

#2012-004

Also Terminates #2011-012

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

<hr/> In the Matter of:)	AA-EC-12-09
First National Bank)	
Edinburg, Texas)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, the Director for Special Supervision (“Director”), has supervisory authority over First National Bank, Edinburg, Texas (“Bank”);

WHEREAS, the Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation and Consent to the Issuance of a Consent Order (“Stipulation and Consent”), designed to address certain unsafe and unsound practices and violations of law, dated January 18, 2012, that is accepted by the Comptroller; and

WHEREAS, by this Stipulation and Consent, which is incorporated by reference, the Bank, has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

NOW, THEREFORE, pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

COMPLIANCE COMMITTEE

(1) Within ten (10) days of this Order, the Board shall appoint and maintain an active Compliance Committee of at least five (5) directors of which at least three (3) shall not be employees 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 Director of Special Supervision (“Director”). The Compliance Committee shall be responsible for monitoring and coordinating the Bank’s adherence to the provisions of this Order.

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

(3) Within thirty (30) days of the date the Compliance Committee last submitted a written progress report to the Board under the terms of the February 8, 2011 Consent Order, the Compliance Committee shall issue a report to the Board and thereafter issue such report to the Board monthly setting forth in detail:

- (a) a description of the actions needed to achieve full compliance with each Article of this Order;
- (b) actions taken to comply with each Article of this Order; 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 Director within ten (10) days of receiving such report.

(5) All reports or plans which the Bank or Board has agreed to submit to the Director pursuant to this Order shall be forwarded, by overnight mail or via email, to the following:

Director for Special Supervision	<i>with a copy to:</i>
Comptroller of the Currency	San Antonio South Field Office
250 E Street, S.W.	Comptroller of the Currency
Mail Stop 7-4	10001 Reunion Place, Suite 250
Washington, DC 20219	San Antonio, Texas 78216-4133

ARTICLE II

STRATEGIC PLAN

(1) Within sixty (60) days from the date of this Order, the Board shall forward to the Director for his review, pursuant to paragraph (4) of this Article, a written Strategic Plan for the Bank that is acceptable to the Director, covering at least a three-year period. The Strategic Plan shall establish objectives for the Bank's overall risk profile, methods to implement cash flow lending, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) a description of the Bank's targeted market(s) and an assessment of the current and projected risks and competitive factors in its identified target market(s);

- (c) the strategic goals and objectives to be accomplished;
- (d) a projection of the Bank's capital needs, to include viable primary and alternative sources of capital and a restriction on dividends;
- (e) specific actions to improve Bank earnings and accomplish the identified strategic goals and objectives;
- (f) identification of Bank personnel to be responsible and accountable for achieving each goal and objective of the Strategic Plan, including specific time frames;
- (g) a financial forecast, to include quarterly projections for major balance sheet and income statement accounts, targeted financial ratios, and growth projections over the period covered by the Strategic Plan;
- (h) a description of the assumptions used to determine financial projections and growth targets;
- (i) an identification and risk assessment of the Bank's present and planned future product lines and services that will be utilized to accomplish the strategic goals and objectives established in the Strategic Plan. The risk assessment of any new product lines or services must be completed prior to the implementation of such product lines or services;
- (j) a description of control systems to mitigate risks associated with planned new products, services, growth, or any proposed changes in the Bank's markets;

- (k) assigned responsibilities and accountability for the strategic planning process, new products, growth goals, and proposed changes in the Bank's operating environment; and
- (l) a description of systems to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(2) At least monthly, the Board shall review financial reports and earnings analyses prepared by the Bank that evaluate the Bank's performance against the goals and objectives established in the Strategic Plan, as well as the Bank's written explanation of significant differences between actual and projected balance sheet, income statement, and expense accounts, including descriptions of extraordinary and/or nonrecurring items. The Board shall make these reports available upon request of the Director.

(3) At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the Strategic Plan, based on the Bank's monthly reports, analyses, and written explanations of any differences between actual performance and the Bank's strategic goals and objectives, and shall include a description of the actions the Board will require the Bank to take to address any shortcomings, which shall be documented in the Board meeting minutes. Within ten (10) days of completing its evaluation, the Board shall submit a copy to the Director.

(4) Prior to adoption by the Board, a copy of the Strategic Plan, and any subsequent amendments or revisions, shall be forwarded to the Director for review and prior written determination of no supervisory objection. At the next Board meeting following receipt of the Director's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall

implement and thereafter ensure adherence to the Strategic Plan. The Board shall review and update the Strategic Plan on an annual basis, or more frequently if necessary or if requested by the Director in writing.

(5) Until the Strategic Plan required under this Article has been submitted by the Bank for the Director's review, has received a written determination of no supervisory objection from the Director, and is being implemented by the Bank, the Bank shall not significantly deviate from the products, services, asset composition and size, funding sources, structure, operations, policies, procedures, and markets of the Bank that existed before this Consent Order without first obtaining the Director's prior written determination of no supervisory objection to such significant deviation. Any request to the Director for prior written determination of no supervisory objections to a significant deviation must be submitted to the Director at least 30 days in advance of the significant deviation and shall include:

- (a) an assessment of the adequacy of the Bank's management, staffing levels, organizational structure, financial condition, capital adequacy, funding sources, management information systems, internal controls, and written policies and procedures with respect to the proposed significant deviation, and
- (b) the Bank's evaluation of its capability to identify, measure, monitor, and control the risks associated with the proposed significant deviation.

(6) The Bank may not initiate any action that deviates significantly from the Board-approved Strategic Plan without a written determination of no supervisory

objection from the Director. The Board must give the Director advance, written notice of its intent to deviate significantly from the Strategic Plan, along with an assessment of the impact of such change on the Bank's condition, including a profitability analysis and 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 change in the Strategic Plan.

(7) For the purposes of this Article, changes that may constitute a significant deviation from the Strategic Plan include, but are not limited to, a change in the Bank's marketing strategies, marketing partners, underwriting practices and standards, credit administration, account management, collection strategies or operations, fee structure or pricing, accounting processes and practices, or funding strategy, any of which, alone or in aggregate, may have a material impact on the Bank's operations or financial performance; or any other changes in personnel, operations, or external factors that may have a material impact on the Bank's operations or financial performance.

ARTICLE III

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall achieve by March 31, 2012 and thereafter maintain the following minimum capital ratios (as defined in 12 C.F.R. Part 3):

- (a) Total capital at least equal to thirteen percent (13%) of risk-weighted assets¹;

¹ A national bank's risk-weighted assets is derived by assigning that bank's assets and off-balance sheet items to one of four risk categories detailed in 12 C.F.R. Part 3.

- (b) Tier 1 capital at least equal to nine percent (9%) of adjusted total assets².

(2) The requirement in this Order to meet and maintain a specific capital level means that the Bank may not be deemed to be “well-capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6, pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

(3) Within sixty (60) days from the date of this Order, the Board shall forward to the Director for his review, pursuant to paragraph (4) of this Article, a written Capital Plan for the Bank, consistent with the Strategic Plan pursuant to Article II, covering at least a three-year period. The Capital Plan shall include:

- (a) specific plans for the maintenance of adequate capital, which may in no event be less than the requirements of paragraph (1) of this Article;
- (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 sources and timing of additional capital to meet the Bank's future needs, as set forth in the Strategic Plan;
- (d) identification of the primary sources from which the Bank will maintain an appropriate capital structure to meet the Bank's future needs, as set forth in the Strategic Plan;

² Adjusted total assets is defined in relevant part, in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets.

- (e) specific plans detailing how the Bank will comply with the restrictions against brokered deposits in 12 C.F.R. § 337.6; and
- (f) contingency plans that identify alternative methods to strengthen capital should the primary source(s) under paragraph (d) of this Article not be available.

(4) The Bank may make payment of a dividend, or make a capital distribution, only:

- (a) when the Bank is in compliance with its approved Capital Plan and would remain in compliance with its approved Capital Plan immediately following the payment of any dividend;
- (b) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
- (c) following the prior written determination of no supervisory objection by the Director.

(5) Prior to adoption by the Board, a copy of the Capital Plan shall be submitted to the Director for a prior written determination of no supervisory objection. The Board shall review and update the Bank's Capital Plan at least annually and more frequently if necessary or if requested by the Director in writing. Revisions to the Bank's Capital Plan shall be submitted to the Director for a prior written determination of no supervisory objection. At the next Board meeting following receipt of the Director's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to the Capital Plan and any amendments or revisions thereto.

If the Bank fails to maintain the capital ratios required by paragraph (1) of this Article, violates paragraph (3), or fails to implement a Capital Plan to which the Director has provided no supervisory objection, then the Bank may, in the Director's sole discretion, be deemed undercapitalized for purposes of this Order. The Bank shall take such corrective measures as the OCC may direct from among the provisions applicable to undercapitalized depository institutions under 12 U.S.C. § 1831o(e) and 12 C.F.R. Part 6. For purposes of this requirement, an action "necessary to carry out the purpose of this section" under 12 U.S.C. § 1831o(e)(5) shall include restoration of the Bank's capital to the minimum levels required by this Order, and any other action deemed advisable by the OCC to address the Bank's capital deficiency or the safety and soundness of its operations.

ARTICLE IV

BOARD TO HIRE AND ENSURE COMPETENT MANAGEMENT

(1) The Board shall ensure that the Bank has competent management in place on a full-time basis in all executive officer positions to carry out the Board's policies; ensure compliance with this Order; ensure compliance with applicable laws, rules, and regulations; and manage the day-to-day operations of the Bank in a safe and sound manner.

(2) Within one hundred twenty (120) days from the date of this Order, the Board shall prepare a written assessment of the capabilities of all executive officers to perform present and anticipated duties, taking into account the finding contained in the most recent Report of Examination ("ROE"), and factoring in the officer's past actual

performance, experience, and qualifications, compared to their position description, duties and responsibilities, with particular emphasis on their proposed responsibilities to execute the Strategic Plan and correct the concerns raised in the ROE. A copy of the written assessment shall be made available to the Director upon his request.

(3) If the Board determines that an officer's performance, skills or abilities needs improvement, the Board will, within sixty (60) days following completion of the assessment, require the Bank to develop and implement a written program, with specific time frames, to improve the officer's performance, skills and abilities. A copy of the written program shall made available to the Director upon his request.

(4) If the Board determines that an executive officer will not continue in his/her position, the Board shall document the reasons for this decision in its assessment performed pursuant to paragraph (2) of this Article, and shall within ninety (90) days of such vacancy identify and provide notice to the Director, pursuant to paragraph (6) of this Article, of a qualified and capable candidate for the vacant position who shall be vested with sufficient executive authority to ensure the Bank's compliance with this Order and the safe and sound operation of functions within the scope of that position's responsibility.

(5) Prior to the appointment of any individual to an executive officer position pursuant to paragraph (3), the Board shall submit to the Director written notice containing the information that 12 C.F.R. 5.51 requires for senior executive officers. The Director shall have the power to disapprove the appointment of the proposed executive officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer. The requirement to submit information and the

prior disapproval provisions of this Article are based upon the authority of 12 U.S.C. 1818(b) and do not require the Director to complete his review and act on any such information or authority within ninety (90) days.

(6) The Board shall ensure that the Bank has sufficient processes, personnel, and control systems to effectively implement and adhere to all provisions of this Order, and that Bank personnel have sufficient training and authority to execute their duties and responsibilities under this Order.

ARTICLE V

SALARY, FEES, & BONUSES

(1) Within thirty (30) days from the date of this Order the Board shall adopt, and require the Bank to adhere to, policies regarding the payment of any salary and/or bonus, consulting fee, or other type of compensation to a Bank employee, principal shareholder, or director as defined in 12 C.F.R. Part 215, referred to hereinafter as, "Individual". Such policy shall require that such remuneration:

- (a) is reasonable;
- (b) is proportionate to services rendered;
- (c) compensates only for providing services that meet the Bank's legitimate needs; and
- (d) is consistent with the Safety and Soundness Standards of 12 C.F.R. 30, Appendix A, III.

(2) Within sixty (60) days from the date of this Order, and annually thereafter, the Board shall review current employment and compensation arrangements for Individuals,

and shall ensure and document in writing that such arrangements comply with the policies adopted pursuant to paragraph (1) above.

(3) All documentation supporting the payment of any salary, consulting fee, expense reimbursement or other type of compensation to an Individual shall be preserved in the Bank.

ARTICLE VI

LOAN PORTFOLIO MANAGEMENT

(1) Within sixty (60) days from the date of this Order, Board shall revise and approve and the Bank (subject to Board review and ongoing monitoring) shall ensure implementation and adherence to a written credit policy to improve the Bank's loan portfolio management. The credit policy shall include (but not be limited to):

- (a) a description of the types of credit information required from borrowers and guarantors, including (but not limited to) annual audited statements, interim financial statements, personal financial statements, and tax returns with supporting schedules;
- (b) procedures that require any extension of credit (new, maturity extension, or renewal) is made only after obtaining and validating current credit information about the borrower and any guarantor sufficient to fully assess and analyze the borrower's and guarantor's cash flow, debt service requirements, contingent liabilities, and global liquidity condition, and only after the credit officer prepares a documented credit analysis;

- (c) procedures that require any extension of credit (new, maturity extension, or renewal) is made only after obtaining and documenting the current valuation of any supporting collateral, perfecting and verifying the Bank's lien position, and verifying that reasonable limits are established on credit advances against collateral, based on a consideration of (but not limited to) a realistic assessment of the value of collateral, the ratio of loan to value, and overall debt service requirements;
- (d) procedures to incorporate stress-testing requirements into underwriting guidance based on original underwriting and during life of the loan,
- (e) address the circumstances under which accrued interest due on a loan may be added to the outstanding principal amount when the loan is renewed or restructured;
- (f) procedures that prohibit, on any loan renewal, extension or modification, the establishment of a new interest reserve using the proceeds of any Bank loan to the same borrower or guarantor;
- (g) procedures to ensure that all exceptions to the credit policy shall be clearly documented on the loan offering sheet, problem loan report, and other management information systems ("MIS"); and approved by the Board or a designated committee thereof before the loan is funded or renewed;

- (h) credit risk rating definitions consistent with applicable regulatory guidance;
- (i) procedures for early problem loan identification to ensure that credits are accurately risk rated at least monthly;
- (j) procedures governing the identification and accounting for nonaccrual loans that are consistent with the requirements contained in the Call Report Instructions; and
- (k) prudent lending and approval limits for lending officers that are commensurate with their experience and qualifications, and that prohibit combining individual lending officers' lending authority to increase limits;
- (l) shall include more defined parameters for use of loan agreements on credits that exceed one million dollars (\$1,000,000);
- (m) shall expand and improve on the risk rating criteria for each loan grade used;
- (n) shall improve the frequency and quality of required interim financial information;
- (o) shall implement measures to correct the deficiencies in the Bank's lending procedures noted in any Report of Examination; and
- (p) shall implement guidelines for periodic review of the Bank's adherence to the revised lending policy.

(2) For construction lending, including lot development loans, the credit policy shall include more specific guidelines ensuring that:

- (a) Market feasibility analyses are performed on larger construction projects;
- (b) Detailed cash flow analyses, including global cash flow if applicable, are performed on borrowers and guarantors;
- (c) Current rental and sales information is maintained on all construction projects; and
- (d) Pre-sale and pre-leasing thresholds are defined to lower overall credit risk.

(3) The Bank shall immediately reverse or charge off all interest that has been accrued contrary to the requirements contained in the Instructions for Preparation of Consolidated Reports of Condition and Income (“Call Report Instructions”) governing nonaccrual loans. Further, the Bank shall immediately reverse or charge off that portion of the remaining accrued interest on such loans that, when combined with principal, is not protected by sound collateral values.

- (a) The Board shall ensure the Bank’s adherence to written policies and procedures governing the supervision and control of nonaccrual loans. Such policies and procedures shall:
 - (i) Be consistent with the accounting requirements contained in the Call Report Instructions;
 - (ii) Be consistent with the accounting requirements contained in “FASB ASC 360-20, *Real Estate Sales* (SFAS 66)” for loans to finance OREO that are not eligible for full accrual method; and

(iii) Require the monthly presentation to the Board of all loans meeting any of the nonaccrual criteria.

(b) The Board shall develop and implement a written policy that shall provide for auditing accrued interest on loans. A copy of the written policy shall be provided to the Director for a written determination of no supervisory objection. The policy shall, at a minimum, provide for quarterly audits of accruals and incorporate procedures for periodically testing the Bank's identification of nonaccrual loans as governed by the policy adopted pursuant to paragraph (2) of this Article.

(4) The Board shall ensure that all Bank lenders or any other personnel performing credit analyses are adequately trained in cash flow analysis, particularly analysis using information on a global cash flow basis, evaluation of contingent liabilities, and verification of liquidity, and that processes are in place to ensure that additional training is provided as needed.

(5) Within sixty (60) days from the date of this Order, the Board shall identify and employ a qualified individual with demonstrated experience and skills to lead management's efforts to resolve and reduce problem assets (hereinafter "loan workout specialist"). This person shall be independent and report to the Board of Directors.

(a) The loan workout specialist shall hire and ensure sufficient staff have the qualifications, skills, and experience to effectively manage and resolve problem assets; and

- (b) The loan workout specialist will be held accountable by the Bank's Board to successfully execute assigned duties;

(6) Prior to the appointment or employment of the loan workout specialist, the Board shall submit the name and qualifications of the proposed individual to the Director for a prior written determination of no supervisory objection.

ARTICLE VII

CREDIT RISK MANAGEMENT

(7) Within sixty (60) days, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to the Bank's written program to reduce and manage the high level of credit risk in the Bank. The Bank's program shall include, but not be limited to, credit risk management procedures to:

- (a) perform analyses of current and complete credit information, including global cash flow analyses of borrowers and guarantors;
 - (b) require and enforce appropriate financial reporting covenants;
 - (c) identify problem loans in a timely manner;
 - (d) assign accurate risk ratings consistent with the classification standards contained in the *Comptroller's Handbook* on "Rating Credit Risk;"
 - (e) reduce the volume of credit and collateral exceptions;
 - (f) strengthen loan collections;
 - (g) maintain an adequate, qualified staff in all loan functional areas;
- and

(h) monitor lending staff adherence to the Bank's written program.

(8) At least quarterly, the Board shall prepare a written assessment of the Bank's credit risk and the Bank's adherence to the aforementioned program. The Board shall submit a copy of this assessment to the Director.

ARTICLE VIII

CRITICIZED ASSETS

(1) The Bank (subject to Board review and ongoing monitoring) shall continue to implement and thereafter ensure adherence to a written program designed to protect the Bank's interest in those assets criticized as “doubtful,” “substandard,” or “special mention” in the most recent Report of Examination (“ROE”), in any subsequent ROE, by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination. The program shall include the ongoing use of Criticized Asset Reports (“CARs”) identifying all credit relationships and other assets totaling in aggregate one million dollars (\$1,000,000) or more, criticized as “doubtful,” “substandard,” or “special mention.” The CARs shall be updated monthly and submitted to the Board and Director at least quarterly. Each CAR shall cover an entire credit relationship and include, at a minimum, analysis and documentation of the following:

- (a) the origination date and any renewal or extension dates, amount, purpose of the loan, and the originating and current loan officer(s);
- (b) the expected primary and secondary sources of repayment and an analysis of the adequacy of the repayment source;

- (c) the appraised value of supporting collateral and the position of the Bank's lien on such collateral, where applicable, as well as other necessary documentation to support the current collateral valuation;
- (d) an analysis of current and complete credit information, including cash flow analysis where loans are to be repaid from operations;
- (e) results of any ASC 310 impairment analysis;
- (f) significant developments, including a discussion of changes since the prior CAR, if any; and
- (g) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment, including if appropriate an exit strategy.

(2) The Bank shall not extend credit, directly or indirectly, including renewals, modifications or extensions, to a borrower whose loans or other extensions of credit are criticized in any ROE, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination, unless and until the Board, or a designated committee thereof, finds and documents in writing each of the following conditions is met:

- (a) the extension of additional credit is necessary to promote the best interests of the Bank;
- (b) the Bank has performed a written credit and collateral analysis as required by paragraph (1)(d) of this Article and, if necessary, the

proposed action referred to in paragraph (1)(g) of this Article is revised, as appropriate;

- (c) the Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of additional credit; and
- (d) a copy of the findings and approval of the Board or designated committee shall be maintained in the credit file of the affected borrower.

ARTICLE IX

LOAN REVIEW

(1) Within sixty (60) days from the date of this Order, the Board shall establish an effective, independent, and on-going loan review program to review, at least quarterly, the Bank's loan and lease portfolios, to assure the timely identification and categorization of problem credits. The program shall provide for a written report to be filed with the Board promptly after each review and shall employ a loan and lease rating system consistent with the guidelines set forth in "Rating Credit Risk" and "Allowance for Loan and Lease Losses," booklets A-RCR and A-ALLL, respectively, of the Comptroller's Handbook. Such reports shall include, at a minimum:

- (a) conclusions regarding the overall quality of the loan and lease portfolios;
- (b) the identification, type, rating, and amount of problem loans and leases;
- (c) the identification and amount of delinquent loans and leases;
- (d) credit and collateral documentation exceptions;

- (e) loans meeting the criteria for nonaccrual status;
- (f) the identity of the loan officer of each loan reported in accordance with subparagraphs (b) through (e);
- (g) the identification and status of credit-related violations of law, rule, or regulation;
- (h) concentrations of credit;
- (i) loans and leases to the directors, executive officers, and principal shareholders of the Bank and to their related interests; and
- (j) loans and leases in nonconformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(2) Within thirty (30) days from the date of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program providing for the independent review of problem loans and leases in the Bank's loan and lease portfolios for the purpose of monitoring portfolio trends, on at least a quarterly basis. The program shall require a quarterly report to the Board. In addition, at a minimum the program shall provide for an independent reviewer's assessment of the Bank's:

- (a) Monitoring systems for early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
- (b) Statistical records that serve as a basis for identifying sources of problem loans and leases by industry, size, collateral, concentration, indirect dealer, and individual lending officer;

- (c) System for monitoring previously charged-off assets and their recovery potential;
- (d) System for monitoring compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
- (e) System for monitoring the adequacy of credit and collateral documentation.

(3) A written description of the program shall be forwarded to the Director upon adoption.

(4) The Board shall evaluate the loan and lease review report(s) and shall ensure that immediate, adequate, and continuing remedial action, as appropriate, is taken upon all findings noted in the report(s).

ARTICLE X

OTHER REAL ESTATE OWNED - ACTION PLANS

(1) Within thirty (30) days from the date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to action plans for each parcel of OREO to ensure that these assets are managed in accordance with 12 U.S.C. § 29 and 12 C.F.R. Part 34, Subpart E. At a minimum, the plans shall:

- (a) identify the Bank officer(s) responsible for managing and authorizing transactions relating to the OREO properties;
- (b) include proper accounting procedures for OREO properties upon transfer to the Bank;

- (c) ensure proper accounting procedures for OREO sales, including those for which the Bank has provided below-market financing;
- (d) contain procedures to require timely appraisals pursuant to 12 C.F.R. § 34.85 and 12 C.F.R. Part 34, Subpart C;
- (e) contain an analysis of each OREO property that compares the cost to carry against the financial benefits of near-term sale;
- (f) detail the marketing strategies for each parcel;
- (g) identify targeted time frames for disposing of each parcel of OREO;
- (h) establish targeted write-downs at periodic intervals in the event that marketing strategies are unsuccessful;
- (i) establish procedures to require periodic market evaluations of each property, and the methodology to be used; and
- (j) provide for reports to the Board on the status of OREO properties on at least a quarterly basis.

(2) Upon adoption, the Board shall submit copies of the action plans and the quarterly reports required by paragraph (1)(i) to the Director.

ARTICLE XI

APPRAISAL PROCESS

(1) The Bank (subject to Board review and ongoing monitoring) shall review, revise as appropriate and adhere to a written real estate appraisal program. In revising its real estate appraisal policies and procedures, the Board shall refer to the “Commercial

Real Estate and Construction Lending” booklet of the Comptroller’s Handbook and other regulatory guidance. The real estate appraisal program shall incorporate guidelines that:

- (a) Provide for the independence and qualifications of the person ordering, performing, and reviewing appraisals or evaluations;
- (b) Establish selection criteria and procedures to evaluate and monitor the ongoing performance of appraisers and persons who perform evaluations;
- (c) Ensure that appraisals comply with 12 C.F.R. § 34 and are consistent with supervisory guidance;
- (d) Ensure that appraisals and evaluations contain sufficient information to support the credit decision;
- (e) Maintain criteria for the content and appropriate use of evaluations;
- (f) Provide for the receipt and review of the appraisal or evaluation report in a timely manner to facilitate the credit decision;
- (g) Implement internal controls that promote compliance with these program standards, including those related to monitoring third party arrangements;
- (h) Establish criteria for collateral valuation monitoring;
- (i) Establish criteria for obtaining appraisals or evaluations for transactions that are not otherwise covered by the appraisal requirements of 12 C.F.R. § 34;

(2) Upon adoption, the program shall be implemented, the Board shall thereafter ensure Bank adherence to the program, and a copy of the program shall be forwarded to the Director.

ARTICLE XII

APPRAISALS OF REAL PROPERTY

(1) The Board shall require and the Bank shall obtain a current independent appraisal or updated appraisal, in accordance with 12 C.F.R. Part 34, on any loan that is secured by real property:

- (a) where the loan's appraisal was found to violate 12 C.F.R. Part 34;
or
- (b) where the loan was criticized in the most recent Report of Examination or by the Bank's internal or external loan review and the most recent independent appraisal is more than twelve (12) months old; or
- (c) where the borrower has failed to comply with the contractual terms of the loan agreement and the loan officer's analysis of current financial information does not support the ongoing ability of the borrower or guarantor(s) to perform in accordance with the contractual terms of the loan agreement and the most recent independent appraisal is more than twelve (12) months old.

(2) Appraisals required by this Article shall be ordered within thirty (30) days following the event triggering the appraisal requirement, for delivery to the Bank within sixty (60) days of ordering.

(3) Written documentation supporting each appraisal review and analysis shall be retained in the loan file, along with the appraisal.

ARTICLE XIII

RETAIL CREDIT ADMINISTRATION

(1) Within sixty (60) days from the date of this Order, the Board shall develop, implement, and thereafter ensure adherence to a written program that formalizes and improves the Bank's retail risk management structure. The program shall include, at a minimum:

- (a) the separation of the Bank's risk management for retail lending activities function from the audit and loan review functions.
- (b) the assignment of personnel responsible for the retail lending risk management process;
- (c) employment of credit scoring in decision-making processes as means to reduce origination of loans with higher risk characteristics or non-traditional underwriting standards;
- (d) development of adequate MIS that will sufficiently allow the monitoring of retail credit quality on an ongoing basis. Basic MIS must be available to track (for all loans, including subprime);
 - (i) delinquencies, default rates, first payment skips, reaging, extensions, rewrites, bankruptcy, deferrals, credit scores, growth application volumes, approvals/declines, booking rates and trends in these indicators

- (e) implementation of post-mortem reviews to better understand how problem loans and losses develop.
- (f) development and implementation exception tracking and reporting processes;
- (g) enhanced retail collection practices, which include:
 - (i) timely and efficient collections of problem accounts;
 - (ii) monitoring of individual collector efficiency and effectiveness; and
 - (iii) production of accurate and timely information and MIS necessary to properly manage the collections area.

(2) The Board shall expand the scope of reviews performed by internal loan review and internal audit to a level commensurate with the significant risks posed by the Bank's level of problem retail assets. The Board shall ensure that the scope of such reviews includes:

- (a) reviews of the Bank's accounting practices;
- (b) disposition practices;
- (c) compliance with applicable regulatory and state guidance, especially *OCC Bulletin 2000-20*;
- (d) test accuracy of management reporting; and
- (e) validate MIS used to measure, monitor, and report on the Bank's retail lending portfolios via internal and/or external audit processes.

ARTICLE XIV

INVESTMENT POLICY

(1) Within sixty (60) days from the date of this Order, the Board shall review, revise, implement, and ensure adherence to the Bank's investment policy. The Board shall also submit the policy to the Director and, at least on an annual basis, review the policy and revise it as appropriate. The policy shall contain the basic elements of a sound investment policy consistent with regulatory guidance provided in An Examiner's Guide to Investment Products and Practices (December 1992), 12 C.F.R. Part 1, and OCC Bulletin 98-20 (April 27, 1998) and shall:

- (a) include procedures that set forth the requirements for establishing a trading account. Criteria should include, but are not necessarily limited to, the following:
 - (i) include specific controls for managing the trading activity;
 - (ii) include appropriate accounting procedures, and;
 - (iii) include stop loss limits.

ARTICLE XV

LIQUIDITY RISK MANAGEMENT PROGRAM

(1) The Bank (subject to Board review and monitoring) shall continue to implement and adhere to a comprehensive liquidity risk management program which assesses, consistent with OCC Bulletin 2010-13, "Liquidity" (March 22, 2010), on an ongoing basis, the Bank's current and projected funding needs, and ensures that sufficient funds or access to funds exist to meet those needs. Such a program shall include

effective methods to achieve and maintain sufficient liquidity and to measure and monitor liquidity risk, to include at a minimum:

- (a) strategies to maintain sufficient liquidity at reasonable costs including, but not limited to, the following:
 - (i) diversification of funding sources, reducing reliance on high cost providers;
 - (ii) reducing rollover risk;
 - (iii) increasing liquidity through such actions as obtaining additional capital, placing limits on asset growth, aggressive collection of problem loans and recovery of charged-off assets, and asset sales; and
 - (iv) monitoring the projected impact on reputation, economic and credit conditions in the Bank's market(s).
- (b) The preparation of liquidity reports which shall be reviewed by the Board on at least a monthly basis, to include, at a minimum, the following:
 - (i) a certificate of deposit maturity schedule, including separate line items for brokered deposits and uninsured deposits, depicting maturities on a weekly basis for the next two months and monthly for the following four months, which schedule shall be updated at least weekly;
 - (ii) a schedule of all funding obligations, including money market accounts, unfunded loan commitments, outstanding

lines of credit and outstanding letters of credit, showing the obligations that can be drawn immediately, and on a weekly basis for the next two months and monthly for the following four months, which schedule shall be prepared and updated at least weekly;

- (iii) a listing of funding sources, prepared and updated on a weekly basis for the next two months and monthly for the following four months, including federal funds sold; unpledged assets and assets available for sale; and borrowing lines by lender, including original amount, remaining availability, type and book value of collateral pledged, terms, and maturity date, if applicable.
 - (iv) a monthly sources and uses of funds report for a minimum period of six months which reflects known and projected changes in asset and liability accounts, and the assumptions used in developing the projections.
- (c) A contingency funding plan that, on a monthly basis, forecasts funding needs, and funding sources under different stress scenarios which represent management's best estimate of balance sheet changes that may result from a liquidity or credit event.

(2) The Board shall make these reports available upon request of the Director.

ARTICLE XVI

CONSUMER COMPLIANCE PROGRAM

(1) Within one hundred twenty (120) days from the date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written consumer compliance program designed to ensure that the Bank is operating in compliance with all applicable consumer protection laws, rules, and regulations. This program shall include, but not be limited to:

- (a) a written description of the duties and responsibilities of the Compliance Officer;
- (b) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations;
- (c) the preparation of a policies and procedures manual covering all consumer protection laws, rules, and regulations for use by appropriate Bank personnel in the performance of their duties and responsibilities;
- (d) semi-annual updates of the written policies and procedures manual to ensure it remains current; and
- (e) the education and training of all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules, and regulations.

(2) Upon adoption, a copy of the program shall be forwarded to the Director.

ARTICLE XVII

BANK SECRECY ACT / FOREIGN EXCHANGE ACTIVITIES

(1) Within one hundred twenty (120) days from the date of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures to ensure compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 - 5330), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C (collectively referred to as the Bank Secrecy Act). At a minimum, this written program shall establish:

- (a) a system of internal controls and independent testing and auditing to ensure ongoing compliance with the Bank Secrecy Act;
- (b) operating procedures for both the opening of new accounts and the monitoring of high risk accounts;
- (c) adequate controls and procedures to ensure that all suspicious and large currency transactions are identified and reported. Procedures should be comprehensive as to all points of cash entry and exit;
- (d) procedures to ensure that records are maintained on monetary instrument transactions and funds transfers, as required by the Bank Secrecy Act;
- (e) procedures for foreign exchange services to include policies, procedures, and processes to ensure that: the Bank shall not accept foreign exchange transactions that originate with third party checks or from non-Bank customers; all foreign exchange transactions are completed only after the Bank has received comprehensive and

complete foreign exchange contracts and ensure that customers have been vetted through appropriate Bank customer identification and due diligence processes;

- (f) comprehensive procedures to identify and report to appropriate management personnel:
 - (i) frequent or large volume cash deposits or wire transfers or book entry transfers to or from offshore or domestic entities or individuals;
 - (ii) wire transfers or book entry transfers that are deposited into several accounts;
 - (iii) receipt and disbursement of wire transfers or book entry transfers without an apparent business reason;
 - (iv) receipt and disbursement of wire transfers or book entry transfers when they are inconsistent with the customer's business; and
 - (v) receipt and disbursement of currency or monetary instruments when they are inconsistent with the customer's business;
- (g) a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of and compliance with the requirements of the Bank Secrecy Act and the Office of Foreign Assets Control (OFAC), including the currency reporting and monetary instrument and funds transfer

recordkeeping requirements, and the reporting requirements associated with Suspicious Activity Reports (SARs) pursuant to 12 C.F.R. Part 21, Subpart B; and

- (h) an officer who will be responsible for filing Currency Transaction Reports (CTRs).

(2) Upon completion, a copy of this program shall be submitted to the Director for review and determination of supervisory non-objection

ARTICLE XVIII

INFORMATION TECHNOLOGY

(1) The Board shall immediately take all steps necessary to improve the management of the Bank's Information Technology ("IT") and Information Security activities to ensure the safety and soundness of its operations and to ensure that the Bank complies with 12 C.F.R. Part 30, Appendix B, Safeguarding Customer Information, and to correct each deficiency (including those related to user access levels) cited in the most recent Report of Examination, or any supervisory or audit communication.

(2) Within sixty (60) days from the date of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a comprehensive, written vendor management program which:

- (a) addresses the requirements in *OCC Bulletin 2001-47*, Third-Party Relationships: Risk Management Principles (November 1, 2001);
- (b) requires an annual IT risk assessment;
- (c) identifies the bank's critical vendors and documents the reasons for determining that a vendor is not considered to be critical;

- (d) establishes uniform due diligence procedures for all new vendors;
- (e) provides for annual supervision and monitoring of all critical vendors identified in the risk assessment (i.e., SAS 70s; insurance coverage; audits; penetration tests; business continuity plan; and financial performance); and
- (f) procedures to determine whether vendors are meeting their service-level agreements and other contract requirements.

(3) Within sixty (60) days from the date of this Order, the Board review, revise, implement and ensure Bank adherence to revisions in the Bank's Business Continuity Program ("BCP") to address:

- (a) a Business Impact Analysis that prioritizes all business functions and processes, including their interdependencies; identifies the potential impact of business disruptions resulting from uncontrolled, non-specific events on the institution's business functions and processes; identifies the legal and regulatory requirements for the institution's business functions and processes; and estimates the maximum allowable downtime, as well as the acceptable level of losses, associated with the institution's business functions and processes;
- (b) technology components such as hardware, software, communications, data files and vital records, operations processing equipment, and office equipment;
- (c) strategies and procedures to maintain, resume, and recover critical business functions and processes, including appropriate plans to

execute priorities for critical vs. non-critical functions, services, and processes;

- (d) identification of specific personnel for each continuity recovery team and a detailed description of the responsibilities and step-by-step procedures each team should follow;
- (e) critical components of the back-up process, including data center recovery alternatives, back-up and storage strategies, data file back up, and off-site storage facilities;
- (f) audit requirements that require periodic reviews of the BCP process to ensure adherence to the Board's audit standards for this function;
- (g) updated contact lists to reflect changes in personnel; and
- (h) testing scenarios that include a variety of threats, event types, and crisis management situations, and that vary from isolated system failures to wide-scale disruptions.

(4) Within sixty (60) days from the date of this Order, the Board shall develop and implement IT corporate governance guidelines consistent with the requirements of 12 C.F.R. Part 30, Appendix B to require:

- (a) a risk assessment that includes all auditable areas (e.g., remote access, remote deposit capture, paper files, etc.) which identifies the inherent risk in each of the auditable areas and takes into consideration any mitigating factors;
- (b) an annual report to the Board on the overall status of the information security program and the status of compliance with these regulatory

requirements. The report(s) should discuss material matters related to the Bank's program, addressing issues such as: the risk assessment; risk management and control decisions; service provider arrangements; results of testing; security breaches or violations; recommendations for changes in the program; and management's responses;

- (c) a review and approval of all policies related to IT on an annual basis; and
- (d) engagement of a firm to perform an annual external penetration test.

(5) The Board shall submit a copy of the revised written information security program required by this Article to the Director upon his request.

ARTICLE XIX

CALL REPORTS

(1) Effective immediately, whenever the Bank files an amended Report of Condition and Income, the Board shall simultaneously notify the Director in writing of the filing. This notification shall include a copy of the amended Report of Condition and Income along with written support for each revision.

(2) Within sixty (60) days from the date of this Order, the Board shall adopt and cause the Bank to implement written policies and procedures, in accordance with the Instructions for Preparation of Consolidated Reports of Condition and Income, to ensure that all official and regulatory reports filed by the Bank accurately reflect the Bank's condition as of the date that such reports are submitted. Thereafter the Board shall ensure Bank adherence to the policies and procedures adopted pursuant to this Article.

(3) Upon completion, the Board shall submit a copy of the policies and procedures to the Director.

ARTICLE XX

OVERDRAFT PROGRAM

(1) Within ninety (90) days from the date of this Order, the Board shall submit to the Director for prior written supervisory non-objection a written “Overdraft Plan” that shall, at a minimum:

- (a) identify each overdraft program offered by the Bank and include the following information about each overdraft program:
 - (i) the standards under which a consumer qualifies for the overdraft program;
 - (ii) the fees that a consumer may be charged under the program, and the limitation on the fees that a customer may be charged, including the number of overdraft charges a consumer may be assessed in a single day, month, and year;
 - (iii) any disclosures, marketing, promotional materials, contract provisions, terms, account management, monitoring, internal controls, and implementation associated with the overdraft programs;
- (b) comply with all applicable laws, regulations or OCC guidance, including but not limited to, section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and Regulation E of the Board of Governors of the Federal Reserve System, 12 C.F.R. Part 205, and

OCC Bulletin 2005-9, Joint Guidance on Overdraft Protection Programs and any subsequent guidance; and

- (c) ensure the following:
 - (i) that the Bank's marketing or promotional materials and other information about deposit accounts, related fees, and overdraft protection are not misleading or deceptive;
 - (ii) that the Bank adopt reasonable and consistent limits on aggregate and/or daily/monthly overdraft fees based on total dollars and/or total number of transactions with full disclosure to the consumer;
 - (iii) that the bank adopt reasonable and consistent procedures to process checks or other deposit charges to assist customers in avoiding unnecessary overdraft charges;
 - (iv) that the Bank adopt and implement procedures to alert consumers before a transaction triggers any fees;
 - (v) that the Bank adopt and implement procedures that timely notify a customer of overdrafts;
 - (vi) that the Bank establish standards, internal controls and management information systems to monitor overdrafts to identify overuse, misuse, or abuse of the program, and develop appropriate intervention policies, including consumer education, alternative credit sources, and/or

termination of the program as appropriate, for consumers who use the program excessively;

- (vii) that the Bank adopt reasonable conditions and circumstances under which overdrafts will be charged off but in no case in excess of 60 days;
- (viii) that the Bank adopt and implement a comprehensive overdraft training program for employees; and
- (ix) that overdrafts will only be converted to a loan status if they meet written bank policy requirements, adhere to sound underwriting guidelines, and comply with applicable laws, rules, and regulations, including but not limited to 12 C.F.R. 30.

(2) At the next Board meeting following receipt of the Director's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and monitoring) shall implement and thereafter ensure adherence to the Overdraft Program.

ARTICLE XXI

LIMITATIONS ON THIRD PARTY CONTRACTS

(1) Any contract with a third party to assist in the sale, merger, or recapitalization of the Bank must be expense based with a success fee paid upon completing the sale, merger, or recapitalization, and provide that the cost of performing due diligence, or other services related to the transaction will not be incurred by the Bank.

(2) Any request for the Director's written determination of no supervisory objection shall include:

- (a) a description of the due diligence credit review, fairness opinion or any other services to be perform, included a copy of the proposed contract or engagement;
- (b) a description of the Bank's due diligence process for agreeing to the services to be performed by a potential purchaser or merger partner;
- (c) a determination by the Board that the activities which are to be performed as part of the sale or merger requirements is fair and reasonable to the Bank, including a determination of the ability of the parties to perform under the contract or commitment; and
- (d) a determination by the Board that the contract is in the best interest of the Bank.

(3) Following any written supervisory non-objection by the Director, the Board shall routinely monitor the performance of the contractor or service provider to ensure that committed services are received, and that they are in compliance with the written contract or engagement.

ARTICLE XXII

VIOLATIONS OF LAW

(1) The Board shall require and the Bank shall immediately take all necessary steps to correct each violation of law, rule, or regulation cited in the most recent Report of Examination (“ROE”), any subsequent ROE, or brought to the Board’s or Bank’s attention in writing by management, regulators, auditors, loan review, or other compliance efforts. Within ninety (90) days after the violation is cited or brought to the Board’s or appropriate committee’s attention, the Bank shall provide to the Board a list of any violations that have not been corrected. This list shall include an explanation of the actions taken to correct the violation, the reasons why the violation has not yet been corrected, and a plan to correct the violation by a specified time.

(2) Within sixty (60) days from the date of this Order, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to:

- (a) specific procedures to prevent future violations as cited in the most recent ROE; and
- (b) general procedures addressing compliance management that incorporate internal control systems and education of employees regarding laws, rules, and regulations applicable to their areas of responsibility.

(3) Upon adoption, the Board shall make a copy of these procedures available upon request of the Director.

ARTICLE XXIII

ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

(1) If the Bank requires an extension of any timeframe within this Order, the Board shall submit a written request to the Director asking for relief. Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that prevent the Bank from compliance with a provision and that require an extension of a timeframe within this Order.

(2) All such requests shall be accompanied by relevant supporting documentation and any other facts upon which the Bank relies. The Director's decision concerning a request is final and not subject to further review.

ARTICLE XXIV

OTHER PROVISIONS

(1) Although the Bank is required to submit certain proposed actions and programs for the review or prior written determination of no supervisory objection of the Director, the Board has the ultimate responsibility for proper and sound management of the Bank and the completeness and accuracy of the Bank's books and records.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, stop, bar, or otherwise prevent the Comptroller from so doing.

(3) Except as otherwise expressly provided herein, any time limitations imposed by this Order shall begin to run from the effective date of this Order.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his authorized representative whose signature appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(5) In each instance in this Order in which the Bank or a Board committee is required to ensure adherence to and undertake to perform certain obligations of the Bank; including the obligation to implement plans, policies or other actions, it is intended to mean that the Board or Board committee, shall;

- (a) authorize and direct measures necessary to take the required action;
- (b) require Bank management to make timely reports to the Board on the status of, and compliance with, the required action;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) take appropriate corrective measures for any failure to carry out the required action.

(6) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818, and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(7) The terms of this Order, 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.

(8) The Bank entered into a Consent Order dated February 8, 2011 (“2011 Order”). This Order replaces the 2011 Order in its entirety and, therefore, the 2011 Order is hereby terminated.

IT IS SO ORDERED, this 18th day of January, 2012.

signed

James R. Moore
Director for Special Supervision Division

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY**

In the Matter of:)
First National Bank)
Edinburg, Texas)

AA-EC-12-09

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) intends to initiate cease and desist proceedings against First National Bank, Edinburg, Texas (“Bank”), pursuant to 12 U.S.C. § 1818(b), through the issuance of a Notice of Charges, for unsafe and unsound banking practices relating to asset quality, consumer compliance, information technology, earnings, violations of laws and regulations, management and for the failure to comply with the Consent Order dated February 8, 2011;

WHEREAS, the Bank, in the interest of compliance and cooperation, and without admitting or denying any wrongdoing, consents to the issuance of a Consent Order, dated _____ (“Order”) by executing this Stipulation and Consent to the Issuance of a Consent Order;

NOW THEREFORE, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I
JURISDICTION

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank, pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

ARTICLE II
ACKNOWLEDGMENTS

(1) The Bank acknowledges that said Order shall be deemed an “order issued with the consent of the depository institution,” as defined in 12 U.S.C. § 1818(h)(2), and consents and acknowledges that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818. 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, 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.

(2) The Bank also expressly acknowledges that no officer or employee of the Comptroller 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.

ARTICLE III

WAIVERS

- (1) The Bank, by signing this Stipulation and Consent, hereby waives:
 - (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) any and all procedural rights available in connection with the issuance of the Order;
 - (c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i) or 12 C.F.R. Part 19;
 - (d) all rights to seek any type of administrative or judicial review of the Order; and
 - (e) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV
OTHER PROVISIONS

(1) The provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, the Comptroller deems it appropriate to do so to fulfill the responsibilities place upon him by the several laws of the United States of America.

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

signed

James R. Moore
Director, Special Supervision Division

January 18, 2012

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.

signed

January 18, 2012

Dwayne W. Bair

Date

signed

January 18, 2012

Oscar Garza Jr.

Date

signed

January 18, 2012

A. R. Guerra

Date

signed

January 18, 2012

Michael V. McCarthy

Date

signed

January 18, 2012

Jack McClelland

Date

signed

January 18, 2012

Saul Ortega