

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

In the Matter of:

First National Bank of Dana
Dana, Indiana

CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller), through her National Bank Examiner, has examined First National Bank of Dana, Dana, Indiana (Bank), and her findings are contained in the Report of Examination for the examination that commenced on April 9, 2004 (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 December 7, 2004, 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 by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article I

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall achieve by December 31, 2004, and thereafter maintain the following capital levels (as defined in 12 C.F.R. Part 3):

- (a) Tier 1 capital at least equal to 15 percent (15%) of risk-weighted assets;

(b) Total Risk Based Capital at least equal to 10.5 percent (10.5%) of 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).

(3) Within ninety (90) days of the date of this Order, the Board shall develop, implement, and thereafter ensure Bank 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);
- (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; and
- (f) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital program;

¹ Adjusted total assets is defined in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets. As further noted in 12 C.F.R. § 3.2(a), a bank may be required to compute and maintain its leverage ratio on the basis of actual, rather than average total assets. This language would have to be modified to reflect that change.

- (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
- (iii) with prior written notice to the Assistant Deputy Comptroller.

(4) Upon completion, the Bank's capital program shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, 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 Assistant Deputy Comptroller.

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

Article II

APPOINTMENT OF NEW DIRECTORS

(1) The Board shall promptly use reasonable efforts to add two (2) new independent directors. The term "independent director" means a person who is not an officer or employee of the Bank, and who is not a director, officer or employee of its affiliates, or any related interest of any current director, officer, or employee; and who is not a relative of any current director, officer, or employee.

(2) 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).

(3) 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.

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

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

Article III

RISK MANAGEMENT

(1) Within ninety (90) days of the date of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written risk management program to include, at a minimum, the following:

- (a) identification of existing credit, interest rate, liquidity, transaction, compliance, strategic, and reputation risks, and a written analysis of those risks;
- (b) action plans and time frames to reduce risks where exposure is high, particularly with regard to credit risk, which impacts directly on liquidity, compliance, strategic, and reputation risks, as more fully discussed in the Report of Examination;

- (c) policies, procedures or standards which limit the degree of risk the Board is willing to incur, consistent with the strategic plan and the Bank's financial condition. This includes analyzing and limiting the risks associated with any new lines of business which the Board undertakes. The procedures shall ensure that strategic direction and risk tolerances are effectively communicated and followed throughout the Bank and should describe the actions to be taken where noncompliance with risk policies is identified;
- (d) systems to measure and control risks within the Bank. Measurement systems should provide timely and accurate risk reports by customer, by department or division, and bank wide as appropriate.

The risk management program shall be consistent with the Bank Supervision Process booklet, EP-Sup, of the Comptroller's Handbook.

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

Article IV

INTERNAL AUDIT

(1) Within thirty (30) days of the date of this Order, 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; and
- (e) establish an annual audit plan using a risk based approach sufficient to achieve these objectives.

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

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

(4) The Board shall ensure that a qualified outside firm performs the audit function for a minimum of two years; thereafter, any internal audit program designed to allow internal staff to provide audit services must be presented in a written program that meets the guidance of the Comptroller's Handbook, Internal and External Audits, and be submitted to the ADC for review prior to its adoption.

(5) The Board shall ensure that the audit program is independent. The persons responsible for implementing the internal audit program described above shall report directly to the Board that 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.

(6) All audit reports shall be in writing. The Board shall ensure that actions are undertaken promptly to remedy deficiencies cited in audit reports, and that auditors maintain a written record describing those actions.

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

(8) Upon adoption, a copy of the internal audit program and audit engagement contract shall be promptly submitted to the Assistant Deputy Comptroller.

Article V

BUDGET/STRATEGIC PLAN

(1) Within sixty (60) days of the date of this Order, the Board shall prepare, implement, and thereafter ensure Bank adherence to a written three-year strategic plan that shall include a projection of major balance sheet and income statement components, and shall provide for injections of equity capital, as necessary. The strategic plan shall also include a written profit plan and a detailed budget. Specifically, the plan shall describe the Bank's objectives for improving Bank earnings, contemplated strategies and major capital expenditures required to achieve those objectives. Such strategies shall include specific market segments that the Bank intends to promote or develop. Procedures shall also be established to monitor the Bank's actual results against these projections and to provide for appropriate adjustments to the budget and profit plan. The plan shall set forth specific time frames for the accomplishment of these objectives.

(2) A copy of the plan shall be submitted to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection.

(3) 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 VI

LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, within sixty (60) days of the date of this Order, develop, implement, and thereafter ensure Bank adherence to a written program to improve the Bank's loan portfolio management. The program shall include, but not be limited to:

- (a) procedures to ensure satisfactory and perfected collateral documentation;
- (b) procedures to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information;
- (c) procedures to ensure conformance with loan approval requirements;
- (d) a system to track and analyze exceptions;
- (e) procedures to ensure conformance with Call Report instructions;
- (f) procedures to ensure compliance with the appraisal requirements set forth in 12 C.F.R. Part 34;
- (g) procedures to ensure the accuracy of internal management information systems;
- (h) procedures to track and analyze concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios;

- (i) early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
- (j) procedures to monitor previously charged-off assets and their recovery potential; and
- (k) procedures to monitor compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function.

(2) Upon completion, a copy of the program shall be forwarded to the Assistant Deputy Comptroller.

(3) Beginning December 31, 2004, on a monthly basis, management will provide the Board with written reports including, at a minimum, the following information:

- (a) the identification, type, rating, and amount of problem loans and leases;
- (b) the identification and amount of delinquent loans and leases;
- (c) credit and collateral documentation exceptions;
- (d) the identification and status of credit related violations of law, rule or regulation;
- (e) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (a) through (d) of this Article and Paragraph;
- (f) an analysis of concentrations of credit, significant economic factors, and general conditions and their impact on the credit quality of the Bank's loan and lease portfolios;
- (g) the level of the Bank's gross loans, as defined by the Instructions for Preparation of the Bank's Call Report;

- (h) the identification and amount of loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (i) the identification of loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

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

Article VII

LENDING POLICY

(1) Within sixty (60) days of the date of this Order, the Board shall review and revise the Bank's written loan policy. In revising this policy, the Board shall refer to the Loan Portfolio Management booklet, A-LPM, of the Comptroller's Handbook. This policy shall incorporate, but not necessarily be limited to, the following:

- (a) a description of acceptable types of loans;
- (b) a provision that current and satisfactory credit information will be obtained on each borrower;
- (c) maturity scheduling related to the anticipated source of repayment, the purpose of the loan, and the useful life of the collateral;
- (d) a 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 definition of the Bank's trade area;
- (g) guidelines and limitations for loans originating outside of the Bank's trade area;
- (h) a prohibition regarding the use of brokered deposits to fund loan growth or support criticized loans;
- (i) guidelines for loans to insiders, including a statement that such loans will not be granted on terms more favorable than those offered to similar outside borrowers;
- (j) guidelines and limitations on concentrations of credit;
- (k) a limitation on the type and size of loans that may be made by loan officers without prior approval by the Board or a committee established by the Board for this purpose;
- (l) guidelines designed to improve Board oversight of the loan approval process, specifically with regard to credits exhibiting significant risk. At a minimum, the policy shall:
 - (i) establish dollar limits on extensions of credit to any one borrower, above which the prior approval of the Board, or a committee thereof, would be required;
 - (ii) establish dollar limits on aggregate extensions of credit to any one borrower, above which any new extensions of credit to that

- borrower, regardless of amount, would require the prior approval of the Board, or a committee thereof; and
- (iii) require that all credits that deviate from the Bank's normal course of business, including all credits that deviate from the Bank's written strategic plan, receive the prior approval of the Board, or a committee thereof;
 - (m) guidelines consistent with Banking Circular 255, setting forth the criteria under which renewals of extensions of credit may be approved. At a minimum the policy shall:
 - (i) ensure that renewals are not made for the sole purpose of reducing the volume of loan delinquencies; and
 - (ii) provide guidelines and limitations on the capitalization of interest;
 - (n) 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.;
 - (o) reasonable limits on credit advances against real estate collateral based upon realistic assessments of the value of collateral, including, but not limited to, the ratio of loan to value and debt service requirements;
 - (p) minimum requirements for uniform and comprehensive credit analysis, including a full disclosure of all significant aspects of the proposed credit and an assessment of the risks involved, prior to credit approval;

- (q) procedures to ensure that financial information on borrowers and guarantors includes detailed and comprehensive data on assets, liabilities, income, expense, contingent liabilities, and periodic operating statements for loans in excess of Board established limitations;
- (r) procedures requiring prudent and continuing monitoring of progress on construction projects financed by the Bank, with such activity documented by written progress reports for all projects to be financed in the amount of \$100,000 or more, and requiring visual inspection by independent and qualified individuals.

(2) Upon adoption, the policy shall be implemented, the Board shall thereafter ensure Bank adherence to the policy, and a copy of the policy shall be forwarded to the Assistant Deputy Comptroller for review.

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

Article VIII

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within sixty (60) days of the date of this Order, the Board shall obtain, or thoroughly document its attempts to obtain, current and satisfactory credit information on all loans lacking such information, including those listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(2) Within sixty (60) days of the date of this Order, the Board shall ensure proper collateral documentation is maintained on all loans and correct each collateral exception listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(3) Effective immediately, the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit in an amount equal to or greater than \$25,000 only after:

- (a) documenting the specific reason or purpose for the extension of credit;
- (b) identifying the expected source of repayment in writing;
- (c) structuring the repayment terms to coincide with the expected source of repayment;
- (d) obtaining and analyzing current and satisfactory credit information, including cash flow analysis, where loans are to be repaid from operations;
 - (i) Failure to obtain the information in (3)(d) shall require a majority of the full Board (or a delegated committee thereof) to certify in writing the specific reasons why obtaining and analyzing the information in (3)(d) would be detrimental to the best interests of the Bank.
 - (ii) A copy of the Board certification shall be maintained in the credit file of the affected borrower(s). The certification will be reviewed by this Office in subsequent examinations of the Bank; and
- (e) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable.

Article IX

CRITICIZED ASSETS

(1) The Bank shall take prompt and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within thirty (30) days of the date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This 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, in conformance with applicable laws and regulations;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; and
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding fifty thousand dollars (\$50,000) shall be forwarded to the Assistant Deputy Comptroller.

(4) The Board shall ensure that the Bank has 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 fifty thousand dollars (\$50,000);
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

(6) A copy of each review shall be forwarded to the Assistant Deputy Comptroller on a quarterly 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 ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed fifty thousand dollars (\$50,000) only if each of the following conditions is 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, why such extension is necessary to promote the best interests of the Bank; and

- (b) a comparison to the written program adopted pursuant to this Article shows that the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

(8) A copy of the approval of the Board or of the designated committee shall be maintained in the file of the affected borrower.

Article X

LOAN GROWTH

(1) Effective immediately, the Board shall not allow the Bank to lend money or otherwise extend credit beyond the level of gross loans reported on the Bank's December 31, 2003, Call Report (\$14.664 million), until it is determined by the Comptroller that the bank has successfully adopted and begun the implementation of all the corrective actions required by Article VI, Article VII, Article VIII, and Article IX of this Order.

(2) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to Article VII.

Article XI

LIQUIDITY

(1) The Board shall review the Bank's liquidity on a monthly 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;
and
- (d) an analysis of the continuing availability and volatility of present funding sources.

(2) The Board shall take appropriate action to ensure adequate sources of liquidity in relation to the Bank's needs. Monthly reports shall set forth liquidity requirements and sources and establish a contingency plan.

Article XII

PROGRESS REPORTING - MONTHLY

(1) The Board shall submit monthly progress reports to Richard A. McElmurry, Assistant Deputy Comptroller, Champaign Field Office, 3001 Research Rd., Suite E2, Champaign, Illinois 61822-1081. A copy of these reports should also be submitted to National Bank Examiner Mark E. Ridlen, Indianapolis Field Office, 8777 Purdue Rd., Suite 105, Indianapolis, Indiana 46268-3109. These reports shall set forth in detail:

- (a) actions taken to comply with each Article of this Order;
- (b) results of those actions; and
- (c) a description of the actions needed to achieve full compliance with each Article of this Order.

(2) The progress reports should also include any actions initiated by the Board and the Bank pursuant to the criticisms and comments in the Report of Examination or in any future Report of Examination.

(3) The first progress report shall be submitted for the period ending December 31, 2004, and will be due within thirty (30) days of that date. Thereafter, progress reports will be due within thirty (30) days after the month end.

Article XIII

CLOSING

(1) 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.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon her 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 limitations may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through her 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) In each instance in this Order in which the Board is required to ensure adherence to, and undertake to perform certain obligations of the Bank, it is intended to mean that the Board shall:

- (a) authorize and adopt such actions on behalf of the Bank as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Order;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (c) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (d) require corrective action be taken in a timely manner of any non-compliance with such actions.

(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.

(7) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

IT IS SO ORDERED, this 14th day of December, 2004.

/s/ Bert A. Otto

12-14-04

Bert A. Otto
Deputy Comptroller
OCC Central District

Date

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

In the Matter of:

First National Bank of Dana
Dana, Indiana

**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 Dana, Dana, Indiana (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 December 7, 2004 (Order);

In consideration of the above premises, the Comptroller, through his/her 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/her representative, has hereunto set his/her hand on behalf of the Comptroller.

/s/ Bert A. Otto

12-14-04

Bert A. Otto
Deputy Comptroller
Central District Office

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
Kevin D. Beckemeyer

12/7/2004
Date

Signed
Van Douglass

12/7/04
Date

Signed

Pat Hamilton

Signed

Martin B. Rowe

Signed

Charles F. Will

12/7/04

Date

12/7/04

Date

12/7/04

Date