

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of:	)	
	)	
RICHARD L. SWARTZ, individually and as institution-	)	ORDER OF PROHIBITION
affiliated party of	)	FROM FURTHER
	)	PARTICIPATION AND ORDER
UNITED COMMERCIAL BANK (IN RECEIVERSHIP)	)	TO PAY
SAN FRANCISCO, CALIFORNIA	)	
	)	FDIC-11-294e
(INSURED STATE NONMEMBER BANK)	)	FDIC-11-295k
	)	
	)	
	)	
	)	

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Richard L. Swartz ("Respondent") has been advised of the right to receive a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION and a NOTICE OF ASSESSMENT OF A CIVIL MONEY PENALTY ("NOTICE") issued by the Federal Deposit Insurance Corporation ("FDIC") detailing the violations of law, unsafe or unsound banking practices, and breaches of fiduciary duty for which an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION and an ORDER TO PAY ("ORDER") may issue, and has been further advised of the right to a hearing on the alleged charges under sections 8(e) and 8(i) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §§ 1818(e) and 1818(i), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308. Having waived those rights, the Respondent entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION and AN ORDER TO PAY A CIVIL MONEY PENALTY ("CONSENT AGREEMENT") with a representative of the Legal Division

of the FDIC, whereby solely for the purpose of this proceeding and without admitting or denying any violations, unsafe or unsound banking practices, or any breaches of fiduciary duty, Respondent consented to the issuance of an ORDER by the FDIC.

The FDIC considered the matter and determined it had reason to believe that:

- (a) The Respondent has engaged or participated in violations, unsafe or unsound banking practices, and breaches of fiduciary duty as an institution-affiliated party of the United Commercial Bank, San Francisco, California (“Bank”);
- (b) By reason of such violations, practices and breaches of fiduciary duty, the Bank has suffered financial loss or other damage, and the interests of the Bank’s depositors have been prejudiced; and
- (c) Such violations, practices and breaches of fiduciary duty involved personal dishonesty on the part of the Respondent or demonstrated Respondent's willful and/or continuing disregard for the safety and soundness of the Bank.

The FDIC further determined that such practices and/or breaches of fiduciary duty demonstrated Respondent's unfitness to serve as a director, officer, person participating in the conduct of the affairs or as an institution-affiliated party of the Bank, any other insured depository institution, or any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A).

The FDIC further determined, after taking into account the financial resources and good faith of Respondent, the gravity of the violations, practices and breaches by Respondent, and the history of previous practices and breaches by Respondent, that a civil money penalty was appropriate under section 8(i)(2)(B) of the Act, 12 U.S.C. § 1818(i)(2)(B).

Based on the above, the FDIC accepts the CONSENT AGREEMENT and issues the

following:

ORDER OF PROHIBITION  
FROM FURTHER PARTICIPATION

1. Richard L. Swartz is hereby, without the prior written approval 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), from:

(a) participating in any manner in the conduct of the affairs of any financial institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(b) soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent or authorization with respect to any voting rights in any financial institution enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A);

(c) violating any voting agreement previously approved by the appropriate Federal banking agency; or

(d) voting for a director, or serving or acting as an institution-affiliated party.

ORDER TO PAY

2. Respondent is hereby assessed a civil money penalty of Twelve Thousand, Five Hundred Dollars (\$12,500.00). Respondent shall pay the civil money penalty to the Treasury of the United States. Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

This ORDER shall become effective upon its issuance by the FDIC. The provisions of this ORDER will remain effective and enforceable except to the extent that, and until such time

as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated this 7<sup>th</sup> day of October, 2011.

/s/  
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Serena L. Owens  
Associate Director  
Supervision and Applications Branch  
Division of Risk Management Supervision