

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

_____)	
In the Matter of)	Order No.: CN 09-32
)	
)	
LIBERTY BANK)	Effective Date: October 14, 2009
)	
Naples, Florida)	
OTS Docket No. 18005)	
_____)	

ORDER TO CEASE AND DESIST

WHEREAS, Liberty Bank, Naples, Florida, OTS Docket No. 18005 (Association), by and through its Board of Directors (Board) has executed a Stipulation and Consent to Issuance of Order to Cease and Desist (Stipulation); and

WHEREAS, the Association, 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 Central Region (Regional Director), is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

NOW, THEREFORE, IT IS ORDERED that:

Cease and Desist.

1. The Association 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 any violation of applicable law, regulation, unsafe or unsound practice, and noncompliance with regulatory guidance including, but not limited to, the following:

- (a) operating the Association with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
- (b) operating without an adequate business plan;
- (c) operating the Association with inadequate earnings to augment capital;
- (d) operating the Association with an excessive level of adversely classified loans and assets;
- (e) operating with an inadequate allowance for loan and lease losses (ALLL) methodology;
- (f) operating with an inadequate level of ALLL for the volume, type, and quality of loans and leases held;
- (g) operating the Association with excessive concentrations of nonresidential real estate loans, land loans, construction loans, and commercial loans as described in the June 1, 2009 Report of Examination of the Association (2009 ROE);
- (h) operating with inadequate funds management policies and liquidity for the Association's asset and liability mix;
- (i) violating 12 C.F.R. § 560.160 (Asset Classification); and
- (j) operating in contravention of supervisory policy statements and other guidance, including, but not limited to, Interagency Guidelines Establishing Standards for Safety and Soundness at 12 C.F.R. Part 570 – Appendix A; Chief Executive Officer Memorandum No. 252 - Concentrations in Commercial Real Estate Lending, Sound

Risk Management Practices (December 14, 2006), the CEO Memorandum # 128 - Uniform Retail Credit Classification and Account Management Policy (July 27, 2000); Interagency Guidelines for Real Estate Lending Policies at 12 C.F.R. § 560.101; and CEO Memorandum No. 250 - Interagency Policy Statement on the Allowance for Loan and Lease Losses (December 13, 2006).

Capital.

2. Within ninety (90) days, the Association shall have and thereafter maintain a Tier 1 Leverage Capital Ratio equal to or greater than eight percent (8%) and a Total Risk-Based Capital Ratio equal to or greater than twelve percent (12%).
3. Within forty-five (45) days, the Board shall prepare and submit to the Regional Director for review and comment a written plan to achieve and maintain the Association's capital at the levels prescribed in Paragraph 2 (Capital Plan). At a minimum, the Capital Plan shall:
 - (a) address the requirements and restrictions imposed by this Order;
 - (b) address the comments and requirements contained within the 2009 ROE;
 - (c) address the Association's level of classified assets, ALLL, earnings, asset concentrations, liquidity needs, and trends in the foregoing area;
 - (d) address current and projected trends in real estate market conditions;
 - (e) detail the Association's capital preservation and enhancement strategies with specific narrative goals; and
 - (f) identify the specific sources of additional capital and the timeframes and methods by which additional capital will be raised, including specific target dates and capital levels.

4. Within five (5) days after receipt of any comments from the Regional Director, the Board will revise the Capital Plan to incorporate any recommended changes by the Regional Director and adopt the Capital Plan as revised. The Board shall ensure that the Association and Management implements and adheres to the Capital Plan. A copy of the Capital Plan and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.

5. The Board shall require Management to prepare and submit for Board review at each regular monthly Board meeting, beginning with the month immediately following adoption of the Capital Plan, a written report on the Association's compliance with the Capital Plan (Capital Status Report). The Capital Status Report shall include a variance report on the Association's compliance with the Capital Plan that, at a minimum:

- (a) compares actual operating results to projected results;
- (b) includes detailed explanations of any material deviations;¹ and
- (c) describes the specific corrective actions or measures that have been implemented or are proposed to address each material deviation.

The Board's review of the monthly Capital Status Reports shall be documented in the Board meeting minutes. A copy of the Capital Status Report and the meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

6. Within fifteen (15) days after (i) the Association fails to meet the capital requirements prescribed in Paragraph 2, (ii) the Association fails to comply with the Capital Plan prescribed in

¹ A deviation shall be considered material under this Paragraph of the Order when the Association: (i) engages in any activity, line of business, or operation that is inconsistent with the Capital Plan; (ii) exceeds the level of any activity or growth contemplated in the Capital Plan by more than 10 percent; or (iii) falls below or fails to meet the target amounts established in the Capital Plan by more than 10 percent.

Paragraph 3, or (iii) any request from the Regional Director, the Board shall prepare and submit a written Contingency Plan that is acceptable to the Regional Director. The Contingency Plan shall detail the actions to be taken, with specific time frames, to achieve one of the following results by the later of the date of receipt of all required regulatory approvals or thirty (30) days after the implementation of the Contingency Plan: (a) merger with, or acquisition by another federally insured depository institution or holding company thereof; or (b) voluntary liquidation by filing an appropriate application with OTS in conformity with federal laws and regulations.

7. Upon receipt of notification from the Regional Director, the Association shall implement the Contingency Plan immediately. The Board shall provide the Regional Director with written status reports detailing the Association's progress in implementing the Contingency Plan by no later than the 1st and 15th of each calendar month following implementation of the Contingency Plan.

Growth.

8. Effective immediately, the Association shall not increase its total assets during any quarter in excess of an amount equal to net interest credited on deposit liabilities during the previous quarter without the prior written approval of the Regional Director. (See, OTS Regulatory Bulletin 3b.)

Business Plan.

9. Within ninety (90) days, the Board shall prepare and submit a new comprehensive three-year business plan beginning with the quarter ending December 31, 2009 (Business Plan), that is acceptable to the Regional Director. At a minimum, the Business Plan shall include:

- (a) the Board's plans and strategies to restructure the Association's operations, strengthen and improve the Association's earnings, reduce expenses, and achieve positive core income and profitability on a consistent basis;
- (b) the Board's strategies for ensuring that the Association has the financial and personnel resources necessary to implement and adhere to the Business Plan, adequately support the Association's risk profile, maintain compliance with applicable regulatory capital requirements and this Order, and maintain appropriate levels of liquidity;
- (c) quarterly pro forma financial projections (balance sheet, capital forecasts, and income statement) and rolling four quarter budget consistent with the recommendations contained in the 2009 ROE; and
- (d) identification of all relevant assumptions made in formulating the Business Plan, as well as documentation supporting such assumptions.

10. Upon receipt of written notification from the Regional Director that the Business Plan is acceptable, the Board shall adopt and ensure that the Association implements and adheres to the Business Plan. A copy of the Business Plan and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.

11. Any material modifications² to the Business Plan must receive the prior written non-objection of the Regional Director. The Association shall submit proposed modifications to the Regional Director at least forty-five (45) days prior to implementation.

² A modification shall be considered material under this section of the Order if the Association plans to: (a) engage in any activity that is inconsistent with the revised Business Plan; or (b) exceed the level of any activity contemplated in the revised Business Plan or fail to meet target amounts established in the revised Business Plan by Liberty Bank

12. Within thirty (30) days after the close of each calendar quarter, beginning with the calendar quarter ending March 31, 2009, the Board shall review quarterly variance reports on the Association's compliance with the revised Business Plan (Quarterly Business Plan Variance Reports). The Quarterly Business Plan Variance Reports shall:

- (a) identify material variances³ in the Association's actual performance during the preceding quarter as compared to the projections set forth in the revised Business Plan;
- (b) contain an analysis and explanation of identified variances; and
- (c) discuss the specific measures taken or to be taken to address identified variances.

13. The Board's review of the Quarterly Business Plan Variance Reports, including any corrective actions adopted by the Board, shall be fully documented in the Board meeting minutes. A copy of the Quarterly Business Plan Variance Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

Liquidity.

14. Within fifteen (15) days, the Board shall revise and submit to the Regional Director for review and comment a liquidity management policy for the Association that addresses the deficiencies discussed in the 2009 ROE and ensures conformance with the guidance contained in OTS Thrift Bulletin 77 and Sections 530 and 560 of the OTS Examination Handbook (Liquidity Policy). The Liquidity Policy will include a written plan to ensure the maintenance of adequate

more than ten percent (10%), unless the activity involves assets risk-weighted fifty percent (50%) or less, in which case a modification of more than twenty-five percent (25%) shall be deemed to be a material modification.

³ A variance shall be considered material under this section of the Order if the Association plans to: (a) engage in any activity that is inconsistent with the revised Business Plan; or (b) exceed the level of any activity contemplated in the revised Business Plan or fail to meet target amounts established in the revised Business Plan by more than ten percent (10%), unless the activity involves assets risk-weighted fifty percent (50%) or less, in which case a variance of more than twenty-five percent (25%) shall be deemed to be a material variance.

short-term and long-term liquidity to withstand any anticipated or extraordinary demand against its funding base (Liquidity Plan).

15. The Liquidity Plan shall, at a minimum:

- (a) include a cash flow analysis that contains reasonable assumptions, identifies anticipated funding needs under varying economic and market conditions and scenarios, discusses the funding sources to meet identified funding needs, identifies those funding sources that are subject to formal arrangements, considers the level and maturity of any brokered deposits, and addresses any contingent liabilities; and
- (b) identifies alternative funding sources for meeting extraordinary demands or to provide liquidity in the event the sources identified in subparagraph (a) above are insufficient. Such alternative funding sources must consider, at a minimum, the selling of assets, obtaining lines of credit from correspondent banks, recovering charged-off assets, and injecting additional equity capital.

16. Within five (5) days after the receipt of any comments from the Regional Director, the Board will revise the Liquidity Policy to incorporate any recommended changes by the Regional Director and adopt the Liquidity Policy. The Board shall ensure that the Association implements and adheres to the Liquidity Policy. The Association shall not modify the Liquidity Policy without the prior written non-objection of the Regional Director.

17. Effective immediately, Management shall conduct a daily review of the Association's liquidity (Liquidity Review). The Liquidity Review shall include:

- (a) a maturity schedule of certificates of deposit, including large uninsured and/or brokered deposits;
- (b) the volatility of demand deposits including escrow deposits;

- (c) the amount and type of loan commitments and standby letters of credit;
- (d) an analysis of the continuing availability and volatility of present funding sources
(including the Federal Home Loan Bank and Federal Reserve);
- (e) an analysis of the impact of decreased cash flow from the Association's loan portfolio
resulting from delinquent and non-performing loans;
- (f) an analysis of the impact of decreased cash flow from the sale of loans or loan
participations; and
- (g) compliance with and identification of exceptions to the Liquidity Policy and the
Liquidity Plan, upon their adoption by the Board.

18. Effective immediately, the Association shall, on a weekly basis, submit a weekly summary of the Liquidity Review to the Regional Director until such time as the Regional Director releases the Association from this reporting requirement.

Lending.

19. Effective immediately, the Association's lending activities shall be limited to the origination of 1-4 family residential mortgages for sale to secondary market purchasers.

20. Effective immediately, the Association shall not advance or extend additional funds on or relating to any loan that has been classified, in whole or in part, substandard, doubtful or loss without the prior written approval of the Regional Director.

21. Within sixty (60) days, the Association shall prepare and submit to the Regional Director for review and comment, a written plan with specific strategies, timeframes and target levels to achieve and maintain compliance with the nonresidential lending limits contained under 12 U.S.C. § 1464(c)(2)(B) (Lending Limits Plan).

22. Within five (5) days after receipt of written comments from the Regional Director, if any,

the Board shall revise the Lending Limits Plan to incorporate any recommended changes and thereafter adopt, implement and ensure that the Association adheres to the Lending Limits Plan.

Management.

23. Within forty-five (45) days, the Board shall identify an independent third-party acceptable to the Regional Director to conduct a study of current management and Board supervision (Management Study). The Management Study, which shall be completed within ninety (90) days of the Effective Date, shall, at a minimum, include:

- i) identification of present and future management and staffing requirements for each area of the Association;
- ii) an evaluation of the ability of the Association's current management, staff and directors;
- iii) objectives by which management's effectiveness will be measured;
- iv) the need for additions to or deletions to current management;
- v) an assessment of whether Board members are receiving adequate information on the operation of the Association to enable them to fulfill their fiduciary responsibilities and other responsibilities under law;
- vi) an evaluation of the extent of responsibility of current management and/or the Board for present weaknesses in the Association's condition;
- vii) the establishment of a system for periodic, but not less than annual, review, evaluation, and written assessment of the performance of each member of management, including a determination of whether their performance and assigned responsibilities are commensurate with their compensation;

- viii) the establishment of an assessment of the skills and experience of the Board as a whole and determine whether the capabilities of the Board would be enhanced through the addition of persons with particular skills and experience; and
- ix) the establishment of a director education program designed to ensure that the Board has the skills and abilities necessary to effectively supervise the Association.

24. Within ten (10) days of completion, the Management Study shall be forwarded to the Board and the Regional Director. Upon notification of the Regional Director, the Board will direct the independent third-party to address any areas not sufficiently covered by the Management Study and submit a revised Management Study to the Board and the Regional Director within ten (10) days. The Board shall develop, implement, and adhere to a written plan that will correct any deficiencies noted in the Management Study, as revised, and send a copy of the written plan to the Regional Director upon approval by the Board.

Problem Assets.

25. Within thirty (30) days, the Board shall prepare and adopt a detailed, written plan with specific strategies, targets and timeframes to reduce⁴ the Association's level of criticized assets⁵ (Problem Asset Plan). At a minimum, the Problem Asset Plan shall require Management to prepare individual written asset resolution plans for each criticized asset and delinquent loan or group of loans to any one borrower of five-hundred thousand dollars (\$500,000) or greater (Asset Resolution Plans).

26. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending December 31, 2009, the Board shall review a quarterly written asset status report

⁴ For purposes of this Paragraph, "reduce" means to collect, sell, charge off, or improve the quality of an asset sufficient to warrant its removal from adverse criticism or classification.

⁵ The term "criticized assets" shall include all classified assets, assets designated special mention, all nonperforming assets and all delinquent loans.

(Quarterly Asset Report). The Quarterly Asset Report shall include, at a minimum:

- (a) the current status of all Asset Resolution Plans;
- (b) a detailed analysis of the calculation and adequacy of the Association's ALLL level and comparison of ALLL level to the total level of classified assets;
- (c) a comparison of classified assets to core and risk based capital;
- (d) a comparison of classified assets at the current quarter end with the preceding quarter;
- (e) a breakdown of classified assets by type (residential, acquisition and development, construction, land loans, etc.);
- (f) an assessment of the Association's compliance with the Problem Asset Plan; and
- (g) a discussion of the actions taken during the preceding quarter to reduce the Association's level of criticized assets and delinquent loans.

27. The Board's review of the Quarterly Asset Reports, and any corrective actions adopted by the Board, shall be fully documented in the appropriate Board meeting minutes. A copy of the Quarterly Asset Report and the Board meeting minutes detailing the Board's review shall be provided to the Regional Director within ten (10) days after the Board meeting.

Internal Asset Review, Classification and Financial Reporting.

28. Within fifteen (15) days, the Board shall certify in writing to the Regional Director that the Association's written internal asset review and classification program (ARC Program), as well as its financial reporting mechanisms, have been revised to, at a minimum:

- (a) ensure that the ARC Program provides for accurate and timely identification, classification and reporting of the Association's assets;
- (b) address all deficiencies and weaknesses and incorporates all recommended changes discussed in the 2009 ROE;

- (c) comply with 12 C.F.R. § 560.160, Section II G of Appendix A to the Safety and Soundness Standards of 12 C.F.R. Part 570, Generally Accepted Accounting Principles and Statements of Financial Accounting Standards, including requiring specific valuation allowances or charge-offs for assets classified loss;
- (d) conform to the guidance contained in Section 260 of the Examination Handbook (Classification of Assets) and Chief Executive Officer (CEO) Letter # 140 (Effective Internal Asset Review Systems, May 17, 2001);
- (e) require internal asset reviews and updates for income property loans, construction loans, and land loans to be conducted not less than every six (6) months;
- (f) provide for engagement of a qualified and experienced third party to conduct periodic reviews, but not less than annually, of the Association's loan portfolio and assess the Association's internal asset review process, including risk rating of loans; and
- (g) provide that policies, procedures, systems and processes ensure the prompt identification and recognition of losses and the reporting of such losses on the Thrift Financial Report pursuant to 12 C.F.R. §§ 562.1(b) and 562.1 (b)(2).

The Board shall ensure that the Association and Management adheres to and implements the ARC Program.

Allowance for Loan and Lease Losses.

29. Within thirty (30) days, the Board shall revise the Association's policies, procedures, and methodology to ensure the timely establishment and maintenance of an adequate ALLL level in accordance with applicable laws, regulations, and regulatory guidance (ALLL Policy). The ALLL Policy shall, at a minimum:

- (a) address the deficiencies and weaknesses and adopt the recommendations contained in the 2009 ROE;
- (b) consider the results of all internal loan reviews and classifications;
- (c) consider the historical loan loss rates of the Association for the preceding twelve (12) months covering an expanded segmentation of the Association's loan portfolio, updated quarterly with heavier weighting assigned to rates of the most recent quarters;
- (d) include an estimate of the potential loss exposure on each significant⁶ credit;
- (e) consider the impact of concentrations of credit, including geographic concentrations;
- (f) consider current and prospective market and economic conditions; and
- (g) conform to the regulatory requirements and guidance contained in: 12 C.F.R. § 560.160(b); the OTS Examination Handbook; the December 13, 2006 Interagency Policy Statement on ALLL (CEO Memorandum # 250); the July 27, 2000 Uniform Retail Credit Classification and Account Management Policy (CEO Memorandum # 128); Generally Accepted Accounting Principles (GAAP); and Statements of Financial Accounting Standards (SFAS).

A copy of the ALLL Policy and the Board meeting minutes reflecting the Board's adoption thereof shall be provided to the Regional Director within ten (10) days after the Board meeting.

30. Within thirty (30) days after the end of each calendar quarter, beginning with the quarter ending December 31, 2009, Management shall analyze the adequacy of the Association's ALLL consistent with the ALLL Policy and prepare and submit to the Board for review a written report detailing Management's analysis and conclusions (Quarterly ALLL Report). The Board's

⁶ A credit shall be considered significant for the purposes of assessing, establishing, and maintaining an appropriate level of ALLL if it is/was \$500,000 or greater at origination.

review of the Quarterly ALLL Report, including all qualitative factors considered in determining the adequacy of the Association's ALLL, shall be fully documented in the Board meeting minutes. Any deficiency in the ALLL shall be remedied in the quarter in which it is discovered and before the Association files its Thrift Financial Report (TFR) with the OTS.

Concentrations of Credit.

31. Within forty-five (45) days, the Association shall develop a written program for identifying, monitoring, and managing risks associated with concentrations of credit that is acceptable to the Regional Director (Credit Concentration Program). The Credit Concentration Program shall, at a minimum:

- (a) establish comprehensive and reasonable loan concentration limits expressed as a percent of total risk-based capital and document and support the appropriateness of such limits;
- (b) establish additional stratification levels and enhanced risk analysis, monitoring, and management of the concentrations of credit in nonresidential real estate loans and land loans;
- (c) contain specific review procedures and reporting requirements, including written reports to the Board, designed to identify, monitor, and control the risks associated with concentrations of credit; and
- (d) contain a written action plan, including specific time frames, for reducing the level of concentrations and the risks associated with the Association's concentrations of credit in nonresidential real estate loans and land loans.

32. Upon receipt of notification from the Regional Director that the Credit Concentration Program is acceptable, the Board shall adopt and ensure that the Association implements and adheres to the Credit Concentration Program.

33. Within thirty (30) days after the close of each calendar quarter, beginning with the quarter ending December 31, 2009, the Board shall review the Association's compliance with the revised Credit Concentration Program. The Board's review and assessment of the Association's compliance with the Credit Concentration Program shall be fully documented in the appropriate Board meeting minutes.

Loans to One Borrower.

34. Within forty-five (45) days, the Board shall amend its policies and procedures to address the weaknesses and deficiencies identified in the 2009 ROE and ensure the Association's compliance with the Loans to One Borrower (LTOB) requirements set forth in 12 CFR § 560.93 (LTOB Policies). At a minimum, the Association's LTOB Policies shall ensure that all renewals, restructurings or modifications of nonconforming loans comply with 12 C.F.R. § 32.6 as incorporated within 12 C.F.R. § 560.93.

Severance and Indemnification Payments.

35. Effective immediately, the Association shall not make any golden parachute payment⁷ or any prohibited indemnification payment⁸ unless, with respect to each such payment, the Association has complied with the requirements of 12 C.F.R. Part 359 and, as to indemnification payments, 12 C.F.R. § 545.121.

⁷ The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

⁸ The term "prohibited indemnification payment" is defined at 12 C.F.R. § 359.1(l).

Third Party Contracts.

36. Effective immediately, the Association shall not enter into any new arrangement or contract with a third party service provider unless, with respect to each such contract, the Association has (a) provided the OTS with a minimum of thirty (30) days prior written notice of such arrangement or contract and (b) received written notice of non-objection from the Regional Director.

Directorate and Management Changes.

37. Effective immediately, the Association shall comply with the prior notification requirements for changes in directors and Senior Executive Officers⁹ set forth in 12 C.F.R. Part 563, Subpart H.

Dividends.

38. Effective immediately, the Association shall pay no dividends or make any other capital distributions, as that term is defined in 12 CFR § 563.141, without receiving the prior written approval of the Regional Director.

Brokered Deposits.

39. Effective immediately, the Association shall comply with the brokered deposit restrictions contained in 12 C.F.R. § 337.6(b).

Employment Contracts and Compensation Arrangements.

40. Effective immediately, the Association shall not enter into, renew, extend or revise any contractual arrangement relating to compensation or benefits for any Senior Executive Officer or director of the Association, unless it first provides OTS with not less than thirty (30) days prior written notice of the proposed transaction and receives a written notice of non-objection from the

⁹ The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

Regional Director. The notice to OTS 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 officer or director, including all benefits and perquisites. The Board shall ensure that any contract, agreement or arrangement submitted to OTS fully complies with the requirements of 12 C.F.R Part 359, 12 C.F.R §§ 563.39 and 563.161(b), and 12 C.F.R Part 570 – Appendix A.

Transactions with Affiliates.

41. Effective immediately, the Association shall not engage in any transaction with an affiliate unless, with respect to each such transaction, the Association has complied with the notice requirements set forth in 12 C.F.R § 563.41(c)(4), which shall include the information set forth in 12 C.F.R § 563.41(c)(3). The Board shall ensure that any transaction with an affiliate for which notice is submitted pursuant to this Paragraph, complies with the requirements of 12 C.F.R § 563.41 and Regulation W, 12 C.F.R Part 223.

Applications and Notices and Related Fees.

42. Effective immediately, the Association no longer qualifies for expedited treatment for applications and notices filed with the OTS. As a result, application fees may be higher, pursuant to 12 C.F.R. § 516.5 and OTS Thrift Bulletin 48-25.

OTS Assessments.

43. Effective immediately, the Association is subject to the payment of a higher assessment, pursuant to 12 C.F.R. Part 502 and OTS Thrift Bulletin 48-25.

Violations of Law.

44. Within thirty (30) days, the Board shall ensure that all violations of law, rule, and/or regulation discussed in the 2009 ROE are corrected. Within thirty (30) days, the Board shall

prepare, adopt, and thereafter ensure that the Association adheres to specific procedures to prevent future violations.

45. Within thirty (30) days of receipt of any subsequent OTS Report of Examination, internal audit report, independent external audit report, or other report prepared by the Association's employees, agents, or independent contractors, which cites or discusses any violation of law, rule, or regulation, the Board shall prepare, adopt, and thereafter ensure the Association adheres to specific procedures to correct such violations and prevent future violations.

Board Compliance Committee.

46. Within ten (10) days, the Board shall appoint a committee (Regulatory Compliance Committee) comprising four or more non-employee directors to monitor and coordinate the Association's compliance with the provisions of this Order and the completion of all corrective action required in the 2009 ROE.

47. Within ten (10) days after the end of each calendar month, beginning with the month ending October 31, 2009, the Regulatory Compliance Committee shall submit a written progress report to the Board detailing the actions taken to comply with each provision of this Order, the corrective actions required by the 2009 ROE, and the results of all such actions. The Board shall review the Regulatory Compliance Committee's progress report and adopt a resolution: (i) certifying that each director has reviewed the progress report; (ii) detailing the Association's compliance with the provisions of this Order and the corrective actions contained in the 2009 ROE; (iii) identifying each instance of noncompliance; and (iv) setting forth in detail additional corrective actions or steps adopted or required by the Board to address each instance of noncompliance.

48. Within ten (10) days after the end of each calendar month, the Board shall submit to the Regional Director: (i) a copy of the Regulatory Compliance Committee's quarterly progress report required by Paragraph 48 of this Order; and (ii) a copy of the Board resolution required by Paragraph 48 of this Order, including the Board meeting minutes. Nothing contained herein shall diminish the responsibility of the entire Board to ensure the Association's compliance with the provisions of this Order.

Effective Date, Incorporation of Stipulation.

49. 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.

50. 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.

51. 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.

52. 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 Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

Submissions and Notices.

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

54. 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
Office of Thrift Supervision
One South Wacker Drive, Suite 2000
Chicago, Illinois 60606
Facsimile: (312) 917-5002

- (b) To the Association:
Chairman of the Board
Liberty Bank
2370 Vanderbilt Beach Road
Naples, Florida 34109
Facsimile: (239) 649-5770

No Violations Authorized.

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

IT IS SO ORDERED.

OFFICE OF THRIFT SUPERVISION

By: _____ /s/
Daniel T. McKee
Regional Director, Central Region

Date: See Effective Date on page 1

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

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In the Matter of)	Order No.: CN 09-32
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LIBERTY BANK)	Effective Date: October 14, 2009
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Naples, Florida)	
OTS Docket No. 18005)	
_____)	

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 Central Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Liberty Bank, Naples, Florida, OTS Docket No.18005 (Association) that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association 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 association has consented to the issuance of an order; and

WHEREAS, the Association 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 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 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

Jurisdiction.

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is “an insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).
2. 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 association. Therefore, the Association 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.

3. Based on its June 1, 2009 Report of Examination of the Association (2009 ROE), the OTS finds that the Association has engaged in violations of applicable laws and regulations, failed to comply with regulatory guidelines, and engaged in unsafe or unsound banking practices including, but not limited to:
 - (a) operating the Association with an inadequate level of capital protection for the volume, type, and quality of assets held by the Association;
 - (b) operating without an adequate business plan;
 - (c) operating the Association with inadequate earnings to augment capital;
 - (d) operating the Association with an excessive level of adversely classified loans and assets;
 - (e) operating with an inadequate allowance for loan and lease losses (ALLL) methodology;
 - (f) operating with an inadequate level of ALLL for the volume, type, and quality of loans

- and leases held;
- (g) operating the Association with excessive concentrations of nonresidential real estate loans, land loans, construction loans, and commercial loans as described in the 2009 ROE;
 - (h) operating with inadequate funds management policies and liquidity for the Association's asset and liability mix;
 - (i) violating 12 C.F.R. § 560.160 (Asset Classification); and
 - (j) operating in contravention of supervisory policy statements and other guidance, including, but not limited to, Interagency Guidelines Establishing Standards for Safety and Soundness at 12 C.F.R. Part 570 – Appendix A; Chief Executive Officer (CEO) Memorandum No. 252 - Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices (December 14, 2006), the CEO Memorandum # 128 - Uniform Retail Credit Classification and Account Management Policy (July 27, 2000); Interagency Guidelines for Real Estate Lending Policies at 12 C.F.R. § 560.101; and CEO Memorandum No. 250 - Interagency Policy Statement on the Allowance for Loan and Lease Losses (December 13, 2006).

Consent.

4. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association 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.

5. 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.

6. The Association 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.

7. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association 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.

8. The Association 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 7 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any

way affect any actions, charges against, or liability of the Association 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.

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

10. 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.

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

12. 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.

13. 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.

14. 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.

15. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation.

WHEREFORE, the Association, by its directors, executes this Stipulation.

Accepted by:

LIBERTY BANK
Naples, Florida

OFFICE OF THRIFT SUPERVISION

_____/s/_____
William A. Krause, Chairman

By:_____/s/_____
Daniel T. McKee
Regional Director, Central Region

Date: See Effective Date on page 1

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LIBERTY BANK
Naples, Florida

/s/
John D. Carpenter, Director

/s/
Donald D. Dyer, Director

/s/
Jeffrey L. Henning, Director

/s/
Russell G. Olson, Director

/s/
Gary A. Parsons, Director

/s/
Christopher J. Risewick, Director

/s/
Robert O. Smedley, Director