

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

_____	)	
In the Matter of	)	
	)	
FIRST BANK OF DALTON	)	CONSENT ORDER
DALTON, GEORGIA	)	
	)	
Insured State Nonmember Bank	)	FDIC-09-413b
_____	)	

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for First Bank of Dalton, Dalton, Georgia (“Bank”), under 12 U.S.C. § 1813(q).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a “Stipulation to the Issuance of a Consent Order” (“Stipulation”), dated November 12, 2009, that is accepted by the FDIC and the Georgia Department of Banking and Finance (“Department”). The Department may issue an order pursuant to section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. Section 7-1-91 (1985).

With the Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or regulations relating to weaknesses in asset quality, capital adequacy, earnings, management effectiveness, and liquidity, to the issuance of this Consent Order (“ORDER”) by the FDIC and the Department.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. Section 7-1-91 (1985) have been satisfied, the FDIC and the Department hereby order that:

**1. BOARD OF DIRECTORS**

(a) Beginning on the effective date of this ORDER, the board of directors (“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. The Board shall prepare in advance and follow a detailed written agenda for each meeting, including consideration of the actions of any committees. Nothing in the foregoing sentences shall preclude the Board from considering matters other than those contained in the agenda. 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, 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 this ORDER, the Board shall establish a Board committee (“Directors’ Committee”), consisting of at least four members, to oversee the Bank’s compliance with the ORDER. Three of the members of the Directors’ Committee shall not be officers of the Bank. The

Directors' Committee shall receive from Bank management monthly reports detailing the Bank's actions with respect to compliance with the ORDER. The Directors' Committee shall present a report detailing the Bank's adherence to the ORDER to the Board at each regularly scheduled Board meeting. Such report shall be recorded in the 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.

## **2. MANAGEMENT**

(a) Within 60 days from the effective date of this ORDER, the Bank shall have and retain qualified management with the qualifications and experience commensurate with assigned duties and responsibilities at the Bank. Each member of management shall be provided appropriate written authority from the Bank's Board to implement the provisions of this ORDER. At a minimum, management shall include the following:

- (i) a chief executive officer with proven ability in managing a bank of comparable size and in effectively implementing lending, investment and operating policies in accordance with sound banking practices;
- (ii) a senior lending officer with a significant amount of appropriate lending, collection, and loan supervision experience, and experience in upgrading a low quality loan portfolio; and

- (iii) a chief operating officer with a significant amount of appropriate experience in managing the operations of a bank of similar size and complexity in accordance with sound banking practices.
- (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, but not limited to, asset quality, capital adequacy, earnings, management effectiveness, risk management, liquidity and sensitivity to market risk.
- (c) During the life of this ORDER, the Bank shall notify the Regional Director of the FDIC's Atlanta Regional Office ("Regional Director") and the Commissioner for the Department (collectively, "Supervisory Authorities"), in writing, of the resignation or termination of any of the Bank's directors or senior executive officers. Prior to the addition of any individual to the Board or the employment of any individual as a senior executive officer, the Bank shall comply with the requirements of Section 32 of the Act, 12 U.S.C. § 1831i, and Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §§ 303.100-303.104 and any State requirement for prior notification and approval.
- (d) The Bank shall develop approve and adopt a written analysis and assessment of the Bank's management and staffing needs ("Management Plan") for

the purpose of providing qualified management for the Bank. The Management Plan shall include, at a minimum:

- (i) identification of both the type and number of officer positions needed to properly manage and supervise the affairs of the Bank;
  - (ii) identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;
  - (iii) annual written evaluations of all Bank officers (in particular the chief executive officer, chief lending officer, and the chief operating officer) and staff members to determine whether those individuals possess the ability, experience and other qualifications required to perform present and anticipated duties, including, but not limited to, adherence to the Bank's established policies and practices, and restoration and maintenance of the Bank in a safe and sound condition;
  - (iv) 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 consistent with the needs identified in the Management Plan; and
  - (v) an organizational chart.
- (e) The written Management Plan shall also include the requirement that the Board, or a committee thereof consisting of not less than a majority of the individuals who are independent with respect to the Bank, provide supervision over lending, investment and operating policies of the Bank sufficient to ensure that the Bank complies with the provisions of this ORDER.

(f) Such Management Plan and its implementation shall be satisfactory to the Supervisory Authorities. Within 30 days of the date of this ORDER, Bank shall submit the proposed Management Plan to the Supervisory Authorities for review and comment. Within 10 days of receipt of comments from the Supervisory Authorities, the Bank shall incorporate those comments, if any, and shall approve and adopt the Management Plan as revised.

### **3. CAPITAL**

(a) During the life of this ORDER, the Bank shall maintain Tier 1 capital in such amount as to equal or exceed eight percent (8%) of its total assets and maintain total risk-based capital in such an amount as to equal or exceed ten percent (10%) of the Bank's total risk-weighted assets.

(b) The levels of Tier 1 capital and total risk-based capital to be maintained during the life of this ORDER pursuant to this paragraph shall be in addition to a fully funded allowance for loan and lease losses ("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 necessary to meet the requirements of this paragraph may be accomplished by the following:

- (i) sale of common stock; or
- (ii) sale of noncumulative perpetual preferred stock; or
- (iii) direct contribution of cash by the Board, shareholders, and/or parent holding company; or
- (iv) any other means acceptable to the Supervisory Authorities; or

- (v) any combination of the above means.
- (d) No increase in Tier 1 capital necessary to meet the requirements of this paragraph shall be accomplished through a deduction from the Bank's ALLL.
- (e) 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.

#### **4. CHARGE-OFF**

- (a) Within 10 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" and 50 percent of those assets classified "Doubtful" in the Report of Examination dated as of April 6, 2009 ("ROE") that have not been previously collected or charged-off. (If an asset classified "Doubtful" is a loan or lease, the Bank may, in the alternative, increase its ALLL by an amount equal to 50 percent of the loan or lease classified "Doubtful".) Elimination of any of those 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 10 days from the receipt of any official Report of Examination of the Bank from the FDIC or the Department, eliminate from its books, by collection, charge-off, or other proper entries, the remaining balance of any asset classified "Loss" and 50 percent of the those classified "Doubtful", unless otherwise approved in writing by the Supervisory Authorities.

**5. REDUCTION OF CLASSIFIED ASSETS**

(a) Within 30 days from the effective date of this ORDER, the Bank shall formulate and submit to the Supervisory Authorities, for review and comment, a written plan to reduce the Bank's risk position in each asset which is in excess of \$250,000 and which is classified "Substandard" or "Doubtful" in the ROE. 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 of and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position. Within 30 days from the 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 a board of directors' meeting. Thereafter, the Bank shall implement and follow this plan. The plan shall be monitored and progress reports thereon shall be submitted to the Supervisory Authorities at 90 day intervals concurrent with the other reporting requirements set forth in this ORDER.

(b) The plan mandated by this paragraph shall include, but not be limited to, the following:

- (i) the dollar levels to which risk in each classified asset will be reduced;
  - (ii) a description of the risk reduction methodology to be followed;
  - (iii) provisions for the submission of monthly written progress reports to the Board;
  - (iv) provisions mandating board review of said progress reports; and
  - (v) provisions for the mandated review to be recorded by notation in the minutes of the Board meetings.
- (c) The written plan mandated by this provision shall further require a reduction in the aggregate balance of assets classified “Substandard” and “Doubtful” in the ROE in accordance with the following schedule. For purposes of this paragraph, “number of days” means number of days from the effective date of this ORDER. The reduction schedule is:
- (i) within 180 days, a reduction of twenty-five percent (25%) in the balance of assets classified “Substandard” or “Doubtful”;
  - (ii) within 360 days, a reduction of forty-five percent (45%) in the balance of assets classified “Substandard” or “Doubtful”;
  - (iii) within 540 days, a reduction of sixty percent (60%) in the balance of assets classified “Substandard” or “Doubtful”; and
  - (iv) within 720 days, a reduction of seventy-five percent (75%) in the balance of assets classified “Substandard” or “Doubtful”.
- (d) The requirements of this paragraph are not to be construed as 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.

**6. ADDITIONAL CREDIT**

(a) As of 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 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" and is uncollected.

(c) Subparagraph (b) of this paragraph 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 paragraph, 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; and

(iii) how the Bank's position would be improved.

(d) 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.

## **7. WRITTEN STRATEGIC PLAN**

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.

## **8. INTERNAL LOAN REVIEW**

Within 60 days from the effective date of this ORDER, the Bank shall adopt an effective internal loan review grading system to provide for periodic reviews of the Bank's loan portfolio in order to identify and categorize the Bank's loans, and other extensions of credit which are carried on the Bank's as loans, on the basis of credit quality. Such system and its implementation shall be satisfactory to the Supervisory Authorities as determined at their initial review and at subsequent examinations and/or visitations.

## **9. LENDING AND COLLECTION POLICIES**

Within 60 days from the effective date of this ORDER, the Bank shall ensure the full implementation of its written lending 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 contained in the ROE, in particular those pertaining to the administration of acquisition, development and construction (“ADC”) loans as well as commercial real estate lending. 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, including at subsequent examinations and/or visitations.

**10. REDUCE CONCENTRATIONS OF CREDIT**

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 page 25 of the ROE. Concentrations should be identified by product type, geographic distribution, underlying collateral or other asset groups, which are considered economically related and in the aggregate represent a large portion of the Bank’s Tier 1 capital. A copy of this analysis shall be provided to the Supervisory Authorities and the Board shall develop a plan to reduce any segment of the portfolio which the Supervisory Authorities deem to be an undue concentration of credit in relation to the Bank's Tier 1 capital. 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.

**11. ALLOWANCE FOR LOAN AND LEASE LOSSES**

Within 30 days from the effective date of this ORDER, the Board shall review the adequacy of the ALLL and 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. Said

review shall be completed in time to properly report the ALLL in the quarterly Reports of Condition and Income. The review shall 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 Reports of Condition and Income, 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.

## **12. BUDGET**

(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 all categories of income and expense for the calendar year ending December 31, 2009. The plan shall include 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 for the next calendar year (including for 2010) by November 30 of the year preceding the plan and budget year, and submit the plan and budget to the Supervisory Authorities for review and comment by December 15 of the year preceding the plan and budget year.

(b) The plan and budget required by this paragraph shall be acceptable to the Supervisory Authorities.

(c) 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 this paragraph 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.

**13. CONTINGENT FUNDING PLAN**

(a) Within 60 days from the effective date of this Order, the Bank shall revise the liquidity Contingency Plan included in the Liquidity Policy to ensure the Bank has sufficient access to alternative funding sources. The Contingency Plan should include actions management will employ to improve liquidity levels.

(b) The plan shall incorporate the guidance contained in Financial Bank Letter (FIL) 84-2008, dated August 26, 2008, entitled *Liquidity Risk Management*.

(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 implementation shall be in a form and manner acceptable to the Supervisory Authorities as determined at subsequent examinations and/or visitations.

**14. VIOLATIONS OF LAW, REGULATION AND POLICY**

(a) Within 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulation, which are more fully set out on pages 10 and 11 of the ROE. In addition, the Bank shall take all

necessary steps to ensure future compliance with all applicable laws and regulations.

(b) Within 30 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all contraventions of policy, which are more fully set out on pages 3 and 11 of the ROE. In addition, the Bank shall take all necessary steps to ensure future compliance with all applicable statements of policy.

#### **15. CASH DIVIDENDS**

The Bank shall not pay cash dividends without the prior written consent of the Supervisory Authorities.

#### **16. BROKERED DEPOSITS**

(a) Upon the effective date of this ORDER, and so long as this ORDER is in effect, the Bank shall not accept, renew, or rollover brokered deposits without obtaining a brokered deposit waiver approved by the FDIC pursuant to section 29 of the Act, 12 U.S.C. § 1831f. For purposes of this ORDER, brokered deposits are defined in section 337.6(a)(2) of the FDIC Rules and Regulations, 12 C.F.R. §337.6(a)(2), and shall include any deposits within that definition 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 comply with the restrictions on the effective yields on deposits described in 12 C.F.R. § 337.6(b)(4).

## **17. PROGRESS REPORTS**

Within 30 days from 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 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 Supervisory Authorities have released the Bank in writing from making further reports.

## **18. DISCLOSURE**

Following the effective date of this ORDER, the Bank shall send to its shareholders 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, 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 the Commissioner, Georgia Department of Banking and Finance, 2990 Brandywine Rd., Suite 200, Atlanta, Georgia 30341-5565, at least fifteen (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.

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.

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 this 17th day of November, 2009

/s/

---

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

The Georgia Department of Banking and Finance, having duly approved the foregoing ORDER, and the Bank, through its Board, agree that the issuance of said ORDER by the FDIC shall be binding as between the Bank and the Georgia Commissioner of Banking and Finance to the same degree and to the same legal effect that such ORDER would be binding if the Department had issued a separate ORDER that included and incorporated all of the provisions of the foregoing ORDER, pursuant to section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. § 7-1-91 (1985).

Dated this 17<sup>th</sup> day of November, 2009.

/S/

---

Robert M. Braswell  
Commissioner  
Department of Banking and Finance  
State of Georgia