FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of: DOUGLAS E. FRENCH, individually and as an institution-affiliated party of SILVER STATE BANK HENDERSON, NEVADA (IN RECEIVERSHIP)	NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION, NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTIES, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, AND NOTICE OF HEARING FDIC-10-894e FDIC-10-895k

The Federal Deposit Insurance Corporation ("FDIC") has determined that DOUGLAS E. FRENCH (“Respondent” or “French”), as an institution-affiliated party of SILVER STATE BANK, HENDERSON, NEVADA (“Bank”), has directly or indirectly participated or engaged in violations of law and/or regulation, unsafe or unsound banking practices, and/or acts, omissions or practices which constitute breaches of his fiduciary duty as an officer of the Bank; that the Bank has suffered financial loss or other damage, that the interests of its depositors have been prejudiced or could be prejudiced and/or that the Respondent has received financial gain or other benefit by reason of such violations, practices and/or breaches of fiduciary duty; and that such violations, practices and/or breaches of fiduciary duty demonstrate the Respondent's personal dishonesty and/or his willful or continuing disregard for the safety or soundness of the Bank.

Further, the FDIC has determined that Respondent’s violations, reckless unsafe or unsound practices and/or breaches of his fiduciary duty were part of a pattern of misconduct and/or caused or are likely to cause more than a minimal loss to the Bank and/or resulted in pecuniary gain or other benefit to the Respondent.

The FDIC, therefore, institutes this proceeding for the purpose of determining whether an appropriate order should be issued against the Respondent under the provisions of section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), prohibiting the Respondent from further participation in the conduct of the affairs of any insured depository institution or organization listed in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written approval of the FDIC and such other appropriate Federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D).

Further, the FDIC institutes this proceeding for the assessment of civil money penalties pursuant to the provisions of section 8(i)(2)(B) of the Act, 12 U.S.C. § 1818(i)(2)(B).

The FDIC hereby issues this NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION ("NOTICE TO PROHIBIT") pursuant to section 8(e) of the Act, 12 U.S.C. § 1818(e), and this NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, and NOTICE OF HEARING ("NOTICE OF ASSESSMENT") pursuant to section 8(i) of the Act, 12 U.S.C. § 1818(i), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308, and alleges as follows:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Background Allegations

1. The Bank was chartered by the Nevada Financial Institutions Division ("NFID") and insured by the FDIC, effective July 1, 1996.

2. The Bank was a wholly owned subsidiary of Silver State Bancorp and a corporation existing and doing business under the laws of the state of Nevada. The Bank had its principal place of business at Henderson, Nevada.

3. At all times pertinent to this proceeding, the Bank was an insured state non-member bank, as defined in section 3(e) of the Act, 12 U.S.C. § 1813(e) and as such was subject to the Act, 12 U.S.C. §§1811-34(a).

4. On September 5, 2008, the NFID closed the Bank and appointed the FDIC as Receiver. When the Bank failed, it operated 17 full-service branches in Nevada and Arizona with total assets of $1.887 billion.

5. French began his employment at the Bank in 1997. He started his tenure as senior vice president (SVP) and real estate lender. During 1999, he was promoted to SVP and real estate manager. In 2001, he was promoted to executive vice president (EVP) and real estate manger. He remained in that position until he resigned on May 15, 2008.

6. According to public statements made by Bank representatives, French resigned from the Bank for personal reasons. However, subsequently, French has testified that he was "asked to leave" the bank.

7. French was a member of the Bank's Senior Loan Committee ("SLC") from the date of its inception until he resigned. He was also a member of the Residential Loan Commit-

tee and of the Board of Directors of Choice Bank, Scottsdale, Arizona (from late 2006 until it was merged into the Bank on April 1, 2008).

8. At all times pertinent to the charges herein, French was an "institution-affiliated party" of the Bank as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u) and for purposes of section 8(e), 12 U.S.C. § 1818(e), and for purposes of section 8(i) of the Act, 12 U.S.C. § 1818(i).

9. The FDIC has jurisdiction over the Bank, Respondent and the subject matter of this proceeding.

10. From at least January 2006 through May 15, 2008, French served as the relationship manager at the Bank for ******* and his companies. During that time, French orchestrated, underwrote, recommended, administered and/or was the primary loan officer for loans the Bank made to *******nd companies controlled by ******* such as ******* ******* (together, ******* ******* and ******* By March 2008, ******* at the Bank stood at more than $34 million.

11. In connection with orchestrating, underwriting, recommending and administering loans to ******* companies controlled by *******, French violated various federal laws and regulations, engaged and/or participated in unsafe or unsound banking practices and breached his fiduciary duty to the Bank. These actions caused the Bank and the FDIC as Receiver for the Bank a financial loss of approximately $10 million with potential for significant additional loss to the FDIC upon final disposition of the assets. These actions resulted in a gain to French of approximately $98,000 in loan fee commissions.

B. *******

12. ******* was a real-estate developer in the Las Vegas and *******, region. He was the Bank's largest borrower and had at least a six year relationship with the Bank.

13. French violated laws and/or regulations, engaged in unsafe and unsound practices and breached his fiduciary duty to the Bank in connection with several ******* loans, described below. These practices masked ******* failure to complete various projects as agreed, as well as his inability to service his debt, and enabled ******* to obtain additional funds from the Bank both to service past due loans and for new projects.

D. ******* Loans

14. The Bank made at least three loans to *******, an entity owned and managed by ******* for construction in a development known as *******, ******* signed the loan documents on behalf of ******* and was the guarantor of the loans. Two of the ******* ******* loans reflect misconduct by French which resulted in losses to the Bank. Specifically, French hid problems with the ******* loans from the Bank and engaged in unsafe and unsound practices by failing to disclose pertinent information to the SLC; utilizing inaccurate appraisals that artificially inflated the value of the collateral; approving questionable loan disbursements; and violating bank policy.

******* *Loan* ******* *loan #1)*

15. French underwrote, administered and recommended ******* loan # 1 in the amount of $5,600,000 and drafted the Credit Approval Memorandum (CAM), that he presented to the SLC for approval. The Bank approved the loan on January 18, 2006, and funded it on January 31, 2006. In administering this loan, French approved a variety of disbursements for non-approved purposes, which ensured that construction of the subject condominiums could not take place pursuant to the terms of the loan.

16. According to French's CAM, the purpose of this loan was to fund the construction of 16 condominium units in what was identified as Phase 3A of the project, and to refinance 104

lots (a total of 120 lots). Collateral was stated to be a first deed of trust on 10.3 acres improved with 120 condominium lots in the ******* development located in Mesquite, Nevada. French based the requested loan amount on an appraisal dated December 15, 2005, that valued the collateral at $8,116,800.

17. Proceeds from this loan were to pay off of earlier Bank loan ******* in the amount of $3,480,000, and provide $1,705,000 for construction, $315,000 for interest reserves, and $84,000 to pay a loan origination fee. Repayment was to come from the land draws on construction loans and interest payments from a Bank funded interest reserve. French noted values of $4,940,000 for the 104 lots and $3,177,000 for the 16 condominium units, when completed. French calculated a loan-to-value ratio of 69%.

18. Based on French's recommendation, the loan was renewed or extended three times between September 25, 2007, and February 26, 2008.

19. Based upon French's recommendation, the loan was approved to pay off a prior loan, ostensibly in an amount reflecting the value of property being acquired from that loan. French employed an "as completed" value to establish the paydown amount of $3,480,000, rather than the property's "as-is" value of $1,775,000. In this manner, ******* Loan #1 was immediately burdened by a collateral deficiency of approximately $2,189,000.

20. Contrary to Bank policy, French failed to apprise the SLC in the CAM that there was a superior lien upon the property and that the Bank was able to take a first lien position only because the first lienholder had agreed to subordinate its lien position to the Bank's loan.

21. French's initial loan-to-value ratio calculation of 69%, based on individual retail sales of the completed units, was incorrect. French should have utilized the lower "bulk value"

sales figure, which if employed would have yielded a loan-to-value ratio of approximately 119%.

22. French failed to develop and analyze adequately the borrower and principal's global cash flow position and projections.

23. French was aware of or approved the disbursement of more than $900,000 in loan proceeds to pay non-construction expenses not included in his January 12, 2006, CAM and budget, including a $230,000 payment against a ******* loan with no connection to this project. French also approved or was aware of the reallocation of loan budget items without the analysis demonstrating the borrower's continuing ability to construct the project using loan proceeds, contrary to usual Bank practice.

24. On at least four occasions, French was aware of or approved the disbursement of construction loan funds without the benefit of a timely third-party construction progress report, as required by Bank policy.

25. French collected loan fee commissions of approximately $8,900 from the origination and renewal of this loan. The Bank and the FDIC as Receiver for the Bank lost over $800,000 in principal and interest on this loan. There is a potential for additional significant loss to the FDIC upon final disposition of the asset.

******* *Loan* ******* *loan #2)*

26. French underwrote, administered and recommended ******* loan # 2 in the amount of $2,803,000 and drafted the CAM that he presented to the SLC for approval. The Bank approved the loan on January 29, 2007, and funded it on April 9, 2007. Among other things, in administering this loan, French approved a variety of disbursements for non-approved

purposes, which ensured that construction of the subject condominiums could not take place pursuant to the terms of the loan.

27. At the time ******* loan #2 was approved, ******* loan #1 had been almost fully disbursed.

28. According to French's CAM, the purpose of the loan was to fund the construction of Phase 3A (16 condominium units) in the ******* development in *******. These were the same condominiums that were to have been constructed with the proceeds of ******* loan #1. Collateral for ******* #2 was to be a first deed of trust on 16 condominium lots (4 pads) to be improved with condominium units, i.e., the same proposed units that had partially secured ******* loan #1. French based the requested loan amount on an appraisal dated January 29, 2007, which valued this collateral at $3,552,000.

29. Proceeds of the loan were to pay down ******* loan # 1 by $1,089,000 and provide $1,258,000 for construction, $140,000 for interest reserves, $233,000 for working capital, and $42,000 for a loan origination fee. Repayment of ******* loan #2 was to come from land draws on construction loans, and interest payments from a bank funded interest reserve. French calculated a loan-to-value ratio of 79%.

30. French failed to disclose in the January 26, 2007, CAM or apprise the SLC that the purpose of this loan was to construct the same 16 condominiums that ******* loan # 1 had been intended to fund.

31. The January 29, 2007, appraisal used by French did not provide enough detail on the condition of the partially completed lots or changes in the market that occurred in 2006 to support the extension of additional funds to finish lot development and begin vertical construction. This was a violation of Part 323.4 of the FDIC Rules and Regulations. In addition, the

appraisal used by French did not provide an "as is" value of the 16 condominium lots or an estimation of the amount of funds that would be required to complete their development. As a result, the appraisal did not comply with the minimum appraisal standards set forth in Section 323.4 of the FDIC Rules and Regulations, 12 C.F.R. § 323.4.

32. French did not note in the CAM or otherwise inform the SLC that the Bank had received an appraisal dated June 16, 2006, completed for another bank, which valued the four partially completed condominium pads at a bulk value of $835,000, and provided an "as completed" bulk value to the condominiums of only $2,604,000 – an amount substantially below the approximately $3.5 million French represented the completed collateral to be worth.

33. French failed to disclose in the January 26, 2007, CAM or apprise the SLC that the collateral for this loan was subject to a superior lien, and that the first lien-holder had not subordinated its lien position to this new loan.

34. Again, French calculated the initial loan-to-value ratio of 79% incorrectly. The approximate appropriate loan-to-value ratio of the property was 117% based upon the June 16, 2006 appraisal.

35. The loan was approved to provide $1,089,000 in funds to reduce ******* loan # 1; however, the "as is" value of the collateral transferred from ******* loan # 1 to the new loan was only $909,000.

36. French failed to develop and analyze adequately the borrower and principal's global cash flow position and projections.

37. French was aware of or approved the improper disbursement of almost $1,000,000 in loan proceeds to pay for non-construction expenses not included in his January 26, 2007, CAM, including the refinance of another ******* loan at the Bank and direct deposits

into a ******* demand deposit account. French was also aware of or approved the reallocation of loan budget items without the analysis demonstrating the borrower's continuing ability to construct the project using loan proceeds, contrary to usual Bank practice.

38. French was aware or approved of the disbursement of construction loan funds without the benefit of a timely third-party construction progress report as required by Bank policy.

39. The prior lienholder refused to subordinate its superior position to the Bank in connection with this additional loan on Phase 3A of the project. Accordingly French authorized the payment, out of construction funds, of approximately $500,000 to pay off the prior lien holder and obtain a first lien position on the property for the Bank. French failed to disclose to the SLC or the Board of Directors ("Board") either the existence of the prior lien, or the payoff of that lien out of the construction budget for ******* loan #2.

40. The condominiums in Phase 3A of the project, to be funded by both ******* loan #1 and ******* loan #2, were never built.

41. French collected loan fee commissions of approximately $4,204 from the origination this loan. The Bank and the FDIC as Receiver for the Bank lost an estimated $200,000 principal and over $300,000 interest on this loan. There is a potential for additional significant loss to the FDIC upon final disposition of the asset.

E. ******* Loans

42. The Bank made three loans to *******, an entity owned and managed by *******, for construction in a development known as ******* from approximately January 2006 through March 2008 ******* signed the loan documents on behalf of ******* and was the guarantor on all three loans. ******* filed a Chapter 11 bankruptcy petition on February 21, 2008. French's

misconduct in connection with ******* loans # 2 and 3 resulted in loss to the Bank and the FDIC as Receiver. As in the case of the ******* loans, French failed to disclose material information to the SLC in connection with the origination of these loans, and disbursed construction funds without ensuring that construction was in fact taking place. As a result, only 12 of the 48 residences which were to be constructed with the proceeds of the three ******* loans – and *none* of the houses to be constructed with proceeds of ******* loans #2 and 3 – were ever built.

******* ******* *#1)*

43. French underwrote, administered and recommended ******* loan # 1 in the amount of $2,764,000 and drafted the CAM that he presented to the SLC for approval. The Bank approved the loan on February 15, 2006, and funded it on February 16, 2006.

44. According to French's CAM, the purpose of this loan was to fund the construction of 12 single-family homes in Phase 1 ******* in ******* and to pay off a previous loan. The collateral was a first deed of trust on 12 single-family lots to be improved with single story single-family homes. French based the amount on the loan on an appraisal dated June 17, 2005, which valued the collateral at $3,455,000 and included the value of the completed homes. Repayment was to come from sale of the homes.

45. French used stale financial data to bolster the appraisal amount and failed to develop and analyze adequately the borrower and principal's global cash flow position and projections.

46. Loan proceeds were to be used to pay down earlier Bank ******* in the amount of $838,344, finance construction costs of $1,483,831, buy out a partner for $240,000, fund interest reserves of $140,000, and pay a loan fee of $41,460.

47. Twelve houses were constructed in Phase 1. Because of slow sales at the ******* project, ******* loan #1 was renewed and extended four times between December 11, 2006, and February 19, 2008; the December 11, 2006, extension included an increase of the commitment amount by $253,000 to $3,017,000.

48. In seeking and receiving approval for a December 11, 2006, renewal and extension of the loan, including an increase in the loan amount, French improperly manipulated loan-to-value ratio values he derived from a March 2, 2006, appraisal report.

49. ******* loan proceeds paid down the balance of this loan in the amount of $706,200.66 principal plus $35,481.72 interest.

50. French collected loan fee commissions of approximately $7,185 from the origination and subsequent extensions of this loan.

******* *Loan* ******* *#2)*

51. French underwrote, administered and recommended ******* loan # 2 in the amount of $5,490,000 and drafted the CAM that he presented to the SLC for approval. The Bank approved it on April 26, 2006, and funded it on May 16, 2006.

52. According to French's CAM, the purpose of this loan was to fund construction of 24 single-family homes in Phases 3 and 4 of ******* in ******* and pay off a previous loan. The collateral was a first deed of trust on 24 single-family lots. French based the amount of this loan on an appraisal dated March 2, 2006, that valued the collateral at $7,320,000.

53. Loan proceeds were to fund the pay down of Bank loan ******* in the amount of $1,676,000, construction in the amount of $2,930,000, interest reserves in the amount of $260,000, and a loan origination fee of $82,000. Repayment was to come from sale of homes

and interest payments from a Bank funded interest reserve. French calculated the loan-to-value ratio at 75%.

54. In administering this loan, French was aware of or approved the reallocation of loan budget items away from the construction budget without the analysis demonstrating the borrower's continuing ability to construct the project using loan proceeds, contrary to usual Bank practice; French was also aware of or approved the improper disbursement of more than $300,000 in loan proceeds to pay for non-approved expenses.

55. On several occasions, French was aware of or approved the disbursement of loan funds without the benefit of a timely third-party construction progress report, as required by Bank policy.

56. The $2,930,000 construction budget was meant to fund the construction of 24 single-family homes in Phases 3 and 4 of the ******* project. None of these homes was ever built.

57. French failed to develop and analyze adequately the borrower and principal's global cash flow position and projections.

58. Proceeds from the ******* loan paid down this loan on February 13, 2008, in the amount of $1,764,718.55 for principal plus interest of $35,281.45.

59. French collected loan fee commissions of approximately $8,335 from the origination of this loan. The Bank and the FDIC as Receiver for the Bank lost approximately $180,000 on this loan. There is a potential for additional significant loss to the FDIC upon final disposition of the asset.

******* _Loan_ ******* _#3)_

60. French underwrote, administered and recommended ******* loan # 3 in the amount of $5,856,000 and drafted the CAM that he presented to the SLC for approval. The Bank approved the loan on September 4, 2007, and originated it on September 20, 2007.

61. The purpose of the loan was to fund construction of 24 single-family homes in Phase 4 and 5 of ******* in ******* and to pay down another Bank loan. The collateral was a first deed of trust on 24 single-family lots. French based the amount of the loan on an appraisal dated March 2, 2006, that valued the collateral at $7,320,000.

62. Loan proceeds were to be used to partially refinance ******* loan # 2 in the amount of $2,368,000 and pay off a loan held by a third party in the amount of $1,137,924.58 (the August 31, 2007 CAM stated $1,150,000). The loan was to provide $1,950,000 for hard and soft construction, $271,000 for interest reserves, and $88,000 to pay a loan origination fee. Repayment was to come from the sale of homes and interest payments from a Bank-funded interest reserve. French calculated the loan-to-value ratio at 80%.

63. French did not disclose in the CAM that ******* loan #3 was intended in part to fund construction of the same Phase 4 of the project that ******* loan #2 had already been represented as funding. None of the homes whose construction was to be funded by ******* loan #2 or ******* loan #3 was ever built.

64. In seeking and receiving approval of this loan, French used a March 2, 2006, appraisal to support the value of the collateral. At the time, this appraisal was more than 18 months old and did not take into account the significant deterioration in the Nevada real estate market that had occurred since it was prepared. French was aware of this market deterioration and thus should not have used this appraisal to support the loan.

65. Based upon French's recommendation, the Bank approved the loan, which allowed a previous loan to be paid off. As he did in ******* Loan #1, French valued the payoff amount incorrectly, with the result that ******* Loan #3 became immediately burdened by a collateral deficiency in the amount of at least $1,278,000.

66. Based upon French's recommendation, the Bank approved the loan with a loan-to-value ratio of 80% that French calculated incorrectly. The approximate value of the appropriate ratio was 99%.

67. French failed to develop and analyze adequately the borrower and principal's global cash flow position and projections.

68. In several instances French was aware of or approved the disbursement without the benefit of a timely third-party construction progress report.

69. Funds from the ******* loan paid down this loan in the amount of $3,200,000 on February 13, 2008.

70. French collected loan fee commissions of approximately $8,784 from the origination of this loan. The Bank and the FDIC as Receiver for the Bank lost over $370,000 principal and over $99,000 interest on this loan.

F. The ******* loan – *******

71. ******* was an entity owned and managed by *******.

72. French underwrote, administered and recommended ******* Loan ******* in the amount of $4,200,000 and drafted the CAM that he presented to the SLC for approval. The Bank approved the loan on July 12, 2006, and funded it on August 10, 2006.

73. According to French in his CAM, the purpose of this loan was the acquisition and development of 14.55 acres and 140 condominium units in *******. Collateral was a 14.55 acre

parcel of land. French based the value of the loan on an appraisal dated June 9, 2006, which valued the collateral at $5,700,000. The total cost of this development was budgeted at $5,200,000.

74. Proceeds of the loan were to be used as follows: $2,750,000 for land purchase (out of total acquisition cost of $3,750,000), $1,041,000 for development costs, $304,000 for interest reserve, and $84,000 to pay loan fee. Repayment was to come from sale proceeds of the individual lots. French calculated the loan-to-value ratio at 75%.

75. The June 9, 2006, appraisal used by French to support the value of the collateral used a proposed density that was higher than the actual zoned density to generate its "as is" and "as completed" values in violation of Part 323.4 of the FDIC Rules and Regulations.

76. French, in turn, used the June 9, 2006, appraisal to derive an incorrectly calculated loan-to-value ratio of 75%. The approximate appropriate ratio was 88%.

77. In the July 11, 2006, CAM French incorrectly identified $1 million provided by the borrower as "equity". In fact this amount reflected the proceeds of a separate, second mortgage on the property provided to the borrower by an entity controlled by *******. Accordingly the purchase of this property was 100% financed by loan proceeds. There was no documentation in the loan package regarding a release price for this second deed of trust, thus calling into question the borrower's ability to convey clear title to purchasers of the finished lots.

78. French was aware of or approved disbursements without the benefit of timely third-party construction progress report, as required by Bank policy.

79. French sought and received a March 17, 2008, renewal and extension of this loan, which was supported by a January 28, 2008, appraised value that was not reviewed by independent Bank personnel, in violation of Bank policy.

80. Funds from the ******* loan paid down this loan in the amount of $1,718,190.11 principal plus $90,506.66 interest.

81. French collected loan fee commissions of approximately $8,400 from the origination of this loan. The Bank and the FDIC as Receiver for the Bank lost approximately $700,000 on this loan. There is potential for additional significant loss to the FDIC upon final disposition of the asset.

G. The ******* Loan

82. As noted above, several of the Bank's ******* loans were kept current only by increases in interest reserves authorized by French, or by refinancing through additional loans. In 2007, several of ******* development projects began to experience declining collateral values. As a result, at least six ******* loans at the Bank were severely under-collateralized by January 2008. These were ******* loan ******* loan ******* ******* loan ******* loan ******* loan ******* and ******* $680,000 personal line of credit. ******* and his companies were failing to pay amounts due on these loans, which the Bank had classified as Substandard and placed on the past due list.

83. ******* and ******* were single asset entities, originally formed by *******, that each owned a parcel of land located near a race track in ******* owned a smaller 2.5 acre parcel, which ******* originally purchased in 2005 for $1.3 million, and ******* owned a larger 11.38 acre parcel, which ******* originally purchased for $7 million in July 2007.

84. On January 30, 2008, the Bank approved a $24 million non-revolving line of credit to ******* and ******* French served as the loan officer for the ******* loan and underwrote and recommended it to the SLC and the Board, both of which approved the loan. French

wrote and signed the CAM on which the SLC and the Board based their approval of the ******* loan.

85. At the time French underwrote the ******* loan, ******* represented that he owned 91% of ******* and that he had the right to indebt the company on the Speedway loan.

86. The Bank funded the ******* loan on or around February 12, 2008. Collateral for the loan was a first deed of trust on the combined ******* and ******* parcels of land with a Gaming Enterprises District designation. The appraised value used by French to support the loan amount was $38,570,000 (*i.e.*, $35,100,000 for the 11.38 acre-parcel and $3,470,000 for the 2.5 acre parcel) based on a February 11, 2008, appraisal by ******* French calculated a loan-to-value ratio of 62.2%. Repayment was to come from the sale of the land.

*French Orchestrated the ******* Loan as a Workout Solution for *******

87. French orchestrated the ******* loan to provide a workout solution for six ******* loans at the Bank, all of which were classified Substandard by the Bank, undercollateralized, had exhausted interest reserves and were past due at the time the ******* loan was made.

88. Funds from the ******* loan were used to pay down ******* past-due loans as follows:

- ******* loan #1 received $885,101.40 for principal plus interest of $114,89.00
- ******* loan #1 received $706,200.66 for principal plus $35,481.72 for interest
- ******* loan #2 received $1,764,718.55 for principal plus interest of $35,281.45
- ******* loan #3 received $3,200,000 for principal

- ******* loan #60129 received $1,718,190.11 for principal plus $90,506.66 for interest
- ******* $680,000 personal line of credit (loan #65037) received $681,000 for principal plus interest of $10,387.58

89. French directed personnel at the Bank to make these payments from the ******* loan funds.

90. Funds from the ******* loan were also used to refinance first and second deeds of trust on the ******* parcel and refinance a first deed of trust on the ******* parcel, loans extended by lenders other than the Bank. In addition, numerous creditors were paid out of escrow on ******* behalf from the ******* loan funds. Approximately $12.9 million of the ******* loan funds thus left the Bank to pay third parties, including fees and closing costs.

91. French approved the use of funds from the ******* loan for undocumented items including a $750,000 payment to ******* without SLC and Board approval.

92. French approved the payment of past-due invoices to ******* from ******* in the amount of $15,500 for appraisal work unrelated to the ******* loan.

93. ******* and ******* filed Chapter 11 bankruptcy petitions on February 21, 2008--a matter of days after the ******* loan was funded.

94. On August 6, 2008, eight months after it approved the loan, the Bank placed the ******* loan, as well as all the ******* loans that the Bank had paid down with ******* loan funds, on non-accrual.

*French Accepted Falsified Loan Documents from ******* when French Underwrote the ******* Loan and French Knew or Should Have Known they Were Falsified*

95. Following the approval of the ******* loan, but before the Bank funded it, Jurbala sent an e-mail message to French stating that a hedge fund in ******* through ******* as its rep-

resentative, claimed that it had a 40% interest in *******. Despite this red flag, French did nothing to verify the true ownership of ******* before the ******* loan funded, nor did he inform the SLC or the Board that there was a potential problem with the ******* loan.

96. ******* had provided operating documents to French that reflected that he owned 91% of ******* and that he had the right to indebt the company on the ******* loan. ******* later admitted under penalty of perjury that he falsified the operating documents and that ******* actually owned 40% of the company. ******* also admitted under penalty of perjury that he discussed ******* ownership interest in ******* with unknown officers, directors or employees at the Bank.

97. French accepted these falsified documents and used them to support the ******* loan application.

98. The Bank was sued by ******* on or around March 2008 on the basis that ******* owned a 40% interest in ******* and ******* did not own enough of an interest in ******* to commit the associated property as collateral on the loan.

*French Relied on an Improper Appraisal in Underwriting the ******* Loan; French Had a Conflict of Interest with the Appraiser*

99. As support for the ******* loan and in recommending it to the SLC and Board, French relied on an appraisal by ******* dated February 11, 2008, that was grossly inflated and not prepared in accordance with appraisal standards.

100. French also had business and social relationships with ******* that he did not fully disclose to the Board or the SLC. In particular, French, ******* and ******* *******, owned several businesses together, such as ******* and ******* and frequently collaborated on their operations through 2006 and 2007. In addition, French and ******* regularly saw each other on a social basis, and French facilitated personal loans for ******* at the Bank.

101. ******* appraisal report did not use similar comparables to estimate the value of the collateral securing the loan as required by the Uniform Standards of Professional Appraisal Practice and Section 323.4 of the FDIC Rules and Regulations, 12 C.F.R. § 323.4.

102. French misrepresented to the SLC and the Board in his CAM that ******* appraisal on the ******* properties was in the file and dated December 13, 2007, but the appraisal report actually was not completed until February 11, 2008, which was 12 days after the loan was approved and a violation of Part 323.3(a) of the FDIC Rules and Regulations.

*French Placed ******* Interests Above the Safety and Soundness of the Bank*

103. French recommended that the Bank approve the ******* loan, even though French knew or should have known that ******* was no longer creditworthy based on the deterioration of ******* real estate portfolio, and the fact that ******* could not make timely payments on his loans at the Bank. French also should have known that the collateral securing the ******* loan was worth far less than the amount of the loan and that ******* appraisal was grossly inflated. French placed ******* interests ahead of the safety and soundness of the Bank, and encouraged the Bank to make the ******* loan to *******.

104. French has admitted in sworn testimony that he knew ******* accounts were overdrawn before the ******* loan was made. He has admitted in sworn testimony that he knew before the ******* loan was made that ******* had acquired the ******* portion of the property for $1.3 million in 2005 and the ******* part of the property for $7 million in July 2007, well below ******* appraised value. French also has admitted in sworn testimony that he knew ******* other loans at the Bank were undercollateralized before the ******* loan was made.

*French Did not Perform Adequate Financial Analysis in Making the ******* Loan*

105. French employed inadequate financial analysis in recommending the ******* loan to the Board and the SLC. In particular, French failed to perform appropriate global cash flow analyses of ******* and his related companies. French's unsafe and unsound activities caused the SLC and the Board to be misinformed about ******* financial wherewithal and ability to repay his debts to the Bank.

French received a Personal Benefit and Caused the Bank Loss

106. French collected loan fee commissions of $48,000 from the origination of the ******* loan.

107. The Bank and the FDIC as Receiver for the Bank lost approximately $8 million on this loan. There is potential for additional significant loss to the FDIC upon final disposition of the asset.

GROUNDS FOR SECTION 8(e) PROHIBITION ORDER

108. As a result of the Respondent's foregoing acts, omissions and/or practices, the Respondent has engaged and/or participated in unsafe or unsound banking practices and violations of regulations in connection with the Bank.

109. As a result of the Respondent's foregoing acts, omissions and/or practices, the Respondent breached his fiduciary duty as an officer of the Bank.

110. By reason of the violations of law and/or regulation, the unsafe or unsound banking practices and/or breaches of his fiduciary duties specified above, Respondent caused the Bank and the FDIC as receiver a loss of approximately $10 million.

111. By reason of the unsafe or unsound banking practices or breaches of his fiduciary duties and/or violations of regulations specified above, Respondent gained more than $98,000 in improper loan fee commissions.

112. The unsafe and unsound banking practices or the breaches of his fiduciary duty and/or violations of regulations of the Respondent as set forth above demonstrate a willful or continuing disregard for the safety or soundness of the Bank, respectively, and/or evidence the Respondent's personal dishonesty.

GROUNDS FOR SECTION 8(I)(2) SECOND TIER CIVIL MONEY PENALTY

113. As a result of the foregoing facts, the FDIC concludes that Respondent recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank.

114. Further, as a result of the foregoing facts, the FDIC concludes that Respondent breached his fiduciary duty to the Bank.

115. Further, as a result of the foregoing facts, the FDIC concludes that Respondent's reckless unsafe or unsound practices and/or breaches of fiduciary duty to the Bank were part of a pattern of misconduct.

116. Further, as a result of the foregoing facts, the FDIC concludes that Respondent's reckless unsafe or unsound practices and/or breaches of fiduciary duty to the Bank caused more than a minimal loss to the Bank.

ORDER TO PAY

By reason of the reckless unsafe or unsound practices and/or breaches of fiduciary duty set forth in the NOTICE OF ASSESSMENT, the FDIC has concluded that a civil money penalty should be assessed against the Respondent pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2). After taking into account the appropriateness of the penalties with respect to the size of financial resources and the good faith of the Respondent, the gravity of the reckless unsafe or unsound practices and/or breaches of fiduciary duty, and such other matters as justice may require, it is:

ORDERED, that by reason of the reckless unsafe or unsound practices and/or breaches of fiduciary duty set forth above, a penalty of $125,000 be, and hereby is, assessed against Respondent pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2);

FURTHER ORDERED, that the effective date of this ORDER TO PAY be, and hereby is, stayed with respect to the Respondent until 20 days after the date of receipt of the NOTICE OF ASSESSMENT by the Respondent, during which time the Respondent may file an answer and request a hearing pursuant to section 8(i)(2)(H) of the Act, 12 U.S.C. § 1818(i)(2)(H), and section 308.19 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.19.

If the Respondent fails to file a request for a hearing within 20 days of receipt of this NOTICE OF ASSESSMENT, the penalty assessed against the Respondent, pursuant to this ORDER TO PAY, will be final and shall be paid within 60 days after the date of receipt of this NOTICE OF ASSESSMENT.

NOTICE OF HEARING

IT IS FURTHER ORDERED, that, if Respondent requests a hearing with respect to the charges alleged in this NOTICE OF ASSESSMENT and NOTICE TO PROHIBIT, the hearing shall commence sixty (60) days from the date of receipt of this NOTICE OF ASSESSMENT and NOTICE TO PROHIBIT at Las Vegas, Nevada, or at such other date or place upon which the parties to this proceeding and the Administrative Law Judge may agree. The purpose of the hearing will be for the taking of evidence on the charges, findings and conclusions stated herein in order to determine: (1) whether a permanent order should be issued to prohibit the Respondent from further participation in the conduct of the affairs of any insured depository institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior permission of the FDIC and the appropriate Federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D); and (2) whether the FDIC's ORDER TO PAY should be sustained.

The hearing will be public, and in all respects conducted in accordance with the provisions of the Act, 12 U.S.C. §§ 1811-1834a, the Administrative Procedure Act, 5 U.S.C. §§ 551 559, and the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308. The hearing will be held before an Administrative Law Judge to be appointed by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The exact time and precise location of the hearing will be determined by the Administrative Law Judge.

In the event Respondent requests a hearing, Respondent is hereby directed to file an answer to this NOTICE TO PROHIBIT and NOTICE OF ASSESSMENT within 20 days from the date of service as provided by section 308.19 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.19.

An original and one copy of the answer, any such request for a hearing, and all other documents in this proceeding must be filed in writing with the Office of Financial Institution Adjudication, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, Virginia, 22226-3500, pursuant to section 308.10 of the FDIC Rules of Practice and Procedure, 12 C.F.R. § 308.10. Also, copies of all papers filed in this proceeding shall be served upon the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; A. T. Dill, III, Assistant General Counsel, Legal Division, Enforcement Section, Federal

Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; and upon Joseph J. Sano, Regional Counsel, San Francisco Regional Office, Federal Deposit Insurance Corporation, 25 Jessie Street at Ecker Square, Suite 1400, San Francisco, California 94105.

Pursuant to delegated authority.

Dated at Washington, D.C., this _17th__ day of December, 2010.

__/s/______________________
Serena L. Owens
Associate Director
Supervision and Applications Branch
Division of Supervision and
Consumer Protection