

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )	Order No.: WN-09-037
)	
<b>GRAND MOUNTAIN BANCSHARES, INC.</b> )	Effective Date: November 9, 2009
)	
Granby, Colorado )	
OTS Docket No. H4351 )	
_____ )	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Grand Mountain Bancshares, Inc., Granby, Colorado, OTS Docket No. H4351 (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 deteriorating asset quality, ineffective risk management practices, and inadequate oversight and supervision of the lending function at its wholly owned subsidiary, Grand Mountain Bank, FSB, Granby, Colorado (Association).

**Capital.**

2. Within sixty (60) days, the Holding Company shall submit for Regional Director review and comment a consolidated capital plan to preserve and enhance the capital of the Holding Company and the Association (Capital Plan). At a minimum, the Capital Plan shall:

- (a) consider the requirements and restrictions imposed by this Order and the Order to Cease and Desist issued by the OTS against the Association, dated November 9, 2009; and
- (b) detail how the Association shall meet and maintain capital ratios of at least eight percent (8%) Tier 1 Core Capital and twelve percent (12%) Total Risk-Based Capital, including a specific description of the method(s) by which additional capital will be raised, if necessary, and an identification of the sources of such capital.

3. Within fifteen (15) days of receipt of any comments from the Regional Director, the Board shall make the changes, if any, to the Capital Plan required by the Regional Director. Thereafter, the Board shall adopt and the Holding Company shall implement and comply with the Capital Plan. Within five (5) days of the Board meeting at which it was adopted, the Holding Company shall provide a copy of the final Capital Plan to the Regional Director.

**Capital Distributions and Stock Repurchases.**

4. Effective immediately, the Holding Company shall not declare, make, or pay any dividends or other capital distributions, or repurchase or redeem any capital stock without receiving the prior written non-objection of the Regional Director. The Holding Company's

written request for such non-objection shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of the proposed dividend payment, capital distribution or stock redemption.

**Debt Limitations/Restrictions.**

5. Effective immediately, the Holding Company shall not incur, issue, renew, repurchase, or rollover any debt, increase any current lines of credit, or guarantee the debt of any entity without receiving the prior written notice of non-objection of the Regional Director. The Holding Company's written request for such non-objection shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of any such proposed action.

**Payment Limitations/Restrictions.**

6. Effective immediately, the Holding Company shall make no payments (including but not limited to principal, interest, or fees of any kind) on any existing debt without receiving the prior written non-objection of the Regional Director. The Holding Company's written request for such non-objection shall be submitted to the Regional Director at least thirty (30) days prior to the anticipated date of any such proposed payment.

**Operations Plan.**

7. Within sixty (60) days, the Holding Company shall submit to the Regional Director for review and comment an Operations Plan that addresses how the Holding Company will meet all financial obligations for the remainder of 2009 through 2012, including, but not limited to, payments on senior notes, dividend payments on preferred stock, and interest payments on trust preferred securities without reliance on dividends from the Association. The Operations Plan shall include, at a minimum, comprehensive pro forma cash flow projections detailing all anticipated

sources and uses of funds, including, but not limited to, any scheduled payment obligations of Holding Company related to outstanding debt, operating expenses, and equity issuances.

8. Within fifteen (15) days of receipt of any comments from the Regional Director, the Board shall make the changes, if any, to the Operations Plan required by the Regional Director.

Thereafter, the Board shall adopt and the Association shall implement and comply with the Operations Plan. Within five (5) days of the Board meeting at which it was adopted, the Association shall provide a copy of the Operations Plan to the Regional Director.

9. Any request to modify the Operations Plan shall be submitted to Regional Director for review and written non-objection at least thirty (30) days prior to the proposed date to implement any such modification.

10. On a quarterly basis, beginning with the quarter ending December 31, 2009, the Board shall review a report prepared by Management detailing the adequacy of the Operations Plan given the projected financial obligations of the Holding Company and actual operating results, including a detailed description of any material deviations from the Operations Plan and a description of the corrective actions or measures that have been implemented or are proposed to address each material deviation (Variance Analysis Report).

11. Within forty-five (45) days after the end of each quarter, beginning with the quarter ending December 31, 2009, the Board shall provide the Regional Director with a copy of each Variance Analysis Report, and the minutes from the Board meeting containing the Board's discussion of the Variance Analysis Report, including, if applicable, any Board discussion of possible modifications to the Operations Plan.

### **Thrift Oversight.**

12. Effective immediately, the Holding Company shall ensure the Association's compliance with applicable laws, rules and regulations and all terms and conditions of the Order to Cease and Desist issued by the OTS against the Association, dated November 9, 2009.

### **Directorate and Management Changes.**

13. Effective immediately, the Holding Company shall comply with the prior notification requirements for changes in directors and Senior Executive Officers<sup>1</sup> set forth in 12 C.F.R. Part 563, Subpart H.

### **Employment Contracts/Compensation Arrangements.**

14. 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 Senior Executive 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 officer or director, including 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 and 31 C.F.R. Part 30.

### **Severance and Indemnification Payments.**

15. Effective immediately, the Holding Company shall not make any golden parachute payment<sup>2</sup> or prohibited indemnification payment<sup>3</sup> unless, with respect to each such payment, the Holding Company has complied with the requirements of 12 C.F.R. Part 359.

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<sup>1</sup> The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

<sup>2</sup> The term "golden parachute payment" is defined at 12 C.F.R. § 359.1(f).

<sup>3</sup> The term "prohibited indemnification payment" is defined at 12 C.F.R. § 359.1(1).

**Effective Date, Incorporation of Stipulation.**

16. 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.**

17. 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.**

18. 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.

19. 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.**

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

21. 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:

C.K. Lee, Regional Director  
Office of Thrift Supervision, Western Region  
225 E. John Carpenter Freeway, Suite 500  
Irving, TX 75062-2326

With a copy to:

Nicholas J. Dyer, Assistant Director  
Office of Thrift Supervision, Western Region  
2001 Junipero Serra Boulevard, Suite 650  
Daly City, CA 94014-3897

(b) To the Holding Company:

John B. Selman, Chairman  
Grand Mountain Bancshares, Inc.  
Post Office Box 964  
Granby, CO 80446

**No Violations Authorized.**

22. 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**  
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**OFFICE OF THRIFT SUPERVISION**

In the Matter of	)	Order No.: WN-09-037
	)	
<b>GRAND MOUNTAIN BANCSHARES, INC.</b>	)	Effective Date: November 9, 2009
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Granby, Colorado	)	
OTS Docket No. H4351	)	
	)	

**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 Grand Mountain Bancshares, Inc., Granby, Colorado, OTS Docket No. H4351 (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 cease and desist proceedings 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 ongoing supervision of the Holding Company, the OTS finds that the Holding Company has engaged in unsafe and unsound practices by failing to ensure that its wholly owned savings association subsidiary, Grand Mountain Bank, FSB (Association), did not engage in unsafe and unsound practices that resulted in deteriorating asset quality, ineffective risk management practices, and inadequate oversight and supervision of the lending function at the Association.

### **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.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

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

Accepted by:

**GRAND MOUNTAIN BANCSHARES, INC.**  
**Granby, Colorado**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_ /s/  
John B. Selman  
Chairman

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

Date: See Effective Date on page 1

\_\_\_\_\_/s/  
Alan Carter, Director

\_\_\_\_\_/s/  
Frank DeLay, Director

\_\_\_\_\_/s/  
Mark Lund, Director

\_\_\_\_\_/s/  
Mac McLennan, Director

\_\_\_\_\_/s/  
James Roberts, Director

\_\_\_\_\_/s/  
Tim Thorpe, Director

\_\_\_\_\_/s/  
Michael Tompkins, Director

\_\_\_\_\_/s/  
Lorence Wheeler, Director