FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of **THE RIVERBANK** **WYOMING, MINNESOTA** **(Insured State Nonmember Bank)**	)))))))))	**ORDER TO CEASE AND DESIST** **FDIC-08-389b**

The RiverBank, Wyoming, Minnesota ("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 March 5, 2009, whereby solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices, 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 or unsound banking practices:

A.   Operating with a board of directors that has failed to provide adequate supervision over and direction to the management of the Bank.

B.   Operating with an inadequate level of capital protection for the kind and quality of assets held and/or appropriate to the risk inherent in the activities engaged in by the Bank.

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

D.   Engaging in hazardous lending and lax collection practices.

E. Operating with an excessive level of adversely classified loans or assets.

F. Operating with inadequate liquidity in light of the Bank’s asset and liability mix.

G. Operating with an inadequate risk rating and loan review system.

H. Operating with inadequate policies to monitor and control asset growth.

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

1. Minimum Capital Requirements.

(a) The Bank shall maintain a sufficient level of capital for a Total Risk-Based Capital Ratio of not less than 11.5 percent and a Tier 1 Leverage Capital Ratio of not less than 8 percent. Within 30 days from the last day of each calendar quarter the Bank shall determine its capital ratios for that calendar quarter, based on its Call Report.

(b) If its capital ratios are less than the minimum requirements, within 30 days from said required determination, the Bank shall submit a written plan to the Regional Director and the Deputy Commissioner, describing the means and timing by which the Bank shall increase such capital ratios up to or in excess of the minimum requirements. Within 30 days of receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the board of directors shall approve the written plan, which approval shall be recorded in the board meeting minutes. Thereafter, the Bank shall implement and fully comply with the written plan.

2. Dividend Restriction.

While this ORDER is in effect, the Bank shall not declare or pay any cash dividends without the prior written approval of the Regional Director of the FDIC.

3. Concentrations of Credit.

(a) Within 60 days from the effective date of this ORDER, the Bank shall develop and submit a written plan to the Supervisory Authorities for systematically reducing and monitoring the Bank's portfolio of loans, securities, or other extensions of credit advanced or committed, directly or indirectly, to or for the benefit of any borrowers (the "concentration plan") as listed in the Concentrations section of the Report of Examination, to an amount which is commensurate with the Bank’s business strategy, management expertise, size, and location. At a minimum, the concentration plan shall include:

(i) projected dollar levels and percent of capital to which the Bank shall reduce each 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 Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the concentration plan which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank shall implement and fully comply with the concentration plan.

4. <u>Reduction of Adversely Classified Assets</u>.

(a) Within 30 days from the effective date of this ORDER, the Bank shall develop and complete a written plan to reduce the Bank’s risk exposure in each asset in excess of $100,000 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 Supervisory Authorities. 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 dates 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) Upon completion, the Bank shall submit the plan to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director, 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.

5. Restrictions on Advances to Adversely Classified Borrowers.

(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 "Substandard" 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) Paragraph 5(a) of this provision 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, who shall fully document in its minutes that:

(i) the failure of the Bank 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, with an explanatory statement of why the Bank’s position would improve;

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

6. Implementation of Independent Loan Review Program.

(a) Within 45 days of the effective date of this ORDER, the board shall develop a 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) 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) identification of trends affecting the quality of the loan portfolio, potential problem areas, and action plans to reduce the Bank’s risk exposure;

(iv) assessment of the overall quality of the loan portfolio; and

(v) a mechanism for reporting periodically, but in no event less than quarterly, the information developed in (i) through (iv) above to the board of directors. The report should also describe the action(s) taken by management with respect to problem credits.

(b) The Bank shall submit the program to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director and after due consideration of any recommended changes, the Bank shall approve the program, which approval shall be recorded in the minutes of the board of directors meeting. Thereafter, the Bank shall implement and fully comply with the program.

(c) Upon implementation, a copy of each report shall be submitted to the board of directors, 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.

7. <u>Implementation of Loan Policy</u>.

(a) Within 60 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 address the criticisms listed in the Report of Examination.

(b) The Bank shall submit the revised policy to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director and after due consideration of any recommended changes, the Bank shall approve the policy, with its approval recorded in the minutes of the board of directors meeting. Thereafter, the Bank shall implement and fully comply with the policy.

8. <u>Maintenance of Allowance for Loan and Lease Losses</u>.

(a) Within 10 days from the effective date of this ORDER, the board shall establish a comprehensive policy and methodology for determining the ALLL. The policy shall provide for a review of the ALLL at least once each calendar quarter. Said review should be completed at least 10 days prior to the end of each quarter in order that the findings of the board may be properly reported in the Bank's Call Reports. Such reviews shall, at a minimum, be made in accordance with the Call Report Instructions, the Interagency Statement of Policy on the Allowance for Loan and Lease Losses, other applicable regulatory guidance that addresses the appropriateness of the Bank's ALLL, and any analysis of the Bank's ALLL provided by either of the Supervisory Authorities.

(b) A deficiency in the Bank's ALLL 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 Call Report. The board of directors shall thereafter maintain an appropriate ALLL.

(c) The Bank shall submit the policy and ALLL methodology to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the policy, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank shall implement and fully comply with the policy.

9. <u>Assessment of Qualified Management</u>.

(a) Within 15 days from the effective date of this ORDER, the board of directors shall engage an independent third party acceptable to the Supervisory Authorities and that possesses appropriate expertise and qualifications to analyze and assess the performance and need for “executive officers,” as defined in section 215.2(e) of Regulation O, 12 C.F.R. § 215.2(e).

(b) The Bank shall provide the Supervisory Authorities with a copy of the proposed engagement letter or contract with the third party for review and comment by the Regional Director before it is executed.

(c) The engagement shall require that the analysis and assessment shall be summarized in a written report to the board of directors (“Management Report”).

(d) Within 30 days of receipt of the Management Report, the board of directors shall 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 board of directors or an outside consultant reporting to the 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.

(e) Within 30 days of receipt of the Management Report, the board of directors 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 Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Regional Director 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. 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 Supervisory Authorities, 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 “executive officers”, as defined in section 215.2(e) of Regulation O, 12 C.F.R. § 215.2(e), 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 executive officer;

(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.

10. Changes in Board of Directors and/or Senior Officers.

The Bank shall notify the Supervisory Authorities in writing of any resignations and/or terminations of any members of its board of directors and/or any of its senior officer(s) 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.

11. Program for Monitoring Bank's Compliance with Order.

Within 30 days from the effective date of this ORDER, the board of directors shall adopt and implement a program that will provide for monitoring of the Bank's compliance with this ORDER.

12. <u>Evaluation of Performance and Revision of Business and/or Strategic Plan and Profit and Budget Plan</u>.

(a) While this ORDER is in effect, the Bank shall have a Business and/or Strategic Plan, and a Profit and/or Budget Plan.

(b) The strategic plan required by this ORDER shall be revised and submitted to the Supervisory Authorities for review and comment 30 days after the end of each calendar year for which this ORDER is in effect. 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 revised plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement the revised plan.

(c) Within 30 days from the end of each calendar quarter following the effective date of this ORDER, the Bank's board of directors shall evaluate the Bank's performance in relation to the strategic plan and the profit plan required by this paragraph and record the results of the evaluation, and any actions taken by the Bank, in the minutes of the meeting of the board of directors during which such evaluation is undertaken. In the event the board of directors determines that the strategic plan and/or the profit plan should be revised in any manner, the plans shall be revised and submitted to the Supervisory Authorities for review and comment within 60 days after the end of such quarter. 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 revised plans, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement the revised plans.

13. Funds Management Policies and Plans.

(a) Within 60 days from the effective date of this ORDER, the Bank shall review its written funds management policies and plans, and amend each as necessary. The Bank shall submit the policies and plans, and any future modifications, to the Supervisory Authorities for review and comment. 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 revised policies and plans, 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 policies and plans.

(b) In conducting its review of the funds management policies and plans, the policies and plan shall:

(i) provide a statement of the Bank’s long-term and short-term liquidity needs and plans for insuring that such needs are met;

(ii) establish target liquidity and dependency ratios and/or parameters; and

(iii) provide for a periodic calculation to measure the liquidity posture. Review performance with established liquidity ratio target. Review compliance with required legal reserves.

14. Disclosure of Order to Shareholders.

Following the effective date of this ORDER, the Bank shall provide to its shareholders or otherwise furnish 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.

15. <u>Progress Reports Detailing Compliance with ORDER</u>.

(a) 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 Supervisory Authorities detailing the form, manner, and results of any actions taken to secure compliance with this ORDER. Such 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:

(i) description of the identified weaknesses and deficiencies;

(ii) provision(s) of the ORDER pertaining to each weakness or deficiency;

(iii) actions taken or in-process for addressing each deficiency;

(iv) results of the corrective actions taken;

(v) the Bank's status of compliance with each provision of the ORDER; and

(vi) appropriate supporting documentation.

(b) Progress reports may be discontinued when the Regional Director has, in writing, released the Bank from making additional reports.

MISCELLANEOUS

The provisions of this ORDER shall not bar, estop or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

Nothing herein shall prevent the FDIC from conducting on-site reviews and or examinations of the Bank, its affiliates, agents servicers, and other institution-affiliated parties at any time to monitor compliance with this ORDER.

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:

By:

/s/
Mark S. Moylan
Deputy Regional Director
Kansas City Regional Office