UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of **LYONS FSA** **Lyons, Kansas** **OTS Docket No. 00179**	Order No.: MWR-04-13 Date: July 28, 2004

STIPULATION AND CONSENT TO THE ISSUANCE OF AN
ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

This Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation), which concerns the accompanying and above-referenced Order to Cease and Desist (Order), is submitted by **LYONS FSA, Lyons, Kansas** (Bank or Association), OTS Docket No. 00179, to the Office of Thrift Supervision (OTS), which is acting through the OTS Midwest Regional Director (Regional Director).

WHEREAS, the Office of Thrift Supervision (OTS), based upon information derived from the exercise of its regulatory responsibilities, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against, pursuant to 12 U.S.C. §§ 1818(b)[1], and

WHEREAS, the Bank desires to cooperate with the OTS and to avoid the time and expense of such administrative proceeding and, without admitting or denying that such grounds exist, or the Findings of Fact or opinions and conclusions of the OTS, except as to Jurisdiction, Paragraph 1, below, which is admitted, hereby stipulates and agrees to the following:

1. **Jurisdiction**

   A. The Bank is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, it is a "depository institution" as that term is defined in 12 U.S.C. § 1813(c).

   B. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the "appropriate federal banking agency" to maintain an administrative cease and desist proceeding against savings associations. Therefore, the Bank is subject to the jurisdiction of the OTS to initiate and maintain a cease and desist proceedings against it pursuant to 12 U.S.C. § 1818(b). The Deputy Director of the OTS, pursuant to delegated authority from the Director of OTS, has delegated to the OTS Midwest Regional Director the authority to

[1] All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.

issue a cease and desist order where the savings association has consented to the issuance of the order.

2. **OTS Findings of Fact**

The OTS makes the following findings of fact:

A. The March 31, 2004 ROE finds that the Bank had not engaged in independent testing in violation of 12 C.F.R. § 563.177(c)(2). This deficiency was also addressed during prior examinations and management had promised corrective actions. The ROE also finds that the Bank did not maintain a copy of its written BSA Policy, which is a violation of 12 C.F.R. § 563.177(b) and 12 C.F.R. § 563.170(c).

B. As a result of its failure to undertake independent testing, the Bank also violated 12 C.F.R. § 563.177(b) and 31 U.S.C. § 5318(h), by failing to maintain a BSA monitoring system reasonably designed to assure and monitor compliance with 31 U.S.C. §§ 5311 *et seq*. and the regulations issued thereunder by U.S. Department of Treasury, 31 C.F.R. §§ 103.11 *et seq*., and the related BSA regulations issued by OTS, 12 C.F.R. § 563.177.

3. **Consent**

The Bank consents to the issuance by the OTS of the accompanying Consent Order to Cease and Desist for Affirmative Relief (Order). It further agrees to comply with the terms of the Order upon issuance and stipulates that the Order complies with all requirements of law.

4. **Finality**

The Order is issued under 12 U.S.C. § 1818(b). Upon its issuance by the Regional Director, it shall be a final order, effective and fully enforceable by OTS under the provisions of 12 U.S.C. § 1818(i).

5. **Waivers**

The Bank waives the following:

A. the right to be served with a written notice of OTS's charges against it as provided by 12 U.S.C. § 1818(b);

B. the right to an administrative hearing of OTS's charges against it as provided by 12 U.S.C. § 1818(b);

C. the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order;

D. any and all claims against OTS, including its employees and agents, and any other governmental entity for the award of fees, costs or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412; and

E. the right to assert this proceeding, its consent to the issuance of the Order, the issuance of the Order, the payment of any monies or the provision of any other financial relief as contemplated by the Order as the basis for a claim of double jeopardy in any pending or future proceeding brought by the United States Department of Justice or any other governmental entity.

6. **Other Governmental Actions Not Affected**

The Bank acknowledges and agrees that its consent to the issuance of the Order is for the purpose of resolving this OTS enforcement matter only, as set forth in Paragraph 2, OTS Findings of Fact, hereof. The Bank acknowledges and agrees that its consent to the issuance of the Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by OTS or another governmental entity. Further, the issuance of this Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against or other proceeding, civil or criminal, that may be or has been brought by OTS or any other governmental entity against any institution-affiliated party of the Bank. The issuance of this Order also does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions for civil or criminal penalties against the Bank by OTS or any other governmental entity.

7. **Miscellaneous**

A. The construction and validity of this Stipulation and the Order shall be governed by the laws of the United States of America.

B. In case any provision of the Stipulation or Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

C. All references to the OTS or the Bank in this Stipulation and the Order shall also mean any of the OTS's or Bank's predecessors, successors, and assigns.

D. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the construction hereof.

E. The terms of this Stipulation and the Order represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

F. This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional

Director or other authorized representative. The assigned Regional Deputy Director or Assistant Director for the Midwest Region also may extend timeframes for compliance with the Order.

8. **Signature of Directors**

Each Director of the Bank's Board of Directors signing this Stipulation attests that he/she voted in favor of a resolution authorizing the execution of the Stipulation. A copy of the resolution of the Board of Directors of the Bank authorizing execution of this Stipulation shall be delivered to OTS, along with the executed original of this Stipulation.

WHEREFORE, Lyons FSA, Lyons, Kansas, by a majority of its directors, execute this Stipulation and Consent to the issuance of an Order to Cease and Desist for Affirmative Relief, intending to be legally bound hereby.

Accepted by:

OFFICE OF THRIFT SUPERVISION

By:

F. Casteel

Frederick R. Casteel
Midwest Regional Director

Effective Date: 7-28-04

LYONS FSA, LYONS, KANSAS
Accepted by a majority of its directors:

July 27, 2004
Date

By:

Kevin L. McClure

Kevin L. McClure, President and Director

Donald L. Birchenough

Donald L. Birchenough
Chairman of the Board

Dwayne E. Edwards

Dwayne Edwards, Director

Kent W Hanson

Kent Hanson, Director

Paul E Jones

Paul Jones, Director

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of **LYONS FSA** **Lyons, Kansas** **OTS Docket No. 00179**	Order No.: MWR-04-13 Date: July 28, 2004

CONSENT ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, **Lyons FSA, Lyons, Kansas** (Bank or Association) (OTS Docket No. 00179), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief (Stipulation); and

WHEREAS, the Bank, by execution of this Stipulation, has consented and agreed to the issuance of this Consent Order to Cease and Desist for Affirmative Relief (Order) by the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1818(b).[1]

WHEREAS, the Deputy Director of the OTS has delegated to the Regional Directors of OTS the authority to issue Orders to Cease and Desist on behalf of OTS where the Bank has consented to the issuance of the Order pursuant to 12 U.S.C. § 1818(b).

NOW THEREFORE, IT IS ORDERED THAT:

1. **Compliance With Laws and Regulations**

The Bank, its directors, officers, employees, and agents shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, aiding or abetting of any unsafe or unsound practice or any violation of:

A. Section 563.170(c) of the OTS Regulations, 12 C.F.R. § 563.170(c) (regarding books and records); and

B. The Currency and Foreign Transactions Reporting Act, as amended by the USA Patriot Act and other laws (the Bank Secrecy Act or BSA), 31 U.S.C. §§ 5311 *et seq.*, and the regulations issued thereunder by the U.S. Department of the Treasury, 31 C.F.R. §§ 103.11 *et seq.*, and the related BSA regulation issued by the OTS, 12 C.F.R. § 563.177 (collectively, the BSA Laws and Regulations).

[1] All references to the United States Code (U.S.C.) are as amended, unless otherwise indicated.

IT IS FURTHER ORDERED THAT:

CORRECTIVE PROVISIONS

2. **Anti-Monetary Laundering Program**

A. The Board shall amend the Bank's Bank Secrecy Act Policy, adopted on April 20, 2004 and amended on July 6, 2004 (BSA Policy), to (1) provide for independent testing by outside director(s) who have received the appropriate training or an outside qualified entity, (2) require independent testing to be conducted in accordance with the requirements of Paragraphs 2 and 3 of this Order, and (3) comply with all other requirements of this Order. The Board must approve the amendment to the BSA Policy and submit the revised BSA Policy to OTS for non-objection no later than 30 days of the effective date of this Order. The Bank must comply with the BSA Policy including any modifications required by OTS.

B. The Bank must review its internal controls to ensure compliance with BSA Policy, the timely and accurate filing of Currency Transaction Reports (CTRs), Suspicious Activity Reports (SARs), and compliance with BSA Laws and Regulations.

C. The Board shall review its BSA Policy at least annually and more frequently if regulatory changes require revision.

D. The Board shall ensure that the Bank's designated BSA officer is actively managing, coordinating, and monitoring the Bank's day-to-day compliance with BSA Laws and Regulations and the Bank's BSA Policy. The Board must ensure that BSA officer has sufficient expertise, training and staff (including outsourced assistance when necessary), as well as resources, and authority to perform his/her assigned BSA responsibilities on a day-to-day basis.

3. **Independent Testing**

A. By no later than August 31, 2004, the Bank shall conduct an independent testing of its compliance with the BSA Laws and Regulations, Bank's BSA Policy, and the requirements of Paragraphs 2 and 3 of this Order, and submit to the Regional Director the results of the independent testing. Thereafter, the Bank shall conduct an independent testing on an annual basis and more frequently if deemed appropriate (Independent Testing Report).

B. The Independent Testing Report shall cover all requirements of BSA Laws and Regulations and the procedures set forth in the Bank's BSA Independent Testing policy, to which OTS has taken non-objection in writing. The Independent Testing Report shall address the following:

1. Compliance with information sharing requirements under Section 314 of the USA Patriot Act, including procedures for receiving and responding to Section 314(a) FinCEN requests;

2. Customer identification program;

3. Identifying and reporting suspicious activities and filing SARs;

4. Timing and accuracy of the filing of CTRs (FinCEN Form 104 and FinCEN Form 105);

5. Review teller's work and daily cash reports;

6. Confirmation of the integrity and accuracy of the Bank's BSA recordkeeping activities and adherence to in-house record retention schedule;

7. Compliance with exemption rules and requirements from CTR filing requirements (including review of monitoring of CTR exemptions, the filing of the required forms to designate an entity as exempt from the CTR requirements, and the reasonableness of the exemptions granted);

8. Procedures and compliance with procedures for maintaining required information from customers purchasing monetary instruments for cash in amounts between \$3,000 and \$10,000, and that appropriate identification measures are in place;

9. Wire funds transfer operations;

10. Training records of appropriate personnel and whether the Bank is conducting an ongoing and effective BSA training program;

11. Compliance with Office of Foreign Asset Control (OFAC) requirements;

12. High-risk activities/customers/areas, if any; and

13. Monitoring of cash shipments to and from the Federal Reserve Bank or its correspondent bank.

C. The Bank shall maintain copies of the Independent Testing Report, as well as the detailed work papers (including records of transaction analysis), for five (5) years.

D. The Independent Testing Report shall set forth specific methodology used to conduct the testing, state specific findings, and recommend specific corrective actions to address any deficiencies. The Board shall consider the Independent Testing Report within 30 days after its completion. The Bank shall submit a copy of the written report, along with supporting documentation and work papers and a list of corrective actions (if any), to

Regional Director or his/her designee by no later than 10 days following the submission of the report to the Board.

E. The board minutes shall reflect clearly and specifically the Board's consideration of all Independent Testing Reports and decisions regarding specific corrective actions.

F. The Board shall require management to provide specific periodic reports on corrective actions taken in response to deficiencies found in Independent Testing Reports, OTS examinations, and internal or external audits or reviews.

BOARD OF DIRECTORS

4. **Director and Board Responsibility**

A. Notwithstanding the requirements of this Order that the Board submit various matters to the Regional Director for the purpose of receiving approval, notice of non-objection, or notice of acceptability, such regulatory oversight does not derogate or supplant each individual member's continuing fiduciary duty. The Board shall have the ultimate responsibility for overseeing the safe and sound operation of the Bank at all times, including compliance with the determinations of the Regional Director as required by this Order.

B. The Board further shall oversee the safe and sound operation of the Bank at all times and shall take all reasonable and prudent actions necessary to satisfy this responsibility.

5. **Compliance with Order**

A. The Board and officers of the Bank shall take immediate action to cause the Bank and its subsidiaries to comply with the terms of this Order and shall take all actions necessary or appropriate thereafter to cause the Bank and its subsidiaries to continue to carry out the provisions of this Order.

B. The Board, on a quarterly basis, beginning with the third calendar quarter of calendar year 2004, shall adopt a board resolution (Compliance Resolution), formally resolving that, following a diligent inquiry of relevant information (including reports of management), to the best of its knowledge and belief, during the immediately preceding calendar quarter, the Bank has complied with each provision of this Order currently in effect, except as otherwise stated. The Compliance Resolution shall specify in detail how, if at all, full compliance was found not to exist; and identify all notices of exemption or non-objection issued by the Regional Director or his/her designee that were outstanding as of the date of its adoption.

C. The minutes of the meeting of the Board shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each director's reasoning for opposing or abstaining.

D. The Bank shall provide to the Regional Director a certified true copy of each Compliance Resolution as adopted by the Board within ten (10) calendar days of the Board meeting at which the Compliance Resolution was adopted. The Bank also shall provide specific documentation to support the findings in the Compliance Resolution. The Board, by virtue of the Bank's submission of a certified true copy of each such Compliance Resolution to the Regional Director, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided below. In the event that one or more Directors do not agree with the representations set forth in a Compliance Resolution, such disagreement shall be noted in the minutes of the Bank.

E. The Board shall promptly respond to any request from OTS for documents that the OTS requests to demonstrate compliance with this Order.

MISCELLANEOUS

6. **Definitions**

All technical words or terms used in this Order and Stipulation for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, Home Owners' Loan Act (HOLA), Federal Deposit Insurance Act (FDIA) or OTS Publications. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, HOLA, FDIA, or OTS Publications shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

7. **Successor Statutes, Regulations, Guidance, Amendments**

Reference in this Order to provisions of statutes, regulations, and OTS Publications shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date of this Order and references to successor provisions as they become applicable.

8. **Effective Date**

This Order is and shall become effective on the Effective Date, as shown in the caption hereof.

9. **Notices**

A. Except as otherwise provided herein, any request, demand, authorization, directive, notice, consent, waiver or other document provided or permitted by the Order to be made upon, given or furnished to, delivered to, or filed with:

1. The OTS, by the Bank, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 225 East John Carpenter Freeway, Suite 500, Irving, Texas 75062-2327 or telecopied to (972) 277-9501 and confirmed by first class mail, postage prepaid, overnight delivery service or physically delivered, in each case to the above address;

2. The Bank, by OTS, shall be sufficient for every purpose hereunder if in writing and mailed, first class, postage prepaid, or sent via overnight delivery service or physically delivered, in each case addressed to the Bank at 200 East Avenue S, Lyons, Kansas 67554.

B. Notices hereunder shall be effective upon receipt, if by mail, overnight delivery service or telecopy, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this Order, then, in the event such notice was sent by United States mail, there shall be a presumption that the notice was received three (3) Business Days after the date of the postmark on the envelope in which the notice was enclosed.

10. **Time Limits**

Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted. The Regional Director or the assigned Regional Deputy Director or Assistant Director may extend any time limits set forth in this Order by specifically granting that extension in writing.

11. **No Violations Authorized; OTS Not Restricted**

Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping the OTS from taking any action(s), including without limitation any actions that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

12. **Effect of Headings**

The Section Headings herein are for convenience only and shall not affect the construction hereof.

13. **Incorporation**

The Stipulation is made a part hereof and is incorporated herein by this reference.

14. **Duration, Termination or Suspension of Order**

The Stipulation and the Order shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director, Deputy Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: F R Casteel
Frederick R. Casteel
Regional Director
Midwest Region