

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

In the Matter of:)	
Ezequiel Edmond Nasser,)	
Controlling Stockholder,)	AA-EC-
Excel Bank, N.A., New York, New York)	
)	

MODIFICATION OF STIPULATION AND CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) and Ezequiel Edmond Nasser (“Respondent”) entered into a Stipulation and Consent Order effective February 20, 2004 (“Order”); and

WHEREAS, Respondent has requested a modification to the Order, and the Comptroller has agreed to such modification;

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

ARTICLE I

(1) Paragraph (3) of Article II is hereby stricken in its entirety, and replaced by the following new Paragraph (3):

“(3) The prohibitions of paragraphs (1) and (2) of this Article shall not prohibit Respondent from selling or negotiating the sale of his shares of stock of the Bank, or from voting his shares of stock of the Bank as necessary to sell, merge or liquidate the Bank.”

(2) Paragraph (5) of Article III of the Order is hereby stricken in its entirety, and replaced by the following new paragraph (5):

“(5) No later than March 31, 2004, Respondent shall cause submission of a Disposition Plan acceptable to the OCC. If, for any reason, Respondent fails to cause submission of a Disposition Plan acceptable to the OCC, or if, for any reason, each action contained in the Disposition Plan is not completed by the date specified by the Disposition Plan, then the provisions of paragraph (4) of this Article shall be null and void, with no further force or effect, but all other provisions of this Order shall survive, and the Comptroller may take further enforcement action(s) against Respondent. Notwithstanding the foregoing, the Comptroller may, in his sole discretion, extend the March 31, 2004 date for submission of the Disposition Plan, or any date specified in the Disposition Plan, but no extension shall be valid for the purposes of this paragraph unless provided to Respondent in writing by an authorized representative of the Comptroller.

- (a) The Disposition Plan shall describe in detail the specific actions to be taken to accomplish a voluntary liquidation of the Bank pursuant to 12 U.S.C. § 181 and 182, to terminate its status as a national bank, and relinquish its charter to the OCC, including the timeframes for the accomplishment of each step of the liquidation;
- (b) The Disposition Plan shall comply with the Comptroller’s Corporate Manual for Termination of National Bank Status, applicable law, and written guidance provided by the OCC;
- (c) The Disposition Plan shall provide for such actions necessary for the elimination of all deposits of the Bank within sixty (60) business days after the OCC provides written notice that it does not take supervisory objection to the Disposition Plan;

- (d) The Disposition Plan shall provide for such actions necessary for shareholder approval for the Bank to go into liquidation pursuant to 12 U.S.C. § 181 and 182 within sixty (60) business days after the OCC provides written notice that it does not take supervisory objection to the Disposition Plan;
- (e) The Disposition Plan shall provide for OCC supervisory non-objection to the proposed liquidating agent or committee designated by the shareholders to conduct the liquidation of the Bank; and
- (f) The Disposition Plan shall not be implemented until the OCC provides written notice that it does not take supervisory objection to the Disposition Plan.”

(3) Except as expressly set forth above, all other time frames, provisions and requirements of the Order shall remain in full force and effect.

ARTICLE II

(1) Respondent shall not cause, participate in, or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any payment of any legal (or other professional) expense relative to the negotiation and issuance of this Modification of Stipulation and Consent Order; and, in accordance with 12 C.F.R. § 7.2014, Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate thereof) with respect to such amounts.

(2) Respondent acknowledges that he has read and understands the premises and obligations of this Modification of Stipulation and Consent Order and declares that no separate verbal promise of any kind has been made by the Comptroller, his agents or employees to cause

or induce the Respondent to agree to consent to the issuance of this Modification of Stipulation and Consent Order and/or to execute this Modification of Stipulation and Consent Order.

(3) This Modification of Stipulation and Consent Order shall not be construed as an adjudication on the merits and, except as set forth above, shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting the Respondent if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(4) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Modification of Stipulation and Consent Order, and that nothing herein constitutes, nor shall Respondent contend that it constitutes, a waiver of any right, power, or authority of any other representatives of the United States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

signed

Ronald G. Schneck
Director
Special Supervision Division
Office of the Comptroller of the Currency

April 30, 2004

Date

signed

Ezequiel Edmond Nasser

February 4, 2004

Date