

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)
)
D&N BANK, A FEDERAL SAVINGS BANK)
HANCOCK, MICHIGAN)
)

Re: Resolution No. IND-93-1
Dated: March 1, 1993

STIPULATION AND CONSENT TO THE ENTRY
OF A CEASE AND DESIST ORDER

The Office of Thrift Supervision ("OTS"), by and through its Regional Director for the Central Region, OTS, and D&N BANK, A FEDERAL SAVINGS BANK, HANCOCK, MICHIGAN (the "Savings Association"), stipulate and agree as follows:

1. Consideration. The OTS, based upon information reported to it, is of the opinion that grounds exist to initiate an administrative cease and desist proceeding against the Savings Association pursuant to Section 8(b) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. 1818(b). The Savings Association desires to cooperate with the OTS and to avoid the time and expense of such administrative litigation and, without admitting or denying that such grounds exist, hereby stipulates and agrees to the following terms in consideration of the termination of the Order to Cease and Desist dated May 7, 1991 and forbearance by the OTS from initiating such administrative cease-and-desist litigation against the Savings Association with respect to the matters covered in the accompanying Order to Cease and Desist ("Order").

2. Jurisdiction.

(a) The Savings Association is a "savings association" within the meaning of Section 3 of the FDIA and Section 2 of the Home Owners' Loan Act. Accordingly, it is an "insured depository institution" as that term is defined in Section 3(c) of the FDIA, 12 U.S.C. 1813(c).

(b) Pursuant to Section 3 of the FDIA, the Director of OTS is the "appropriate Federal Banking agency" to maintain an enforcement proceeding against such a savings association. Therefore, the Savings Association is subject to the authority of the OTS to initiate and maintain a cease and desist proceeding against it pursuant to Section 8(b) of the FDIA, 12 U.S.C. 1818(b).

3. Consent. The Savings Association consents to the issuance by the OTS of the 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 Section 8(b) of the FDIA, 12 U.S.C. 1818(b). Upon its issuance by the Deputy Regional Director for the Indianapolis Office, Central Region, OTS, it shall be a final order, effective and fully enforceable by the OTS under the provisions of Section 8(i) of the FDIA, 12 U.S.C. 1818(i).

5. Waivers. The Savings Association waives its right to a notice of charges and the administrative hearing provided by Section 8(b) of the FDIA, 12 U.S.C. 1818(b), and further waives any right to seek judicial review of the Order, including any such right provided by Section 8(h) of the FDIA, 12 U.S.C. 1818(h), or otherwise to challenge the validity of the Order.

WHEREFORE, in consideration of the foregoing, the OTS, by and through its Regional Director for the Central Region, OTS, and the Savings Association by a majority of its directors, execute this Stipulation and Consent to the Entry of a Cease and Desist Order.

By: /S/
Ronald N. Karr
Central Regional Director

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Re: Resolution No. IND-93-1
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ORDER TO CEASE AND DESIST

WHEREAS, D&N BANK, A Federal Savings Bank (the "Savings Association" or "D&N"), through its directors, has executed a Stipulation and Consent to Issuance of an Order to Cease and Desist, which is incorporated herein by reference ("Stipulation") and is accepted and approved by the Office of Thrift Supervision ("OTS"), acting through its Regional Director for the Central Region; and

WHEREAS, the Savings Association, in the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to Section 8(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1818(b); and

WHEREAS, certain provisions of the Order to Cease and Desist dated May 7, 1991 ("Prior Order") have been satisfied; and whereas the OTS has agreed to terminate the Prior Order.

NOW, THEREFORE, IT IS ORDERED that the Savings Association and its directors, officers, employees, agents and service corporations shall cease and desist from any violation of, or the aiding and abetting of any of the following unsafe and unsound practices, and shall take steps to:

1. Continue to improve the quality of its lending and loan workout practices;

2. Continue to reduce the volume of its classified assets;
3. Continue to establish and maintain adequate reserves for loan losses, and;

IT IS FURTHER ORDERED THAT:

STRATEGIC PLANNING

1. D&N shall continue to evaluate all options for maintaining regulatory compliance and capital compliance. These options include but are not limited to sale or merger of the Savings Association. D&N shall report in writing to the Deputy Regional Director on its evaluation of the desirability of marketing the association on a quarterly basis or more frequently at the request of the Deputy Regional Director.

PERSONNEL

2. During the effectiveness of this Order, D&N shall make every reasonable effort to continue to employ qualified executive officers acceptable to the Deputy Regional Director.

3. D&N shall not appoint any person to an executive officer position without the prior written approval of the Deputy Regional Director. D&N, acting through its Board, shall terminate or reassign any executive officer of D&N as directed in writing by the Deputy Regional Director. D&N shall implement such termination or reassignment immediately upon receiving the OTS notification. Executive officers shall include persons holding the title of Chief Executive

Officer, Chairman of the Board, Chief Operating Officer, Managing Officer, President, Executive Vice President, Senior Vice President and any other officer who participates or has the authority to participate in major policy making decisions at D&N. Any executive officer of D&N shall be required by the Board to read this Order and certify such in writing at the direction of the Deputy Regional Director.

4. D&N shall not pay any bonus to, or increase the salary or benefits of, any executive officer without the prior written approval of the Deputy Regional Director, unless otherwise required by law as supported by a legal opinion from counsel for D&N which is acceptable to the Deputy Regional Director.

5. D&N shall not increase its directors' fees or benefits without the prior written approval of the Deputy Regional Director.

6. D&N shall not enter into or renew any employment contract with any officer or employee without the prior written approval of the Deputy Regional Director. All employment contracts proposed in the future shall enjoy the deliberations of D&N's full Board and said deliberative process shall be documented in the Board's minutes and included in the submission to the OTS for approval.

7. D&N shall not execute any termination agreements with any directors, officers or employees without the documented authorization of its Board and the prior written approval of the Deputy Regional Director, except pursuant to a plan adopted by the Board of Directors and specifically approved in writing by the Deputy Regional Director.

8. D&N shall not violate Section 563.41 of the OTS Regulations.

9. D&N shall continue to comply with its present policy to not purchase prospective employees residences without the prior written approval of the Deputy Regional Director. Any proposal to incorporate this benefit as part of

an effort to attract competent management shall be fully and conspicuously disclosed in writing to the Deputy Regional Director as part of the overall compensation/incentive plan with other appropriate information in seeking approval for new officer appointments.

10. D&N shall not retain the services of any person, corporation, partnership or other entity as a consultant whose services have not been retained prior to the date of this Order without the prior written approval of the Deputy Regional Director. This paragraph shall not be deemed to require prior written approval for the retention of legal counsel.

HOLDING COMPANY EXPENSES

11. D&N shall not violate Sections 23A and 23B of the Federal Reserve Act, as made applicable to savings associations by Section 11 of the Home Owners' Loan Act as amended by Section 301 of FIRREA. Any payment of the expenses of D&N Financial Corporation or any successor company by D&N shall be documented in the minutes of the Board of Directors of D&N and said documentation shall include a consideration of compliance with the aforementioned statutes.

INVESTMENT PORTFOLIO/RESTRUCTURING

12. Should D&N elect to retain interest rate exchange agreements and/or derivatives as hedging instruments, the Board shall require that monthly reports be submitted to it monitoring the effectiveness of the hedges (using both market value and net interest income correlation) and to monitor how the actual performance of the derivatives and/or interest rate exchange agreements compares to the projections and hedged assets. Copies of such reports shall be submitted to the Deputy Regional Director within fourteen (14) days of their submission to the Board. Interest rate exchange agreements may not be modified or extended

without prior written approval of the Deputy Regional Director. D&N shall calculate the yield and value of each IO strip on a monthly basis in accordance with GAAP. Data relating to the calculation including book and market values, yields, and required adjustments shall continue to be submitted to the Deputy Regional Director within fourteen (14) days of the end of each month. Reporting frequency may be changed upon written notice of the Deputy Regional Director.

13. On a quarterly basis, the Board shall cause to be prepared an analysis of all derivative securities, as described in OTS Thrift Bulletin 52, which analysis shall recommend strategies for disposal of those securities which are considered inappropriate for the long term needs of D&N. The Board's report shall within fourteen (14) days of the Board of Directors meeting at which it is reviewed, be sent to the Deputy Regional Director and the Regional Director of the FDIC. Reporting frequency may be changed upon written notice of the Deputy Regional Director.

14. D&N shall not purchase any high risk mortgage derivative securities, as described in OTS Thrift Bulletin 52.

POLICIES

15. D&N's Board shall not modify policies for conflict of interests, lending, interest-rate-risk management, single-family construction lending, classification of assets, or the plan to reduce classified assets without the prior written approval of the Deputy Regional Director. D&N shall comply with all policies and procedures amended or adopted pursuant to this Order or the Prior Order except as otherwise may be required by law as supported by a legal opinion addressed to D&N from its counsel, acceptable to the Deputy Regional Director.

ASSET QUALITY

16. All loan losses must be written off immediately when they are identified through internal review processes or OTS determined classification. D&N retains the right to appeal OTS classifications in accordance with applicable guidelines for federal savings banks.

17. D&N, through its Board, shall review the adequacy of valuation allowances quarterly, and shall increase the level of valuation allowances as they or the OTS determine to be appropriate. Copies of the Board's deliberations on the adequacy of valuation allowances shall be submitted to the OTS quarterly within fourteen (14) days of the ratification of the minutes of the Board of Directors meeting at which the valuation allowances were deliberated.

18. D&N shall not allow general valuation allowances to fall below \$12,500,000 without prior written approval of the Deputy Regional Director.

19. D&N shall not accept applications for commercial non-real estate loans without the prior written approval of and subject to any conditions established by the Deputy Regional Director.

20. (a) Except as otherwise permitted by this section 20, D&N shall not make loans on the security of income producing property.

(b) (i) Until such time as it is notified in writing by the Deputy Regional Director that the permission provided by this subsection is terminated, restricted, or conditioned, D&N is permitted to make loans on the security of income producing properties, other than hotels, motels, and mini-warehouses, up to \$5 million per loan; provided that the loans are made in accordance with Board approved policies, procedures and business plans. The policies and procedures referred to in the preceding sentence shall, at a minimum, require the Board or the Loan Committee, consisting of outside Directors, to approve all

loans made in a dollar amount greater than \$1 million. If the aggregate amount of any loan would exceed the \$5 million limit, the portion in excess of \$5.0 million must be pre-sold without recourse with legal documents evidencing such sale on hand at the time of the loan closing. In addition, D&N shall provide the Deputy Regional Director with a report listing all new loans closed during the month on the security of income producing properties within fourteen (14) days of the monthly Board meeting at which the Report is presented. Such report shall include the borrower's name, the amount of the loan, and identification of the property securing the loan and any additional information requested in writing by the Deputy Regional Director.

(ii) Until otherwise notified in writing by the Deputy Regional Director, total production of new loans made on the security of income producing property shall be limited to \$30 million in 1993. D&N's total portfolio of loans made on the security of income producing property, shall not exceed \$225 million.

(c) The OTS shall have the authority to increase or decrease the dollar amount of loans made on the security of income producing property permitted in subsection 20(b) and to impose any additional limits or restrictions which, in its sole discretion it deems necessary, by written notice to the Board from the Deputy Regional Director.

21. D&N may renew, modify, or refinance existing loans secured by income producing real estate up to \$5 million per loan. If the aggregate amount of any loan would exceed the \$5 million limit, the portion in excess of \$5.0 million must be pre-sold without recourse with legal documents evidencing such sale on hand at the time of the loan closing. Any renewal, modification, or refinance of classified loans in excess of this limit requires prior written approval of the Deputy Regional Director. D&N shall not advance any new funds in connection

with such renewal, modification, or refinance of a classified loan without the prior written approval of the Deputy Regional Director. These numbers may be reduced or increased upon written notice to D&N in the discretion of the Deputy Regional Director.

22. Within fourteen (14) days following review of its internal loan classification report by the Board of Directors at the first meeting following the end of each calendar quarter, D&N shall submit such report to the Deputy Regional Director. This report shall specifically explain any upgrade in individual classifications from the previous quarter or the classifications reported in the most recent OTS Report of Examination.

CAPITAL DISTRIBUTIONS

23. D&N shall not declare, or pay any capital distributions of any type without the prior written approval of the Deputy Regional Director.

BRANCH/DEPOSIT SALES

24. D&N shall not enter into any legally binding agreement to sell any of its branches or deposits except an agreement subject to the prior written approval of the Deputy Regional Director.

REPORTING

25. D&N shall, upon the request of the Deputy Regional Director, furnish written progress reports to the Deputy Regional Director or the Regional Director of the FDIC detailing the form and manner of any action taken to secure compliance with this Order and the results thereof. All progress reports and other written responses to this Order shall be reviewed by D&N's Board and made a part of the minutes of the Board meeting.

26. The Board of Directors shall, at each regular meeting, formally resolve that, to the best of its knowledge and belief, and based on a prudent review of management reports, during the previous calendar month the Savings Association and its subsidiaries complied with each condition of this Order except as otherwise stated. The resolution shall specify in detail how, if at all, full compliance was found not to exist. The resolution further shall set forth any exceptions to any conditions of this Order approved by the Deputy Regional Director. Within fourteen (14) days after ratification by the Board of the minutes of each prior regular Board of Directors meeting, the Savings Association shall submit to the Deputy Regional Director a copy of the minutes of such Board of Directors meeting, the aforementioned resolution, and the management report(s) of the Savings Association presented to the Board of Directors at such meeting. The provided materials shall include all schedules and information provided to the Board for its review and any attachments to the minutes; provided, however, that nothing in this Order shall be construed as requiring D&N to provide to the OTS materials which are subject to attorney-client privilege. Each director shall at such time either provide the Deputy Regional Director with certification through resolution of the Board of Directors that, to the best of his or her knowledge and belief, and based upon a prudent review, the above-referenced resolution is accurate, or provide the Deputy Regional Director with a written statement providing in detail the reason(s) for disagreement with the resolution.

27. Any report or other document required by this Order to be submitted to the OTS shall be filed with the Office of Thrift Supervision, 3500 DePauw Boulevard, Suite 2050, Indianapolis, Indiana 46268, or other address following written notice of the Deputy Regional Director. All reports and other documents shall be deemed filed when received by the OTS.

28. Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the OTS Manager or Deputy Regional Director or Regional Director, the Board has the ultimate responsibility for proper and sound management of the Savings Association except to the extent that the OTS disapproves of any action or program that the Board believes should be taken for proper and sound management.

29. It is expressly and clearly understood that if, at any time, the OTS deems it appropriate in fulfilling the responsibilities placed upon it by the several laws of the United States of America to undertake any action affecting the Savings Association, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the OTS from doing so.

30. Any time limitations imposed by this Order shall begin to run from the effective date of this Order, unless otherwise provided for. Such time limitations may be extended by the OTS Manager for good cause upon written application by the Board.

31. All technical words or terms used in this Order, for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in the rules and regulations adopted by the OTS (including, without limitation, 12 C.F.R. §500.1 et seq., §541 et seq., and §561.1 et seq. (1991)). Any such technical words or terms used in this Order and undefined in said rules and regulations shall have meanings that accord with the best custom and usage in the thrift industry.

32. The provisions of this Order are effective upon issuance of this Order by the OTS, through its 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 by the OTS.

33. The terms and provisions of this Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest.

34. It is understood that the execution of this Order shall not be construed as an approval of any application or notices that are contemplated by the Institution.

35. In the event any provision of this Order shall be declared invalid, illegal, or unenforceable; the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

36. The section headings used in this Order are for convenience of reference only and are not to affect the construction of or be taken into consideration in the interpretation of this Order.

37. This Order shall remain in effect until terminated, modified, or suspended by the OTS, acting through the Regional Director or his designee.

IT IS SO ORDERED, this 1 day of March, 1993.

OFFICE OF THRIFT SUPERVISION

BY: /S/
Ronald N. Karr
Central Regional Director