



The FDIC and the State considered the matter and determined that they had reason to believe that the Bank had engaged in unsafe or unsound banking practices and had violated laws and/or regulations. The FDIC and the State, therefore, accepted the CONSENT AGREEMENT and issued the following:

**ORDER TO CEASE AND DESIST**

**IT IS ORDERED**, that the Bank, institution-affiliated parties, as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), of the Bank and its successors and assigns, cease and desist from the following unsafe or unsound banking practices and violations of laws and/or regulations:

1. Operating the Bank with an inadequate level of capital protection for the kind and quality of assets held by the Bank.
2. Operating the Bank with an excessive level of adversely classified loans or assets.
3. Operating with an inadequate allowance for loan and lease losses for the volume, type and quality of loans and leases held.
4. Engaging in hazardous lending and/or lax collection practices, including, but not limited to:
  - a. Renewing or extending credit without adequate and appropriate supporting documentation.
  - b. Failure to obtain proper loan documentation.
  - c. Failure to obtain adequate collateral.
  - d. Failure to establish and monitor collateral margins of secured borrowers.
  - e. Failure to establish and enforce adequate loan repayment programs.
  - f. Failure to obtain current and complete financial information.

5. Operating the Bank with inadequate written loan policies and procedures.
6. Creating concentrations of credit.
7. Operating the Bank with inadequate earnings to fund growth, support dividend payments and augment capital.
8. Operating the Bank with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits.
9. Operating the Bank in violation of applicable Federal and State laws and regulations.

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

**CAPITAL PLAN**

1. (a) Within 60 days after the effective date of this ORDER, the Bank shall submit a written capital plan to the Regional Director and the Commissioner to achieve and maintain its Tier 1 Leverage Capital ratio equal to or greater than 9 percent of the Bank's Average Total Assets and to achieve and maintain its Total Risk-Based Capital ratio equal to or greater than 12 percent of the Bank's Total Risk Weighted Assets.

(b) After the Regional Director and the Commissioner respond to the capital plan, the Bank's board of directors shall adopt the capital plan, including any modifications or amendments requested by the Regional Director and the Commissioner. Thereafter, the Bank shall immediately initiate measures detailed in the capital plan to the extent such measures have not previously been initiated, to effect compliance with the plan within 30 days after the Regional Director and the Commissioner respond to the capital plan.

(c) Such increase in Tier 1 Capital and any increase in Tier 1 Capital necessary to meet the capital ratios required by this ORDER may be accomplished by:

- (1) The sale of securities in the form of common stock; or
- (2) The direct contribution of cash subsequent to March 30, 2009, by the directors and/or shareholders of the Bank or by the Bank's holding company; or
- (3) Receipt of an income tax refund or the capitalization subsequent to March 30, 2009, of a bona fide tax refund certified as being accurate by a certified public accounting firm; or
- (4) Any other method approved by the Regional Director and the Commissioner.

(d) If any such capital ratios are less than required by the ORDER, as determined as of the date of any Report of Condition and Income or at an examination by the FDIC or the State, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director or the Commissioner, present to the Regional Director and the Commissioner a new capital plan to increase the Bank's Tier 1 Capital of the Bank or to take such other measures to bring all the capital ratios to the percentages required by this ORDER. After the Regional Director and the Commissioner respond to the new capital plan, the Bank's board of directors shall adopt the new capital plan, including any modifications or amendments requested by the Regional Director and the Commissioner.

(e) Thereafter, the Bank shall immediately initiate measures detailed in the plan, to the extent such measures have not previously been initiated, to increase its Tier 1 Capital by an amount sufficient to bring all the Bank's capital ratios to the percentages required by this

ORDER within 30 days after the Regional Director and the Commissioner respond to the new capital plan.

(f) If all or part of the increase in Tier 1 Capital required by this ORDER is to be accomplished by the sale of new securities, the Bank's board of directors shall adopt and implement a plan for the sale of such additional securities, including soliciting proxies and the voting of any shares or proxies owned 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 Federal securities laws. Prior to the implementation of the plan, and in any event, not less than 20 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, Accounting and Securities Disclosure Section, Washington, D.C. 20429, for review. Any changes requested to be made in the plan or the materials by the FDIC shall be made prior to their dissemination. If the increase in Tier 1 Capital is to be provided by the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue shall be presented to the Regional Director and the Commissioner for prior approval.

(g) In complying with the provisions of this ORDER and until such time as any such public offering is terminated, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities written notice of any planned or existing development or other change which is materially different from the information reflected in any offering materials used in connection with the sale of the Bank securities. The written notice required by this paragraph

shall be furnished within 10 days after the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber who received or was tendered the information contained in the Bank's original offering materials.

(h) In addition, 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.

(i) For purposes of this ORDER, all terms relating to capital shall be calculated according to the methodology set forth in Part 325 of the FDIC's Rules and Regulations, 12 C.F.R. Part 325.

#### **DIVIDEND RESTRICTION**

2. As of the effective date of this ORDER, the Bank shall not declare or pay any cash dividend without the prior written consent of the Regional Director and the Commissioner.

#### **CLASSIFIED ASSETS - CHARGE-OFF AND PLAN FOR REDUCTION**

3. (a) Within 30 days after the effective date of this ORDER, the Bank shall, to the extent that it has not previously done so, eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss by the FDIC or the State as a result of its examination of the Bank as of March 30, 2009. Elimination or reduction of these assets through proceeds of loans made by the Bank shall not be considered "collection" for the purpose of this paragraph.

(b) Within 60 days after the effective date of this ORDER, the Bank shall submit a written plan to the Regional Director and the Commissioner to reduce the remaining

assets classified Doubtful and Substandard as of March 30, 2009. The plan shall address each asset so classified with a balance of \$250,000 or greater and provide the following:

- (1) The name under which the asset is carried on the books of the Bank;
- (2) Type of asset;
- (3) Actions to be taken in order to reduce the classified asset; and
- (4) Timeframes for accomplishing the proposed actions.

The plan shall also include, at a minimum:

- (1) Review the financial position of each such borrower, including the source of repayment, repayment ability, and alternate repayment sources; and
- (2) Evaluate the available collateral for each such credit, including possible actions to improve the Bank's collateral position.

In addition, the Bank's plan shall contain a schedule detailing the projected reduction of total classified assets on a quarterly basis. Further, the plan shall contain a provision requiring the submission of monthly progress reports to the Bank's board of directors and a provision mandating a review by the Bank's board of directors.

(c) The Bank shall present the plan to the Regional Director and the Commissioner for review. Within 30 days after the Regional Director's and the Commissioner's response, the plan, including any requested modifications or amendments, shall be adopted by the Bank's board of directors which approval shall be recorded in the minutes of the meeting of the Bank's board of directors. The Bank shall then immediately initiate measures detailed in the plan to the extent such measures have not been initiated.

(d) For purposes of the plan, the reduction of adversely classified assets as of March 30, 2009, shall be detailed using quarterly targets expressed as a percentage of the Bank's Tier 1 Capital plus the Bank's Allowance for Loan and Lease Losses and may be accomplished by:

- (1) Charge-off;
- (2) Collection;
- (3) Sufficient improvement in the quality of adversely classified assets so as to warrant removing any adverse classification, as determined by the FDIC or the State; or
- (4) Increase in the Bank's Tier 1 Capital.

(e) While this ORDER is in effect, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified Loss as determined at any future examination conducted by the FDIC or the State.

#### **ALLOWANCE FOR LOAN AND LEASE LOSSES**

4. Within 30 days after the effective date of this ORDER, the Bank must use Financial Accounting Standards Board Statements Numbers 5 and 114 for determining the Bank's allowance for loan and lease losses reserve adequacy. Provisions for loan losses must be based on the inherent risk in the Bank's loan portfolio. The directorate must document with written reasons any decision not to require provisions for loan losses in the board minutes.

#### **LOAN POLICY**

5. (a) Within 60 days after the effective date of this ORDER, and annually thereafter, the board of directors of the Bank shall review the Bank's loan policy and procedures

for effectiveness and, based upon this review, shall make all necessary revisions to the policy in order to strengthen the Bank's lending procedures and abate additional loan deterioration. The revised written loan policy shall be submitted to the Regional Director and the Commissioner for review and comment upon its completion.

(b) The initial revisions to the Bank's loan policy required by this paragraph, at a minimum, shall include provisions:

- (1) Establishing review and monitoring procedures to ensure that all lending personnel are adhering to established lending procedures and that the directorate is receiving timely and fully documented reports on loan activity, including any deviations from established policy;
- (2) Requiring that all extensions of credit originated or renewed by the Bank be supported by current credit information and collateral documentation, including lien searches and the perfection of security interests; have a defined and stated purpose; and have a predetermined and realistic repayment source and schedule. Credit information and collateral documentation shall include current financial information, profit and loss statements or copies of tax returns, and cash flow projections, and shall be maintained throughout the term of the loan;
- (3) Requiring loan committee review and monitoring of the status of repayment and collection of overdue and maturing loans, as well as all loans classified "Substandard" in the Report of Examination;

- (4) Requiring the establishment and maintenance of a loan grading system and internal loan watch list;
- (5) Requiring a written plan to lessen the risk position in each line of credit identified as a problem credit on the Bank's internal loan watch list;
- (6) Prohibiting the capitalization of interest or loan-related expenses unless the Bank's board of directors formally approves such extensions of credit as being in the best interest of the Bank and provides detailed written support of its position in the Bank's board minutes;
- (7) Requiring accurate reporting of past due loans to the Bank's board of directors on at least a monthly basis;
- (8) Addressing concentrations of credit and diversification of risk, including goals for portfolio mix, establishment of limits within loan and other asset categories, and development of a tracking and monitoring system for the economic and financial condition of specific geographic locations, industries, and groups of borrowers;
- (9) Incorporating collateral valuation requirements, including:
  - a. Maximum loan-to-collateral-value limitations;
  - b. A requirement that the valuation be completed prior to a commitment to lend funds;
  - c. A requirement for periodic updating of valuations; and

- d. A requirement that the source of valuations be documented in Bank records;
- (10) Establishing standards for initiating collection efforts;
  - (11) Establishing guidelines for timely recognition of loss through charge-off;
  - (12) Prohibiting the extension of a maturity date, advancement of additional credit or renewal of a loan to a borrower whose obligations to the Bank were classified “Substandard,” “Doubtful,” or “Loss,” whether in whole or in part, as of March 30, 2009, or by the FDIC or State in a subsequent Report of Examination, without the full collection in cash of accrued and unpaid interest, unless the loans are well secured and/or are supported by current and complete financial information, and the renewal or extension has first been approved in writing by a majority of the Bank’s board of directors;
  - (13) Establishing officer lending limits and limitations on the aggregate level of credit to any one borrower which can be granted without the prior approval of the Bank’s board of directors;
  - (14) Requiring that collateral appraisals be completed prior to the making of secured extensions of credit, and that periodic collateral valuations be performed for all secured loans listed on the Bank’s internal watch list, criticized in any internal or outside audit report

of the Bank, or criticized in any Report of Examination of the Bank by the FDIC or the State;

- (15) Establishing limitations on the maximum volume of loans in relation to total assets;
- (16) Establishing review and monitoring procedures to ensure compliance with FDIC's regulation on appraisals pursuant to Part 323 of the FDIC's Rules and Regulations, 12 C.F.R. Part 323; and
- (17) Addressing the specific examiner recommendations for loan policy revisions detailed on Page 5 of the March 30, 2009 Report.

(c) The Bank shall submit the foregoing policies to the Regional Director and the Commissioner for comment. After the Regional Director and the Commissioner have responded to the policies, the Bank's board of directors shall adopt the policies as amended or modified by the Regional Director and the Commissioner. The policies will be implemented immediately to the extent that they are not already in effect at the Bank.

#### **RESTRICTION ON ADVANCES TO CLASSIFIED BORROWERS**

6. (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 whose existing credit has been classified Loss by the FDIC or the State as the result of its examination of the Bank, either in whole or in part, and is uncollected, or to any borrower who is already obligated in any manner to the Bank on any extension of credit, including any portion thereof, that has been charged off the books of the Bank and remains uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing credit already extended to a borrower after full collection, in cash, of interest due from the borrower.

(b) 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 whose extension of credit is classified Doubtful and/or Substandard by the FDIC or the State as the result of its examination of the Bank, either in whole or in part, and is uncollected, unless the Bank's board of directors has signed a detailed written statement giving reasons why failure to extend such credit would be detrimental to the best interests of the Bank. The statement shall be placed in the appropriate loan file and included in the minutes of the applicable Bank's board of directors' meeting.

### **CONCENTRATIONS – PLAN FOR REDUCTION**

7. (a) Within 60 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director and the Commissioner for review and comment a written plan to reduce the loan concentrations of credit identified in the Report of Examination as of March 30, 2009. Such plan shall prohibit any additional advances that would increase the concentrations or create new concentrations and shall include, but not be limited to:

- (1) Dollar levels to which the Bank shall reduce each concentration;
- (2) Percentage of Tier 1 Capital to which the Bank shall reduce each concentration;
- (3) Timeframes for reduction of each concentration; and
- (4) 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 Bank's board of directors.

(b) For purposes of the plan, "reduce" means to:

- (1) Charge-off;
- (2) Collect; or

(3) Increase Tier 1 Capital.

(c) After the Regional Director and the Commissioner have responded to the plan, the Bank's board of directors shall adopt the plan as amended or modified by the Regional Director and the Commissioner. The plan shall be implemented immediately to the extent that the provisions of the plan are not already in effect at the Bank.

### **PROFIT PLAN**

8. (a) Within 90 days after the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop a written profit plan consisting of goals and strategies for improving the earnings of the Bank for each calendar year.

The written profit plan shall include, at a minimum:

- (1) Identification of the major areas in, and means by, which the board of directors will seek to improve the Bank's operating performance;
- (2) Realistic and comprehensive budgets;
- (3) A budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections on not less than a quarterly basis; and
- (4) A description of the operating assumptions that form the basis for and support major projected income and expense components.

(b) Such written profit plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days after the receipt of any comment from the Regional Director and the Commissioner, the Bank's board of directors shall approve the written profit plan which approval shall be recorded

in the minutes of the Bank's board of directors. Thereafter, the Bank, its directors, officers, and employees shall follow the written profit plan and/or any subsequent modification.

### **LIQUIDITY CONTINGENCY FUNDING**

9. (a) Within 60 days after the effective date of this ORDER, the Bank shall develop and submit to the Regional Director and the Commissioner for review and comment a written plan addressing liquidity contingency funding. Annually thereafter, while this ORDER is in effect, the Bank shall review this plan for adequacy and, based upon such review, shall make necessary revisions to the plan to maintain adequate provisions to meet the Bank's liquidity needs. The initial plan shall include, at a minimum, provisions:

- (1) Identifying the source and use of borrowed and/or volatile funds;
- (2) Establishing lines of credit at correspondent banks, including the Federal Reserve Bank of Dallas and/or the Federal Home Loan Bank Board, that would allow the Bank to borrow funds to meet depositor demands if the Bank's other provisions for liquidity proved to be inadequate;
- (3) Requiring the retention of securities and/or other identified categories of investments that can be liquidated within one day in amounts sufficient (as a percentage of the Bank's total assets) to ensure the maintenance of the Bank's liquidity posture at a level consistent with short- and long-term liquidity objectives;
- (4) Establishing contingency plans by identifying alternative courses of action designed to meet the Bank's liquidity needs;

- (5) Addressing the use of borrowings (i.e., seasonal credit needs, match funding mortgage loans, etc.) and providing for reasonable maturities commensurate with the use of the borrowed funds; addressing concentration of funding sources; and addressing pricing and collateral requirements with specific allowable funding channels (i.e., brokered deposits, internet deposits, Fed funds purchased and other correspondent borrowings); and
- (6) Establishing procedures for managing the Bank's sensitivity to interest rate risk which comply with the Joint Agency Statement of Policy on Interest Rate Risk (June 26, 1996), and the Supervisory Policy Statement on Investment Securities and End-user Derivative Activities (April 23, 1998).

(b) Within 30 days after the receipt of all such comments from the Regional Director and the Commissioner, and after revising the plan as necessary, the Bank shall adopt the plan, which adoption shall be recorded in the minutes of a board of directors' meeting. Thereafter, the Bank shall implement the plan.

### **BANK MANAGEMENT**

10. (a) Within 60 days after the effective date of this ORDER, the Bank shall assess the Bank's management and staffing needs in order to develop a written management plan for the purpose of providing qualified management for the Bank.

(b) The management plan shall be developed within 90 days after the effective date of this ORDER. The management plan shall include, at a minimum:

- (1) Identification of officer positions needed to properly manage and supervise the affairs of the Bank;
- (2) Identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;
- (3) Evaluation of all Bank officers and staff members to determine whether these individuals possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to the Bank's established policies and practices, and restoration and maintenance of the Bank in a safe and sound condition; and
- (4) A plan to recruit and hire any additional or replacement personnel with the requisite ability, experience and other qualifications to fill those officer or staff member positions identified in the management plan.

(c) The management plan shall be submitted to the Regional Director and the Commissioner for review and comment upon its completion. Within 30 days from the receipt of any comments from the Regional Director and the Commissioner, and after the adoption of any recommended changes, the Bank shall approve the management plan and record its approval in the minutes of the board of directors' meeting. Thereafter, the Bank, its directors, officers, and employees shall implement and follow the management plan and/or any subsequent modification.

### **CORRECTION OF VIOLATIONS**

11. (a) Within 30 days after the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulation noted in the Report of Examination.

(b) Within 30 days after the effective date of this ORDER, the Bank shall implement procedures to ensure future compliance with all applicable laws and regulations.

(c) Within 30 days after the effective date of this ORDER, the Bank shall address any contraventions of policy noted in the Report of Examination.

### **PROGRESS REPORTS**

12. (a) Within 30 days after the end of each calendar quarter following the effective date of this ORDER, the Bank shall furnish to the Regional Director and the Commissioner written progress reports signed by each member of the Bank's board of directors, detailing the actions taken to secure compliance with the ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and the Commissioner have released, in writing, the Bank from making further reports.

### **SHAREHOLDER DISCLOSURE**

13. After the effective date of this ORDER, the Bank shall send a copy of this ORDER, or otherwise furnish a description of this ORDER, to its shareholders (1) in conjunction with the Bank's next shareholder communication, and also (2) 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

Disclosure Section, Washington, D.C. 20429, for review at least 20 days prior to dissemination to shareholders. Any changes requested by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

This ORDER shall be binding upon the Bank, its successors and assigns, and all institution-affiliated parties of the Bank. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, superseded, or set aside by the FDIC and the State.

This ORDER will become effective upon its issuance by the FDIC and the State.

Pursuant to delegated authority.

Dated this 1<sup>st</sup> day of July 2009.

/s/  
Thomas J. Dujenski  
Regional Director  
Dallas Region  
Division of Supervision and Consumer Protection  
Federal Deposit Insurance Corporation

/s/  
Charles G. Cooper  
Commissioner  
Texas Department of Banking