

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

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**In the Matter of:** )  
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Upstate National Bank )  
Lisbon, New York )

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**CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”), through his staff, has examined Upstate National Bank, Lisbon, New York, and his preliminary findings have been communicated to the Bank.

The Bank, by and through its Board of Directors, has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated June 24, 2008, that is accepted by the Comptroller. By this Stipulation and Consent that 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 him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

ARTICLE I

ACH TRANSACTIONS

(1) Effective immediately, the Bank shall cease and desist from processing ACH transactions for merchants until such time as the Bank has developed and the Board has adopted and implemented, risk management systems, written policies and procedures, and a Bank Secrecy Act/Anti-Money Laundering program, in accordance with 12 C.F.R. § 21.21, that will

result in due diligence on the Bank's customers, their lines of business, the parties to whom their customers are providing services through the Bank and those customers' lines of business, and the effective monitoring, detection, and reporting of suspicious activities in the processing of ACH transactions.

(2) Immediately after their adoption, but prior to their implementation, the Board approved risk management systems and policies and procedures shall be submitted to the Assistant Deputy Comptroller for review and prior written determination of no objection. In the event the Assistant Deputy Comptroller recommends changes to the system or policies and procedures, the Board shall immediately incorporate those changes as directed.

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

## ARTICLE II

### REMOTE DEPOSIT CAPTURE TRANSACTIONS

(1) Effective immediately, the Bank shall cease and desist from processing Remote Deposit Capture (“RDC”) transactions for money service businesses until such time as the Bank has developed and the Board has adopted and implemented, risk management systems, written policies and procedures, and a Bank Secrecy Act/Anti-Money Laundering program, in accordance with 12 C.F.R. § 21.21, that will result in due diligence on the Bank’s customers, their lines of business, the parties to whom their customers are providing services through the Bank and those customers’ lines of business, and the effective monitoring, detection, and reporting of suspicious activities in the processing of RDC transactions.

(2) Immediately after their adoption, but prior to their implementation, the Board approved risk management systems and policies and procedures shall be submitted to the Assistant Deputy Comptroller for review and prior written determination of no objection. In the event the Assistant Deputy Comptroller recommends changes to the system or policies and procedures, the Board shall immediately incorporate those changes as directed.

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

### ARTICLE III

#### NEW PRODUCTS AND SERVICES

(1) Prior to the Bank's involvement in any new products or services the Board shall prepare a written analysis of said product or service. The analysis shall, at a minimum, include the following:

- (a) an assessment of the risks and benefits of the product or service to the Bank;
- (b) an explanation of how the product or service is consistent with the Bank's strategic plan;
- (c) an evaluation of the adequacy of the Bank's organizational structure, staffing, MIS, internal controls and written policies and procedures to identify, measure, monitor, and control the risks associated with the product or service; and
- (d) a profitability analysis, including growth projections and interest rate risk.

(2) Prior to the Bank's involvement in the new product or service, a copy of the analysis shall be submitted to the Assistant Deputy Comptroller, whose prior determination of no supervisory objection must be provided before the Bank may engage in or offer the new product or service.

### ARTICLE IV

#### CLOSING

(1) Although the Bank, through its Board, is required to submit proposed actions and programs for the review or prior written determination of no objection to the Assistant Deputy

Comptroller, the Board has the ultimate responsibility for proper and sound management of the Bank as well as compliance with all of the provisions contained in this Order.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States of America to undertake any action affecting the Bank, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

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

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

(5) In each instance in this Order in the Board is required to ensure adherence to, and undertake to perform certain obligations of the Branch, 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 24th day of June, 2008.

/s/

6/24/08

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Daniel Bailey  
Assistant Deputy Comptroller  
Syracuse Field Office

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Date

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

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**In the Matter of:** )  
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**STIPULATION AND CONSENT TO THE ISSUANCE  
OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (“Comptroller”) has initiated cease and desist proceedings against Upstate National Bank, Lisbon, New York (“Bank”), pursuant to 12 U.S.C. § 1818(b).

The Bank and the Branch, in the interest of compliance and cooperation, consent to the issuance of a Consent Order, dated June 24, 2008 (“Order”);

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, by and through its 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 Branch pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

## ARTICLE II

### AGREEMENT

(1) The Bank, without admitting or denying any wrongdoing, hereby consent and agree to the issuance of the Order by the Comptroller. 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 consent and agree 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).

(2) 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 and the Branch under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank and the Branch expressly acknowledge that neither the Bank, the Branch, 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

#### WAIVERS

- (1) The Bank, by signing this Stipulation and Consent, hereby waive:
  - (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

(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 and the Branch if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/s/

6/24/08

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Daniel Bailey  
Assistant Deputy Comptroller  
Syracuse 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.

/s/

6/24/08

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Preston C. Carlisle

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Date

/s/

6/24/08

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Donald O. Chesworth

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Date

/s/

6/24/08

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Bruce Dan

---

Date

/s/

6/24/08

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Richard A. DiVirgilio

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Date

/s/

6/24/08

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Charles T. Fiandach

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Date

/s/

6/24/08

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Richard D. Sanford

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Date

/s/

6/24/08

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Thomas L. Smith Jr.

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Date

/s/

6/24/08

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Howard J. Zuckerman

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Date

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