

#2005-52

Also Terminates #2002-94

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

In the Matter of:)
First National Bank of Shelby County)
Columbiana, Alabama)

AA-EC-2004-95

CONSENT ORDER

WHEREAS, the Acting Comptroller of the Currency of the United States of America (“Comptroller”), through her National Bank Examiner, has examined First National Bank of Shelby County, Columbiana, Alabama (“Bank”), and her findings are contained in the Report of Examination for the examination that commenced on April 12, 2004 (“ROE”);

WHEREAS, the Comptroller has charged the Bank with violations of law, rule or regulation, with unsafe or unsound banking practices, and with failure to comply with the Formal Agreement between the Bank and the Comptroller, dated October 11, 2002; and

WHEREAS, the Comptroller has initiated a cease and desist proceeding against the Bank pursuant to 12 U.S.C. § 1818(b) through the issuance of a Notice of Charges;

WHEREAS, the Bank, in the interest of compliance and cooperation, and without admitting or denying any wrongdoing, has executed a Stipulation and Consent to the Issuance of a Consent Order dated May 16, 2005, for the purpose of settling the Comptroller’s Notice of Charges;

NOW, THEREFORE, 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 thirty (30) days from the effective date of this Order, the Board shall appoint a Compliance Committee of at least three (3) directors, none of whom 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 Director for Special Supervision (“Director”). 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 fifteen (15) days of the appointment of the Committee and every thirty (30) days 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; and
- (b) the results of those actions.

(4) The Board shall, within fifteen (15) days of receipt of the Compliance Committee's progress report, forward a copy, along with any additional comments by the Board, to the Director.

ARTICLE II

STRATEGIC PLAN

(1) Within ninety (90) days from the effective date of this Order, the Board shall develop 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, reduction in

the volume of non-performing assets, 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) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment, including a determination of the Bank's overall risk profile;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) an identification of the Bank's present and future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in subparagraph (1)(c) of this Article;
- (e) 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 subparagraph (1)(c) of this Article;
- (f) a management employment and succession program to promote the retention and continuity of capable management;
- (g) product line and market segments that the Bank intends to promote or develop;
- (h) an action plan to accomplish identified strategic goals and objectives, including individual responsibilities, accountability and specific time frames;

- (i) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the three-year period covered by the strategic plan;
- (j) control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's operating environment;
- (k) 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; and
- (l) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(2) Prior to adoption by the Board, a copy of the strategic plan, and any subsequent amendments or revisions, shall be forwarded to the Director for review and prior determination of no supervisory objection.

(3) Immediately upon receipt of a written determination of no supervisory objection, the Board shall adopt, implement and thereafter ensure compliance with the terms of the strategic plan developed pursuant to this Article.

(4) The Bank may not deviate significantly from the Board-approved strategic plan without a written determination of supervisory non-objection from the Director. The Board must give the Director advance, written notice of its intent to deviate significantly from the strategic plan, along with an assessment of the impact of such change on the Bank's condition, including a profitability analysis and an evaluation of the adequacy of the Bank's organizational structure, staffing, management information systems, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the change in the strategic plan.

(5) For the purposes of this Article, changes that may constitute a significant deviation from the strategic plan include, but are not limited to, any significant deviations from marketing strategies and marketing partners; underwriting practices and standards; credit administration; account management strategies and test programs; collection strategies, partners, or operations; fee structure, pricing, or fee application methods; accounting processes and practices; funding strategy; or any other changes in personnel, operations, or external factors that may have a material impact on the Bank's operations or financial performance.

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

ARTICLE III

PROFIT PLAN

(1) Within thirty (30) days from the development of the strategic plan as required by Article II, the Board shall develop, implement, and thereafter ensure adherence to a written profit plan to improve and sustain the earnings of the Bank. This plan shall cover at least a three-year period, be consistent with the strategic plan developed pursuant to Article II, and shall include, at minimum, the following elements:

- (a) identification of the major areas 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 Board shall submit the budgets and related documents required by paragraph (1) of this Article for the remainder of 2005 to the Director upon completion. Thereafter, prior to each new calendar year, the Board shall submit to the Director annual budgets as described in paragraph (1) of this Article .

(3) On a quarterly basis, the Board shall forward comparisons of its actual balance sheet and profit and loss statement to the profit plan projections to the Director.

(4) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems sufficient to ensure implementation of and adherence to the plan developed pursuant to this Article.

ARTICLE IV

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall achieve by August 31, 2005 and thereafter maintain, the following capital levels (as defined in 12 C.F.R. Part 3)¹:

(a) Tier 1 capital at least equal to eleven percent (11%) of risk-weighted assets; and

(b) Tier 1 capital at least equal to eight percent (8%) of adjusted total assets.²

(2) Within thirty (30) days from the development of the strategic plan as required by Article II, the Board shall develop, implement, and thereafter ensure Bank adherence to a three-

¹ 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).

² Adjusted total assets is defined in 12 C.F.R. § 3.2(a) as the average total asset figure used for Call Report purposes minus end-of-quarter intangible assets.

year capital plan that is consistent with the strategic plan developed pursuant to Article II, and shall include, at minimum:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1), unless specifically approved in writing by the Director;
- (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;
- (f) specific plans detailing how the Bank will comply with the restrictions or requirements set forth in this Order and 12 U.S.C. § 1831o, including the restrictions against brokered deposits in 12 C.F.R. § 337.6;
- (g) a dividend policy that permits the declaration of a dividend only:
 - (i) when the Bank is in compliance with its approved capital plan;
 - (ii) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (iii) with the prior determination of no supervisory objection by the Director.

(3) Upon completion, the Bank's capital plan shall be submitted to the Director for prior determination of no supervisory objection. Upon receiving a determination of no supervisory objection from the Director, the Bank shall implement and adhere to the capital plan. The Board shall review and update the Bank's capital plan on an annual basis or more frequently if necessary, or if requested by the Director. Revisions to the Bank's capital plan shall be submitted to the Director for prior determination of no supervisory objection.

(4) If the Director determines, in his sole judgment, that the Bank has failed to submit an acceptable capital plan as required by paragraph (2) of this Article, or fails to implement or adhere to a capital plan for which the Director has taken no supervisory objection pursuant to paragraph (3) of this Article, then within thirty (30) days of receiving written notice from the Director of such fact, the Bank shall develop and shall submit to the Director for his review and prior determination of no supervisory objection a capital contingency plan, which shall detail the Board's proposal to sell or merge the Bank, or liquidate the Bank under 12 U.S.C. § 181. After the Director has advised the Bank that he does not take supervisory objection to the capital contingency plan, the Board shall immediately implement, and shall thereafter ensure adherence to, the terms of the contingency plan. Failure to submit a timely, acceptable contingency plan may be deemed a violation of this Order, in the exercise of the Director's sole discretion.

(5) 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 V

BOARD TO ENSURE COMPETENT MANAGEMENT

(1) The Board shall ensure that the Bank has competent management in place on a full-time basis in its senior management positions 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 thirty (30) days from the development of the strategic plan as required by Article II, the Board shall identify a new, proper, management structure and necessary senior management positions for the Bank that are consistent with the strategic plan adopted pursuant to Article II, the size and characteristics of the Bank, and safe and sound banking practices.

(3) Within sixty (60) days from the development of the strategic plan as required by Article II, the Board, or a designated committee shall conduct an analysis and prepare a written report which shall:

- (a) identify the skills and expertise needed by Bank personnel to develop, market, administer and support the products identified in the strategic plan and otherwise operate the Bank in a safe and sound manner;
- (b) identify position descriptions, duties and responsibilities for each senior management position identified pursuant to paragraph 2 of this Article;
- (c) assess the experience, qualifications and performance of each incumbent senior management officer and compare it to the position's description, duties and responsibilities; and
- (d) determine the management and staff changes necessary to conform to the new management structure and the skills identified under (a) above.

(4) The written report required by paragraph (3) of this Article shall be provided to the Board, with a copy to the Director. Within thirty (30) days of receipt of the report, the Board shall begin implementing any changes necessary to provide the Bank with a senior management structure and staff that possesses the skills and expertise identified in the report.

(5) If the Board determines pursuant to paragraphs (3) and (4) of this Article that an officer will continue in his/her position but that the individual's skills need improvement, the Board, within thirty (30) days of its determination, shall, develop and implement a written program, with specific time frames, to improve the officer's skills. At a minimum, the written program with respect to such officer shall include:

- (a) an education program designed to ensure that the officer has skills and abilities necessary to supervise effectively;
- (b) specific additional steps necessary to improve the effectiveness of the officer;
- (c) objectives by which the officer's effectiveness will be measured; and
- (d) a performance appraisal program for evaluating performance according to the position's description and responsibilities and for measuring performance against the Bank's goals and objectives.

(6) If the analysis required by paragraph (3) of this Article results in an officer vacancy, including if the Board realigns an existing officer's responsibilities or if an officer position becomes vacant, the Board shall, within sixty (60) days of such vacancy, identify a capable person to fill the position who shall be vested with sufficient executive authority to ensure the safe and sound operation of functions within the scope of that position's responsibility.

(7) Within sixty (60) days of completing the analysis required by paragraph (3) of this Article, the Board shall implement an ongoing development program for Bank staff. The program, at a minimum, should provide for continuing education or other training designed to enhance and maintain the skills of the Bank staff.

(8) Unless otherwise advised in writing by the Director, prior to the appointment of any individual to a senior management position, the Board shall submit to the Director 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.

(9) The Director shall have the power of veto over the initial employment of the proposed officer. However, the failure to exercise such veto power shall not constitute an approval or endorsement of the proposed officer.

(10) 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.

ARTICLE VI

EXECUTIVE MANAGEMENT COMPENSATION AND BENEFITS

(1) Within ninety (90) days from the effective date of this Order, the Board shall develop, implement, and thereafter ensure Bank adherence to a written plan with specific timeframes to reduce total compensation, including salaries, bonuses, fees, expenses, and other benefits, for each executive management position. The written compensation plan shall ensure that total compensation for executive management positions is in line with traditional banking

norms as described in the Management and Profitability Study performed by A. Duncan McFarlane dated September 2002.

- (2) Upon adoption, a copy of the compensation plan shall be submitted to the Director.

ARTICLE VII

CONFLICT OF INTEREST POLICY

(1) Within thirty (30) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written, comprehensive conflict of interest policy applicable to the Bank's and the Bank's holding company's directors, principal shareholders, executive officers, affiliates, employees (collectively "Insiders"); their family members (defined as immediate family such as spouses, siblings, and children) and related interests of both Insiders and their family members. For purposes of this Article, Insiders, their family members and related interest of Insiders and their family members shall be defined as "Covered Persons." The policy, in addition to defining a conflict of interest, shall address:

- (a) avoidance of conflicts of interest and breaches of fiduciary duty, and the appearance of conflicts of interest;
- (b) involvement in the loan approval process of Covered Persons who may benefit directly or indirectly from the decision to grant credit;
- (c) disclosure of actual and potential conflicts of interest to the Board, and periodic disclosure of "related interests" as defined by 12 C.F.R. Part 215;
- (d) requirements for arms-length dealing in any transactions by Covered Persons, or their related organizations, involving the Bank's sale, purchase, or rental of property and services;

- (e) disclosure of any Covered Person's material interest in the business of a borrower, an applicant, or other customer of the Bank; and
- (f) restrictions on and disclosure of receipt of anything of value by Covered Persons, directly or indirectly, from borrowers, loan applicants, other customers, or suppliers of the Bank.

(2) Upon adoption, a copy of this conflict of interest policy shall be forwarded to the Director for review.

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

(4) Within forty-five (45) days from the effective date of this Order, the Compliance Committee shall conduct a review of the Bank's existing relationships with its and its holding company's Covered Persons for the purpose of identifying relationships not in conformity with the policy. The Board shall ensure that:

- (a) any nonconforming relationships are brought into conformity with the policy within sixty (60) days from the effective date of this Order; and
- (b) that within ninety (90) days from the effective date of this Order the Bank is properly reimbursed for:
 - (i) any excessive or improper payments to Covered Persons; and
 - (ii) any excessive or improper payments for services provided by Covered Persons.

Thereafter, the Board shall review all proposed transactions, or modifications of existing relationships, between the Bank and any of its or its holding company's Covered Persons. Documentation supporting these reviews shall be in writing and preserved in the Bank.

ARTICLE VIII

MANAGEMENT FEES

(1) Prior to the payment of any management and other fees to any affiliate of the Bank as defined in 12 U.S.C. § 221a and 12 U.S.C. § 371c (Affiliate), the Board, or delegated committee of the Board, shall document and support, in writing, that such fees:

- (a) are reasonable;
- (b) have a direct relationship to, and are based solely upon, the fair value of goods and services received by the Bank; and
- (c) compensate the Affiliate only for providing goods and services which meet the legitimate needs of the Bank.

(2) All documentation supporting the payment of management and other fees to an Affiliate, shall be preserved in the Bank.

(3) Prior to the payment of any salary, consulting fee, expense reimbursement or other type of compensation to a principal shareholder, director or related interest of such as defined in 12 C.F.R. Part 215 (Individual), the Board, or the Compensation and Benefits Committee, shall, at a minimum and in writing, determine that such remuneration:

- (a) is reasonable;
- (b) has a direct relationship to, and is based solely upon, the fair value of goods and services received by the Bank; and
- (c) compensates the Individual only for providing goods and services which meet the legitimate needs of the Bank.

(4) In addition to the requirements of the preceding paragraph of this Article, the Board shall review and maintain:

- (a) written documentation of all services rendered by the Individual;
- (b) records indicating the day(s) and time periods during which the Individual's services were performed;
- (c) expense vouchers and receipts for all reimbursable expenses; and
- (d) an analysis of the services rendered by the Individual to ensure that the Bank has received the full benefit to which it is entitled.

(5) All documentation supporting the payment of any salary, consulting fee, expense reimbursement or other type of compensation to an Individual shall be preserved in the Bank.

ARTICLE IX

OVERDRAFT POLICY

(1) Within thirty (30) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written policy concerning the extension of overdrafts that shall include, at a minimum:

- (a) conditions and circumstances under which overdrafts will be allowed, taking into consideration the requirements of 12 U.S.C. § 375b;
- (b) charges that will be levied against depositors using overdrafts;
- (c) conditions and circumstances under which overdrafts will be permitted to executive officers, directors, principal shareholders or their related interests (as that term is defined in 12 C.F.R. Part 215), including procedures to prohibit the avoidance of an overdraft by crediting the account prior to verification that such credit constitutes collected funds that have been deposited into the account;

- (d) procedures to ensure that the overdraft policies and practices related to insiders are not preferential in relation to the policies and practices associated with non-insider accounts; and
 - (e) conditions and circumstances under which overdrafts will be charged off.
- (2) Upon adoption, a copy of this policy shall be forwarded to the Director.
 - (3) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policy developed pursuant to this Article.

ARTICLE X

LOAN PORTFOLIO MANAGEMENT

(1) Within thirty (30) days from the effective date of this Order, the Board shall 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, procedures and monitoring systems:

- (a) to ensure satisfactory and perfected collateral documentation;
- (b) to ensure that extensions of credit are granted, by renewal or otherwise, to any borrower only after obtaining and analyzing current and satisfactory credit information;
- (c) to ensure conformance with the Bank's lending policies and loan approval requirements;
- (d) to track and analyze exceptions to the Bank's lending policies;
- (e) to ensure the timely identification and rating of problem loans and leases based on lending officer submissions;

- (f) to track and analyze previously charged-off assets and their recovery potential; and
- (g) to track and analyze concentrations of credit, volume of lending outside of the Bank's trade area, and significant economic factors and their impact on the credit quality of the Bank's loan and lease portfolios.

(2) Upon completion, a copy of the program required by paragraph (1) of this Article shall be forwarded to the Director.

(3) Within thirty (30) days from the development of the strategic plan as required by Article II, the Board shall develop, implement, and thereafter ensure adherence to a loan officer 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, early identification of problem loans, accuracy in credit grading, and other loan administration matters.

(4) On a monthly basis, management will provide the Board with written reports including, at a minimum, the following information:

- (a) the identification, type, rating, and amount of problem loans and leases;
- (b) the identification and amount of delinquent loans and leases;
- (c) credit and collateral documentation exceptions;
- (d) the identification and status of credit related violations of law, rule or regulation;
- (e) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (a) through (d) of this paragraph;

- (f) an analysis of concentrations of credit, significant economic factors, and general economic conditions and their impact on the credit quality of the Bank's loan and lease portfolios;
- (g) the identification and amount of loans and leases to Covered Persons as identified under Article VII;
- (h) the identification of loans and leases not in conformance with the Bank's lending and leasing policies, including approved exceptions to the Bank's lending and leasing policies; and
- (i) the identification of all loans meeting the criteria for nonaccrual status.

(5) 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 XI

LOAN REVIEW

(1) The Board shall employ or designate a sufficiently experienced and qualified person(s) or firm to ensure the timely and independent identification of problem loans and leases.

(2) Within thirty (30) days from the effective date of this Order, the Board shall establish an effective, independent and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios 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 and lease grading system consistent with the guidelines set forth in Rating Credit Risk, A-RCR, of the Comptroller's Handbook. Such reports shall, at a minimum, include:

- (a) conclusions regarding the overall quality of the loan and lease portfolios;
- (b) the identification, type, rating, and amount of problem loans and leases;
- (c) the identification and amount of delinquent loans and leases;
- (d) the identification of credit and collateral documentation exceptions;
- (e) the identification of loans meeting the criteria for nonaccrual status;
- (f) the identification and status of credit related violations of law, rule or regulation;
- (g) the identification of loans and leases not in conformance with the Bank's lending and leasing policies, including approved exceptions to the Bank's lending and leasing policies;
- (h) the identity of the loan officer who originated or is responsible for each loan reported in accordance with subparagraphs (b) through (g) of this paragraph;
- (i) the identification of concentrations of credit; and
- (j) the identification of loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank.

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

(4) 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.

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

ARTICLE XII

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.

(2) Within thirty (30) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written program designed to eliminate the basis of criticism of assets criticized in the ROE, in any subsequent Report of Examination, or by any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination as "doubtful," "substandard," or "special mention." This program shall include, at a minimum:

- (a) an identification of the expected sources of repayment;
- (b) the appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable;
- (c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations; if, however, the Bank is unable to obtain current credit information on a criticized asset, the efforts made to obtain the information should be fully documented in the credit file; and

(d) the proposed action to eliminate the basis of criticism and the anticipated time frame for its accomplishment.

(3) Upon adoption, a copy of the program for all criticized assets equal to or exceeding one hundred thousand dollars (\$100,000) shall be forwarded to the Director.

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

(5) The Board, or a designated committee, shall conduct a review, on at least a monthly basis, to determine:

- (a) the status of each criticized asset or criticized portion thereof that equals or exceeds one hundred thousand dollars (\$100,000);
- (b) management's adherence to the program adopted pursuant to this Article;
- (c) the status and effectiveness of the written program; and
- (d) the need to revise the program or take alternative action.

(6) A copy of each review shall be forwarded to the Director on a quarterly basis in a format similar to Appendix A, attached hereto.

(7) The Bank may extend credit, directly or indirectly, including renewals, extensions or capitalization of accrued interest, to a borrower whose loans or other extensions of credit are criticized in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination and whose aggregate loans or other extensions exceed one hundred thousand dollars (\$100,000) only if each of the following conditions is met:

- (a) a majority of the full 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.
- (8) A copy of the approval of the Board shall be maintained in the file of the affected borrower.

ARTICLE XIII

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within thirty (30) days from the effective date of this Order, the Board shall obtain current and satisfactory credit information on all loans identified as 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. At the expiration of the thirty (30) day period, the Board shall provide the Director with a list all loans for which it was unable to obtain such information, the reasons why such information has not been obtained and plans to obtain such information by a specified time.

(2) Within thirty (30) days from the effective date of this Order, the Board shall ensure proper collateral documentation is maintained on all loans and shall correct each collateral exception listed in the ROE, in any subsequent Report of Examination, in any internal

or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination. At the expiration of the thirty (30) day period, the Board shall provide the Director with a list of all loans for which it was unable to obtain such documentation, the reasons why such documentation has not been obtained and plans to obtain such documentation by a specific time.

(3) Effective immediately, the Bank is prohibited from granting, extending, renewing, altering or restructuring any loan or other extension of credit unless the Bank has:

- (a) documented in writing the specific reason or purpose for the extension of credit;
- (b) identified the expected source of repayment in writing;
- (c) structured the repayment terms to coincide with the expected source of repayment;
- (d) obtained and analyzed in writing current and satisfactory credit information, including a cash flow analysis where loans are to be repaid from operations; and
- (e) documented, with adequate supporting material, the value of collateral and properly perfected the Bank's lien on it where applicable.

ARTICLE XIV

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 in light of the comments 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 internal loan review;
- (b) results of the Bank's external loan review;
- (c) an estimate of inherent loss exposure on each credit in excess of one hundred thousand dollars (\$100,000);
- (d) loan loss experience;
- (e) trends of delinquent and nonaccrual loans;
- (f) concentrations of credit in the Bank; and
- (g) 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.

(3) A copy of the Board's program shall be submitted to the Director.

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

ARTICLE XV

INTERNAL AND EXTERNAL AUDIT

(1) Within thirty (30) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program sufficient to:

- (a) detect irregularities in the Bank's operations;
- (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;
- (c) evaluate the Bank's adherence to established policies and procedures;
- (d) ensure adequate audit coverage in all areas;
- (e) ensure timely follow-up on identified deficiencies to ensure their correction; and
- (f) establish an annual audit plan using a risk-based approach sufficient to achieve these objectives.

(2) As part of the internal audit program, the Board, or a designated committee, shall evaluate the audit reports of any party providing services to the Bank, and shall assess and document their discussion of the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the internal and external audit function is supported by an adequately staffed department or outside firm, with respect to both the experience level and number of the individuals employed.

(4) The Board shall ensure that the audit program is independent. The person(s) responsible for implementing the internal audit program described above shall report directly to the Board, or a designated committee, who shall have the sole power to direct their activities. All reports prepared by the internal and external audit staff shall be filed directly with the Board and not through any intervening party.

(5) All internal and external audit reports shall be in writing. The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in internal and external audit reports, that management provides detailed explanations in those circumstances, if any, where

the deficiencies cannot be remedied, and that internal auditors maintain a written record describing those actions. The Board shall provide for timely independent written follow-up for any unremedied deficiencies.

(6) The audit staff shall have access to any records necessary for the proper conduct of its activities. The Bank shall ensure that National Bank Examiners have access to all reports and work papers of the audit staff and any other parties working on its behalf.

(7) Upon adoption, a copy of the internal audit program shall be submitted to the Director.

(8) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems sufficient to ensure implementation of and adherence to the program developed pursuant to this Article.

ARTICLE XVI

INTERNAL CONTROLS

(1) Within sixty (60) days from the effective date of this Order, the Board shall adopt, implement, and thereafter ensure Bank adherence to sound internal control policies and procedures. Internal controls shall include, but not be limited to:

- (a) approval of more than one bank employee or signature of a supervising bank employee for the processing of general ledger tickets;
- (b) procedures to ensure that loan officers cannot use personal funds to make payments on a borrower's loans or cover the borrower's overdrafts;
- (c) procedures to ensure purpose and disbursement of loan proceeds as noted in loan documents is consistent with actual use of proceeds;
- (d) procedures and management information systems to identify and monitor suspected check kiting activities on a daily basis;

- (e) independent and objective process to request and approve expense payments, particularly those to reimburse Covered Persons, including supporting invoices or receipts which readily identify the expense as “business related”; and
- (f) independent and objective process to monitor the validity of charges on bank credit cards, especially those issued to executive officers, which should include supporting receipts or other documentation to justify the business purpose of the charge, prior to payment of expenses.

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

ARTICLE XVII

VIOLATIONS OF LAW - INSIDERS

(1) The Bank shall not lend money or otherwise extend credit to any borrower in violation of the limits of 12 U.S.C. §§ 375a and 375b.

(2) Within sixty (60) days from the effective date of this Order, the Board shall establish, implement, and thereafter ensure Bank adherence to written procedures to prevent future violations of 12 U.S.C. §§ 375a and 375b.

(3) The Bank shall not lend money or otherwise extend credit to its current Chairman and Chief Executive Officer, current President and Chief Operating Officer, and current Senior Vice President and Marketing Officer, and their related interests.

(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 XVIII

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 monthly progress reports required by Article I of this Order shall include the date and manner in which each correction has been effected during that reporting period.

(2) Within sixty (60) days from the effective date of this Order, 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) Within forty-five (45) days of receipt of any subsequent Report of Examination which cites violations of law, rule, or regulation, 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.

(4) Upon adoption, a copy of these procedures shall be promptly forwarded to the Director.

(5) 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 XIX

LIQUIDITY

(1) The Board shall maintain the liquidity of the Bank at a level that is sufficient to sustain the Bank's current operations and to withstand any anticipated or extraordinary demand against its funding base. Actions may include, but are not necessarily limited to:

- (a) selling assets;
- (b) obtaining lines of credit from the Federal Reserve Bank;
- (c) obtaining lines of credit from correspondent banks;
- (d) recovering charged-off assets; and
- (e) injecting additional equity capital.

(2) The Board shall review the Bank's liquidity on a monthly basis. Such reviews shall consider:

- (a) a maturity schedule of certificates of deposit, including large uninsured deposits;
- (b) the volatility of demand deposits including escrow deposits;
- (c) the amount and type of loan commitments and standby letters of credit;
- (d) an analysis of the continuing availability and volatility of present funding sources;
- (e) an analysis of the impact of decreased cash flow from the Bank's loan portfolio resulting from delinquent and non-performing loans;
- (f) an analysis of the impact of decreased cash flow from the sale of loans or loan participations; and
- (g) geographic disbursement of and risk from brokered deposits.

(3) The Board shall take appropriate action to ensure adequate sources of liquidity in relation to the Bank's needs. Monthly reports shall set forth liquidity requirements and sources and establish a contingency plan. Copies of these reports shall be forwarded to the Director in the Bank's monthly report to the Director.

ARTICLE XX

ENGAGEMENT OF THIRD PARTIES

(1) The Bank shall not renew or enter into new contracts or engagements with a third party company, entity, or person (third party) to perform professional services for, or on behalf of, the Bank unless:

- (a) the Board reviews and approves a written analysis performed by the Bank that includes:
 - (i) a cost/benefit analysis for using a third party;
 - (ii) a description of the Bank's due diligence process for selecting the third party and the results of the due diligence review;
 - (iii) a determination that the contract or commitment is being conducted at arm's length on terms and conditions fair and reasonable to the Bank, including the ability of the parties to perform under the contract or commitment;
 - (iv) a disclosure of any affiliation with any present or past Bank Insider or Related Interest of such Insider; and
 - (v) a determination that the contract is in the best interests of the Bank.
- (b) the written analysis required by paragraph (1)(a) of this Article is included in the Board minutes along with details of the deliberations and approval; and

(c) the contract or engagement is in writing.

(2) The Board shall immediately forward any Board-approved, written contract, along with the written analysis and Board approval pursuant to paragraph (1)(b) of this Article, to the Director. Unless otherwise advised in writing by the Director, at a minimum, the contract must:

- (a) be made a part of the Bank's books and records, identify the third party, and specify all services to be provided;
- (b) define the rights, obligations, and responsibilities of all parties to the contract;
- (c) specify the beginning and ending dates of the contract, including any renewal options;
- (d) specify and itemize the price to be paid by the Bank for the services;
- (e) set standards for quality of services provided by the third party, as applicable, given the nature of the services to be provided;
- (f) provide the Bank appropriate remedies in the event of a default, failure of the third party to meet the quality standards, or failure of the third party to comply with any other material provision of the contract;
- (g) require the third party to provide the Bank with annual financial statements and audit reports if the viability of the third party is integral to the Bank's safe and sound operation;
- (h) require the third party to carry appropriate insurance, if applicable, given the nature of the contract;
- (i) require the third party to maintain reliable and accurate books, records, and management information systems as they relate to the services performed on behalf of the Bank; and

(j) require the third party to grant the Bank, Bank auditors, and the Comptroller immediate access to the third party's books and records as they relate to services performed on behalf of the Bank; however, this requirement does not negate the right to assert legally recognized privileges where applicable.

(3) The Board must ensure all existing third party relationships for the performance of professional services conform with paragraphs (1) and (2) of this Article, including the execution of a written contract if the existing agreement or engagement is not in writing. The Bank shall not use the services of, or in any way compensate, any third party if the Board has determined that the relationship is not in the best interests of the Bank.

(4) The Bank must routinely monitor the performance of the third party to ensure that committed goods and services are received, and that the third party is in compliance with the written contract.

(5) The Board shall ensure that the Bank develops and thereafter maintains processes, personnel, and control systems sufficient to ensure implementation of and adherence to this Article.

ARTICLE XXI

CLOSING

(1) Although the Board by this Order has agreed to submit certain programs and reports to the Director for review, prior approval, or prior determination of no supervisory objection, the Board has the ultimate responsibility for proper and sound management of the Bank.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon her by the several laws of the United

States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(3) 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.

(4) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time requirements may be extended in writing by the Director for good cause upon written application by the Board.

(5) The provisions of this Order shall be effective upon issuance of this Order by the Comptroller, through her authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller.

(6) The Bank entered into a Formal Agreement dated October 11, 2002. This Order replaces that Formal Agreement in its entirety and therefore, the October 11, 2002, Formal Agreement is hereby terminated.

(7) 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.

(8) 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 18th day of May, 2005.

signed

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

APPENDIX A

MODEL CRITICIZED ASSET FORM

CRITICIZED ASSET REPORT AS OF:

BORROWER(S):

ASSET BALANCE(S) AND OCC RATING (SM, SUBSTANDARD, DOUBTFUL OR LOSS):

\$ CRITICISM

AMOUNT CHARGED OFF TO DATE

FUTURE POTENTIAL CHARGE-OFF

STATUS (Fully explain any increase in outstanding balance; include past due status, nonperforming, significant progress or deterioration, etc.):

FINANCIAL AND/OR COLLATERAL SUPPORT (include brief summary of most current financial information, appraised value of collateral and/or estimated value and date thereof, bank's lien position and amount of available equity, if any, guarantor(s) info, etc.):

PROPOSED PLAN OF ACTION TO ELIMINATE ASSET CRITICISM(S) AND TIME FRAME FOR ITS ACCOMPLISHMENT:

IDENTIFIED SOURCE OF REPAYMENT AND DEFINED REPAYMENT PROGRAM
(repayment program should coincide with source of repayment):

Use this form for reporting each criticized asset that exceeds \$100,000 and retain the original in the credit file for review by the examiners. Submit your reports monthly until notified otherwise, in writing, by the Director.

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

In the Matter of:)
First National Bank of Shelby County)
Columbiana, Alabama)

AA-EC-2004-95

**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 First National Bank of Shelby County, Columbiana, Alabama (“Bank”) pursuant to 12 U.S.C. § 1818(b).

The Bank, in the interest of compliance and cooperation, consents to the Comptroller’s issuance of the Consent Order dated May 18, 2005 (“Order”), for the purpose of settling the Comptroller’s cease and desist proceedings;

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 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, 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 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

May 18, 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

Hewitt L. Conwill

May 16, 2005

Date

signed

Martha B. Ferguson

May 16, 2005

Date

signed

William T. Harrison

May 16, 2005

Date

signed

Thomas J. Parliament

May 16, 2005

Date

signed

Helen H. Phillips

May 16, 2005

Date

signed

Carol H. Smith

May 16, 2005

Date

signed

Joe L. Tidmore

May 16, 2005

Date