FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of DISCOVERY BANK SAN MARCOS, CALIFORNIA (INSURED STATE NONMEMBER BANK)	)	ORDER TO CEASE AND DESIST Docket FDIC-08-350b

Discovery Bank, San Marcos, 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 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 December 11, 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. The FDIC, 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 FDIC's Report of Examination ("ROE") dated August 25, 2008:

(a) operating with a large volume of poor quality loans;

(b) operating in such a manner as to produce operating losses;

(c) operating with significant construction and development loan concentrations; and

(d) operating with an elevated dependence on non-core funding sources.

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

1. The Bank shall continue to have and retain qualified management.

(a) Each member of management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank. Management shall include the following: (i) a chief executive officer with proven ability in managing a bank of comparable size, and experience in upgrading a low quality loan portfolio, improving earnings, and other matters needing particular attention; (ii) a chief financial officer with demonstrated ability in all financial areas including, but not limited to, accounting, regulatory reporting, budgeting and planning, management of the investment function, liquidity management, and interest rate risk management; and (iii) a senior lending officer with significant appropriate lending, collection, and loan supervision experience and experience in upgrading a low quality loan portfolio. Each member of management shall be provided appropriate written authority from the Bank's Board to implement the provisions of this ORDER.

(b) The qualifications of management shall be assessed on its ability to:

(i) comply with the requirements of this ORDER;

(ii) operate the Bank in a safe and sound manner;

(iii) comply with applicable laws and regulations; and

(iv) restore all aspects of the Bank to a safe and sound condition, including asset quality, capital adequacy, earnings, management effectiveness, liquidity, and sensitivity to market risk.

(c) During the life of this ORDER, the Bank shall notify the Regional Director of the FDIC's San Francisco Regional Office ("Regional Director") in writing when it proposes to add any individual to the Bank's Board 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 or individuals to be added or employed.

2. The Bank shall maintain an adequately funded allowance for loan and lease losses.

3. Within 10 days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets classified "Loss" in the ROE dated August 25, 2008 that have not been previously collected or charged off. Elimination of these assets through proceeds of other loans made by the Bank is not considered collection for the purpose of this paragraph.

4. Within 60 days from the effective date of this ORDER, the Bank shall:

(a) Formulate a written plan to reduce the Bank's risk exposure in adversely classified assets listed in the ROE;

(b) Develop and implement written action plans for all adversely classified loans greater than $500,000. Such action plans shall, at a minimum, 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;

(c) Perform due diligence on all lead banks from which the Bank has purchased loan participations; and

(d) Develop and implement procedures to ensure that the Bank performs due diligence on all lead banks from which the Bank purchases loan participations

5. Within 90 days from the effective date of this ORDER, the Bank shall develop an eighteen month plan to reduce loan concentration risks. The plan shall address and incorporate, where appropriate, the recommendations and guidance provided in the *Joint Guidance on Concentrations in Commercial Real Estate Lending – Sound Risk Management Practices*, dated December 12, 2006.

6. Within 90 days from the effective date of this ORDER, the Bank shall develop and implement a three-year written strategic plan, including specific objectives and timelines for improving earnings performance and capital levels. The plan will, at a minimum, include the following provisions:

(a) Short-term goals to comply with this ORDER and to correct all regulatory criticisms;

(b) Maintenance of a Tier 1 Leverage Capital ratio of no less than 10.0% until 12 months of profitability is achieved, and no less than 8.0% thereafter;

(c) Long-term goals for profitability, capital maintenance, growth, and dividend payments or restrictions; and

(d) Restriction of the payment of monthly fees to directors until the Bank returns to profitability.

7. Within 60 days from the effective date of this ORDER, the Bank shall develop a plan to increase the volume of the Bank's traditional liquid assets and reduce the Bank's reliance on volatile funding sources. The plan will, at a minimum, address the following:

(a) Establishment and compliance with minimum levels for primary liquid assets such as Federal funds sold, marketable securities, and interest-bearing assets; and

(b) Compliance with the brokered deposit restrictions contained in section 337.6 of the FDIC's Rules and Regulations, 12 C.F.R. § 337.6.

8. On or before April 30, 2009 and within 30 days of the end of each quarter thereafter, the Bank shall furnish written progress reports to the Regional Director 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 has released the Bank in writing from making further reports.

9. Following the effective date of this ORDER, the Bank shall send to its shareholder(s) 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. 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.

Pursuant to delegated authority.

Dated at San Francisco, California, this 23rd day of December, 2008.

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