**#2012-056**

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

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| **In the Matter of:** | ) | |
| First Federal Savings and Loan Association | ) | AA-WE-12-19 |
| of Independence, Independence, Kansas | ) | |

**CONSENT ORDER**

The Comptroller of the Currency of the United States of America ("Comptroller") has supervisory authority over First Federal Savings and Loan Association of Independence, Independence, Kansas ("Bank").

On or about September 16, 2010, the Office of Thrift Supervision ("OTS"), acting by and through its Regional Director for the Western Region, and the Bank, by and through its duly elected and acting Board of Directors ("Board"), entered into a Supervisory Agreement designed to address certain unsafe or unsound practices relating to Board and management oversight, credit underwriting and administration, credit risk management and compliance with certain laws and regulations (the "September 16, 2010 Agreement").

Thereafter, on or about July 21, 2011, pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 Stat. 1376 (2010), all functions of the OTS related to Federal savings associations were transferred to the Office of the Comptroller of the Currency ("OCC"). Effective July 21, 2011, to facilitate the OCC's enforcement and administration of former OTS rules and to make appropriate changes to those rules to reflect OCC supervision of Federal savings associations as of the transfer date, the OCC republished and re-codified in 12 C.F.R.

Chapter I, all OTS regulations from 12 C.F.R. Chapter V that the OCC has the authority to promulgate and enforce, with appropriate nomenclature and other technical changes. 76 Fed. Reg. 48,950 (August 9, 2011).

Now, the Bank, by and through its Board, executed a "Stipulation and Consent to the Issuance of a Consent Order," dated March 1, 2012, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order by the Comptroller.

Pursuant to the authority vested in it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby Orders that:

## Article I

## Termination and Replacement of September 16, 2010 Agreement

(1) The articles of the September 16, 2010 Agreement are replaced and superseded in their entirety by this Consent Order (hereafter referred to as the "Order"), and upon execution of the "Stipulation and Consent to the Issuance of a Consent Order," dated March 1, 2012, the September 16, 2010 Agreement is hereby terminated.

## Article II

## Compliance Committee

(1) The Board shall ensure that the Bank maintains an active Compliance Committee consisting of at least three (3) directors, of which a majority shall not consist of employees or controlling shareholders of the Bank or any of its affiliates, or family members of any such person. In the event of a change in committee membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller.

(2) The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Agreement and shall meet at least monthly.

(3) Within twenty-five (25) days of every calendar quarter end (i.e., April 25, July 25, October 25, and January 25) the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the actions 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 by no later than one month following the end of each calendar quarter (i.e., by April 30, July 31, October 30, and January 31).

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

Karen W. Swingler<br>
Assistant Deputy Comptroller<br>
Kansas City Field Office<br>
1027 South Main Street, Suite 405<br>
Joplin, MO 64801-4527

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies, procedures, and programs required by this Agreement.

## Article III

## <u>Capital Maintenance and Strategic Plan</u>

(1) Within sixty (60) days, the Bank shall achieve and thereafter maintain at all times, the following minimum capital ratios:

(a) Tier 1 capital to adjusted total assets equal to or greater than nine percent (9%); and

(b) Total risk-based capital equal to or greater than twelve percent (12%) of risk-weighted assets.

(2) For purposes of this Article, “Tier 1 capital,” “risk-based capital,” and “risk-weighted assets” are as defined in 12 C.F.R. Part 167, and any successor regulations.

(3) The requirement in this Order to meet and maintain a specific capital level means that the Bank is not to be deemed to be “well capitalized” for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 165, pursuant to 12 C.F.R. § 165.4(b)(1)(iv).

(4) Effective immediately, the Bank shall only declare dividends or make any other capital distributions when:

(a) the Bank is in compliance with the Bank’s Three-Year Plan as described below;

(b) the Bank is in compliance with all applicable laws and regulations relating to the payment of dividends; and

(c) the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(5) Within ninety (90) days, the Board shall develop a written strategic plan for the Bank covering at least the next three years (hereafter the "Bank's Three-Year Plan"), complete with specific time frames that incorporate the strategic and other requirements of this Article. A copy of the Bank's Three-Year Plan, and any subsequent modifications thereto, shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(6) The Bank's Three-Year Plan shall establish objectives and projections that consider the Bank's overall risk profile, earnings performance, growth expectations, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, that are specific, measurable, verifiable, and, at a minimum, address or include:

(a) a mission statement that forms the framework for establishing strategic goals and objectives;

(b) an assessment of the Bank's present and future operating environment;

(c) the development of strategic goals and quantifiable measures with specific implementation dates, individual responsibilities, and accountability to ensure the Bank attains sustained earnings to support capital and liquidity;

(d) the identification of present and future product line development (assets and liabilities) and market segments that the Bank intends to develop or promote;

(e) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed pursuant to this Article;

(f) specific plans to achieve and maintain capital levels required by Paragraph (1) of this Article;

(g) specific plans to establish responsibilities and accountability for the strategic planning process, new products, proposed changes in the Bank's operating environment, reduction of problem assets, and Bank-wide consistent application of policies and procedures;

(h) specific management, staffing and other changes necessary to implement the Bank's Three-Year Plan and to otherwise attain compliance with this Agreement;

(i) the adequacy of control systems necessary to implement the Bank's Three-Year Plan that identify and reduce risk to earnings, capital, reputation, and liquidity, and risks associated with any proposed changes in the Bank's operating environment;

(j) recognition that the Bank cannot offer or introduce new products, enter new market segments, or significantly expand any existing product unless it first develops and implements appropriate policies, systems, controls, and expertise to manage and control the associated risks;

(k) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years that shall address or include consideration of the requirements of this Article;

(l) a process to monitor the Bank's progress in meeting the Three-Year Plan's goals and objectives and to periodically review and revise the Plan, as necessary; and

(m) a process to review various budget projections; and where variances are material, assess why the variance occurred, actions that need to be taken to address the variance, corresponding triggers, and time frames.

(7) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan.

(8) The Bank may not initiate any action that deviates significantly from the Board-approved Three-Year Plan without a written determination of no supervisory objection from the Assistant Deputy Comptroller. The Board must give the Assistant Deputy Comptroller thirty (30) day advance, written notice of its intent to deviate significantly from the Bank's Three-Year 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 Bank's Three-Year Plan.

(9) For the purposes of this Article, changes that may constitute a significant deviation from the Bank's Three-Year Plan include but are not limited to a change in the Bank's:

(a) marketing strategies or plans to enter into new markets;

(b) product or service offerings, including fee structure or pricing;

(c) underwriting practices and standards, credit administration, account management, collection strategies or operations;

(d) accounting processes and practices; or

(e) 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. For purposes of this paragraph, "personnel" shall include the President, Chief Executive Officer, Chief Operations Officer, Chief Financial Officer, Chief Credit Officer, Compliance Officer, Auditor, or member of the Bank's Board of Directors.

## Article IV

## <u>Problem Asset Management</u>

(1) Effective as of the date of this Order, the Board shall take immediate and continuing action to protect the Bank's interest in those assets criticized (special mention, substandard, doubtful, loss) in the Report of Examination for the examination dated June 30, 2011 ("ROE"), in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management during any examination.

(2) Within sixty (60) days, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written plan designed to reduce the Bank's criticized assets (the "Criticized Assets Reduction Plan" or "CARP"). The CARP shall include or address the following:

(a) reporting of classified asset levels by type to the Board or a designated committee thereof every month;

(b) reporting of special mention asset levels by type to the Board or a designated committee thereof every month; and

(c) plans for the reduction of classified and special mention assets by asset type with target reductions by calendar quarter.

(3) The Board's compliance with Paragraphs (1) and (2) of this Article shall include the development of procedures for the quarterly submission and review of all criticized (special mention and classified) credit relationships or parcels of Other Real Estate Owned ("OREO") equal to or exceeding one hundred fifty thousand dollars ($150,000), including for all such assets, the preparation of Criticized Asset Reports ("CARs" or "CAR") that contain, at a minimum, analysis and documentation of the following:

(a) origination data, including date, amount, and purpose of the loan;

(b) the identification of the expected sources of repayment and an analysis of their adequacy;

(c) the number of extensions or modifications granted for the loan, including a determination of whether the loan is considered a Troubled Debt Restructuring;

(d) property inspections, the appraised value of supporting collateral, and the position of the Bank's lien on such collateral, where applicable, and all other necessary documentation to support the collateral valuation;

(e) an analysis of current and satisfactory credit information, including borrower and guarantor global cash flow analysis, and business cash flow analysis where loans are to be repaid from operations;

(f) assessment and verification of borrower and guarantor liquidity, including a determination of what additional collateral the borrower or guarantor could pledge, if needed;

(g) classification and charge-off history of the loan;

(h) the proposed action to eliminate the basis of criticism, a discussion of changes since the prior CAR, if any, and the time frame for eliminating said basis of criticism, including an appropriate exit strategy which is consistent with the Bank's CARP;

(i) trigger dates for positive borrower actions or for loan officers to reassess the strategy, enact collection plans, and make appropriate downgrades or place the loan on nonaccrual;

(j) a determination of whether the loan should be placed on nonaccrual and/or is impaired, and the amount of any impairment, consistent with Accounting Standards Codification 310-10 (formerly known as FASB Statement of Financial Accounting

Standards No. 114, Accounting by Creditors for Impairment of a Loan) and Article V of this Agreement;

(k) identification of the individual(s) responsible for managing the problem loan and completing the requirements of the CAR;

(l) for criticized relationships equal to or exceeding one hundred fifty thousand dollars ($150,000) that were made for the purpose of constructing upon and/or developing real estate, the CARs shall also include:

(i) project development status, including the percentage complete and the estimated cost to complete unfinished projects;

(ii) a comparison of construction and development costs to the budgeted amount;

(iii) a comparison of sales activity to the original sales projections;

(iv) amount of initial interest reserve and the amount of any subsequent additions to the reserve; and

(v) any other significant information relating to the project.

(m) for each parcel of OREO equal to or exceeding one hundred fifty thousand dollars ($150,000), the CAR shall:

(i) identify the Bank officer(s) responsible for managing and authorizing transactions relating to the property;

(ii) document the date upon and the method by which the property was repossessed;

(iii) contain an analysis of the property that compares the cost to carry against the financial benefits of near-term sale;

(iv) support how the current listing price was established, and include a history of listing prices, the dates listed, and targeted time frames for reductions in asking price;

(v) detail the marketing strategy for the parcel;

(vi) identify targeted time frames for disposing of the parcel that are consistent with the Bank's CARP; and

(vii) identify time frames for periodic market valuations of the property, and the methodology to be used.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the plan required by this Article.

(5) A copy of each CAR, along with any Board comments regarding the effectiveness of efforts to eliminate the weaknesses in each credit, shall be available for the inspection of the Comptroller's examiners within thirty (30) days after the end of each calendar quarter.

(6) Effective as of the date of this Order, the Bank may not extend credit, directly or indirectly, including renewals, extensions, or capitalization of accrued interest, or overdrafts to a borrower whose loans or other extensions of credit are criticized internally, in the ROE, in any subsequent Report of Examination, in any internal or

external loan review, or in any list provided to management during any examination, and whose aggregate loans or other extensions of credit equal or exceed one hundred fifty thousand dollars ($150,000), unless each of the following conditions is met:

(a) the Board or a designated committee thereof finds that the extension of additional credit is necessary to promote the best interests of the Bank, and that prior to renewing, extending or capitalizing any additional credit, a majority of the Board or a designated committee thereof approves the credit extension and documents in writing the reasons such extension is necessary to promote the best interests of the Bank; and

(b) the Board or a designated committee thereof concludes that the formal plan to collect or strengthen the criticized asset will not be compromised by the extension of credit.

## Article V

## Credit Risk Ratings And Nonaccrual Recognition

(1) Within sixty (60) days, the Board shall develop and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a program to ensure that the risk associated with the Bank’s loans and other assets is properly reflected and accounted for on the Bank’s books and records and the Bank does not improperly recognize income. The Bank’s program shall include, at a minimum, provisions requiring that:

(a) the Board adopts a loan grading system that is consistent with the criteria set forth in applicable regulations and regulatory guidance, including, but not limited to:

(i) 12 C.F.R. § 160.160 (Asset Classification);

(ii) OTS' Examination Handbook, Section 260, "Classification of Assets;" or

(iii) any applicable successor regulation or guidance as specified by the Comptroller.

(b) the Bank's loans and other assets are appropriately and timely risk rated and charged off based upon current financial information, facts, and existing/reasonable (considering the loan purpose) repayment terms;

(c) the Bank's loans and other assets are timely placed on nonaccrual by the lending officers in accordance with the instructions for the preparation of Consolidated Reports of Income and Condition "Call Reports"), and the OTS' Examination Handbook, Section 260, "Classification of Assets;" or any applicable successor regulation or regulatory guidance as specified by the Comptroller;

(d) lending officers conduct periodic, formal reviews for determining the appropriate risk rating and accrual determination;

(e) appropriate analysis and documentation are maintained in the credit files to support the current and previous risk rating and accrual determination for all credit relationships equal to or exceeding one hundred fifty thousand dollars ($150,000);

(f) the President, Chief Credit Officer, members of the approving loan committees, and all lending officers receive immediate training with respect to the application of Subparagraphs (a) through (e) of this Paragraph;

(g) senior management, lending officers, and members of the approving loan committees are held accountable for failing to appropriately and timely risk rate, charge off, and/or place loans on nonaccrual; and

(h) failure to properly risk rate, charge off, and/or place loans on nonaccrual is factored into periodic performance reviews and compensation for senior management and lending officers.

(2) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program required by this Article.

## Article VI

## Credit Underwriting and Administration

(1) Effective as of the date of this Order, the Board shall ensure that all lending officers comply with all applicable laws, rules, regulations, Bank policies and procedures, safe and sound banking practices, and fiduciary duties related to the bank's lending activities.

(2) Effective as of the date of this Order, the Bank may not grant, extend, renew, alter, or restructure any commercial or agricultural related loan or other extension of credit, or any commercial or agricultural related loan or extension of credit that is part of a lending relationship, equal to or exceeding one hundred fifty thousand dollars ($150,000), without:

(a) documenting the specific reason or purpose for the extension of credit;

(b) identifying the expected source of repayment in writing;

(c) structuring the repayment terms to coincide with the expected source of repayment;

(d) obtaining and analyzing current and satisfactory credit information, including performing and documenting analysis of credit information and a global cash flow analysis for all borrowers and guarantors, including all direct and indirect obligations, contingent liabilities, liquidity, and personal expenses, such that the Bank may determine borrower and guarantor repayment capacity;

(e) making and documenting the determinations made regarding the customer's ability to repay the credit on the proposed repayment terms;

(f) providing an accurate risk assessment grade and determining proper accrual status for each credit;

(g) documenting, with adequate supporting material, the value of collateral, and properly perfecting the Bank's lien on it, where applicable; and

(h) obtaining the written approval of the Bank's Loan Committee or Board.

(3) Within sixty (60) days, the Board shall take the necessary steps to obtain current and satisfactory credit information on all commercial or agricultural related loans or credit relationships equal to or exceeding one hundred fifty thousand dollars ($150,000) that lack such information, including those listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the Comptroller's examiners at the conclusion of an examination.

(4) Within sixty (60) days, the Board shall ensure proper collateral documentation is maintained on all commercial or agricultural related loans, and correct each collateral exception listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the Comptroller's examiners at the conclusion of an examination.

(5) Within ninety (90) days, the Board shall ensure a program is in place, pursuant to which, on at least an annual basis, loan officers shall complete written reviews of each commercial or agricultural related lending relationship equal to or exceeding one hundred fifty thousand dollars ($150,000). Such reviews shall be based on current financial information and shall include, at a minimum:

(a) the requirements of Paragraph (2), Subparagraphs (a)-(g); and

(b) a conclusion as to the proper risk rating and accrual status of each loan or extension of credit.

(6) Within sixty (60) days, the Board shall establish, implement, and thereafter ensure Bank adherence to a written program, by which the Bank shall identify, track, report and reduce credit, collateral, and policy exceptions. Such program shall include, at a minimum:

(a) defining characteristics of credit, collateral, and policy exceptions, and Board-established tolerances for exceptions, by type, as a percentage of total loans;

(b) policies and procedures to hold loan officers accountable for compliance with the requirements of this Article (to include, at a minimum, consideration in periodic performance reviews and compensation), and for reducing exceptions to levels within the Board-established limits;

(c) revisions to the Bank's Loan Policy, to include, at a minimum:

(i) standards for when credit, collateral, or policy exceptions are appropriate;

(ii) guidance regarding when covenants should be included in loan agreements to control exceptions;

(iii) a statement of the Board's tolerances for credit, collateral, and policy exceptions, as a percentage of total loans, along with the identification of factors that can mitigate exceptions;

(iv) a description of how the level of exceptions shall be tracked and reported to the Board; and

(d) Board action to ensure that revisions to the portions of the Bank's Loan Policy relating to retail credit are made in accordance with the Uniform Retail Credit and Account Management Policy, issued with OCC Bulletin 2000-20, June 20, 2000.

(7) Within ninety (90) days, the Board shall conduct a formal written analysis of the lending department structure and staff. This analysis shall include, at a minimum:

(a) an assessment of the qualifications of existing staff;

(b) an assessment of the lending department structure to determine whether it can effectively address outstanding credit weaknesses and concerns;

(c) an assessment of weaknesses or concerns within the lending department; and

(d) a plan to remedy all weaknesses and concerns within the lending department, including, if necessary, department structure changes, additions to existing staff, replacement of existing staff, and training.

(8) Within ninety (90) days, the Board shall prepare and submit documentation regarding the accomplishment of the requirements of Paragraphs (2), (5), (6) and (7) of this Article to the Assistant Deputy Comptroller for a prior determination

of no supervisory objection, upon receipt of which, the Board shall immediately implement and thereafter ensure adherence to said documentation and the requirements of this Article.

## Article VII

## Appraisal and Evaluation Process

(1) Within sixty (60) days, the Board shall revise the Bank's written policy on appraisals and collateral evaluation processes. A copy of the revised appraisal policy shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. This policy shall ensure the Bank obtains real estate appraisals and evaluations in compliance with:

(a) the Uniform Standards of Professional Appraisal Practice ("USPAP");

(b) 12 C.F.R. Part 164 (Appraisals);

(c) 12 C.F.R. § 160.172 (Re-evaluation of Real Estate Owned);

(d) OCC Bulletin 2010-42 (Interagency Appraisal and Evaluation Guidelines), December 10, 2010;

(e) OTS' Examination Handbook, Section 208, "Real Estate Appraisals;" or

(f) any applicable successor regulation or guidance as specified by the Comptroller.

(2) The Bank's revised appraisal policy under Paragraph (1) of this Article shall include, at a minimum:

(a) the establishment of criteria for obtaining updated appraisals, new appraisals, and evaluations;

(b) the development of procedures to ensure that appraisals, updates, and evaluations are the appropriate type, and ordered and reviewed in an appropriate and timely manner;

(c) the establishment and implementation of a policy requiring a meaningful review, independent of the lender, of all appraisals to include analysis commensurate with the type, size, and complexity of the property being appraised; and

(d) the establishment and implementation of procedures ensuring that all Bank personnel whose responsibilities are affected by the policy adopted pursuant to Paragraph (1) of this Article receive the training necessary to perform their duties.

(3) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program, policies and procedures required by this Article.

## Article VIII

### <u>Allowance for Loan and Lease Losses</u>

(1) Within sixty (60) days, the Board shall ensure the Bank has appropriate written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses ("Allowance") in accordance with GAAP. The Allowance policies and procedures shall be consistent with 12 C.F.R. § 160.160 and applicable regulatory guidance, including, but not limited to, OCC Bulletin 2006-47 (Guidance and Frequently

Asked Questions (FAQ's) on the ALLL), December 13, 2006; OTS' Examination Handbook, Section 261, "Adequacy of Valuation Allowances," January 1994; OTS CEO Memorandum No. 304 (ALLL-Observed Thrift Practices Including Sound Practices), May 22, 2009; and any applicable successor regulation and guidance, and shall at a minimum include:

(a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with Accounting Standards Codification 310-10 (formerly known as FASB Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan);

(b) procedures for segmenting the loan portfolio and estimating loss on groups of loans, consistent with Accounting Standards Codification 310-10 and 450-20 (formerly known as FASB Statement of Financial Accounting Standards No. 5, Accounting for Contingencies);

(c) procedures to ensure that loss histories on loans include all charge offs and SVAs, including the initial write down upon repossession;

(d) procedures for validating the Allowance methodology;

(e) procedures to ensure that the estimation of credit losses considers relevant qualitative and environmental factors, with particular focus on the following:

(i) trends in the Bank's internal risk ratings, delinquent, and nonaccrual loans;

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

(iii) the quality of credit risk management, including trends of credit and collateral exceptions;

(iv) concentrations of credit in the Bank;

(v) present and prospective economic conditions; and

(vi) experience of the Bank's lending staff; and

(f) procedures to ensure that all calculations and decisions affecting the Bank's Allowance determination are adequately supported by documentation.

(2) The program shall provide for a process for summarizing and documenting, for the Board's review and approval, the amount to be reported in the Call Report for the Allowance. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Call Report, by additional provisions. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

(3) The Board shall engage an independent consultant or accountant to perform annual reviews of the appropriateness of the Bank's Allowance methodology. The first review shall be performed before the filing of the June 30, 2012 Call Report.

**Article IX**

**Other Real Estate Owned**

(1) Effective as of the date of this Order, the Board shall take the necessary steps to ensure the Bank holds, manages, and accounts for its Other Real Estate Owned ("OREO") in accordance with GAAP, the OTS' Examination Handbook, Section 251

(Real Estate Owned and Repossessed Assets), December 2010, and 12 C.F.R. § 160.172, and any successor regulation or guidance, to include, at a minimum:

(a) proper accounting procedures for OREO properties from transfer to the Bank and until and upon sale to a third party;

(b) procedures to require timely appraisals or evaluations upon transfer into OREO and periodically throughout the holding period;

(c) the exercise of diligent sales efforts;

(d) accurate and timely reporting systems; and

(e) the preparation of quarterly action plans that provide the Board with the status of each OREO property in accordance with the requirements of Article IV.

## Article X

## <u>External Loan Review</u>

(1) Prior to appointing, employing, or contracting with any individual as a loan review consultant and within thirty (30) days, the Board shall submit the name, proposed scope, and terms of employment of a qualified consultant to perform semi-annual asset quality reviews of the Bank's commercial or agricultural related loan portfolios to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection. After the OCC has advised the Bank that it does not take supervisory objection to the loan review consultant or the scope of the review, the Board shall immediately engage the loan review consultant pursuant to the proposed terms of the engagement.

(2) The scope of the external loan review shall provide for a written report to be filed with the Board after each review, and the review shall use a loan and lease grading system consistent with the guidelines set forth in applicable regulations and regulatory guidance, as set forth in Article V of this Order. Written reports shall, at a minimum, include comments and conclusions regarding:

(a) the identification, type, rating, and amount of problem loans and leases;

(b) the identification and amount of delinquent and nonaccrual loans;

(c) the identification/status of credit-related violations of law or regulation;

(d) loans not in conformance with the Bank's lending policies;

(e) credit underwriting and documentation exceptions;

(f) adequacy of credit analysis and documentation of such;

(g) accuracy of internal risk ratings;

(h) overall credit administration practices; and

(i) completeness and effectiveness of problem loan workout plans.

(3) The Board or a designated committee shall review the independent loan review reports and ensure that, if appropriate, immediate, adequate, and continuing remedial action, is taken upon the findings noted in the reports.

(4) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be maintained in the books and records of the Bank.

(5) The Bank shall not terminate the consultant's asset quality review services without a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

## Article XI

## Internal Audit

(1) Within sixty (60) days, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, the Bank's written policy for an independent and comprehensive internal audit program. This policy shall, at a minimum, require that the Bank:

(a) ensure that the Audit Committee maintain formal minutes detailing meeting discussions;

(b) establish a line of communication for audit reporting issues between the internal auditor, audit committee, and the Board;

(c) ensure audit work papers and documentation of conclusions provide a meaningful audit trail and validation for findings and recommendations;

(d) determine which areas of review, if any, may require the services of third parties, either due to time constraints or the staff's lack of necessary specialized skills;

(e) ensure timely management responses and corrective actions on identified weaknesses;

(f) establish an annual audit plan using a risk-based approach sufficient to achieve these objectives;

(g) establish a formal Board tickler system that tracks the status of all reported deficiencies until corrected; and

(h) address the factors set forth in:

(i) Section II.B of Appendix A to 12 C.F.R. Part 170 (Internal Audit System); or

(ii) any applicable successor regulation or guidance as specified by the Comptroller.

(2) As part of this audit program, the Board shall evaluate the audit reports of any party providing services to the Bank, and ensure corrective action is taken for any audit deficiencies cited in such reports within thirty (30) days of receipt.

(3) The Board shall ensure that the audit program is independent. The person responsible for implementing the internal audit program described above shall report directly to the Board, who shall have the sole power to direct his/her activities. All reports prepared by the audit staff or audit firm shall be filed directly with the Board and/or Board Audit Committee (comprised of at least two (2) external directors) and not through any intervening party.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure compliance with the policy required by this Article.

## Article XII

## <u>Violations of Law</u>

(1) The Board shall immediately take the necessary steps to ensure that Bank management corrects each violation of law, rule, or regulation, unsafe or unsound

practice, or breach of fiduciary duty, cited in the ROE and in any subsequent Report of Examination or OCC correspondence. The quarterly progress reports required by Article II of this Order shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within thirty (30) days of receipt of any subsequent Report of Examination which cites violations of law, rule, or regulation, the Board shall develop, adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(3) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

## Article XIII

## 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 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, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. 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 Order 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 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 Order;

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

(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 Order is intended to be, and shall be construed to be, a final Order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding 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

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

/s/ ______________________________ 03/01/2012 ______________
Karen W. Swingler
Assistant Deputy Comptroller
Kansas City Field Office

Date

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

| | | |
|---|---|---|
| **In the Matter of:** | ) | |
| First Federal Savings and Loan Association of | ) | AA-WE-12-19 |
| Independence, Independence, Kansas | ) | |

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

The Comptroller of the Currency of the United States of America ("Comptroller") has initiated cease and desist proceedings against First Federal Savings and Loan Association of Independence, Independence, Kansas ("Bank"), pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated March 1, 2012 ("Order");

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, by and through its Board of Directors, hereby stipulate and agree to the following:

### Article I

### <u>Jurisdiction</u>

(1) The Bank is a Federal Savings Association within the meaning of 12 U.S.C. § 1462(f) and an insured depository institution within the meaning of 12 U.S.C. § 1813(c).

(2) Pursuant to Section 312 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, all powers, authorities, rights and duties relating to federal

savings associations that were vested in the Office of Thrift Supervision ("OTS") and the Director of the OTS, transferred to the Office of the Comptroller of the Currency ("OCC") on July 21, 2011.

(3) The OCC is "the appropriate Federal banking agency" regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(4) The OCC has the authority to initiate and maintain an administrative cease and desist proceeding against the Bank pursuant to 12 U.S.C. § 1818(b).

## Article II

## Agreement

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller. The Bank further consents and agrees that said Order shall be deemed an "order issued with the consent of the depository institution" as used in 12 U.S.C. § 1818(h)(2), and consents and agrees 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(i).

(2) 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 its supervisory powers, including 12 U.S.C. § 1818(i), 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.

(3) The Bank also expressly acknowledges that no officer or employee of the OCC 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 seek any type of administrative or judicial review of the Order;

(d) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 109; and

(e) any and all rights to challenge or contest the validity of the Order.

**Article IV**

**Other Action**

(1) The Bank agrees that 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, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(2) This Order shall cause the Bank to be designated as in "troubled condition," as set forth in 12 C.F.R. § 163.555, unless otherwise informed in writing by the Comptroller.

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

/s/ 03/01/2012

Karen W. Swingler
Assistant Deputy Comptroller
Kansas City 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.

| | |
|---|---|
| /s/ | 03/01/2012 |
| E. JoVannah Boecker | Date |
| /s/ | 03/01/2012 |
| Douglas D. Depew | Date |
| /s/ | 03/01/2012 |
| Robert A. Johnson | Date |
| /s/ | 03/01/2012 |
| James B. Mitchell | Date |
| /s/ | 03/01/2012 |
| William T. Newkirk, II | Date |
| /s/ | 03/01/2012 |
| Joseph M. Smith | Date |
| /s/ | 03/01/2012 |
| Lavern W. Strecker | Date |