

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	Order No.: WN-09-028
)	
)	
NEXBANK CAPITAL, INC.)	Effective Date: September 25, 2009
)	
Dallas, Texas)	
OTS Docket No. H4085)	
_____)	

ORDER TO CEASE AND DESIST

WHEREAS, NexBank Capital, Inc., Dallas, Texas, OTS Docket No. H4085 (Holding Company), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

WHEREAS, the Holding Company, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

WHEREAS, pursuant to delegated authority, the OTS Regional Director for the Western Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings and loan holding company has consented to the issuance of an order.

NOW, THEREFORE, IT IS ORDERED that:

Cease and Desist.

1. The Holding Company and 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, or the aiding and abetting of unsafe or unsound practices that resulted in: (a) the failure to identify, monitor, and control specific risks to the operations of the Holding Company; (b) the operation of the Holding Company and its subsidiary insured depository institution, Nonbank, SSB, Dallas, Texas (Association) with inadequate earnings to fund growth, to support dividends, and to augment capital; and (c) the operation of the Association with a significant level of classified assets and investments.

Capital Plan.

2. By October 15, 2009, the Board shall submit to the Regional Director for review and written notice of non-objection a written plan to preserve and, if necessary, increase the capital of the Holding Company and the Association. (Capital Plan). The Capital Plan, at a minimum, shall:

- (a) ensure the Association meets and maintains the required capital levels as set forth in any regulation and any enforcement action issued against the Association by the Federal Deposit Insurance Corporation (FDIC) or the Commissioner for the Texas Department of Savings and Mortgage Lending (Commissioner);
- (b) ensure the Holding Company has sufficient capital to support the enterprise wide business strategy and operations, taking into consideration the volume of classified assets, concentration risks, adequacy of allowance for loan and lease losses, current and projected asset growth, and projected retained earnings; and
- (c) ensure the provision of adequate capital support for its nonbank subsidiaries.

3. Within thirty (30) days after receipt of the Regional Director's written comments or written notice of non-objection, the Board shall make any revisions required by the Regional Director and, thereafter, adopt the Capital Plan. Thereafter, the Holding Company shall

implement and comply with the Capital Plan. Within five (5) days after the Board meeting at which the Capital Plan is adopted, the Holding Company shall provide the Regional Director with a copy of the Capital Plan and the Board meeting minutes reflecting its adoption.

4. Within forty-five (45) days after the end of each quarter, beginning with the quarter ending December 31, 2009, the Board shall submit to the Regional Director a written report regarding: (a) the Holding Company's compliance with the Capital Plan; and (b) the adequacy of the Holding Company's and the Association's capital levels in relation to the Association's risk profile (Quarterly Capital Plan Variance Report). The Board's review of the Quarterly Capital Plan Variance Report shall be thoroughly documented in the Board meeting minutes.

5. Within thirty (30) days of the Association's receipt of a written notice of capital deficiency from the FDIC or the Commissioner stating the Association's capital ratios are less than the ratios required in Paragraph 2(a) of this Order, the Holding Company shall submit to the Regional Director for written notice of non-objection a written plan to increase the Association's capital ratios to the percentages required in Paragraph 2(a) of this Order within the timeframes applicable to the Association pursuant to any regulation or enforcement action (Capital Contingency Plan). The Capital Contingency Plan shall:

- (a) establish the amount of capital to be raised and the timeframes by which the capital will be raised;
- (b) detail the methods by which the additional capital will be raised and identify the likely sources of such capital; and
- (c) establish an alternative strategy, including but not limited to, seeking a merger or acquisition partner for the Association or any nonbank subsidiary, to be implemented

immediately if the Board's primary strategy to raise additional capital is unsuccessful (Alternative Strategy).

6. Within thirty (30) days after receipt of the Regional Director's written notice of non-objection, the Board shall make any revisions required by the Regional Director and, thereafter, adopt the Capital Contingency Plan. Thereafter, the Holding Company shall implement and comply with the Capital Contingency Plan. Within five (5) days after the Board meeting at which the Capital Contingency Plan is adopted, the Holding Company shall provide the Regional Director with a copy of the Capital Contingency Plan and the Board meeting minutes reflecting its adoption.

7. If the Board determines that the additional capital proposed in the Capital Contingency Plan cannot be raised in the amounts or within the timeframes detailed in the Capital Contingency Plan, the Board shall: (a) provide the Regional Director with written notice of its determination that the Holding Company cannot fulfill the commitments established in the Capital Contingency Plan by no later than the five (5) business day following such determination (Capital Notice); and (b) immediately implement the Alternative Strategy established under Paragraph 5(c) of this Order.

8. Within fifteen (15) days after the submission of the Capital Notice to the Regional Director and by the last day of every calendar month thereafter, the Board shall submit to the Regional Director a written status report regarding the implementation of the Alternative Strategy.

9. Within five (5) days after execution, the Board shall provide the Regional Director with a copy of any definitive merger agreement, investment agreement, acquisition agreement, sales

agreement, or other binding agreement entered into by the Holding Company in conjunction with its Alternative Strategy.

Strategic Business Plan.

10. By October 15, 2009, the Holding Company shall submit to the Regional Director for review and written notice of non-objection a written strategic business plan that covers the fourth quarter of calendar year 2009 through the end of calendar year 2010 (Strategic Business Plan). The Strategic Business Plan, at a minimum, shall set forth the Board's detailed short-term and long-term strategies that address:

- (a) the corporate strategy and business mission for each subsidiary company, the identification of major product lines, and the projected profitability of each such line;
- (b) the improvement of capital levels, earnings, and profitability of the Holding Company on a consolidated basis, incorporating the Capital Plan required by Paragraph 2 of this Order;
- (c) a liquidity contingency plan that: (i) sets forth projected short-term and long-term sources of liquidity and cash flow, both into and out of the Holding Company; and (ii) addresses: (A) the payment of the Holding Company's operating expenses; (B) the payment of interest on the trust preferred securities; and (C) the payment of capital distributions¹ under at least three (3) different scenarios involving progressively stressed economic environments;
- (d) the payment of interest payments on trust preferred securities without the reliance on capital distributions from the Association;

¹ The term "capital distribution" is defined at 12 C.F.R. § 563.141.

(e) the reimbursement of the Association for expenses paid and services provided by the Association pursuant to a written agreement between the Holding Company and the Association; and

(f) the payment of capital distributions without the reliance of capital distributions or any other payments from the Association.

11. The Strategic Business Plan also shall include, but not be limited to: (a) comprehensive pro-forma balance sheet and income statement projections for each quarter covered by the Strategic Business Plan; (b) a description of all relevant assumptions and projections; and (c) documentation supporting such assumptions and projections.

12. Within thirty (30) days after receipt of the Regional Director's written comments or written notice of non-objection, the Holding Company shall make any revisions required by the Regional Director and, thereafter, adopt the Strategic Business Plan. Thereafter, the Holding Company shall implement and comply with the Strategic Business Plan. Within five (5) days after the Board meeting at which the Strategic Business Plan is adopted, the Holding Company shall provide the Regional Director with a copy of the Strategic Business Plan and the Board meeting minutes reflecting its adoption.

13. Within forty-five (45) days after the end of the quarter, beginning with the quarter ending December 31, 2009, the Holding Company shall provide to the Regional Director quarterly variance reports (Quarterly Variance Analysis Report) prepared by Senior Executive Officers² (Management) regarding the Holding Company's compliance with the Strategic Business Plan. The Quarterly Variance Analysis Report shall include: (a) a detailed explanation of any material deviation; (b) a discussion of corrective actions taken to address the material deviation; and (c) a

² The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

discussion of the adequacy of the Strategic Business Plan, given the then current financial condition and obligations of the Holding Company. The Board's review of the Strategic Business Plan and the Quarterly Variance Analysis Reports shall be fully documented in the minutes of the meeting. For purposes of this Paragraph of the Order, a deviation shall be considered material when the Holding Company: (i) engages or plans to engage in any material activity, line of business, or operation that is inconsistent with the Strategic Business Plan; (ii) exceeds the level of any activity or growth contemplated in the Strategic Business Plan by more than ten percent (10%); or (iii) falls below or fails to meet the target amounts established in the Strategic Business Plan by more than ten percent (10%), or by six million dollars (\$6 million), whichever is less.

14. Within fifteen (15) business days after such material deviation that affects or would affect the balance sheet or the cash flow of the Holding Company, the Holding Company shall submit a written notification to the Regional Director advising of such event.

15. Within sixty (60) days prior to the proposed date to implement an amendment or revision to the Strategic Business Plan, the Board shall submit the amended or revised Strategic Business Plan, along with a summary of the proposed amendment or revision and the reasons for the proposed amendment or revision, to the Regional Director for review and written notice of non-objection. The Holding Company shall not implement the amended or revised Strategic Business Plan until receipt of the Regional Director's written notice of non-objection. Following the receipt of the Regional Director's written notice of non-objection, the Holding Company shall incorporate any comments by the Regional Director into the amended or revised Strategic Business Plan prior to adoption of the amendment or revision. Thereafter, the Holding Company shall comply with the adopted amended or revised Strategic Business Plan.

Capital Distributions and Stock Repurchases.

16. Effective immediately, the Holding Company shall not declare, make, or pay any dividends or other capital distributions without the prior written notice of non-objection of the Regional Director.

17. Effective immediately, the Holding Company or any nonbank subsidiary shall not, directly or indirectly, accept or request that the Association or any subsidiary thereof make or pay any capital distributions,, or commit to make or pay dividends or any other capital distributions, without the prior written notice of non-objection of the Regional Director.

18. Effective immediately, the Holding Company shall not, directly or indirectly, purchase repurchase, or redeem any shares of its stock without the prior written notice of non-objection of the Regional Director.

19. Effective immediately, the Holding Company shall not issue a new class of stock or change the terms of any existing classes of stock, or convert any class of stock into another class of stock without the prior written notice of non-objection of the Regional Director.

20. Within sixty (60) days prior to the anticipated date of any proposed dividend payment or capital distribution, or a proposed stock transaction under Paragraph 19 of this Order, the Holding Company shall submit its written request for the Regional Director's written notice of non-objection to engage in the transaction set forth in Paragraphs 16, 17, 18, or 19 of this Order. The written request for such non-objection shall: (a) contain current and pro forma projections regarding the Holding Company's capital, earnings, and cash flow and the Association's capital, asset quality, earnings, and allowance for loan and lease losses; (b) identify the source of funds for the proposed payment or distribution; and (c) set forth documentation that the Association is

in compliance with all capital measures required by applicable regulations and any enforcement action.

Debt Restrictions.

21. Effective immediately, the Holding Company and its nonbank subsidiaries shall not, directly or indirectly incur, renew, roll over, or issue any debt or debt securities, increase any current lines of credit, guarantee the debt of any entity, or otherwise incur any additional debt (other than for accrued and unpaid interest, late fees, or similar charges), or enter into a commitment for debt without the prior written notice of non-objection of the Regional Director. For purposes of this Paragraph of this Order, the term “debt” includes, but is not limited to, loans, bonds, cumulative preferred stock, guarantees of debt, and hybrid capital instruments, such as subordinated debt or trust preferred securities. For purposes of this Paragraph of this Order, the term “debt” does not include liabilities incurred in the normal course of business to acquire goods and services and that are normally recorded as accounts payable under generally accepted accounting principles. All written requests for such non-objection to the Regional Director to engage in such debt transactions, at a minimum, shall: (a) describe the purpose of the proposed debt; (b) set forth and analyze the terms of the proposed debt and covenants; (c) analyze the Holding Company’s current cash flow resources available to satisfy such debt repayment; and (d) set forth the anticipated source(s) of repayment of the proposed debt. The Holding Company shall submit its written request for such non-objection to the Regional Director at least thirty (30) days prior to incurring, renewing, rolling over, or issuing any debt; increasing any current lines of credit; guaranteeing the debt of any entity; incurring any additional debt; or entering into a commitment for debt.

22. Effective immediately, the Holding Company and its nonbank subsidiaries shall not make a payment, including, but not limited to, principal, interest, or fees of any kind, on any existing debt, except for any legally binding obligation existing as of the Effective Date of this Order, without the prior notice of written non-objection of the Regional Director. Within thirty (30) days prior to the anticipated date of any such proposed payment, the Holding Company shall submit its written request to the Regional Director for such non-objection. All requests, at a minimum, shall contain: (a) current and pro forma projections regarding the Holding Company's capital, earnings, and cash flow and the Association's capital, asset quality, earnings, and allowance for loan and lease losses; and (b) documentation regarding the sources of funds for the proposed payment.

Risk Management Program.

23. By October 15, 2009, the Board shall submit to the Regional Director a written enterprise wide risk management program to identify, monitor, and control credit, interest rate, liquidity, operational, concentration, legal, and reputation risks of the Holding Company (Risk Management Program). The Risk Management Program, at a minimum, shall:

- (a) address the adequacy and effectiveness of: (i) the Board's and Management's understanding and management of the risks inherent in the consolidated enterprise's activities; and (ii) the Board's and Management's responses to changes in the risk profile of the Holding Company's operating sectors;
- (b) provide for the establishment of adequate accounting and risk disclosure policies and procedures, and specific limits on activities, given the risks inherent in the activities of the consolidated enterprise, financial strength, staff expertise, and the strategic goals of the Holding Company;

- (c) establish risk monitoring and management information systems to identify, report, and monitor risks;
- (d) establish a system of internal controls to ensure the accuracy of financial reporting and disclosure; and
- (e) require (i) a written analysis by the Holding Company's Management regarding compliance with the risk management program, compliance with regulatory requirements and Board-adopted policies, and (ii) the reporting of the written analysis and assessment to the Board.

24. Within thirty (30) days after receipt of the Regional Director's written comments or written notice of non-objection, the Holding Company shall incorporate any revisions required by the Regional Director and, thereafter, adopt the Risk Management Program. Thereafter, the Holding Company shall implement and comply with the Risk Management Program. Within five (5) days after the Board meeting at which the Risk Management Program is adopted, the Holding Company shall provide the Regional Director with a copy of the Risk Management Program and the Board meeting minutes reflecting its adoption.

25. Within thirty (30) days after the end of each quarter, beginning with the quarter ending December 31, 2009, the Board shall review the effectiveness of Management's implementation of the Risk Management Program. The Board's review and any corrective action directed of Management shall be fully documented in the minutes of the Board meeting.

Employment Contracts and Compensation Arrangements.

26. Effective immediately, the Holding Company shall not enter into, renew, extend, or revise any contractual arrangement related to compensation or benefits with any director or officer of the Holding Company, unless it first provides the Regional Director with not less than

thirty (30) days prior written notice of the proposed transaction. The notice to the Regional Director shall include a copy of the proposed employment contract or compensation arrangement, or a detailed written description of the compensation arrangement to be offered to such director or officer, including, but not limited to all benefits and perquisites. The Board shall ensure that any contract, agreement, or arrangement submitted to the Regional Director fully complies with the requirements of 12 C.F.R. Part 359.

Indemnification Payments.

27. Effective immediately, the Holding Company shall not make any indemnification payment unless, with respect to each such payment, the Holding Company has complied with the requirements of 12 C.F.R. Part 359.

Severance Payments.

28. Effective immediately, the Holding Company shall not make any golden parachute payment³ unless, with respect to each such payment, the Holding Company has complied with the requirements of 12 C.F.R. Part 359.

Directorate and Management Changes.

29. Effective immediately, the Holding Company shall comply with the prior notification requirements for changes in directors and Management set forth in 12 C.F.R. Part 563, Subpart H.

Compliance with Order.

30. Within thirty (30) days after the end of each quarter, beginning with the quarter ending December 31, 2009, the Board shall adopt a board resolution (Compliance Resolution): (a) formally resolving that the Board conducted a diligent inquiry of relevant information, including

³ The term “golden parachute payment” is defined at 12 C.F.R. § 359.1(f).

reports from Management, regarding compliance with the Order during the immediately preceding quarter; (b) detailing the compliance with the provisions of this Order; (c) identifying any instance of noncompliance; and (d) setting forth, in detail, additional corrective actions or steps adopted or required by the Board to address each instance of noncompliance. Within five (5) days of the meeting of the Board at which each Compliance Resolution is adopted, the Holding Company shall provide the Regional Director with a copy of each Compliance Resolution and any compliance reports from Management that were reviewed during the Board meeting.

Effective Date, Incorporation of Stipulation.

31. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

Duration.

32. This Order shall remain in effect until terminated, modified, or suspended, by written notice of such action by the OTS, acting by and through its authorized representatives.

Time Calculations.

33. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

34. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Holding Company that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

Submissions and Notices.

35. All submissions, including progress reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

36. Except as otherwise provided herein, all submissions, requests, communications, consents, or other documents relating to this Order shall be in writing and sent by first class U.S mail (or by reputable overnight carrier, electronic facsimile transmission, or hand delivery by messenger) addressed as follows:

(a) To the OTS:

**Regional Director
Attn: Dennis Havener, Assistant Director
Office of Thrift Supervision
225 E. John Carpenter Freeway, Suite 500
Irving, Texas 75062-2326
Fax No.: (972) 277-9501**

With a copy to:

**Douglas B. Foster
Commissioner
Texas Department of Savings and Mortgage Lending
2601 North Lamar, Suite 201
Austin, Texas 78705
Fax No.: (512) 475-1505**

(b) To the Holding Company:

**Attn: Davis R. Deadman, CEO
NexBank Capital, Inc.
13455 Noel Road, Suite 2220
Dallas, Texas 75240
Fax No.: (972) 934-4700**

No Violations Authorized.

37. Nothing in this Order or the Stipulation shall be construed as allowing the Holding Company, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

By: _____ /s/ _____
C.K. Lee
Regional Director, Western Region

Date: See Effective Date on page 1

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)	Order No.: WN-09-028
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)	
NEXBANK CAPITAL, INC.)	Effective Date: September 25, 2009
)	
Dallas, Texas)	
OTS Docket No. H4085)	
)	

STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST

WHEREAS, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Western Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed NexBank Capital, Inc., Dallas, Texas, OTS Docket No. H4085 (Holding Company), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Holding Company pursuant to 12 U.S.C. § 1818(b);

WHEREAS, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings and loan holding company has consented to the issuance of an order; and

WHEREAS, the Holding Company desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs

1-3 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

Jurisdiction.

1. The Holding Company is a “savings and loan holding company” within the meaning of 12 U.S.C. § 1813(w)(3) and 12 U.S.C. § 1467a. Accordingly, the Holding Company is a “depository institution holding company” as that term is defined in 12 U.S.C. § 1813(w)(1).

2. Pursuant to 12 U.S.C. § 1818(b)(9), the “appropriate Federal banking agency” may initiate a cease and desist proceeding against a savings and loan holding company in the same manner and to the same extent as a savings association for regulatory violations and unsafe or unsound acts or practices.

3. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings and loan holding company. Therefore, the Holding Company is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

OTS Findings of Fact.

4. Based on its March 30, 2009 Report of Examination of the Holding Company, the OTS finds that the Holding Company has engaged in unsafe or unsound practices that resulted in: (a) the failure to identify, monitor, and control specific risks to the operations of the Holding Company; (b) the operation of the Holding Company and its subsidiary insured depository institution, NexBank, SSB, Dallas, Texas (Association), which is regulated by the Texas Department of Savings and Mortgage Lending and the Federal Deposit Insurance Corporation, with inadequate earnings to fund growth, to support dividends, and to augment capital; and (c) the operation of the Association with a significant level of classified assets and investments.

Consent.

5. The Holding Company consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Holding Company further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

Finality.

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

Waivers.

7. The Holding Company waives the following:
- (a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
 - (b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
 - (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; and
 - (d) any and all claims against the 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, federal statutes, or otherwise.

OTS Authority Not Affected.

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Holding Company if, at any time, the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

Other Governmental Actions Not Affected.

9. The Holding Company acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Holding Company that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

Miscellaneous.

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

11. If any provision of this Stipulation and/or the 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.

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

13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.

14. The terms of this Stipulation and of the Order represent the final agreement of the parties

with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

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

Signature of Directors/Board Resolution.

16. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Holding Company to the issuance of the Order and the execution of the Stipulation. This Stipulation may be executed in counterparts by the directors after approval of the execution of the Stipulation at a duly called board meeting. A copy of the Board Resolution authorizing the execution of this Stipulation shall be delivered to the OTS, along with the executed original(s) of this Stipulation.

[Remainder of Page Intentionally Left Blank]

WHEREFORE, the Holding Company, by its directors, executes this Stipulation.

Accepted by:

NEXBANK CAPITAL, INC.
Dallas, Texas

OFFICE OF THRIFT SUPERVISION

By: /s/
James Dondero, Chairman

By: /s/
C.K. Lee
Regional Director, Western Region

Date: See Effective Date on page 1

 /s/
Davis R. Deadman, Director and
Chief Executive Officer

Concur:

 /s/
Switzer L. Deason, Director

**TEXAS DEPARTMENT OF SAVINGS
AND MORTGAGE LENDING**

 /s/
Mark Okada, Director

By: /s/
Douglas B. Foster
Commissioner

 /s/
Jon D. Patterson, Director

 /s/
Todd A. Travers, Director