

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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In the Matter of	)	
	)	ORDER TO CEASE AND
	)	DESIST
	)	
PARKWAY BANK	)	
ROGERS, ARKANSAS	)	
	)	FDIC-08-128b
	)	
(Insured State Nonmember Bank)	)	

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Parkway Bank, Rogers, Arkansas ("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 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") dated August 5, 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.

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

**ORDER TO CEASE AND DESIST**

**IT IS ORDERED**, that the Bank, institution-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 management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits.

(b) 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.

(c) Operating the Bank with an inadequate level of capital protection for the kind and quality of assets held by the Bank.

(d) Operating the Bank with inadequate earnings to fund growth and augment capital.

(e) Operating the Bank with an excessive level of

adversely classified assets.

(f) Operating the bank with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans and leases held.

(g) Engaging in hazardous lending with ineffective and/or lax collection practices.

(h) Operating the Bank in contravention of sound written loan policies and procedures.

(i) Operating the Bank in violation of applicable Federal laws and regulations.

(j) Operating the Bank without adequate liquidity or proper regard for funds management in consideration of the Bank's asset and liability mix.

(k) Operating the Bank with inadequate risk management policies and practices for its commercial real estate concentration of credit.

(l) Operating the Bank with excessive interest rate risk exposure.

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

**CAPITAL**

1. (a) The Bank shall achieve and maintain the following minimum capital levels (as defined in Part 325 of the FDIC's

Rules and Regulations), after establishing an adequate allowance for loan and lease losses:

(i) From the effective date of this Order until February 4, 2009, Tier 1 capital at least equal to 7.5 percent of total assets; from February 5, 2009, until June 30, 2009, Tier 1 capital at least equal to 8 percent of total assets; and from July 1, 2009, until this Order is terminated, Tier 1 capital at least equal to 9 percent of total assets;

(ii) Tier 1 risk-based capital at least equal to 10 percent of total risk-weighted assets; and

(iii) Total risk-based capital at least equal to 11 percent of total risk-weighted assets until December 31, 2008, and thereafter at least equal to 12 percent of total risk-weighted assets.

(b) In addition, 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 Rules and Regulations, 12 C.F.R. Part 325, App. A.

(c) Any increase in capital necessary to meet the requirements of the provisions of this paragraph may be accomplished by the following:

(i) The sale of new securities in the form of common stock;

(ii) The sale of noncumulative perpetual

preferred stock;

(iii) The direct contribution of cash by the directors, shareholders, or parent holding company of the Insured Bank; or

(iv) Any other method acceptable to the FDIC and the Arkansas State Bank Department ("ASBD"), and approved in advance in writing by the Regional Director and the Commissioner of the ASBD ("Commissioner").

(d) No increase in Tier 1 capital necessary to meet the requirements of this ORDER may be accomplished through a deduction from the Bank's allowance for loan and lease losses or other reserve accounts. Further, the Bank shall not lend funds directly or indirectly, whether secured or unsecured, to any purchaser of Bank or affiliate stock or other securities, or to any investor by any other means for any portion of any increase in Tier 1 capital required herein.

(e) If all or part of the increase in capital required by the provisions of this paragraph is accomplished by the sale of new securities, the board of directors of the Bank shall adopt and implement a plan for the sale of such additional securities, including the voting of any shares owned or proxies held 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 the 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 Regional Director and the Commissioner, and the FDIC's Registration, Disclosure, and Securities Unit, 550 17th Street, N.W., Room F-6053, Washington, D.C. 20429 for review. Any changes requested by the FDIC or the ASBD to be made in the plan or materials by the FDIC and/or the ASBD shall be made prior to their dissemination. If the Regional Director and the Commissioner allow any part of the increase in Tier 1 capital to be provided by the sale of noncumulative perpetual preferred stock, then all terms and conditions of the issue, including but not limited to those terms and conditions relative to the interest rate and any convertibility factor, shall be presented to the Regional Director and the Commissioner for prior approval.

(f) In complying with the provisions of this paragraph, 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 changes which are materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within 30 days from the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every subscriber and/or purchaser of the Bank's securities who received or was tendered the information contained in the Bank's original offering materials.

(g) For purposes of this ORDER, all terms relating to capital shall be calculated according to the methodology set forth in Part 325 of the FDIC's Rules and Regulations.

#### **DIVIDEND RESTRICTIONS**

2. (a) While this ORDER is in effect, the Bank shall not declare or pay any cash dividends or executive officer bonuses without the prior written approval of the Regional Director and the Commissioner. Further, while this ORDER is in effect, the Bank shall not declare or pay cash dividends in any amount except as follows:

(i) Such declarations and payments are made in accordance with applicable State and Federal laws and regulations;

(ii) That such declaration and payment of dividends shall be approved in advance by the board of directors

of the Bank, with such declarations reflected in the minutes of the Bank's Board meeting during which such declarations were acted upon; and

(iii) That the Bank is in substantial compliance with this ORDER.

#### **CONCENTRATIONS OF CREDIT**

3. (a) Within 90 days from the effective date of this ORDER, the Bank shall develop and submit a written plan to the Regional Director and the Commissioner for systematically reducing and monitoring the Bank's portfolio of construction, land development, and other land loans (as defined in the instructions for preparation of Schedule RC-L of the Consolidated Reports of Condition and Income) 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 such concentration;

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

(iii) 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

(iv) Procedures for monitoring the Bank's compliance with the plan.

(b) The Bank shall submit the concentration plan to the Regional Director and the Commissioner for review and comment. Within 30 days of receipt of all such comments from the Regional Director and the Commissioner, 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.

(c) The Bank shall not make any new extensions or commitments of credit to or for the benefit of any borrower or associated entities so long as such extension or commitment would result in the Bank exceeding any limit contained in the concentration plan.

## **ASSETS**

### **Charge-Off of Adversely Classified Assets**

4. (a) Within 10 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" in the Report of Examination that have not been previously collected or charged off.

(b) Additionally, as long as this ORDER remains in effect, within 30 days after the receipt of any future Report of

Examination or Visitation of the Bank from the FDIC and/or the ASBD, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" in the Report of Examination that have not been previously collected or charged off.

(c) Elimination or reduction of assets through proceeds of other loans made by the Bank is not considered collection for purposes of this provision.

#### **Reduction Of Adversely Classified Assets**

5. (a) Within 90 days from the effective date of this ORDER, the Bank shall formulate a written plan to reduce the Bank's risk exposure in each asset in excess of \$500,000 classified "Substandard" 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 FDIC and/or the ASBD. In developing the plan 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.

(b) In addition, the plan mandated by this provision shall also include, but not be limited to, the following:

(i) A schedule for reducing the outstanding dollar amount of each adversely classified asset, including timeframes for achieving the reduced dollar amounts (at a minimum, the schedule for each adversely classified asset must show its expected dollar balance on a quarterly basis);

(ii) Specific action plans intended to reduce the Bank's risk exposure in each classified asset;

(iii) A schedule showing, on a quarterly basis, the expected consolidated balance of all adversely classified assets, and the ratio of the consolidated balance to the Bank's projected Tier 1 capital plus the allowance for loan and lease losses;

(iv) A provision for the Bank's submission of monthly written progress reports to its board of directors; and

(v) A provision mandating board review of the progress reports, with a notation of the review recorded in the minutes of the meeting of the board of directors.

(c) The requirements of this paragraph do not represent standards for future operations of the Bank. Following compliance with the above reduction schedule, the Bank shall continue to reduce the total volume of adversely

classified assets. The plan may include a provision for increasing Tier 1 capital when necessary to achieve the prescribed ratio.

(d) The Bank shall immediately, after board approval, submit the plan 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 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 plan.

**Restrictions On Advances To Adversely Classified Borrowers**

6. (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 classified "Loss" 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) The provisions of Paragraph 6(a) 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 certify, in writing:

(i) Why failure of the Bank to extend such credit would be detrimental to the best interests of the Bank;

(ii) That the extension of such credit would improve the Bank's position, including an explanatory statement of how the Bank's position would improve; and

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

The signed certification shall be made a part of the minutes of the meeting of the board of directors, or designated committee, with a copy retained in the borrower's credit file.

(b) While this ORDER is in effect, the Bank shall not make any further extensions of credit, directly or indirectly, to any borrower whose loans are adversely classified "Substandard" or "Doubtful" by the FDIC and/or the ASBD, without prior approval by the Bank's board of directors. The Bank's board of directors shall not approve the proposed extension without first making affirmative determinations that:

(i) The extension of credit is in full

compliance with the Bank's loan policy;

(ii) The extension of credit is necessary to protect the Bank's interests, or is adequately secured;

(iii) The Bank found the primary and secondary obligors to be creditworthy based on a credit analysis; and

(iv) All necessary loan documentation is on file, including, at a minimum, current financial and cash flow information, and satisfactory appraisal, title and lien documents.

(c) The affirmative determination shall be recorded in the minutes of the meeting of the board of directors, with a copy retained in the borrower's credit file.

#### **Reduction Of Delinquencies**

7. Within 90 days from the effective date of this ORDER, the Bank shall formulate, adopt, and implement a written plan for the reduction and collection of delinquent loans. For purposes of this provision, "reduce" means to charge-off or collect. The plan shall include, but not be limited to, provisions which:

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

(ii) Delineate responsibilities for implementing and monitoring the Bank's collection policies;

(iii) Establish specific collection actions and

procedures to be instituted at various stages of a borrower's delinquency;

(iv) Establish specific dollar levels to which the total dollar volume of delinquencies will be reduced and the projected timeframes for achieving the projected reduction; and

(v) Provide 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.

#### **Correction Of Technical Exceptions**

8. (a) Within 120 days from the effective date of this ORDER, the Bank shall correct the exceptions listed on the "Assets with Credit Data or Collateral Documentation Exceptions" pages of the Report of Examination. All attempts to correct exceptions shall be documented in the borrowers' credit files. In all future operations, the Bank shall ensure that all necessary supporting documentation is obtained and evaluated before any credit or loan is extended or renewed by the Bank.

(b) Progress reports detailing each outstanding exception and the Bank's plan for corrective action shall be submitted to the board for review during each regularly scheduled meeting. The review shall be noted in the minutes of the meeting of the board of directors.

### **Implementation Of Loan Review**

9. (a) Within 90 days of the effective date of this ORDER, the board shall enhance, adopt, and implement the Bank's 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 (in assessing risks of obligors who have multiple corporate interests for which the obligor has

direct or indirect repayment responsibility, the analysis shall include a global cash flow analysis which includes cash generated and required for all such obligations);

(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) Upon implementation, a copy of each report shall be submitted to the board, as well as documentation of the actions taken by the Bank or recommendations to the board 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 board of directors.

#### **Implementation Of Loan Policy**

10. (a) Within 90 days from the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review 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. As required by this paragraph, the Bank's loan policies shall be enhanced to include, at a minimum, provisions that address those deficiencies identified on page 20

of the Report of Examination.

**Maintenance Of Allowance For Loan & Lease Losses**

11. While this ORDER is in effect, the Bank's board of directors shall maintain an allowance for loan and lease losses that reflects the potential for further losses in the loans or leases classified "Substandard" as well as all other loans and leases in its portfolio.

**Other Real Estate Policy**

12. (a) Within 90 days from the effective date of this ORDER, the board of directors shall develop, adopt, and implement a written policy for managing the Other Real Estate ("ORE") of the Bank. At a minimum, the policy shall provide for:

- (i) Review of the ORE portfolio, at least quarterly, by a committee appointed by the board of directors;
- (ii) Documentation that taxes and insurance premiums are paid in a timely manner;
- (iii) Resolution of documentation exceptions;
- (iv) Realistic and comprehensive budget for each parcel with a book value in excess of \$250,000, including projections of the Bank's carrying costs (e.g., upkeep, repairs, and insurance costs) and projections of the marketing costs;
- (v) Independent appraisal of each parcel at the time of foreclosure and periodically thereafter (but no more

than 12 months from the date of the prior appraisal report);

(vi) Determination by the ORE committee that each parcel of ORE is listed with a real estate broker or otherwise made widely available for sale within an appropriate timeframe and at a realistic selling price;

(vii) Periodic progress reports from each real estate broker marketing Bank ORE, including projected sales timeframes; and

(viii) Detailed report from the ORE committee to the board of directors at least quarterly, with a copy of the report, including documentation of the action taken to facilitate the timely sale of ORE, made part of the board minutes.

## **MANAGEMENT**

### **Compliance Monitoring & Committee**

13. (a) Within 30 days from the effective date of this ORDER, the board of directors shall establish a committee responsible for ensuring compliance with the ORDER, overseeing corrective measures with respect to the ORDER, and reporting to the board. More than fifty percent of the members of the committee shall be independent directors as defined herein. The committee shall monitor compliance with this ORDER and, within 30 days from the effective date of this ORDER, and every 30 days thereafter, submit a written report detailing the Bank's

compliance with this ORDER to the board of directors, for review and consideration during its regularly scheduled meeting. The compliance report and any discussion related to the report or ORDER shall be incorporated into the minutes of the meeting of the board of directors. Nothing contained herein shall diminish the responsibility of the entire board of directors to ensure compliance with the provisions of this ORDER. For the purposes of this ORDER, an "independent director" shall be an individual who:

(i) Is not employed in any capacity by the Bank, any of its subsidiaries, or affiliated organizations other than as a director;

(ii) Does not own or control more than five percent of the outstanding shares of the Bank or its parent company;

(iii) Is not related by blood or marriage to an officer or director of the Bank or its affiliates, or to any shareholder owning more than five percent of the outstanding shares of the Bank or its parent company, and who does not otherwise share a common financial interest with such officer, director or shareholder; and

(iv) Is not indebted, directly or indirectly, to the Bank or any of its affiliates, including the indebtedness of any entity in which the individual has a substantial financial

interest, in an amount exceeding ten percent of the Bank's total Tier 1 capital and allowance for loan and lease losses.

#### **Qualified Management**

14. (a) Within 30 days from the effective date of this ORDER, the board of directors shall engage an independent third party acceptable to the Regional Director and the Commissioner and that possesses appropriate expertise and qualifications to analyze and assess the Bank's management and staffing performance and needs. The engagement shall require that the analysis and assessment shall be summarized in a written report to the board of directors (Management Report). Within 30 days of receipt of the Management Report, the board will conduct a full and complete review of the Management Report, which review shall be recorded in the minutes of the meeting of the board of directors. The analysis may be developed by an independent committee of the Bank's board of directors or an outside consultant reporting to the Bank's board of directors; however, if the committee is composed of members of the Bank's board of directors, a majority of the committee shall consist of directors that are not officers at the Bank or family members of Bank officers. The acceptability of the third party or committee shall be determined based upon the ability to conduct the assessment and advise the Bank in each of the areas subject to this ORDER.

(b) The Bank shall provide the Regional Director and the Commissioner with a copy of the proposed engagement letter or contract with the third party for review before it is executed. The contract or engagement letter, at a minimum, shall include:

(i) A description of the work to be performed under the contract or engagement letter, the fees for each significant element of the engagement, and the aggregate fee;

(ii) The responsibilities of the firm or individual;

(iii) An identification of the professional standards covering the work to be performed;

(iv) Identification of the specific procedures to be used when carrying out the work to be performed;

(v) The qualifications of the employee(s) who are to perform the work;

(vi) The time frame for completion of the work;

(vii) Any restrictions on the use of the reported findings;

(viii) A provision for unrestricted examiner access to workpapers; and

(ix) A certification that the firm or individual is not affiliated in any manner with the Bank.

(c) Within 30 days of receipt of the Management

Report, the board will develop a written Management Plan that incorporates the findings of the report, a plan of action in response to each recommendation contained in the Management Report, and a time frame for completing each action. A copy of the Management Report and Management Plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors shall approve the Management Plan which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank and its directors, officers and employees shall implement and follow the Management Plan and any modifications thereto. It shall remain the responsibility of the board to fully implement the plan within the specified time frames. In the event the plan, or any portion thereof, is not implemented, the board shall immediately advise the Regional Director and the Commissioner, in writing, of specific reasons for deviating from the Management Plan. At a minimum, the Management Plan shall:

(i) Contain a recitation of the recommendations included in the Management Report or otherwise communicated to the Bank, along with a copy of any report(s) prepared by the outside consultant(s);

(ii) Identify the type and number of officer

positions needed to manage and supervise the affairs of the Bank, detailing any vacancies or additional needs and giving appropriate consideration to the size and complexity of the Bank;

(iii) Identify the type and number of staff positions needed to carry out the Bank's strategic plan, detailing any vacancies or additional needs;

(iv) Identify the authorities, responsibilities, and accountabilities attributable to each position, as well as the appropriateness of the authorities, responsibilities, and accountabilities, giving due consideration to the relevant knowledge, skills, abilities, and experience of the incumbent (if any) and the existing or proposed compensation;

(v) Present a clear and concise description of the relevant knowledge, skills, abilities, and experience necessary for each position, including delegations of authority and performance objectives;

(vi) Identify the appropriate level of current and deferred compensation to each officer and staff position, including executive officer positions;

(vii) Evaluate the current and past performance of all existing Bank officers, including executive officers and staff members, indicating whether the individuals are competent and qualified to perform present and anticipated duties, adhere

to the Bank's established policies and practices, and operate the Bank in a safe and sound manner;

(viii) Establish requirements and methodologies to periodically evaluate each individual's job performance;

(ix) Identify and establish Bank committees needed to provide guidance and oversight to management;

(x) Establish a plan to terminate, rotate, or reassign officers and staff as necessary, as well as recruit and retain qualified personnel consistent with the board's analysis and assessment of the Bank's staffing needs;

(xi) Identify training and development needs, and incorporate a plan to provide such training and development;

(xii) Establish procedures to periodically review and update the Management Plan, as well as periodically review and assess the performance of each officer and staff member;

(xiii) Contain a current organizational chart that identifies all existing and proposed staff and officer positions, delineates related lines of authority and accountability, and establishes a written plan for addressing any identified needs; and

(xiv) Contain a current management succession plan.

#### **Management Changes**

15. During the life of this ORDER, the Bank shall notify

the Regional Director and the Commissioner in writing of any resignations and/or terminations of any members of its board of directors and/or any of its senior officers within 15 days of the event. The Bank shall also establish procedures to ensure compliance with section 32 of the FDI Act, 12 U.S.C. § 1831i, and Subpart F of Part 303 of the FDIC's Rules and Regulations, 12 C.F.R. §§ 303.100 through 303.103. In addition, the Bank shall notify the Regional Director and the Commissioner in writing when it proposes to add any individual to the Bank's board of directors or employ any individual as a senior executive officer. The notification must be received at least 30 days before such addition or employment is intended to become effective and should include a description of the background and experience of the individual(s) to be added or employed.

#### **Strategic Plan**

16. (a) Within 90 days from the effective date of this ORDER, the Bank shall formulate and adopt a comprehensive business/strategic plan covering at least an operating period of three years. The plan required by this paragraph shall contain an assessment of the Bank's current financial condition and market area, and a description of the operating assumptions that form the basis for major projected income and expense components.

(b) The written strategic plan shall address short-

term goals and operating plans to comply with the terms of this ORDER and correct all regulatory criticisms; intermediate goals and project plans; and long-range goals and project plans. In addition, the plan shall address, at a minimum:

(i) Strategies for pricing policies and asset/liability management;

(ii) The anticipated average maturity and average yield on loans and securities; the average maturity and average cost of deposits; the level of earning assets as a percentage of total assets; and the ratio of net interest income to average earning assets;

(iii) The dollar volume of total loans, total investment securities, and total deposits;

(iv) Plans for sustaining adequate liquidity, including back-up lines of credit to meet any unanticipated deposit withdrawals;

(v) Goals for reducing problem loans;

(vi) Plans for attracting and retaining qualified individuals to fill vacancies in the lending and accounting functions;

(vii) Financial goals, including pro forma statements for asset growth, capital adequacy, and earnings; and

(viii) Formulation of a mission statement and the development of a strategy to carry out that mission.

(c) The Bank shall submit the strategic plan to the Regional Director and the Commissioner for review and comment. Within 30 days of receipt of all such comments from the Regional Director and/or the Commissioner, 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 follow the strategic plan.

#### **Violations**

17. (a) Within 30 days from the effective date of this ORDER, the Bank shall take steps necessary, consistent with sound banking practices, to eliminate and/or correct all violations of laws, rules and regulations cited on pages 24 and 25 in the Report of Examination. In addition, within 30 days from the effective date of this ORDER, the Bank shall adopt and implement appropriate procedures to ensure future compliance with all applicable laws, rules and regulations.

(b) Within 30 days from the effective date of this ORDER, the Bank shall take steps necessary, consistent with sound banking practices, to eliminate and/or correct all contraventions of policy cited on pages 25 and 26 in the Report of Examination. In addition, within 30 days from the effective date of this ORDER, the Bank shall adopt and implement appropriate procedures to ensure future compliance with all

applicable policies.

## **EARNINGS**

### **Profit and Budget Plan**

18. (a) Within 60 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 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. The profit plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director and/or the Commissioner, the board of directors shall approve the profit plan which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank, its directors, officers, and employees shall fully implement the profit plan and any subsequently approved modification. 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 Insured 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) 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 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.

**LIQUIDITY, FUNDS MANAGEMENT, INTEREST RATE RISK & SENSITIVITY**

19. (a) Within 60 days from the effective date of this ORDER, the board of directors shall implement an asset/liability management policy that establishes a range for the Bank's net

non-core funding dependence ratio, as computed by the Uniform Bank Performance Report, and which ratio shall, within 180 days from the effective date of this ORDER, be reduced to not more than 45 percent; and within 365 days from the effective date of this ORDER, be reduced to not more than 40 percent. The policy shall require monthly measurement and reporting to the board on monthly sources and uses of liquid assets for a twelve-month period from the measurement date. The requirements of this paragraph shall not be construed as standards for future operations, and the Bank's net non-core funding dependence ratio shall be maintained at a level consistent with safe and sound banking practices.

(b) Further, within 60 days after the effective date of the ORDER, the Bank shall review, amend as necessary, adopt, and implement the Bank's written interest rate risk policy. At a minimum, the policy shall include guidelines for the following:

(i) Measures designed to control the nature and amount of interest rate risk the Bank takes, including those that specify risk limits and define lines of responsibilities and authority for managing risk;

(ii) A system for identifying and measuring interest rate risk, including a periodic calculation to measure interest rate risk exposure at various time horizons, and

establish target ratios;

(iii) Establish goals and strategies for reducing and managing the Bank's interest rate risk exposure;

(iv) A system for monitoring and reporting risk exposures; and

(v) A system of internal controls, review, and audit to ensure the integrity of the overall risk management process.

(c) Annually or more frequently thereafter, while this ORDER is in effect, the Bank shall review this plan for adequacy and, based upon the above criteria, shall make necessary revisions to the plan.

#### **Brokered Deposits**

20. Within 60 days from the effective date of this ORDER, the Bank shall submit a written plan for reducing the volume of brokered deposits to the Regional Director and the Commissioner. The plan shall detail the current composition of brokered deposits by maturity and explain the means by which such deposits will be paid. The Bank shall submit the plan to the Regional Director and the Commissioner for review and comment. Within 30 days of receipt of all such comments from the Regional Director and the Commissioner, 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 plan. 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.

#### **ASBD SELF-EXAMINATION PROGRAM**

21. During the life of this ORDER, the Bank shall continue to participate in the ASBD's monthly Self-Examination Program. The information contained in any reports issued in connection with such program shall be correct.

#### **PROGRESS REPORTS**

22. Within 30 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 Regional Director and the Commissioner detailing the form and manner of any actions taken, and the results thereof, to secure compliance with this ORDER.

#### **NOTICE TO SHAREHOLDERS**

23. Following the effective date of this ORDER, the Bank shall send to its shareholders a copy or description of this

ORDER: (1) in conjunction with the Bank's next shareholder communication; and (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 FDIC Accounting and Securities Disclosure Section, Washington, D.C. 20429, 550 17<sup>th</sup> Street, N.W, Washington, D. C. 20429 for review at least 20 days prior to dissemination to the Bank's shareholders. Any changes requested by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

This ORDER shall be effective upon its issuance by the FDIC.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, and any successors and assigns thereof.

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, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated: August 5, 2008.

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Thomas J. Dujenski  
Regional Director  
Dallas Region  
Federal Deposit Insurance  
Corporation