FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

CALIFORNIA DEPARTMENT OF FINANCIAL INSTITUTIONS

SAN FRANCISCO, CALIFORNIA

In the Matter of	
	ORDER TO CEASE AND DESIST
INDEPENDENCE BANK NEWPORT BEACH, CALIFORNIA	FDIC-09-162b
(INSURED STATE NONMEMBER BANK)	

Independence Bank, Newport Beach, 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 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 April 24, 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 ("Joint ROE") dated November 17, 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 that 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 an inadequate loan valuation reserve;

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

(f) operating in such a manner as to produce low earnings;

(g) operating with inadequate provisions for liquidity; and

(h) operating in contravention of the Interagency Policy Statement on the Allowance for Loan and Lease Losses dated December 13, 2006.

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 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 credit officer with significant appropriate lending, collection, and loan supervision experience and experience in upgrading a low quality loan portfolio; and (iii) 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. 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”) and the Commissioner of the CDFI ("Commissioner") 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. Within 30 days from the effective date of this ORDER, the Bank's Board shall increase its participation in the affairs of the Bank, assuming full responsibility for the approval of sound policies and objectives and for the supervision of all of the Bank's activities, consistent with the role and expertise commonly expected for directors of banks of comparable size. 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; liquidity and funds management; operating policies; and individual committee actions. The Bank's Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

3. (a) Within 120 days from the effective date of this ORDER, the Bank shall increase the Bank's Tier 1 Leverage Capital ratio equal to or greater than 9 percent and the Bank's Total Risk-Based Capital ratio equal to or greater than 11 percent. These ratios shall be maintained at or above these levels throughout the life of this ORDER.

(b) Within 90 days from the effective date of this ORDER, the Bank shall develop and adopt a plan to meet and thereafter maintain the above-referenced 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 Plan shall be in a form and manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

(c) The level of Tier 1 capital to be maintained during the life of this ORDER pursuant to Subparagraph 3(a) shall be in addition to a fully funded allowance for loan and lease losses, the adequacy of which shall be satisfactory to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

(d) Any increase in Tier 1 capital necessary to meet the requirements of Subparagraph 3(a) of this ORDER may be accomplished by the following:

(i) the sale of common stock; or

(ii) the sale of noncumulative perpetual preferred stock; or

(iii) any other means acceptable to the Regional Director and the Commissioner; or

(iv) any combination of the above means.

Any increase in Tier 1 capital necessary to meet the requirements of Subparagraph 3(a) of this ORDER may not be accomplished through a deduction from the Bank's allowance for loan and lease losses.

(e) If all or part of the increase in Tier 1 capital required by Subparagraph 3(a) of this ORDER is accomplished by the sale of new securities, the Bank’s Board shall forthwith take all necessary steps to 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 all applicable State and Federal securities laws, including without limitation, Division 1, Chapter 5, Article 6 (commencing with Section 690) of the California Financial Code. Prior to the implementation of the plan and, in any event, not less than 15 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 FDIC, Registration and Disclosure Unit, Washington, D.C. 20429, and the CDFI for review and authorization. Any changes requested to be made in the plan or materials by the FDIC or the Commissioner shall be made prior to their dissemination. If the increase in Tier 1 capital is 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 interest rate and convertibility factor, shall be presented to the Regional Director and the Commissioner for prior approval.

(f) In complying with the provisions of Subparagraph 3(e) of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities, a written notice of any planned or existing development or other changes that 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 10 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 the purposes of this ORDER, the terms "Tier 1 Capital" and "Total Risk-Based Capital" 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(y).

4. Within 60 days from the effective date of this ORDER, the Bank shall develop, adopt, and implement a comprehensive policy for determining the appropriateness of the

allowance for loan and lease losses. The policy shall include requirements for complying with the standards and guidelines in the 2001 Policy Statement on the Allowance for Loan and Lease Loss Methodology and Documentation for Banks and Savings and Loans dated July 2, 2001, and the Interagency Policy Statement on the Allowance for Loan and Lease Losses dated December 13, 2006.

5. (a) Within 30 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 Joint ROE dated November 17, 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.

(b) Within 60 days from the effective date of this ORDER, the Bank shall develop written asset disposition plans for each classified asset greater than $500,000. The plans shall be reviewed and approved by the Bank’s Board and acceptable to the Regional Director and the Commissioner as determined at subsequent examinations.

(c) Within 60 days from the effective date of this ORDER, the Bank shall develop a written plan to reduce the level of classifications. The plan shall be acceptable to the Regional Director and the Commissioner as determined at subsequent examinations.

6. Within 60 days from the effective date of this ORDER, the Bank shall revise, adopt, and implement written lending and collection policies to provide effective guidance and control over the Bank's lending function. In addition, the Bank shall obtain adequate and current documentation for all loans in the Bank's loan portfolio. Such policies 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.

7. Within 60 days from the effective date of this ORDER, the Bank shall develop a written plan, approved by its Board and acceptable to the Regional Director and the Commissioner, for systematically reducing the amount of loans or other extensions of credit advanced, directly or indirectly, to or for the benefit of, any borrowers in the Commercial Real Estate ("CRE") Concentrations, as more fully set forth in the Joint ROE dated November 17, 2008. No new loans or other extensions of credit shall be granted to, or for the benefit of, any borrower in the CRE Concentrations with the exception of loans or extensions of credit to individuals that are for first lien single family residential real estate financing or for household, family, or other consumer expenditures and which have received the prior written approval of the Bank's Board as reflected in its recorded minutes and are otherwise in conformance with all laws and regulations.

8. 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. Such plan shall include specific goals for the dollar volume of total loans, total investment securities, and total deposits for December 31, 2009, December 31, 2010, and December 31, 2011. For each time frame, the plan will also specify 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. The plan shall be in a form and manner acceptable to the Director and the Commissioner as determined at subsequent examinations and/or visitations.

9. Within 60 days from the effective date of this ORDER, the Bank shall formulate and implement a written profit plan. 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 Bank's Board 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.

10. Within 60 days from the effective date of this ORDER, the Bank shall develop or revise, adopt, and implement a written liquidity and funds management policy. Such 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.

11. The Bank shall not pay cash dividends without the prior written consent of the Regional Director and the Commissioner.

12. During the life of this ORDER, the Bank shall not establish any new branches or other offices of the Bank without the prior written consent of the Regional Director and the Commissioner.

13. (a) During the life of this ORDER, the Bank shall not solicit, retain, or rollover brokered deposits unless it has applied for and been granted a waiver of this prohibition

by the FDIC in accordance with the provisions of Section 337.6 of the FDIC's Rules and Regulations.

(b) Within 60 days of the effective date of this ORDER, the Bank's Board shall develop a plan to reduce the Bank's reliance on non-core deposits and wholesale funding sources to a level acceptable to the Regional Director and the Commissioner.

14. 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 Reports of Condition and 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.

15. 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 24th day of April, 2009.

/s/
J. George Doerr
Deputy Regional Director
Risk Management
Division of Supervision and Consumer Protection
San Francisco Region
Federal Deposit Insurance Corporation

/s/
William S. Haraf
Commissioner
California Department of Financial Institutions