

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

SAN FRANCISCO, CALIFORNIA

_____	)	
	)	
In the Matter of	)	
	)	
INDEPENDENCE BANK	)	ORDER TO
NEWPORT BEACH, CALIFORNIA	)	CEASE AND DESIST
	)	
(INSURED STATE NONMEMBER BANK)	)	Docket No. FDIC-08-037b
	)	
_____	)	

Independence Bank, Newport Beach, California ("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 of its right to a hearing on the alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), and Section 1912 of the California Financial Code, 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 with counsel for the California Department of Financial Institutions ("CDFI"), dated March 13, 2008, 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 CDFI.

The FDIC and the CDFI considered the matter and determined that they had reason to believe that the Bank had engaged in unsafe or unsound banking practices.

The FDIC and the CDFI, therefore, accepted the CONSENT AGREEMENT and issued 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 and unsound banking practices, as more fully set forth in the Joint FDIC and CDFI Report of Examination (“ROE”) as of October 9, 2007:

(a) operating in violation of section 326.8 of the FDIC Rules and Regulations, 12 C.F.R. § 326.8, regarding a satisfactory Bank Secrecy Act (“BSA”) and Anti-Money Laundering (“AML”) compliance program; and

(b) operating in violation of section 353.3 of the FDIC Rules and Regulations, 12 C.F.R. § 353.3, regarding Suspicious Activity Report (“SAR”) procedures to identify, monitor, and report suspicious activities.

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

1. Within 90 days of the effective date of this ORDER, the Bank shall comply in all material respects with the BSA and its rules and regulations.

2. Within 90 days of the effective date of this ORDER, the Bank shall correct all violations of law, as more fully set forth in the ROE as of October 9, 2007. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable laws and regulations.

3. Within 90 days of the effective date of this ORDER, the Bank shall develop, adopt, and implement a written compliance program, as required by the applicable provisions of section 326.8 of the FDIC's Rules and Regulations, 12 C.F.R. § 326.8, designed to, among other things, ensure and maintain compliance by the Bank with the BSA and the rules and regulations issued pursuant thereto. The program shall ensure that clear and comprehensive BSA compliance reports are provided to the Bank's Board of Directors ("Board") on a monthly basis. Such program and its implementation shall be in a manner acceptable to the Regional Director of the FDIC's San Francisco Regional Office ("Regional Director") and the Commissioner, CDFI ("Commissioner") as determined at subsequent examinations and/or visitations of the Bank. At a minimum, the program shall:

(a) Establish a system of internal controls to ensure compliance with the BSA and the rules and regulations issued pursuant thereto, including policies and procedures to detect and monitor all transactions to ensure that they are not being conducted for illegitimate purposes and that there is full compliance with all applicable laws and regulations.

(b) Provide for independent testing of compliance with the BSA consistent with the scope and guidelines contained within the Federal Financial Institutions Examination Council ("FFIEC") guidance. The independent testing shall be conducted at least annually and should contain sufficient documentation and descriptions of the testing procedures performed and the resulting conclusions regarding the sufficiency of the program in assuring ongoing compliance with all BSA-related regulations. Such reports should be presented directly to the Bank's Board;

(c) Written reports shall be prepared which document the testing results and provide recommendations for improvement. Such reports shall be presented to the Bank's Board;

(d) Ensure that the Bank's BSA compliance program is managed by a qualified officer who has the required authority, responsibility, training, resources, and management reporting structure to ensure compliance with the Bank's program requirements and BSA-related regulations;

(e) Provide and document training by competent staff and/or independent contractors of all Bank's Board members and all appropriate personnel, including, without limitation, senior management, tellers, customer service representatives, lending officers, private and personal banking officers and all other customer contact personnel, in all aspects of regulatory and internal policies and procedures related to the BSA, with a specific concentration on accurate recordkeeping, form completion and the detection and reporting of known and/or suspected criminal activity. Training shall be updated on a regular basis to ensure that all personnel are provided with the most current and up to date information.

4. Within 60 days of the effective date of this ORDER, the Bank shall develop, adopt, and implement a written customer due diligence program. Such program and its implementation shall be in a manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations of the Bank. At a minimum, the customer due diligence program shall provide for the following:

(a) A risk focused assessment of the customer base of the Bank to determine the appropriate level of enhanced due diligence necessary for those categories of customers that the Bank has reason to believe pose a heightened risk of illicit activities at or through the Bank.

(b) For those customers whose transactions require enhanced due diligence, procedures to:

(i) determine the appropriate documentation necessary to confirm the identity and business activities of the customer;

(ii) understand the normal and expected transactions of the customer; and

(iii) reasonably ensure the identification and timely, accurate and complete reporting of known or suspected criminal activity against or involving the Bank to law enforcement and supervisory authorities, as required by the suspicious activity reporting provisions of Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353.

5. Within 60 days of the effective date of this ORDER, the Bank shall revise, adopt, and implement its BSA Policy to include provisions, which implement the requirements of Paragraph 3 of this ORDER. The Bank's Board and management shall fully implement the provisions of the revised BSA Policy. The revised BSA Policy, and its implementation, shall be in a form and manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations of the Bank.

6. Following the effective date of this ORDER, the Bank's Board shall monitor and confirm the completion of actions taken by management to comply with the terms of this ORDER. The Bank's Board shall certify in writing to the Regional Director and the Commissioner when all of the above actions have been accomplished. All actions taken by the Bank's Board pursuant to this ORDER shall be duly noted in the minutes of its meetings. The Bank's Board shall receive reports from the qualified officer appointed in Paragraph 3 regarding

compliance with the BSA and Parts 326 and 353, at least monthly, and shall report to the Bank's Board at every meeting.

7. Within 30 days of the end of the first quarter following the effective date of this ORDER, and within 30 days of the end of each quarter thereafter, the Bank shall furnish written progress reports to the Regional Director and the Commissioner detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports shall include a copy of the Bank's Report of Condition and the Bank's Report of Income. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and the Commissioner have released the Bank in writing from making further reports.

8. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER in conjunction with the Bank's next shareholder communication and also 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, Accounting and Securities Section, Washington, D.C. 20429, at least 15 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.

This ORDER will become effective upon its issuance by the FDIC and the CDFI. Violation of any provision of this ORDER will be deemed to be conducting business in an unsafe or unsound manner, and will subject the Bank to further regulatory enforcement action. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and

until such time as, any provisions of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC and the CDFI.

Pursuant to delegated authority.

Dated at San Francisco, California, this 14<sup>th</sup> day of March, 2008.

---

Stan Ivie  
Regional Director  
Division of Supervision and Consumer Protection  
San Francisco Region  
Federal Deposit Insurance Corporation

Dated at San Francisco, California, this 14<sup>th</sup> day of March, 2008.

---

Craig Carlson  
Chief State Examiner  
California Department of Financial Institutions