

#2010-030
Amends #2007-143

AMENDMENT TO THE AGREEMENT
OF DECEMBER 21, 2007
BY AND BETWEEN
OLMSTED NATIONAL BANK, ROCHESTER, MN
AND
THE COMPTROLLER OF THE CURRENCY

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

The Comptroller has found unsafe and unsound banking practices relating to asset quality, credit risk management, capital, and earnings at the Bank.

On December 21, 2007, the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, by and through his duly authorized representative, entered into an Agreement (“Agreement”) which remains in full force and effect except as otherwise provided herein.

The Comptroller, through his authorized representative, and the Bank, by and through its Board, mutually agree that an amendment to the Agreement is now warranted. This Amendment to the Agreement (“Amendment”) supplements, but does not replace, the Agreement. Specifically, Articles I, II, III, V, VI, VII, and VIII of the Agreement shall remain in effect without modification; and Article IV of the Agreement shall be replaced as set forth below.

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

ARTICLE I

JURISDICTION

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

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

(3) This Amendment shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.3(g) and 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

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

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

Assistant Deputy Comptroller
Minneapolis Field Office
222 Ninth Street South, Suite 800
Minneapolis, MN 55402

ARTICLE II

This Article shall replace Article IV of the Agreement to read as follows:

ARTICLE IV

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall achieve by June 30, 2010, and thereafter maintain, the following capital levels (as defined in 12 C.F.R. Part 3):

- (a) Tier 1 capital at least equal to ten percent (10%) of risk-weighted assets;*
- (b) Tier 1 capital at least equal to eight percent (8%) of adjusted total assets.¹*

(2) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a three year capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1);*
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;*
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;*
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;*
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and*
- (f) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital program;*
 - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and**

¹ *Adjusted total assets is defined in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets.*

(iii) *with the prior written determination of no supervisory objection by the Assistant Deputy Comptroller.*

(3) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. In particular, within thirty (30) days of determining that the Bank's capital ratios are less than the minimum requirements of paragraph (1), the Board shall review and update the Bank's capital program to describe the means and timing by which the Bank shall increase such capital ratios up to or in excess of the minimum requirements. Copies of the reviews and updates shall be submitted to the Assistant Deputy Comptroller. Submission of an updated capital program shall not relieve the Bank of the requirement to comply with the minimum capital requirements of paragraph (1) and shall not inhibit, estop, bar, or otherwise prevent the Comptroller from undertaking any action affecting the Bank.

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

ARTICLE III

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written determination of no supervisory

objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

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

(3) Any time limitations imposed by this Amendment shall begin to run from its effective date. Any time limitations imposed by the Agreement shall remain in effect unless specifically modified by this Amendment. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board. The Assistant Deputy Comptroller's approval of such extension requests will not be unreasonably withheld.

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

(5) In each instance in this Amendment 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 Amendment;

- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Amendment;
- (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 Amendment is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract. The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his supervisory responsibilities. The terms of this Amendment, 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/

2/28/2010

Sheila A. Van Ornum
Assistant Deputy Comptroller
Minneapolis 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/

2/3/2010

Sheri Brandvold

Date

/s/

2/2/2010

Peter Erickson

Date

/s/

1/28/2010

Lyman Grieve

Date

/s/

2/3/2010

Robert Groettum

Date

/s/

2/2/2010

Michael Paradise

Date

/s/

2/2/2010

Joseph Tapp

Date
