

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

_____	)	
In the Matter of	)	
FIRST CAPITAL BANK	)	SUPERVISORY PROMPT CORRECTIVE
KINGFISHER, OKLAHOMA	)	ACTION DIRECTIVE
(INSURED STATE NONMEMBER BANK)	)	FDIC-11-539 PCAS
_____	)	

FIRST CAPITAL BANK, KINGFISHER, OKLAHOMA ("Bank"), is a SIGNIFICANTLY UNDERCAPITALIZED insured depository institution as that term is defined in section 38(b)(1)(D) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1831o(b)(1)(D), and section 325.103(b)(4) of the Federal Deposit Insurance Corporation ("FDIC") Rules and Regulations, 12 C.F.R. § 325.103(b)(4), based upon the findings of an August 1, 2011 examination, the Bank's Tier 1 Leverage Ratio Capital was 3.45%, the Tier 1 Risk Based Capital Ratio was 4.39%, and the Total Risk Based Capital Ratio was 5.67%. The terms "Leverage Ratio", "Tier 1 Capital", "Tier 1 Risk Based Capital Ratio", and "Total Risk Based Capital Ratio" shall have the same meanings as set forth in Section 325.2(m), (v), (w), and (y) of the FDIC Rules and Regulations, 12 C.F.R. § 325.2(m), (v), (w), and (y).

Therefore, the FDIC found it necessary, in order to carry out the purposes of Section 38 of the Act, 12 U.S.C. § 1831o, to issue this SUPERVISORY PROMPT CORRECTIVE ACTION DIRECTIVE ("DIRECTIVE") detailing the actions required by the Bank and/or the proscriptions which will be imposed on the Bank.

Accordingly, the FDIC issued a NOTICE OF INTENT TO ISSUE A SUPERVISORY PROMPT CORRECTIVE ACTION DIRECTIVE ("NOTICE") against the Bank on September 30, 2011. The Bank responded to the NOTICE on October 14, 2011, pursuant to the provisions of Section 308.201(c) of the FDIC's Rules of Practice and Procedure and Regulations, 12 C.F.R. § 308.201(c), the FDIC considered the Bank's response to the NOTICE pursuant to the provisions of Section 308.201(d) of the FDIC's Rules of Practice and Procedure and Regulations, 12 C.F.R. § 308.201(d), and is hereby issuing this DIRECTIVE pursuant to the provisions of Section 38 of the Act, 12 U.S.C. § 1831o, and Part 308 of FDIC's Rules of Practice and Procedure and Regulations, 12 C.F.R. Part 308.

SUPERVISORY PROMPT CORRECTIVE ACTION DIRECTIVE

1. IT IS HEREBY DIRECTED,

(a) That within 30 days of the effective date of this DIRECTIVE, the Bank shall increase the volume of capital to a level sufficient to restore the Bank to an "ADEQUATELY CAPITALIZED" capital category as defined in Section 325.103(b)(2) of the FDIC Rules and Regulations, 12 C.F.R. § 325.103(b)(2).

(b) Any increase in Tier 1 capital necessary to meet the requirements of this DIRECTIVE may be accomplished by the following:

- (i) the sale of common stock; or
- (ii) the sale of noncumulative perpetual preferred stock; or
- (iii) the direct contribution of cash by the board of directors and/or shareholders of the Bank; or
- (iv) any other means acceptable to the Regional Director, FDIC, Dallas Regional Office ("Regional Director").

(c) Any increase in Tier 1 capital necessary to meet the requirements of this DIRECTIVE may not be accomplished through a deduction from the Bank's allowance for loan and lease losses.

(d) If all or part of the increase in Tier 1 capital required under this DIRECTIVE involves an offering, other than an offering deemed not to be a public securities offering, pursuant to 17 C.F.R. § 230.506 or as hereafter amended, of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare detailed offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and of this DIRECTIVE, as well as the circumstances

giving rise to the offering and any other material disclosures necessary to comply with the Federal securities laws. Prior to the sale of the securities and in any event, not less than 20 days prior to the dissemination of materials used in the sale of the securities, the materials shall be submitted to the FDIC Accounting and Securities Disclosure Section, Room 6066, 550 17<sup>th</sup> Street, N.W., Washington, D.C. 20429, for review. Any changes requested in the materials by the FDIC shall be made prior to their dissemination. In addition, any terms and conditions of the issue of new securities shall be submitted to the Regional Director for prior approval.

(e) In complying with the provisions of this DIRECTIVE, the Bank shall provide to any subscriber and/or purchaser of Bank stock written notice of any planned or existing development or other change which is materially different from what was disclosed in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within 10 days from the date such material development or change was planned or occurred, whichever is earlier, to every purchaser and/or subscriber of Bank stock who received or was tendered the information contained in the Bank's original offering materials.

2. The FDIC acknowledges that the Bank submitted a capital restoration plan on October 27, 2011, and that the Bank's capital restoration plan is currently being evaluated by the FDIC. In

the event the FDIC rejects the Bank's capital restoration plan, the Bank will be required to submit a revised capital restoration plan. THEREFORE, IT IS FURTHER DIRECTED, that within fourteen (14) days of the FDIC notifying the Bank that the capital restoration plan submitted on October 27, 2011 has been rejected, the Bank shall submit an acceptable revised capital restoration plan to the Regional Director in accordance with Section 38(e)(2) of the Act, 12 U.S.C. § 1831o(e)(2). The Bank's capital restoration plan shall meet the requirements of Section 325.104 of the FDIC Rules and Regulations, 12 C.F.R. § 325.104, and expressly provide, among other things, that at a minimum the Bank shall restore and maintain its capital to an ADEQUATELY CAPITALIZED position as set forth in defined in Section 325.103(b)(2) of the FDIC Rules and Regulations, 12 C.F.R. § 325.103(b)(2).

3. IT IS FURTHER DIRECTED that, during the period this DIRECTIVE is in effect, the Bank shall not accept, renew, or rollover any brokered deposits as defined in Section 337.6(a)(2) of the FDIC Rules and Regulations, 12 C.F.R. § 337.6(a)(2), pursuant to the provisions of Section 337.6(b)(3)(i), 12 C.F.R. § 337.6(b)(3)(i).

4. IT IS FURTHER DIRECTED that, during the period this DIRECTIVE is in effect, the Bank shall restrict the interest rates the Bank pays on deposits to comply with the interest rate restrictions in Section 337.6(b)(3)(ii) of the FDIC Rules and Regulations, 12 C.F.R. § 337.6(b)(3)(ii).

5. IT IS FURTHER DIRECTED that the Bank shall comply with all prompt corrective action provisions mandated by Section 38(d) and (e) of the Act, 12 U.S.C. § 1831o(d) and (e), including, but not limited to the following:

- (a) Restriction on asset growth pursuant to Section 38(e)(3) of the Act, 12 U.S.C. § 1831o(e)(3);
- (b) Restriction on capital distributions pursuant to Section 38(d)(1) of the Act, 12 U.S.C. § 1831o(d)(1), as "capital distribution" is defined in Section 38(b)(2)(B) of the Act, 12 U.S.C. § 1831o(b)(2)(B);
- (c) Obtaining the requisite prior approval from the FDIC before the Bank directly or indirectly:
  - (i) acquires any interest in any company or insured depository institution;
  - (ii) establishes or acquires any additional branch office; or
  - (iii) engages in any new line of business pursuant to Section 38(e)(4) of the Act, 12 U.S.C. § 1831o(e)(4), and

- (d) Restriction on payment of management fees pursuant to Section 38(d)(2) of the Act, 12 U.S.C. § 1831o(d)(2), as "management fee" is defined in Section 325.2(n) of the FDIC's Rules and Regulations, 12 C.F.R. § 325.2(n).

6. IT IS FURTHER DIRECTED that the Bank shall comply with the following prompt corrective action provisions as set forth in Section 38(f) of the Act, 12 U.S.C. § 1831o(f):

- (a) Recapitalize pursuant to Section 38(f)(2)(A) of the Act, 12 U.S.C. 1831o(f)(2)(A), by doing one or more of the following:
  - (i) sell enough shares or obligations to become ADEQUATELY CAPITALIZED as that term is defined in Section 38(b)(1)(B) of the Act, 12 U.S.C. § 1831o(b)(1)(B); or
  - (ii) combining with another depository institution;
- (b) Restriction on transactions with affiliates as if the exempt transactions provision of Subsection (d)(1) of Section 23A of the Federal Reserve Act, 12 U.S.C. § 371c(d)(1), did not apply pursuant to Section 38(f)(2)(B), 12 U.S.C. § 1831o(f)(2)(B);
- (c) Restriction on activities that pose excessive risk to the institution pursuant to Section 38(f)(2)(E), 12 U.S.C. § 1831o(f)(2)(E);

- (d) Requiring prior approval by the Board of Governors of the Federal Reserve System before the Bank Holding Company makes any capital distributions pursuant to Section 38(f)(2)(H) of the Act, 12 U.S.C. § 1831o(f)(2)(H); and
- (e) Restrict compensation to Senior Executive Officers pursuant to Section 38(f)(4)(A) of the Act, 12 U.S.C. 1831o(f)(4)(A), as follows:
  - (i) Prohibit the payment of any bonus to any Senior Executive Officer without the prior written approval of the FDIC, and
  - (ii) Prohibit compensation to any Senior Executive Officer at a rate exceeding the officer's average rate of compensation (excluding bonuses, stock options, and profit sharing) during the 12 calendar months preceding the calendar month in which the institution became UNDERCAPITALIZED without prior approval of the FDIC.

7. IT IS FURTHER DIRECTED that the provisions of this DIRECTIVE shall remain effective and enforceable until the Bank has been adequately capitalized on average for four consecutive calendar quarters, except to the extent that any provision has been modified, terminated, suspended or set aside by the FDIC.



8. IT IS FURTHER DIRECTED that, by the 15th day of the month following the issuance of this DIRECTIVE and by the 15th day of every month thereafter, the Bank shall provide written reports to the Regional Director specifically detailing the extent of the Bank's compliance with this DIRECTIVE and further specifically detailing the required corrective actions being taken by the Bank to secure full compliance with this DIRECTIVE.

9. IT IS FURTHER DIRECTED, that after the effective date of this DIRECTIVE, the Bank shall send to its shareholders a description of this DIRECTIVE

(a) in conjunction with the Bank's next shareholder communication, and also

(b) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting.

The description shall fully describe this DIRECTIVE in all material respects. The description and any accompanying communication, statement, or notice shall be sent to the FDIC, Accounting and Securities Disclosure Section, Room 6066, 550 17th Street, N.W., Washington, D.C. 20429, for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice or statement.

IT IS FURTHER DIRECTED, that this DIRECTIVE shall become effective immediately upon its issuance by the FDIC.

Each provision of this DIRECTIVE shall be binding upon the Bank, its directors, officers, employees, agents, successors, assigns, and other institution-affiliated parties of the Bank.

Pursuant to delegated authority.

Dated at Dallas, Texas, this 14th day of November, 2011.

/s/ \_\_\_\_\_  
Kristie K. Elmquist  
Acting Regional Director  
Division of Risk Management Supervision  
Federal Deposit Insurance Corporation