#2010-126

AGREEMENT BY AND BETWEEN
Herald National Bank
New York, New York
and
The Comptroller of the Currency

Herald National Bank, New York, New York ("Bank") and the Comptroller of the Currency of the United States of America ("Comptroller") wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller has found unsafe and unsound banking practices relating to Board and Management supervision, the rate of growth, capital planning, and Credit Administration at the Bank.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors ("Board"), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a "written agreement entered into with the agency" within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a "written agreement between such depository institution and such agency" within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). *See* 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

(5) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Agreement shall be forwarded to the:

Kristin A. Kiefer
Assistant Deputy Comptroller
New York Metro Field Office
343 Thornall Street, Suite 610
Edison, New Jersey 08837

ARTICLE II

COMPLIANCE COMMITTEE

(1) Within thirty (30) days of the date of this Agreement, the Board shall appoint a Compliance Committee of at least three (3) directors, of which no more than one (1) shall be an employee or controlling shareholder of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement.

(2) The Compliance Committee shall meet at least monthly.

(3) Within sixty (60) days of the date of this Agreement and within thirty (30) days after the end of each quarter thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the action needed to achieve full compliance with each Article of this Agreement;

(b) actions taken to comply with each Article of this Agreement; and

(c) the results and status of those actions.

(4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller within ten (10) days of receiving such report.

ARTICLE III

BOARD AND MANAGEMENT SUPERVISION AND STRATEGIC PLANNING

(1) Within ninety (90) days of the date of this Agreement, the Board shall conduct a written assessment of Board and Management supervision. The assessment shall include the following:

(a) an evaluation of the Board’s strengths and weaknesses, along with a program designed to strengthen identified weaknesses;

(b) an evaluation of each senior officer’s qualifications and abilities and a determination of whether each of these individuals possesses the experience and other qualifications required to perform present and anticipated duties; and

(c) a program to address identified weaknesses in the skills and abilities of the Bank’s management team and staff.

(2) Within sixty (60) days of the date of this Agreement, the Board shall adopt, implement, and ensure adherence to:

(a) a comprehensive three year strategic plan which includes an assessment of the Bank's present and future operating environment, shows controlled growth by asset types, funding sources, plans to accomplish identified strategic goals and objectives, and maintenance of adequate capital;

(b) control systems required to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment; and

(c) a risk based audit program to detect irregularities and weak practices in the Bank's operations, assess the effectiveness of policies and procedures, and determine compliance with applicable laws, rules, and regulations.

(3) The Board expressly acknowledges that the Strategic Plan required by this Article is a condition imposed in writing in connection with the June 18, 2008 approval to establish the Bank. Upon adoption, a copy of the plan shall be forwarded to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the strategic plan.

(4) The Bank must give the Assistant Deputy Comptroller at least sixty (60) days advance, written notice of its intent to deviate significantly from the strategic plan.

(a) For purposes of this Article, changes that may constitute a significant deviation from the strategic plan include, but are not limited to, any significant deviations from (i) growth projections, marketing strategies, marketing partners, acquisition channels; (ii) underwriting practices and standards, account management strategies and test programs; (iii) collection strategies, partners or operations; fee structure, pricing, or fee application methods; (iv) accounting processes and practices; (v) funding strategy; or (vi) any other changes in personnel, operations or external factors that may have a material impact on the Bank's operations or financial performance; and

(b) prior to making any changes that significantly deviate from the Bank's strategic plan, the Board shall perform an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls and written policies and procedures to identify, measure, monitor, and control the risks associated with the product or service. The evaluation shall include an assessment of the impact of such change on the Bank's condition, including a profitability analysis.

(5) Failure to provide the OCC with at least sixty (60) days prior written notice of its intent to significantly deviate or change from its business plan or operations, and obtain *the OCC's written determination of no objection before the Bank engages in any significant deviation or change from its business plan or operations may result in the imposition of civil money penalties in accordance with* 12 USC § 1818.

ARTICLE IV

CAPITAL PLAN

(1) Within ninety (90) days of the date of this Agreement, the Board shall develop a three year capital program. The program shall include:

(a) specific plans for the maintenance of adequate capital;

(b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;

(c) projections of the potential sources and timing of additional capital to meet the Bank's current and future needs;

(d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;

(e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and

(f) a dividend policy that permits the declaration of a dividend only:

(i) when the Bank is in compliance with its approved capital program;

(ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and

(2) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller.

(3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

ARTICLE V

PRODUCTS AND SERVICES - EXISTING OR NEW

(1) Effective as of the date of this Agreement, prior to the Bank's implementation of any new products or services, the Board shall prepare a written analysis of said product or service. The analysis shall, at a minimum, include the following:

(a) an assessment of the risks and benefits of the product or service to the Bank;

(b) an explanation of how the product or service is consistent with the Bank’s strategic plan;

(c) an evaluation of the adequacy of the Bank’s organizational structure, staffing, MIS, internal controls and written policies and procedures to identify, measure, monitor, and control the risks associated with the product or service; and

(d) a profitability analysis, including growth projections and interest rate risk.

(2) Prior to the Bank’s implementation of the new product or service, a copy of the analysis shall be submitted to the Assistant Deputy Comptroller.

ARTICLE VI

CREDIT RISK

(1) Within ninety (90) days of the date of this Agreement, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program to enhance credit risk management practices and prudently manage the high level of credit risk in the Bank. The program shall include, but not be limited to:

(a) procedures to strengthen credit underwriting, particularly in the commercial real estate portfolio;

(b) procedures to strengthen concentration risk management of (i.e. identification, monitoring and reporting);

(c) procedures to ensure stress testing, global cash flow analyses and verification of liquid assets are performed where appropriate;

(d) procedures for ensuring the accuracy and timeliness of risk ratings;

(e) procedures to ensure the non-accrual definition is applied in accordance with call report instructions;

(f) criteria for identifying Troubled Debt Restructures (TDRs); and

(g) a loan policy exceptions tracking reports.

(2) The Board shall submit a copy of the program to the Assistant Deputy Comptroller.

(3) At least quarterly, the Board shall prepare a written assessment of the bank's credit risk and the effectiveness of credit risk management, which shall evaluate the Bank's progress under the aforementioned program. The Board shall submit a copy of this assessment to the Assistant Deputy Comptroller.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

ARTICLE VII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) The Board shall review the adequacy of the Bank's Allowance for Loan and Lease Losses ("Allowance") and shall establish a program for the maintenance of an adequate Allowance. This review and program shall be designed in light of the comments on maintaining a proper Allowance found in the "Allowance for Loan and Lease Losses" booklet of the Comptroller's Handbook, and shall focus particular attention on the following factors:

(a) results of the Bank's internal loan review;

(b) results of the Bank's external loan review;

(c) an estimate of inherent loss exposure on each significant credit using the risk rating system;

(d) stratifying the FAS 5 pools by loan type and classification;

(e) application of qualitative and environmental adjustments separately to each FAS 5 pool;

(f) evaluating qualitative and environmental adjustments for reasonableness;

(g) ensuring industry historical loss data is reflective of current economic conditions and that adjustments are only made through qualitative factors;

(h) accurately risk rating loans and ensuring proper identification of non-accrual loans and Troubled Debt Restructures (TDRs), with impairment analyses performed where appropriate;

(i) concentrations of credit in the Bank; and

(j) present and prospective economic conditions.

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) Within forty five (45) days of the date of this Agreement, a copy of the Board's program shall be submitted to the Assistant Deputy Comptroller for review and prior written determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the program.

(4) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

ARTICLE VIII

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him/her by the several laws of the

United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Agreement in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

(a) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Agreement;

(b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;

(c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and

(d) require corrective action be taken in a timely manner of any non-compliance with such actions.

(6) This Agreement is intended to be, and shall be construed to be, a supervisory "written agreement entered into with the agency" as contemplated by 12 U.S.C. § 1818(b)(1),

and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of his supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set his hand on behalf of the Comptroller.

Signed | *April 22, 2010*

Kristin A. Kiefer
Assistant Deputy Comptroller
New York Metro Field Office

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

Charles Aswad	Date
/s/	4/22/10
David Bagatelle	Date
/s/	4/22/10
Barry Leistner	Date
/s/	4/22/10
Mitchel Maidman	Date
/s/	4/22/10
Raymond Nielsen	Date
/s/	4/22/10
Matthew Pechinski	Date
/s/	4/22/10
David Perez	Date
/s/	4/22/10
James K. Schmidt	Date
/s/	4/22/10
Norman Schulman	Date
/s/	
Matthew Seiden	Date