

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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In the Matter of )  
STATE BANK OF DELANO ) ORDER TO CEASE AND DESIST  
DELANO, MINNESOTA ) FDIC-09-229b  
(Insured State Nonmember Bank) )

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State Bank of Delano, Delano, Minnesota ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices alleged to have been committed by the Bank, and its right to a hearing on those charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") dated July 14, 2009, with counsel for the Federal Deposit Insurance Corporation ("FDIC"), whereby, solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices, the Bank consented to the issuance of the following ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it has reason to believe that the Bank has engaged in unsafe and

unsound banking practices. The FDIC, therefore, accepts the CONSENT AGREEMENT and issues the following:

**ORDER TO CEASE AND DESIST**

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

- A. Operating with a board of directors that has not provided adequate supervision over and direction to the management of the Bank.
- B. Operating with management whose policies and practices were detrimental to the Bank and jeopardize the safety of its deposits.
- C. Operating with inadequate capital and an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans and leases held.
- D. Operating with an excessive level of adversely classified loans or assets, and/or delinquent loans, and/or nonaccrual loans.
- E. Engaging in hazardous lending and lax collection practices.

F. Operating with excessively high concentrations of credit for the volume, kind, and quality of loans and leases held.

G. Operating with inadequate earnings in light of the Bank's level of capital and quality of assets.

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

1. **Qualified Management.**

(a) Within 90 days from the effective date of this ORDER, the Bank shall develop and complete a plan ("Management Plan") for the purpose of providing qualified management for the Bank.

(b) At a minimum, the Management Plan shall ensure the Bank has qualified management, including a chief financial officer, a chief lending officer, and an appropriate number and type of senior officers with the requisite knowledge, skills, ability, and experience, giving consideration to the size and complexity of the Bank, to operate the Bank in a safe and sound manner, and in compliance with applicable laws and regulations, and restore the Bank to a satisfactory financial condition, including, but not limited to, capital adequacy, asset quality, management effectiveness, earnings, liquidity, and sensitivity to market risk. Each member of management shall be provided

appropriate written authority from the board of directors to implement the provisions of this ORDER.

(c) Within 10 days of completion of the Management Plan, the board will provide a copy of the Management Plan for review and comment to the Regional Director of the FDIC's Kansas City Regional Office, or his designee ("Regional Director") and the Commissioner of the Minnesota Department of Commerce (collectively "Supervisory Authorities"). Within 30 days from receipt of any comment from the Regional Director, and after consideration of such comment, the board of directors shall approve the Management Plan which approval shall be recorded in its minutes. Thereafter, the Bank and its directors, officers, and employees shall implement and follow the Management Plan and any modifications thereto.

(d) During the life of this ORDER, the board of directors shall assess management's ability to:

(i) Comply with the requirements of this ORDER; all applicable State and Federal laws and regulations; FDIC and FFIEC policy statements; and the Bank's approved policies and procedures; and

(ii) Restore and thereafter maintain the Bank in a safe and sound condition, including, but not limited to, capital adequacy, asset quality, earnings, management effectiveness, liquidity, and sensitivity to market risks.

The board shall report its findings in minutes of the board of directors meetings.

(e) During the life of this Order, the Bank shall notify the Supervisory Authorities, in writing, of the resignation or termination of any of the Bank's directors, or "senior executive officers," as that term is defined in section 32 of the Act, 12 U.S.C. § 1831(i), and section 303.101(b) of the FDIC Rules and Regulations, 12 C.F.R. § 303.101(b).

**2. Minimum Capital Requirements.**

(a) While this ORDER is in effect, the Bank shall have and maintain the following minimum capital levels (as defined in Part 325 of the FDIC's Rules and Regulations), after establishing an appropriate allowance for loan and lease losses:

(i) Tier 1 capital at least equal to 8 percent of total assets;

(ii) Total risk-based capital at least equal to 11 percent of total risk-weighted assets.

(b) In the event any ratio is or falls below the minimum required by paragraph 2(a), the Bank shall immediately notify the Supervisory Authorities and within 60 days shall (1) increase capital in an amount sufficient to comply with paragraph 2(a), or (2) submit a written plan to the Supervisory Authorities for review and comment, describing the primary means and timing by which the Bank shall increase its capital ratios

up to or in excess of the minimum requirements set forth above. Within 30 days of receipt of all such comments from the Regional Director, and after consideration of all such comments, the Bank shall approve the written plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement and fully comply with the written plan.

(c) Any increase in Tier 1 capital necessary to meet the requirements of paragraph 2(a) may not be accomplished through a deduction from the allowance for loan and lease losses.

**3. Dividend Restriction.**

While this ORDER is in effect, the Bank shall not declare or pay any cash dividends without the prior written approval of the Supervisory Authorities.

**4. Reduction of Adversely Classified Assets.**

(a) Within 60 days from the effective date of this ORDER, the Bank shall formulate written plans to reduce the Bank's risk exposure in each asset in excess of \$100,000 adversely classified as "Substandard" or "Doubtful" in the Report of Examination. For purposes of this provision, "reduce" means to collect, charge off, or improve the quality of an asset so as to warrant its removal from adverse classification by the Supervisory Authorities.

(b) In developing the plans mandated by this paragraph, the Bank shall, at a minimum, and with respect to each adversely classified loan or lease, review, analyze, and document the financial position of the borrower, including source of repayment, repayment ability, and alternative repayment sources, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position.

(c) Upon completion of the plans, the Bank shall immediately submit the plans to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plans, which approval shall be recorded in the minutes of the meeting of the board of directors.

(d) The plans developed pursuant to this paragraph, and the documented actions taken to implement those plans, shall be reviewed by the Bank's board of directors at least quarterly in connection with the determination of the appropriateness of the Bank's allowance for loan and lease losses and in the preparation and review of the Bank's quarterly Reports of condition and Income. The nature and extent of the board's review will be recorded in its minutes.

5. **Restrictions on Advances to Adversely Classified Borrowers.**

(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 who has a loan or other extension of credit or obligation with the Bank that has been, in whole or in part, charged off or adversely classified "Substandard" or "Doubtful," either internally or by either of the Supervisory Authorities in a Report of Examination in the last 18 months and is uncollected, or classified "Substandard" or "Doubtful" in any future Reports of Examination from either of the Supervisory Authorities and is uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing, after collecting in cash all interest and fees due from a borrower, any credit already extended to the borrower.

(b) Paragraph (a) of this provision shall not apply if the Bank's failure to extend further credit to a particular borrower would be detrimental to the best interests of the Bank. Prior to extending additional credit pursuant to this paragraph, whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Bank's board of directors, or a designated committee thereof, who shall conclude:

(i) the failure of the Bank to extend such credit would be detrimental to the best interests of the Bank, with an

explanation of why the failure to extend such credit would be detrimental;

(ii) that the extension of such credit would improve the Bank's position, with an explanatory statement of why the Bank's position would improve; and

(iii) an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended.

**6. Implementation of Loan Policy.**

Within 60 days from the effective date of this ORDER, the board of directors of the Bank shall review and revise the Bank's loan policies and procedures for adequacy and, based upon this review, shall make all appropriate revisions to the policies and procedures necessary to strengthen the Bank's asset quality and lending functions and to prevent further deterioration. Thereafter, the Bank shall implement and fully comply with the revised loan policies. In the event the Bank considers making a loan that would not conform with the Bank's loan policies, the loan shall receive prior review and approval by the Bank's board of directors. The reason for non-conformance and the board's prior review and approval shall be documented in the board's minutes and in the loan file for that loan.

7. **Maintenance of Allowance for Loan and Lease Losses.**

(a) Within 10 days from the effective date of this ORDER, the board of directors shall make a provision which will replenish the allowance for loan and lease losses ("ALLL") for the loans charged off as a result of the most recent internal loan review or in the most recent examination and reflect the potential for further losses in the remaining loans or leases classified "Substandard" and "Doubtful" as well as all other loans and leases in its portfolio.

(b) Within 30 days from the effective date of this ORDER, the board shall establish a comprehensive policy and methodology for determining the ALLL. The policy shall provide for a review of the ALLL at least once each calendar quarter. Said review should be completed at least 10 days prior to the end of each quarter in order that the findings of the board may be properly reported in the Bank's Call Reports. Such reviews shall, at a minimum, be made in accordance with the Call Report Instructions, the Interagency Statement of Policy on the Allowance for Loan and Lease Losses, other applicable regulatory guidance that addresses the appropriateness of the Bank's ALLL, and any analysis of the Bank's ALLL provided by either of the Supervisory Authorities.

(c) A deficiency in the Bank's ALLL shall be remedied in the calendar quarter in which it is discovered by a charge to

current operating earnings prior to any Tier 1 capital determinations required by this ORDER and prior to the Bank's submission of its Call Report. The board of directors shall thereafter maintain an appropriate ALLL.

(d) The Bank shall submit the policy and ALLL methodology to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the policy, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank shall implement and fully comply with the policy.

#### **8. Concentrations Of Credit**

(a) Within 60 days from the effective date of this ORDER, the Bank shall develop and submit a written plan to the Supervisory Authorities for systematically reducing and monitoring the Bank's portfolio of loans, securities, or other extensions of credit advanced or committed, directly or indirectly, to or for the benefit of any borrowers (the "concentration plan") as listed in the Concentrations section of the Report of Examination, to an amount which is commensurate with the Bank's business strategy, management expertise, size, and location. At a minimum, the plan shall include:

(i) dollar levels and percent of capital to which the Bank shall reduce each concentration;

(ii) timeframes for achieving the reduction in dollar levels identified in response to (i) above;

(iii) procedures and controls for ensuring the Bank avoids future concentrations of credit;

(iv) 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 board of directors; and

(v) procedures for monitoring the Bank's compliance with the plan.

(b) The Bank shall submit the concentration plan to the Supervisory Authorities for review and comment. Within 30 days of receipt of all such comments from the Regional Director, and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement and fully comply with the concentration plan.

9. **Liquidity and Funds Management.**

Within 60 days from the effective date of this ORDER, the Bank shall review its written Liquidity and Funds Management Policy ("Policy") and amend the Policy to include the recommendations detailed in the Report of Examination. The Bank shall submit the Policy, and any future modifications, to the

Supervisory Authorities for review and comment. Within 30 days of receipt of all such comments from the Regional Director, and after considering all such comments, the Bank shall approve the revised Policy, with approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank shall implement and fully comply with the Policy. At least annually thereafter, while this ORDER is in effect, the Bank shall review this Policy for adequacy and shall make any appropriate revisions to the Policy.

**10. Brokered Deposits**

(a) Upon the issuance of this ORDER and so long as this ORDER is in effect, the Bank shall not accept, increase, renew, or rollover its brokered deposits without the prior written approval of the Supervisory Authorities.

(b) Within 60 days of the effective date of this ORDER, the Bank shall submit a written plan for reducing its reliance on brokered deposits ("brokered deposit plan") to the Supervisory Authorities. The brokered deposit plan shall detail the current composition of the Bank's brokered deposits by maturity and explain the means by which such deposits will be paid. The Bank shall submit the brokered deposit plan to the Supervisory Authorities for review and comment. Within 10 days of receipt of all such comments from the Regional Director, and

after consideration of all such comments, the Bank shall approve the brokered deposit plan, which approval shall be recorded in the minutes of the meeting of the board of directors.

Thereafter, the Bank shall implement and fully comply with the brokered deposit plan.

(c) For purposes of this ORDER, brokered deposits are defined in section 337.6(a)(2) of the FDIC Rules and Regulations to include any deposits funded by third-party agents or nominees for depositors, including deposits managed by a trustee or custodian when each individual beneficial interest is entitled to or asserts a right to federal deposit insurance.

**11. Profit and Budget Plan.**

(a) Within 120 days from the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop and fully implement a written profit plan for the calendar year, consisting of goals and strategies, consistent with sound banking practices, and taking into account the Bank's other written plans, policies, or other actions as required by this ORDER.

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

(i) identification of the major areas in and means by which the board of directors will seek to improve the Bank's operating performance;

(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) a description of the operating assumptions that form the basis for, and adequately support, material projected revenue and expense components;

(iv) 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;

(v) a no less than quarterly budget review process to monitor the revenue and expenses of the Bank by comparing actual performance against budgetary projections, the results of the evaluation and any actions taken by the board to be reflected in the minutes of the meeting at which the evaluation is undertaken; and

(vi) individual(s) responsible for implementing each of the goals and strategies of the Profit Plan.

(c) The profit plan and any subsequent modification thereto, shall be submitted to the Supervisory Authorities for review and comment. No more than 30 days after the receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the board of directors

shall approve the profit plan, which approval shall be recorded in the board meeting minutes. Thereafter, the Bank shall fully implement the profit plan and any subsequent modification.

**12. Disclosure of Order to Shareholders.**

Following the effective date of this ORDER, the Bank shall provide to its shareholders or otherwise furnish a description of this ORDER, (i) in conjunction with the Bank's next shareholder communication, and (ii) 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 FDIC, Division of Supervision and Consumer Protection, Accounting and Securities Disclosure Section, 550 17th Street, N.W., Room F-6066, Washington, D.C. 20429 for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

**13. Progress Reports Detailing Compliance with ORDER.**

Within 40 days of the end of the first calendar quarter following the effective date of this ORDER, and within 30 days of the end of each calendar quarter thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form, manner, and results of any actions taken to

