

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)
First National Bank of Newton)
Newton, Illinois)

CONSENT ORDER

The **First National Bank of Newton, Newton, Illinois** (Bank), by and through its duly elected and acting Board of Directors (Board), has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated October 24, 2000, that is accepted by the Comptroller of the Currency of the United States of America (Comptroller). By this Stipulation and Consent, that is incorporated by reference, the Bank has consented to the issuance of this Consent Order (Order) by the Comptroller.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

APPOINTMENT OF NEW DIRECTORS

The Board shall within **thirty (30)** days take action to fill the existing vacancies on the Board. Prior to appointing any new director, the Bank must provide the Assistant Deputy Comptroller with written notice as required by 12 C.F.R. § 5.51 (notice forms and instructions are in the

“Changes in Directors and Senior Executive Officers” booklet of the Comptroller’s Corporate Manual).

The Assistant Deputy Comptroller shall have the power of veto over the appointment of the proposed new director. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed director.

The requirement to submit information and the prior veto provisions of this Article are based on the authority of 12 U.S.C. § 1818(b) and do not require the Comptroller to complete his review and act on any such information or authority within ninety (90) days.

If the Board is unable to identify any qualified director candidates within **thirty (30)** days, the Board shall document its efforts to locate such candidates, and notify the Assistant Deputy Comptroller in writing. Thereafter, the Board shall provide monthly reports to the Assistant Deputy Comptroller summarizing its continuing efforts to locate such candidates.

ARTICLE II

BOARD TO ENSURE COMPETENT MANAGEMENT

Within **thirty (30)** days, the Board shall ensure that the Bank has competent management in place on a full-time basis in its Chief Executive Officer and Senior Loan Officer positions to carry out the Board’s policies, ensure compliance with this Order, applicable laws, rules and regulations, and manage the day-to-day operations of the Bank in a safe and sound manner.

Within **sixty (60)** days, the Board shall review the capabilities of the Bank’s management to perform present and anticipated duties and the Board will determine whether management changes should be made, including the need for additions to or deletions from current management.

If a position mentioned in Paragraph (1) of this Article is vacant now or in the future, including if the Board realigns an existing officer's responsibilities and a position mentioned in Paragraph (1) of this Article becomes vacant, the Board shall within **thirty (30)** days of such vacancy appoint a capable person to the vacant position who shall be vested with sufficient executive authority to ensure the Bank's compliance with this Order and the safe and sound operation of functions within the scope of that position's responsibility.

Prior to the appointment of any individual to an executive officer position, the Board shall submit to the Assistant Deputy Comptroller the following information:

- (a) the information sought in the "Changes in Directors and Senior Executive Officers" booklet of the Comptroller's Corporate Manual, together with a legible fingerprint card for the proposed individual;
- (b) a written statement of the Board's reasons for selecting the proposed officer; and
- (c) a written description of the proposed officer's duties and responsibilities.

The Assistant Deputy Comptroller shall have the power of veto over the employment of the proposed executive officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer.

The requirement to submit information and the prior veto provisions of this Article are based on the authority of 12 U.S.C. § 1818(b)(6)(E) and do not require the Comptroller to complete his review and act on any such information or authority within ninety (90) days.

ARTICLE III

STRATEGIC PLAN

Within **forty-five (45)** days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written strategic plan for the Bank covering at least a three-year period. The strategic plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, reduction in the volume of nonperforming assets, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) an identification of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in (1)(c) of this Article;
- (e) an evaluation of the Bank's internal operations, staffing requirements, board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed under (1)(c) of this Article;

- (f) a management employment and succession program to promote the retention and continuity of capable management;
- (g) product line development and market segments that the Bank intends to promote or develop;
- (h) an action plan to improve bank earnings and accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;
- (i) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the strategic plan;
- (j) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment;
- (k) specific plans to establish responsibilities and accountability for the strategic planning process, new products, growth goals, or proposed changes in the Bank's operating environment; and
- (l) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

Upon adoption, a copy of the plan shall be forwarded to the Assistant Deputy Comptroller for review and approval.

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

ARTICLE IV

MANAGEMENT FEES TO AFFILIATE

Prior to the payment of any management and other fees to any affiliate of the Bank as defined in 12 U.S.C. § 221a and 12 U.S.C. § 371c (Affiliate), the Board, or delegated committee of the Board, shall document and support, in writing, that such fees:

- (a) are reasonable;
- (b) have a direct relationship to, and are based solely upon, the fair value of goods and services received by the Bank; and
- (c) compensate the Affiliate only for providing goods and services which meet the legitimate needs of the Bank.

All documentation supporting the payment of management and other fees to an Affiliate, shall be preserved in the Bank.

ARTICLE V

MANAGEMENT FEES TO INDIVIDUAL

Prior to the payment of any salary, consulting fee, expense reimbursement or other type of compensation to a principal shareholder, director, or related interest of such as defined in 12 C.F.R. Part 215 (Individual), the Board shall, at a minimum and in writing, determine that such remuneration:

- (a) is reasonable;
- (b) has a direct relationship to, and is based solely upon, the fair value of goods and services received by the Bank; and

- (c) compensates the Individual only for providing goods and services which meet the legitimate needs of the Bank.

In addition to the requirements of the preceding paragraph of this Article, the Board shall review and maintain:

- (d) written documentation of all services rendered by the Individual;
- (e) records indicating the day(s) and time periods during which the Individual's services were performed;
- (f) expense vouchers and receipts for all reimbursable expenses; and
- (g) an analysis of the services rendered by the Individual to ensure that the Bank has received the full benefit to which it is entitled.

All documentation supporting the payment of any salary, consulting fee, expense reimbursement or other type of compensation to an Individual shall be preserved in the Bank.

ARTICLE VI

INSIDER BUSINESS TRANSACTIONS

The Bank may enter into a Business Transaction with an Insider only if the Business Transaction is:

- (a) made on terms and under circumstances that are substantially the same, or at least as favorable to the Bank, as those prevailing at the time for comparable transactions with or involving other companies or individuals who are not Insiders or related interests of Insiders;
- (b) made, in the absence of comparable transactions, on reasonable commercial terms entered into in good faith and reflecting comparable

service fees payable to similarly situated service providers (for example, professional service contracts);

- (c) preceded by a finding by the Board that the primary purpose of the Business Transaction is to further the best interests of the Bank; and
- (d) approved in advance by a majority of the entire Board, not merely a quorum thereof, with any interested Insider abstaining from voting and participating directly or indirectly in the deliberations regarding the approval.

For purposes of this Order, the following definitions shall apply:

- (e) "Related Interest" shall have the same meaning as set forth in 12 C.F.R. § 215.2.
- (f) "Business Transaction" means any single transaction in excess of \$ 500 or which creates an aggregate relationship in excess of \$ 500 (including any renewal of or changes to an existing transaction). "Business Transaction" applies to transactions and relationships other than as a depositor, borrower, employee or director, and excludes Bank income tax payments and dividends lawfully made to First National Bancshares in Newton (the Bank's holding company).
- (g) "Company" shall have the same meaning as set forth in 12 C.F.R. § 215.2.
- (h) "Person" shall mean an individual or a company.
- (i) "Control" shall mean the power to vote directly or indirectly 25 percent or more of any class of voting securities of a company, the ability to control in any manner the election of a majority of a company's directors, or the

ability to exercise a controlling influence over the management and policies of a company. Any general partner of a partnership is presumed to control the partnership. A person who directly or indirectly owns, controls, or has power to vote at least 10 percent of any class of voting securities of a company and is an executive officer or director of that company is deemed to control that company by exercising a controlling influence over that company.

- (j) “Insider” shall have the same meaning as set forth in 12 C.F.R. § 215.2.

ARTICLE VII

NEW PRODUCTS AND SERVICES

(1) Prior to the Bank's involvement in any new products or services not addressed in the Strategic Plan the Board shall prepare a written analysis of said product or service. The analysis shall, at a minimum, assess:

- (a) the risks and benefits of the product or service to the Bank, and
- (b) the staffing needs associated with such new product or service, including an identification of the skills and expertise needed to develop, market, and administer the product or service and a comparison of those needed skills and expertise to the current staff's skills and expertise.

A copy of the analysis shall be submitted to the Assistant Deputy Comptroller, prior to the Bank's involvement in the product or service.

ARTICLE VIII

CONCENTRATIONS OF CREDIT

(1) Within sixty (60) days, the Board shall adopt and implement an asset diversification program consistent with OCC Banking Circular 255. The program shall include, but not necessarily be limited to, the following:

- (a) a review of the balance sheet to identify any concentrations of credit;
- (b) a written analysis of any concentration of credit identified above in order to identify and assess the inherent credit and interest rate risk;
- (c) policies and procedures to control and monitor concentrations of credit;
and
- (d) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis.

(2) For purposes of this article, a concentration of credit is as defined in Section 216 of the Comptroller's Handbook for National Bank Examiners.

(3) The Board shall ensure that future concentrations of credit are subjected to the analysis required by subparagraph (b) and that the analysis demonstrate that the concentration will not subject the Bank to undue credit or interest rate risk.

(4) The Board shall forward a copy of any analysis performed on existing or potential concentrations of credit to the Assistant Deputy Comptroller immediately following the review.

ARTICLE IX

CLOSING

Although the Board is by this Order required to submit certain proposed actions and programs for the review or approval of the Assistant Deputy Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank.

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

Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

IT IS SO ORDERED, this 24th day of October, 2000.

/signed/

10/24/2000

Richard A. McElmurry
Assistant Deputy Comptroller
Champaign/Indianapolis Field Offices

Date

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:)
First National Bank of Newton)
Newton, Illinois)

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (Comptroller) has initiated cease and desist proceedings against First National Bank of Newton, Newton, Illinois (Bank) pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated 10/24/00 (Order);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

Jurisdiction

- (1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*
- (2) The Comptroller is “the appropriate Federal banking agency” regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an “insured depository institution” within the meaning of 12 U.S.C. § 1818(b)(1).

ARTICLE II

Agreement

(1) The Bank, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller. The Bank further agrees that said Order shall be deemed an “order issued with the consent of the depository institution” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i).

ARTICLE III

Waivers

- (1) The Bank, by signing this Stipulation and Consent, hereby waives:
- (a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (b) any and all procedural rights available in connection with the issuance of the Order;
 - (c) all rights to seek any type of administrative or judicial review of the Order; and
 - (d) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

Other Action

(1) The Bank agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him/her by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/signed/

10/24/00

Richard A. McElmurry
Assistant Deputy Comptroller
Champaign/Indianapolis Field Offices

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

/signed/
Joe C. Bierman

7/25/00
Date

/signed/
Donald Barton, Jr.

8/4/00
Date

/signed/
Stanley Stein

7/21/00
Date

/signed/
Debra E. Yager

10/24/00
Date

/signed/
John Birkhofer

10/24/00
Date
