

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

In the Matter of:)
Terrabank National Association)
Miami, Florida)

AA-EC-05-86

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), through his national bank examiner, is currently examining Terrabank, N.A., Miami, Florida (“Bank”) and issued on November 3, 2005 a Notice of Charges pursuant to 12 U.S.C. § 1818(b); and

WHEREAS, in the interests of cooperation, 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 11-10-05, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference herein, the Bank, without admitting or denying any wrongdoing, has consented to the issuance of this Consent Order ("Order") by the Comptroller.

NOW, THEREFORE, 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

PRESERVATION OF BOOKS AND RECORDS

(1) The Board shall immediately ensure that no Bank documents, books, or records are destroyed, altered or removed from the Bank’s premises until further written notice from the Director for Special Supervision (“Director”). For purposes of this paragraph, “documents,

books and records” shall have the broadest possible meaning reasonably imaginable and shall include, without limitation, paper and electronic records of all kinds, reports, notes, calendars, phone logs, e-mails, voice-mails, financial instruments and tapes.

(2) The Board shall ensure that, within seven (7) days, all of the Bank’s documents, books and records that are not currently maintained on the Bank’s premises are returned to the Bank and thereafter maintained in accordance with paragraph (1) above; provided, however, that documents, books and records catalogued and stored in safe locations owned or leased by the Bank need not be maintained on the Bank's premises, if, and only if, the documents, books and records are available to the Comptroller's representatives during their normal working hours, or are delivered to Bank premises within one day of a request by the Comptroller’s representative.

(3) The Bank shall provide OCC personnel with prompt and unrestricted access to the books, records, directors, officers, and staff of the Bank.

(4) The Bank shall provide full and complete details of the purpose of transactions by and between the Bank and any of its customers and by and between the Bank and any of its affiliates, to OCC personnel upon inquiry.

(5) Effective immediately, the Bank shall not directly or indirectly conceal transactions from the OCC, or hinder or obstruct the OCC examination process.

Article II

LENDING BOOKS AND RECORDS

(1) The Board shall immediately ensure that all loans, loan extensions, loan renewals or other extensions of credit (collectively “loan” and “loans”) are properly recorded on the Bank’s books and records, including the general ledger and any subsidiary ledgers, as loans.

(2) The Bank shall immediately cease and desist from making any loan that exceeds twenty-five thousand dollars (\$25,000) unless:

- (a) A written loan presentation package is created by the loan officer. Such loan presentation package shall include, at a minimum, the following:
 - (i) the name of the borrower;
 - (ii) the amount of the loan;
 - (iii) the specific purpose of the loan, including a specific and accurate description of the borrower's planned use of the loan proceeds;
 - (iv) the expected source of repayment;
 - (v) the repayment terms, which shall coincide with the expected source of repayment;
 - (vi) a full credit analysis of each borrower and any guarantor(s);
 - (vii) current and satisfactory credit information, including a cash flow analysis where loans are to be repaid from operations; and
 - (viii) the value of collateral and the Bank's lien position, where applicable.
- (b) The Board verifies that all of the items specified in paragraph (2)(a) of this Article are included in the loan presentation package.
- (c) The loan is approved by a majority of the disinterested Board members prior to disbursement. Board approval shall be documented and include the name and vote of each Board member.

(3) The Bank shall immediately cease and desist from permitting any overdraft over three thousand dollars (\$3,000) unless the requirements detailed in Paragraph (2) are satisfied.

(4) Effective immediately, under no circumstances shall the Bank accept, as a loan payment on any loan held by the Bank, a transfer of funds from a Bank account that results in or increases an overdraft.

(5) Effective immediately, under no circumstances shall an overdraft in any Bank account be reduced with a transfer of funds from another Bank account that results in or increases an overdraft.

(6) The Bank shall immediately cease and desist from funding any loan from any suspense account.

Article III

FORENSIC AUDIT TO VERIFY ACCURACY AND COMPLETENESS OF BOOKS AND RECORDS

(1) Within thirty (30) days of the date of this Order, the Bank shall engage the services of a forensic auditor to verify, from January 1, 2003 to the present, the accuracy and completeness of the Bank's books and records for all suspense accounts, and those additional accounts and relationships identified by the Director in written correspondence issued pursuant to this Article.

(2) Prior to engaging the forensic auditor, the Bank shall submit the name and qualifications of the forensic auditor and the proposed engagement contract to the Director for a written prior determination of no supervisory objection. The audit must be completed within sixty (60) days of receipt of the Director's nonobjection.

(3) Within thirty (30) days of receipt of written notice from the Director that additional accounts, relationships, or other Bank activities shall be reviewed, the Bank shall have the forensic auditor engaged pursuant to this Article verify the accuracy and completeness of the Bank's books

and records with regard to such accounts, relationships or activities. Such additional forensic audits must be completed within sixty (60) days of receipt of the Director's written notice.

Article IV

ACKNOWLEDGMENT OF THIS CONSENT ORDER

(1) The Board shall obtain and forward to the Director, within five (5) days of the date of this Order or the beginning of affiliation with the Bank, whichever is later, a signed and dated acknowledgment (attached hereto as Exhibit A), from each current or future Director, officer, and employee of the Bank establishing that they have reviewed and acknowledge the terms of this Order ("Acknowledgment").

(2) The Board shall ensure that any written notification provided to the Bank's senior management pursuant to the Acknowledgment, reporting a violation of the Order or a request to participate in a violation of the Order, is immediately forwarded to the Director.

Article V

ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

(1) If the Bank contends that compliance with any provision of this Order would cause undue hardship to the Bank, or requires an extension of any timeframe within this Order, the Board shall submit a written request to the Director asking for relief. Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with a provision, that require the Director to exempt the Bank from a provision, or that require an extension of a timeframe within this Order.

(2) All such requests shall be accompanied by relevant supporting documentation, and a sworn affidavit or affidavits setting forth any other facts upon which the Bank relies. The Director's decision concerning a request is final and not subject to further review.

Article VI

NOTICES AND REQUESTS

(1) All notices and requests pursuant to this Order shall be submitted, via overnight mail, to the Director for Special Supervision, 250 E Street SW, Washington, DC 20219.

Article VII

CLOSING

(1) Although the Bank is required to submit certain proposed actions and programs for the review or prior determination of no supervisory objection of the Director, the Board has the ultimate responsibility for proper and sound management of the Bank and the completeness and accuracy of the Bank's books and records.

(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.

(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) In each instance in this Order in which the Bank or 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 Comptroller 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 prior arrangements between the parties, whether oral or written.

IN WITNESS WHEREOF, my hand given at Washington, D.C. this 15th day of November 2005.

signed

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

EXHIBIT A

**ACKNOWLEDGMENT OF
CONSENT ORDER**

I, _____, hereby certify that I have reviewed and acknowledge the Consent Order (“Order”) that was issued by the Office of the Comptroller of the Currency and executed with Terrabank, National Association, Miami, Florida (“Bank”) on November ____, 2005.

To the extent that the provisions of the Order pertain to my duties and responsibilities at the Bank, I will seek to ensure compliance with the Order and will not cause the Bank to violate any provision of the Order.

In the event that I become aware of a violation of the Order or am asked to participate in a violation of the Order, I will immediately notify a member of the Bank’s senior management in writing.

Signature

Date

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

In the Matter of: _____)
Terrabank, National Association _____)
Miami, Florida _____)

AA-EC-05-86

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

The Comptroller of the Currency of the United States of America (“Comptroller”) initiated on November 3, 2005, through the service of a Notice of Charges, cease and desist proceeding against Terrabank, National Association, Miami, Florida (“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 11-15-05 (“Order”) for the purpose of settling the Comptroller’s cease and desist proceeding.

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 Office of the Comptroller of the Currency (“OCC”) 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 United States Department of the Treasury, 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) Any and all procedural rights available in connection with the issuance of the Order;
- (b) All rights to seek any type of administrative or judicial review of the Order; and
- (c) 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 his hand on behalf of the Comptroller.

signed

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

11-15-05

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
Alejandro J. Aguirre

11-10-05
Date

signed
Fernando C. Alonso

11-10-05
Date

signed
Francisco J. Martinez

11-10-05
Date

signed
Uriel Mendieta

11-10-05
Date

signed
Marcelo Montalvan

11-10-05
Date

signed
Ramiro N. Ortiz

11-10-05
Date

signed
Carla Ortiz de Martinez

11-10-05
Date