

#2003-14 also *Terminates*
#2001-89 and #2002-90

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

In the Matter of:)
First National Bank of Northern Kentucky)
Fort Mitchell, Kentucky)

CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller), through his National Bank Examiner, has examined First National Bank of Northern Kentucky, Fort Mitchell, Kentucky (Bank), and his findings are contained in the Report of Examination for the examination that commenced on July 15, 2002 (ROE).

The 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 February 7, 2003 that is accepted by the 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/her by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article I

COMPLIANCE COMMITTEE

(1) Within 30 days, the Board shall appoint a Compliance Committee of at least 3 directors, none of whom shall be employees of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1)), or a family member of any such person. Upon appointment of the Committee members, the Board shall submit the names of the members in

writing to the Director for Special Supervision/Fraud (Director). The Compliance Committee shall monitor and coordinate the Bank's adherence to the provisions of this Order.

(2) The Compliance Committee shall meet at least monthly.

(3) Within 15 days of the appointment of the Committee and every thirty (30) days thereafter, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) actions taken to comply with each Article of this Order; and
- (b) the results of those actions.

(4) The Board shall, within fifteen (15) days of receipt of the progress report, forward a copy of the Compliance Committee's progress report with any additional comments by the Board, to the Director.

Article II

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall maintain the following minimum capital levels (as defined in 12 C.F.R. Part 3):

- (a) Tier 1 capital at least equal to twelve percent (12%) of risk-weighted assets;
- (b) Tier 1 capital at least equal to nine percent (9%) of actual adjusted total assets.¹

(2) The requirement in this Order to meet and maintain a specific capital level means that the Bank may not be deemed to be "well capitalized" for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6 pursuant to 12 C.F.R. § 6.4(b)(1)(iv).

¹ As further noted in 12 C.F.R. § 3.2(a), the OCC reserves the right to require the Bank to compute and maintain its leverage ratio on the basis of actual, rather than average total assets.

(3) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and thereafter ensure adherence to a three-year capital program. The program shall include:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1), unless specifically approved in writing by the Director;
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;
- (d) the primary source(s) from which the Bank will strengthen its capital structure to meet the Bank's needs;
- (e) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available;
- (f) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital program;
 - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (iii) with the prior written determination of no supervisory objection by the Director.
- (g) specific plans detailing how the Bank will comply with the restrictions or requirements set forth in this Order and 12 U.S.C. § 1831o, including the restrictions against brokered deposits in 12 C.F.R. § 337.6.

(4) Upon completion, the Bank's capital program shall be submitted to the Director for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Director, the Bank shall implement and adhere to the capital program. The Board shall review and update the Bank's capital program on an annual basis, or more frequently if necessary. Copies of the reviews and updates shall be submitted to the Director.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(6) If the OCC determines, in its sole judgment, that the Bank has failed to submit an acceptable capital program as required by paragraph (3) of this Article, or fails to implement or adhere to a capital program for which the OCC has taken no supervisory objection pursuant to paragraph (4) of this Article, then within thirty (30) days of receiving written notice from the OCC of such fact (including an explanation of the reasons for such determination), the Bank shall develop and submit to the OCC for its review and prior determination of no supervisory objection a revised capital plan or, if so directed by the OCC, a capital contingency plan, which shall detail the Board's proposal to sell or merge the Bank, or liquidate the Bank under 12 U.S.C. § 181. After the OCC has advised the Bank that it does not take supervisory objection to the capital contingency plan, the Board shall immediately implement, and shall thereafter ensure adherence to, the terms of the contingency plan, unless the Bank receives no supervisory objection from the Director to a revised capital plan. Failure to submit a timely, acceptable contingency plan may be deemed a violation of this Order, in the exercise of the OCC's sole discretion.

Article III

STRATEGIC PLAN

(1) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall adopt, implement, and thereafter ensure 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 non-performing 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) a formal assessment of the Bank's present and future operating environment to include a written risk management program consistent with the Bank Supervision Process booklet, EP-Sup, of the Comptroller's Handbook to include, at a minimum, the following:
 - (i) identification of existing credit, interest rate, liquidity, transaction, compliance, strategic, reputation, price, and foreign currency translation risks, if any, and a written analysis of those risks to the extent they exist;
 - (ii) action plans and time frames to reduce risks in areas identified as high risk to include those discussed in the Report of Examination;
 - (iii) reasonable and appropriate limits for credit, interest rate, liquidity, transaction, compliance, strategic, reputation, price, and foreign

currency translation risks, which limits shall be consistent with the Strategic Plan and defined in terms of readily measurable standards;

- (iv) policies, procedures and control systems to ensure that the Bank complies with the risk limits approved by the Board. These policies, procedures and control systems shall require analyzing and limiting the risks associated with any new lines of business, which the Bank undertakes. The policies, procedures and control systems shall ensure that strategic direction and risk tolerances are effectively communicated and followed by relevant personnel throughout the Bank and shall describe the actions to be taken where noncompliance with risk policies is identified;
 - (v) systems to measure and control risks within the Bank, which must provide timely and accurate risk reports sortable by customer and by department, division, or other categories as appropriate, as well as bankwide; and
 - (vi) policies and procedures to ensure that relevant Bank employees have the necessary skills to supervise effectively the current and the new business risks within the Bank, and procedures to describe the actions to be taken to address deficiencies in staff levels and skills.
- (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 market and 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 hiring, retention and continuity of capable management;
- (g) 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
- (h) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(2) Upon adoption, a copy of the plan shall be forwarded to the Director for review and prior determination of no supervisory objection.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the plan developed pursuant to this Article.

(4) Failure to submit a timely, acceptable strategic plan may be deemed a violation of this Order, in the exercise of the OCC's sole discretion.

Article IV

PROFIT PLAN

(1) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and thereafter ensure adherence to a written profit plan to improve and sustain the earnings of the Bank. This plan shall cover at least a three-year period, consistent with the Strategic Plan, and shall include, at minimum, the following elements:

- (a) identification of the major areas and means by which the Board will seek to improve the Bank's operating performance;
- (b) realistic and comprehensive budgets, including projected balance sheets and year-end income statements;
- (c) a budget review process to monitor both the Bank's income and expenses, and to compare actual figures with budgetary projections; and
- (d) a description of the operating assumptions that form the basis for major projected income and expense components.

(2) The Board shall submit the budgets and related documents required in paragraph (1) above for 2003 to the Director upon completion. Thereafter, the Board shall submit to the Director annual budgets as described in paragraph (1) above, on or before November 30, of the preceding year, for each year this Order remains in effect.

(3) The Board shall forward comparisons of its actual balance sheet and profit and loss statement to the profit plan projections to the Director on a quarterly basis.

(4) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the plan developed pursuant to this Article.

Article V

BOARD'S COMMITTEE STRUCTURE

- (1) Within sixty (60) days, the Compliance Committee shall conduct a review of the Board's committee structure. The review shall include:
 - (a) a detailed description of the responsibilities currently assigned to the existing committees, the composition of each committee, and the technical expertise (if any) which the Board currently requires for members of each committee;
 - (b) a detailed evaluation of the performance of the existing committee structure; and
 - (c) specific recommendations to improve the performance of each committee and the committee structure as a whole.
- (2) Upon completion of the review, the Board shall forward a copy of the review to the Director along with a copy of the Board resolution making appropriate adjustments in the committee structure.

Article VI

NEW SENIOR EXECUTIVE OFFICERS

- (1) Within sixty (60) days, the Board shall identify a new capable President and, within sixty (60) days thereafter, shall identify a new capable Senior Loan Officer who, following review and no objection by the Director, shall both be vested with sufficient executive authority to fulfill the duties and responsibilities of their positions and ensure the safe and sound operation of the Bank.

(2) Prior to the appointment of any individual as President or Senior Loan Officer, the Board shall submit to the Director 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.

(3) The Director shall have the power of veto over the initial employment of the proposed President and the proposed Senior Loan Officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer.

(4) 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.

Article VII

BOARD TO ENSURE COMPETENT MANAGEMENT

(1) The Board shall ensure that the Bank hires and thereafter maintains competent management 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, in particular in its Chief Executive Officer; President; Senior Loan Officer; Cashier; Compliance Officer; and IT Manager positions.

(2) Within one hundred twenty (120) days, the Board, or a designated committee shall for its management personnel:

- (a) identify the skills and expertise needed by management personnel to develop, market, administer and support the products identified in the strategic plan and otherwise operate the bank in a safe and sound manner;
- (b) develop position descriptions, duties and responsibilities for each officer position;
- (c) assess each current officer's experience; other qualifications and performance compared to the position's description, duties and responsibilities;
- (d) determine whether management changes should be made, including the need for additions to or deletions from current management.

(3) Within thirty (30) days of the analysis noted in (2) of this Article, the Board shall determine, and thereafter direct the Bank to begin implementing any changes necessary to provide the Bank with a management staff that possesses the skills and expertise identified in this Article.

(4) If the Board determines pursuant to paragraphs (2) and (3) that an officer will continue in his/her position but that the individual's skills needs improvement, the Bank (subject to Board review, approval, and ongoing monitoring) shall, within the next thirty (30) days, develop and implement a written program, with specific time frames, to improve the officer's skills. At a minimum the written program with respect to such officer shall include:

- (a) an education program designed to ensure that the officer has skills and abilities necessary to supervise effectively;
- (b) specific additional steps necessary to improve the effectiveness of the officer;

- (c) objectives by which the officer's effectiveness will be measured; and
- (d) a performance appraisal program for evaluating performance according to the position's description and responsibilities and for measuring performance against the Bank's goals and objectives.

(5) If the analysis under paragraphs (2) and (3) results in an officer vacancy, including if the Board realigns an existing officer's responsibilities or an officer position becomes vacant, the Board shall within sixty (60) days of such vacancy identify a capable person to fill the position who shall be vested with sufficient executive authority to ensure the safe and sound operation of functions within the scope of that position's responsibility.

(6) Within sixty (60) days of the analysis under paragraph (2), the Board shall implement an ongoing development program for Bank staff. The program, at a minimum, should provide for continuing education or other training designed to enhance and maintain the skills of the staff.

(7) Upon completion, a copy of the written program shall be submitted to the Director.

(8) Unless otherwise advised in writing by the Director, the Board shall submit to the Director, prior to the appointment of any individual to a management position, 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.

(9) The Director shall have the power of veto over the initial employment of the proposed officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer.

(10) 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/her review and act on any such information or authority within ninety (90) days.

Article VIII

LENDING POLICY

(1) Within ninety (90) days, the Board shall review and revise the Bank's written loan policy, consistent with applicable OCC guidance, including but not limited to the Loan Portfolio Management booklet, A-LPM, of the Comptroller's Handbook. Revisions to the policy shall incorporate, but not necessarily be limited to, the following:

- (a) that current and satisfactory credit information will be obtained on each borrower;
- (b) specific requirements on the types of financial statements required in relation to the size of the loan;
- (c) maturity scheduling related to the anticipated source of repayment, the purpose of the loan, and the useful life of the collateral;
- (d) maximum ratio of loan value to appraised value or acquisition costs of collateral securing the loan;

- (e) collection procedures, to include follow-up efforts, that are systematically and progressively stronger;
- (f) a risk-based pricing policy that takes into consideration costs, general overhead, and potential for loss, while providing for a reasonable margin of profit;
- (g) guidelines for loans to insiders, including a requirement that such loans will not be granted on terms more favorable than those offered to similar outside borrowers;
- (h) charge-off guidelines, by type of loan or other asset, including Other Real Estate Owned, addressing the circumstances under which a charge-off would be appropriate and ensuring the recognition of losses within the quarter of discovery;
- (i) guidelines setting forth the criteria for extending of loans, consistent with Banking Circular 255 – Troubled Loan Workouts and Loans to Borrowers in Troubled Industries, dated July 30, 1991;
- (j) specific definitions of acceptable terms and maturities of loans;
- (k) appropriate definitions of loan grades, consistent with Rating Credit Risk, A-RCR, of the Comptroller's Handbook;
- (l) appropriate loan policy to address legal lending limit and appraisal requirements;
- (m) appropriate policy on granting and monitoring revolving credit facilities;
- (n) appropriate policy on capitalization of interest;

- (o) appropriate underwriting and collateral requirements for inventory and receivable financing loans;
- (p) appropriate and clear guidance on borrower equity and down payment requirements;
- (q) appropriate loan agreement requirements; and
- (r) appropriate guidelines for collateral evaluations.

(2) Upon adoption by the Board, the Board shall direct the Bank to implement the policy, and the Board shall, thereafter, ensure Bank adherence to the policy. The Board shall also forward copy of the policy to the Director.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

Article IX

OVERDRAFT POLICY

(1) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall adopt, implement, and thereafter ensure adherence to a written policy concerning the extension of overdrafts that shall include, at a minimum:

- (a) conditions and circumstances under which overdrafts will be allowed, consistent with the requirements of 12 U.S.C. § 375b;
- (b) charges that will be levied against depositors using overdrafts and clear guidelines and controls on when these fees can be waived;

- (c) conditions and circumstances under which overdrafts will be permitted to principal shareholders or the related interests (as that term is defined in 12 C.F.R. Part 215) of executive officers, directors or principal shareholders;
 - (d) conditions and circumstances under which overdrafts will be charged off; and
 - (e) the documentation to support compliance with the overdraft policy.
- (2) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

Article X

NONACCRUAL LOANS

(1) The Bank shall immediately reverse or charge off all interest that has been accrued contrary to the requirements contained in the Instructions for Preparation of Consolidated Reports of Condition and Income (Call Report Instructions) governing nonaccrual loans.

(2) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall revise its existing written policies and procedures governing the identification, supervision and control of nonaccrual loans. Such revisions and the resulting policies and procedures shall:

- (a) be consistent with the accounting requirements contained in the Call Report Instructions;
- (b) specify the circumstances under which accrued interest due on a loan may be added to the outstanding principal amount when the loan is renewed or restructured; and

- (c) require the monthly presentation to the Board of all loans meeting any of the nonaccrual criteria.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the policies developed pursuant to this Article.

Article XI

INTERNAL LOAN REVIEW

(1) The Board shall within thirty (30) days employ or designate an experienced and qualified person(s) or firm to ensure the timely and independent identification of problem loans and leases.

(2) Within ninety (90) days, the Board shall establish an effective, independent and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios to assure the timely identification and categorization of problem credits. The system shall provide for a written report to be filed promptly with the Board after each review and shall use a loan and lease grading system consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook.

- (3) Each loan review shall, at a minimum, include conclusions regarding:
 - (a) the overall quality of the loan and lease portfolios;
 - (b) the identification, type, rating, and amount of problem loans and leases;
 - (c) the identification and amount of delinquent loans and leases;
 - (d) credit and collateral documentation exceptions;
 - (e) the identification and status of credit related violations of law, rule or regulation;

- (f) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (b) through (e) of this paragraph;
- (g) concentrations of credit;
- (h) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank;
- (i) loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies; and
- (j) the adequacy of:
 - (i) monitoring systems for early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
 - (ii) statistical records that serve as a basis for identifying sources of problem loans by industry, size, collateral, and individual lending officer;
 - (iii) systems for monitoring previously charged-off assets and their recovery potential;
 - (iv) systems for monitoring compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
 - (v) systems for monitoring the adequacy of credit and collateral documentation.

(4) A written description of the program called for in this Article shall be forwarded to the Director upon implementation.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(6) The Board, or a designated committee, shall evaluate the internal loan and lease review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken upon all findings noted in the report(s).

(7) The Bank shall preserve, in the Bank, copies of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits. The Board shall forward copies of the reports promptly to the Director upon request.

Article XII

CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the Report of Examination, in any subsequent Report of Examination, by internal or external loan review, or in any list making reference to this Article XII that is provided to management by the National Bank Examiners during any examination.

(2) For each asset criticized as "doubtful," "substandard," or "special mention," in the Report of Examination, in any subsequent Report of Examination, by any internal or external loan review, or in any list making reference to this Article XII that is provided to management by the National Bank Examiners during any examination, the Bank (subject to Board review, approval, and ongoing monitoring) shall, within thirty (30) days of such criticism, adopt, implement, and thereafter ensure adherence to a written program designed to eliminate the basis of criticism. Each program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (d) a well-defined plan of action and timeframes for eliminating the basis of criticism and, if appropriate, a proposed exit strategy.

(3) Upon adoption, the Board shall forward a copy of each program for criticized assets equal to or exceeding ninety thousand dollars (\$90,000) in outstanding principal to the Director.

(4) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(5) The Board, or a designated committee, shall conduct a review, on at least a monthly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds ninety thousand dollars (\$90,000) in outstanding principal;
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the program; and
- (d) the need to revise the program or take alternative action.

(6) The Board shall forward a copy of each review to the Director on a monthly basis (in a format similar to Appendix A, attached hereto).

(7) The Bank may extend credit, directly or indirectly, including renewals, extensions, or capitalization of accrued interest to a borrower whose loans or other extensions of credit are criticized in the Report of Examination, in any subsequent Report of Examination, in any internal or external loan review, or in any list making reference to this Article XII that is provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed ninety thousand dollars (\$90,000) in outstanding principal only if each of the following conditions are met:

- (a) the Board or designated committee finds that the extension of additional credit is necessary to promote the best interests of the Bank and that prior to renewing, extending or capitalizing any additional credit, a majority of the full Board (or designated committee) approves the credit extension and records, in writing with documentation retained in the file, why such extension is necessary to promote the best interests of the Bank; and
- (b) the extension or renewal does not compromise or undermine the goals of the written program adopted pursuant to this Article.

Article XIII

APPRAISALS OF REAL PROPERTY

(1) Within ninety (90) days, the Bank shall perform a search of its files to identify all loans where real estate was taken as collateral and determine, for those loans, if a valid appraisal is in file.

(2) In cases where an appraisal was not obtained, or is deficient, the Bank shall request a new appraisal and specifically instruct the appraiser(s) to comply with the requirements of 12 C.F.R. Part 34.

(3) Within ninety (90) days, the bank shall develop and implement an appraisal review and analysis process. The appraisal review and analysis process shall ensure:

- (a) that appraisals are performed in accordance with 12 C.F.R. Part 34;
- (b) are consistent with the bank's written loan policy; and
- (c) documentation supporting the review and analysis is retained in the file.

Article XIV

ALLOWANCE FOR LOAN LOSSES

(1) The Board shall review the adequacy of the Bank's Allowance for Loan Losses (Allowance) and shall within thirty (30) days review and revise its program for the maintenance of an adequate Allowance. This review and program shall be consistent with the guidance on maintaining a proper Allowance found in the Allowance for Loan and Lease Losses booklet, A-ALLL, of the Comptroller's Handbook, and shall also address the following additional factors:

- (a) results of the Bank's internal loan review and external or regulatory findings;
- (b) an estimate of inherent loss exposure on each credit or related credits in excess of ninety thousand dollars (\$90,000) in outstanding principal;
- (c) the Bank's loan loss experience, including adjustments for the qualitative factors;
- (d) trends of delinquent and nonaccrual loans;
- (e) concentrations of credit in the bank; and
- (f) present and prospective economic conditions.

(2) The program shall provide for a review of the Allowance by the Board at least once each calendar quarter. The Bank shall remedy any deficiency in the Allowance in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income,

by additional provisions from earnings. The Bank shall maintain written documentation indicating the factors considered and the conclusions reached by the Board in determining the adequacy of the Allowance for Loan and Lease Losses.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

Article XV

CREDIT RISK SYSTEMS

(1) Within one hundred twenty (120) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and ensure adherence to a written program to improve and maintain the Bank's credit risk systems. The program shall include, but not be limited to, systems to:

- (a) identify, record, track and analyze exceptions relating to:
 - (i) policy;
 - (ii) financial information including fiscal and interim operating statements, credit reports and budgets/projections; and
 - (iii) collateral and loan-to value exceptions;
- (b) track and analyze concentrations of credit, including commitments, and maintain a system to calculate each concentration as a percentage of total capital;
- (c) ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information;

- (d) use standard forms, contracts and notes and maintain loan files in a uniform manner;
- (e) assist in early problem loan identification and support the timely identification and rating of loans based on lending officer submissions;
- (f) ensure compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function;
- (g) identify and analyze loans to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (h) identify, aggregate and monitor debt of individual borrowers and their related interests.

(2) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

Article XVI

ENGAGEMENT OF THIRD PARTIES

(1) The Bank shall not renew or enter into new contracts or engagements exceeding a threshold of ten thousand dollars (\$10,000) on an annual basis with a third party company, entity, or person (third party) to perform professional services for, or on behalf of, the Bank unless:

- (a) the Board reviews and approves a written analysis performed by the Bank that includes:
 - (i) a cost/benefit analysis for using a third party;
 - (ii) a description of the Bank's due diligence process for selecting the third party and the results of the due diligence review;

- (iii) a determination that the contract or commitment is being conducted at arm's length on terms and conditions fair and reasonable to the Bank, including the ability of the parties to perform under the contract or commitment;
 - (iv) a disclosure of any affiliation with any present or past bank Insider or Related Interest of such Insider; and
 - (v) a determination that the contract is in the best interests of the Bank.
- (b) the written analysis pursuant to paragraph (1)(a) of this Article is included in the Board minutes along with details of the deliberations and approval; and
- (c) the contract or engagement is in writing.

(2) The Board shall immediately forward any Board-approved, written contract, along with the written analysis and Board approval pursuant to paragraph (1)(b) of this Article, to the Director. Unless otherwise advised in writing by the Director, the contract must, at a minimum:

- (a) be made a part of the Bank's books and records, identify the third party, and specify all services to be provided;
- (b) define the rights, obligations, and responsibilities of all parties to the contract;
- (c) specify the beginning and ending dates of the contract, including any renewal options;
- (d) specify and itemize the price to be paid by the Bank for the services;

- (e) set standards for quality of services provided by the third party, as applicable, given the nature of the services to be provided;
- (f) provide the Bank appropriate remedies in the event of a default, failure of the third party to meet the quality standards, or failure of the third party to comply with any other material provision of the contract;
- (g) require the third party to provide the Bank with annual financial statements if the viability of the third party is integral to the Bank's safe and sound operation;
- (h) require the third party to carry appropriate insurance, if applicable, given the nature of the contract;
- (i) require the third party to maintain reliable and accurate books, records, and management information systems as they relate to the services performed on behalf of the Bank; and
- (j) require the third party to grant the Bank, Bank auditors, and the Comptroller immediate access to the third party's books and records as they relate to services performed on behalf of the bank; however, this Article XVI does not negate the right to assert legally recognized privileges where applicable.

(3) The Board must ensure all existing third party relationships for the performance of professional services conform with paragraphs (1) and (2) of this Article, including the execution of a written contract where the existing agreement is oral. The Bank shall not use the services of or compensate in any way any third party where the Board has determined that the relationship is not in the best interests of the Bank.

(4) The Bank must routinely monitor the performance of the third party to ensure that committed goods and services are received, and that the third party is in compliance with the contract.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to this Article.

Article XVII

INTERNAL AUDIT

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program sufficient to:

- (a) detect irregularities in the Bank's operations;
- (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
- (c) evaluate the Bank's adherence to established policies and procedures, with particular emphasis directed to the Bank's adherence to its loan policies concerning underwriting standards and problem loan identification and classification;
- (d) ensure adequate audit coverage in all areas;
- (e) ensure timely follow-up on identified deficiencies to ensure their correction; and
- (f) establish an annual audit plan using a risk-based approach sufficient to achieve these objectives.

(2) As part of this audit program, the Board, or a designated committee, shall evaluate the audit reports of any party providing services to the Bank, and shall assess and document their discussion of the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of the individuals employed.

(4) The Board shall ensure that the audit program is independent. The person(s) responsible for implementing the internal audit program described above shall report directly to the Board, or a designated committee, who shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board and not through any intervening party.

(5) All audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, that management provides detailed explanations in those circumstances, if any, where the deficiencies cannot be remedied, and that auditors maintain a written record describing those actions. The Board shall provide for timely independent follow-up and obtain written confirmation of this.

(6) The audit staff shall have access to any records necessary for the proper conduct of its activities. The Bank shall ensure that national bank examiners have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(7) Upon adoption, a copy of the internal audit program shall be promptly submitted to the Director.

(8) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(9) Within thirty (30) days the Board shall provide for the engagement of a forensic audit of the Bank's loan portfolio. The audit should focus on loans identified as suspicious by internal or external reviews and any loans subsequently identified as suspicious in nature. The results of this audit should be communicated in writing to the Board with a copy promptly submitted to the Director.

Article XVIII

LIQUIDITY

(1) The Bank (subject to Board review, approval, and ongoing monitoring) shall immediately take appropriate action to ensure that it maintains adequate sources of liquidity to meet the Bank's needs. The Bank (subject to Board review, approval, and ongoing monitoring) shall also establish within ninety (90) days a liquidity contingency plan to withstand any anticipated or extraordinary demand against its funding base. Such plan must consider, at a minimum, the following:

- (a) selling assets;
- (b) obtaining lines of credit from correspondent banks;
- (c) recovering charged-off assets; and
- (d) injecting additional equity capital.

(2) Upon completion, a copy of this plan shall be forwarded to the Director for review and prior determination of no supervisory objection.

(3) The Board shall ensure that management reviews the Bank's liquidity on a weekly basis. Such reviews shall consider:

- (a) a maturity schedule of certificates of deposit, including large uninsured 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;
- (e) an analysis of the impact of decreased cash flow from the Bank'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) geographic disbursement of and risk from brokered deposits.

(4) A copy of each review shall be forwarded to the Director on a weekly basis.

(5) The Bank (subject to Board review, approval, and ongoing monitoring) shall develop a thorough and accurate report for the projection of sources and uses of funds. The Bank shall produce this report monthly and the report shall cover a minimum of a three-month window into the future. Additionally, an independent source shall periodically verify the accuracy of the reports.

(6) The Board shall forward a copy of the above report to the Director of Special Supervision/Fraud on a monthly basis.

Article XIX

INTEREST RATE RISK POLICY

(1) Within one hundred twenty (120) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall adopt, implement, and thereafter ensure adherence to a written interest rate risk policy, which is consistent with the Interest Rate Risk booklet, L-IRR, of the Comptroller's Handbook. The policy shall provide for a coordinated interest rate risk strategy and, at a minimum:

- (a) establish adequate management reports on which to base sound interest rate risk management decisions;
- (b) establish guidance regarding the Bank's strategic direction and tolerance for interest rate risk;
- (c) implement effective tools to measure and monitor the Bank's performance and overall interest rate risk profile;
- (d) set prudent limits on the nature and amount of interest rate risk that the Bank will assume; and
- (e) require periodic review of the Bank's adherence to the policy.

(2) The Board shall forward a copy of the policy, upon adoption, to the Director for review.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

Article XX

CONSUMER COMPLIANCE PROGRAM

(1) Within ninety (90) days, the Bank shall adopt, implement, and thereafter ensure adherence to a written consumer compliance program designed to ensure that the Bank is operating in compliance with all applicable consumer protection laws, rules and regulations.

This program shall include, but not be limited to:

- (a) a written description of the duties and responsibilities of the compliance officer;
- (b) adequate internal controls to ensure compliance with consumer protection laws, rules, and regulations;
- (c) a policies and procedures manual covering all consumer protection laws, rules and regulations for use by appropriate Bank personnel in the performance of their duties and responsibilities;
- (d) semiannual updates of the written policies and procedures manual to ensure it remains current;
- (e) an independent audit program to test for compliance with consumer protection laws, rules and regulations;
- (f) procedures to ensure that exceptions noted in the audit reports are corrected and responded to by the appropriate Bank personnel;
- (g) the education and training of all appropriate Bank personnel in the requirements of all federal and state consumer protection laws, rules and regulations; and

(h) periodic reporting of the results of the consumer compliance audit to the Board or a committee thereof.

(2) The Board shall forward a copy of the program, upon adoption, to the Director for review.

(3) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

Article XXI

BANK SECRECY ACT/SUSPICIOUS ACTIVITY REPORTS

(1) Within thirty (30) days the Board shall appoint a capable officer of the Bank who shall be vested with sufficient authority and clear responsibility to monitor and ensure the Bank's compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 - 5330), the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B and C (collectively referred to herein as the Bank Secrecy Act), and the rules and regulations of the Office of Foreign Assets Control (OFAC). This Bank Secrecy Act officer shall report directly to the Board, or a designated committee, and shall be completely independent of the Bank's management. This officer shall be responsible for the complete and timely filing of all reports required under the Bank Secrecy Act, including, but not limited to, Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs).

(2) Within ninety (90) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and thereafter ensure adherence to a written program of policies and procedures to ensure compliance with the Bank Secrecy Act, as amended (31 U.S.C. §§ 5311 - 5330), the regulations promulgated thereunder at 31 C.F.R. Part

103, as amended, and 12 C.F.R. Part 21, Subparts B and C (collectively referred to as the Bank Secrecy Act). At a minimum, this written program shall establish:

- (a) a written description of the duties of the BSA Officer;
- (b) a system of internal controls and independent testing and auditing to ensure ongoing compliance with the Bank Secrecy Act;
- (c) operating procedures for both the opening of new accounts and the monitoring of high risk accounts;
- (d) adequate controls and procedures to ensure that all suspicious and large currency transactions are identified and reported. Procedures should be comprehensive as to all points of cash entry and exit;
- (e) procedures to ensure that records are maintained on monetary instrument transactions and funds transfers, as required by the Bank Secrecy Act;
- (f) comprehensive procedures to identify and report to appropriate management personnel:
 - (i) frequent or large volume cash deposits or wire transfers or book entry transfers to or from offshore or domestic entities or individuals;
 - (ii) wire transfers or book entry transfers that are deposited into several accounts;
 - (iii) receipt and disbursement of wire transfers or book entry transfers without an apparent business reason;
 - (iv) receipt and disbursement of wire transfers or book entry transfers when they are inconsistent with the customer's business; and

- (v) receipt and disbursement of currency or monetary instruments when they are inconsistent with the customer's business;
- (g) a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of and compliance with the requirements of the Bank Secrecy Act and the Office of Foreign Assets Control (OFAC), including the currency reporting and monetary instrument and funds transfer record-keeping requirements, and the reporting requirements associated with Suspicious Activity Reports (SARs) pursuant to 12 C.F.R. Part 21, Subpart B;
- (h) an officer who will be responsible for filing Currency Transaction Reports (CTRs); and
- (i) comprehensive guidelines, procedures, and systems for compliance with the rules and regulations of the Office of Foreign Assets Control (OFAC).

(3) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and thereafter ensure adherence to a written program to establish a system of internal controls and processes to ensure compliance with the requirements to file Suspicious Activity Reports set forth in 12 C.F.R. § 21.11, as amended. At a minimum, this written program shall establish procedures for identifying and reporting known or suspected violations of Federal law, violations of the Bank Secrecy Act, or suspicious transactions related to money laundering activity, including suspicious activity relating to the opening of new accounts, the monitoring of current accounts, and the transfer of funds through the Bank.

(4) Upon completion, the Board shall forward a copy of these programs to the Director for review. In the event the Director recommends changes to the programs, the Board

shall immediately incorporate those changes into the programs unless the Director thereafter agrees that such a change is no longer required.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the programs developed pursuant to this Article.

Article XXII

CORRECT BANK INFORMATION TECHNOLOGY DEFICIENCIES

(1) Within ninety (90) days, the Bank shall take all steps necessary to improve the management of the Bank's Information Technology (IT) activities and correct each deficiency discussed with management during the recent examination, cited in internal audit reports, the Report of Examination or any subsequent Report of Examination.

(2) Within sixty (60) days, the Bank shall implement effective IT security and operations procedures as described in the Federal Financial Institutions Examination Council's 1996 Information Systems Examination Handbook, and Banking Circular Number 229, dated May 31, 1988.

(3) Within ninety (90) days, the Bank shall develop an effective and independent internal IT audit program. At a minimum, the IT audit program shall be performed by an independent and qualified individual, and include fundamental elements of a sound audit program as described in the Federal Financial Institutions Examination Council's 1996 Information Systems Examination Handbook.

(4) Within sixty (60) days, the Board shall appoint a Security Officer familiar with IT operations. The Security Officer shall be responsible for reviewing and ensuring appropriate data security of the Bank.

(5) Within one hundred twenty (120) days, the Bank shall develop and test a formal Bank Information Technology Resumption and Corporate Contingency Plan which, at a minimum, complies with the requirements set forth in Banking Bulletin 97-23 dated May 16, 1997, adopting the Federal Financial Institutions Examination Council's revised policy statement (SP-5), *Corporate Business Resumption and Contingency Planning*. At least annually thereafter, the Board shall review its resumption and contingency plans and test of all necessary programs and system applications using its backup location, or recovery operation center, to ensure the continuation of operations in the event of a disaster. The Board shall document the results of the review and tests in its meeting minutes.

(6) The Board shall forward a copy of the plan and test results to the Director for review.

(7) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the programs developed pursuant to this Article.

Article XXIII

MANAGEMENT INFORMATION SYSTEMS

(1) Within ninety (90) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall develop, implement, and thereafter ensure adherence to a written program establishing an effective management information system (MIS) that facilitates risk identification, establishes controls, and delivers accurate information for timely review. In so doing, the Board shall identify the Bank's specific information requirements and establish effective reporting mechanisms to guide decisions. The program shall include procedures for:

(a) expediting the timely delivery of current information;

- (b) establishing controls, including validation and testing, to ensure data integrity and confidentiality of information;
- (c) ensuring that data is processed and compiled uniformly to facilitate meaningful trend analysis, and provide for future systems changes;
- (d) producing complete and relevant information in a summarized form, for Board and management reports, to permit effective decision making; and
- (e) producing other information, which is discussed in the ROE, that is necessary to effectively supervise risk in the Bank and ensure the Bank meets regulatory record keeping and retention requirements.

(2) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

(3) As a part of the Board's ongoing responsibility to ensure that the Bank has an effective MIS, the Board shall designate a senior officer to coordinate the execution of this program.

(4) The Board shall submit a copy of the program to the Director.

Article XXIV

VIOLATIONS OF LAW

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule or regulation cited in the Report of Examination, any subsequent Report of Examination, or brought to their attention in writing by management, regulators, auditors, loan review, or other compliance efforts. Within ninety (90) days after the violation is cited or brought to the Board's attention, the Bank shall provide to the Director a list of any violations that have not been corrected. This list shall include an explanation of the

actions taken to correct the violation, the reasons why the violation has not yet been corrected, and a plan to correct the violation by a specified time.

(2) Within sixty (60) days, the Bank (subject to Board review, approval, and ongoing monitoring) shall adopt, implement, and thereafter ensure adherence to specific procedures to prevent future violations as cited in the Report of Examination and shall adopt, implement, and ensure Bank adherence to general procedures addressing compliance management which incorporate internal control systems and education of employees regarding laws, rules and regulations applicable to their areas of responsibility.

(3) Within sixty (60) days, the Board shall adopt and cause the Bank to implement policies and procedures, in accordance with the Instructions for Preparation of Consolidated Reports of Condition and Income, to ensure that all official and regulatory reports filed by the Bank accurately reflect the Bank's condition as of the date that such reports are submitted. Thereafter the Board shall ensure Bank adherence to the policies and procedures adopted pursuant to this Article.

(4) Upon adoption, the Board shall forward a copy of these policies and procedures to the Director.

(5) The Board shall ensure that the Bank develops and thereafter maintains policies, processes, personnel, and control systems to ensure implementation of and adherence to the procedures developed pursuant to this Article.

Article XXV

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Director for review or approval, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) 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.

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time requirements may be extended in writing by the Director for good cause upon written application by the Board.

(4) The provisions of this Order shall be 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.

(5) The Bank entered into a Formal Agreement dated July 13, 2001 and the Bank was placed under a Prompt Corrective Action Directive on September 4, 2002. This Order replaces the Formal Agreement and Prompt Corrective Action Directive in their entirety and therefore, the July 13, 2001 Formal Agreement and the September 4, 2002 Prompt Corrective Action Directive are hereby terminated.

(6) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States.

IT IS SO ORDERED, this 11th day of February, 2003.

/s/ Ronald G. Schneck

Ronald G. Schneck
Director for Special Supervision/Fraud

APPENDIX A

MODEL CRITICIZED ASSET FORM

First National Bank of Northern Kentucky
Fort Mitchell, Kentucky

CRITICIZED ASSET REPORT AS OF:

BORROWER(S):

ASSET BALANCE(S) AND OCC RATING (SM, SUBSTANDARD, DOUBTFUL OR LOSS):

\$ CRITICISM

AMOUNT CHARGED OFF TO DATE

FUTURE POTENTIAL CHARGE-OFF

STATUS (Fully explain any increase in outstanding balance; include past due status, nonperforming, significant progress or deterioration, etc.):

FINANCIAL AND/OR COLLATERAL SUPPORT (include brief summary of most current financial information, appraised value of collateral and/or estimated value and date thereof, bank's lien position and amount of available equity, if any, guarantor(s) info, etc.):

PROPOSED PLAN OF ACTION TO ELIMINATE ASSET CRITICISM(S) AND TIME FRAME FOR ITS ACCOMPLISHMENT:

IDENTIFIED SOURCE OF REPAYMENT AND DEFINED REPAYMENT PROGRAM (repayment program should coincide with source of repayment):

Use this form for reporting each criticized asset that exceeds \$100,000 and retain the original in the credit file for review by the examiners. Submit your reports monthly until notified otherwise, in writing, by the Director.

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

In the Matter of:)
First National Bank of Northern Kentucky)
Fort Mitchell, Kentucky)

**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 Northern Kentucky, Fort Mitchell, Kentucky (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 2/11/03 (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.

(2) 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). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC’s exercise of its supervisory responsibilities.

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/she 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.

/s/ Ronald G. Schneck

2/11/03

Ronald G. Schneck
Director for Special Supervision/Fraud
Office of the Comptroller of the Currency

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.

_____ John G. Cobey	_____ Date
_____ Signed	_____ 2-7-03
_____ Robert L. Connors	_____ Date
_____ Signed	_____ 2-7-03
_____ Ralph E. Jump	_____ Date
_____ Signed	_____ 2/7/03
_____ Jerome C. Kohlhepp	_____ Date
_____ Signed	_____ 2/7/03
_____ James R. Kruer	_____ Date
_____ Signed	_____ 2/8/03
_____ Raymond A. Mueller	_____ Date
_____ Signed	_____
_____ Joel D. Newman	_____ Date
_____ Signed	_____ 2/7/03
_____ Craton M. Noyes	_____ Date
_____ Signed	_____ 2/7/03
_____ Peggy A. Rankin	_____ Date
_____ Signed	_____ 2/7/03
_____ James A. Schiff	_____ Date
_____ Signed	_____ 2-7-03
_____ Michael A. Schleper	_____ Date

Signed	2/7/03
Thomas G. Schleper	Date
Signed	February 7, 2003
Patricia M. Summe	Date
Signed	2-10-03
Richard J. Toerner	Date
Signed	2/7/03
John S. Weber	Date
Signed	2/7/03
Larry C. West	Date