

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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In the Matter of	)	
	)	
POLK COUNTY BANK	)	ORDER TO CEASE AND DESIST
JOHNSTON, IOWA	)	
	)	FDIC-08-210b
	)	
(Insured State Nonmember Bank)	)	

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Polk County Bank, Johnston, Iowa ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law and regulation 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 October 17, 2008, 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 or violations of law or regulation, 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 and violations of law and regulation based on the findings of the May 27, 2008 FDIC Examination of Bank. 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 and violations of law and regulation:

A. Operating with excessive loan losses and an excessive level of adversely classified loans and other assets and delinquent loans;

B. Operating with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans and leases held;

C. Engaging in hazardous lending and lax collection practices, including, but not limited to:

1. extending and renewing credit without performing loan underwriting and credit analysis consistent with prudent banking practices;

2. failing to obtain proper loan documentation;
  3. failing to establish and enforce adequate loan repayment programs;
  4. extending and renewing credit without obtaining current and complete financial information; and
  5. failing to properly identify risk and assess the level of risk in problem loans;
- D. Operating with an excessive level of assets with credit data or collateral documentation deficiencies;
- E. Operating with inadequate operating earnings;
- F. Operating with inadequate liquidity in light of the Bank's asset and liability mix;
- G. Operating with an inadequate funds management policy;
- H. Violating laws and regulations, including:
1. Part 323 of the FDIC Rules and Regulations, 12 C.F.R. Part 323, relating to real estate appraisals;
  2. Part 365 of the FDIC Rules and Regulations, 12 C.F.R. Part 365, relating to real estate lending standards;
  3. Part 103 of the Treasury Department's Financial Record-keeping and Reporting of Currency and Foreign Transactions Regulation, 31 C.F.R. Part 103 §§ 18-38; and
  4. Part 326, Subpart B-Procedures for Monitoring Bank Secrecy Act Compliance, 12 C.F.R Part 326 §326.8;
- I. Operating in contravention of supervisory policy

statements and other guidance, including, but not limited to:

1. Appendix A of Part 364 of the FDIC Rules and Regulations - Interagency Guidelines Establishing Standards for Safety and Soundness;

2. Appendix A of Part 365 of the FDIC Rules and Regulations - Interagency Guidelines for Real Estate Lending Policies; and

3. Interagency Joint Guidance Entitled "Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices" dated December 12, 2006;

J. Operating with inadequate internal routines and controls; and

K. Operating with an inadequate audit program.

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

1. **Assessment of Management.**

(a) Within 60 days of the effective date of this ORDER, the board of directors shall analyze and assess ("Management Assessment") the Bank's management and staffing needs. At a minimum, the Management Assessment shall:

(i) appraise whether the Bank has qualified management, including a chief executive officer and the number and type of senior officers necessary to prudently operate the Bank given its size and complexity of operations;

(ii) evaluate each officer to determine whether those individuals have the ability, experience, and other qualifications required 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 and diversification, management effectiveness, earnings, liquidity, sensitivity to market risk, information technology, and Bank Secrecy Act/Anti-Money Laundering compliance; and

(iii) identify specific duties and responsibilities for each officer, including description of the lending or investment authority, if any; and

(iv) identify committees needed to provide guidance and oversight to active management.

(b) Within 90 days of the effective date of this ORDER, the board should provide a written report documenting the findings of the Management Assessment ("Management Report") to the Regional Director, or his/her delegate, of the FDIC's Kansas City Regional Office ("Regional Director") for review and comment. At a minimum, the Management Report shall:

(i) summarize the overall results of the Management Assessment, including findings, recommendations, and plans necessary to address identified deficiencies;

(ii) provide detailed commentary regarding the individual evaluations of each officer as required in paragraph 1(a)(ii) of this ORDER; and

(iii) include an organizational chart that designates lines of authority.

(c) Periodically, but no less frequently than annually, the board of directors shall reassess management on its ability to:

(i) comply with the requirements of this ORDER; all applicable State and Federal laws and regulations; regulatory policy statements and guidelines; 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 and diversification, earnings, management effectiveness, liquidity, sensitivity to market risks, information technology, and Bank Secrecy Act/Anti-Money Laundering compliance.

**2. Changes in Board of Directors or Senior Officers.**

The Bank shall notify the Regional Director in writing of any resignations or terminations of any members of its board of directors or any of its senior executive 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.

**3. Minimum Capital Requirements.**

(a) The Bank shall achieve and maintain the following minimum capital levels (as defined in Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325), after establishing an appropriate allowance for loan and lease losses:

(i) Tier 1 capital at least equal to eight (8.0) percent of total assets; and

(ii) Total risk-based capital at least equal to twelve (12.0) percent of total risk-weighted assets.

(b) 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) Within 30 days of the last day of each calendar quarter, the Bank shall determine, from its Reports of Condition and Income, its capital ratios for that calendar quarter. If any

capital measure falls below the established minimum, within 30 days of such required determination of capital ratios, the Bank shall submit a written plan to the Regional Director, describing the means and timing by which the Bank shall increase such ratio up to or in excess of the established minimum.

**4. Restriction on Dividends.**

The Bank shall not declare or pay any cash dividend, capital distribution, or earnings distribution without the prior written approval of the Regional Director.

**5. Charge-off of Adversely Classified Assets.**

(a) Within 30 days of 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" and 50 percent of all assets or portions of assets classified "Doubtful" in the May 27, 2008, FDIC Report of Examination ("Report of Examination") that have not been previously collected or charged off.

(b) Within 30 days of the receipt of any future report of examination by either the FDIC or the Iowa Division of Banking (collectively "Supervisory Authorities"), the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" and 50 percent of

all assets or portions of assets classified "Doubtful" in the report of examination that have not been previously collected or charged off.

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

**6. Reduction of Adversely Classified Assets.**

(a) Within 60 days of the effective date of this ORDER, the Bank shall develop a written plan to reduce the Bank's risk exposure in each asset or relationship in excess of \$100,000 classified "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. In developing the plans required 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) The plans required by this paragraph shall also include, but not be limited to, the following:

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

(ii) a requirement that monthly written progress reports be submitted to the board of directors; and

(iii) a requirement that the board of directors review the monthly progress reports and record a notation of the review in the minutes of the board.

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

(a) 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 "Substandard" or "Doubtful" in the Report of Examination 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) This paragraph 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, after thorough review, shall conclude and fully document in its minutes that:

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

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

(iii) an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended. The board's or committee's conclusions and approval shall be made a part of its minutes, with a copy retained in the borrower's credit file.

#### **8. Correction of Technical Exceptions.**

(a) Within 60 days of 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 file.

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

(c) The Bank shall document each technical exception that cannot be eliminated or corrected, and why, for review by the board of directors at its next monthly meeting. The board's review, discussion, and any action upon the uncorrected technical exceptions shall be recorded in the minutes of the board.

**9. Loan Policy.**

(a) Within 60 days of the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review the Bank's lending 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. The Bank's loan policy shall be amended to address the exceptions noted in the Report of Examination.

(b) The Bank shall promptly submit the revised loan policy to the Regional Director for review and comment. Within 30 days of receipt of any comments from the Regional Director, and after

due consideration of any recommended changes, the board of directors shall approve the revised loan policy, which approval shall be recorded in the minutes of the board. Thereafter, the Bank and its institution-affiliated parties shall implement and fully comply with the revised loan policy. Any subsequent modification of the loan policy shall be submitted to the Regional Director for review and comment and shall not be implemented without the prior written approval of the Regional Director.

**10. Implementation of Independent Loan Review Program.**

(a) Within 60 days of the effective date of this ORDER, the board shall develop a written program for independent loan review ("Loan Review Program") that will provide for periodic review of the Bank's loan portfolio and the identification and categorization of problem credits. At a minimum, the Loan Review Program 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) identification of trends affecting the quality of the loan portfolio, potential problem areas, and action plans to reduce the Bank's risk exposure;

(iii) assessment of the overall quality of the loan portfolio;

(iv) identification of credit and collateral documentation exceptions and an action plan to address the identified deficiencies;

(v) 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;

(vi) identification of loans that are not in conformance with the Bank's lending policies and an action plan to address the identified deficiencies;

(vii) identification of loans to directors, officers, principal shareholders, and their related interests; and

(viii) a mechanism for reporting periodically, but in no event less than quarterly, the information developed in subparagraphs (i) through (vii) above to the board of directors. The reports shall describe the action(s) taken by management with respect to problem credits. Such reports, as well as any actions taken by the board based upon such reports, shall be recorded in the minutes of the board of directors.

**11. Maintenance of Allowance for Loan & Lease Losses.**

(a) Within 30 days of the effective date of this ORDER, the board of directors shall make a provision which will (i) replenish the allowance for loan and lease losses ("Allowance") for the loans charged off as a result of the Report of Examination and this ORDER and (ii) reflect the potential for further losses in the remaining loans or leases classified "Substandard" and "Doubtful" in the Report of Examination, as well as all other loans and leases in its portfolio.

(b) The Bank shall maintain, through charges to current operating income, an appropriate Allowance. The appropriate level of the Allowance shall be determined in light of the volume of criticized loans, the current level of past due and nonperforming loans, past loan loss experience, evaluation of the potential for loan losses in the Bank's portfolio, current economic conditions, and any criticisms as contained in the Bank's most recent report of examination.

(c) The Bank shall conduct, at a minimum, a quarterly assessment of its Allowance and shall maintain a written record, for supervisory review, indicating the methodology used in determining the amount of the Allowance needed. Such reviews shall, at a minimum include the Federal Financial Institutions Examination Council's Instructions for the Reports of Condition and Income, the Interagency Statement of Policy on the Allowance

for Loan and Lease Losses, other applicable regulatory guidance that addresses the Allowance, and any analysis of the Bank's Allowance provided by the Supervisory Authorities.

(d) A deficiency in the Allowance 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 Report of Condition and Report of Income.

**12. Correction of Violations of Law and Contraventions of Policy and Guidelines.**

(a) Within 60 days of the effective date of this ORDER, the Bank shall:

(i) consistent with safe and sound banking practices, eliminate or correct all violations of law, rules, and regulations cited in the Report of Examination;

(ii) consistent with safe and sound banking practices, eliminate or correct all contraventions of regulatory policies or guidelines cited in the Report of Examination; and

(iii) adopt and implement appropriate procedures to ensure future compliance with all applicable laws, rules, regulations, and regulatory policies and guidelines.

(b) The Bank shall document each violation or contravention that cannot be eliminated or corrected, and why,

for review by the board of directors. The board's review, discussion, and any action taken with respect to the uncorrected violations or contraventions shall be recorded in the minutes of the board.

**13. Bank Secrecy Act and Anti-Money Laundering Program.**

(a) Within 60 days of the effective date of this ORDER, the board shall revise the Bank's Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) program to address deficiencies and violations set forth in the Report of Examination.

(b) The Bank's revised BSA and AML compliance programs shall ensure the Bank's future compliance with the BSA and related rules and regulations, including Part 103 of the Treasury Department's Financial Record-keeping and Reporting of Currency and Foreign Transactions Regulation, 31 C.F.R. Part 103 §§ 18-38; Part 326, Subpart B-Procedures for Monitoring Bank Secrecy Act Compliance, 12 C.F.R Part 326 §326.8; and Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353. At a minimum, the revised and enhanced compliance programs shall include the following:

(i) establishment and documentation of training on a regular and on-going basis for management and Institution personnel on all relevant aspects of laws, regulations, and Institution policies and procedures relating to the BSA and OFAC

compliance programs, with a specific concentration on the currency and monetary instruments reporting requirements;

(ii) procedures for the Institution's customer identification program and account opening procedures;

(iii) procedures regarding the identification and reporting of cash transactions;

(iv) procedures for transactions involving non-customers, including, but not limited to, wire transfer services, traveler's check services, and foreign exchange services; and

(v) independent annual testing for compliance with the BSA in accordance with the procedures described in section 326.8 of the FDIC Rules and Regulations, 12 C.F.R. § 326.8.

**14. Strategic Planning.**

(a) Within 90 days from the effective date of this ORDER, the Bank shall prepare a comprehensive written strategic plan covering an operating period of at least three years ("Strategic Plan"). The Strategic Plan shall:

(i) contain an assessment of the Bank's current financial condition, product lines, and market area, and a description of the operating assumptions that form the basis for major projected income and expense components;

(ii) 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 for achieving the goals and objectives set forth in the Strategic Plan; and

(iii) procedures for monitoring performance under the Strategic Plan.

(b) The Bank shall promptly submit the Strategic Plan to the Regional Director for review and comment. Within 30 days of receipt of any comments from the Regional Director, and after due consideration of any recommended changes, the board of directors shall approve the Strategic Plan, which approval shall be recorded in the minutes of the board of directors.

Thereafter, the Bank and its institution-affiliated parties shall implement the Strategic Plan. Any subsequent modification of the Strategic Plan shall be submitted to the Regional Director for review and comment and shall not be implemented without the prior written approval of the Regional Director.

**15. Internal and External Audits.**

Within 60 days of the effective date of this ORDER, the Bank shall develop internal and external audit programs to protect the integrity of the Bank's operational and accounting systems and ensure compliance with Bank policies and procedures.

The programs shall be in a form and manner acceptable to the Regional Director and, at a minimum, shall conform to the Interagency Policy Statement on the Internal Audit Function and its Outsourcing, and the Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations. The programs shall provide procedures to test the validity and reliability of operating systems, procedural controls, and resulting records. In addition, the programs shall require that all reports of audit findings from the auditors be provided directly to the Bank's board of directors. The minutes of the board of directors shall reflect consideration of these reports and describe any discussion or action taken as a result thereof.

**16. Profit and Budget Plan.**

Within 60 days of 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 ("Profit Plan"). The Profit Plan shall include, at a minimum:

(a) specific goals to maintain appropriate provisions to the allowance for loan and lease losses;

(b) realistic and comprehensive budgets for all categories of income and expense items;

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

(d) 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;

(e) 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;

(f) recording the results of the budget review and any actions taken by the Bank as a result of the budget review in the minutes of the board of directors; and

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

**17. Liquidity and Funds Management.**

(a) Within 30 days from the effective date of this ORDER, the Bank shall review its liquidity and funds management policies and plans, and develop or amend each as necessary. Said policies should address the concerns detailed in the Report of Examination, and specifically how the Bank will increase its

liquid assets and reduce its reliance on brokered deposits and other non-stable funding sources for liquidity purposes. The Bank shall submit the policies and plans, and any future modifications, to the Regional Director for review and comment. Thereafter, the Bank shall implement and fully comply with the policies and plans.

**18. Brokered Deposits.**

(a) Upon the effective date of this ORDER and so long as this ORDER is in effect, the Bank shall not accept, increase, renew, or rollover its brokered deposits, as defined in section 337.6 of the FDIC Rules and Regulations, without the prior written approval of the Regional Director.

(b) Within 45 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 Regional Director. 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 Regional Director for review and comment.

(c) 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 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.

**19. Disclosure.**

The Bank shall send, or otherwise furnish, to its shareholders 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.

**20. Program for Monitoring Bank's Compliance with Order.**

Within 60 days of the effective date of this ORDER, the board of directors shall adopt and implement a program for monitoring the Bank's compliance with this ORDER.

**21. Progress Reports.**

On or before January 15, 2009, the Bank shall furnish a written progress report to the Regional Director and the Superintendent of the Iowa Division of Banking ("Superintendent"), using financial data as of December 31, 2008, detailing the form, manner, and results of any actions taken to secure compliance with this ORDER. Thereafter, the Bank shall furnish a written progress report within 20 days of any request by either the Regional Director or the Superintendent. The written progress reports shall provide cumulative detail of the Bank's progress toward achieving compliance with each provision of the ORDER, including at a minimum:

- (a) description of the identified weaknesses and deficiencies;
- (b) provision(s) of the ORDER pertaining to each weakness or deficiency;
- (c) actions taken or in-process for addressing each deficiency;
- (d) results of the corrective actions taken;
- (e) the Bank's status of compliance with each provision of the ORDER; and
- (f) appropriate supporting documentation.

This ORDER shall be effective on the date of issuance.

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 has been modified, terminated, suspended, or set aside by the FDIC.

Issued Pursuant to Delegated Authority.

Dated: October 27, 2008

By:

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Mark S. Moylan  
Deputy Regional Director  
Kansas City Regional Office