

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

And

KANSAS OFFICE OF THE STATE BANK COMMISSIONER  
TOPEKA, KANSAS

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	)	
In the Matter of	)	CONSENT ORDER
	)	
ROXBURY BANK	)	FDIC-10-209b
ROXBURY, KANSAS	)	OSBC-2010-70
	)	
(Insured State Nonmember Bank)	)	
_____	)	

The Kansas State Banking Board ("KSBB") granted a state charter to Roxbury Bank, Roxbury, Kansas ("Bank") pursuant to K.S.A. 9-1801.

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for Roxbury Bank, Roxbury, Kansas ("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 April 15, 2010, that is accepted by the FDIC and the KSBB. With the Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or

violations of law and/or regulation, to the issuance of this Consent Order ("Order") by the FDIC and the KSBB.

Having determined that the requirements for issuance of an Order under 12 U.S.C. § 1818(b), and Kansas Statutes Annotated 9-1807, have been satisfied, the FDIC and KSBB hereby order that:

**1. Assessment of Board of Directors and Management.**

(a) From the effective date of this ORDER, the Bank shall take action to have and maintain qualified management.

(b) Within 30 days from the effective date of this ORDER, the board of directors shall engage an independent third party ("Consultant") acceptable to the FDIC's Regional Director for the Kansas City Region ("Regional Director") and the Commissioner of the Kansas Office of the State Bank Commissioner ("OSBC") (collectively, "Supervisory Authorities"), and that possesses appropriate expertise and qualifications to analyze and assess the Bank's board of directors and management performance and needs.

(c) The Bank shall provide the Supervisory Authorities with a copy of the proposed engagement letter or contract with the Consultant for review before it is executed. The contract or engagement letter, at a minimum, shall include:

(i) a description of the work to be performed under the contract or engagement letter, the fees for each significant element of the engagement, and the aggregate fee;

(ii) the responsibilities of the Consultant;

(iii) an identification of the professional standards covering the work to be performed;

(iv) identification of the specific procedures to be used when carrying out the work to be performed;

(v) the qualifications of the Consultant's employee(s) who are to perform the work;

(vi) the time frame for completion of the work;

(vii) any restrictions on the use of the reported findings;

(viii) a provision for unrestricted examiner access to workpapers;

(ix) a certification that the Consultant and any employees are not affiliated in any manner with the Bank; and

(x) a requirement that the Consultant's analysis and assessment shall be summarized in a written report to the board of directors ("Consultant's Report") within 90 days of engagement.

(d) Within 30 days of receipt of the Consultant's Report, the board of directors will develop a written Management Plan that addresses the findings of the Consultant's, a plan of

action in response to each recommendation contained in the Consultant's, and a time frame for completing each action. At a minimum, the Management Plan shall:

(i) contain a recitation of the recommendations included in the Consultant's or otherwise communicated to the Bank, along with a copy of any report(s) prepared by any other outside consultants;

(ii) identify the type and number of officer positions needed to manage and supervise the affairs of the Bank, detailing any vacancies or additional needs and giving appropriate consideration to the size and complexity of the Bank;

(iii) identify the type and number of staff positions needed to carry out the Bank's strategic plan, detailing any vacancies or additional needs;

(iv) identify the authorities, responsibilities, and accountabilities attributable to each position, as well as the appropriateness of the authorities, responsibilities, and accountabilities, giving due consideration to the relevant knowledge, skills, abilities, and experience of the incumbent (if any) and the existing or proposed compensation;

(v) present a clear and concise description of the relevant knowledge, skills, abilities, and experience necessary for each position, including delegations of authority and performance objectives;

(vi) establish requirements and methodologies to periodically evaluate each individual's job performance;

(vii) evaluate the current and past performance of all existing Bank officers and staff, indicating whether the individuals are competent and qualified to perform present and anticipated duties, adhere to the Bank's established policies and practices, and operate the Bank in a safe and sound manner;

(viii) identify the appropriate level of current and deferred compensation to each officer and staff position;

(ix) identify and establish Bank committees needed to provide guidance and oversight to management;

(x) establish a plan to terminate, rotate, or reassign officers and staff as necessary, as well as recruit and retain qualified personnel consistent with the board's analysis and assessment of the Bank's staffing needs;

(xi) identify training and development needs, and incorporate a plan to provide such training and development;

(xii) establish procedures to periodically review and update the Management Plan, as well as periodically review and assess the performance of each officer and staff member;

(xiii) contain a current organizational chart that identifies all existing and proposed officer and staff positions, delineates related lines of authority and accountability, and establishes a written plan for addressing any identified needs;

(xiv) contain a current management succession plan; and

(xv) contain a procedure to ensure compliance with section 32 of the Act, 12 U.S.C. § 1831i, when applicable to changes/additions in directors and senior executive officers.

(e) A copy of the Consultant's Report and the Management Plan and any subsequent modification thereto shall be submitted to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities and after consideration of all such comments, the board of directors shall approve the Management Plan which approval shall be recorded in the minutes of the meeting of the board. Thereafter, the Bank and its directors, officers and employees shall implement and follow the Management Plan and any modifications thereto. It shall remain the responsibility of the board to fully implement the plan within the specified time frames. In the event the plan, or any portion thereof, is not implemented, the board shall immediately advise the Supervisory Authorities, in writing, of specific reasons for deviating from the Management Plan.

## **2. Capital Requirements.**

(a) While this ORDER is in effect, the Bank shall have and maintain the following minimum capital levels (as defined in Part 325 of the FDIC's Rules and Regulations), after establishing an appropriate allowance for loan and lease losses:

(i) Tier 1 capital at least equal to 9 percent of total assets;

(ii) Total risk-based capital at least equal to 12 percent of total risk-weighted assets.

(b) In the event any ratio is or becomes less than the minimum required by subparagraph (a) of this provision, the Bank shall immediately notify the Supervisory Authorities, and within 30 days shall: (1) increase capital in an amount sufficient to comply with subparagraph (a) above, or (2) submit a written plan ("Capital Plan") to the Supervisory Authorities, describing the primary means and timing by which the Bank shall increase its capital ratios up to or in excess of the minimum requirements set forth above, as well as a contingency plan in the event the primary sources of capital are not available. Within 10 days of receipt of all such comments from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the Capital Plan, which approval shall be recorded in the minutes of the meeting of the board of directors.

Thereafter, the Bank shall implement and fully comply with the Capital Plan.

(c) Any increase in Tier 1 capital necessary to meet the requirements of subparagraph (a) of this provision may not be accomplished through a deduction from the allowance for loan and lease losses.

**3. Dividend Restriction.**

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

**4. Liquidity and Funds Management.**

(a) Within 60 days from the effective date of this ORDER, the Bank shall prepare a written liquidity analysis and projection for the sources and uses of funds, including but not limited to the following:

Sources:

(i) listing of loans available for participation or sale and a list of committed purchasers;

(ii) listing of and projected pay offs or pay downs of loans;

(iii) specific listing of all funding sources and borrowings and level of commitments/availability;



(iv) projection and breakdown of deposit growth from non-brokered deposits and sources;

Uses:

(v) listing and timing of contractually binding loan commitments that are expected to be funded;

(vi) projections for known maturities of anticipated brokered deposit withdrawals;

(vii) projections, including best and worse case scenarios, of large public/private deposit withdrawals;

Projections and Contingency Plans:

(viii) projections for curtailing loan growth and shrinking the total asset size of the Bank; and

(ix) specific contingency plans in the event that anticipated events do not materialize, or in case of some other liquidity emergency.

(b) The written analysis and projection required by paragraph (a) above shall be reviewed for viability on a monthly basis, and updated as necessary. A copy of the written analyses and projections prepared under this provision shall be included with the progress reports required hereunder, unless required more frequently by the Regional Director.

**5. Brokered Deposits.**

(a) Upon the issuance of this ORDER and so long as this ORDER is in effect, the Bank shall not accept, increase, renew, or rollover any brokered deposits, as defined in 12 C.F.R. § 337.6(a)(2), without the prior written approval of the Supervisory Authorities.

**6. Reduction of Adversely Classified Assets.**

(a) Within 60 days from the effective date of this ORDER, the Bank shall formulate written plans to reduce the Bank's risk exposure in each asset in excess of \$50,000 adversely classified as "Substandard" or "Doubtful" in the January 5, 2010 Joint Report of Examination ("Report of Examination"). For purposes of this provision, "reduce" means to collect, charge off, or improve the quality of an asset so as to warrant its removal from adverse classification by the Supervisory Authorities. In developing the plans 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 sources of repayment and repayment ability, 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) Upon completion of the plans, the Bank shall immediately submit the plans to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the plans, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall cause a copy of each plan to be placed in the applicable credit file and shall implement and fully comply with the plans.

(c) Upon the written request of either of the Supervisory Authorities, similar plans shall be formulated for assets adversely classified or listed for Special Mention at future examinations.

**7. Restrictions on Advances to Adversely Classified Borrowers.**

(a) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit or obligation with the Bank that has been, in whole or in part, charged off or adversely classified "Substandard" or "Doubtful," either internally or by either of the Supervisory Authorities, and is uncollected, or adversely classified "Substandard" or "Doubtful" in any future Reports of Examination from either of the Supervisory Authorities and is uncollected.

The requirements of this subparagraph (a) shall not prohibit the Bank from renewing, after collecting in cash all interest and fees due from a borrower, any credit already extended to the borrower.

(b) Subparagraph (a) of this provision shall not apply if the Bank's failure to extend further credit to a particular borrower would be detrimental to the best interests of the Bank. Prior to extending additional credit pursuant to this subparagraph (b), whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Bank's board of directors, who shall conclude:

(i) the failure of the Bank to extend such credit would be detrimental to the best interests of the Bank, with an explanation of why the failure to extend such credit would be detrimental;

(ii) that the extension of such credit would improve the Bank's position, with an explanatory statement of why the Bank's position would improve; and

(iii) an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended.

(c) The board of directors' conclusions and approval shall be made a part of the minutes of the board, with a copy retained in the borrower's credit file.

**8. Implementation of Loan Review.**

(a) Within 60 days of the effective date of this ORDER, the board shall develop a written program of independent loan review that will provide for a periodic review of the Bank's loan portfolio and the identification and categorization of problem credits. At a minimum, the written program shall provide for:

(i) prompt identification of loans with credit weaknesses that warrant the special attention of management, including the name of the borrower, amount of the loan, reason why the loan warrants special attention; and assessment of the degree of risk that the loan will not be fully repaid according to its terms;

(ii) prompt identification of all outstanding balances and commitments attributable to each obligor identified under the requirements of subparagraph (i), including outstanding balances and commitments attributable to related interests of such obligors, including the obligor of record, relationship to the primary obligor identified under subparagraph (i), and an assessment of the risk exposure from the aggregate relationship;

(iii) identification of trends affecting the quality of the loan portfolio and potential problem areas;

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

(v) identification of credit and collateral documentation exceptions;

(vi) identification and status of violations of laws, rules, or regulations with respect to the lending function;

(vii) identification of loans that are not in conformance with the Bank's lending policy;

(viii) identification of loans to directors, officers, principal shareholders, and their related interests; and

(ix) a mechanism for reporting, in writing, the information developed in (i) through (viii) above to the board of directors on at least a quarterly basis. The report should also describe the action(s) taken by management with respect to problem credits.

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

(c) Upon implementation, a copy of each report shall be submitted to the board, as well as documentation of the actions

taken by the Bank or recommendations to the board that address identified deficiencies in specific loan relationships or the Bank's policies, procedures, strategies, or other elements of the Bank's lending activities. Such reports and recommendations, as well as any resulting determinations, shall be recorded and retained in the minutes of the meeting of the board of directors.

**9. Disposition of Loss**

Within 10 days, the Bank will collect, charge off, or expense all assets classified Loss in the Report of Examination. Elimination or reduction of assets through proceeds of other loans made by the Bank is not considered collection for purposes of this provision.

**10. Maintenance of Allowance for Loan and Lease Losses.**

(a) Within 10 days from the effective date of this ORDER, the board of directors shall make a provision which will replenish the allowance for loan and lease losses ("ALLL") for the loans charged off as a result of the most recent FDIC examination and reflect the potential for further losses in the remaining loans or leases classified "Substandard" and "Doubtful" as well as all other loans and leases in its portfolio.

(b) Within 30 days from the effective date of this ORDER, the board shall establish a comprehensive policy and methodology for determining an appropriate ALLL. The policy shall provide for a review of the ALLL at least once each calendar quarter. That review should be completed at such time to ensure that the findings of the board of directors will be properly reported in the Bank's Call Reports. Such review shall, at a minimum, be made in accordance with Call Report Instructions and other applicable regulatory guidance that addresses the appropriateness of the Bank's ALLL, and any analysis of the Bank's ALLL provided by either of the Supervisory Authorities.

(c) A deficiency in the Bank's ALLL shall be remedied in the calendar quarter in which it is discovered by a charge to current operating earnings prior to any Tier 1 capital determinations required by this ORDER and prior to the Bank's submission of its Call Report. The board of directors shall thereafter maintain an appropriate ALLL.

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



**11. Concentrations of Credit.**

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

(i) dollar levels and percent of capital to which the Bank shall reduce each concentration;

(ii) timeframes for achieving the reduction in dollar levels identified in response to (i) above;

(iii) provisions for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors;  
and

(iv) procedures for monitoring the Bank's compliance with the plan.

(b) The Bank shall not make any new extensions or commitments of credit to or for the benefit of any borrower or

associated entities so long as such extension or commitment would result in the Bank exceeding any limit contained in the Concentration Plan.

**12. Correction of Violations of Laws and/or Regulations.**

(a) Within 30 days after the effective date of this ORDER, the Bank, consistent with sound banking practices, shall eliminate and/or correct all violations of laws and/or regulations cited in the Report of Examination. In addition, within 30 days from the effective date of this ORDER, the Bank shall adopt and implement appropriate procedures to ensure future compliance with all applicable laws, rules and regulations.

(b) The Bank shall document each violation that cannot be eliminated or corrected, and why, for review by the board of directors at its next monthly meeting. The board's review, discussion and any action upon the uncorrected violation shall be recorded in its minutes.

**13. Correction of Asset Documentation Exceptions.**

(a) Within 60 days from the effective date of this ORDER, the Bank shall correct the asset documentation exceptions cited in the Report of Examination.

(b) For any exception that cannot be corrected, the Bank shall document why corrections could not be made, which shall be reviewed by the board of directors at its next meeting, and whose review, discussion and any action taken shall be recorded in its minutes, with a copy placed in the borrower's credit file.

**14. Business/Strategic Plan and Profit and Budget Plan.**

(a) Within 60 days from the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop and fully implement a written three-year business/strategic plan and one-year profit and budget plan covering the overall operation of the Bank and its goals and strategies, consistent with sound banking practices, and taking into account the Bank's other written plans, policies, or other actions as required by this ORDER.

(b) The business/strategic plan shall provide specific objectives for asset growth, loan portfolio mix, market focus, earnings projections, capital needs, and liquidity position. The profit and budget plan shall include goals and strategies for improving the earnings of the Bank. The budget shall include a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(c) The business/strategic plan and the profit and budget plan, and any subsequent modification thereto, shall be submitted to the Supervisory Authorities for review and comment. No more than 30 days after the receipt of any comment from the Supervisory Authorities, and after consideration of all such comments, the board of directors shall approve the business/strategic plan and the profit and budget plan, which approval shall be recorded in the board meeting minutes. Thereafter, the Bank shall implement and fully comply with the plans.

**15. Disclosure of Order to Shareholders.**

Following the effective date of this ORDER, the Bank shall provide a copy of this ORDER to its shareholders, (i) in conjunction with the Bank's next shareholder communication, and (ii) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting.

**16. Progress Reports Detailing Compliance with ORDER.**

Within 90 days of the effective date of the ORDER and every 90 days thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form, manner, and results of any actions taken to secure compliance with this ORDER. Such written progress reports shall provide

cumulative detail of the Bank's progress toward achieving compliance with each provision of the ORDER.

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 and KSBB.

Issued Pursuant to Delegated Authority

Dated the 29th day of April, 2010.

KANSAS STATE BANKING BOARD

FEDERAL DEPOSIT INSURANCE  
CORPORATION

By: \_\_\_\_\_ /s/  
James O'Sullivan, Chairman  
Kansas State Banking Board

By: \_\_\_\_\_ /s/  
Mark S. Moylan  
Deputy Regional Director  
Kansas City Regional Office

By: \_\_\_\_\_ /s/  
J. Thomas Thull, Secretary  
Kansas State Banking Board