

#2015-137

Also *Terminates* **#2012-133**

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

<u>In the Matter of:</u>)	
Commonwealth National Bank)	AA-EC-2015-42
Mobile, Alabama)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”), through his authorized representative, has supervisory authority over Commonwealth National Bank, Mobile, Alabama (“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”), dated December 18, 2015, that is accepted by the Comptroller, through his duly authorized representative; and

WHEREAS, by this Stipulation, 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 thirty (30) days, the Board shall appoint and maintain a Compliance Committee of at least three (3) directors, of which no more than one (1) may be an employee, former employee, or controlling shareholder of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon

appointment, the names of the members of the Compliance Committee and, in the event of a change of the membership, the name of any new member shall be immediately submitted in writing to the Director for 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 sixty (60) days, and by the end of every month thereafter, 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 Order, Bank personnel responsible for implementing the corrective actions, and the timeframes for completion;

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

(c) the results and status of those actions.

(4) Within ten (10) days of the end of each quarter, or within such other period as the Director may require in writing, the Board shall forward a copy of the Compliance Committee’s most recent report, with any additional comments by the Board, to the Director.

ARTICLE II

BOARD TO ENSURE EFFECTIVE AND QUALIFIED MANAGEMENT

(1) The Board shall ensure that the Bank has effective, qualified, full-time management in place for all senior executive officer positions to: (i) carry out the Board’s policies, (ii) implement effective corrective actions to address any violations of law or deficient practices as described in the most recent Report of Examination (“ROE”) and any subsequent

ROE, (iii) ensure compliance with this Order, applicable laws, rules, and regulations, and (iv) manage the day-to-day operations of the Bank in a safe and sound manner.

(2) Within sixty (60) days, and annually thereafter, the Board must perform an evaluation of corporate governance processes and management supervision in light of the Bank's condition. This evaluation shall be documented in a written report and include corrective actions along with timeframes to ensure compliance with paragraph (1) of this Article. This report shall be submitted to the Director upon completion and shall address whether:

- (a) senior executive officers are capable of performing present and anticipated duties or whether senior executive officer changes should be made, factoring in each officer's performance, experience, and qualifications, compared to the position description, duties and responsibilities, with particular emphasis on the proposed responsibilities to comply with this Order and correct the concerns raised in the most recent ROE and any subsequent ROE;
- (b) clear lines of responsibility and authority exist for each member of senior executive management, including but not limited to, the Chairman of the Board, Chief Executive Officer ("CEO"), President, Chief Operations Officer, Chief Financial Officer, and Chief Lending Officer;
- (c) a management employment and succession program is in place to identify future senior executive management staffing requirements for the Bank and to promote the retention and continuity of capable management;
- (d) there are sufficient policies, processes, personnel, and control systems to effectively implement and adhere to all provisions of this Order;

- (e) Bank personnel have sufficient training and authority to execute their duties and responsibilities under this Order;
- (f) there is an adequate process to evaluate, at least annually, the Bank's overall internal operations, staffing, Board and management oversight, information systems, policies, procedures, and other risk management systems with time sensitive strategies to address any deficiencies and to ensure that the findings from the evaluation are documented; and
- (g) an adequate process is in place to ensure that management promptly responds to and appropriately corrects any audit, compliance, and/or regulatory criticisms.

(3) The Board shall ensure it receives and reviews sufficient information from management (including scope, frequency, timing and content) regarding the operation of the Bank and compliance with this Order to enable it to provide oversight and fulfill its fiduciary duties and other responsibilities under law and as outlined in the OCC's "The Director's Book: the Role of a National Bank Director" (October 2010) and "Duties and Responsibilities of Directors" booklet of the *Comptroller's Handbook*.

(4) The Board shall establish, at least annually, the objectives by which senior executive officers' effectiveness shall be measured.

(5) The Board shall perform and prepare an independent annual written performance appraisal for the Bank's President and CEO. The Board shall ensure that an annual independent written performance appraisal is performed and prepared for all other senior executive officers. Each annual independent written performance appraisal shall evaluate the performance of each senior executive officer according to the position's description and responsibilities. If necessary

and as appropriate, the Board shall engage a qualified independent third party to assist in preparing the written performance appraisals. Each annual independent written performance appraisal also must evaluate:

- (a) compliance with objectives established by the Board;
- (b) compliance with Board approved policies and procedures;
- (c) compliance with Board approved Strategic Plan and Capital Plan;
- (d) development and implementation of action plans to remedy concerns raised in ROEs or audit reports and compliance therewith; and
- (e) compliance with laws, regulations, regulatory guidance, and the Order.

(6) The Board shall ensure that the Bank addresses and implements effective actions to correct any deficiencies identified pursuant to paragraph (5) of this Article.

ARTICLE III

STRATEGIC PLAN

(1) Within ninety (90) days, the Board shall forward to the Director for review, pursuant to paragraph (3) 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 and projections for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, reduction in the volume of nonperforming assets, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, and it shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;

- (b) the development of strategic goals and objectives to be accomplished over the short and long term, including key financial indicators, risk tolerances, and realistic strategies to improve the overall condition of the Bank;
- (c) an assessment of the Bank's strengths, weaknesses, opportunities, and threats that impact strategic goals and objectives;
- (d) an identification and prioritization of initiatives and opportunities, including timeframes that take into account the requirements of this Order;
- (e) a risk profile that evaluates credit, interest rate, liquidity, price, operational, compliance, strategic, and reputation risks in relationship to capital;
- (f) a description of the Bank's targeted market(s), competitive factors in its identified target market(s), and a description of control systems to mitigate risks in the Bank's market(s);
- (g) an assessment of the Bank's present products and services (assets and liabilities) and the identification of appropriate risk management systems to identify, measure, monitor, and control risks within the product lines and services;
- (h) an assessment of each of the Bank's planned products and services (assets and liabilities) that fully assesses the risks and benefits; includes a profitability analysis, including growth projections and interest rate risk; and evaluates the adequacy of the Bank's organizational structure, staffing, management information systems ("MIS"), written policies and procedures, internal controls, and other appropriate risk management systems to identify, measure, monitor, and control risks;

- (i) a financial forecast that reflects the condition of the Bank and includes projections for balance sheet and income statement accounts and desired financial ratios over the period covered by the Strategic Plan, which shall be consistent with the Capital Plan required by Article IV of this Order;
- (j) the identification of appropriate risk management systems to identify, measure, monitor, and control risks (including, but not limited to, underwriting practices and standards, credit administration, collection strategies or operations, fee structure or pricing, investment, funding, operational, and accounting functions and processes that are consistent with safe and sound banking practices) within the Bank's present and planned products and services;
- (k) the identification of marketing strategies, marketing partners, and funding strategies;
- (l) assigned responsibilities and accountability for the strategic planning process; and
- (m) a description of systems and metrics designed to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(2) If the Board's Strategic Plan under paragraph (1) of this Article includes a proposed sale or merger of the Bank, the Strategic Plan shall, at a minimum, address the steps that will be taken and the associated timeline to ensure that within ninety (90) days after the receipt of the Director's written determination of no supervisory objection to the Strategic Plan, a definitive agreement for the sale or merger is executed.

(3) Prior to adoption by the Board, a copy of the Strategic Plan and any subsequent amendments or revisions thereto shall be submitted 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 immediately implement and thereafter adhere to the Strategic Plan and any amendments or revisions thereto.

(4) The Bank may not initiate any action that deviates significantly from the Strategic Plan (that has received a no supervisory objection from the Director and that has been adopted by the Board) without prior written determination of no supervisory objection from the Director. The Board must give the Director at least thirty (30) days 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 an analysis of the risks and benefits, a profitability analysis, and an evaluation of the adequacy of the Bank's organizational structure, staffing, MIS, internal controls, and written policies and procedures and other appropriate risk management systems to identify, measure, monitor, and control the risks associated with the change in the Strategic Plan. 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 products and services, business lines, marketing strategies, marketing partners, underwriting practices and standards, credit administration, account management, asset composition and size, collection strategies or operations, fee structure or pricing, funding sources and strategies, structure, operations, accounting processes and practices, and markets of the Bank any of which, alone or in the 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.

(5) At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the Strategic Plan that includes 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. Upon completion of each of its evaluations, the Board shall submit a copy to the Director.

(6) The Board shall review and update the Strategic Plan at least annually, no later than January 31 each year, and more frequently if necessary or if required by the Director in writing, to cover the next three-year period.

(7) Until the Strategic Plan required under this Article has received a written determination of no supervisory objection from the Director, the Bank shall not significantly deviate from the products and services, asset composition and/or size, funding sources, structure, operations, policies, procedures, and/or market(s) of the Bank that existed before the effective date of this 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 objection to a significant deviation must be submitted to the Director at least thirty (30) days in advance of the significant deviation, along with an assessment of such change on the Bank's condition, including an analysis of the risks and benefits, a profitability analysis, and an evaluation of the adequacy of the Bank's organizational structure, staffing, MIS, internal controls, and written policies and procedures and other appropriate risk management systems to identify, measure, monitor, and control the risks associated with the change.

ARTICLE IV

CAPITAL PLAN AND HIGHER MINIMUMS

(1) Upon execution of the Order, the Bank shall achieve and maintain at all times the following minimum capital levels (as defined in 12 C.F.R. Part 3):

- (a) Total capital ratio at least equal to twelve percent (12%); and
- (b) Leverage ratio at least equal to eight percent (8%).

(2) The requirement in this Order to achieve and maintain specific capital levels 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 ninety (90) days, the Board shall develop and implement an effective internal capital planning process to assess the Bank’s capital adequacy in relation to its overall risks and to ensure appropriate capital levels, which shall in no event be less than the requirements of paragraph (1) of this Article. The capital planning process shall be consistent with OCC Bulletin 2012-16, *Guidance for Evaluating Capital Planning and Adequacy* (June 7, 2012), and shall ensure the integrity, objectivity, and consistency of the process through adequate governance. The Board shall document the initial capital planning process and thereafter review and document the capital planning process at least annually.

(4) Within ninety (90) days, the Board shall forward to the Director for review and prior written determination of no supervisory objection, pursuant to paragraph (6) of this Article, a written Capital Plan for the Bank that is acceptable to the Director, consistent with the Strategic Plan required by Article III of this Order, covering at least a three-year period. The Capital Plan shall, at a minimum:

- (a) include specific plans for the achievement and maintenance of adequate capital, which shall in no event be less than the requirements of paragraph (1) of this Article;
 - (b) identify and evaluate all material risks;
 - (c) determine the Bank's capital needs in relation to material risks and strategic direction;
 - (d) identify and establish a strategy to maintain capital adequacy and strengthen capital if necessary, and establish a contingency or back-up capital plan commensurate with the Bank's overall risk and complexity;
 - (e) include detailed quarterly financial projections; and
 - (f) include specific plans detailing how the Bank will comply with restrictions or requirements set forth in this Order that will have an impact upon the Bank's capital.
- (5) The Bank may declare or pay a dividend or make a capital distribution only:
- (a) when the Bank is in compliance with and would remain in compliance with its approved written Capital Plan immediately following the declaration or payment of any dividend or the capital distribution;
 - (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.
- (6) 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 written Capital Plan at least annually, no later than January 31 each year, and

more frequently if necessary or if required by the Director in writing, to cover the next three-year period. Subsequent amendments or revisions to the Bank's written 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 adhere to the written Capital Plan and any amendments or revisions thereto.

(7) At least quarterly, the Board shall review financial reports and earnings analyses that evaluate the Bank's performance against the goals and objectives established in the written Capital Plan, as well as the Bank's written explanation of significant differences between the actual and projected balance sheet, income statement, and expense accounts, including descriptions of extraordinary and/or nonrecurring items. This review shall include a description of the actions the Board will require the Bank to take to address any deficiencies. At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the written Capital Plan, which shall include a description of the actions the Board will require the Bank to take to address any deficiencies, which shall be documented in the Board meeting minutes.

(8) If the Bank fails to maintain the capital ratios required by paragraph (1) of this Article, fails to submit a Capital Plan as required by paragraph (4) of this Article, or fails to implement a Capital Plan to which the Director has provided a written determination of no supervisory objection, then the Bank may, in the Director's sole discretion, be deemed undercapitalized for the purposes of this Order. The Bank shall take such corrective measures as the OCC may direct in writing 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 ratios 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 V

LOAN REVIEW

(1) The Board shall maintain and the Bank, subject to Board review and ongoing monitoring, shall adhere to an effective, independent, and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios to ensure the timely identification and categorization of problem credits. The system shall provide a quarterly written report to the Board, or a designated committee thereof, promptly after each review and shall use a loan and lease credit risk rating system consistent with the guidelines set forth in "Rating Credit Risk" and "Allowance for Loan and Lease Losses" booklets of the *Comptroller's Handbook*. Further, the loan review system shall be consistent with generally accepted accounting principles ("GAAP"). Such quarterly written reports shall include, at a minimum, conclusions regarding:

- (a) the loan review scope and coverage parameters;
- (b) the overall quality of the loan and lease portfolio, underwriting and approval process, and credit administration process;
- (c) the types and volume of concentrations of credit and corresponding risk management;
- (d) the identification, type, rating, and amount of problem, delinquent, and nonaccrual loans and leases;
- (e) policy, credit underwriting, and collateral documentation exceptions;

- (f) credit-related violations of law, rule, or regulation;
- (g) credit analysis and documentation of such analysis;
- (h) the independence and appropriateness of collateral valuation processes;
- (i) the accuracy of internal risk ratings;
- (j) the completeness and effectiveness of problem loan workout plans;
- (k) the accuracy of the bank's identification of troubled debt restructurings;
- (l) loans and leases to executive officers, directors, or principal shareholders of the Bank, as well as their related interests, and compliance with 12 U.S.C. §§ 375a and 375b, 12 C.F.R. Part 215, 12 U.S.C. § 371c, and 12 C.F.R. Part 223;
- (m) loans, leases, and other extensions of credit considered exceptions to or in nonconformance with the Bank's lending and leasing policies and procedures; and
- (n) the adequacy and accuracy of specific allocations to the Allowance for Loan and Lease Losses ("ALLL") and the ALLL methodology.

(2) The Board shall ensure loan review work papers are complete and include historical financial analysis and a complete financial narrative.

(3) At the next Board meeting following receipt of the loan and lease review written report(s) required by paragraph (1) of this Article, the Board shall ensure that the Bank takes immediate and adequate remedial action to correct all deficiencies noted in the report(s). At least quarterly, the Bank shall provide written reports to the Board on the remedial actions taken. The Board shall also ensure that the Bank preserves documentation of any actions taken to strengthen assets identified as problem credits.

ARTICLE VI

LOAN PORTFOLIO MANAGEMENT

(1) Within sixty (60) days, the Board shall adopt, and the Bank, subject to Board review and ongoing monitoring, shall implement and thereafter adhere to a written program to improve the Bank's loan portfolio management. The program and corresponding policies and procedures shall be consistent with the "Loan Portfolio Management" booklet of the *Comptroller's Handbook*. The program shall include, but not be limited to, the following minimum requirements:

- (a) a revised written loan policy that is tailored to fit the Bank's risk profile;
- (b) procedures to ensure conformance with sound loan underwriting and approval requirements;
- (c) procedures to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current, satisfactory credit information and ensuring perfected collateral documentation;
- (d) procedures to ensure satisfactory credit and collateral documentation;
- (e) procedures to track and analyze policy exceptions;
- (f) procedures to ensure conformance with the instructions for the preparation of Consolidated Reports of Condition and Income ("Call Reports");
- (g) procedures to ensure the implementation of timely, complete, and accurate internal loan portfolio MIS;

- (h) a performance appraisal process, including performance appraisals, job descriptions, and incentive programs for loan officers, which adequately consider their performance relative to policy compliance, documentation standards, and accuracy in credit grading;
- (i) procedures to ensure that any participations purchased by the Bank are consistent with safe and sound banking practices, the guidelines set forth in Banking Circular 181 (Revised), *Purchases of Loans in Whole or In Part- Participations* (August 2, 1984), and the standards and requirements of 12 C.F.R. Part 34; and
- (j) procedures to track and analyze concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios.

(2) The Board shall ensure that all Bank lenders or any other personnel performing credit analyses receive loan policy training at least annually and 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.

ARTICLE VII

PROBLEM ASSET MANAGEMENT

(1) The Bank shall take immediate and continuing action to protect its interest in those assets, including but not limited to Other Real Estate Owned ("OREO"), criticized in the most recent ROE, in any subsequent ROEs, by internal or external loan review, or in any list provided to management by OCC Examiners during any examination.

(2) Within sixty (60) days, the Board shall adopt and the Bank, subject to Board review and ongoing monitoring, shall immediately implement and thereafter adhere to a written program designed to eliminate the basis of criticism of those assets, including but not limited to OREO, with a credit risk rating of “special mention,” “substandard,” or “doubtful” in the most recent ROE, in any subsequent ROE, by any internal or external loan review, or in any list provided to management by OCC Examiners during any examination. At a minimum, the program shall ensure that the Bank’s Criticized Asset Reports (“CARs”) identify all credit relationships and other assets, including but not limited to OREO, totaling in the aggregate one hundred thousand dollars (\$100,000) or more with a credit risk rating of “special mention,” “substandard,” or “doubtful.” The CARs must be updated and submitted to the Board, or a committee thereof, and to the Director quarterly.

(3) 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 sources;
- (c) the value, within the preceding 12 months, of the supporting collateral (based off an appraisal or appropriate evaluation consistent with the standards and requirements in 12 C.F.R. Part 34, Subpart C, as applicable), along with the date and source of the appraisal or evaluation, and the position of the Bank’s lien on such collateral, where applicable, as well as other necessary documentation (including valuation reviews identifying

when the appraisal or evaluation is inadequate, requiring management to obtain a new appraisal or evaluation) to support the current collateral valuation;

- (d) an analysis of current and complete credit information, including global cash flow analysis where loans are to be repaid from operations;
- (e) results of an impairment analysis as required under Accounting Standards Codification (“ASC”) Topic 310-10;
- (f) accurate risk ratings consistent with the classification standards contained in the “Rating Credit Risk” booklet of the *Comptroller’s Handbook*;
- (g) appropriate accrual status pursuant to the instructions for the preparation of Call Reports;
- (h) significant developments, including a discussion of changes since the prior CAR, if any, and
- (i) the proposed actions to eliminate the basis of criticism and the timeframe for its accomplishment, including, if appropriate, an exit strategy.

(4) The Bank shall not extend credit, directly or indirectly, including renewals, modifications, or extensions, to borrowers whose loans or other extensions of credit that aggregate one hundred thousand dollars (\$100,000) or more and have a credit risk rating of “special mention,” “substandard,” or “doubtful” as identified in any CAR, ROE, internal or external loan review, or in any list provided to management by OCC Examiners during any examination, unless and until a majority of the Board, or a designated committee thereof, determines in writing that each of the following conditions are 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 paragraphs (2)(c) and (2)(d) of this Article and, if necessary, the proposed action referred to in paragraph (2)(i) of this Article is revised, as appropriate; and
- (c) the Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of additional credit.

(5) A copy of the findings and approval of the Board or designated committee thereof shall be maintained in the credit file of the affected borrower.

(6) At least quarterly, the Board or a designated committee thereof, shall review and evaluate the effectiveness of the program and the CARs. The Board's review shall include an assessment of the Bank's compliance with the program and the CARs. Written documentation of the factors considered and conclusions reached by the Board in determining the Bank's compliance and progress reducing the level of problem assets shall be maintained.

ARTICLE VIII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) The Board shall maintain and the Bank, subject to Board review and ongoing monitoring, shall adhere to written policies and procedures to maintain an adequate ALLL in accordance with GAAP. The Bank's ALLL policies and procedures shall be consistent with the guidance set forth in OCC Bulletin 2001-37, *Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions* (July 20, 2001),

OCC Bulletin 2006-47, *Allowance for Loan and Lease Losses* (December 13, 2006), and with the “Allowance for Loan and Lease Losses” booklet of the *Comptroller’s Handbook*, and shall include at a minimum:

- (a) policies and procedures over systems and controls that maintain an appropriate ALLL level and over the ALLL methodology;
- (b) accurate internal loan risk ratings;
- (c) criteria for determining which loans will be reviewed under ASC Topic 310, how impairment will be determined, and procedures to ensure the analysis of loans complies with ASC 310 requirements;
- (d) criteria for determining loan pools under ASC 450 and an analysis of those loan pools with accurate loss rates and qualitative factor adjustments for each pool;
- (e) recognition of non-accrual loans in conformance with GAAP and regulatory guidance;
- (f) loan loss experience;
- (g) trends of delinquent and non-accrual loans;
- (h) concentrations of credit in the Bank;
- (i) present and projected economic and market conditions;
- (j) procedures for validating the ALLL methodology, inclusive of an annual independent third party validation;
- (k) support for each of the qualitative factor adjustments and impairment analysis calculations included in the written analysis; and

(1) a process for summarizing and documenting, for the Board's prior review and approval, the ALLL amount to be reported in the Call Reports.

(2) The policies and procedures shall provide for a review of the ALLL by the Board at least once each quarter. Any deficiency in the ALLL shall be corrected in the quarter it is discovered, prior to filing the Call Report, by additional provisions from earnings. Written documentation of the factors considered and conclusions reached by the Board in determining the adequacy of the ALLL shall be maintained.

ARTICLE IX

THIRD PARTY CONTRACTS INVOLVING SALE, MERGER, OR RECAPITALIZATION

(1) The Bank shall not enter into any contract with a third party to assist in the sale, merger, or recapitalization of the Bank that requires the payment of anything other than expenses prior to such sale, merger, or recapitalization, or that requires the Bank to pay, directly or indirectly, the cost of performing due diligence, or other services related to the transaction, unless the Bank first receives the Director's prior written determination of no supervisory objection.

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

- (a) the Board's written analysis of why the proposed contract is in the best interests of the Bank;
- (b) a description of the due diligence credit review, fairness opinion, or any other services to be performed by the third party, including a copy of the proposed contract or engagement;

- (c) a description of the Bank's due diligence process for agreeing to the services to be performed by a potential purchaser or merger partner; and
- (d) a determination by the Board that:
 - (i) the activities to be performed by the third party as part of the sale or merger requirements are fair and reasonable to the Bank;
 - (ii) the parties are able to perform under the contract or commitment;
 - (iii) the fees the Bank is required to pay to the third party are reasonable for the services provided; and
 - (iv) the contract is in the best interests of the Bank.

(3) Following a written determination of no supervisory objection by the Director, the Board shall regularly monitor the contractor or service provider's performance to ensure that the contractor or service provider is complying with the written contract or engagement. The Board shall immediately take appropriate action if the contractor or service provider is not complying with the written contract or engagement and shall maintain documentation of any such items.

ARTICLE X

OTHER PROVISIONS

(1) Although the Bank is by this Order 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 documents, books, and records.

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

- (a) Authorize, direct, 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) ensure that the Bank has sufficient processes, management, personnel, and control systems to ensure implementation of and adherence to the programs developed pursuant to this Order, and that Bank management and personnel have sufficient training and authority to execute their duties under this Order;
- (c) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (d) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (e) require corrective action be taken in a timely manner of any non-compliance with such actions.

(3) Each citation or referenced guidance included in this Order includes any subsequent guidance that replaces, supersedes, amends, or revises the cited law, regulation, or guidance.

(4) The provisions of this Order are effective upon issuance by the Comptroller, through his authorized representative whose hand 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, through his authorized representative.

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

(6) If the Bank requires a waiver or suspension of any provision or 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, with relevant supporting documentation, the special facts and circumstances that support the waiver or suspension of any provision or an extension of a timeframe within this Order.

(7) The Director's decision concerning a request submitted pursuant to paragraph (6) of this Article is final and not subject to further review.

(8) 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 on the Comptroller or the United States.

(9) 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.

(10) 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.

(11) 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
Comptroller of the Currency
400 7th St., S.W., Suite 3E-218
Mail Stop 8E-12
Washington, DC 20219

with a copy to:
New Orleans Field Office
Comptroller of the Currency
3838 N. Causeway Blvd., Suite 2890
New Orleans, LA 70002

(12) The OCC and the Bank entered into a Formal Agreement dated June 15, 2012 (“2012 Agreement”). This Order replaces the 2012 Agreement in its entirety and, therefore, the 2012 Agreement is hereby terminated. Provided however, no provision in this Order shall bar or otherwise limit any enforcement action the OCC may choose to initiate, in its discretion, against the Bank or its institution-affiliated parties for any failure to comply with the 2012 Agreement while it was effective.

IT IS SO ORDERED, this 18th day of December, 2015.

/s/Julie Thieman

Julie Thieman
Director for Special Supervision

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

In the Matter of:)	
Commonwealth National Bank)	AA-EC-2015-42
Mobile, Alabama)	

**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 Commonwealth National Bank, Mobile, Alabama (“Bank”), pursuant to 12 U.S.C. § 1818(b), through the issuance of a Notice of Charges for unsafe and unsound banking practices, including those relating to Board and management oversight, strategic planning, capital adequacy, asset quality, and for failure to comply with the Bank’s Formal Agreement with the Comptroller, dated June 15, 2012; and

WHEREAS, the Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated December 18, 2015 (“Order”) by executing this “Stipulation and Consent to the Issuance of a Consent Order” (“Stipulation”);

NOW THEREFORE, in consideration of the above premises, 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 Bank is an “insured depository institution” within the meaning of 12 U.S.C. §§ 1813(c) and 1818(b).

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

(2) The Bank further agrees 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 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).

(3) 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.

(4) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Order and/or execute the Order.

(5) 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.

(6) The terms and provisions of the Stipulation and the Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Stipulation or Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Stipulation or the Order.

ARTICLE III

WAIVERS

- (1) The Bank, by signing this Stipulation, 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(b) and (h), 12 C.F.R. Part 19;
 - (d) all rights to seek any type of administrative or judicial review of the Order;

- (e) any and all rights to challenge or contest the validity of the Order; and
- (f) any and all claims for fees, costs, or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

ARTICLE IV

CLOSING PROVISIONS

(1) The Bank agrees that the provisions of this Stipulation and Order 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 placed 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 her hand on behalf of the Comptroller.

/s/Julie Thieman
Julie Thieman
Director for Special Supervision

12/18/2015
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/Beverly Cooper
Beverly Cooper

12/18/15
Date

/s/Kathy C. Dunning
Kathy C. Dunning

12.18.15
Date

/s/David L. Frazier
David L. Frazier

12-18-15
Date

/s/Jacquitta P. Green
Jacquitta P. Green

12/18/15
Date