

#2005-102

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

In the Matter of:)
The First National Bank of Brewster)
Brewster, Minnesota)

AA-CE-05-66

CONSENT ORDER

The Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has supervisory authority over The First National Bank of Brewster, Brewster, Minnesota (“Bank”).

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 August 25, 2005, that is accepted by the Comptroller. By this Stipulation and Consent, which 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 it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

SENIOR LOAN OFFICER

(1) Within sixty (60) days, the Board shall ensure that the Bank has a competent Senior Loan Officer in place on a full-time basis who is vested with sufficient executive authority to carry out the Board’s policies; ensure compliance with this Order, applicable laws, rules and regulations; and manage the day-to-day lending operations of the Bank in a safe and sound manner.

(2) As an alternative to (1), the Board may employ a qualified loan consultant to improve the bank's loan administration systems to ensure compliance with this Order.

(3) The Assistant Deputy Comptroller shall have the power to disapprove the appointment of the proposed new Senior Loan Officer or loan consultant. However, the lack of disapproval of such individual shall not constitute an approval or endorsement of the proposed officer or consultant.

(4) If the Board employs a qualified lending consultant under (2), it will reassess the need for a competent full-time Senior Loan Officer by December 31, 2006.

(5) The power of the Assistant Deputy Comptroller to disapprove the appointment under (3) is based on the authority of 12 U.S.C. 1818, and shall be in addition to the authority provided under 12 U.S.C. 1831(i).

ARTICLE II

CAPITAL AND HIGHER MINIMUMS

(1) By December 31, 2005, the Bank shall meet and thereafter maintain Tier I capital at least equal to 8.00 percent of adjusted total assets (as defined in 12 C.F.R. Part 3).

(2) By December 31, 2005, the Bank shall meet and thereafter maintain Tier I capital at least equal to 13.50 percent of risk-weighted assets (as defined in 12 C.F.R. Part 3).

(3) By December 31, 2005, the Bank shall meet and thereafter maintain total capital at least equal to 14.50 percent of risk-weighted assets (as defined in 12 C.F.R. Part 3).

(4) 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).

(5) The Board shall ensure Bank adherence to a dividend policy that permits the declaration of a dividend only:

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

ARTICLE III

LOAN ANALYSIS

(1) Effective immediately, the Bank may grant, extend, renew, alter or restructure any loan or other extension of credit only after:

- (a) documenting the specific reason or purpose for the extension of credit including the reasons for renewals or extensions to ensure they are not made for the sole purpose of reducing loan delinquencies;
- (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 (1)(d) shall require a majority of the full Board to certify in writing the specific reasons why obtaining and analyzing the information in (1)(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 the collateral where applicable.

ARTICLE IV

LOAN RISK RATING SYSTEM

(1) Within thirty (30) days, and on an ongoing basis thereafter, the Board must ensure that the Bank's internal risk ratings of commercial and agricultural credit relationships in excess of \$50,000 ("covered relationship") are timely, accurate, and consistent with the regulatory credit classification criteria set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook. At a minimum, the Board must ensure that, with respect to the Bank's assessment of credit risk of any covered relationship:

- (a) the primary consideration is the strength of the borrower's primary source of repayment (i.e. the probability of default);
- (b) the strength of the borrower's primary source of repayment is determined through analysis of the borrower's historical and projected financial statements, past performance, and future prospects in light of conditions that may occur during the term of the loan;
- (c) collateral, non-government guarantees, and other similar credit risk mitigants that affect potential loss in the event of default (rather than the probability of default) are taken into consideration only if the primary source of repayment has weakened and the probability of default has increased;

- (d) credit risk ratings are reviewed and updated whenever relevant new information is received; and
- (e) the credit risk rating analysis is documented and available for review by the Board and the OCC upon request.

ARTICLE V

CRITICIZED ASSETS

(1) The Bank shall take immediate 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 or review.

(2) Within sixty (60) days, the Board shall ensure that written action plans are developed and updated quarterly for all loan relationships in excess of fifty thousand dollars (\$50,000) and adversely criticized as Special Mention, Substandard, or Doubtful at the April 11, 2005 OCC examination, identified in subsequent loan reviews, and/or in bank-generated internal reports as a problem loan. These actions plans shall contain, 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) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

(3) Upon adoption, a copy of the written action plans 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 conduct a review, on at least a quarterly 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 written action plans 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.

(5) A copy of each review shall be forwarded to the Assistant Deputy Comptroller on a quarterly basis.

(6) 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 (\$50,000) only if each of the following conditions is met:

- (a) the Board 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 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.

(7) A copy of the approval of the Board shall be maintained in the file of the affected borrower.

ARTICLE VI

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within sixty (60) days the Board shall ensure current and satisfactory credit information and collateral documentation is obtained and maintained 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

ARTICLE VII

NONACCRUAL LOANS

(1) Within thirty (30) days, the Board shall update and implement written policies and procedures governing the supervision and control of nonaccrual loans. Such policies and procedures shall:

- (a) be consistent with the accounting requirements contained in the Consolidated Reports of Condition and Income instructions;
- (b) address 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 a monthly presentation to the Board of all loans meeting any of the nonaccrual criteria.

(2) Upon adoption, a copy of the written policies and procedures shall be forwarded to the Assistant Deputy Comptroller and the Board shall thereafter ensure Bank adherence to all policies and procedures developed pursuant to this Article.

ARTICLE VIII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) The Board shall review the adequacy of the Bank's Allowance for Loan and Lease Losses ("Allowance") and shall establish a program for the maintenance of an adequate Allowance. This review and program shall be designed consistent with *OCC 2001-37 Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions*, and shall focus particular attention on the following factors:

- (a) results of the bank's criticized asset reports and problem loan lists;
- (b) loan loss experience;
- (c) trends of delinquent and nonaccrual loans;
- (d) concentrations of credit in the Bank; and
- (e) 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. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained indicating the factors considered and conclusions reached by the Board in determining the adequacy of the Allowance.

ARTICLE IX

LOAN REVIEW

(1) Within sixty (60) days, the Board shall establish an effective and independent loan review system to review the Bank's loan portfolio to assure the timely identification and categorization of problem credits. The system shall provide for a written report to be filed with the Board after each review and shall use a loan grading system consistent with the guidelines set forth in "Rating Credit Risk" booklet of the Comptroller's Handbook. Such reports shall include, at a minimum, conclusions regarding:

- (a) the overall quality of the loan portfolio;
- (b) the identification, type, rating, and amount of problem loans;
- (c) the identification and amount of delinquent loans;
- (d) credit and collateral documentation exceptions;
- (e) the identification and status of credit related violations of law, rule or regulation;
- (f) loans to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (g) loans not in conformance with the Bank's lending policy, and exceptions to the Bank's lending policy.

(2) The Board shall evaluate the internal loan review report(s) and shall ensure that immediate, adequate, and continuing remedial action, if appropriate, is taken on all findings noted in the report(s).

(3) A copy 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, shall be preserved in the Bank.

ARTICLE X

INSIDER LENDING

(1) The Board shall ensure Bank adherence to the written Insider Lending Policy.

(2) The Bank may not extend credit to any insider¹ in violation of 12 U.S.C. § 375a, 12 U.S.C. § 375b, or 12 C.F.R. § 215.

(3) The Board must certify prior to funding that each credit extension to an insider complies with 12 U.S.C. § 375a, 12 U.S.C. § 375b, and 12 C.F.R. § 215. A copy of the certification by the Board shall be maintained in the file of the affected insider borrower.

ARTICLE XI

VIOLATIONS OF LAW - LENDING LIMITS

(1) The Bank shall not lend money or otherwise extend credit to any borrower in violation of the Bank's legal lending limit at 12 U.S.C. § 84.

(2) Within thirty (30) days, the Board shall cause all loans or other extensions of credit that exceed the Bank's legal lending limit to be reduced to conforming amounts.

(3) Within thirty (30) days, the Board shall establish, implement, and thereafter ensure Bank adherence to written procedures to prevent future violations of 12 U.S.C. § 84.

¹ "Insider" shall include any director, executive officer or principal shareholder (as those terms are defined in 12 C.F.R. § 215.2) of the Bank or any Related Interest of such person or entity and also shall include the spouse, children, parents or siblings of any director, officer or principal shareholder of the Bank and the Related Interests of such persons. The terms also include any person who acts on behalf of any insider.

ARTICLE XII

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 ROE and in any subsequent Report of Examination. The quarterly progress reports required by Article XIV of this Order shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within thirty (30) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE and in any subsequent Report of Examination.

ARTICLE XIII

BOARD OVERSIGHT AND ACCOUNTABILITY

(1) 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 the Articles in this Order.

ARTICLE XIV

PROGRESS REPORTING - QUARTERLY

(1) The Board shall submit quarterly progress reports to the Assistant Deputy Comptroller for Bank Supervision. These reports shall set forth in detail:

- (a) actions taken since the prior progress report to comply with each Article of the 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 September 30, 2005 and will be due within thirty (30) days of that date. Thereafter, progress reports will be due within thirty (30) days after the calendar quarter end.

(4) All reports or plans which the Bank or Board has agreed to submit to the Assistant Deputy Comptroller pursuant to this Order shall be forwarded to:

Christine A. Hartman, Assistant Deputy Comptroller for Bank Supervision
Sioux Falls Field Office
4900 South Minnesota Avenue, Suite 300
Sioux Falls, South Dakota 57108-2865

ARTICLE XV

CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or prior written determination of no supervisory objection 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 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 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 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) 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 Comptroller or the United States.

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

IT IS SO ORDERED, this 25th day of August, 2005.

/s/ Christine A. Hartman

Christine A. Hartman
Assistant Deputy Comptroller
Minneapolis West Field Office

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

In the Matter of:)
The First National Bank of Brewster)
Brewster, Minnesota)

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

The Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist proceedings against The First National Bank of Brewster, Brewster, Minnesota (“Bank”) pursuant to 12 U.S.C. § 1818(b) through the issuance of Notice dated August 25, 2005 for unsafe and unsound banking practices relating to credit administration and violations of the legal lending limit, call reporting, and affiliate regulations.

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated August 25, 2005 (“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).

(4) This Order shall cause the Bank to be designated in “troubled condition,” as set forth in 12 C.F.R. § 5.51(c)(6), unless otherwise informed in writing by the Comptroller. In addition, this Order shall cause the Bank not to be designated as an “eligible bank” for purposes of 12 C.F.R. § 5.3(g), unless otherwise informed in writing by the Comptroller.

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 Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his 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 Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Comptroller has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the Comptroller’s exercise of his 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 a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19
 - (d) all rights to seek any type of administrative or judicial review of the Order; and
 - (e) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

Other Action

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

/s/ Christine A. Hartman

Christine A. Hartman
Assistant Deputy Comptroller
Minneapolis West Field Office

August 25, 2005

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 _____
Bruce N. Kness

8-25-05 _____
Date

Signed _____
Charles C. Moser

8-25-05 _____
Date

Signed _____
Dennis A. Walker

8-25-05 _____
Date