FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

| In the Matter of: | NOTICE OF INTENTION TO REMOVE FROM OFFICE AND/OR 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 |
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| THOMAS SHIU-KIT WU, EBRAHIM SHABUDIN, CRAIG S. ON, THOMAS T. YU, JOHN M. KERR, PAUL MONTELARO, CHRISTIAN C. LEE, LAUREN A. TRAN, YIXING SUN, and TA-LUN WU, individually and as institution-affiliated parties of | |
| UNITED COMMERCIAL BANK<br>SAN FRANCISCO, CALIFORNIA | FDIC-11-294e<br>FDIC-11-295k |
| (IN RECEIVERSHIP)<br>(INSURED STATE NONMEMBER BANK) | |

The Federal Deposit Insurance Corporation ("FDIC"), has determined that Thomas Shiu-Kit Wu ("Tommy Wu" or "CEO Wu"), Ebrahim Shabudin ("Shabudin"), Craig S. On ("On"), Thomas T. Yu ("Yu"), John M. Kerr ("Kerr"), Paul Montelaro ("Montelaro"), Christian C. Lee ("Lee"), Lauren A. Tran ("Tran"), Yixing Sun ("Sunny Sun" or "Sun"), and Ta-Lun Wu (collectively "Respondents"), as institution-affiliated parties of United Commercial Bank (In Receivership), San Francisco, California ("UCB" or "Bank"), have directly or indirectly participated in or engaged in unsafe or unsound banking practices, violations of law and/or regulations, and/or acts, omissions or practices which constitute breaches of their fiduciary duty as officers and/or directors of the Bank; that the Bank has suffered financial loss or other damage, that the interests of its depositors have been prejudiced; and that such practices and/or breaches of fiduciary duty demonstrate the Respondents' personal dishonesty and/or their willful or continuing disregard for the safety or soundness of the Bank.

Further, the FDIC has determined that Respondents' reckless unsafe or unsound practices and/or breaches of their fiduciary duty were part of a pattern of misconduct and/or caused or were likely to cause more than a minimal loss to the Bank.

The FDIC, therefore, institutes this proceeding for the purpose of determining whether an appropriate order should be issued against each Respondent under the provisions of section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), removing Respondents Lee, Sun, Ta-Lun Wu, and Yu, from office, and prohibiting each Respondent from further participation in the conduct of the affairs of the Bank, and any other 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 REMOVE FROM OFFICE AND/OR 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 PENALTIES, 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

## I. Preliminary Allegations

A. Preliminary Allegations Regarding the Bank

1. At all times pertinent to this proceeding, the Bank was a corporation existing and doing business under the laws of the State of California, having its principal place of business at San Francisco, California.

2. The Bank was, at all times pertinent to this proceeding, an insured State nonmember bank, subject to the Act, 12 U.S.C. §§ 1811-1831y; the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III; and the laws of the State of California.

3. The Bank was wholly owned by its parent holding company, UCBH Holdings, Inc. ("UCBH"), a publicly traded company. The Bank was UCBH's primary subsidiary.

4. On or about November 6, 2009, the Bank was closed by the California Department of Financial Institutions ("CDFI"), which appointed the FDIC as receiver.

5. At the time the Bank was placed into receivership, the Bank had $10.9 billion in assets.

B. Preliminary Allegations Regarding the Respondents

*Tommy Wu*

6. Tommy Wu, who joined the Bank in 1991, served as the Bank's President and Chief Executive Officer ("CEO") from January 1998 to September 2009.

7. Tommy Wu served as a director of the Bank from September 2007 to September 2009.

8. Tommy Wu also served as the President and CEO of UCBH from March 1998 to September 2009, and Chairman of the Board of Directors of UCBH from October 2001 to September 2009.

9. Tommy Wu was asked to resign from the Bank and UCBH in September 2009.

*Ebrahim Shabudin*

10. Shabudin was employed by the Bank from 2003 to September 2009, in the following capacities: Chief Credit Officer from 2003 to October 2005 and from September 2008 to March 2009; and Chief Operating Officer from August 2005 to September 2009.

11. Shabudin was asked to resign from the Bank in September 2009.

*Craig On*

12. On was employed by the Bank from June 2005 to November 2009, in the following capacities: Controller from June 2005 to February 2008; Deputy Chief Financial Officer from February 2008 to October 2008; and Chief Financial Officer from October 2008 to November 2009.

*Thomas Yu*

13. Yu was employed by the Bank from 2005 to June 2009, in the following capacities: Product Manager for Retail Lending from 2005 to 2006; First Vice President, Retail Product Manager from 2006 to February 2008; First Vice President, Manager of Credit Risk & Portfolio Management from February 2008 to March 2009; Senior Vice President, Manager of Credit Risk & Portfolio Management from March 2009 to June 2009.

14. Yu resigned from the Bank as of June 9, 2009.

15. Yu is currently employed by Chinatrust Bank, an insured State nonmember bank with its principal offices located in Torrance, California ("Chinatrust Bank").

*John Kerr*

16. Kerr was employed by the Bank from October 2005 to June 2009, in the following capacities: Senior Vice President and Chief Credit Officer from October 2005 to January 2008; Executive Vice President and Chief Credit Officer from January 2008 to September 2008; Executive Vice President and Director of Portfolio Management from September 2008 to January 2009; and Chief Lending Officer from January 2009 to June 2009.

17. Kerr resigned from the Bank as of June 30, 2009.

*Paul Montelaro*

18. Montelaro was employed by the Bank from 2005 to November 2009, in the following capacities: Director of the Bank's Independent Asset Review Division ("IARD") from 2005 to August 2006; Senior Credit Approval Officer from August 2006 to January 2009; Deputy Chief Credit Officer from January 2009 to April 2009, and September 2009 to November 2009; and Acting Chief Credit Officer from April 2009 to September 2009.

19. Montelaro was terminated by the Bank as of November 6, 2009.

*Christian Lee*

20. Lee was employed by the Bank from October 1998 to November 2009. At all times pertinent to the charges herein, Lee served at the Bank as a Senior Vice President and Director of Commercial Real Estate.

21. Lee was terminated by the Bank as of November 6, 2009.

22. Lee is currently employed by Circle Bank, an insured State nonmember bank with its principal office located in Novato, California.

*Lauren Tran*

23. Tran was employed by the Bank from July 2004 to November 2009. In mid-2008, Tran became an officer in the Bank's credit policy department.

24. As of November 6, 2009, Tran was serving as a Vice President and Manager of Financial Institution and Country Risk.

*Yixing Sun*

25. Sun was employed by the Bank from September 2004 to September 2009, in various capacities, including serving as a First Vice President and Manager in the Special Assets Group ("SAG") from 2008 to August 2009.

26. Sun was terminated by the Bank as of September 15, 2009.

27. Sun is currently employed by Bank of America, N.A., San Francisco, California, an insured national banking association.

*Ta-Lun Wu*

28. Ta-Lun Wu was employed by the Bank from December 2008 to September 2009 as an Assistant Vice President of Special Assets and Administration.

29. Ta-Lun Wu was terminated by the Bank as of September 15, 2009.

30. Ta-Lun Wu is currently employed by Chinatrust Bank.

*Respondents Are Institution-Affiliated Parties*

31. At all times pertinent to the charges herein, each Respondent was an "institution-affiliated party" as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and for purposes of sections 8(e)(7), 8(i) and 8(j) of the Act, 12 U.S.C. §§ 1818(e)(7), 1818(i) and 1818(j).

C. Jurisdiction

32. The FDIC has jurisdiction over the Bank, the Respondents and the subject matter of this proceeding pursuant to section 3(q)(3) of the Act, 12 U.S.C. § 1813(q)(3).

D. Additional Definitions

33. John M. Cinderey ("Cinderey") was employed by the Bank from 2004 to September 2009, in the following capacities: First Vice President from 2004 to 2008; Senior Vice President and Director of Commercial Banking from 2008 to January 2009; and Executive Vice President and Director of Loan Administration from January 2009 to September 2009.

34. Lawrence M. Zhang ("Zhang") was employed by the Bank from November 2003 to June 2009 as a Senior Vice President and Manager of the Bank's SAG.

35. Richard L. Swartz ("Swartz") was employed by the Bank from January 2008 to September 2009, in the following capacities: Vice President and Asset Review Officer from January 2008 to March 2008; and First Vice President and Manager in the Special Assets Group from April 2008 to September 2009.

36. At all times pertinent to this proceeding, ****** ***** ("*****") was a director of the Bank and Chairman of the Bank's Credit Committee.

37. At all times pertinent to this proceeding, ***** ********** ("********") was employed by the Bank as a First Vice President and Director of Sarbanes-Oxley Compliance.

38. At all times pertinent to this proceeding, ***** ***** ("******") was employed by the Bank as the Director of the Bank's Independent Asset Review Department.

39. At all times pertinent to this proceeding, **** ******** ("********") was employed by the Bank as Controller.

## II. The Bank's Deteriorating Loan Portfolio and Faulty Risk Rating Process

40. The Bank's internal risk rating system operated on a 1 to 12 scale, with loans rated as follows:

(a) Ratings of 1 through 7 equated to a "Pass" loan;

(b) An 8 rating equated to a "Special Mention" classification;

(c) A 9 rating equated to a "Substandard – Accrual" classification;

(d) A 10 rating equated to a "Substandard – Non-accrual" classification;

(e) An 11 rating equated to a "Doubtful" classification; and

(f) A 12 rating equated to a charge-off.

41. For loans that were rated 1 to 9, reserves were allocated under Financial Accounting Standard ("FAS") 5 based on a historic loss factor which differed by portfolio. In 2008 for the construction loan portfolio, approximately 1.3 percent of the loan balance for loans rated 1 to 7 was provided for in the Bank's general reserve. For construction loans rated 8, approximately 8 percent of the loan balance was provided for in the Bank's general reserve. For construction loans rated 9, approximately 16 percent of the loan balance was provided for in the Bank's general reserve. For loans rated 10 or higher, a FAS 114 worksheet was created to calculate the amount of impairment of the loan to determine a specific reserve amount.

42. From at least July 2008 through March 2009, UCB's loan portfolio, particularly its construction loan portfolio, was deteriorating. Collateral values fell as the real estate market declined, and an increasing number of borrowers began to have difficulty making loan payments. The Bank was facing large increases to its Allowance for Loan and Lease Losses ("ALLL"), and particularly its FAS 114 specific reserves.

43. From September 2008 through March 2009, Respondents were increasingly made aware of the deteriorating condition of the Bank's loan portfolio, and the fact that the Bank was not properly risk rating its loans.

44. The IARD began a review of the Bank's construction loan portfolio "as of July 31, 2008" on August 19, 2008.

45. In or around September 2008, Director of IARD ****** circulated a list of preliminary downgrades to CEO Wu, Cinderey, Yu, and Shabudin.

46. The preliminary findings of the IARD report were discussed at an October 22, 2008 meeting of the Bank's Credit Committee. CEO Wu, Shabudin, Kerr, Montelaro, and Yu participated in this meeting. The discussion of the IARD findings at this meeting made clear to all in attendance that the findings of the report were negative.

47. On or about October 28, 2008, CEO Wu sent an email to some of his top managers — Shabudin, ****** *** ("***"), Cinderey, Kerr, On, and **** ****i—with the subject line "Q4 priorities in credit management-Confidential." In this email, CEO Wu told his management team that it was of "upmost importance to manage our portfolio in this quarter." He charged his team with bringing down balances and delinquencies in the construction, commercial real estate, and commercial and industrial portfolios, and to work out all large non-performing loans. CEO Wu's stated goal was to "demonstrate better credit metrics in Q4 and manage to deleverage on all these loans to improve our credit management ratios as well as risk based capital ratios." This was to be their "top priority."

48. CEO Wu tasked Shabudin to lead weekly meetings to address the credit issues outlined in his October 28, 2008 email. Respondents Tommy Wu, Shabudin, Kerr, Lee,

Montelaro, and Yu, regularly attended these meetings. Cinderey and Zhang also regularly attended these meetings.

49. On or about December 15, 2008, ****** issued the IARD Report on the review of the construction loan portfolio. The IARD report contained substantially fewer downgrades than those originally proposed to senior management. Nonetheless, the report identified numerous loan downgrades and weaknesses in credit administration. IARD recommended that 26 percent (30 out of 114) of the credits reviewed or 37 percent of the dollars reviewed ($194 million out of $524 million) be downgraded. The report assigned the construction portfolio an "Unsatisfactory" rating for asset quality and "Needs Improvement" for credit management.

50. The IARD report was sent to Shabudin and Cinderey on December 15, 2008, with copies sent to Kerr, ********, ****** *****, On, and Zhang. On December 16, 2008, Cinderey forwarded the IARD report to Montelaro.

51. Shabudin became Chairman of the Bank's Portfolio Review Committee ("PRC") in September 2008. Montelaro was the Vice Chairman of the PRC during this time frame. Kerr and Yu were members of the PRC. The PRC also had a working group, which included Montelaro as Vice Chairman and Tran as Secretary. In December 2008, the PRC and its working group discussed the overall deterioration in the Bank's loan portfolio.

52. On or about December 16, 2008, at a PRC meeting which Shabudin was leading as Chairman, the PRC discussed the increased number of impaired loans in the Bank's construction portfolio. The PRC agreed that the risk level in the portfolio was high, the trend was increasing, risk mitigation was marginal, and the impact was significant. Respondents Kerr, Montelaro, On, and Yu were in attendance at this meeting. Cinderey and Zhang were also present.

53. On or about December 30, 2008, the PRC working group held a meeting. At this meeting, the working group recommended risk rating downgrades for nearly every loan reflected in the minutes. For those loans where no downgrade was recommended, properties were reported to be in foreclosure, new appraisals were being requested, or sales were being negotiated. Respondents Kerr, Montelaro, and Tran participated in this meeting. Respondents Shabudin, Kerr, Montelaro, On, Tran, and Yu received a copy of the minutes for this meeting.

54. It was also reported at the December 30, 2008 PRC working group meeting that many risk rating downgrades were pending: the various credit units were sending in recommendations for downgrades, but they were not getting approved. Montelaro acknowledged this fact.

55. It was further discussed at the December 30, 2008 PRC working group meeting that the risk ratings appeared to be off by one grade; for example, loans that were graded a 7, should have been graded an 8, and loans that were graded an 8, should have been graded a 9.

56. On December 30, 2008, the Bank's Chief Risk Officer, *** ******* ("*******"), specifically advised Shabudin, Cinderey, Kerr, Tran, Montelaro, Yu, and Zhang of the problems with the Bank's risk rating process that were discovered at the PRC working group meeting. On December 31, 2008, ******* sent a follow-up email to Shabudin, Cinderey, Kerr, and Montelaro in which he again stressed the problems uncovered at the PRC working group meeting with respect to risk ratings.

57. Once the extent of the deterioration in the Bank's loan portfolio became clear, Respondents, in particular, Tommy Wu and Shabudin, orchestrated a scheme to manipulate information related to certain loans at the Bank in order to mask the deterioration in the Bank's loan portfolio and to delay reserving for and/or recognizing losses in that portfolio.

58. As part of Respondents' scheme to mask the deteriorating financial condition of the Bank, Respondents artificially delayed risk rating downgrades of loans and artificially delayed loan charge-offs.

59. Respondents consistently delayed downgrading loans to reduce the amount of provisions required to maintain an adequate ALLL. Instead of acknowledging the risk in the loans as presented at the December 30, 2008 PRC working group meeting, Respondents ignored the working group's recommendations. Indeed, the Bank's ALLL analysis as of December 31, 2008 did not reflect many of the downgrades discussed at the December 30, 2008 PRC working group meeting.

60. In addition, accounting rules dictate that loans that are past due by more than 90 days cannot continue to accrue interest unless well secured and in the process of collection. Notwithstanding the foregoing, the Bank continued to accrue interest on loans that were more than 90 days past due and where full collection was unlikely.

## III. Respondents Made Misrepresentations and Omissions to the Bank's Auditors

### A. KPMG's 2008 Audit

61. The accounting firm of KPMG LLP ("KPMG") was hired to conduct an audit of UCBH's financial statements as of December 31, 2008.

62. During the period of December 2008 to March 16, 2009, KPMG conducted its audit of UCBH's financial statement as of December 31, 2008 ("2008 audit").

63. Since the Bank was UCBH's primary subsidiary, KPMG's 2008 audit of UCBH focused primarily on the Bank's balance sheet and operations.

64. On March 16, 2009, UCBH filed its audited financial statements for the year ending December 31, 2008, also known as its 2008 Form 10-K, with the Securities and Exchange Commission ("SEC"). CEO Wu and On signed the 2008 Form 10-K.

65. During the course of KPMG's 2008 audit of UCB and UCBH, the Respondents engaged in violations of law, unsafe or unsound practices, and breaches of fiduciary duty by making significant misrepresentations and omissions to KPMG, as discussed more fully in paragraphs 66 through 273 and paragraphs 298 through 308 below.

B. Risk Ratings Issues at the 2008 Audit

66. The Bank's risk ratings of problem loans were a critical issue during the 2008 audit of the Bank.

67. In an attempt to keep KPMG from thoroughly reviewing the Bank's risk ratings during the 2008 audit, Respondents controlled and significantly limited what information was available to KPMG. For example, from the beginning of the audit, Shabudin and Montelaro asserted control over the flow of information to the Bank's auditors, requiring a complete listing of all items requested by KPMG.

68. Shabudin and Montelaro repeatedly failed to provide information requested by KPMG in a timely manner, including Risk Analysis and Action Plans ("RAAPs") on problem loans and internally classified and criticized asset lists.

69. On January 6, 2009, ********, the Bank officer in charge of compliance with Sarbanes-Oxley ("SOX"), asked to meet with Shabudin regarding the risk rating process. ********* told Shabudin: "There are concerns that the process is not working and therefore there may be SOX 404 issues."

70. On January 20, 2009, ****** circulated a list of problem credits to Shabudin, Montelaro, Cinderey, and Yu for discussion. ****** indicated to Montelaro that he considered some of the risk ratings of these loans to be "really iffy."

71. In February 2009, Shabudin received an update from ******** concerning discussions with KPMG. ******** told Shabudin that KPMG was finalizing the list of credits where there were unsupported facts, and that management would "then meet to clarify the required documented evidence to support the accuracy of the risk ratings." Shortly thereafter, Shabudin met with On, Montelaro, Cinderey, and ********. On distributed analyses of the financial statement impact of various risk ratings. In his email follow-up with Shabudin, and copying Montelaro, Cinderey, Yu, and ********, On stated: "Please do all you can to maintain our risk ratings."

C. <u>Scheme to Mask the Bank's Deteriorating Financial Condition</u>

72. Respondents' scheme to mask the Bank's deteriorating financial condition included the Respondents' participation in the following practices:

(a) Concealing evidence of declining collateral values from KPMG;

(b) Reserving loans through either FAS 5 or FAS 114, depending on which accounting measure would result in lower reserves;

(c) Artificially modifying and granting extensions on loans in order to delay the non-accrual of interest;

(d) Making loans for the sole purpose of bringing interest due current on related loans;

(e) Delaying downgrades of loans in order to reduce the amount of required reserves;

(f) Delaying recommended charge-offs from year-end 2008 to first quarter 2009;

(g) Ignoring subsequent events;

(h) Failing to mark loans held for sale at fair value; and

(i) Misrepresenting collateral protection of assets where security interests were known to be unperfected.

These practices are discussed more fully in paragraphs 73 through 319 below.

D. <u>KPMG's Discovery of Respondents' Scheme</u>

73. On or around March 16, 2009, after the 2008 Form 10-K was filed, KPMG left the Bank's premises. KPMG returned to the Bank approximately two to three weeks later to begin the review process for the First Quarter 2009 financial statements ("First Quarter 2009 review").

74. When KPMG returned to the Bank for the First Quarter 2009 review, KPMG learned that the Bank had taken a significant number of charge-offs during the last two weeks of March 2009 – in the two week period after the 2008 Form 10-K was filed. These charge-offs included, but were not limited to, the following loans or Other Real Estate Owned ("OREO") property: **********, *************, *************, ***********, *********, and **********.

75. KPMG reviewed this area in more detail, and learned that the Bank was aware of updated appraisals, loan valuations, or pending note sales prior to the filing of the 2008 Form 10-K that should have been included in the Bank's reserve analysis for those financial statements. The Bank had not shared this information with KPMG.

76. KPMG's discovery of the Bank's concealment and misrepresentation of information during the 2008 audit led to an internal investigation and attempts to review and restate the financial statements.

77. The internal investigation and restatement efforts found that the Bank failed to charge-off at least $61.8 million in loans at the end of 2008 that were required to be charged-off, and the Bank understated its specific loan reserves at the end of 2008 by at least $53.7 million.

**IV. Respondents Concealed Appraisals from KPMG**

78. One method Respondents used to withhold pertinent information from KPMG was to conceal the existence of the most recent appraisals obtained by the Bank. Respondents Shabudin, Tran, Ta-Lun Wu, Yu, and others concealed the existence of these new appraisals when the appraisals showed a decline in the value of the underlying property held as collateral for Bank loans or showed a decline in the value of OREO by the Bank, including, but not limited to, appraisals received for the following loans: **********, *************, *********, **********, and *************. Respondents Shabudin, Tran, and Yu also concealed from KPMG the existence of a centralized appraisal list for problem credits.

A. <u>********** Appraisal</u>

79. ********** ************** ("**********") was a 6-story mixed-use (residential and retail) building in National City, California. The project was a participation loan with lead bank ****************** ("***"). UCB held 61.1% of the $17.7 million loan, or approximately $10.8 million, with *** and another small bank holding the balance. The loan fell into default before its February 2008 maturity date and the property swiftly dropped in value.

80. In a May 2008 appraisal, the ********** property was valued at $18,220,000 "as is." By the time of the KPMG audit, however, the land value had dropped, so much so that

Swartz sent an email on January 2, 2009 requesting a new appraisal. In that email, Swartz explained that a new appraisal was needed because "prices [had] fallen significantly since May."

81. On January 14, 2009, Swartz received an email forwarding the new appraisal preformed by the **********. The new appraisal listed the "as is" value of the land at a mere $12,715,000, making UCB's portion worth only $7,768,865.

82. The FAS 114 analysis, which was prepared by Yu, reflected only a modest reserve of $780,170. The analysis was based on the stale May 31, 2008 appraised value, which was $5.5 million higher than the January 2009 appraised value.

83. In February 2009, KPMG began questioning the Bank's reliance on the May 2008 appraised value. Respondent Yu and Swartz drafted a memorandum to KPMG dated February 27, 2009 in response to KPMG's questions. This memorandum did not contain any reference to the January 2009 appraisal.

84. Respondents did not provide KPMG with a copy of the January 2009 appraisal during the 2008 audit. KPMG did not learn about the January 2009 appraisal until after the 2008 Form 10-K was filed.

B. <u>************* Appraisal</u>

85. The Bank held a participation interest of less than two percent in a loan made by ************ to *************, Inc. ("****" or "*************") for the development of a master-planned community in Las Vegas. UCB's total commitment to **** was approximately $6.47 million.

86. In February 2008, the Las Vegas property securing the loan was appraised at $300 million, effective as of January 8, 2008.

87. In September 2008, after ************* foreclosed upon the Las Vegas property, the property became OREO and the account was transferred to the SAG. **** ********** was listed as OREO with a book value of $4.015 million at year-end 2008.

88. On January 14, 2009, Ta-Lun Wu was copied on a request for ************ to provide an updated appraisal for the **** property. ******* ******** ("*******"), another SAG officer, received the appraisal on January 20, 2009. The updated appraisal valued the property "as is" at $135 million as of September 23, 2008, leaving only $2.16 million in collateral for UCB, a significant decline from the earlier appraisal.

89. On January 26, 2009, Zhang scheduled an internal meeting for January 28, 2009 to prepare for an upcoming meeting with KPMG. KPMG had asked for the meeting to discuss a number of properties held by the Bank as OREO, including ****. Since Zhang was out sick, he emailed ******* regarding the new **** appraisal asking ******* to check with Shabudin. ******* reported back that Shabudin said the appraisal should "be thoroughly analyzed and that a second opinion be sought."

90. On February 24, 2009, ***** ***** ("*****") of KPMG sent Zhang an email asking about appraisals for a number of properties, including ****; that email indicated that KPMG did not yet know about the updated appraisal. Zhang forwarded that email to Ta-Lun Wu. On February 26, 2009, ***** provided a spreadsheet on four properties, including ****, to Ta-Lun Wu and Zhang. The spreadsheet reflected a valuation of the **** property based on the February 2008 appraisal. ***** asked for their help in obtaining support for the valuations. Neither Ta-Lun Wu nor Zhang, in response to this request, advised KPMG about the more recent appraisal.

91. On February 27, 2009, KPMG and UCB management held a meeting, attended by **** ******** and ***** from KPMG, and Zhang, Ta-Lun Wu, and ******** from the Bank, to discuss the valuation of certain OREO properties. During that meeting, KPMG asked Zhang several questions about ****'s valuation, including whether a more recent appraisal existed than the February 2008 appraisal. Neither Zhang nor Ta-Lun Wu told KPMG of the existence of the more recent appraisal.

92. Following the February 27, 2009 meeting, KPMG again asked for memoranda regarding a number of loans, including ****. Ta-Lun Wu provided memos for the other loans but only a worksheet for ****. That worksheet again listed the **** appraised value at $300 million, the value supported by the stale January 2008 appraisal that was substantially higher than the September 2008 appraisal.

93. In March 2009, since KPMG was not aware of the existence of the new appraisal, KPMG suggested reducing the valuation of **** by 33 percent based on an analysis using Case-Schiller property data. However, KPMG had still requested that the Bank prepare a memorandum on the **** property evaluation. On March 4, 2009, Zhang responded in an email on which he copied Shabudin, "We agree with their assessment on Vegas property by KPMG. Therefore no memo was prepared. This was the decision made by ******, Talun and I."

94. On March 6, 2009, Ta-Lun Wu sent the memo requested by *****. The memo, dated March 5, 2009, again referenced the older appraisal with no mention of the more recent one.

95. Respondents did not provide KPMG with a copy of the September 2008 appraisal during the 2008 audit. KPMG did not learn about the September 2008 appraisal until after the 2008 Form 10-K was filed.

C. ********* Appraisal

96. The Bank extended a loan to ********* Street LLC on August 3, 2007, with an initial commitment of $20 million and a maturity date of April 5, 2009 ("********** Loan"). The purpose of the ********* Loan was to finance the renovation and construction of 67 condominium units and 9,500 square feet of ground floor retail space. As of December 31, 2008, the ********* Loan had an outstanding balance of $13.8 million.

97. In February 2009, KPMG began asking questions concerning the ********* Loan. Bank staff drafted a response to KPMG's questions. The draft response included reference to a new appraisal dated January 9, 2009, which valued the underlying property at $8.5 million, more than $5 million less than the outstanding loan balance.

98. The Bank's response was rewritten before it was sent to KPMG to omit any reference to the $8.5 million value indicated in the January 9, 2009 appraisal.

D. ********** Appraisal

99. In June 2006, UCB made a loan to ********** ************** for $44.8 million to construct a 194-unit town home development in Chula Vista, California ("**** *****"). When work on the project failed to develop after two years, the commitment was collapsed to $24.53 million in May 2008, and the project was changed from town homes to a 278-unit apartment building. A six-month extension was approved in September 2008 to finish the new building plans and obtain new financing. The borrower ceased making payments on the loan beginning in October 2008.

100. In January 2009, the Bank received an appraisal for the ********** property valuing the property at $13,740,000 as of November 21, 2008 ("January 2009 Appraisal"). The

January 2009 Appraisal reflected a $16.39 million decline in value from an earlier January 2008 appraisal.

101. Upon receipt of the January 2009 Appraisal, UCB ordered another appraisal, which was received in mid-February 2009 ("February 2009 Appraisal"). The February 2009 Appraisal showed a further decline in value to $7.6 million, nearly half that of the January 2009 Appraisal, resulting in a loan-to-value ("LTV") of 323 percent.

102. In February 2009, KPMG began asking questions concerning the ********** loan. In response to KPMG's questions, the Bank prepared a memo that relied on the January 2009 Appraisal. This memo did not disclose, among other things, that the February 2009 Appraisal valued the collateral at nearly half the value in the January 2009 Appraisal.

103. On March 4, 2009, KPMG asked for the most current appraisal on the loan. The Bank only forwarded the January 2009 Appraisal, which included the higher valuation of the project.

E. <u>************* Appraisal</u>

104. In October 2005, the Bank made a loan secured by property known as ******** *****. As of December 31, 2008, the Bank had foreclosed upon the ************* property and recorded the property as OREO with a book value of $1,158,554.

105. The Bank obtained an appraisal of the ************* property as of December 2008 which valued the property at $1.58 million. The Bank also obtained a land-only appraisal of the ************* property as of January 2009 which valued the land only at $480,000. Ta-Lun Wu received a copy of the January 2009 appraisal on January 22, 2009.

106. In February 2009, KPMG began asking questions about the Bank's valuation of the ************* property. In response to KPMG's questions, Ta-Lun Wu prepared a memo

dated February 27, 2009. The February 27, 2009 memo relied solely upon the December 2008 appraised value of the ************* property, and failed to disclose the existence of the January 2009 appraisal.

F. Centralized Appraisal System and Weekly Report

107. In September 2008, Bank employee *** *** ("***") became responsible for tracking and ordering appraisals.

108. Beginning in late 2008, *** distributed a weekly appraisal report to Tran and ****** ** ("**"), who were responsible for preparing the Bank's FAS 114 calculations. *** regularly provided copies of the weekly appraisal report to Kerr and Yu. *** also provided copies of the weekly appraisal report to Shabudin on at least three occasions.

109. The weekly appraisal report contained three parts: appraisals with orders pending; all appraisals received in the past month; and all appraisals completed since September 2008.

110. Tran was responsible for providing appraisal information regarding loans to KPMG during the 2008 audit. However, Tran never told KPMG about the existence of the centralized appraisal process or the weekly appraisal report.

111. KPMG specifically asked Tran for appraisals that had been received in 2009. However, Tran did not provide such appraisals to KPMG, nor did she provide at least one appraisal that had been received in 2008.

112. On March 12, 2009, *** sent an email to Shabudin attaching an updated FAS 114 spreadsheet with updated valuation information, along with the most recent appraisal report. The spreadsheet forwarded to Shabudin indicated which FAS 114 valuations had not been updated to

reflect values from more recent appraisals. Shabudin knew upon receipt of this spreadsheet that more recent appraisals were not being considered in the Bank's ALLL calculations.

113. It was not until after the 2008 Form 10-K was filed that KPMG learned about the weekly appraisal report and discovered many loans and properties on the weekly appraisal report for which there were recent appraisals that had not been provided to them.

114. As a result of the failure of Tran, Yu, and Shabudin to ensure that the Bank considered updated appraisals for certain loans and OREO properties and that KPMG knew of such appraisals, the impact to the Bank's financial statements was at least $12,565,000.

## V. Respondents Concealed Pending Note Sales from KPMG

115. Respondents Tommy Wu, Shabudin, Kerr, Montelaro, On, Yu, and others concealed the existence of pending note sales from KPMG, including, but not limited to, sales of the **********, *************, *********, and ********** credits. In fact, the Bank had plans to sell a large number of notes in the first quarter of 2009. These plans were not disclosed by Respondents to KPMG during the 2008 audit.

### A. ********** Note Sale

116. As early as November 26, 2008, Swartz and Zhang had decided that selling the ********** note at a loss was the Bank's best option. By the end of January 2009, Swartz was already weighing the pros and cons of the note sale and was aware of the fact that any sale would bring with it a substantial loss to the Bank.

117. By mid-February 2009, Respondents Shabudin, On, and Yu, and Swartz and Zhang were in accord that the note should be sold at a loss to the Bank. In a series of emails dated February 13, 2009, Bank management contemplated selling the loan. Yu stated: "sell if can be done before Q1." On was in agreement: "sell for that price only if there is a condition

that it close by say the third week in March." Zhang acknowledged that the Bank would take a "$6.8mm hit," but urged that it be done "quickly by end of 1Q."

118. By email dated February 16, 2009, Zhang notified Swartz of the likely intent to sell at a loss and "take the hit now . . . by 3/31/09," and Zhang further informed Swartz that a decision would be made "in [the] next day or two."

119. Zhang and Swartz sent a memo dated February 17, 2009 through Shabudin to CEO Wu, with copies to Kerr, On, Yu, ***** ***, and Ta-Lun Wu. In this memo, Zhang and Swartz recommended selling the ********** note for $6.5 million, of which the Bank's share would be $3.975 million, which would result in the Bank taking a $6.8 million loss.

120. The next day, Zhang notified *** that "UCB agrees to sell its [share] of the participation loan . . . for no less than USD4 million . . . subject to the deal be closed by 3/15/09," the day before the filing of the 2008 Form 10-K.

121. In February 2009, when KPMG began asking questions about the ********** loan, Yu failed to disclose to KPMG the Bank's plans to sell the ********** note at a loss of $6.8 million.

122. As planned since February 2009, the ********** note was sold on or about March 26, 2009 at a loss of $6.8 million.

B. ********* Note and Short Sales

123. In December 2006 and January 2007, the Bank made two loans to *********, Inc., a company owned by ******** ("*****") and *********** ("******"). The first loan was made for $12.15 million and was secured by a downtown Sacramento condominium and retail project ("H Street Loan"). The second loan was for $9.65 million and was secured by a

Roseville office project ("Roseville Loan"). ***** and ****** provided guarantees for both loans.

124. By the second half of 2008, both the H Street and Roseville Loans had significantly deteriorated, and the Bank had started considering either note sales or short sales for both properties. CEO Wu, Shabudin, Kerr, Montelaro, On, and Yu failed to disclose the Bank's sale plans regarding either the H Street Loan or the Roseville Loan to KPMG.

*H Street Loan*

125. In December 2008, due diligence was ongoing for the H Street property by potential purchasers ************** ("******") and *********** ("*****"). In mid-December 2008, the Bank was negotiating with ***** on either a short sale of the property or a sale of the note. After negotiations faltered at the end of the year, the Bank resumed negotiations with prospective purchasers in January 2009. CEO Wu, Shabudin, Cinderey, Kerr, Yu, and Zhang were all involved in these negotiations.

126. On January 15, 2009, the Bank received a $6 million offer for the H Street Loan from ******, who was the ultimate purchaser of the note. The Bank forwarded this offer to its counsel.

127. On February 9, 2009, the Bank also received a short sale offer of $8.2 million from a different buyer. The Bank considered this offer at the same time as the ****** offer; however, the new potential purchasers had not yet performed any due diligence on the property. In an email exchange on February 24, 2009, Zhang, Shabudin, Kerr, and Yu discussed the merits of the $6 million note offer versus a potential short sale of $7 million to $8 million. Zhang indicated that he would discuss it with CEO Wu the following day.

128. On February 26, 2009, the broker for ****** sent an email directly to CEO Wu, attaching a $6.15 million note sale offer. CEO Wu forwarded this offer to Shabudin, Kerr, Montelaro, Zhang, and Yu, with a copy to On. This offer became known as "Tommy's deal."

129. On February 27, 2009, the $8.2 million short sale offer was withdrawn. Yu, Zhang, and Kerr received notice of the withdrawal. Zhang then sent an email to CEO Wu, with a copy to Shabudin and Yu, recommending accepting the $6.15 million ****** offer. CEO Wu agreed with Zhang's recommendation.

130. On March 5, 2009, Zhang, ***** ******* ("********"), and ***** *** ("***") sent a memo to Shabudin and Kerr, with copies to Cinderey, Yu, and *******. The memo recommended releasing the guarantors from their guarantees in order to sell the loan before the end of the first quarter.

131. On March 8, 2009, On specifically asked KPMG about the status of its review of the ********* loans. That same day, On received an email from Zhang indicating that the purchase and sale agreement would be signed "in the next day or two." On did not share this information with KPMG.

132. On March 9, 2009, ******, the purchaser, executed the purchase and sale agreement. This was discussed at the March 10, 2009 PRC meeting, at which Shabudin, Kerr, Montelaro, and Yu were in attendance. On March 13, 2009, Kerr executed the purchase and sale agreement on behalf of the Bank.

133. Tran forwarded the FAS 114 that Yu prepared on ********* to KPMG on March 13, 2009, the date the Bank executed the purchase agreement. The FAS 114 worksheet indicated a value of $8.95 million for the H Street Loan. Yu based this valuation on the $8.2 million short sale offer that the Bank had received, even though it had already been withdrawn. Yu did not

mention the fact that the Bank had entered into an agreement to sell the note instead for $6.15 million.

134. On March 14, 2009, KPMG asked Yu whether the $8.2 million sale was completed. Yu replied, copying ********, On, and Shabudin, that the $8.2 million sale did not close, but that the borrower and Bank were getting offers. Yu did not disclose that the Bank had, in fact, already agreed to sell the note for $6.15 million. On and Shabudin said nothing to correct this critical omission. The sale closed six days later.

*Roseville Loan*

135. At the same time that the Bank was involved in negotiations to sell the H Street Loan, the Bank was also attempting to secure a short sale for the Roseville property.

136. On February 24, 2009, the Bank received an offer for a short sale from the borrower's real estate agent. On February 24, 2009, Kerr sent an email to Yu indicating that he was inclined to accept an offer for $4.1 million, which would net the Bank approximately $3.8 million.

137. On March 6, 2009, Zhang advised *** that he had received Shabudin's "ok" on a short sale for $3.46 million. Shabudin, Kerr, and Yu were copied on this email. This was also discussed at the March 10, 2009 PRC meeting, at which Shabudin, Kerr, Montelaro, and Yu were in attendance.

138. On March 12, 2009, the broker submitted to the Bank the executed purchase agreement for the short sale of the Roseville property. The purchase agreement was dated March 9, 2009.

139. On March 13, 2009, Tran forwarded the FAS 114 that Yu prepared on the Roseville Loan to KPMG. The FAS 114 worksheet valued the collateral for the Roseville Loan at $8.39 million, less 10 percent liquidation costs.

140. Yu assigned a specific reserve of $597,497 for the Roseville Loan. Yu stated in the FAS 114 worksheet that the valuation was based on a November 2008 sale of one unit of the property, but failed to disclose that the Bank had already agreed to a short sale of the property for $3.464 million.

141. The Roseville short sale closed on March 24, 2009.

C. First Quarter 2009 Plans to Sell Non-Performing Loans

142. The Bank's sales of the ********** loan and ********* – H Street Loan were not isolated occurrences. CEO Wu had directed his senior management team to sell as many non-performing loans as they could by the end of the first quarter 2009.

143. In February 2009, Zhang reported back to CEO Wu on the progress of planned sales of 24 non-performing assets totaling $149 million, including, but not limited to, the ****** ******* and ********** loans. Zhang told CEO Wu that they were trying to complete the sales prior to the end of the quarter. Shabudin, On, and Yu were copied on this email.

144. KPMG, however, did not learn of the Bank's planned or completed sales of non-performing loans in the first quarter of 2009 until after the 2008 Form 10-K was filed. None of the Respondents shared this information with KPMG during the 2008 audit. In fact, Wu and On confirmed to KPMG in "Down-to-Date" emails used to verify the finality of audit items, and signed Management Representation Letters which stated that no such sales were planned, as more fully discussed in paragraphs 298 through 308 below.

## VI. Respondents Concealed Negative Information Concerning Repossessed Assets and Collateral from the Bank's Auditors and Regulators

145. Respondents Tommy Wu, Shabudin, Kerr, Montelaro, On, Sun, Yu, and others concealed negative information concerning repossessed assets and collateral from the Bank's auditors and regulators, including, but not limited to, information relating to loans made to *******, ***********, and *********.

A. <u>******* Loan</u>

146. The Bank's loan to ******* was one of the largest loans in the Bank. The loan became very complex due to the different types and locations of collateral for the loan, its very troubled status, and the need to repossess collateral that secured the loan. CEO Wu was directly involved in the Bank's management of the ********** ******* credit. CEO Wu, Shabudin, Kerr, Montelaro, On, Sun, and Yu became aware of a multitude of problems with the collateral and repossessed assets from November 2008 to January 2009. Notwithstanding the foregoing, none of these Respondents disclosed any of the known deficiencies with the collateral and repossessed assets to KPMG. In addition, CEO Wu misrepresented the condition of the collateral to the FDIC during the FDIC's April 2009 examination.

*<u>Background</u>*

147. *************************** and *************************** were both 100% owned by ***************** (together, "*******"). ******* imported and distributed consumer electronics and memory products. The company purchased over 50 percent of its inventory from ******* ****************************, which was majority-owned by *********************************, a publicly listed company in China ("*******"). *********** was the CEO and 40.8 percent owner of *******, and her brother, *********, was the Chairman of the Board of *****************************.

148. In April 2006, UCB granted ******* a $25 million asset-backed revolving line of credit to provide working capital and issue import letters of credit. This line was subsequently increased to $50 million in November 2006, and a participation of $6 million was sold to ************. The Bank held a UCC-1 blanket lien on *******'s business assets. ******** **** and ******* *********** also provided guarantees of $25 million each.

149. In September 2007, ******* lost a lawsuit filed by **************** ("******") for patent infringement. On October 3, 2007, ******* filed a bankruptcy petition under Chapter 11 due to a $12 million judgment obtained by ******. In June 2008, ******** **** was paid off; *******'s outstanding balance to the Bank remained at $44 million. On July 11, 2008, the Bank learned that the *****judgment against ******* had increased to $45 million.

150. On August 31, 2008, the Bank executed a settlement agreement with ******* ****. In this agreement, she agreed to cooperate and use her best efforts to assist the Bank in realizing a recovery on the collateral for the ******* loan. On September 14, 2008, the Bank executed three agreements with companies owned by the ***** to assign new collateral to the Bank. By virtue of these agreements, the Bank obtained collateral in China consisting of $20 million in Chinese banks owned by ******* and real estate in Shanghai.

151. On November 20, 2008, the bankruptcy court granted the Bank possession of *******'s cash accounts and accounts receivable, consisting of $2,555,358 cash and $9,995,971 in accounts receivable from *********, which were nine months old. On December 24, 2008, the bankruptcy court officially gave the Bank access to *******'s inventory.

152. As of December 31, 2008, the outstanding principal balance of the loan was $27,866,047. The Bank reported assigning a specific reserve of $5,820,195 for the ****** loan.

The Bank also reported repossessed assets consisting of inventory valued at $6,100,000, and accounts receivable valued at $7,496,978.

*Cash Collateral*

153. One of the largest pieces of collateral for the ******* loan in which the Bank claimed a security interest was $20 million in cash owned by ******* that was located in banks in China. Questions about the validity of this pledge of cash began to surface in the fall of 2008.

154. In November 2008 and December 2008, Chinese counsel hired by the Bank advised the Bank of numerous problems that would need to be addressed before the Bank would be able to perfect its interest in the cash collateral. This information was provided to CEO Wu, Kerr, and Shabudin.

155. During this timeframe, the Bank and its counsel had problems verifying the names of the banks where the cash was held, account numbers, and the amount of cash held in such accounts. CEO Wu, Shabudin, Kerr, and Yu were all aware of these problems.

156. On December 23, 2008, CEO Wu stated in an email that "[t]he $20,000M cash can not be verified. Bank names keep changing and there is no account info. I doubt whether we can ever get the money! My guess is that since they knew they will never get the money from the Government due to the fraud committed by them, they might as well give it to us if it exists . . . ."

157. Notwithstanding the foregoing, CEO Wu, Shabudin, Kerr, and Yu failed to disclose to KPMG during the 2008 audit that there was no documentation supporting the existence of the cash collateral and that the Bank had not perfected any security interest in the cash accounts.

158. In April 2009, KPMG returned to the Bank to begin conducting its audit of the Bank's First Quarter 2009 financial statements. During this time period, the FDIC and CDFI also began a targeted review of the Bank's asset quality.

159. At that time, KPMG and FDIC raised questions concerning the existence of the $20 million cash collateral. KPMG was beginning to insist that a full reserve be taken against the $20 million cash collateral, and the FDIC and CDFI examiners were questioning whether the entire $20 million should be charged-off.

160. On April 27, 2009, the IARD alerted CEO Wu that KPMG would likely insist that a full reserve be taken against the ******* loan unless the cash balances were supported. On April 29, 2009, the FDIC and CDFI examiners held a loan review meeting with CEO Wu and Montelaro concerning the ******* loan. At this meeting, CEO Wu asserted that the Bank would be repaid the $20 million on account in China.

161. Following the meeting, CEO Wu provided a document dated April 29, 2009 from Director *** of *************************************** that acknowledged and reconfirmed that $20 million was deposited at ****************************, ***** *************, and ****************** in Shanghai. In addition, CEO Wu provided what seemed to be a bank statement from ****************************, a reconciliation slip from ******************, and a verification of deposit letter from *******************. The FDIC and CDFI examiners relied on CEO Wu's assertions and the Chinese documents he provided in their classification of the ******* credit as "Doubtful" instead of "Loss".

*Real Estate in China*

162. Another large piece of the collateral supporting the ******* loan was real estate in China. This real estate was purportedly pledged to the Bank by three ******* subsidiaries. Questions began to surface in December 2008 concerning the value of this pledge of property.

163. In November and December 2008, the Bank's Chinese counsel advised the Bank that the property in China which had purportedly been pledged to UCB had been mortgaged to another bank and had been frozen by the Chinese courts at least two times. This information was provided to CEO Wu, Kerr, and Shabudin.

164. The Bank's counsel advised that the property had, in fact, been frozen in March 2008, which was earlier than the execution of the assignment. The Bank's counsel further advised that after the property was frozen, no fresh mortgage would have been allowed to be created over the property. Consequently, the assignment of sales proceeds to be derived from the frozen property did not seem feasible. CEO Wu, Shabudin, Kerr, and Yu were all aware of these facts.

165. Notwithstanding the foregoing, the Bank valued the collateral at $4,942,647 on its books. CEO Wu, Shabudin, Kerr, and Yu failed to disclose to KPMG during the 2008 audit that the Bank had no security interest in the Shanghai real estate, and would be unable to perfect one.

*Accounts Receivable*

166. The Bank also held a blanket UCC-1 lien on *******'s business assets, including its accounts receivable. ******* purportedly had approximately $10 million in accounts receivable from a company called ********. In December 2008, questions began to surface concerning the existence of these accounts receivable.

167. As early as December 23, 2008, CEO Wu questioned the existence of the $10 million in ******** receivables. *** traveled to China and Hong Kong in January 2009. During her trip, *** visited the address identified as belonging to ********. *** reported back to CEO Wu in an email dated January 16, 2009 that the company was not at the site. *** told CEO Wu that she did not believe that the company or the accounts receivable existed. CEO Wu, Shabudin, Kerr, and Yu were all aware of these facts.

168. Notwithstanding the foregoing, the Bank initially valued the accounts receivable at $7.5 million, 75 percent of the stated ******** accounts receivable. In March 2009, KPMG began to question this valuation. On March 7, 2009, On emailed CEO Wu to tell him that KPMG was really challenging the $7.5 million ******** accounts receivable due to a lack of support.

169. On March 8, 2009, On again told CEO Wu that KPMG was indicating that the Bank did not have documentation supporting the collectability of the accounts receivable.

170. In response to On's email, CEO Wu stated that the Bank had received confirmation of the accounts receivable in late 2008. However, CEO Wu knew, in fact, that the Bank could not locate ******** and that the Bank had no support for their collectability. Yu then replied to CEO Wu that he had discussed the accounts receivable with On.

171. None of the Respondents advised KPMG during the 2008 audit of the problems identified with respect to the ******** account receivables.

*Inventory*

172. The Bank's UCC-1 filing also included *******'s inventory, which consisted of such items as memory cards and digital picture frames. The Bank foreclosed upon and repossessed the inventory on December 24, 2008. The repossessed items were initially valued at

$6.1 million.  Significant issues began to surface with the content, quality, and value of *******'s inventory shortly after the Bank took possession.

173. The Bank hired a third party company, *******, to provide an inventory of the repossessed items, and to value and dispose of the items.  Sunny Sun was the primary Bank officer who corresponded with *******.  Sun reported to Zhang and Yu.

174. On January 26, 2009, Sun received an email from ******* providing initial sorting information for the ******* inventory.  The attached documentation indicated that of 30,560 items tested, 19,550 were empty and 11,010 had contents with a substantial portion of the contents mislabeled.

175. On January 30, 2009, Zhang emailed Shabudin to advise him that he was traveling to Los Angeles because "[s]omething serious [o]ccurred to our inventory."

176. On February 6, 2009, ******* sent an email to Sun forwarding an initial inventory of what was shipped to ******* for valuation and disposition.  Sun forwarded this inventory list to Yu and Zhang.

177. On March 9, 2009, ******* forwarded an updated inventory list to Sun.  This updated list confirmed a significant variance from the original inventory audit due to mislabeling (e.g., reported 4GB versus 256MB compact flash memory), empty boxes, and boxes filled with wood chips instead of memory cards.  On March 10, 2009, Sun forwarded the updated inventory list to Zhang.

178. On March 12, 2009, Sun drafted a memorandum to Zhang and Yu for the benefit of KPMG.  The memorandum was dated as of March 2, 2009.  This memorandum attached a spreadsheet consisting of a listing of the inventory of items that were shipped to ******* for review.  The memorandum stated that the volume of the inventory was consistent with the

physical inventory conducted in August 2008. The memorandum from Sun did not reflect the material discrepancies which were identified by *******. The columns of the spreadsheet from ******* that reflected the discrepancies were removed prior to providing the spreadsheet to KPMG.

179. Only eight days after sending the misleading sorting information to KPMG and only four days after the filing of the 2008 Form10-K, on March 20, 2009, the Bank charged-off $5.1 million of the inventory as of February 28, 2009.

B. <u>*********** Loan</u>

180. As of December 2007, the Bank had an outstanding loan to ****************. ("***"), an importer and wholesaler of consumer electronics, in the amount of $28 million. *** was owned by ********** ("******"). Collateral consisted of a security agreement and a UCC-1 blanket filing on the borrower's business assets.

181. In 2008, another ******-owned company defaulted on a $5 million loan made by ****************** ("***"). *** filed suit against ****** in May 2008. In August 2008, the Bank was approached by an independent receiver appointed by the court to liquidate the company.

182. The receiver informed the Bank of fraudulent business practices and the potential that *** may have engaged in similar business practices. The Bank learned that the inventory that had been pledged by ******* to secure the Bank's loan was also used to secure the *** loan.

183. The receiver found that 80 percent of the inventory that was maintained at ******'s Ontario warehouse was either empty or contained counterfeit products. The value of

the inventory was estimated at less than $100,000 as opposed to the $4 million represented by ******.

184. In early September 2008, the Bank scheduled a meeting with ****** at ******'s Vernon warehouse. Kerr, Zhang, and Bank employee **** ** traveled to the Vernon warehouse for this meeting. After ******* failed to appear, they obtained entry to the warehouse. The warehouse was filled with pallets of empty boxes and boxes filled with waste paper. On September 11, 2008, the Bank filed suit against ****** and ***. The outstanding balance of the *** loan was $28,007,444 at that time.

185. On October 16, 2008, the Bank's outside counsel sent Kerr an email providing a status report on the *** litigation. Among other things, the Bank's outside counsel indicated that the receiver's estimated value of the inventory from the Vernon warehouse was likely to be well below $100,000. A half-hour after this email was sent, Zhang sent an email to Yu, with a copy to Shabudin, asking what this will "do to the number?"

186. On November 14, 2008, Yu and Zhang received an email from Sun that attached a draft charge-off memo for ***, recommending a charge-off of $4,201,117, or 15 percent of the loan balance.

187. On January 30, 2009, Yu sent Sun an email that attached a revised charge-off memo for ***, backdated to December 23, 2008. The revised charge-off memo excluded material negative facts pertaining to the inventory, guarantor assets, and remote prospects to get full recovery from the borrower's and guarantor's assets. These facts were included in the original charge-off memo. The amount of the recommended charge-off did not change.

188. Between January 30 and February 3, 2009, the new charge-off memo was distributed to Sun, James Chan ("Chan"), Shabudin, On, and CEO Wu, who backdated their

signatures to December 23, 2008. Accordingly, the Bank approved a charge-off of $4,201,117 as of December 23, 2008.

189. On information and belief, Respondents did not advise KPMG of the negative facts contained in the November 14, 2008 draft of the charge-off memorandum during the 2008 audit.

190. On March 12, 2009, outside counsel forwarded the receiver's report to the Bank. It indicated that receipts from the collection of accounts receivable and other assets totaled $254,132, and that the receiver's expenses totaled $316,222, which left negative proceeds after liquidation. This report was issued four days prior to the filing of the 2008 Form 10-K.

191. KPMG did not become aware of the existence of the receiver's report or the net loss until after the 2008 Form 10-K was filed.

C. ********* – Valuation of H Street Property

192. As alleged in paragraph 125 above, in December 2008, due diligence was ongoing for the ********* - H Street property by potential purchasers ****** and *****.

193. ***** asked a realtor from *********** to provide the Bank with a valuation of the property.

194. On December 11, 2008, Kerr received a copy of the valuation from ****** *****. ********** valued the property at $7 million, which was approximately $5 million less than the appraisal obtained by the Bank in April 2008, just eight months earlier.

195. ***, who was the underwriter for the loan, reviewed the valuation. *** confirmed the raw data that formed the basis for the valuation, and forwarded his memorandum to Kerr and Yu on December 15, 2008.

196. The Bank utilized the ********** valuation for purposes of assessing the value of the H Street property, including this information in a RAAP dated December 22, 2008 which was prepared in advance of the December 30, 2008 PRC working group meeting.

197. The ********** valuation was specifically discussed at the December 30, 2008 PRC working group meeting attended by Kerr and Montelaro. At this meeting, ******* indicated that the Bank should charge-off the amount of the collateral shortfall based on the ********** valuation. This charge-off was not taken.

198. The ********** valuation was also included in subsequent RAAPs prepared on the ********* – H Street Loan, including a RAAP dated March 5, 2009 that was signed by Shabudin. This RAAP was discussed at the March 10, 2009 PRC meeting attended by Shabudin, Kerr, Montelaro, and Yu.

199. Notwithstanding the foregoing, Shabudin, Kerr, Montelaro, and Yu failed to disclose the existence of the December 2008 ********** valuation of $7 million to KPMG. Instead, Shabudin and Yu relied on an $8.2 million short sale offer for purposes of calculating the Bank's FAS 114 specific reserves.

## VII. Respondents Misrepresented Information Contained in ALLL Calculations

200. Yu worked closely with Tran, On, Shabudin, and others to determine the amount of the Bank's ALLL as of December 31, 2008. The Bank's ALLL consisted of two types of reserves, a general reserve and a specific reserve. The specific reserve was maintained in accordance with FAS 114, which generally requires that specific amounts be set aside for a loan when the loan is deemed to be impaired.

201. The Bank's ALLL package for December 31, 2008 was finalized on January 16, 2009. The ALLL package was signed as reviewed by Shabudin and Yu, and signed as approved

by On. The ALLL package dated January 16, 2009 included a FAS 114 reserve of $78,479,000. The FAS 114 provision summary, included as part of the ALLL package, was signed by **, Tran, and Yu.

202. Respondents Tommy Wu, Shabudin, Kerr, Montelaro, On, Sun, Tran, Yu, and others made several misrepresentations and omissions in order to conceal the Bank's understatement of its reserves from KPMG during the 2008 audit, including misrepresentations contained in the Bank's FAS 114 reserve calculations concerning the ***********, ****** ****, *************, *******, ***********, and ********* loans.

A. <u>*********** Loan</u>

203. UCB extended a $21,912,000 loan to ***************** ("***********") to develop residential units located in San Francisco, California. The loan was secured by a first deed of trust on the development project. **************** became a junior lien holder on the property in January 2007 when the company borrowed an additional $4,443,200 to complete the project.

204. In December 2008, the Bank was considering a two-year extension of the loan if *********** would make a $4 million payment. In January 2009, the Bank approved the extension on the condition that the $4 million payment be made from an additional loan by ****************. $3.75 million of the payment was to be used to pay down the loan balance, and $250,000 was to be used as an interest reserve.

205. On January 29, 2009, Shabudin indicated that the *********** loan should be downgraded from an 8 to a 10, and moved to a troubled debt restructuring ("TDR") classification. The RAAP was signed on February 12, 2009 to accomplish this downgrade.

206. In February 2009, KPMG asked why the *********** loan was not graded as Substandard or worse at year-end. The Bank's responses focused on the estimated $4 million pay-down. The Bank's responses further omitted the fact that since there had been no sales, the borrower intended to lease out the units. The appraisal obtained by the Bank on November 14, 2008 indicated that the projected value of the property as a rental property was $17.1 million, versus $21 million if the units were to be sold.

207. During this time frame, Yu prepared a FAS 114 worksheet for the *********** loan that reflected that the $4 million from **************** was in escrow, and that the appraised value of the property was $21 million. To the contrary, no money was in escrow and the appraised value should have been listed as $17.1 million, not $21 million, since the sale of units was no longer viable. Yu's calculations in the FAS 114 worksheet resulted in a collateral overage of $738,000, with no specific reserve required.

208. In March 2009, KPMG began asking Yu questions about the $4 million payment being in escrow. On March 11, 2009, Yu told KPMG that the junior lien holder, ******** ********, had agreed to pay down the loan by $4 million. Yu stated that the payment had been approved, but it was in the closing process, and information was to be provided by the title company. KPMG asked Yu for support for the $4 million payment.

209. The following morning, On became involved. KPMG had alerted him to the situation. On sent an email to CEO Wu stating that the FAS 114 prepared on the *********** loan looked flawed because it represented that a potential principal pay down of $4 million was sitting in an escrow account. On told CEO Wu that KPMG checked and found that there was no such amount in escrow.

210. That afternoon, Yu emailed CEO Wu and Shabudin a copy of the FAS 114 worksheet that he had prepared on ***********. Yu explained that the FAS 114 worksheet was prepared only as a draft to see the impact on the reserve. That evening, Cinderey also became involved. He forwarded an email to CFO On, Shabudin, CEO Wu, and ******** attaching a draft memo to KPMG. The draft memo indicated that earlier that day, **************** advised that it would not provide the $4 million.

211. Shortly thereafter, Tran sent ********, copying Yu and Shabudin, a revised FAS 114 calculation on the *********** loan that showed a collateral protection shortfall of $6,326,249 based on a loan balance of $21,716,249, an as-is appraised value of $17.1 million, and recognition that junior lien holder **************** did not make a $4 million payment on the loan.

212. Based on the foregoing, KPMG downgraded the balance of the loan, $21.6 million, from a risk rating of 7 to 9. This resulted in an additional general reserve of $3,176,000 for December 31, 2008. A specific reserve of $6,326,000 was established at March 31, 2009.

B. ********** Loan

213. As discussed in paragraphs 79 through 84 above, Respondents concealed the existence of a more recent appraisal from KPMG during the 2008 audit.

214. The FAS 114 analysis for the *********** loan, which was prepared by Yu and/or his team, reflected only a modest reserve of $780,170. The analysis was based on the stale May 31, 2008 appraised value, which was $7 million higher than the January 2009 appraised value. In addition, the FAS 114 made no mention of the Bank's plan to sell the loan at a loss of $6.8 million.

215. Since KPMG never found out about either the lower January 2009 appraisal or the Bank's intent to sell the note at a loss of $6.8 million, the Bank was able to reserve for its $11 million portion of the ********** loan at a mere $780,170. The Bank should have charged-off $6.8 million in loss instead.

C. ************* Loan

216. As of December 31, 2008, the Bank had a loan outstanding to ************* ********* ("*************") in the amount of $8,359,712. The Bank estimated that it would cost an additional $653,000 to complete the project for a total projected outstanding amount of $9,012,712. The Bank's loan to ************* was for the purpose of converting a 56-unit apartment building into condominiums.

217. In January 2009, Yu and/or his team prepared a FAS 114 worksheet for the ************* loan. In this worksheet, Yu indicated that the value of the underlying real estate collateral was $9.73 million less 10 percent liquidation costs, for a gross estimated recovery to UCB of $8,757,000.

218. The FAS 114 worksheet prepared for the ************* loan used stale and/or false information, stating that the borrower "has recently entered agreement to rent the completed property" to justify a low reserve figure. However, there is no evidence to show that there was ever an agreement to rent the property.

219. The FAS 114 worksheet prepared for the ************* loan also failed to disclose that at the end of 2008, the Bank intended to sell the loan at a significant loss.

D. ******* Loan

220. As discussed in paragraphs 146 through 179 above, Respondents made misrepresentions to, and concealed information from, KPMG concerning the cash and real estate

collateral for the ******* loan, and the ******* inventory and accounts receivable held by the Bank as repossessed assets.

221. Yu and/or his team prepared a FAS 114 worksheet for the ****** loan in January 2009. The FAS 114 worksheet reflected an outstanding loan balance of $28,744,866, estimated gross recovery of $22,045,851, and a specific reserve of $5,820,195. The FAS 114 worksheet for the ******* loan was part of the Bank's ALLL package signed as reviewed by Shabudin and Yu, and approved by On. The supporting information for the FAS 114 worksheet for the ******* loan was provided to KPMG by Tran on January 22, 2009.

222. In the FAS 114 worksheet for the ******* loan, the cash collateral was valued at $15 million, which was 75 percent of the pledged amount. In the comment section of the worksheet, it was stated that the cash collateral in China was discounted by 25 percent "as the account is frozen by the Chinese government pending investigation." The FAS 114 worksheet failed to disclose the fact that there was no documentation supporting the existence of the cash collateral and that the Bank had not perfected any security interest in the cash accounts.

223. In the FAS 114 worksheet for the ******* loan, the Bank's interest in the Shanghai property was valued at $7,589,706, less a senior lien in the amount of $2,647,059. The worksheet failed to disclose the fact that the property had been pledged as collateral to another bank prior to the date the property was pledged as collateral to UCB; the property had been frozen by the Chinese government; and the Bank's counsel had indicated that it did not seem feasible that the Bank would be able to derive any proceeds from the property.

E. ***********  Loan

224. Yu and/or his team prepared a FAS 114 worksheet as of December 31, 2008 for the *** loan which assigned a specific reserve of $18,974,644, leaving a remaining value of

$4,831,683.  This FAS 114 worksheet was part of the Bank's ALLL package signed as reviewed by Shabudin and Yu, and approved by On.

225. The FAS 114 worksheet for the *** loan indicated that the Bank would recover 30 percent of the inventory held as collateral, even though the receiver had previously indicated that the estimated value of the inventory at the Ontario warehouse was less than $100,000, and the Bank's counsel had previously indicated that the estimated value of the inventory at the Vernon warehouse was likely to be well below $100,000.

226. In addition, on information and belief, Shabudin and Yu knew prior to the filing of the 2008 Form 10-K that there was a shortfall in the collateral based on the receiver's report received on March 12, 2009.  This information should have been considered in the Bank's calculation of its reserves and should have been disclosed to KPMG prior to the filing of the 2008 Form 10-K on March 16, 2009.

F. <u>********* Loans</u>

227. As discussed in paragraphs 123 through 141 and 192 through 199 above, Respondents concealed a lower valuation of the H Street property and the existence of pending note and short sales for the ********* – H Street and Roseville Loans from KPMG.

228. Yu prepared FAS 114 worksheets for the ********* – H Street Loan and **** ***** – Roseville Loan in March 2009.  Tran forwarded the FAS 114 worksheets that Yu prepared on the ********* loans to KPMG on March 13, 2009.

229. The FAS 114 worksheet for the H Street Loan indicated a collateral value of $8.958 million, less 10 percent liquidation costs.  Yu based this valuation on the $8.2 million short sale offer that the Bank had received, even though it had already been withdrawn.  Yu did

not mention the fact that the Bank had entered into a different agreement on March 12, 2009 to sell the note for $6.15 million. That sale closed on March 20, 2009.

230. The FAS 114 worksheet for the Roseville Loan valued the collateral at $8.39 million, less 10 percent liquidation costs. Yu assigned a specific reserve of $597,497 for the loan. Yu stated in the FAS 114 worksheet that the valuation was based on a November 2008 sale of one unit of the property, but failed to disclose that the Bank had agreed to a short sale of the property for $3,464,000. The sale closed on March 24, 2009.

G. <u>Supplement to ALLL Package</u>

231. In a series of emails dated March 11, 2009, On discussed with CEO Wu and ******** how reserves were to be calculated.

232. In the March 11, 2009 email chain, On argued against the need for an additional $5 million provision to the Bank’s ALLL, proposing instead to identify ranges of reserves for the ******* and *********** loans.

233. On suggested that by “going to the low end” of the ranges, UCB would be able to free up $10 million in reserves. On further stated, “This will make [KPMG] not look at the 10 (not yet looked at) FAS 114 deals.”

234. The Bank’s ALLL package was supplemented on March 15, 2009 with a memo from Shabudin and On. In this memo, Shabudin and On represented that the Bank’s ALLL as of December 31, 2008 was adequate.

235. The March 15, 2009 memo stated that the Bank had increased its fourth quarter provision from $112 million to $152 million, and its overall ALLL to $230 million. The increase in the Bank’s ALLL included a range of loss for ******* of between $2.5 million and $7.5 million, and a range of loss for *********** of between $0 and $5 million.

## VIII. Respondents Artificially Brought Past Due Interest Current

236. One of the methods that Respondents used to mask the deteriorating financial condition of the Bank was to artificially bring past due interest current. One example of this practice was the Bank's extension of credit to a borrower's related entity in order to bring past due interest current on other loans at the Bank. This lending relationship is described in paragraphs 237 through 255 below.

A. ***** and ************** Loans

237. As of November 2008, the Bank had an extensive lending relationship with a group of related borrowers led by ********* ("*****"), as follows:

(a) ******************************** ("******") Loans. ***** was owned by *****, **********, ***********, and **********. The Bank had a $16,354,000 loan to ***** for the Northwest parcel of the shopping center property. This loan is commonly referred to as the "Northwest Parcel Loan." The Bank also had an $11,581,000 loan outstanding to ***** to cover cost overruns for the ************** construction loan, discussed in subparagraph (b) below. This loan is commonly referred to as the "Mezzanine Loan."

(b) ***************** ("**************") Loan. *************** was owned by *****, who later sold an 85 percent membership interest to **************** ("****"). **** was owned by *****'s business partner, ******** ("****"). The Bank held a 10.17 percent interest in a construction loan to ************** for construction of the ***** shopping center; *************** held the remaining interest in the loan. This is commonly referred to as the "Construction Loan." As of November 2008, the outstanding balance due to the Bank for the Construction Loan was $11,580,000.

(c) <u>*************** Loan</u>. *************** ("***********") was another company owned by ****. The Bank had a $23 million loan outstanding to *********** secured by the *********** shopping mall.

(d) <u>Other ********* Related Loans</u>. The Bank also had loans outstanding to *****, in the amount of $2.2 million; **************, a ****-related company, in the amount of $18.86 million; **************, another *****-related company, in the amount of $14.5 million; and other loans to various related interests totaling $6.97 million.

238. In September 2008, ***** and ************** had filed for bankruptcy protection under Chapter 11. In September 2008, following the bankruptcy, the Bank extended the due date of the ****** Northwest Parcel Loan to December 15, 2008 to avoid it going 90 days past due. By November 2008, the remaining ***** and ************** loans were more than 90 days past due with no payments being made, and should have been placed on non-accrual status.

239. In December 2008, CEO Wu, Shabudin, Kerr, and Lee discussed ways in which to bring the past due interest on the ***** and ************** loans current.

240. By late December 2008, CEO Wu, Shabudin, Kerr, and Lee decided to extend an additional $5 million line of credit to ***********, a ****-related entity that had not filed for bankruptcy protection, for the purpose of bringing the interest current on the ***** and ************** loans.

B. <u>*********** Line of Credit Is Used to Bring Interest Current</u>

241. In January 2009, **** provided two checks to the Bank which were dated December 31, 2008. The first was a check from his partner, ****, for $1 million. The second was a $500,000 check from ****************** ("********"), another company owned by

**** with an account at the Bank. These amounts were used to bring the ***** and ********* Loans current on or about January 8 and January 12, 2009.

242. The $500,000 check from ******** overdrew ********'s account at the Bank by $497,777. On January 12, 2009, Lee requested Kerr's approval to allow the overdraft, stating that a line of credit for *********** would be available soon. Kerr approved this request. However, no application for a line of credit had yet been submitted for approval.

243. That same day, a Credit Commitment Report ("CCR") was prepared for the $5 million line of credit to *********** by the Bank's Southern California office. The CCR was dated December 30, 2008. The stated purpose of the line of credit was "investment purposes." However, CEO Wu, Shabudin, Kerr, and Lee intended that the line of credit be used to make interest payments on the ***** and ************** loans.

244. Lee concurred with the *********** CCR on January 12, 2009; Shabudin concurred on January 18, 2009; and CEO Wu and Kerr concurred on January 23, 2009.

245. The Bank then prepared RAAPs backdated to December 31, 2008, which showed the ***** and ************** loans as no longer being past due. These RAAPs did not disclose the Bank's intent to extend $5 million to ***********. These RAAPs were signed by Shabudin, Kerr, and Lee.

246. On January 26, 2009, Montelaro forwarded the *********** CCR to Director ****, of the Board's Credit Committee, recommending his approval. The memo from Montelaro stated that the loan would be used for a cash infusion into the ***** project. Director ***** approved the credit on January 28, 2009.

247. On January 29, 2009, a Bank employee processing the ******** overdraft emailed Kerr expressing a concern that they had no information on the application for a credit

line that was to be used to clear the overdraft. Kerr responded, "The application is in name of **************. Tommy authorized. Christian will try to fix the OD [overdraft]."

248. On February 5, 2009, **** signed the loan documents for the *********** line of credit, but refused to sign the deed of trust securing the credit. Lee emailed Kerr to advise him of this development, and to indicate that the Bank's branch office was giving him problems clearing the $500,000 overdraft. Lee asked Kerr to discuss these issues with CEO Wu. Kerr forwarded Lee's email to CEO Wu.

249. The following day, February 6, 2009, $1 million of the proceeds of the ***** ****** line of credit were disbursed: $500,000 was wired to ****'s **** account at **** ******** to partially repay his advance of funds, and $500,000 was transferred to the ******** account to cover the January 12, 2009 overdraft.

250. In March 2009, CEO Wu and Lee again used the *********** line of credit to make interest payments on the ************** loan. Specifically, on March 25, 2009, CEO Wu instructed Lee to debit the line of credit to pay off three months of interest payments for the ************** loan that would have become past due if payment was not received by March 31, 2009.

251. On March 31, 2009, Lee authorized a draw of $234,508 from the *********** line of credit, which was used to pay the past due interest on **************. There are no documents indicating that **** authorized this draw on his line of credit.

252. In April 2009, Lee authorized the use of the *********** line of credit to replenish the Debtor in Possession account for the bankruptcy ("DIP Account"). Specifically, on April 30, 2009, Lee instructed Bank officer ***** *** ("***") to approve a draw of $500,000 by ****, which **** used to transfer the funds to the DIP Account. This replenished the DIP

Account for funds withdrawn by **** on March 24, 2009 to pay the interest due on the ***** loan.

C. Misrepresentations to KPMG

253. On February 27, 2009, Lee provided a memo to KPMG justifying the "7" rating given to the ***** loan. One of the stated rationales for the rating was that, ostensibly, the customer was current on the interest payments, though, in fact, the interest was paid by the Bank through the *********** line of credit.

254. As support for the memo, Lee attached copies of two checks purporting to show the interest payment – one showed the $1 million payment by ****; the other showed a $500,000 payment from an entity called ********************* ("**********") with an account at *********************.

255. As discussed in paragraphs 241 through 252 above, the actual $500,000 contribution was made by UCB account-holder ******** by a loan at the Bank in the form of an overdraft. The true source of the $500,000 interest payment was not discovered until after the 2008 Form 10-K was filed.

## IX. Respondents Sanitized Memos to KPMG

256. In February 2009, during the 2008 audit, KPMG began asking a series of questions concerning problem loans at the Bank. On February 9, 2009, KPMG submitted a list of questions to the Bank regarding 19 loans, including the following: **************, ************** and *****, ********* Street, ***********, **********, and *********. The questions focused on why the loans should not be downgraded to a more severe risk rating. KPMG also asked questions on other loans and OREO, including *****************, *** ***************, **********, and *************.

257. KPMG's questions were initially forwarded to the individual account officers to prepare draft responses. Cinderey, Montelaro, and Yu were instrumental in putting the Bank's responses to KPMG's questions into memos.

258. Montelaro was responsible for gathering all of the memoranda for Shabudin's final review. Montelaro forwarded 21 memos to Shabudin on February 27, 2009, and provided additional memos and revisions the first week of March 2009. The memos forwarded to KPMG included memos on ********, *****************, ***********, ******************, **********, *********, **********, *********, and *****.

259. Montelaro, Shabudin, and Yu were very familiar with these problem loans, and knew that the memos being provided to KPMG did not tell the whole story. To the contrary, the memos omitted key pieces of information. In some cases, the memos were specifically edited to exclude key pieces of information that would negatively impact the Bank's risk rating of the loan and/or valuation of the loan or OREO. These memos are discussed in paragraphs 260 through 273 below.

A. ******** Memo

260. In January 2007, the Bank made a loan to the ************** for the development of a 9.6 acre parcel of property ("******** Loan"). In September 2008, the Bank approved a reduction in the interest rate floor to 6 percent and an extension of the life of the interest reserve.

261. On February 25, 2009, KPMG asked the Bank several questions about the ******** loan and proposed downgrading the loan's risk rating.

262. The memo prepared in response to KPMG's questions concerning the ******** loan misrepresented the interest rate as having increased, when it had actually decreased.

B. ****************** Memo

263. In September 2006, the Bank made a loan to ********* in the amount of $6.8 million secured in part by a mixed use building in San Francisco, California ("********* property"). The Bank foreclosed on the ********* property in November 2008, and recorded it as OREO in the amount of $4,959,000 as of December 31, 2008.

264. Ta-Lun Wu misrepresented the value of the ********* property in a February 27, 2009 memo for KPMG. Ta-Lun Wu based the $4,959,000 book value on a September 2008 appraisal and comparable real estate sales. However, Ta-Lun Wu knew that the ********* property had been listed for sale at only $3,999,000. Ta-Lun Wu also knew that the appraised value had been based on fraudulent information provided to the appraiser.

C. *********** Memo

265. The memo prepared in response to KPMG's questions concerning the **** ******* loan initially failed to include updated appraisal information, the fact that the loan was re-evaluated and downgraded to a risk rating of 10 in January 2009, the fact that the interest reserves were depleted in December 2008, and the fact that since no sales had occurred, the units were to be leased. A handwritten note from Shabudin also indicated that a $4 million payment was to be placed in escrow the week of March 10, 2009, which was further misleading.

D. *** Memo

266. In 2007, the Bank made a loan to ****************** to construct a ******* *** in Ontario, California ("*** Loan"). In February 2009, the Bank granted a six-month extension of the loan. The interest reserve for the loan was expected to be exhausted in April 2009.

267. On February 13, 2009, Montelaro, responding to an inquiry from Cinderey, noted that the *** Loan would likely be downgraded by KPMG.

268. The memo prepared in response to KPMG's questions on the *** Loan reported that December 2008 occupancy was at 45 percent and that the hotel was operating with sufficient cash flow to service interest. In fact, in a February 2009 CCR, the occupancy level was listed at only 40 percent in December 2008. The breakeven occupancy rate was estimated at 42 percent. At 40 percent occupancy, the hotel was unable to service the interest on the loan.

E. <u>********** Memo</u>

269. The memo prepared in response to KPMG's questions concerning the ****** **** loan omitted the fact that CEO Wu, Shabudin, Swartz, Yu, and Zhang had decided to sell the note for a $6.8 million loss, and that the Bank had received an appraisal that reflected a significant decline in the value of the underlying property.

F. <u>********* Memo</u>

270. The memo prepared in response to KPMG's questions concerning the ********* loan omitted the following negative information known to the Bank: the guarantors had minimal outside net worth; management could not meet day-to-day business needs; a new appraisal dated January 1, 2009 indicated an as-is asset value of $8.5 million and a LTV of 165%; and 3 of the 6 members of the LLC wanted to sell their interest for $1.

G. <u>********** Memo</u>

271. The memo prepared in response to KPMG's questions concerning the **** ***** loan contained misrepresentations about the potential payoff of the loan through the sale of a quarry owned by the borrower, significantly overstated the borrowers' net worth, and failed to

disclose the Bank's receipt of a more recent appraisal which valued the collateral at half of the previous appraisal relied upon in the memo.

H. ********* Memo

272. The memo prepared in response to KPMG's questions concerning the ********* loans failed to mention a more recent valuation of the H Street property which reflected a significant decline in value and failed to mention that the Bank had agreed to sell the H Street note at a significant discount.

I. ***** and ************** Loans

273. The memo prepared in response to KPMG's questions concerning the ***** and ************** loans stated that the loans were brought current by the principals but failed to mention that these loans had been artificially brought current through a separate extension of credit to **********. The memo also attached a check from ********** rather than ********, misrepresenting the source of funds for the payment of interest in January 2009.

## X. Respondents Made Misrepresentations and Omissions to the Bank's Regulators

274. Respondents Tommy Wu, Shabudin, Kerr, Lee, Montelaro, On, and Yu engaged in unsafe or unsound practices and breaches of fiduciary by making misrepresentations and omissions to the Bank's regulators, as discussed more fully in paragraphs 275 through 297 below.

A. Misrepresentations During the 2008 Visitation

275. The FDIC and the CDFI conducted a Visitation of the Bank in December 2008.

276. Respondents Tommy Wu, Shabudin, Kerr, Montelaro, On, and Yu controlled the extent of information available to FDIC and CDFI examiners at the December 2008 Visitation of the Bank.

277. For the December 2008 Visitation, Respondents knew that the examiners were focused on the Bank's asset quality at year-end, and specifically the type of migration of loans' risk ratings that was demonstrated in the IARD report. On December 9, 2008, Montelaro authored an email to ********, On, *******, Shabudin, ***** ******, Cinderey, Kerr, CEO Wu, ********, and Yu in which he explained that the FDIC's "main dilemma" was "not so much with the problem credits already identified, but if there will be significant migration at year-end and into 1Q2009."

278. Rather than advocate that others at the Bank cooperate with the FDIC, Montelaro directed that "[i]t is very important that we keep [Examiner *******] focused on today, so he doesn't base the AQ rating on what he thinks will happen next week, next month, or next quarter." CEO Wu responded, "Thanks Paul, and I agree completely with you! Let's work together on this important area. Tommy." Thus, from the beginning of the December 2008 Visitation, Respondents planned to obstruct, rather than assist, FDIC's review.

279. Later that evening, Montelaro emphasized this point with respect to one of the larger credits in the Bank, the Bank's loan to ******** ******. Montelaro sent an email to Chiu-Yee, Cinderey and Yu, with the subject line of "Loan Discussion with FDIC ********," stating, "No matter what our year-end plans may be, we have to support the current risk rating SM-8."

280. In fact, none of these Respondents shared the results of the IARD's construction review with examiners, nor did these Respondents paint an accurate picture of the continued deterioration in the Bank's loan portfolio and the level of reserves this deterioration necessitated.

281. At meetings held during the week of December 1, 2008 to discuss the Bank's budget and the condition of the Bank's loan portfolio, examiners asked what the Bank's estimated loan provision expense would be for the fourth quarter 2008.

282. At a December 2, 2008 meeting held with *******, On, and ********, the examiners were told that the Bank had budgeted $15 million a month for loan provision expenses for the fourth quarter. On indicated that this number was based on an analysis performed by Yu, and a recommendation to the Finance Department from Shabudin. When asked about the level of write-downs, On responded that he thought the number would be similar to the previous quarter. When the examiners specifically asked whether the write-downs were coming from management or the IARD, On suggested that they discuss this with Kerr and Montelaro.

283. In a follow-up meeting with Kerr, Montelaro, and ******* that afternoon, the examiners asked what the Bank's estimated loan provision expense would be for fourth quarter 2008. Kerr said there were "too many moving parts" to guess. Ultimately, the examiners were again told that the Bank had budgeted $15 million a month for the fourth quarter. The examiners were also told that the migration of performing loans to deteriorating loans was slowing down. No one at the meeting mentioned the IARD findings or any of the other indicia that the deteriorating loan migration was in fact increasing at the time.

284. The FDIC and CDFI examiners held an exit meeting on December 17, 2008 with the Bank. Among those attending the exit meeting from the Bank were CEO Wu, Shabudin, Kerr, and Montelaro. At the exit meeting, it was represented that the Bank's fourth quarter provision expense would be in the $30 to $40 million range.

285. At the exit meeting, none of the Respondents disclosed the results of the IARD's review of the Bank's construction loan portfolio; the fact that the IARD report had been finalized

and issued two days earlier; or the extent of the deterioration in the construction loan portfolio as had been discussed the day before at the December 16, 2008 PRC meeting.

286. The following month, on January 22, 2009, UCBH announced in its fourth quarter 2008 earnings release that its fourth quarter provision expense would be $112.1 million, versus the $30 to $45 million represented to examiners during the December 2008 visitation.

B. Misrepresentations during Presentations to the San Francisco Regional Office

287. CEO Wu and other members of senior management, including Shabudin, Kerr, and On, met with the FDIC and CDFI in the San Francisco Regional Office ("Regional Office") in November 2008. The purpose of the meeting was for the Bank to update the regulators on the condition of the Bank following the issuance of UCBH's third quarter earnings release.

288. At the November 2008 meeting, Shabudin gave a presentation on the condition of the Bank's loan portfolio, including the Bank's construction loan portfolio. During the course of the presentation, Shabudin did not disclose any information concerning the negative IARD review of the Bank's construction loan portfolio or the significant deterioration in that portfolio.

289. During the course of the November 2008 meeting, CEO Wu, Kerr, and On failed to provide any information to the FDIC or the CDFI about the deterioration in the Bank's construction loan portfolio, as determined through the IARD review.

290. Another quarterly meeting was held in the Regional Office in January 2009. Once again, CEO Wu, Shabudin, Kerr, and On failed to disclose the deterioration in the Bank's loan portfolio revealed in the IARD report.

C. Misrepresentations During the April 2009 Targeted Review

291. In April 2009, the FDIC and the CDFI conducted a targeted review of the Bank's asset quality.

292. As discussed in paragraphs 153 through 161 above, during the April 2009 Targeted Review, Respondents Tommy Wu and Montelaro participated in misrepresentations and omissions concerning the valuation of cash collateral securing the Bank's ******* loan.

D. Submission of a False Officer's Questionnaire During the August 2009 Targeted Review

293. In August 2009, the FDIC and the CDFI conducted an additional targeted review of the Bank. During the course of the review, the Bank's officers were asked to complete an Officer's Questionnaire ("Questionnaire"). The Questionnaire required that the Bank's officers certify that the statements contained therein are true and correct. On August 24, 2009, CEO Wu signed an Officer's Certificate ("Officer's Certificate") certifying that the statements contained in the Questionnaire were true and correct.

294. Included in the Questionnaire were questions regarding the payment of interest on loans and accommodation loans. Specifically, Question 1 of the Questionnaire asked the following:

> List all extensions of credit and their corresponding balances which, since the last FDIC examination, have been renewed or extended under any of the following circumstances:
> a) without full collection of interest due
> b) with acceptance of separate notes for the payment of interest
> c) with capitalization of interest to the balance of the note.

295. In response to Question 1, the Bank did not disclose that it had made a separate loan to *********** for the purpose of making interest payments to bring the ***** and ************** loans current. Lee signed the response to this question, knowing that the response was not accurate. CEO Wu signed the Officer's Certificate knowing that the response was not accurate.

296. Question 3 of the Questionnaire asked the following:

> List all extensions of credit made for the accommodation or direct benefit of anyone other than those whose names appear either on the note or on other related credit instruments. Only include extensions of credit made since the previous FDIC examination. Indicate if any executive officer, principal shareholder, director, or their related interest (per Federal Reserve Board Regulation O definitions) is or was involved.

297. In response to Question 3, the Bank stated "None." However, the Bank had made a $5 million line of credit to *********** that was actually for the accommodation and benefit of ***** and **************. CEO Wu signed the Officer's Certificate knowing that this response was not accurate.

## XI. Respondents Filed a False 2008 Form 10-K, False 2008 Call Reports, and False Management Representation Letters to KPMG

A. <u>Down-to-Date Emails and Management Representation Letters</u>

298. On March 14, 2009, KPMG requested that CEO Wu and On respond to certain questions related to fraud and subsequent events. These questions are commonly referred to as "down-to-date inquiries" or "down-to-date emails." The purpose is to ensure that the auditors are advised as to any last minute developments that could impact the accuracy of the financial statements. The answers to such questions are then used to help draft management representation letters relied upon in the auditors' certification of the financial statements.

299. Question 7 of KPMG's down-to-date inquiries states: "Are you aware of any significant or unusual transactions that have occurred since 12/31/08 not otherwise disclosed in the financial statements? These would include . . . c. Dispositions or acquisitions of assets."

300. On March 14, 2009, CEO Wu responded generally to all of the questions in KPMG's down-to-date email, "Nothing and thanks."

301. On March 15, 2009, On responded specifically to Question 7, "None."

302. On March 16, 2009, the Bank provided a letter to KPMG for purposes of making certain representations relied upon by KPMG as part of its 2008 Year-End Audit of the Holding Company ("Management Representation Letter"). The Management Representation Letter was signed by CEO Wu, On, and ********.

303. The Management Representation Letter represented that the Bank's financial statements were presented in conformance with generally accepted accounting procedures, and that all financial records, data, minutes, and regulatory reports were provided to KPMG. The Management Representation Letter further certified that there were no events that occurred subsequent to the balance sheet date and through the date of the letter that would require adjustment to or disclosure in the financial statements.

304. Paragraph 9 of the Management Representation Letter specifically states: "The Company has no plans or intentions that may materially affect the carrying value or classification of assets and liabilities." If the Bank had any plans to sell notes or agree to short sales regarding collateral for loans, and such plans could materially affect the value of the loans, the Holding Company could not make such a representation.

305. CEO Wu's and On's responses to the down-to-date inquiry and the Management Representation Letter were false.

306. CEO Wu was very familiar with the Bank's plans to sell loans after December 31, 2008. During the KPMG Audit, the Bank had developed plans to sell a number of loans, which plans were not disclosed to KPMG. CEO Wu was not only aware of such plans, he had directed his senior management to sell as many non-performing loans as it could by the end of the first quarter.

307. In February 2009, Zhang reported back to CEO Wu on the progress of planned sales of 24 non-performing assets totaling $149 million. Zhang told CEO Wu that they were trying to complete the sales prior to the end of the quarter. Examples of specific loan sales that CEO Wu was aware of are **********, *********, and **********.

308. On was also aware of the Bank's plans to sell loans. On knew of specific loan sales that were planned or in the works in the first quarter of 2009, including *********, ****** **** and **********.

B. 2008 Form 10-K

309. Respondents violated Sections 10(b), 13(a), and 13(b) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78j(b); 78m(a); and 78m(b), by: causing UCBH to file a 2008 Form 10-K with the SEC that significantly understated the Bank's ALLL provisions and level of charge-offs and significantly overstated its earnings and capital; failing to appropriately make and keep books, records and accounts; and failing to maintain appropriate internal controls.

310. As discussed in paragraph 77 above, the Bank's charge-offs for loans and other assets as of December 31, 2008 were understated by at least $61.8 million and the Bank's FAS 114 reserve as of December 31, 2008 was understated by at least $53.7 million.

311. The misrepresentations and omissions Respondents made with respect to the specific loans and other assets discussed herein contributed materially to the total understatement of the Bank's charge-off and reserve amounts. Those misrepresentations and omissions resulted in a net impact to the financial statements of the Bank and UCBH of at least ($65,811,512), as follows:

(a) The Bank's FAS 114 reserves and/or charge-off amounts for the ****** **** Loan were understated, resulting in a net impact to the financial statements of approximately ($6,019,830);

(b) The Bank's FAS 114 reserves and/or charge-off amounts for the ****** ******* Loan were understated, resulting in a net impact to the financial statements of approximately ($4,179,000);

(c) The Bank's charge-off amount for the ************* OREO was understated, resulting in a net impact to the financial statements of approximately ($2,070,900);

(d) The Bank's FAS 114 reserves and/or charge-off amounts for the ******* loan and other assets were understated, resulting in a net impact to the financial statements of approximately ($36,521,649);

(e) The Bank's FAS 114 reserves and/or charge-off amounts for the ** ********* loan were understated, resulting in a net impact to the financial statements of approximately ($4,831,683);

(f) The Bank's FAS 114 reserves and/or charge-off amounts for the ******** ***** loan were understated, resulting in a net impact to the financial statements of approximately ($702,554);

(g) The Bank's FAS 114 reserves and/or charge-off amounts for the **** ***** – H Street Loan and Roseville Loan were understated, resulting in a net impact to the financial statements of approximately ($5,999,199); and

(h) The Bank's FAS 114 reserves and/or charge-off amounts for the ***** ***** loan were understated, resulting in a net impact to the financial statements of approximately ($5,486,697).

312. The Bank also routinely continued to accrue interest on loans that were more than 90 days past due and where full collection was unlikely, which resulted in earnings that were overstated.

313. CEO Wu and On signed the 2008 Form 10-K, attesting to its accuracy, when they knew that the 2008 Form 10-K was not accurate.

C. December 31, 2008 Call Reports

314. Respondents violated Section 7(a)(1) of the Act, 12 U.S.C. § 1817(a)(1), by causing the Bank to file false reports of condition ("Call Reports") with the FDIC for the period ending December 31, 2008 by significantly understating provision expenses and charge-offs, and significantly overstating its earnings and capital.

315. Based on the Bank's restatement, the Bank's charged-off loans and assets as of December 31, 2008 were understated in the Call Reports by at least \$61.8 million and the Bank's FAS 114 reserve as of December 31, 2008 was understated by at least \$53.7 million.

316. Furthermore, as discussed in paragraph 311 above, Respondents' misrepresentations and omissions regarding the specific loans and other assets discussed herein resulted in a net impact to the Bank's Call Reports of at least (\$65,811,512).

317. Respondents also failed to charge off loans that met the regulatory definition of "loss," opting instead to set up specific reserves and wait to charge off the loans until loan losses were certain. This had a significant impact on the Bank's Call Reports as follows: the Bank's reported charged-off loans were artificially low, and the Bank's reported ALLL was overstated in this area.

318. The Bank also routinely continued to accrue interest on loans that were more than 90 days past due and where full collection was unlikely, which resulted in earnings that were overstated.

319. On attested to the accuracy of the Bank's Call Reports when he knew that the Call Reports were false.

## XII. Effect of Respondents' Misconduct

320. By reason of the Respondents' violations of law and/or regulations, unsafe or unsound practices, and breaches of fiduciary duty, the Bank suffered financial loss or other damage and the interests of the Bank's depositors were prejudiced.

A. <u>Failure of the Bank</u>

321. As a result of the inaccurate Call Reports and 2008 Form 10-K filed by the Bank and UCBH, the Bank was required to file amended Call Reports and UCBH was required to restate its 2008 Form 10-K.

322. Due to the nature and extent of the omissions and misrepresentations, UCBH was unable to complete the restatements.

323. By the summer of 2009, the Bank's financial condition had deteriorated, requiring a significant injection in capital to be able to continue its operations. However, given the lack of audited financial statements, investors were unwilling to inject new capital into the holding company and its bank subsidiary.

324. Without new capital, the Bank was placed into receivership at an estimated cost of $2.5 billion to the FDIC's Deposit Insurance Fund.

B. Internal Investigation

325. As discussed in paragraphs 73 through 77 above, the omissions and misrepresentations to KPMG led to an internal investigation. The Bank and UCBH were charged $3,896,945 in legal fees for the cost of conducting this investigation, and $3,345,515 in accounting fees for the forensic component of the investigation.

326. The Bank also suffered reputational damage in the community as a result of the public disclosure of the findings of the internal investigation.

## XIII. Grounds for Section 8(e) Orders

327. As a result of the Respondents' foregoing acts, omissions and/or practices, the Respondents have committed violations of law and/or regulations.

328. As a result of the Respondents' foregoing acts, omissions and/or practices, the Respondents have engaged and/or participated in unsafe or unsound banking practices in connection with the Bank.

329. As a result of the Respondents' foregoing acts, omissions and/or practices, the Respondents breached their fiduciary duty to the Bank.

330. By reason of the violations, practices, or breaches alleged herein, the Bank has suffered financial loss or other damage.

331. By reason of the violations, practices, or breaches alleged herein, the interests of the Bank's depositors have been prejudiced.

332. The acts, omissions and/or practices of the Respondent alleged herein evidence the Respondents' personal dishonesty and/or demonstrate a willful or continuing disregard for the safety or soundness of the Bank.

## XIV. Grounds for Assessment of Civil Money Penalties

333. As a result of the foregoing facts and conclusions, the FDIC concludes that Respondents committed violations of law.

334. As a result of the foregoing facts and conclusions, the FDIC concludes that Respondents recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank.

335. Further, as a result of the foregoing facts and conclusions, the FDIC concludes that Respondents breached their fiduciary duty to the Bank.

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

337. Further, as a result of the foregoing facts and conclusions, the FDIC concludes that Respondents' 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 each 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 each 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 violations of law and reckless unsafe or unsound practices and/or breaches of fiduciary duty set forth in paragraphs 1 through 337 hereof, a penalty of $500,000 be, and hereby is, assessed against Respondent Tommy Wu pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $250,000 be, and hereby is, assessed against Respondent Shabudin pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $200,000 be, and hereby is, assessed against Respondent On pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $200,000 be, and hereby is, assessed against Respondent T***as Yu pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $150,000 be, and hereby is, assessed against Respondent Kerr pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $150,000 be, and hereby is, assessed against Respondent Montelaro pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $100,000 be, and hereby is, assessed against Respondent Lee pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $50,000 be, and hereby is, assessed against Respondent Tran pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); a penalty of $20,000 be, and hereby is, assessed against Respondent Sun pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2); and a penalty of $20,000 be, and hereby is, assessed against Respondent Ta-Lun Wu 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 each Respondent until 20 days after the date of receipt of the NOTICE OF ASSESSMENT by each such Respondent, during which time each such 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 any Respondent fails to file a request for a hearing within 20 days of receipt of this NOTICE OF ASSESSMENT, the penalty assessed against such 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 any 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 San Francisco, California, 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 remove the Respondent from office and/or prohibit the Respondent from further participation in the conduct of the affairs of the Bank and 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. §§ 1811-1831u, 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 any Respondent requests a hearing, such 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.

PRAYER FOR RELIEF

The FDIC prays for relief in the form of the issuance of an Order of Removal and Prohibition pursuant to 12 U.S.C. § 1818(e) against Respondents Yu, Lee, Sun, and Ta-Lun Wu; an Order of Prohibition pursuant to 12 U.S.C. § 1818(e) against Respondents Tommy Wu, Shabudin, On, Kerr, Montelaro, and Tran; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $500,000 against Respondent Tommy Wu; an Order to Pay

Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $250,000 against Respondent Shabudin; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $200,000 against Respondent On; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $200,000 against Respondent Yu; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $150,000 against Respondent Kerr; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $150,000 against Respondent Montelaro; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $100,000 against Respondent Lee; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $50,000 against Respondent Tran; an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $20,000 against Respondent Sun; and an Order to Pay Civil Money Penalty pursuant to 12 U.S.C. § 1818(i) in the amount of $20,000 against Respondent Ta-Lun Wu.

Pursuant to delegated authority.

Dated at Washington, D.C., this 7th day of October, 2011.

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