

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION

TALLAHASSEE, FLORIDA

_____	)	
In the Matter of	)	
	)	ORDER TO CEASE AND DESIST
HERITAGE BANK OF NORTH FLORIDA	)	
ORANGE PARK, FLORIDA	)	FDIC-09-227b
	)	OFR 0639-FI-06/09
	)	
(Insured State Nonmember Bank)	)	
_____	)	

HERITAGE BANK OF NORTH FLORIDA, ORANGE PARK, FLORIDA ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law and/or regulations 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 under Chapter 120 and Section 655.033, Florida Statutes (2008), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with a representative of the Legal Division of the Federal Deposit Insurance Corporation ("FDIC") and the Director ("Director") of the Division of Financial Institutions ("DFI") of the Florida Office of Financial Regulation ("OFR"), dated July 31, 2009, whereby, solely for the purpose of this proceeding and without admitting or denying any of 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 OFR.

The FDIC and the OFR considered the matter and determined that there is reason to believe that the Bank has engaged in unsafe or unsound banking practices and has committed violations of law and/or regulations. The FDIC and the OFR, 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 such term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and Section 655.005(1)(i), Florida Statutes, and its successors and assigns cease and desist from the following unsafe or unsound banking practices and violations of law and/or regulations:

- (a) operating with a Board of Directors ("Board") that has failed to provide adequate supervision over and direction to the management of the Bank;
- (b) operating with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;
- (c) operating with inadequate capital for the risk profile of the Bank;
- (d) operating with an excessive volume of adversely classified assets;
- (e) operating with an inadequate methodology for allowance for loan and lease losses ("ALLL");
- (f) following hazardous lending practices and operating with an inadequate loan policy;
- (g) operating with inadequate policies and procedures to monitor and control risks within concentrations of credit in the Bank's loan portfolio;
- (h) operating with inadequate provisions for liquidity and funds management;
- (i) operating with excessive exposure to interest rate risk;
- (j) operating with an inadequate strategic plan and budget;

- (k) operating with an inadequate audit policies and procedures;
- (l) operating with inadequate oversight and policies for the Bank's information systems;
- (m) operating in such a manner as to produce operating losses;
- (n) operating with an ineffective training program for appropriate Bank personnel to ensure compliance with the Bank Secrecy Act ("BSA"), subchapter II of Chapter 53 of Title 31 of the United States Code, and its implementing rules issued by the U.S. Department of Treasury, 31 C.F.R. Part 103; the FDIC's BSA compliance regulations, 12 C.F.R. § 326.8, and the Florida Control of Money Laundering in Financial Institutions Act, Section 655.50, Florida Statutes (collectively, "BSA Rules"); and
- (o) violating laws, regulations, and/or statements of policy as more fully described on pages 15 - 18 of the FDIC Report of Examination dated December 31, 2008 ("Report").

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

**DIRECTORS**

1. (a) Immediately upon the effective date of this ORDER, the Board shall enhance 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. At each Board meeting (to be held no less frequently than monthly), this enhanced participation shall include , at a minimum, the following areas which shall be reviewed and approved: capital adequacy; liquidity; classified and criticized assets; reports of income and expenses; new, overdue, renewal,

insider, charged-off, and recovered loans; investment activity; operating policies; and individual committee actions. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

(b) Within 30 days from the effective date of the ORDER, the Board shall establish a Board committee ("Directors' Committee"), consisting of at least five members, to oversee the Bank's compliance with the ORDER. A majority of the members of the Directors' Committee shall be independent directors of the Bank. The Directors' Committee shall receive from Bank management monthly reports regarding the Bank's actions with respect to compliance with this ORDER. The Directors' Committee shall present a report regarding the Bank's adherence to the ORDER to the Board at each regularly scheduled Board meeting. Such report shall be recorded in appropriate minutes of the Board's meeting and shall be retained in the Bank's records. Establishment of this committee does not in any way diminish the responsibility of the entire Board to ensure compliance with the provisions of this ORDER.

### **MANAGEMENT**

2. Within 60 days of the effective date of this ORDER, 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 chief executive officer, senior lending officer, and chief financial officer. All management officials shall have an appropriate level of experience and expertise that is needed to perform his or her duties. Each member of management shall be provided appropriate written authority from the Bank's Board to implement the provisions of this ORDER.

(b) The qualification of management shall be assessed on their 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, regulations and statements of policy; and
- (iv) Restore all aspects of the Bank to a safe and sound condition, including asset quality (e.g. upgrading a low quality loan portfolio), capital adequacy, earnings, risk management, management effectiveness, liquidity, and sensitivity to market risk.

(c) During the life of this ORDER, the Bank shall provide written notice to the FDIC and the OFR (collectively, “Supervisory Authorities”) when it proposes to add any individual to the Bank’s Board or employ any individual as a senior executive officer as that term is defined in Part 303 of the FDIC’s Rules and Regulations, 12 C.F.R. § 303.101, or executive officer as that term is defined and applied in Chapter 655 and Section 655.0385, Florida Statutes, and Rule 69U-100.03852, Florida Administrative Code. The notification to the Supervisory Authorities shall comply with the requirements set forth in 12 C.F.R. Part 303, Subpart F, and Rule 69U-100.03852, Florida Administrative Code. The notification should include a description of the background and experience of the individual or individuals to be added or employed and must be received at least 60 days before such addition or employment is intended to become effective. If the Regional Director or OFR issues a notice of disapproval pursuant to section 32 of the Act, 12 U.S.C. § 1831i, or Section 655.0385(2) or (3), Florida Statutes, with respect to any proposed individual, then such individual may not be added or employed by the Bank.

(d) During the life of this ORDER, the Bank shall not enter into any new management contracts without prior notification and approval of the Supervisory Authorities.

### **CAPITAL**

3. (a) Within 45 days from the effective date of this ORDER, the Bank shall have Tier 1 Capital in such an amount as to equal or exceed 8 percent of the Bank’s total assets and total

risk-based capital in such an amount as to equal or exceed 12 percent of the Bank's total risk-weighted assets. Thereafter, the Bank shall maintain Tier 1 Capital and total risk based capital ratios equal to or exceeding 8 percent and 12 percent, respectively, during the life of this ORDER. Tier 1 Capital and total risk based capital ratios shall be calculated at the end of each calendar quarter utilizing the definitions contained in 12 C.F.R. § 325.2. In the event these capital ratios fall below the required percentages at the end of any calendar quarter, the Bank shall notify the Supervisory Authorities of the capital deficiency within ten days and shall increase capital by an amount sufficient to raise the ratio to the required percentages prior to the next quarter end.

(b) The level of Tier 1 Capital and total risk-based capital to be maintained during the life of this ORDER pursuant to paragraph 3(a) shall be in addition to an adequately funded ALLL, the adequacy of which shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

(c) Any increase in Tier 1 Capital and total risk based capital necessary to meet the requirements of paragraph 3(a) of the ORDER may be accomplished by the following:

- (i) Sale of common stock;
- (ii) Sale of noncumulative perpetual preferred stock;
- (iii) Direct contribution of cash by the Board, shareholders, and/or parent holding company;
- (iv) Any other means acceptable to the Supervisory Authorities; or
- (v) Any combination of the above means.

(d) Any increase in Tier 1 Capital necessary to meet the requirements of Paragraph 3 of this ORDER may not be accomplished through a deduction from the Bank's ALLL.

(e) If all or part of any necessary increase in capital required by paragraph 3 of this ORDER is accomplished by the sale of new securities, the 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 any applicable securities laws. 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 to be used in the sale of the securities shall be submitted to the FDIC, Division of Supervision and Consumer Protection, Accounting and Securities Disclosure Section, 550 17th Street, N.W., Room F-6043, Washington, D.C. 20429, and the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for review. Any changes requested to be made in the plan or materials shall be made prior to their dissemination.

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

#### **DIVIDENDS**

4. While this ORDER is in effect, the Bank shall not declare or pay any cash dividends without the prior written approval of the Supervisory Authorities.

## **CONCENTRATIONS OF CREDIT**

5. Within 60 days from the effective date of this ORDER, the Bank shall perform a risk segmentation analysis with respect to the Concentrations of Credit listed on the Concentrations page of the Report and any other concentration deemed important by the Bank and develop a written plan approved by its Board and acceptable to the Supervisory Authorities to systematically reduce and monitor the Bank's level of concentration risk. At a minimum, the plan shall include:

- (a) amounts and percent of Total Risk Based Capital to which the Bank shall reduce each concentration;
- (b) timeframes for achieving the reduction in dollar levels identified in response to subparagraph 5(a);
- (c) provisions for the submission of monthly written progress reports to the Board for review and notation in the minutes of its meetings; and
- (d) procedures for monitoring the Bank's compliance with the plan.

## **CHARGE-OFF**

6. (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 or portions of assets classified "Loss" in the Report that have not been previously collected or charged-off unless otherwise approved in writing by the Supervisory Authorities. Elimination of these assets through proceeds of other loans made by the Bank is not considered collection for purposes of this paragraph.

(b) Additionally, while this ORDER remains in effect, the Bank shall, within 30 days from the receipt of any official Report of Examination of the Bank from the FDIC or the OFR, eliminate from its books, by collection, charge-off, or other proper entries, the remaining balance of any asset classified "Loss" and 50 percent of those classified "Doubtful" unless otherwise



approved in writing by the Supervisory Authorities. Elimination or reduction of assets through proceeds of other loans made by the Bank is not considered collection for purposes of this provision.

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

7. Within 60 days from the effective date of this ORDER, the Board shall establish a comprehensive policy for determining the adequacy of the ALLL. For the purpose of this determination, the adequacy of the ALLL shall be determined after the charge-off of all loans or other items classified "Loss". The policy shall provide for a review of the ALLL at least once each calendar quarter in order that the findings of the Board with respect to the ALLL 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 and lease 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 ALLL 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 meeting at which such review is undertaken shall indicate the results of the review. The Bank's policy for determining the adequacy of the ALLL and its implementation shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **ADVERSELY CLASSIFIED ASSETS**

8. (a) Within 45 days from the effective date of this ORDER, the Bank shall formulate a written plan to reduce the Bank's risk exposure in each asset, or relationship in excess of \$200,000 classified "Substandard" or "Doubtful" in the Report. 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 quarterly schedule for reducing the outstanding dollar amount of adversely classified assets;
- (ii) 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 ALLL;
- (iii) A provision for the Bank's submission of monthly written progress reports to its Board; and
- (iv) A provision mandating Board review of the progress reports, with a notation of the review recorded in the minutes of the Board meeting.

(c) The plan mandated by this provision shall further require a reduction in the aggregate balance of assets classified "Substandard" and "Doubtful" in the Report in accordance with the following schedule. For purposes of this subparagraph, "days" means number of days from the effective date of this ORDER.

- (i) Within 90 days, a reduction of fifteen percent (15%) in the balance of assets classified "Substandard" or "Doubtful";
- (ii) Within 180 days, a reduction of twenty-five percent (25%) in the balance of assets classified "Substandard" or "Doubtful";

(iii) Within 360 days, a reduction of forty-five percent (45%) in the balance of assets classified “Substandard” or “Doubtful”;

(iv) Within 540 days, a reduction of sixty percent (60%) in the balance of assets classified “Substandard” or “Doubtful”; and

(v) Within 720 days, a reduction of seventy-five percent (75%) in the balance of assets classified “Substandard” or “Doubtful.”

(d) The requirements of paragraph 8(c) 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.

(e) Within 45 days of the effective date of this ORDER, the Bank shall submit the written plan to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of the Board meeting. Thereafter, the Bank shall implement and fully comply with the plan.

#### **SPECIAL MENTION ASSETS**

9. Within 45 days from the effective date of this ORDER, the Bank shall develop a plan to correct all deficiencies in the assets listed for "Special Mention." The Bank shall submit the plan to the Supervisory Authorities for review. Within 30 days from receipt of any comment from the Supervisory Authorities, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of the Board meeting. Thereafter, the Bank shall implement and fully comply with the plan.

## **RESTRICTIONS ON ADVANCES TO ADVERSELY CLASSIFIED BORROWERS**

10. (a) Beginning with the effective date of this ORDER, 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 from the Bank that has been charged off or classified, in whole or in part, "Loss" or "Doubtful" and is uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing (after collection in cash of interest due from the borrower) any credit already extended to any borrower.

(b) Additionally, as of the effective date and during the life of this ORDER, 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 from the Bank that has been classified, in whole or part, "Substandard" or is listed for "Special Mention" and is uncollected.

(c) Subparagraph 10(b) 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 the extending of any additional credit pursuant to this subparagraph, either in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by a majority of the Board or a designated committee thereof, who shall certify in writing as follows:

- (i) Why the failure of the Bank to extend such credit would be detrimental to the best interests of the Bank;
- (ii) That the Bank's position would be improved thereby, including an explanatory statement of how the Bank's position would be improved;
- (iii) An appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended; and

(iv) The signed certification shall be made a part of the minutes of the Board or its designated committee and a copy of the signed certification shall be retained in the borrower's credit file.

### **VIOLATIONS OF LAW AND REGULATION**

11. Within 45 days from the effective date of this ORDER, the Bank shall take steps necessary, consistent with sound banking practices, to correct all violations of laws, regulations, and/or contraventions of statements of policy on pages 15 - 18 in the Report and shall adopt and implement appropriate procedures to ensure future compliance with all such applicable federal and state laws, regulations and/or statements of policy.

### **LENDING AND COLLECTION POLICIES**

12. (a) Within 90 days from the effective date of this ORDER, the Bank shall revise, adopt, and implement a written lending, underwriting and collection policy to provide effective guidance and control over the Bank's lending function, which policy shall include, at a minimum, revisions to address criticisms and recommendations enumerated on pages 2, 9 and 10 of the Report pertaining to loan underwriting and administration as well as commercial real estate lending and the internal grading system. In addition, the Bank shall obtain adequate and current documentation for all loans in the Bank's loan portfolio. Such policy and its implementation shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

(b) Within 60 days from the effective date of this ORDER, the Board shall adopt and implement a policy limiting the use of loan interest reserves. Such policy shall confine the use of interest reserves to properly underwritten ADC loans where development or building plans have specific timetables that commence within a reasonable time of the loan's approval and that include realistic completion dates. Interest reserves shall be used only for payment of interest on

ADC loans for projects that are progressing according to their timetables. Interest reserves may be supplemented only with the prior written approval of the Board or a committee thereof, so long as the approval documents a prudent reason for the supplement.

### **PLAN FOR EXPENSES AND PROFITABILITY**

13. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate and fully implement a written plan and a comprehensive budget for the remainder of 2009 for all categories of income and expense. The plan and budget required by this paragraph shall include formal goals and strategies, consistent with sound banking practices and taking into account the Bank's other written policies, to improve the Bank's net interest margin, increase interest income, reduce discretionary expenses, control overhead, and improve and sustain earnings of the Bank. The plan shall include a projected balance sheet and a description of the operating assumptions that form the basis for and adequately support major projected income and expense components. Thereafter, the Bank shall formulate such a plan and budget by November 30 of each subsequent year. The plan and budget required by Subparagraph 13(a) of this ORDER shall be acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

(b) Following the end of each calendar quarter, the Board shall evaluate the Bank's actual performance in relation to the plan and budget required by Subparagraph 13(a) of this ORDER and shall record the results of the evaluation, and any actions taken by the Bank, in the minutes of the Board meeting at which such evaluation is undertaken.

### **WRITTEN STRATEGIC BUSINESS PLAN**

14. Within 90 days from the effective date of this ORDER, the Bank shall prepare and submit to the Supervisory Authorities its written strategic plan consisting of long-term goals designed to improve the condition of the Bank and its viability and strategies for achieving those goals. The

plan shall be in a form and manner acceptable to the Supervisory Authorities, but at a minimum shall cover three years and provide specific objectives for asset growth, market focus, earnings projections, capital needs, and liquidity position.

### **LIQUIDITY AND FUNDS MANAGEMENT**

15. (a) Within 60 days from the effective date of this ORDER, the Bank shall adopt and implement a written plan to improve liquidity, contingency funding, interest rate risk, and asset liability management, and to reduce the Bank's dependency on volatile liabilities.

(b) The plan shall incorporate the guidance contained in Financial Institution Letter (FIL) 84-2008, dated August 26, 2008, entitled *Liquidity Risk Management*. The plan shall provide restrictions on the use of brokered and Internet deposits consistent with safe and sound banking practices.

(c) A copy of the plan shall be submitted to the Supervisory Authorities upon its completion for review and comment. Within 30 days from the receipt of any comments from the Supervisory Authorities, the Bank shall incorporate those recommended changes.

Thereafter, the Bank shall implement and follow the plan, and its implementation shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **BROKERED DEPOSITS**

16. (a) Upon the effective date of this ORDER, and so long as this ORDER is in effect, the Bank shall neither renew, roll-over, nor increase the amount of brokered deposits above the amount outstanding as of the effective date of this ORDER, without obtaining a brokered deposit waiver approved by the FDIC pursuant to 12 U.S.C. § 1831f. Within 10 days of the effective date of this ORDER, the Bank shall submit a written plan for eliminating its reliance on brokered deposits to the Supervisory Authorities for review and comment. The plan shall detail the

current composition of brokered deposits by maturity and explain the means by which such deposits will be paid. Thereafter, the Bank shall implement and fully comply with the plan. For purposes of this ORDER, brokered deposits are defined in section 337.6(a)(2) of the FDIC's Rules and Regulations, 12 C.F.R. §337.6(a)(2), to include any deposits funded by third-party agents or nominees for depositors, including deposits managed by a trustee or custodian when each individual beneficial interest is entitled to or asserts a right to federal deposit insurance.

(b) The Bank shall provide a written progress report to the Supervisory Authorities detailing the level, source, and use of brokered deposits with specific reference to progress under the Bank's plan together with the progress report required by paragraph 20.

(c) The Bank shall comply with the restrictions on the effective yields on deposits described in 12 C.F.R. § 337.6.

### **INFORMATION TECHNOLOGY**

17. Within 90 days from the effective date of this ORDER, the Bank shall adopt and implement policies and procedures to ensure the integrity of its information systems consistent with safe and sound banking practices. Such measures shall, at a minimum, eliminate and/or correct all associated deficiencies as more fully set forth on pages 6 - 7 of the Report, and prevent the recurrence of any deficiencies noted. Such policy and its implementation shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **BSA TRAINING**

18. (a) Within 60 days from the effective date of the ORDER, the Bank shall develop a comprehensive BSA training program that shall have a general component for all directors and staff and specific components that are tailored to the needs of specific positions, departments, and personnel. The training program shall provide for initial and periodic refresher training.



The training program shall require documentation of attendance at training with full explanations of absences with notation of when absentees will be trained.

(b) The comprehensive BSA training program shall be approved by the Board and forwarded to the Supervisory Authorities with the progress report required by paragraph 20 of this ORDER that is next due following the Board's approval.

### **AUDIT**

19. Within 90 days from the effective date of this Order, the Board shall develop and implement the Bank's internal and external audit policies as necessary to address criticisms and recommendations described on page 13 of the Report. The Board shall identify the risk areas of the Bank's activities and assess the scope and frequency of external and internal audits needed over each area commensurate with the Bank's risk profile. Such policy and its implementation shall be satisfactory to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

### **PROGRESS REPORTS**

20. (a) Within 30 days after the end of the first quarter following the effective date of this ORDER, and within 30 days after the end of each quarter thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such written reports shall provide cumulative detail of the bank's progress toward achieving compliance with each provision of this Order. The reporting requirements shall continue for the life of this Order unless modified or terminated in writing by the Supervisory Authorities.

(b) All progress reports and other written responses to this Order shall be reviewed by the Board and be made a part of the minutes of the appropriate Board meeting.

## DISCLOSURE TO SHAREHOLDERS

21. Following the issuance 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 or (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 17<sup>th</sup> Street, N.W., Room F-6066, Washington, D.C. 20429 and to the Director of DFI of the OFR, 200 East Gaines Street, Tallahassee, FL 32399-0371 to review at least twenty (20) days prior to dissemination to shareholders. Any changes requested to be made by the FDIC and the OFR shall be made prior to dissemination of the description, communication, notice, or statement.

This ORDER shall become effective immediately upon the date of its issuance. 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 in writing by the Supervisory Authorities.

Pursuant to delegated authority.

Issued this 4<sup>th</sup> day of August, 2009.

/s/

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Doreen R. Eberley  
Acting Regional Director  
Division of Supervision and Consumer  
Protection  
Atlanta Region  
Federal Deposit Insurance Corporation

The Commissioner of the Florida Office of Financial Regulation having duly approved the foregoing ORDER, and the Bank, through its Board, having agreed that the issuance of said ORDER by the FDIC shall be binding as between the Bank and the OFR to the same degree and legal effect that such ORDER would be binding upon the Bank if the OFR had issued a separate order that included and incorporated all of the provisions of the foregoing ORDER pursuant to Chapters 120, 655, and 658, Florida Statutes (2008).

Dated this 4th day of August, 2009.

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Robert D. Hayes  
Bureau Chief  
Division of Financial Institutions  
Office of Financial Regulation  
By Delegated Authority