

#2008-087

AGREEMENT BY AND BETWEEN
Border Capital, National Association
McAllen, Texas
and
The Comptroller of the Currency

Border Capital, National Association, McAllen, Texas (“Bank”) and the Comptroller of the Currency of the United States of America (“Comptroller”) wish to protect the interests of the depositors, other customers, and shareholders of the Bank, and, toward that end, wish the Bank to operate safely and soundly and in accordance with all applicable laws, rules and regulations.

The Comptroller has found unsafe and unsound banking practices relating to credit risk and credit management at the Bank.

In consideration of the above premises, it is agreed, between the Bank, by and through its duly elected and acting Board of Directors (“Board”), and the Comptroller, through his authorized representative, that the Bank shall operate at all times in compliance with the articles of this Agreement.

ARTICLE I

JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(e)(1) and 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall be construed to be a “formal written agreement” within the meaning of 12 C.F.R. § 5.51(c)(6)(ii). See 12 U.S.C. § 1831i.

(4) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).

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

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

Assistant Deputy Comptroller
San Antonio South Field Office
10001 Reunion Place Boulevard, Suite 250
San Antonio, Texas 78216

(7) Within sixty (60) days from the effective date of this Order and quarterly thereafter, the Board shall submit to the Assistant Deputy Comptroller a written progress report setting forth in detail:

- (i) actions taken since the prior progress report to comply with each Article of this Agreement;
- (ii) results of those actions; and
- (iii) a description of the actions needed to achieve full compliance with each Article of this Agreement.

ARTICLE II

CREDIT RISK

(1) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program designed to reduce the high level of credit risk in the Bank. The program shall include, but not be limited to:

- (a) procedures to strengthen credit underwriting, particularly in the real estate portfolio;
- (b) procedures to strengthen management of loan operations and to maintain an adequate, qualified staff in all functional areas;
- (c) procedures for strengthening collections; and
- (d) an action plan to control loan portfolio growth.

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

(3) At least quarterly, the Board shall prepare a written assessment of the bank's credit risk, which shall evaluate the Bank's progress under the aforementioned program. The Board shall submit a copy of this assessment to the Assistant Deputy Comptroller.

(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 III

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within ninety (90) days the Board shall take all available measures to obtain current and satisfactory credit information on all loans lacking such information, including those

listed in the ROE, in any subsequent Report of Examination, in any internal or external loan review, or in any listings of loans lacking such information provided to management by the National Bank Examiners at the conclusion of an examination.

(2) Within ninety (90) days the Board shall ensure proper collateral documentation is maintained on all loans and 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.

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

- (i) documenting the specific reason or purpose for the extension of credit;
- (ii) identifying the expected source of repayment in writing;
- (iii) structuring the repayment terms to coincide with the expected source of repayment;
- (iv) obtaining and analyzing current and satisfactory credit information, including cash flow analysis, where loans are to be repaid from operations;
 - (i) Failure to obtain the information in (3)(iv) shall require a majority of the full Board (or a delegated committee thereof) to certify in writing the specific reasons why obtaining and analyzing the information in (3)(iv) would be detrimental to the best interests of the Bank.
 - (ii) A copy of the Board certification shall be maintained in the credit file of the affected borrower(s). The certification

will be reviewed by this Office in subsequent examinations of the Bank; and

- (v) Documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable.

ARTICLE IV

LOAN PORTFOLIO MANAGEMENT

(1) The Board shall, within ninety (90) 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 satisfactory and perfected collateral documentation;
- (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;
- (c) procedures to ensure conformance with loan approval requirements;
- (d) a system to track and analyze exceptions;
- (e) procedures to ensure conformance with Call Report instructions;
- (f) procedures to ensure the accuracy of internal management information systems; and
- (g) a performance appraisal process, including performance appraisals, job descriptions, and incentive programs for loan officers, which consider their performance relative to policy compliance, documentation standards, accuracy in credit grading, and other loan administration matters.

(2) Upon completion, a copy of the program shall be forwarded to the Assistant Deputy Comptroller.

(3) Within ninety (90) days, the Board shall develop, implement, and thereafter ensure Bank adherence to systems which provide for effective monitoring of:

- (a) early problem loan identification to assure the timely identification and
- (b) rating of loans and leases based on lending officer submissions;
- (c) statistical records that will serve as a basis for identifying sources of problem loans and leases by industry, size, collateral, division, group, indirect dealer, and individual lending officer;
- (d) previously charged-off assets and their recovery potential;
- (e) compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
- (f) adequacy of credit and collateral documentation.

(4) Beginning August 1, 2008 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 Article and Paragraph;

- (f) the identification and amount of loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (g) the identification of loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(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 V

CRITICIZED ASSETS

(1) The Bank shall take immediate and continuing action to protect its interest in those assets criticized in the ROE, in any subsequent Report of Examination, by internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination.

(2) Within sixty (60) days, 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; and
- (d) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment.

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

(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 quarterly basis (unless the Assistant Deputy Comptroller directs the Bank in writing to conduct the review on a monthly basis), to determine:

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

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

(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) 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.

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

ARTICLE VI

COMMERCIAL REAL ESTATE CONCENTRATION RISK MANAGEMENT

(1) Within ninety (90) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to a written commercial real estate (“CRE”) concentration risk management

program consistent with OCC Bulletin 2006-46. The program shall include, but not necessarily be limited to, the following:

- (a) Ongoing risk assessments to identify potential CRE concentrations in the portfolio, including exposures to similar or interrelated groups or borrowers;
- (b) Board and management oversight of CRE concentrations, to include:
 - (i) policy guidelines and an overall CRE lending strategy, including actions required when the Bank approaches the limits of its CRE guidelines;
 - (ii) procedures and controls to effectively adhere to and monitor compliance with the Bank's lending policies and strategies;
 - (iii) regular review of information and reports that identify, analyze, and quantify the nature and level of risk presented by CRE concentrations; and
 - (iv) periodic review and approval of CRE risk exposure limits;
- (c) Portfolio management, to include internal lending guidelines and concentration limits that control the Bank's overall risk exposure to CRE, and a contingency plan to reduce or mitigate concentrations in the event of adverse market conditions;
- (d) Management information systems, to provide sufficient timely information to management to identify, measure, monitor, and manage CRE concentration risk;
- (e) Periodic market analysis, to provide management and the Board with

information to assess whether its CRE lending strategy and policies continue to be appropriate in light of changes in CRE market conditions;

- (f) Credit underwriting standards for CRE, to include:
 - (i) maximum loan amount by type of property;
 - (ii) loan terms;
 - (iii) pricing structures;
 - (iv) collateral valuation;
 - (v) loan-to-value limits by property type;
 - (vi) requirements for feasibility studies and sensitivity analysis or stress testing;
 - (vii) minimum requirements for initial investment and maintenance of hard equity by the borrower; and
 - (viii) minimum standards for borrower net worth, property cash flow, and debt service coverage for the property;
- (g) Portfolio stress testing and sensitivity analysis of CRE concentrations; and
- (h) Credit risk review of CRE, to include an effective, accurate, and timely risk-rating system.

(2) The Board shall forward a copy of any analysis performed on existing or potential CRE concentrations to the Assistant Deputy Comptroller immediately following the review.

(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 VII

NONACCRUAL LOANS

(1) The Bank shall immediately reverse or charge off all interest that has been accrued contrary to the requirements contained in the Instructions for Preparation of Consolidated Reports of Condition and Income (“Call Report Instructions”) governing nonaccrual loans. Further, the Bank shall immediately reverse or charge off that portion of the remaining accrued interest on such loans that, when combined with principal, is not protected by sound collateral values.

(2) Within sixty (60) days, the Board shall adopt and implement written policies and procedures governing the supervision and control of nonaccrual loans. Such policies and procedures shall:

- (i) be consistent with the accounting requirements contained in the Call Report Instructions;
- (ii) address the circumstances under which accrued interest due on a loan may be added to the outstanding principal amount when the loan is renewed or restructured; and
- (iii) require the monthly presentation to the Board of all loans meeting any of the nonaccrual criteria.

(3) Within sixty (60) days, the Board shall develop and implement a written policy governing the identification of and accounting treatment for nonaccrual loans. The policy shall address paragraph (2) above and shall be consistent with the accounting requirements contained in the Call Report Instructions.

(4) Within sixty (60) days, the Board shall develop and implement a written policy that shall provide for auditing accrued interest on loans. The policy shall, at a minimum, provide

for quarterly audits of loan accruals and incorporate procedures for periodically testing the Bank's identification of nonaccrual loans as governed by the policy adopted pursuant to paragraph (2) above.

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

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

ARTICLE VIII

LOAN REVIEW

(1) The Board shall within sixty (60) days 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 ninety (90) days, the Board shall establish an effective, independent and on-going loan review system to review, at least annually, 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" and "Allowance for Loan and Lease Losses" booklets of the Comptroller's Handbook. Such reports shall include, at a minimum, 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) the identification and amount of delinquent loans and leases;
- (d) credit and collateral documentation exceptions;
- (e) the identification and status of credit related violations of law, rule or regulation;
- (f) the identity of the loan officer who originated each loan reported in accordance with subparagraphs (b) through (e) of the Article;
- (g) concentrations of credit;
- (h) loans and leases to executive officers, directors, principal shareholders (and their related interests) of the Bank; and
- (i) loans and leases not in conformance with the Bank's lending and leasing policies, and exceptions to the Bank's lending and leasing policies.

(3) Within sixty (60) days, the Board shall develop, implement, and thereafter ensure Bank adherence to a written program providing for independent review of problem loans and leases in the Bank's loan and lease portfolios for the purpose of monitoring portfolio trends. At a minimum, the written program should provide for:

- (a) an independent assessment of the Bank's monitoring systems for early problem loan identification to assure the timely identification and rating of loans and leases based on lending officer submissions;
- (b) statistical records that serve as a basis for identifying sources of problem loans and leases by industry, size, collateral, indirect dealer, and individual lending officer;
- (c) a system for monitoring previously charged-off assets and their recovery potential;

- (d) a system for monitoring compliance with the Bank's lending policies and laws, rules, and regulations pertaining to the Bank's lending function; and
- (e) a system for monitoring the adequacy of credit and collateral documentation.

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

(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.

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

(7) A copy of the reports submitted to the Board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be preserved in the Bank.

ARTICLE IX

CLOSING

(1) Although the Board has agreed to submit certain programs and reports to the Assistant Deputy Comptroller for review or prior written 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 him/her by the several laws of the

United States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing. Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement. Such time requirements may be extended in writing by the Assistant Deputy Comptroller for good cause upon written application by the Board.

(3) The provisions of this Agreement shall be effective upon execution by the parties hereto, and the Board shall be accountable for all actions required by each Article of this Agreement. Its provisions shall continue in full force and effect, and the Board shall remain accountable for all provisions, unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived or terminated by the Comptroller.

(4) In each instance in this Agreement 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 Agreement;
- (b) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Agreement;
- (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.

(5) This Agreement is intended to be, and shall be construed to be, a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1),

and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(b)(1), 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. 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 his supervisory responsibilities.

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

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

/S/
Rita Kuehn
Acting Assistant Deputy Comptroller
San Antonio South Field Office

6/26/08
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/ James Andrew Browder	6/26/08 Date
/S/ Joe Brown	6/26/08 Date
William A. Burns	Date
/S/ Oscar R. Cardenas	6/26/08 Date
/S/ Jose E. Garcia	6/26/08 Date
/S/ Lawrence S. Gift, Jr.	6/26/08 Date
/S/ Lawrence S. Gift, Sr.	6/26/08 Date
/S/ Randy McLelland	6/26/08 Date
/S/ Grace Neuhaus Richards	6/26/08 Date
/S/ Mark Richards	6/26/08 Date
/S/ Bill Robertson	6/26/08 Date
/S/ Forrest Runnels	6/26/08 Date