

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
TALLAHASSEE, FLORIDA

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| _____ |) | |
| In the Matter of |) | |
| |) | CONSENT ORDER |
| THE BANK OF COMMERCE |) | |
| SARASOTA, FLORIDA |) | FDIC-10-959b |
| |) | OFR- 0821-FI-01/11 |
| |) | |
| (Insured State Nonmember Bank) |) | |
| _____ |) | |

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for The Bank of Commerce, Sarasota, Florida (“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 March 22, 2011, that is accepted by the FDIC and the Florida Office of Financial Regulation (“OFR”) (collectively, the “Supervisory Authorities”). With this STIPULATION, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or regulation relating to weaknesses in asset quality, management, earnings, capital, and liquidity, to the issuance of this Consent Order (“ORDER”) by the FDIC and the OFR. The OFR may issue an ORDER pursuant to Chapter 120 and Section 655.033, Florida Statutes (2010).

Having determined that the requirements for issuance of an order under 12 U.S.C. §1818(b) and under Chapter 120 and Section 655.033, Florida Statutes, have been satisfied, the Supervisory Authorities hereby order that:

1. BOARD OF DIRECTORS

(a) As of the effective date of this ORDER, the 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. 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, insider, charged off, and recovered loans; investment activity; adoption or modification of operating policies; individual committee reports; audit reports; internal control reviews including managements' responses; reconciliation of general ledger accounts; and compliance with this ORDER. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

(b) Within thirty (30) days after the effective date of this ORDER, the Bank's Board shall establish a committee of the Board ("Directors' Committee"), consisting of at least five members, and charged with the responsibility of ensuring that the Bank complies with the provisions of this ORDER. A majority of the members of the Directors' Committee shall not be officers of the Bank. The Directors' Committee shall formulate and review 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) 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 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 complexity, 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 in upgrading a low-quality loan portfolio; and

(iii) A chief financial 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) During the life of this ORDER, the Bank shall notify the Supervisory Authorities, in writing and within ten (10) business days, of the resignation or termination of any of the Bank's directors or senior executive officers and provide the reason for the

resignation or termination of the individual. Prior to the addition of any individual to the Board or the employment of any individual as a senior executive officer or executive officer, as those terms are defined in Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §303.101 and in Section 655.005, Florida Statutes, the Bank shall comply with the requirements of section 32 of the Federal Deposit Insurance Act (the “Act”), 12 U.S.C. §1831(i), and Subpart F of Part 303 of the FDIC Rules and Regulations, 12 C.F.R. §§303.100-303.104, and Section 655.0385, Florida Statutes, and Rule 69U-100.03852, Florida Administrative Code. The notification shall include a description of the background and experience of the individual or individuals to be added or employed and must be received at least sixty (60) days before such addition or employment is intended to become effective. If the Regional Director or OFR issues a notice of disapproval pursuant to section 32 of the Act, 12 U.S.C. §1831(i), or Section 655.0385(2), Florida Statutes, with respect to any proposed individual, then such individual may not be added or employed by the Bank.

3. CAPITAL

(a) Within sixty (60) days from the effective date of this ORDER, the Bank shall have Tier 1 Capital in such amount as to equal or exceed eight percent (8%) of its total assets, and shall have Total Risk-Based Capital in such amount as to equal or exceed twelve percent (12%) of the Bank’s total risk-weighted assets; and shall maintain the ratios throughout the life of this ORDER as those capital ratios are defined in Part 325 of the FDIC Rules and Regulations, 12 C.F.R. Part 325.

(b) The level of Tier 1 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) Within thirty (30) days from the effective date of this ORDER, the Bank shall submit to the Supervisory Authorities a written Capital Plan. Such Capital Plan shall detail the steps that the Bank shall take to achieve and maintain the capital requirements set forth in this ORDER. In developing the Capital Plan, the Bank must take into consideration:

- (i) The volume of the Bank’s adversely classified assets;
- (ii) The nature and level of the Bank’s asset concentrations;
- (iii) The adequacy of the Bank’s ALLL;
- (iv) The anticipated level of retained earnings;
- (v) Anticipated and contingent liquidity needs; and
- (vi) The source and timing of additional funds to fulfill future capital needs.

(d) The Capital Plan must include a Contingency Plan in the event that the Bank has:

- (i) Failed to maintain the minimum capital ratios required by this paragraph;
- (ii) Failed to submit an acceptable Capital Plan as required by this paragraph; or
- (iii) Failed to implement or adhere to a Capital Plan to which the Supervisory Authorities have taken no written objection pursuant to this paragraph.

Said Contingency Plan shall include a plan to sell or merge the Bank. The Bank shall implement the Contingency Plan upon written notice from the Supervisory Authorities.

(e) Any increase in capital necessary to meet the requirements of this ORDER may be accomplished by the following:

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

(f) No increase in Tier 1 Capital necessary to meet the requirements of this ORDER may be accomplished through a deduction from the Bank's ALLL.

(g) If all or part of any necessary increase in Tier 1 Capital required by this ORDER is accomplished by the sale of new securities, the Board shall forthwith take all necessary steps to adopt and implement a plan for the sale of such additional securities, including the voting of any shares owned or proxies held or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with the Federal securities laws. Prior to the implementation of the plan and, not less than fifteen (15) days prior to the dissemination of such materials, the

plan and any materials used in the sale of the securities shall be submitted to the FDIC, Division of Supervision and Consumer Protection, Accounting and Securities Disclosure Section, 550 17th Street, N.W., Room F-6066, Washington, D.C. 20429, and the OFR, Division of Financial Institutions, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for review. Any changes requested to be made in the plan or materials by the Supervisory Authorities shall be made prior to their dissemination. If the increase in Tier 1 Capital is provided by the sale of noncumulative perpetual preferred stock, then all terms and conditions of the issue, including but not limited to those terms and conditions relative to interest rate and convertibility factor, shall be presented to the Supervisory Authorities for prior approval.

(h) In complying with the provisions of the Capital paragraph of this ORDER, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities, a written notice of any planned or existing development or other changes that are materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within ten (10) days from the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every subscriber and/or purchaser of the Bank's securities who received or was tendered the information contained in the Bank's original offering materials.

4. CHARGE-OFF

(a) Within thirty (30) days from the effective date of this ORDER, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified “Loss” in the FDIC Report of Examination dated August 9, 2010 (“Report”) that have not been previously collected or charged off. Elimination of any of these assets through proceeds of other loans made by the Bank is not considered collection for purposes of this paragraph.

(b) During the life of this ORDER, the Bank shall, within thirty (30) days from the receipt of any official Report of Examination of the Bank from the FDIC or the OFR, eliminate from its books, by collection, charge-off, or other proper entries, the remaining balance of any asset classified “Loss” and fifty percent (50%) of those classified “Doubtful” unless otherwise approved in writing by the Supervisory Authorities. If an asset is classified “Doubtful,” the Bank may, in the alternative, charge off the amount that is considered uncollectable in accordance with the Bank’s written analysis of loan or lease impairment. Such analysis shall be accomplished in accordance with generally accepted accounting principles and the Federal Financial Institutions Examination Council’s Instructions for the Consolidated Reports of Condition and Income, Interagency Statements of Policy on the ALLL, and other applicable regulatory guidance that addresses the adequacy of the Bank’s ALLL. Elimination of any of these assets through proceeds of other loans made by the Bank is not considered collection for purposes of this paragraph.

5. REDUCTION OF CLASSIFIED ASSETS

(a) Within sixty (60) days from the effective date of this ORDER, the Bank shall formulate a written plan to reduce the Bank's risk exposure in each asset in excess of \$600,000 classified as "Substandard" in the Report. In developing the plan mandated by this paragraph, the Bank shall, at a minimum, and with respect to each adversely classified loan, review, analyze, and document the financial position of the borrower, including source of repayment, repayment ability, and alternative repayment sources, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position.

(b) In addition, the written plan mandated by this paragraph shall also include, but not be limited to, the following:

(i) A schedule for reducing the outstanding dollar amount of each adversely classified asset, including timeframes for achieving the reduced dollar amounts (at a minimum, the schedule for each adversely classified asset must show its expected dollar balance on a quarterly basis);

(ii) Specific action plans intended to reduce the Bank's risk exposure in each classified asset;

(iii) A schedule showing, on a quarterly basis, the expected consolidated balance of all adversely classified assets, and the ratio of the consolidated balance to the Bank's projected Tier 1 Capital plus the ALLL;

(iv) A provision for the Bank's submission of monthly written progress reports to its Board; and

(v) A provision mandating Board review of the progress reports, with a notation of the review recorded in the Board minutes.

(c) The plan mandated by this paragraph shall further require a scheduled quarterly reduction in the aggregate balance of assets classified “Substandard” or “Doubtful” in the Report.

(d) The requirements of this paragraph do not represent standards for future operations of the Bank. Following compliance with the above reduction schedule, the Bank shall continue to reduce the total volume of adversely classified assets.

(e) Within 60 days from the effective date of this ORDER, the Bank shall submit the written reduction plan to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities, and after any recommended changes are made, the Bank shall approve the plan, which approval shall be recorded in the minutes of the meeting of the Board. Thereafter, the Bank shall implement and fully comply with the plan. Such plans shall be monitored and progress reports thereon shall be submitted to the Supervisory Authorities at 90-day intervals concurrently with the other reporting requirements set forth in this ORDER.

6. NO ADDITIONAL CREDIT

(a) During the life of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit from the Bank that has been 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 credit already extended to a borrower after full collection, in cash, of interest due from the borrower.

(b) Additionally, during the life of this ORDER, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit from the Bank that has been classified, in whole or part, “Substandard” and is uncollected.

(c) Paragraphs (a) and (b) of this paragraph, above, 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 extension 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, including an explanatory statement of how the Bank’s position would be improved; and

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

(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. CONCENTRATIONS OF CREDIT

(a) Within sixty (60) days from the effective date of this ORDER, the Bank shall develop and submit for review a written plan for systematically reducing and monitoring the Bank’s Commercial Real Estate (“CRE”) Loans concentration of credit

identified in the Report to an amount which is commensurate with the Bank's business strategy, management expertise, size, and location ("Concentration Reduction Plan"). Such plan shall prohibit any advances that would increase the concentration unless the advance is pursuant to an existing loan agreement and is otherwise permissible pursuant to this ORDER.

(b) The Concentration Reduction Plan shall comply with applicable guidance referenced in FIL 104-2006, *Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices* (December 12, 2006), and FIL-22-2008, *Managing Commercial Real Estate Concentrations in a Challenging Environment* (March 17, 2008). The Concentration Reduction Plan shall include, but not be limited to:

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

(ii) Timeframes for achieving the reduction in dollar levels in response to subparagraph (i), above;

(iii) Provisions for controlling and monitoring of CRE, including plans to address the rationale for CRE levels as they relate to growth and capital targets, segmentation and testing of the CRE portfolio to detect and limit concentrations with similar risk characteristics; and

(iv) Provisions for the submission of monthly written progress reports to the Board for review and notation in minutes of the Board meetings.

(c) The Concentration Reduction Plan shall be submitted to the Supervisory Authorities for non-objection or comment. Within thirty (30) days from receipt of non-objection or any comments from the Supervisory Authorities, and after incorporation and

adoption of all comments, the Board shall approve the Concentration Reduction Plan, which approval shall be recorded in the minutes of the Board meeting. Thereafter, the Bank shall implement and fully comply with the Concentration Reduction Plan.

8. PLAN TO IMPROVE EARNINGS/BUDGET

(a) Within ninety (90) 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, 2011. The plan and budget shall include formal goals and strategies, consistent with sound banking practices and taking into account the Bank's other written policies, to improve the Bank's net interest margin, increase interest income, reduce discretionary expenses, and improve and sustain earnings of the Bank. 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 by November 30 preceding each subsequent budget year and submit the plan and budget to the Supervisory Authorities for review and comment by December 15 of each subsequent year. The plan and budget required by this ORDER shall be acceptable to the Supervisory Authorities at subsequent examinations and/or visitations..

(b) The plan and budget and any subsequent modification thereto shall be submitted to the Supervisory Authorities for review and comment. Within thirty (30) days after the receipt of any comment from the Supervisory Authorities, and after due consideration of any recommended changes, the Board shall approve the plan and budget or subsequent modification thereto, which approval shall be recorded in the minutes of the meeting of the Board.

(c) Following the end of each calendar quarter, the Board shall evaluate the Bank's actual performance in relation to the plan and budget 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. The results of the quarterly evaluation shall be submitted to the Supervisory Authorities with the quarterly progress reports required by this ORDER.

9. INTEREST RATE RISK MANAGEMENT

Within sixty (60) days from the effective date of this ORDER, the Bank shall review and revise, as necessary, its written policy and practices for managing interest rate risk taking into consideration examination findings. The policy shall comply with FIL-52-96, *Joint Agency Policy Statement on Interest Rate Risk* (June 26, 1996) and FIL-2-2010, *FFIEC Advisory on Interest Rate Management* (January 20, 2010), and shall be consistent with the comments and recommendations detailed in the Report, and shall include, at a minimum, the means by which the interest rate risk position will be monitored, the establishment of risk parameters, and provisions for periodic reporting to management and the Board regarding interest rate risk. Such policy and its implementation shall be satisfactory to the Supervisory Authorities.

10. LIQUIDITY AND FUNDS MANAGEMENT

(a) Within sixty (60) days from the effective date of this ORDER, the Bank shall adopt and implement a written plan to improve liquidity, contingency funding, and asset liability management.

(b) The plan shall incorporate the guidance contained in FIL-84-2008, *Liquidity Risk Management* (August 26, 2008). The plan shall provide restrictions on the

use of brokered and Internet deposits consistent with safe and sound banking practices.

(c) A copy of the plan shall be submitted to the Supervisory Authorities for review and comment. Within thirty (30) days from the receipt of any comments from the Supervisory Authorities, the Bank shall incorporate those recommended changes. Thereafter, the Board shall implement and follow the plan, and its implementations shall be in a form and manner acceptable to the Supervisory Authorities, as determined at subsequent examinations and/or visitations.

(d) Beginning with the effective date of this ORDER, the Bank's management shall review its liquidity position to ensure that the Bank has sufficient liquid assets or sources of liquidity to meet current and anticipated liquidity needs. This review shall include an analysis of the Bank's sources and uses of funds (cash flow analysis). The results of this review shall be presented to the Board for review each month, with the review noted in the minutes of the Board meeting.

11. TRANSACTIONS WITH AFFILIATES

Within thirty (30) days from the effective date of this ORDER, the Bank shall develop, adopt, and implement written policies and procedures that comply with the requirements of Federal Reserve Board Regulation O, 12 C.F.R. Part 215, and Sections 371c and 371c-1 of the Federal Reserve Act, 12 U.S.C. §§371c and 371c-1, and are designed to bring to the attention of each member of the Board conflicts of interest which may exist in approving loans or other transactions in which officers, directors or principal shareholders of the Bank, or affiliates thereof, ("Insiders") are involved. Such policies and procedures shall, at a minimum, ensure that each member of the Board has been

apprised of any potential conflict prior to making a decision, or acting specifically on any loan or other transaction in which Insiders and/or their business associates are, directly or indirectly, involved. The results of any deliberations by the Board regarding potential conflicts shall be reflected in the minutes of its meetings.

12. VIOLATIONS OF LAW, REGULATION AND POLICY

Within sixty (60) days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of laws, regulations, and/or contraventions of statements of policy in the Report and shall adopt and implement appropriate procedures to ensure future compliance with all such applicable federal and state laws, regulations, and/or statements of policy.

13. RESTRICTIONS ON CERTAIN PAYMENTS

(a) During the life of this ORDER, the Bank shall not declare or pay dividends or bonuses without the prior written approval of the Supervisory Authorities. All requests for prior approval shall be received at least 30 days prior to the proposed dividend or bonus payment declaration date (at least 5 days with respect to any request filed within the first 30 days after the date of this ORDER) and shall contain, but not be limited to, an analysis demonstrating that the proposed payment meets the criteria set forth in Section 658.37, Florida Statutes, and detailing the impact such payment would have on the Bank's capital position, cash flow, concentrations of credit, asset quality and ALLL needs. The Supervisory Authorities will not approve a payment representing a reduction of capital unless the Supervisory Authorities determine that such payment will not have an adverse or unacceptable impact on the Bank's capital position, cash flow, concentrations of credit, asset quality, and ALLL needs.

(b) During the life of this ORDER, the Bank shall not make any distributions of interest, principal, or other sums on subordinated debentures, if any, without the prior written approval of the Supervisory Authorities.

14. BROKERED DEPOSITS

(a) During the life of this ORDER, the Bank shall not accept, renew, or rollover any brokered deposit, as defined by 12 C.F.R. §337.6(a)(2), unless it is in compliance with the requirements of 12 C.F.R. §337.6(b) governing solicitation and acceptance of brokered deposits by insured depository institutions.

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

15. ASSET GROWTH

During the life of this ORDER, the Bank shall notify the Supervisory Authorities at least sixty (60) days prior to undertaking asset growth that exceeds ten percent (10%) or more *per annum* or initiating material changes in asset or liability composition. In no event shall asset growth result in noncompliance with the capital maintenance provisions of this ORDER unless the Bank receives prior written approval from the Supervisory Authorities.

16. PROGRESS REPORTS

Within forty-five (45) days of the end of the first quarter following the effective date of this ORDER, and within forty-five (45) 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. All progress reports and other written responses to this ORDER shall be reviewed by the Board and made a part of the minutes of the appropriate Board meeting.

17. DISCLOSURE

Following the effective date of this ORDER, the Bank shall provide to its shareholders, or otherwise furnish a description of, this ORDER, in conjunction with the Bank's next shareholder communication and 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 17th Street, N.W., Room F-6066, Washington, D.C. 20429, and the OFR, Division of Financial Institutions, 200 East Gaines Street, Tallahassee, Florida 32399-0371 for non-objection or comment at least twenty (20) days prior to dissemination to shareholders. Any changes requested by the Supervisory Authorities shall be made prior to dissemination of the description, communication, notice, or statement.

This ORDER shall not bar, estop, or otherwise prevent the FDIC, the OFR, or any other Federal or state agency or department from taking any action against the Bank, the Bank's current or former institution-affiliated parties, and/or any of their respective directors, officers, employees, and agents, including, but not limited to, the imposition of civil money penalties.

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 provisions of this ORDER shall have been modified, terminated, suspended, or set aside in writing.

Issued Pursuant to Delegated Authority.

Dated this 30th day of March, 2011.

/s/

By:

Thomas J. Dujenski
Regional Director
Division of Supervision and Consumer Protection
Atlanta Region
Federal Deposit Insurance Corporation

