

**#2005-29**

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

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**In the Matter of:**

The Fulton County National Bank  
and Trust Company  
McConnellsburg, Pennsylvania

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NE 2005-15

**CONSENT ORDER**

The Acting Comptroller of the Currency of the United States of America (“Comptroller”), through her National Bank Examiner, has examined The Fulton County National Bank and Trust Company, McConnellsburg, Pennsylvania (“Bank”), and his findings are contained in the Report of Examination for the examination that commenced on August 10, 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 3/23/05, 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 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 ten (10) days, the Board shall appoint a Compliance Committee of at least three (3) directors, of which none 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, the names of the members of the Compliance Committee shall be submitted in writing to the Assistant Deputy Comptroller. The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Order

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

(3) Within thirty (30) days of the appointment of the Committee and monthly 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;
- (b) the results of those actions;
- (c) a description of the actions needed to achieve compliance with each Article of this Order; and
- (d) actions taken by the Board in response to criticisms in the ROE and in all future ROEs.

(4) The Board shall forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Assistant Deputy Comptroller at the following address:

Assistant Deputy Comptroller  
Pittsburgh Field Office  
4075 Monroeville Boulevard, Suite 300  
Monroeville, Pennsylvania 15146

## ARTICLE II

### ACTION PLAN

(1) Within thirty (30) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written action plan detailing the Board's assessment of what needs to be done to

improve the Bank, specifying how the Board will implement the plan, and setting forth a timetable for the implementation of the plan and identifying individuals responsible for each action.

(2) Upon completion of the plan, the Board shall submit the plan to the Assistant Deputy Comptroller for review. The Board shall establish appropriate procedures for the implementation of the plan.

(3) In the event the Assistant Deputy Comptroller recommends changes to the action plan, the Board shall immediately incorporate those changes into the plan.

(4) The plan shall be implemented pursuant to the time frames set forth within the plan unless events dictate modifications to the plan. Where the Board considers modifications appropriate, those modifications shall be submitted to the Assistant Deputy Comptroller for prior determination of no supervisory objection. 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 III

#### STRATEGIC PLAN

(1) Within one hundred twenty (120) days, taking into consideration the Profit Plan developed in accordance with Article VI and the Capital Plan adopted in accordance with Article VII, the Board shall adopt, implement, and thereafter ensure Bank 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, 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) an assessment of the Bank's present and future operating environment;
- (b) the development of strategic goals and objectives to be accomplished over the short and long term;
- (c) 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 this Article; where the evaluation determines significant inadequacies, alternative goals or strategies should be developed;
- (d) a management employment and succession program to promote the retention and continuity of capable management;
- (e) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the strategic plan;
- (f) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment;
- (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;

- (h) control mechanisms to periodically review, update or change the plan when material changes to the Bank's operating environment or infrastructure change; and
- (i) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

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

(3) Upon receiving a determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall adopt, implement, and ensure Bank adherence to the Strategic Plan.

(4) 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 IV

### APPOINTMENT OF COMPETENT MANAGEMENT

(1) Within thirty (30) days, the Board shall identify and submit to the OCC for review and non-objection, a Chief Executive Officer who shall have sufficient authority 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.

(2) Within forty five (45) days of the identification of a Chief Executive Officer, or in the event of the Board's failure to comply with Paragraph 1 of this Article, within sixty (60) days from the effective date of this Order, the Board shall ensure that the Bank has competent management in place on a full-time basis, including a **Senior Loan Officer, Chief Financial**

**Officer, Compliance Officer, and Bank Secrecy Act Officer**, who have sufficient 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, financial, and compliance operations of the Bank in a safe and sound manner.

(3) Prior to the appointment of any individual to an executive officer position, the Board shall submit to the Assistant Deputy Comptroller 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.

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

(5) The requirement to submit information and the prior disapproval 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 V

### MANAGEMENT AND BOARD SUPERVISION STUDY

(1) Within forty five (45) days of the identification of a Chief Executive Officer, or in the event of the Board's failure to comply with Paragraph 1 of Article IV, within sixty days from the effective date of this Order, the Board shall identify, and submit to the OCC for review, an independent outside management consultant.

(2) Prior to the appointment or employment of any consultant or entering into any contract with a consultant, the Board shall submit the name and qualifications of the proposed consultant and the proposed terms of employment to the Assistant Deputy Comptroller for a prior determination of no supervisory objection.

(3) Within sixty (60) days of receipt of no supervisory objection from the Assistant Deputy Comptroller, the Consultant shall complete a study of current management and Board supervision presently being provided to the Bank, the Bank's management structure, and its staffing requirements in light of the Bank's present condition. The findings and recommendations of the Consultant shall be set forth in a written report to the Board. At a minimum, the report shall contain:

- (a) the identification of present and future management and staffing requirements of each area of the Bank, with particular emphasis given to the lending area;
- (b) detailed written job descriptions for all executive officers;
- (c) an evaluation of each officer's qualifications and abilities and a determination of whether each of these individuals possesses the

experience and other qualifications required to perform present and anticipated duties of his/her officer position;

- (d) recommendations as to whether management or staffing changes should be made, including the need for additions to or deletions from the current management team;
- (e) objectives by which management's effectiveness will be measured;
- (f) a training program to address identified weaknesses in the skills and abilities of the Bank's staff and management team;
- (g) an evaluation of current lines of authority, reporting responsibilities and delegation of duties for all officers, including identification of any overlapping duties or responsibilities;
- (h) a recommended organization chart that clearly reflects areas of responsibility and lines of authority for all officers, including the Bank's president and chief executive officer;
- (i) an assessment of the Board's strengths and weaknesses along with a director education program designed to strengthen identified weaknesses;
- (j) an assessment of whether Board members are receiving adequate information on the operation of the Bank to enable them to fulfill their fiduciary responsibilities and other responsibilities under law;
- (k) recommendations to expand the scope, frequency and sufficiency of information provided to the Board by management;
- (l) an evaluation of the extent of responsibility or current management and/or the Board for present weaknesses in the Bank's condition; and



(m) recommendations to correct or eliminate any other deficiencies in the supervision or organizational structure of the Bank.

(4) Within thirty (30) days after completion of this study, the Board shall develop, implement, and thereafter ensure Bank adherence to a written plan, with specific time frames, that will correct any deficiencies that are noted in the study.

(5) Copies of the Board's written plan and the Consultant's study shall be forwarded to the Assistant Deputy Comptroller. The Assistant Deputy Comptroller shall retain the right to determine the adequacy of the report and its compliance with the terms of this Agreement. In the event the written plan, or any portion thereof, is not implemented, the Board shall immediately advise the Assistant Deputy Comptroller, in writing, of specific reasons for deviating from the plan.

(6) 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

### PROFIT PLAN

(1) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written profit plan, covering a three-year period, to improve and sustain the earnings of the Bank. This plan shall include, at minimum, the following elements:

- (a) identification of the major areas in 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 budgets and related documents required in paragraph (1) above for 2005 shall be submitted to the Assistant Deputy Comptroller upon completion. The Board shall submit to the Assistant Deputy Comptroller annual budgets as described in paragraph (1a through d) above for each year this Order remains in effect. The budget for each year shall be submitted on or before November 30, of the preceding year.

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

(4) 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 VII

### CAPITAL PLAN AND HIGHER MINIMUMS

- (1) The Bank shall maintain the following capital levels (as defined in 12 C.F.R. Part 3):
- (a) Tier 1 capital at least equal to fourteen percent (14%) of risk-weighted assets;
  - (b) Tier 1 capital at least equal to ten percent (10%) of adjusted total assets.

(2) The requirement in this Order to 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, 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, including the sale, merger, or liquidation of the Bank; 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;
  - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
  - (iii) with the prior written approval of 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 VIII

### INTEREST RATE RISK MANAGEMENT

(1) Within thirty (30) days, the Board shall identify, and submit to the OCC for review, a qualified outside consultant to recommend actions to reduce the risk presented by the Bank's preferred stock portfolio

(2) Prior to employment of the consultant, the name and the qualifications of the consultant considered for employment shall be submitted to the Assistant Deputy Comptroller, who shall have the power of veto over the employment of the proposed consultant. However, failure to exercise such veto power shall not constitute approval or endorsement of the consultant.

(3) At a minimum, the consultant and Board shall explore the most cost effective method of reducing the bank's concentration in preferred stocks. The reduction plan should result in a concentration level represented of less than 25% of the bank's Tier 1 Capital plus the Allowance for Loan and Lease Losses.

(4) The consultant shall provide an interim interest rate risk measurement to quantify the Bank's level of interest rate risk and provide monthly management and Board reports.

(5) The Board shall develop, implement, and thereafter ensure Bank adherence to a written plan, with specific time frames and conditions, that will reduce the level of concentration in these preferred stocks over time.

(6) Within thirty (30) days of completion of the review required by this Article, the consultant shall recommend a simulation model(s) that accurately measure all relevant risks inherent in the Bank's current balance sheet and report the bank's interest rate risk position. The model(s) should provide the Board with information about the Bank's interest rate risks using realistic rate change scenarios and the impact to the Bank's earnings and capital.

(7) Within forty five (45) days of completion of the review under paragraph 1(b) of this Article, the Board shall approve and begin using an appropriate interest rate risk simulation model.

(8) Within sixty (60) days of completion of the review required by this Article, the Board shall develop, implement and thereafter ensure Bank adherence to a written interest rate risk management program. In formulating this program, the Board shall refer to the Interest Rate Risk booklet of the Comptroller's Handbook. The program shall include, at a minimum, the following:

- (a) appropriate technical and human resources to ensure effective risk management, audit and internal controls;
- (b) written policies and procedures that reflect the Board's goals, objectives, and risk tolerances;

- (c) responsibility and authority for identifying potential interest rate risk arising from new or existing products and activities;
- (d) maintaining an interest rate risk measurement system that can identify and quantify the Bank's major sources of interest rate risk in a timely manner;
- (e) periodic validation of the risk measurement system;
- (f) reports on the bank's interest rate risk profile with appropriate frequency and complexity commensurate with the Bank's risk;
- (g) risk limits based on the Bank's strategies, its past performance, the level of earnings and capital available to absorb potential losses, and the Board's tolerance for risk; and
- (h) remedial and supplemental periodic training activities and vehicles to ensure that the Board and management have an adequate understanding of its interest rate risk profile and program.

(9) Upon adoption, a copy of the written description of this program and a copy of the interest rate risk policy and procedures shall be promptly submitted to the Assistant Deputy Comptroller for review.

(10) 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 IX

### TRUTH-IN-LENDING AND REAL ESTATE SETTLEMENT ACT

#### COMPLIANCE ASSESSMENT

(1) Within thirty (30) days, the Board shall identify, and submit to the OCC for review, a qualified consultant to perform a compliance review of all loans made since October 1, 2001 that were subject to the Truth in Lending Act and the Real Estate Settlement Procedures Act. The review shall include the following:

- (a) a review of each file to determine if finance charges were properly disclosed.
- (b) verification that annual percentage rates were properly calculated per regulatory requirements.
- (c) determination of violations of those acts and whether new disclosures should be sent to the affected consumers.
- (d) determination that violations of those acts resulted in reimbursements to affected consumers.
- (e) prepare revised disclosures, notification letters, and reimbursement amounts for affected customers.

(2) Prior to the appointment or employment of any individual to this compliance review consultant or entering into any contract with a consultant, the Board shall submit the name and qualifications of the proposed consultant and the proposed terms of employment to the Assistant Deputy Comptroller for a prior determination of no supervisory objection.

(3) Within forty five (45) days of engagement, the consultant shall provide the Bank and the Assistant Deputy Comptroller a report detailing his/her findings pursuant to this Article for review. Upon review, the Assistant Deputy Comptroller will determine if reimbursement must be made. If so determined, reimbursements must be made immediately.

## ARTICLE X

### ALLOWANCE FOR LOAN AND LEASE LOSS PROVISION

(1) The Board shall ensure that an immediate provision of two hundred fifty thousand dollars (\$250,000) is made to the Allowance For Loan and Lease Losses account, retroactive to June 30, 2004.

(2) Once the provision is made, the Board shall ensure that the Reports of Condition and Income (Call Reports) filed for June 30, 2003, September 30, 2003, December 31, 2003, March 31, 2004 and June 30, 2004 reflect the impact of this provision and the one million dollar (\$1,000,000) provision that was required as of June 30, 2003. These changes should be reflected in other publicly disclosed financial reports.

(3) Within ninety (90) days the Board shall review the adequacy of the Bank's methodology for maintenance of an adequate Allowance for Loan and Lease Losses ("Allowance"). This review and program shall be designed in light of the comments made in the June 2003 ROE and 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 focus particular attention on the following factors:

- (a) results of the Bank's loan review;
- (b) results of any regulatory examination;



- (c) an estimate of inherent loss exposure with particular attention to problem and impaired credits;
- (d) loan loss experience;
- (e) trends of delinquent and nonaccrual loans;
- (f) concentrations of credit in the Bank;
- (g) present and prospective economic conditions.

(4) 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.

(5) A copy of the Board's program shall be submitted to the Assistant Deputy Comptroller for review and prior determination of no supervisory objection.

(6) 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 XI

### LOAN REVIEW

(1) Within thirty (30) days, the Board shall identify, and submit to the OCC for review, a qualified third party to perform an initial review of the commercial, commercial real estate and agricultural loan portfolios that were not included within the sample of credits during the 2003 and 2004 examinations.

(2) Prior to the appointment or employment of any individual or firm for this loan review or entering into any contract with a third party, the Board shall submit the name and qualifications of the proposed individuals and the proposed terms of employment to the Assistant Deputy Comptroller for a prior determination of no supervisory objection.

(3) Within sixty (60) days of engagement, the person(s) or firm shall complete the loan review. The findings and recommendations of the review shall be set forth in a written report to the Board. At a minimum, the report shall contain:

- (a) the identification, type, rating, and amount of problem loans and leases;
- (b) recommendations for ALLL provisions for any impaired loans and leases;
- (c) credit and collateral documentation exceptions;
- (d) the appropriateness of accounting treatment and accrual status on renewed credits;
- (e) the identification and status of credit related violations of law, rule or regulation,
- (f) recommendations for improving the condition of these credits, and
- (g) any systemic or specific deficiencies identified during the review and recommendations to improve them.

(4) Within thirty (30) days of completion of the Report, a copy of the written report shall be submitted to the Assistant Deputy Comptroller for review and a determination of no supervisory objection.

(5) Within one hundred eighty (180) days, the Board shall employ a qualified third party to perform an ongoing review of the Bank's loan portfolio. The loan review firm or consultant

shall provide written reports, at least every three months, to the Board for review. Such reports 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) credit and collateral documentation exceptions (amount, type, trends, etc);
- (d) exceptions to loan policies and approval requirements;
- (e) nature and quality of loan extensions, renewal, and modifications;
- (f) performance of lending officers;
- (g) compliance with appropriate and relevant laws and regulations, including accounting guidelines and Call Report instructions;
- (h) concentrations of credit and establishment of limits;
- (i) lending policies, procedures, and underwriting guidelines; and
- (j) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank.

(6) A written description of the program called for in this Article shall be forwarded to the Assistant Deputy Comptroller upon completion.

(7) Within thirty (30) days of completion of the review, the consultant shall provide the Bank and the Assistant Deputy Comptroller a report detailing his/her findings pursuant to this Article for review.

(8) Before terminating the consultant's asset quality review services, the Board shall establish an effective internal loan review system and receive prior determination of no supervisory objection from the Assistant Deputy Comptroller. The internal loan review system

shall provide periodic reports and shall, at a minimum, include conclusions on the items described in paragraph 5(a) – (j) of this Article.

## ARTICLE XII

### CRITICIZED ASSETS IMPROVEMENT

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to take immediate and continuing action to protect its interests and/or eliminate the basis of criticism of assets criticized as "loss," "doubtful," "substandard," or "special mention" in the ROE, in any subsequent Report of Examination, by the external review required under Article X of this Order, by any internal or external loan review, or in any list provided to management by the National Bank Examiners during an examination. This program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) an analysis of the sufficiency of repayment sources using current and satisfactory credit information, including cash flow, where loans are to be repaid from operations or income; and
- (c) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment ("problem loan action plan").

(2) Upon adoption, a copy of the program for all criticized assets equal to or exceeding one hundred and fifty thousand dollars (\$150,000) shall be forwarded to the Assistant Deputy Comptroller.

(3) 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 one hundred and fifty thousand dollars (\$150,000);
- (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.

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

(5) 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 one hundred and fifty thousand dollars (\$150,000) 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.

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

(7) 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 XIII

#### LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, within one hundred twenty (120) days, 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 extensions of credit are appropriately structured consistent with safe and sound standards;
- (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, including but not limited to accurate cash flow calculations and analysis;
- (c) procedures to ensure the timely identification and rating of loans and leases based on lending officer submissions;
- (d) procedures to ensure satisfactory and perfected collateral documentation and collateral valuation, including appraisals or evaluations of real estate;

- (e) procedures to ensure conformance with lending policy, including loan approval requirements,
- (f) procedures to ensure conformance with Call Report instructions, generally accepted accounting principals, lending related laws and regulations; and regulatory guidance;
- (g) procedures to track, analyze, and report credit, collateral, documentation and policy exceptions;
- (h) procedures to ensure appropriate documentation and use of loan extensions and renewals;
- (i) 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;
- (j) procedures to ensure the accuracy of internal management information systems;
- (k) a performance appraisal process, including performance appraisals, job descriptions, and incentive programs for loan officers, which adequately consider their performance relative to policy compliance, documentation standards, accuracy in credit grading, and other loan administration matters; and
- (l) procedures to assist the Board in monitoring the compliance with and the effectiveness of this program on a periodic basis.

(2) Upon completion, a copy of the program 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 program and systems developed pursuant to this Article.

#### ARTICLE XIV

##### REPORTING AND INFORMATION SYSTEMS FOR THE LOAN PORTFOLIO

(1) Within one hundred eighty (180) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program establishing an effective reporting system (MIS), which 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, particularly regarding the commercial/industrial, commercial real estate and agricultural loan portfolios, and establish effective reporting mechanisms to guide decisions. The program shall include procedures for:

- (a) producing complete and relevant information in a summarized form, for Board and management reports, to permit effective decision making;
- (b) generating statistical records that will serve as a basis for identifying sources of problem loans and leases by industry, size, collateral, dealer, and individual lending officer;
- (c) generating periodic reports which identify actual emerging problem loans, delinquency trends, identified problem loans, foreclosed assets; nonaccrual loans and trends over specific time horizons;
- (d) tracking reports for previously approved loans with policy or credit and collateral exceptions. Reports should include aggregate loan portfolio



exceptions and trends and measure exposures relative to capital or portfolio limits;

- (e) identifying all extensions and renewals of size;
- (f) documenting and stale dating credit and collateral documentation exceptions by loan officer;
- (g) compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function;
- (h) identifying and indicating status of credit related violations of law, rule or regulation;
- (i) the identification and amount of loans to executive officers, directors, principal shareholders (and their related interest) of the Bank.

(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.

(3) The Board shall submit a copy of the program to the Assistant Deputy Comptroller for review.

## ARTICLE XV

### BANK SECRECY ACT ASSESSMENT

(1) Within thirty (30) days, the Board shall identify, and submit to the OCC for review, a qualified independent Consultant to develop findings, observations and recommendations on the Bank's internal controls and audit programs for complying with the Bank Secrecy Act (BSA), (31 U.S.C. §§ 5311 - 5330), as amended by Title III of the USA PATRIOT Act, the regulations promulgated thereunder at 31 C.F.R. Part 103, as amended, and 12 C.F.R. Part 21, Subparts B

and C (including, but not limited to, Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs)) (collectively referred to herein as the BSA), the Money Laundering Control Act (MLCA), (18 U.S.C. §§ 1956 and 1957), as amended by the USA PATRIOT Act, and the rules and regulations of the Office of Foreign Assets Control (OFAC), including related regulatory reporting on those subjects. These findings, observations and recommendations, along with the Bank's response to any such concerns, shall be reviewed by the independent Consultant on an annual basis for the term of this Agreement.

(2) Prior to employment of the Consultant, the name and the qualifications of the Consultant considered for employment shall be submitted to the Assistant Deputy Comptroller, who shall have the power of veto over the employment of the proposed consultant. However, failure to exercise such veto power shall not constitute approval or endorsement of the Consultant.

(3) 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.

(4) Within forty five (45) days of employment, the independent Consultant shall conduct a review of all account activity at the Bank from July 1, 2002 to December 31, 2004. This review shall cover cash-in and cash out transactions, including deposit accounts, loan transactions, wire activity, certified check activity, Currency Transaction Report activity (including structuring) and traveler's check activity, in order to ascertain any unusual or suspicious transactions that may have occurred at the Bank during this period. Upon completion of this review, the findings of the Consultant shall be reported to the Board, with a copy to the Assistant Deputy Comptroller.

(5) Within fifteen (15) days of receiving the Consultant's written report required by this Article, the Bank shall file Suspicious Activity Reports, in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during this review.

(6) Within ninety (90) days of employment, the independent consultant shall conduct, complete and report to the Board his/her assessment of the Bank's internal controls and audit programs for ensuring compliance with BSA, MLCA, OFAC, and USA PATRIOT Act.

(7) The Consultant shall assist the Bank with the development of internal controls and audit program sufficient to monitor and ensure compliance with the BSA, MLCA, and OFAC.

## ARTICLE XVI

### BANK SECRECY COMPLIANCE PROGRAM

(1) Within one hundred twenty (120) days, and with the assistance of the BSA consultant required by Article XV of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program of policies and procedures and audit standards to ensure compliance with the BSA, MLCA, OFAC, and USA PATRIOT Act. At a minimum, this written program shall have and incorporate:

- (a) recommendations from the consultant's study required under Article XV of this Order;
- (b) a system of internal controls and independent testing and auditing to ensure ongoing compliance with the BSA, MLCA, OFAC, and USA PATRIOT Act laws and regulations and guidance in Advisory Letter 2000-3;

- (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 BSA;
- (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;
  - (v) receipt and disbursement of currency or monetary instruments when they are inconsistent with the customer's business; and
  - (vi) bank accounts opened in the name of a casa de cambio (money exchange house) or any "financial institution" as defined in 31 C.F.R. § 103.11(n) (bank, broker/dealer, currency dealer or

exchanger, issuer or seller or redeemer of traveler's checks or money orders, transmitter of funds, telegraph company, casino, etc.);

- (g) a comprehensive training program for all appropriate operational and supervisory personnel to ensure their awareness of and compliance with the requirements of the BSA, MLCA, OFAC, and USA PATRIOT Act, including the currency reporting and monetary instrument and funds transfer recordkeeping requirements, and the reporting requirements associated with Suspicious Activity Reports (SARs) pursuant to 12 C.F.R. Part 21, Subpart B; and
- (h) comprehensive guidelines and procedures to identify and report both the shipment and receipt of currency or monetary instruments via common couriers, detail procedures that will cover and address improperly labeled courier pouches containing monetary instruments, as well as related procedures for reporting and filing Suspicious Activity Reports for such pouches.
- (i) expanded audit procedures to include, at a minimum:
  - (i) a program to test the adequacy of internal controls designed to ensure compliance with the provisions of the BSA, MLCA, OFAC, and USA PATRIOT Act;
  - (ii) prompt management response and follow-up to all audit exceptions or recommendations of the Bank's auditor, external review providers, or regulators; and

- (iii) a risk based approach to compliance audits that includes transactional testing and verification of data for higher risk accounts, geographic areas of specific concern, or new products and services.

(2) Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review. In the event the Assistant Deputy Comptroller recommends changes to the program, the Board shall immediately incorporate those changes into the program.

(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.

## ARTICLE XVII

### AUDIT FUNCTION

(1) Within sixty (60) days, the Board, or a designated committee thereof, shall review and evaluate the level of service and ability of the audit function currently being provided by its audit firm, with a particular focus on the BSA components of the audit. Such an assessment, which must be in writing, should include the Board's expectations of how its audit firm can assist in evaluating high risk areas of the Bank. The written assessment should detail how the Board will improve its supervision of the audit function and ensure realistic, timely, and meaningful responses from management on deficiencies noted by the internal and external audit, loan review, compliance review, and the OCC.

(2) Within ninety (90) days, the Board shall expand the Bank's existing audit procedures to include:

- (a) development of a program to test the adequacy of internal controls designed to ensure compliance with the provisions of the Bank Secrecy Act, including a review employees' compliance with BSA policies and the reporting of suspicious activities and testing and verification of accuracy of information reported;
  - (b) prompt management response and follow-up to all audit exceptions or other recommendations of the Bank's auditor; and
  - (c) a risk-based approach to Bank Secrecy Act compliance that includes transactional testing and verification of data for higher risk accounts across all of the bank's lines of business, products, and services.
- (3) Within one hundred twenty (120) days, the Board should ensure that the auditor for BSA matters has performed the following activities:
- (a) developed findings, observations and recommendations on the Bank's internal controls addressing compliance with OFAC and the Bank Secrecy Act, including related regulatory reporting on those subjects; and
  - (b) reviewed prior account activity at the Bank, including deposit accounts, loan transactions, wire activity, certified check activity, Currency Transaction Report activity (including structuring) and traveler's check activity, for accounts that pose greater than normal risks for compliance with the Bank Secrecy Act, in order to ascertain any unusual or suspicious transactions that may have occurred at the Bank during this period and to test the accuracy of information reported by the Bank.

(4) Upon completion of this review, the Board's findings and a copy of the expanded audit procedures shall be provided to the Assistant Deputy Comptroller. The Bank shall immediately file Suspicious Activity Reports, in accordance with 12 C.F.R. § 21.11, for any previously unreported suspicious activity identified during this review, and it shall supplement any previously filed Suspicious Activity Report as appropriate.

## ARTICLE XVIII

### SUSPICIOUS ACTIVITY REPORTS

(1) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank 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.

(2) Upon completion, a copy of this program shall be submitted to the Assistant Deputy Comptroller for review. In the event the Assistant Deputy Comptroller recommends changes to the program, the Board shall immediately incorporate those changes into the program.

(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.



## ARTICLE XIX

### INFORMATION SECURITY PROGRAM

(1) The Bank shall immediately terminate its transactional website until such time as appropriate controls are in place.

(2) Within forty five (45) days, the Board shall designate a qualified individual or committee to ensure that the information security program is monitored and periodically tested, at least annually.

(3) Within one hundred twenty (120) days, the Board shall develop, approve, and implement a customer information security program outlined under 12 CFR 30 Appendix B.

(4) Within one hundred twenty (120) days upon implementation of the customer information security program, the Board shall ensure that the controls are tested and are functioning as expected and document the results within the Board minutes.

(5) A copy of the Bank's information security program should be forwarded to the Assistant Deputy Comptroller.

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

## ARTICLE XX

### BANK INFORMATION SYSTEMS RESUMPTION AND CONTINGENCY PLAN

(1) Within sixty (60) days, the Bank shall update its disaster recovery plan (DRP) to reflect the current technology environment. In addition, the DRP shall provide sufficient

documented procedures and guidance to permit effective implementation of the DRP by qualified staff.

(2) Within ninety (90) days, and at least annually thereafter, the Board shall review and formally approve its DRP. This approval shall be noted in the Board minutes.

(3) Within one hundred fifty days (150) days, and at least annually thereafter, to ensure the continuation of operations in the event of a disaster, the Board shall ensure that the DRP is tested to verify the recovery of all necessary programs and system applications using its backup location, or recovery operation center. The Board shall document the results of this review and test in its meeting minutes.

(4) A copy of the plan and test results shall be forwarded to the Assistant Deputy Comptroller.

## ARTICLE XXI

### LIQUIDITY CONTINGENCY PLANNING

(1) Within sixty (60) days, the Board shall take appropriate action to establish a liquidity contingency plan. The contingency plan at minimum should include:

- (a) the definition of a liquidity crisis, including actions that would trigger a crisis, and determine at what point the Bank would need to search for alternative sources of liquidity;
- (b) specific action steps, correlated to the above definitions, defining the first course of action and possible alternatives, prioritizing the most cost effective solutions;

- (c) assigned responsibilities and duties, including alternative individuals(s) should the key person(s) not be available.
- (2) Copies of these reports shall be forwarded to the Assistant Deputy Comptroller.
- (3) The Board shall ensure that the Bank has policies, processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this Article.

## ARTICLE XXII

### 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, in any subsequent Report of Examination, or in any internal or external audit reports. The monthly progress reports required by Article II of this Agreement shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to specific procedures to prevent future violations as cited in the ROE 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) Upon adoption, a copy of these procedures shall be promptly forwarded to the Assistant Deputy Comptroller.

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

## ARTICLE XXIII

### ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

(1) If the Board determines that an exception to any provision of this Order is in the best interests of the Bank, or requires an extension of any timeframe within this Order, the Board shall submit a written request to the Assistant Deputy Comptroller asking for relief.

(2) 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 any provision, that require the Assistant Deputy Comptroller to exempt the Bank from any provision, or that require an extension of any timeframe within this Order. All such requests shall be accompanied by relevant supporting documentation.

(3) The Assistant Deputy Comptroller's decision in granting the request is final and not subject to further review.

## ARTICLE XXIV

### CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or prior 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/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.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller, through his/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 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.

IT IS SO ORDERED, this 23<sup>rd</sup> day of March, 2005.

*/s/ James M. Calhoun*

*March 23, 2005*

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James M. Calhoun  
Assistant Deputy Comptroller  
Pittsburgh Field Office

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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.

_____ Clyde H. Bookheimer  /s/	_____ Date  3/23/05
_____ Martin R. Brown  /s/	_____ Date  3/23/05
_____ Cecil B. Mellott	_____ Date
_____ Clair R. Miller  /s/	_____ Date  3/23/05
_____ David L. Seiders  /s/	_____ Date  3/23/05
_____ Robert C. Snyder  /s/	_____ Date  3/23/05
_____ Robert L. Thomas  /s/	_____ Date  3/23/05
_____ Ellis L. Yingling	_____ Date
_____	_____
_____	_____

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

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**In the Matter of:**

The Fulton County National Bank  
and Trust Company  
McConnellsburg, Pennsylvania

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NE 2005-15

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

The Acting Comptroller of the Currency of the United States of America (“Comptroller”) has initiated cease and desist proceedings against The Fulton County National Bank and Trust Company, McConnellsburg, Pennsylvania (“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 3/23/05 (“Order”);

In consideration of the above premises, the Comptroller, through 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 Comptroller 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 Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency 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 its supervisory responsibilities.

ARTICLE III

WAIVER

- (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

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 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/ James M. Calhoun*

*March 23, 2005*

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James M. Calhoun  
Assistant Deputy Comptroller  
Pittsburgh Field Office

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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.

_____ Clyde H. Bookheimer  /s/	_____ Date  3/23/05
_____ Martin R. Brown  /s/	_____ Date  3/23/05
_____ Cecil B. Mellott	_____ Date
_____ Clair R. Miller  /s/	_____ Date  3/23/05
_____ David L. Seiders  /s/	_____ Date  3/23/05
_____ Robert C. Snyder  /s/	_____ Date  3/23/05
_____ Robert L. Thomas  /s/	_____ Date  3/23/05
_____ Ellis L. Yingling	_____ Date
_____	_____
_____	_____