Decision of the
Supervisions Appeals Review Committee

In the Matter of * * *

Case No. 2015-02

Following the September 4, 2015 deliberative meeting of the Committee, the appeal of the Bank was denied. The Committee affirmed the decision of the FDIC's Director, Division of Risk Management Supervision ("RMS Director"), that the disputed material supervisory determinations made in the Bank's 2014 Report of Examination ("ROE")– including the Composite rating, Asset Quality, Earnings and Management Component ratings, as well as several determinations relating to accounting entries and the Bank's policies with respect to foreclosed real estate – were consistent with the policies, practices and mission of the FDIC. The Committee found the justifications underlying these determinations were reasonable and supported.

In this appeal, the Bank argued that RMS's interpretations of the applicable banking laws and regulations reflected bias against the Bank's business plan. The Committee upheld RMS's determinations, and found that the examiners' criticisms identified legitimate weaknesses that the Bank must address to improve performance and that RMS's determinations were consistent with applicable laws, regulations that promote safety and soundness. The Committee further concluded that RMS's determinations were consistent with both generally accepted accounting principles ("GAAP") and regulatory reporting standards. The Committee also noted that the Bank's financial performance reflected the heightened level of risk of its business plan and demonstrated the need for close oversight to achieve significant and sustained improvement in earnings performance.

The Bank contested a number of determinations regarding its accounting treatment of certain loans, specifically concerning the Bank's allowance for loan and lease losses ("ALLL") and it's accounting for the sale of other real estate owned ("OREO"). The Committee analyzed the loans at issue and agreed with the RMS Director's determination that the Bank's ALLL was underfunded, as it relied on old and superseded appraisal information. The Committee also affirmed the RMS Director's determination that the Instructions for the Preparation of Consolidated Reports of Condition and Income ("Call Report Instructions") and GAAP required the Bank to utilize the cost recovery method to account for the Bank's financing of the sales of foreclosed real estate assets.

The Committee also addressed the Bank's appeal of the RMS Director's determination that the Call Report Instructions did not permit the Bank to recognize interest income on certain nonaccrual loans. The Instructions allow recognition of interest for nonperforming loans only when the assets are both well secured and in the process of collection. In analyzing the loans at issue, the Committee found that the loans in question did not meet the criteria and therefore the Bank was not permitted to recognize interest income, upholding the RMS Director's findings.

In addition, the Committee sustained the Director's decision to retain two disputed comments in the 2014 ROE's "Matters Requiring Board Attention" section. The Bank challenged a comment that it must enhance accounting procedures to ensure entries are made in accordance with the Call Report Instructions. Having already determined that the Bank had in several instances failed to comply with the Instructions, resulting in entries overstating the Bank's income, the Committee concluded the ROE's comments was appropriate and consistent with FDIC policies and practices and affirmed the RMS Director's decision.

The Bank also challenged a comment that required the Board to develop appropriate strategies to reduce OREO volume and better control the costs of maintaining those properties. The Bank noted that it had previously implemented process changes with regards to foreclosed real estate, and that the comment be revised to require monitoring of the existing OREO strategy. However, the Committee found that the ROE's comment was appropriate in light of the Bank's high and escalating level of OREO volumes and expenses.

Finally, in this appeal the Bank requested that the Committee raise its Composite rating, as well as its Asset Quality, Earnings and Management Component ratings. The Committee concluded that the ratings the Bank were assigned were well supported and accurately reflected the examination findings.

This decision is considered a final supervisory determination by the FDIC.

By direction of the Supervision Appeals Review Committee of the Federal Deposit Insurance Corporation.