

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of	)	
	)	
KENNETH E. HAGGARD AND MARYANN	)	TEMPORARY ORDER TO
TOMCZYK, individually, and as	)	CEASE AND DESIST
institution-affiliated parties of	)	
	)	FDIC-07-089c&b
MIAMI VALLEY BANK	)	
LAKEVIEW, OHIO	)	
	)	
(INSURED STATE NONMEMBER BANK)	)	

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WHEREAS, the Federal Deposit Insurance Corporation ("FDIC") has determined that Respondent Kenneth E. Haggard, owner of Miami Valley Bank, Lakeview, Ohio, and Respondent MaryAnn Tomczyk, former Chairman of the Bank, have engaged in unsafe and unsound practices and violations of law or regulation and, unless restrained, will continue to engage in such violations and practices; and

WHEREAS, the FDIC has also determined that the Respondents were unjustly enriched and have exhibited a reckless disregard for the law through their causing the Bank to engage in, and through their participation in, the violations and unsafe and unsound banking practices specified in the NOTICE OF CHARGES FOR ORDER OF RESTITUTION AND OTHER APPROPRIATE RELIEF, AND NOTICE OF HEARING ("NOTICE"); and

WHEREAS, as a result of the foregoing, the FDIC seeks to order:

1) Respondents Kenneth E. Haggard and MaryAnn Tomczyk to pay restitution, reimbursement, and guarantee against loss for unjust enrichment as a result of the transaction of March 27, 2007, for the purchase by the Bank of a volume of low-quality assets of MVB Mortgage Corporation, Southfield, Michigan, ("MVB Mortgage") as specified in the NOTICE; and

2) Respondents Kenneth E. Haggard and MaryAnn Tomczyk to pay restitution, reimbursement, and guarantee against loss for the aggregate unpaid balance on the low-quality assets purchased or exchanged by the Bank from MVB Mortgage, as specified in the NOTICE; and

WHEREAS, the FDIC has determined that in order to prevent insolvency or a significant dissipation of assets of the Bank, to prevent a weakening of the Bank's condition, and to prevent prejudice to the interests of the Bank's depositors, Respondents' assets should be preserved pending completion of the proceeding provided for in 12 U.S.C. § 1818(b)(1) & 1818(b)(6);

NOW, THEREFORE, the FDIC issues this TEMPORARY ORDER TO CEASE AND DESIST ("SECOND TEMPORARY ORDER") and hereby gives notice pursuant to section 8(c)(1) of the Federal Deposit

Insurance Act ("Act"), 12 U.S.C. § 1818(c)(1), that each Respondent be, and hereby is, ORDERED as follows:

1. The Respondents shall, by no later than 12:00 noon Eastern Time on the tenth (10th) day after service of this SECOND TEMPORARY ORDER, pay restitution to the Bank in the amount of \$6,991,071.84, for the cash payment by the Bank to MVB Mortgage, on March 27, 2007.

2. (a) The Respondents shall post security, by no later than 12:00 noon Eastern Time on the tenth (10th) day after service of this SECOND TEMPORARY ORDER, in an amount equal to \$23,075,753, less any restitution already made to the Bank pursuant to Paragraph 1. This amount represents restitution, reimbursement, and guarantee against loss for any deficiency remaining to be repaid to the Bank to restore the financial condition of the Bank to what it was prior to the transaction of March 27, 2007, as described in the NOTICE OF CHARGES AND OF HEARING dated April 13, 2007 ("FIRST NOTICE"). This security may be accomplished by any means available to the Respondents.

(b) Each Respondent shall post security by one or a combination of any of the following means:

(i) by paying cash (or its equivalent) to the FDIC in care of its Chicago Regional Director in Chicago, Illinois, ("Regional Director"), in the amount specified in subparagraph

(a);

(ii) by establishing and maintaining an escrow account in the amount specified in subparagraph(a), respectively, at a financial institution and with an escrow agent approved by the Regional Director;

(iii) by providing an irrevocable letter of credit or fidelity bond from a federally insured depository institution or an insurer approved by the Regional Director in the amounts specified in subparagraph (1)(a)(i) of this Paragraph 2; or,

(iv) by providing other security deemed adequate by the Regional Director.

(c) Each Respondent shall submit to the Regional Director, by no later than 12:00 noon (Eastern Time) on the tenth (10th) day following service of this SECOND TEMPORARY ORDER, a written notice supported by his sworn affidavit demonstrating compliance with the requirements relating to the posting of security.

3. In order to preserve assets to satisfy the Respondents' financial obligations as described in the NOTICE, each Respondent shall cease and desist from, directly or indirectly, causing the sale, transfer or encumbrance of funds or other asset of any nature whatsoever in which the Respondent has a legal or beneficial interest, whether directly or through any other person or entity, including but not limited to the

transfer of assets currently outside of the United States.

(a) The foregoing limitation on asset transfers shall not apply to assets used to pay ordinary and reasonable living expenses and attorney fees having an aggregate value of less than ten thousand dollars (\$10,000.00) per month for each Respondent.

(b) The Regional Director is authorized to grant appropriate relief from restrictions on expenditures or asset transfers in this SECOND TEMPORARY ORDER upon finding that the applicant has demonstrated full compliance with the aforesaid security requirements. A copy of any such application for relief shall be filed and served in the manner provided below.

4. If either Respondent contends that compliance with the provisions on limitations on expenditures or asset transfers of this SECOND TEMPORARY ORDER would cause undue hardship to him/her or his/her dependents, or cause him/her to be unable to hire legal counsel for the enforcement proceeding, he or she may make appropriate application to the Regional Director requesting relief from this SECOND TEMPORARY ORDER. Any such application shall be filed and served in the manner provided in this SECOND TEMPORARY ORDER and will not be deemed complete and appropriate for action by the FDIC until the application is supported by the following:

(a) current, complete and accurate financial statements as of December 31, 2005, December 31, 2006, and March 31, 2007, for the applying Respondent either prepared and certified to by a certified public accountant, or signed by the applicant with a certification under penalty of perjury that the information contained therein is true and accurate and complete to the best of his/her knowledge and belief following diligent inquiry; and,

(b) true, accurate, complete and signed federal and state tax returns for 2005 and 2006 (if available), and all schedules and attachments, or if unavailable, written authorization permitting the FDIC to obtain the tax returns from the appropriate federal and state agencies; and,

(c) written statements accurately and completely describing arrangements, funds or trusts established for his/her benefit or for the payment of legal or other fees or other expenses, whether directly or indirectly, along with a written statement of fees or other expenses advanced but not exhausted; and,

(d) affidavits setting forth such other facts as thought to be pertinent.

5. (a) Within twenty (20) days following service of this SECOND TEMPORARY ORDER, each Respondent shall submit to the Regional Director such financial statements as are necessary to

show, as of the date of this SECOND TEMPORARY ORDER, a complete and itemized listing of his/her assets and liabilities, and which shall show the value of each Respondent's legal and beneficial interest in each of his/her related interests. If assets or liabilities shown on the financial statements are held through a corporation, partnership, trust or other entity, then the financial statement shall disclose the name and nature of the entity, as well as the percentage of the person's ownership interest in the entity. Such financial statements shall be prepared in accordance with generally accepted accounting principles, and shall be certified under penalties of perjury as being accurate and complete.

(b) Upon written request from a Respondent, the financial statements submitted to the Regional Director pursuant to this paragraph will not be made public to persons or entities other than employees and agents of governmental authorities, unless otherwise required by law or court order.

(c) Within ten (10) days following service of this SECOND TEMPORARY ORDER, each Respondent shall submit to the Regional Director lists, signed under penalty of perjury: (i) of all assets, including community assets, having a value of ten thousand dollars (\$10,000) or more that any Respondent, or any related interest has sold, transferred, or encumbered from

December 31, 2006, to the date of service of this SECOND TEMPORARY ORDER, including the date of the transfer, name and address of the transferee, the purpose of the transfer, and the amount of any consideration received, if any, from the recipient, transferee, or purchaser; and (ii) of all transfers of cash totaling more than ten thousand dollars (\$10,000) during any seven (7) day period made by Respondent from December 31, 2006, to the date of service of this SECOND TEMPORARY ORDER, including the date of the transfer, name and address of transferee, purpose of the transfer, and the consideration received, if any, from the recipient, transferee, or purchaser.

6. (a) Within ten (10) days following service of this SECOND TEMPORARY ORDER, each Respondent shall provide a listing, signed under penalty of perjury, of any and all trusts:

(i) established by him/her, within three (3) years prior to the date of service of this SECOND TEMPORARY ORDER;

(ii) in which Respondent, acted as trustee within three (3) years prior to the date of service of this SECOND TEMPORARY ORDER;

(iii) in which Respondent, had a direct or indirect beneficial interest within three (3) years prior to the date of service of this SECOND TEMPORARY ORDER; and



(iv) in which Respondent, had directly or indirectly made a contribution in the aggregate amount of five thousand dollars (\$5,000) or more within three (3) years prior to the date of service of this SECOND TEMPORARY ORDER.

(b) Within thirty (30) days following service of this SECOND TEMPORARY ORDER, each Respondent shall certify by affidavit, signed under penalty of perjury, that he/she is in full and complete compliance with the provisions of this Paragraph.

7. Any notice or application required to be made to the Regional Director by this SECOND TEMPORARY ORDER shall be provided to:

Sylvia H. Plunkett  
Chicago Regional Director  
Federal Deposit Insurance Corporation  
500 W. Monroe St., Suite 3300  
Chicago, IL 60661

A copy of all documents sent to the above-referenced individuals shall be provided to:

Timothy E. Divis  
Regional Counsel  
Federal Deposit Insurance Corporation  
500 W. Monroe St., Suite 3300  
Chicago, IL 60661

8. (a) This SECOND TEMPORARY ORDER shall become effective upon service. It shall remain effective and enforceable unless

set aside, limited, or suspended by court order in proceedings authorized under 12 U.S.C. § 1818(c)(2), or to the extent it is stayed, modified, or terminated by the FDIC. If a permanent order to cease and desist shall subsequently be issued, this SECOND TEMPORARY ORDER shall remain in force until the effective date of that permanent order to cease and desist.

(b) If at any time the FDIC deems it appropriate in fulfilling the responsibilities placed upon it by the laws of the United States of America to undertake any action affecting Respondent, or any other institution-affiliated party of the Bank, nothing in this SECOND TEMPORARY ORDER shall in any way inhibit, estop, bar, or otherwise prevent the FDIC from doing so.

Pursuant to delegated authority.

Dated at Washington, D.C., this 20<sup>th</sup> day of April, 2007.

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Sandra L. Thompson  
Director  
Division of Supervision and  
Consumer Protection