

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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	)	
FORT COLLINS COMMERCE BANK	)	
FORT COLLINS, COLORADO	)	
	)	ORDER CONDITIONALLY
LOVELAND BANK OF COMMERCE	)	GRANTING APPROVAL
LOVELAND, COLORADO	)	FOR WAIVER OF CROSS
	)	GUARANTEE LIABILITY
LARIMER BANK OF COMMERCE	)	
FORT COLLINS, COLORADO	)	
	)	FDIC-10-433kk
(INSURED DEPOSITORY INSTITUTIONS)	)	FDIC-10-434kk
	)	FDIC-10-435kk
	)	
_____	)	

WHEREAS, on November 20, 2009, Commerce Bank of Southwest Florida, Fort Myers, Florida (Commerce) failed and caused a loss to the Federal Deposit Insurance Corporation (FDIC); and

WHEREAS, at the time of its failure, Commerce was controlled by Capitol Bancorp, Ltd., Lansing, Michigan, a bank holding company (BHC); and

WHEREAS, at the time of Commerce's failure, BHC also controlled Fort Collins Commerce Bank, Fort Collins, Colorado; Loveland Bank of Commerce, Loveland, Colorado; and Larimer Bank of Commerce, Fort Collins, Colorado (Banks); and

WHEREAS, pursuant to 12 U.S.C. § 1815(e)(8), Banks and Commerce were commonly controlled at the time of the failure of Commerce; and

WHEREAS, pursuant to 12 U.S.C. § 1815(e)(1)(A), at the time of Commerce's failure, Banks incurred a cross-guarantee liability to the FDIC in connection with the FDIC's actual and anticipated losses in connection with Commerce's failure; and

WHEREAS, BHC and Banks neither admit nor deny the FDIC's findings in this Order; and

WHEREAS, on July 13, 2010, BHC and Verus Acquisition Group, Inc., Fort Collins, Colorado (Verus), a newly formed holding company, entered into an amended definitive agreement by which BHC agreed to sell its stake in the three Banks to Verus; and

WHEREAS, BHC and Banks have filed an application with the FDIC pursuant to 12 U.S.C. § 1815(e)(5)(A) requesting the FDIC's consent to grant a conditional waiver of the remainder of Banks' cross-guarantee liability on the condition that all the proceeds from the sale of the shares of the banks that BHC receives are invested in other insured depository institutions that BHC controls; and

WHEREAS, BHC shall only use such sales proceeds to invest in other insured depository institutions controlled by BHC as permitted by prior, written non-objection from the Division of Supervision and Consumer Protection (DSC) Chicago Regional Director; and

WHEREAS, BHC's sale of the shares of Banks is conditioned upon the FDIC, pursuant to 12 U.S.C. § 1815(e)(5)(A), granting a waiver of the cross guarantee liability against Banks as described herein; and

BE ADVISED, the Board of Directors (Board) of the FDIC has fully considered the facts and information relating to the conditional waiver of cross-guarantee liability and has concluded that approval of such an application will be in the best interests of the Deposit Insurance Fund and should be granted by FDIC staff, subject to certain conditions and restrictions set forth below.

IT IS THEREFORE ORDERED THAT:

1. This ORDER CONDITIONALLY GRANTING APPROVAL FOR WAIVER OF CROSS GUARANTEE LIABILITY (ORDER) will become effective only upon the Federal Reserve Bank of Kansas City's approval of Verus's bank holding company application and upon actual consummation of the acquisition of the stock owned by Capitol's second-tier holding company. Absent such acquisition within one hundred twenty (120) days from the date of issuance of this ORDER, the ORDER would become null and void unless, upon the written request of Verus and Capitol, the FDIC, in its discretion, grants an extension of that time period with a subsequent order issued by the Director of DSC.
2. The exemption granted by the ORDER may not be conveyed to a third party or otherwise transferred.
3. Concurrent with the acquisition of Fort Collins, Loveland, and Larimer stock owned by Capitol's second-tier holding company, all sales proceeds shall be paid by Verus to an escrow agent on behalf of Capitol and its second-tier holding company, and the escrow agent shall immediately transfer (i) transaction expense payments to the accounts of documented recipients after receiving written non-objection from the FDIC for payment of such expenses and (ii) all net sales proceeds due Capitol and its second-tier holding company to the capital accounts of other insured depository institutions controlled by Capitol as directed by Capitol and specifically agreed to in writing by the FDIC Chicago Regional Director or his designee.

4. Immediately following consummation of the transaction, Capitol shall provide evidence to the FDIC Chicago Regional Director that all of the sales proceeds were used consistent with Condition 3.
5. No proceeds from the transactions may be paid to any shareholder of Capitol or any second-tier holding company controlled by Capitol except payments in accordance with Condition 3.
6. Proceeds from the transactions may be used only as explicitly permitted in Condition 3 and may not otherwise be used for payment of operating or other expenses of Capitol or any of its second-tier holding companies.
7. Capitol and Verus shall inform the FDIC within one (1) business day of any material changes to the proposed transaction, including the sales price and estimates of net proceeds.
8. Capitol shall comply with the February 25, 2010, letter agreement with the FDIC.

Dated at Washington, D.C. the 26<sup>th</sup> day of October, 2010.

/s/ \_\_\_\_\_

Sandra L. Thompson  
Director, Division of Supervision and Consumer Protection