#2009-136

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

In the Matter of:	)	
Excel National Bank	)	AA-WE-09-53
Beverly Hills, California	)	

CONSENT ORDER

The Comptroller of the Currency of the United States of America ("Comptroller"), through his National Bank Examiner, has supervisory authority over Excel National Bank, Beverly Hills, California ("Bank").

The Bank, by and through its duly elected and acting Board of Directors ("Board"), has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated September 15, 2009, that is accepted by the Comptroller. By this Stipulation and Consent, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order ("Order") by the Comptroller.

Pursuant to the authority vested in it by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

Article I

COMPLIANCE COMMITTEE

(1) Within ten (10) days of this Order, the Board shall appoint a Compliance Committee of at least three (3) directors of which at least two (2) shall not 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 and, in the event of a change of the membership, the name of any new member shall be submitted in writing to the Assistant Deputy Comptroller.

(2) The Compliance Committee shall be responsible for monitoring and coordinating the Bank's adherence to the provisions of this Order and shall meet at least monthly.

(3) By no later than October 20, 2009 for the month ending September 30, 2009, and by the third Tuesday of every calendar month thereafter for the prior month end, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

(a) a description of the action needed to achieve full compliance with each Article of this Order;

(b) actions taken to comply with each Article of this Order; and

(c) the results and status of those actions.

(4) The Board shall provide a summary report of the progress reached in attaining compliance with each Article of this Order to the Assistant Deputy Comptroller within fifteen (15) days of the end of each calendar quarter.

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

Assistant Deputy Comptroller
Southern California North Field Office
550 North Brand Blvd., Suite 500
Glendale, California 91203

(6) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the policies, procedures and programs required by this Order.

Article II

CAPITAL AND STRATEGIC PLAN

(1) The Bank shall achieve by October 31, 2009 and thereafter maintain at all times, the following minimum capital ratios:

(a) Tier 1 capital at least equal to nine percent (9%) of adjusted total assets; and

(b) total risk-based capital at least equal to twelve percent (12%) of risk-weighted assets.

(2) For purposes of this Article, “Tier 1 capital,” “total risk-based capital,” “adjusted total assets,” and “risk-weighted assets” are as defined in 12 C.F.R. Part 3.

(3) The requirement in this Order to meet and maintain a specific capital level means that the Bank is not to 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).

(4) Effective immediately, the Bank shall only declare dividends when:

(a) the Bank is in compliance with the Bank’s Three-Year Plan as described below;

(b) the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and

(c) the Bank has received a prior written determination of no supervisory objection from the Assistant Deputy Comptroller.

(5) Effective as of the date of this Order, the Bank shall not increase its total loans by more than three percent (3%) per year above the Bank’s actual total loans as of August 31, 2009 (the amount that would appear on schedule RC-C Part I, line 12 if the Bank were to file a Consolidated Report of Condition (“Call Report”) as of such date), until the Bank corrects the deficiencies in Asset Quality described in the Report of Examination conducted as of December 31, 2008 (the “ROE”), returns the Bank to a satisfactory condition, and the Bank receives a prior written determination of no supervisory objection from the Assistant Deputy Comptroller. For

purposes of this paragraph, the compliance determination shall be made as of each Call Report filing.

(6) Within ninety (90) days of this Order, the Board shall develop a written strategic plan for the Bank covering at least the next three years (hereafter the "Bank's Three-Year Plan"), complete with specific time frames that incorporate the strategic and other requirements of this Article. A copy of the Bank's Three-Year Plan shall be forwarded to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection.

(7) The Bank's Three-Year Plan shall establish objectives and projections for the Bank's overall risk profile, earnings performance, growth expectations, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, product line development and market segments that the Bank intends to promote or develop, together with specific strategies to achieve those objectives, that are specific, measurable, verifiable, and, at a minimum, address or include:

(a) an assessment of the Bank's present and future operating environment;

(b) the development of strategic goals and quantifiable measures with specific implementation dates to ensure the Bank attains sustained, diversified earnings to support capital and liquidity;

(c) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed pursuant to this Article and consistent with the compensation reduction strategy required by Article III;

(d) specific plans to establish responsibilities and accountability for the strategic planning process, diversification, proposed changes in the Bank's operating environment, reduction of problem assets, and maintenance of adequate liquidity;

(e) control systems to identify and reduce risk to earnings, capital, and liquidity, and risks associated with any proposed changes in the Bank's operating environment;

(f) growth limitations designed to comply with Paragraph (5) of this Article and actions to monitor, control and reduce, where appropriate, significant concentrations of credit;

(g) specific plans for the maintenance of adequate capital that may in no event be less than the requirements specified in Paragraph (1) of this Article and that include primary and secondary sources and timing to meet current and future needs;

(h) specific plans for the maintenance of adequate liquidity in accordance with the requirements of Article IV;

(i) a dividend policy that only permits the declaration of a dividend in accordance with Paragraph (4) of this Article;

(j) projections for capital and liquidity requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;

(k) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the next three years that shall address or include consideration of the requirements of this Article; and

(l) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(8) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the Bank's Three-Year Plan.

Article III

COMPENSATION

(1) Within ninety (90) days of this Order, the Board, or a designated independent committee thereof, shall develop and submit for a prior written determination of no supervisory objection, a written program designed to reduce the Bank's salaries and other compensation to safe and sound levels and ensure salaries and other compensation are proportionate to services rendered and supported by adequate documentation in the books and records of the Bank. At a minimum, the program shall include:

(a) a detailed, written review and determination of whether the salary and other compensation paid to each officer with a title of vice-president or above is consistent with the local market for comparable knowledge, skills and abilities;

(b) specific plans for reducing the Bank's aggregate compensation to levels commensurate with peer banks that may consider appropriate adjustments for the Bank's business model, locale, and other appropriate criterion;

(c) ongoing documentation that provides support to determine whether compensation for each officer with a title of vice-president or above and/or director is reasonable and proportionate to services provided; and

(d) for commissions relating to the generation of loans, requirements that:

(i) any officer, employee, or director who may benefit directly or indirectly from the granting of the credit be recused from any participation in the loan approval process;

(ii) the loans comply with sound underwriting standards prior to the payment of commissions; and

(iii) such commissions are not paid until funding, and that reserves be withheld in the event a loan is not sold, is returned by an investor, or becomes criticized within one year of its funding date.

(2) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program required by this Article.

Article IV

FUNDS MANAGEMENT

(1) Within ninety (90) days of this Order, the Board shall develop and submit for a prior written determination of no supervisory objection, a written liquidity program to ensure the Bank maintains liquidity 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 and to control the Bank's interest rate risk, to include at a minimum:

(a) measures to increase and maintain sufficient on-balance sheet liquidity;

(b) a significant reduction in reliance upon non-core funding sources, including brokered deposits, credit-sensitive wholesale borrowings and uninsured deposits, and that includes specific Board established limits and time-frames for achieving such reductions;

(c) the establishment of additional back-up funding sources;

(d) policies and procedures to ensure the implementation of adequate liquidity planning tools, to include:

   (i) a review of administrative policies and procedures to ensure they are consistent with the Board's guidance and risk tolerances;

   (ii) specific balance sheet liquidity targets that are consistent with the tools used to measure performance;

   (iii) reasonable risk limits to control the level of liquidity risk that incorporate forward-looking risk measurements and liability concentration limits such as limits on the amount of funds that may be sourced from any individual customer or groups of customers, or liability concentration limits by instrument; and

   (iv) periodic reviews of the Bank's adherence to the program;

(e) measures to increase the Bank's net interest rate margin;

(f) interest rate risk reporting that compares the Bank's rate risk profile to limits established by the Board;

(g) training or the addition of knowledgeable staff to ensure that all personnel involved in funds management, including senior management, understand, document, and are capable of making periodic adjustments, as needed, to the assumptions used in the Bank's interest rate risk model and in the Bank's management of liquidity risk; and

(h) a contingency funding plan that ensures the Bank can remain liquidity solvent through stressed environments and that includes, at a minimum:

(i) management's best estimate of balance sheet changes that may result from a liquidity or credit event;

(ii) specific terms or events that trigger enactment of the plan;

(iii) necessary management information systems and reporting criteria for use in crises;

(iv) management responsibilities for enacting the plan and for taking specific actions once enacted; and

(v) prioritization of all sources of funding for the various scenarios including asset side funding, liability side funding, and off-balance sheet funding.

(2) After the OCC has advised the Bank that it does not take supervisory objection to the program required by this Article, the Board shall immediately implement, and shall thereafter ensure adherence to its terms.

Article V

CONCENTRATIONS OF CREDIT

(1) Within ninety (90) days of this Order, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written program (including appropriate revisions to policies and procedures) designed to

diversify the Bank's assets consistent with OCC Banking Circular 255. The program shall include, but not necessarily be limited to, the following:

(a) a review of the balance sheet to identify any concentrations of credit;

(b) a written analysis of any concentration of credit identified above to identify and assess the inherent credit, liquidity, and interest rate risk;

(c) policies and procedures to control and monitor concentrations of credit that include at a minimum, monthly monitoring by the Board of concentration reports that stratify the loan portfolio by product type, locality and other meaningful measures;

(d) an action plan approved by the Board to reduce the risk of any concentration deemed imprudent in the above analysis; and

(e) a Board policy that requires a detailed analysis and written support to conclude that any concentration limit increase will not subject the Bank to undue credit or interest rate risk before the Board may approve such increase.

(2) For purposes of this Article, a concentration of credit is as defined in the "Loan Portfolio Management" booklet of the *Comptroller's Handbook*.

(3) The Board shall ensure that future concentrations of credit are subjected to the analysis required by Subparagraph (b) and that the analysis demonstrates that the concentration will not subject the Bank to undue credit or interest rate risk.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program, policies and procedures required by this Article.

Article VI

EXTERNAL LOAN REVIEW

(1) The Board shall continue to employ a qualified consultant to perform independent reviews of the Bank's loan portfolio at least semi-annually to assure the timely identification and categorization of problem credits.

(2) The scope of the engagement with the loan review consultant 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.*

Article VII

PROBLEM LOAN MANAGEMENT

(1) Effective as of the date of this Order, the Board 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 ninety (90) days of this Order, the Board shall prepare and submit to the Assistant Deputy Comptroller for a prior written determination of no supervisory objection, a written program designed to reduce the Bank's criticized assets (the "Problem Assets Program"). The Problem Assets Program shall include or address the following matters:

(a) aggregate reporting of criticized asset levels by type to the Board or a designated committee thereof every month;

(b) specific plans for the reduction of criticized assets by asset type with target reductions by month; and

(c) procedures for the monthly review and preparation of written determinations by the Board or a designated committee thereof regarding the effectiveness of the responsible officer's efforts to eliminate the weaknesses in each criticized credit relationship or Other Real Estate ("ORE") totaling two-hundred fifty thousand dollars ($250,000) or above (including any sold portion).

(3) The Board's compliance with Paragraph (2) of this Article shall include the development of procedures for the monthly submission and review of problem asset reports for all criticized credit relationships and ORE totaling two-hundred fifty thousand dollars ($250,000) or above (including any sold portion), that require, at a minimum, analysis and documentation of the following:

(a) an identification of the expected sources of repayment;

(b) the current appraised value of supporting collateral and the position of the Bank's lien on such collateral where applicable as well as other necessary documentation to support the collateral valuation;

(c) an analysis of current and satisfactory credit information, including cash flow analysis where loans are to be repaid from operations;

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

(e) trigger dates for borrower actions or for loan officers to reassess the strategy and enact collection plans;

(f) specific action plans and trigger dates for risk rating changes and documentation of the analysis and reasoning to support the current risk rating;

(g) for criticized relationships of two-hundred fifty thousand dollars ($250,000) or above (including any sold portion) that were made for the purpose of constructing or developing commercial real estate, the reports shall also include:

  (i) the initial scheduled maturity date of the loan, number of extensions and/or renewals, and current maturity date;

  (ii) project development status;

  (iii) a comparison of development costs to the budgeted amount;

  (iv) a comparison of sales activity to the original sales projections;

  (v) current market conditions and activity;

  (vi) amount and source of initial interest reserve and the amount and source of any subsequent additions to the reserve;

  (vii) an assessment of the borrower's global cash flow;

  (viii) an assessment of the guarantor's ability to support the project;

  (ix) any other significant information relating to the project; and

(h) a determination of whether the loan is impaired and the amount of the impairment, consistent with FASB Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan.

(4) Upon receiving a written determination of no supervisory objection from the Assistant Deputy Comptroller, the Board shall immediately implement and thereafter ensure adherence to the program required by this Article.

(5) A copy of each problem asset report relating to criticized credit relationships and ORE totaling two-hundred fifty thousand dollars ($250,000) or above (including any sold portion) prepared during the last month of each quarter end (e.g., March, June, September, December) along with any Board comments regarding the effectiveness of the effort to eliminate the weaknesses in each credit or to dispose of the ORE, shall be submitted to the Assistant Deputy Comptroller within fifteen (15) days of each calendar quarter end, with the first set of reports due by no later than October 15, 2009.

(6) Effective as of the date of this Order, the Bank may not 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 equal or exceed two-hundred fifty thousand dollars ($250,000) (including any sold portion), unless each of the following conditions is met:

(a) the Board or a designated committee thereof 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 Board or a designated committee thereof approves the credit extension and documents in writing, the reasons that such extension is necessary to promote the best interests of the Bank; and

(b) the Board's formal plan to collect or strengthen the criticized asset will not be compromised.

Article VIII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) By no later than October 30, 2009, the Board shall adopt, implement, and thereafter ensure adherence to written policies and procedures for maintaining an adequate Allowance for Loan and Lease Losses ("Allowance") in accordance with Generally Accepted Accounting Principles ("GAAP"). The Allowance policies and procedures shall be consistent with the guidance set forth in the Federal Financial Institutions Examination Council's "Interagency Policy Statement on the Allowance for Loan and Lease Losses" dated December 13, 2006 (OCC Bulletin 2006-47), and July 20, 2001 (OCC Bulletin 2001-37), and shall at a minimum include:

(a) procedures for determining whether a loan is impaired and measuring the amount of impairment, consistent with Statement of Financial Accounting Standards No. 114, Accounting by Creditors for Impairment of a Loan;

(b) procedures for segmenting the loan portfolio and estimating loss on groups of loans, consistent with Statement of Financial Accounting Standards No. 5, Accounting for Contingencies;

(c) procedures for validating the Allowance methodology; and

(d) procedures to ensure that the estimation of credit losses considers the relevant qualitative and environmental factors, with particular focus on the following:

(i) trends in the Bank's internal risk ratings, delinquent and nonaccrual loans;

(ii) results of the Bank's external loan review;

(iii) concentrations of credit in the Bank;

(iv) present and prospective economic conditions; and

(v) experience, performance and sufficiency of the Bank's lending staff.

(2) The program shall provide for a process for summarizing and documenting, for the Board's review and approval, the amount to be reported in the Call Reports for the Allowance. Any deficiency in the Allowance shall be remedied in the quarter it is discovered, prior to the filing of the Call Report, 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 program developed pursuant to this Article shall be forwarded to the Assistant Deputy Comptroller within five (5) days of its adoption by the Board.

Article IX

CLOSING

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

(2) If, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him by the several laws of the United States 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) The provisions of this Order 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.

(4) In each instance in this Order in which the Bank or the Board is required to ensure implementation of or adherence to, or to undertake to perform, an obligation of the Bank, the Board shall:

(a) authorize and adopt such actions on behalf of the Bank as may be necessary or appropriate for the Bank to perform its obligations under 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 for any non-compliance with such actions.

(5) 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 the Comptroller or the United States.

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

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

/s/	9/15/09
Dorothy A. Sander-Ziegler Assistant Deputy Comptroller Southern California–North Field Office	Date

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

In the Matter of:	)	
Excel National Bank	)	AA-WE-09-53
Beverly Hills, California	)	

STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER

The Comptroller of the Currency of the United States of America ("Comptroller") intends to initiate cease and desist proceedings against the Excel National Bank, Beverly Hills, California ("Bank"), pursuant to 12 U.S.C. § 1818(b) through the issuance of a Notice of Charges for an Order to Cease and Desist for unsafe and unsound banking practices relating to the Bank's Board and management oversight, liquidity management, credit administration, and earnings.

The Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated September 15, 2009 (the "Order");

In consideration of the above premises, the Comptroller, through his authorized representative, and the Bank, through its duly elected and acting Board of Directors, hereby stipulate and agree to the following:

ARTICLE I

Jurisdiction

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq*.

(2) The Comptroller is "the appropriate Federal banking agency" regarding the Bank pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(3) The Bank is an "insured depository institution" within the meaning of 12 U.S.C. § 1818(b)(1).

ARTICLE II

Agreement

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

(2) The Bank further agrees that said Order shall be deemed an "order issued with the consent of the depository institution" as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i). Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under his supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the Comptroller has any intention to enter into a contract.

(3) The Bank also expressly acknowledges that no officer or employee of the Comptroller 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.

ARTICLE III

Waivers

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

(a) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);

(b) any and all procedural rights available in connection with the issuance of the Order;

(c) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i), 12 C.F.R. Part 19

(d) all rights to seek any type of administrative or judicial review of the Order; and

(e) 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, it 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 her hand on behalf of the Comptroller.

/s/	9/15/09
Dorothy A. Sander-Ziegler Assistant Deputy Comptroller Southern California–North Field Office	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/	9/15/09
Brian D. Carlson	Date
/s/	9/15/09
Phillip J. Christensen	Date
/s/	9/15/09
Donn E. Loe	Date
/s/	9/15/09
John H. Michel	Date
/s/	9/15/09
Conrad A. Peterson	Date
/s/	9/15/09
Mark C. Uhalley	Date