 12 C.F.R. Part 215;
- (xii) Requiring prior written approval by the Bank’s board of directors for any extension of credit, renewal, or disbursement in an amount which, when aggregated with all other extensions of credit to that person and related interests of that person, exceeds \$250,000. For

the purpose of this paragraph “related interest” is defined as in Section 215.2(n) of Regulation O, 12 C.F.R. § 215.2(n);

- (xiii) Requiring a non-accrual policy in accordance with the Federal Financial Banks Examination Council’s Instructions for the Consolidated Reports of Condition and Income;
- (xiv) Requiring accurate reporting of past due loans to the Bank’s board of directors on at least a monthly basis;
- (xv) Addressing concentrations of credit and diversification of risk, including goals for portfolio mix, establishment of limits within loan and other asset categories, and development of a tracking and monitoring system for the economic and financial condition of specific geographic locations, industries, and groups of borrowers;
- (xvi) Requiring guidelines and review of out-of-territory loans which, at a minimum, shall include complete credit documentation, approval by a majority of the Bank’s board of directors prior to the disbursement of funds, and a detailed written explanation of why such a loan is in the best interest of the Bank;
- (xvii) Establishing standards for extending unsecured credit;
- (xviii) Incorporating collateral valuation requirements, including: (a) maximum loan-to-collateral-value limitations; (b) a requirement that the valuation be completed prior to a commitment to lend funds; (c) a requirement for periodic updating of valuations; and

- (d) a requirement that the source of valuations be documented in the Bank's records;
- (xix) Establishing standards for initiating collection efforts;
  - (xx) Establishing guidelines for timely recognition of loss through charge-off;
  - (xxi) Prohibiting the extension of a maturity date, advancement of additional credit or renewal of a loan to a borrower whose obligations to the Bank were classified "Substandard," "Doubtful," or "Loss," whether in whole or in part, by the FDIC or State authority in a subsequent Report of Examination, without the full collection in cash of accrued and unpaid interest, unless the loans are well secured and/or are supported by current and complete financial information, and the renewal or extension has first been approved in writing by a majority of the Bank's board of directors;
  - (xxii) Establishing officer lending limits and limitations on the aggregate level of credit to any one borrower which can be granted without the prior approval of the Bank's loan committee;
  - (xxiii) Requiring that collateral appraisals be completed prior to the making of secured extensions of credit, and that periodic collateral valuations be performed for all secured loans listed on the Bank's internal watch list, criticized in any internal or outside audit report of the Bank, or criticized in any regulatory report of examination of the Bank;

- (xxiv) Prohibiting the issuance of standby letters of credit unless the letters of credit are well secured and/or are supported by current and complete financial information;
- (xxv) Prohibiting the payment of any overdraft in excess of \$25,000 without the prior written approval of the Bank's board of directors, and imposing limitations on the use of the Cash Items account;
- (xxvi) Establishing limitations on the maximum volume of loans in relation to total assets;
- (xxvii) Establishing review and monitoring procedures to ensure compliance with FDIC's regulation on appraisals, 12 C.F.R. Part 323;
- (xxviii) Developing written commercial real estate ("CRE") lending guidance including, (a) segmentation of the CRE portfolio for risk analysis; (b) prudent CRE risk limits; (c) a compliance monitoring process; (d) periodic market analysis; (e) expanded credit underwriting standards; and (f) portfolio stress testing to assess the potential impact to earnings and capital.

(c) The Bank shall submit the foregoing policies to the Regional Director and the Commissioner for comment. After the Regional Director and the Commissioner have responded to the policies, the Bank's board of directors shall adopt the policies as amended or modified by the Regional Director and the Commissioner. The policies will be implemented immediately to the extent that they are not already in effect at the Bank.

***I. Senior Life Settlement Loans***

11. (a) From the effective date of this ORDER, the Bank shall not advance loan proceeds for the payment of interest or fees regarding its five Senior Life Settlement loans. In addition, the Bank shall reserve 100 percent of any advances of loan proceeds for the payment of life insurance premiums if the Bank is required to make such payments.

(b) By April 30, 2009, the Bank shall adopt a plan (“Plan”) to assess the risk associated with the five Senior Life Settlement loans made by the Bank, their suitability as an asset of the Bank, and a method to mitigate the Bank’s risk in these loans. The Plan shall include, at a minimum: (i) obtaining legal opinions related to the structure of the Senior Life Settlement Agreements; (ii) perfecting the Bank’s security interest in the Senior Life Settlement Agreements; and (iii) obtaining legal opinions regarding the beneficiaries’ right to receive the proceeds of the policies upon the deaths of the insureds.

(c) With regard to the underwriting and structuring of these loans, the Plan shall include provisions for: (i) mandatory reduction of loan balances upon receipt of proceeds derived from the deaths of the insureds; (ii) defined repayment plans in the absence of proceeds derived from the deaths of the insureds; (iii) payment of interest by the borrowers other than through the Bank’s advancement of additional loan proceeds; (iv) payment of insurance premiums on the underlying insurance policies other than through the Bank’s advancement of additional loan proceeds; (v) payment of ongoing fees between the borrowers and Bank-affiliate Altus Ventures other than through the Bank’s advancement of additional loan proceeds; and (vi) a long-term contingency plan to ensure that the Bank can manage and hold these assets on an ongoing basis, coupled with an analysis of the potential impact on the Bank’s liquidity, capital, and earnings in the event the Bank continues to hold these assets.

(d) With regard to the collateral securing these loans, the Plan shall include (i)

an exit strategy, including the sale of these policies in the secondary market; (ii) an analysis of the secondary market for these policies; (iii) a documented and well-supported evaluation of the fair market value of the collateral; (iv) an analysis of Senior Life Settlement transaction risks and complexity; (v) a designated Bank officer who will be specifically trained in the area of Senior Life Settlement policies and transactions associated with these policies in order to develop a thorough understanding of the dynamics of the insurance policies and the variables that dictate the policies' performance; (vi) an analysis of the potential risks of litigation associated with these policies, including, but not limited to, the transfer of the policies to trusts and the subsequent sale or assignment of the trusts to third parties unrelated to the insureds or their original beneficiaries; (vii) an analysis of the risk associated with the contestability provisions of each of the life insurance policies; (viii) a legal opinion that all the documents conform to state and/or federal statutes, laws, and regulations relating to consumer protection; (ix) a method for obtaining all missing documents required to completely trace the Senior Life Settlement transactions from their inception; and (x) an analysis of the potential credit risks related to the insurance companies that issued the insurance policies.

(e) For so long as the Bank has outstanding loans to the five Senior Life Settlement borrowers, the Bank shall, on a monthly basis, review the future performance of the loans, taking into consideration: (i) any significant or anticipated changes to the life insurance policies; (ii) declines in the financial conditions of the insurance carriers; (iii) anticipated policy surrenders; and (iv) changes in tax laws or legal interpretations that could have an impact on the performance of these policies.

***J. Reappraisal of Colorado and Alabama Real Estate Collateral***

12. (a) By April 30, 2009, the Bank shall obtain current appraisals on all real

estate collateral for its Alabama and Colorado real estate loans, and an independent valuation of real estate partnership interests in Alabama real estate. The Bank shall engage different appraisers to conduct the appraisals of all of the collateral, and such appraisers shall not be the same appraiser who performed the appraisals when the loans were originally made.

### **III. MANAGEMENT**

#### **A. *Qualified Management***

13. (a) The Bank shall have and retain qualified management. Each member of management shall possess qualifications and experience commensurate with his or her duties and responsibilities at the Bank. The qualifications of management personnel shall be evaluated on their ability to:

- (i) Comply with the requirements of this ORDER;
- (ii) Operate the Bank in a safe and sound manner;
- (iii) Comply with applicable laws and regulations; and
- (iv) Restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, management effectiveness, and liquidity.

(b) While this ORDER is in effect, the Bank shall notify the Regional Director and the Commissioner in writing of any changes in any of the Bank's directors or Senior Executive Officers. For purposes of this ORDER, "Senior Executive Officer" is defined as in Section 303.101(b) of the FDIC Rules and Regulations, 12 C.F.R. § 303.101(b). Prior to the addition of any individual to the Bank's board of directors or the employment of any individual as a Senior Executive Officer, the Bank shall comply with the requirements of Section 32 of the Act, 12 U.S.C. § 1831i, and Subpart F of Part 303 of the FDIC Rules and Regulations,

12 C.F.R. §§ 303.100 - 303.103.

**B. *Compliance Committee***

14. (a) Within 30 days after the effective date of this ORDER, the Bank's board of directors shall establish a committee of the board of directors of the Bank charged with the responsibility of ensuring that the Bank complies with the provisions of this ORDER. A majority of the members of such committee shall be directors not employed in any capacity by the Bank other than as a director. The committee shall report monthly to the full board of directors of the Bank, and a copy of the report and any discussion relating to the report or the ORDER shall be noted in the minutes of the Bank's board of directors' meetings. The establishment of this subcommittee shall not diminish the responsibility or liability of the entire board of directors of the Bank to ensure compliance with the provisions of this ORDER.

**C. *Ethics Policy***

15. (a) Within 90 days after the effective date of this ORDER, the Bank shall develop, adopt and implement a written ethics policy ("Ethics Policy") and program ("Ethics Program") designed to bring to the attention of each member of the Bank's board of directors conflicts of interest which may exist in approving loans or other transactions in which officers, directors or principal stockholders of the Bank ("Insiders") are involved. The Ethics Policy will state the ethical conduct and other standards expected of directors, officers, employees, agents and other persons participating in the conduct of the affairs of the Bank ("Covered Individuals"), in the performance of their duties and responsibilities, and establish the definitions, instructions and format to be followed by Covered Individuals in the preparation of comprehensive conflict disclosure statements ("Statements") to be filed for review by an Ethics Counselor and/or Ethics Committee. At a minimum, the Ethics Program will prohibit self-dealing by insiders or their

advancing personal, business, or other interests, or those of others, at the expense of the Bank; and require:

- (i) Initial statements from all existing Covered Individuals;
- (ii) Initial statements from any person who becomes a new Covered Individual;
- (iii) Periodic statements from all Covered Individuals;
- (iv) The disclosure of all potential conflicts of interest arising from a business or other interest or affiliation; and
- (v) Immediate reporting of new conflicts or discovery of previously unreported conflicts.

(b) The Ethics Program will, at a minimum, ensure that each member of the Bank's board of directors has been apprised of any potential conflict prior to making a decision, and has acted specifically on any loan or other transaction in which Insiders and/or their business associates are, directly or indirectly, involved. The results of any deliberations by the Bank's board of directors regarding potential conflicts shall be reflected in the minutes of its meetings. The Ethics Program will also address the ethical and other conduct and responsibilities with respect to Covered Individuals, and specifically the permissibility and disclosure of:

- (i) Acceptance of gifts, entertainment, favors and loans;
- (ii) Use of official information;
- (iii) Employment of relatives;
- (iv) Use of Bank property;
- (v) Reimbursement or payment of travel expenses;
- (vi) Indebtedness to the Bank or any other financial institution;

- (vii) Financial interests and obligations that appear to conflict with the individual's duties and responsibilities, including, but not limited to, participation of any sort in any transaction or loan in which the individual, his spouse, child, partner, or any organization in which the individual has a financial interest, or serves as an officer, director, trustee, or partner, is involved;
- (viii) Purchasing of Bank property;
- (ix) Providing goods or services to the Bank;
- (x) Outside employment and other activities; and
- (xi) A periodic written method of reporting each Covered Individual's compliance with the Ethics Program to an Ethics Counselor and/or committee who shall review compliance with the Ethics Program and report its findings to the Bank's board of directors.

(c) The Bank shall submit the policy and program to the Regional Director and the Commissioner for review and comment. Within 30 days from the receipt of any such comments from the Regional Director and the Commissioner and after due consideration of any recommended changes, the Bank shall approve the policy and program, which approval shall be recorded in the minutes of the meeting of the Bank's board of directors. The Bank shall thereafter implement and enforce the policy and program .

***D. Correction of Violations***

16. (a) By April 30, 2009, the Bank shall eliminate and/or correct all violations of law and regulations noted in the Report of Examination. The Bank shall document each violation that cannot be eliminated or corrected, and why, for review by the Board of Directors.

The Board's review, discussion, and any action taken with respect to the uncorrected violations shall be recorded in the minutes of the Board. By May 31, 2009, the Bank shall develop and submit a plan acceptable to the Regional Director and the Commissioner to correct all remaining uncorrected violations.

(b) With regard to the violations of Regulation O and Section 23A of the Federal Reserve Act noted in the Report of Examination, the Bank shall develop and submit a plan ("Plan") acceptable to the Regional Director and the Commissioner to correct all violations of Regulation O and Section 23A within 60 days after the effective date of this ORDER. The Plan shall include, at a minimum:

- (i) Repayment of all loans to insiders and affiliates detailed in the "Violations of Laws and Regulations" and "Items Subject to Adverse Classification" pages in the July 7, 2008, Report of Examination; and
- (ii) Repayments required pursuant to this paragraph shall not be funded, directly or indirectly, in whole or in part, by any extension of credit or any other payment, guarantee, or indemnification made by or on behalf of the Bank.

(c) The Bank shall submit evidence of the actions taken to comply with the Plan submitted pursuant to this paragraph to the Regional Director and the Commissioner within 10 days of taking each action.

(d) Within 30 days after the effective date of this ORDER, the Bank shall implement procedures to ensure future compliance with all applicable laws and regulations.

(e) Within 30 days after the effective date of this ORDER, the Bank shall

address any contraventions of policy noted in the July 7, 2008, Report of Examination.

(f) The Bank shall not engage or participate, directly or indirectly, in any further violations of laws or regulations, including but not limited to, Regulation O and Sections 23A and 23B of the Federal Reserve Act.

***E. Internal Audit Control Program***

17. (a) Within 60 days after the effective date of this ORDER, the Bank's board of directors shall implement an effective program for internal audit and control. The audit program shall provide procedures to test the validity and reliability of operating systems, procedural controls, and resulting records, and shall comply with the Interagency Policy Statement on the Internal Audit Function and its Outsourcing. The internal auditor shall report quarterly to the Bank's board of directors. The report and any comments made by the directors regarding the internal auditor's report shall be noted in the minutes of the Bank's board of directors' meetings.

**IV. EARNINGS**

***A. Budget and Profit Plan***

18. (a) Within 60 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director and the Commissioner for review and comment a written profit plan and a realistic, comprehensive budget for all categories of income and expense for calendar years 2009 and 2010. The plans required by this paragraph shall contain formal goals and strategies, be consistent with sound banking practices, reduce discretionary expenses, improve the Bank's overall earnings, and shall contain a description of the operating assumptions that form the basis for major projected income and expense components.

(b) The written profit plan shall address, at a minimum:

- (i) Identification of the major areas in and means by which the Bank's board of directors will seek to improve the Bank's earnings;
  - (ii) Specific goals to improve the net interest margin, increase interest income, reduce discretionary expenses, and improve and sustain earnings, as well as maintain adequate provisions to the allowance for loan and lease losses;
  - (iii) Realistic and comprehensive budgets for all categories of income and expense items;
  - (iv) A description of the operating assumptions that form the basis for, and adequately support, material projected revenue and expense components;
  - (v) Coordination of the Bank's loan, investment, funds management, and operating policies; strategic plan; and allowance for loan and lease loss methodology with the profit and budget planning;
  - (vi) A budget review process to monitor the revenue and expenses of the Bank whereby actual performance is compared against budgetary projections not less than quarterly; recording the results of the evaluation and any actions taken by the Bank in the minutes of the Bank's board of directors' meeting at which such evaluation is undertaken; and
  - (vii) Individual(s) responsible for implementing each of the goals and strategies of the Profit Plan.
- (c) Within 30 days from the end of each calendar quarter following

completion of the profit plans and budgets required by this paragraph, the Bank's board of directors shall evaluate the Bank's actual performance in relation to the plan and budget, record the results of the evaluation, and note any actions taken by the Bank in the minutes of the Bank's board of directors' meeting at which such evaluation is undertaken.

(d) A written profit plan and budget shall be prepared for each calendar year for which this ORDER is in effect and shall be submitted to the Regional Director and the Commissioner for review and comment within 30 days of the end of each year. Within 30 days of receipt of all such comments from the Regional Director and the Commissioner and after adoption of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of a Bank's board of directors' meeting. Thereafter, the Bank shall implement and follow the plan.

***B. Growth Plan***

19. (a) While this ORDER is in effect, the Bank shall not increase its Total Assets by more than 5 percent during any consecutive six-month period without providing, at least 30 days prior to its implementation, a growth plan to the Regional Director and the Commissioner. Such growth plan, at a minimum, shall include the funding source to support the projected growth, as well as the anticipated use of funds. This growth plan shall not be implemented without the prior written consent of the Regional Director and the Commissioner. In no event shall the Bank increase its Total Assets by more than 10 percent annually.

***C. Holding Company – Restrictions on Payments***

20. (a) As of the effective date of this ORDER, the Bank shall not make any payment, directly or indirectly, to or for the benefit of the Bank's holding company or any other Bank affiliate, without the prior written consent of the Regional Director and the Commissioner.

(b) The Bank shall not enter into any contract with its holding company or any other Bank affiliate without submitting the new contract to the Regional Director and the Commissioner for review and opportunity for comment.

**V. LIQUIDITY AND SENSITIVITY TO MARKET RISKS**

**A. LIQUIDITY/ASSET/LIABILITY MANAGEMENT**

21. (a) Within 60 days after the effective date of this ORDER, the Bank shall develop and submit to the Regional Director and the Commissioner for review and comment a written plan addressing liquidity. Annually thereafter, while this ORDER is in effect, the Bank shall review this plan for adequacy and, based upon such review, shall make necessary revisions to the plan to maintain adequate provisions to meet the Bank's liquidity needs. The initial plan shall include, at a minimum, provisions:

- (i) Limiting the Bank's ratio of total loans to total assets to not more than 80 percent;
- (ii) Establishing a reasonable range for its net non-core funding ratio as computed in the Uniform Bank Performance Report;
- (iii) Identifying the source and use of borrowed and/or volatile funds;
- (iv) Establishing lines of credit at correspondent banks, including the Federal Home Loan Bank of Topeka, that would allow the Bank to borrow funds to meet depositor demands if the Bank's other provisions for liquidity proved to be inadequate;
- (v) Requiring the retention of securities and/or other identified categories of investments that can be liquidated within one day in amounts sufficient (as a percentage of the Bank's total assets) to

ensure the maintenance of the Bank's liquidity posture at a level consistent with short- and long-term liquidity objectives;

- (vi) Establishing a minimum liquidity ratio and defining how the ratio is to be calculated;
- (vii) Establishing contingency plans by identifying alternative courses of action designed to meet the Bank's liquidity needs; and
- (viii) Addressing the use of borrowings (i.e., seasonal credit needs, match funding mortgage loans, etc.) and providing for reasonable maturities commensurate with the use of the borrowed funds; addressing concentration of funding sources; and addressing pricing and collateral requirements with specific allowable funding channels (i.e., brokered deposits, internet deposits, Fed funds purchased and other correspondent borrowings).

(b) Within 30 days from the receipt of all such comments from the Regional Director and the Commissioner, and after revising the plan as necessary, the Bank shall adopt the plan, which adoption shall be recorded in the minutes of the Bank's board of directors' meeting. Thereafter, the Bank shall implement the plan.

## **VI. MISCELLANEOUS**

### ***A. Progress Reports***

22. Within 30 days from the end of each calendar quarter following the effective date of this ORDER, the Bank shall furnish to the Regional Director and the Commissioner written progress reports signed by each member of the Bank's board of directors, detailing the actions taken to secure compliance with the ORDER and the results thereof. Such reports may be

discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and the Commissioner have released, in writing, the Bank from making further reports.

***B. Notice to Shareholders***

23. After the effective date of this ORDER, the Bank shall send a copy of this ORDER, or otherwise furnish a description of this ORDER, to its shareholders (1) in conjunction with the Bank's next shareholder communication, and also (2) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, statement, or notice shall be sent to the State and to the FDIC Accounting and Securities Disclosure Section, Washington, D.C. 20429, for review at least 20 days prior to dissemination to shareholders. Any changes requested by the FDIC or the State shall be made prior to dissemination of the description, communication, notice, or statement.

***C. Concluding Paragraph***

This ORDER shall be binding upon the Bank, its successors and assigns, and all institution-affiliated parties of the Bank. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, superseded, or set aside by the FDIC and the Commissioner.

This ORDER will become effective upon its issuance by the FDIC and the State.

Pursuant to delegated authority.

Dated this 16th day of January, 2009.

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Thomas J. Dujenski  
Regional Director

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Mick Thompson  
Commissioner  
Oklahoma State Banking Department