

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

SAN FRANCISCO, CALIFORNIA

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	)	
In the Matter of	)	
	)	
FIRST VIETNAMESE AMERICAN BANK	)	ORDER TO
WESTMINSTER, CALIFORNIA	)	CEASE AND DESIST
	)	
(INSURED STATE NONMEMBER BANK)	)	Docket FDIC-08-365b
	)	
_____	)	

First Vietnamese American Bank, Westminster, California ("Bank"), having been advised of its right to a Notice of Change 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 January 21, 2009, 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”) dated May 27, 2008:

- (a) operating with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;
- (b) operating with a board of directors which has failed to provide adequate supervision over and direction to the active management of the Bank;
- (c) operating with inadequate capital in relation to the kind and quality of assets held by the Bank;
- (d) operating with a large volume of poor quality loans;
- (e) engaging in unsatisfactory lending and collection practices;
- (f) operating in such a manner as to produce operating losses;
- (g) operating with inadequate provisions for liquidity;
- (h) operating with inadequate internal routine and controls policies;
- (i) operating with inadequate policies and practices regarding sensitivity to market risk;

(j) operating in non-compliance with the FDIC's October 20, 2004, Order granting approval for deposit insurance;

(k) operating in violation of the following laws and regulations:

- (1) Section 103.27 of the Rules and Regulations of the Department of the Treasury, 31 C.F.R. § 103.27; as more fully set forth in the ROE dated May 27, 2008;
- (2) Part 323 of the FDIC's Rules and Regulations, 12 C.F.R. Part 323, as more fully set forth in the ROE dated May 27, 2008;
- (3) Part 326 of the FDIC's Rules and Regulations, 12 C.F.R. Part 326, as more fully set forth in the ROE dated May 27, 2008; and
- (4) Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353, as more fully set forth in the ROE dated May 27, 2008;

(l) operating in contravention of Appendix A to Part 364 of the FDIC's Rules and Regulations, 12 C.F.R. Part 364 entitled Interagency Guidelines Establishing Standards for Safety and Soundness, as more fully set forth in the ROE dated May 27, 2008; and

(m) operating in contravention of the Joint Policy Statement on Interest Rate Risk as more fully set forth on in the ROE dated May 27, 2008;.

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 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

a chief executive officer with proven ability in managing a Bank of comparable size, and experience in developing sound credit administration and credit underwriting practices and procedures, improving earnings, and other matters needing particular attention. Management shall also include a senior lending officer with significant appropriate lending, collection, and loan supervision experience. In addition, management shall include a chief financial officer with appropriate accounting and bank operations skills. Each member of management shall be provided appropriate written authority from the Bank's board of directors 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) Pursuant to the requirements of section 32 of the Federal Deposit

Insurance Act, the Bank shall notify the Regional Director of the FDIC's San Francisco Regional Office ("Regional Director") and the Commissioner ("Commissioner"), of CDFI 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 or individuals to be added or employed.

2. Within 45 days from the effective date of this ORDER, the board of directors shall document its full participation in the affairs of the Bank. This participation shall include meetings to be held no less frequently than monthly at which, at a minimum, the following areas shall be reviewed and approved: reports of income and expenses; new, overdue, renewal, insider, charged-off, and recovered loans; investment activity; operating policies (on an annual basis); Bank Secrecy Act compliance; audit reports (as applicable); and individual committee actions (as applicable). Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

3. (a) Within 90 days from the effective date of this ORDER, the Bank shall develop and adopt a capital plan to:

(i) maintain Tier 1 capital in such an amount as to equal or exceed ten and one-half (10-1/2) percent of the Bank's total risk-weighted assets; and

(ii) meet and thereafter maintain the minimum risk-based capital requirements as described in the FDIC's Statement of Policy on Risk-Based Capital contained in Appendix A to Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325, Appendix A. The capital plan shall be in a form and manner acceptable to the Regional Director and Commissioner as determined at subsequent examinations.

(b) For the purposes of this ORDER, the terms "Tier 1 capital" and "total risk-weighted assets" shall have, the meanings ascribed to them in Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. §§ 325.2(v) and 325.2(s).

4. 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 adversely classified assets listed in the ROE. In developing the plan mandated by this paragraph, the Bank 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. The Bank shall submit the plan to the Regional Director and Commissioner for approval.

5. The Bank shall maintain its allowance for loan and lease losses by an amount sufficient to adequately address the risk in the Bank's loan portfolio as determined by the Regional Director and the Commissioner at subsequent examinations and/or visitations.

Additionally, within 45 days from the effective date of this ORDER, the board of directors shall develop or revise, adopt and implement a comprehensive policy for determining the adequacy of the allowance for loan and lease losses. For the purpose of this determination, the adequacy of the reserve shall be determined after the charge-off of all loans or other items classified "Loss." The policy shall provide for a review of the allowance at least once each calendar quarter in order that the findings of the board of directors with respect to the loan and lease loss allowance may be properly reported in the quarterly Reports of Condition and Income. The review should focus on the results of the Bank's internal loan review, loan loss experience, trends of delinquent and non-accrual loans, an estimate of potential loss exposure of significant credits, concentrations of credit, and present and prospective economic conditions. A deficiency in the allowance shall be remedied in the calendar quarter it is discovered, prior to submitting the Report of Condition, by a charge to current operating earnings. The minutes of the board of directors meeting at which such review is undertaken shall indicate the results of the review. Upon completion of the review, the Bank shall increase and maintain its allowance for loan and lease losses consistent with the allowance for loan and lease loss policy established. Such policy

and its implementation shall be satisfactory to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

6. Within 90 days of the effective date of this ORDER, the Bank shall develop and submit to the Regional Director and the Commissioner a written three-year strategic plan, including a written profit plan. Such plan shall include specific goals for the dollar volume of total loans, total investment securities, and total deposits as of December 31, 2009 through December 31, 2011. This plan shall be forwarded to the Regional Director and the Commissioner for review and comment and shall address, at a minimum, the following:

(a) goals and strategies for improving and sustaining the earnings of the Bank, including:

(i) an identification of the major areas in, and means by which, the board of directors will seek to improve the Bank's operating performance;

(ii) realistic and comprehensive budgets;

(iii) a budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections; and

(iv) a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(b) coordination of the Bank's loan, investment, and operating policies, and budget and profit planning, with the funds management policy.

7. Within 90 days from the effective date of this ORDER, the Bank shall adopt and implement a policy for the operation of the Bank in such a manner as to provide adequate internal routine and control policies consistent with safe and sound banking practices. Such

policy and its implementation shall be satisfactory to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

8. 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 on a monthly basis. 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 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, all applicable rules and regulations related to the BSA, and the reporting of suspicious transactions required to be reported pursuant to Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353. The independent testing shall be conducted on an annual basis in compliance with the procedures described in the FDIC's "Guidelines for Monitoring Bank Secrecy Act Compliance." The testing, at a minimum, shall include the following:

(i) a test of the Bank's internal procedures for monitoring the BSA;

(ii) a sampling of large currency transactions followed by a review of the Currency Transaction Report filings;

(iii) a test of the validity and reasonableness of the customer exemptions granted by the Bank;

(iv) a test of the Bank's suspicious activity monitoring and reporting systems;

(v) a test of the Bank's recordkeeping system for compliance with the BSA; and

(vi) documentation of the scope of the testing procedures performed and the findings of the testing.

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 of Directors.

(c) Ensure that the Bank's BSA compliance program is managed by a qualified officer who shall have responsibility for all BSA compliance and related matters, including, without limitation;

(i) the identification of timely, accurate and complete reporting to law enforcement and supervisory authorities of unusual or suspicious activity or known or suspected criminal activity perpetrated against or involving the Bank; and

(ii) monitoring the Bank's compliance and ensuring that full and complete corrective action is taken with respect to previously identified violations and deficiencies.

(d) Provide and document training by competent staff and/or independent contractors of all appropriate personnel, including, without limitation, 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. The Bank shall also provide training regarding the essential elements of the BSA for all board members, which training shall be updated periodically.

9. 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.

10. Within 90 days of the effective date of this ORDER, the Bank shall revise, adopt, and implement its BSA Policy to include provisions which implement the BSA-related requirements of this ORDER. The Bank's Board of Directors 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.

11. Within 120 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law, as more fully set forth in the ROE dated May 27, 2008. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable laws and regulations.

12. Within 90 days from the effective date of this ORDER, the Bank shall revise, adopt and fully implement a written liquidity and funds management policy. The Bank shall develop a plan to reduce the dependence on potentially volatile liabilities, while maintaining prudent levels of liquid assets to total assets. Any exceptions to Board-approved policy limits or ratios should be documented and approved, with specific action plans noted to bring the exceptions back within policy requirements. In addition, the Bank shall revise, adopt, and implement a liquidity contingency plan by: identifying potential stress events and specific feasible plans of actions, including possible loans sales; establishing warning indicators that are monitored daily which would trigger implementation of the plan; and developing crisis lines of

authority including delegated responsibilities and Board notification. The revised liquidity and funds management policy, and liquidity contingency plan, and their 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.

13. Within 90 days from the effective date of this ORDER, the Bank shall improve policies and practices for managing and controlling interest rate risk exposure. The Bank shall improve its interest rate risk simulation analysis, conduct an independent review of the interest rate risk management process and back testing, and periodically and accurately report interest rate risk monitoring results to the Board. In addition, the Bank shall implement procedures to adequately comply with the 1996 Joint Agency Policy Statement on Interest Rate Risk. The revised policies and practices for managing and controlling interest rate risk exposure, and their 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.

14. Within 120 days from the effective date of this ORDER, the Bank shall improve its risk management program over the information technology function. 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 improvements shall be achieved through the following actions:

(a) improving Board oversight and monitoring of information technology operations. This includes reviewing and approving IT policies and procedures, IT audits, and disaster recovery test results;

(b) improving the IT Steering Committee's oversight of strategic and operational functions in the IT area. The IT Steering Committee shall meet at least monthly, and adequate documentation of the meetings shall be maintained through written minutes;

(c) appointing a qualified Information Security Officer to oversee the daily IT activities, as required by Part 364, Appendix B, of the FDIC Rules and Regulations;

(d) implementing procedures to comply with Part 364, Appendix B, of the FDIC's Rules and Regulations, which requires the development, implementation, and maintenance of an information security program;

(e) improving the risk assessment process to more appropriately risk rate operational functions and to better document mitigating controls. The risk assessment should be formally discussed and documented in the IT Steering Committee or Board meeting minutes;

(f) improving the IT audit program through increased Audit Committee oversight and tracking of IT audit and examination findings. In addition, the Audit Committee shall ensure that audit and examination findings are appropriately addressed and corrected;

(g) improving the Bank's vendor management program by implementing policies and procedures to ensure that adequate due diligence is performed prior to entering into new products, services, or contracts. In addition, the vendor management program should be strengthened by the identification and risk assessment of critical vendors.

15. Within 90 days from the effective date of this Order, the Bank shall improve security and controls over the "e-Com" and "e-Corp" electronic banking applications. The Board shall also establish a process to ensure those employees' access privileges and password requirements for these applications are periodically reviewed and evaluated.

16. Within 90 days from the effective date of this Order, the Bank shall implement stronger controls and safeguards over electronic funds transfer (EFT) activities. Specifically, the Board shall periodically review and approve employee EFT authorizations by type and dollar amount and implement stronger controls over EFT administrator activities.

17. 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.

18. 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 and the CDFI. 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 29<sup>th</sup> day of January, 2009.

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

William S. Haraf  
Commissioner  
California Department of Financial Institutions

By:

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Craig A. Carlson  
Senior Deputy Commissioner and  
Chief Examiner