

#2009-216

Also Terminates #2009-023

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

In the Matter of:)
Capitol National Bank)
Lansing, Michigan)

AA-EC-09-79

CONSENT CEASE AND DESIST ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”), through his National Bank Examiner, has supervisory authority over Capitol National Bank, Lansing, Michigan (“Bank”);

WHEREAS, in the interests of cooperation, 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 Cease and Desist Order (“Stipulation and Consent”), dated 12/22/09, that is accepted by the Comptroller;

WHEREAS, by this Stipulation and Consent, which is incorporated by reference, the Bank, without admitting or denying any wrongdoing, has consented to the issuance of this Consent Cease and Desist Order (“Order”) by the Comptroller; and

NOW, THEREFORE, the Comptroller, acting by and through his designated representative and by virtue of the authority conferred by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), **HEREBY ORDERS THAT:**

ARTICLE I

COMPLIANCE COMMITTEE

(1) Within fifteen (15) days, the Board shall appoint a Compliance Committee of at least five (5) directors, a majority of which shall be independent. 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 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 thirty (30) days of the date of this Order and every thirty (30) days thereafter, 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 forward a copy of the Compliance Committee's report, with any additional comments by the Board, to the Director within ten (10) days of receiving such report.

(5) All reports or plans which the Bank or Board has agreed to submit to the Director pursuant to this Order shall be forwarded, by overnight mail or via email, to the following:

Director for Special Supervision
Comptroller of the Currency
250 E Street, S.W.
Mail Stop 7-4
Washington, DC 20219

with a copy to:
Comptroller of the Currency
200 Public Square
Suite 1610
Cleveland, Ohio 44114-2301

(6) The Board shall ensure that the Bank has sufficient processes, personnel, and control systems to effectively implement and adhere to all provisions of this Order, and that Bank personnel have sufficient training and authority to execute their duties and responsibilities under this Order.

ARTICLE II

STRATEGIC PLAN

(1) Within ninety (90) days, the Board shall forward to the Director for his review, pursuant to paragraph (4) of this Article, a written Strategic Plan for the Bank that is acceptable to the Director, covering at least a three-year period. At the next Board meeting following receipt of the Director's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to the Strategic Plan. 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 nonperforming assets, product line development, and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives, and shall, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) a description of the Bank's targeted market(s) and an assessment of the current and projected risks and competitive factors in its identified target market(s);
- (c) the strategic goals and objectives to be accomplished;
- (d) specific actions to improve Bank earnings and accomplish the identified strategic goals and objectives;
- (e) specific actions to improve the quality of the Bank's loan portfolio;
- (f) identification of Bank personnel to be responsible and accountable for achieving each goal and objective of the Strategic Plan, including specific time frames;

- (g) a financial forecast, to include projections for major balance sheet and income statement accounts, targeted financial ratios, and growth projections over the period covered by the Strategic Plan;
- (h) a description of the assumptions used to determine financial projections and growth targets;
- (i) an identification and risk assessment of the Bank's present and planned future product lines (assets and liabilities) that will be utilized to accomplish the strategic goals and objectives established in the Strategic Plan, with the requirement that the risk assessment of new product lines must be completed prior to the offering of such product lines;
- (j) a description of control systems to mitigate risks associated with planned new products, growth, or any proposed changes in the Bank's markets;
- (k) 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 established in the Strategic Plan;
- (l) a management employment and succession program to promote the retention and continuity of capable management;
- (m) assigned responsibilities and accountability for the strategic planning process, new products, growth goals, and proposed changes in the Bank's operating environment; and
- (n) a description of systems to monitor the Bank's progress in meeting the Strategic Plan's goals and objectives.

(2) If the Board's Strategic Plan under paragraph (1) of this Article is a sale or merger of the Bank, the Strategic Plan shall, at a minimum, address the steps that will be taken and the associated timeline to ensure that a definitive agreement for the sale or merger is executed not later than ninety (90) days after the receipt of the Director's written determination of no supervisory objection pursuant to paragraph (5) of this Article. If the Strategic Plan outlines a liquidation of the Bank, the Strategic Plan shall detail the actions and steps necessary to accomplish the liquidation in conformance with 12 U.S.C. §§ 181 and 182, and the dates by which each step of the liquidation shall be completed, including the date by which the Bank will terminate the national bank charter. In the event of liquidation, the Bank shall hold a shareholder vote, pursuant to 12 U.S.C. § 181, and commence liquidation within thirty (30) days of receiving the Director's written determination of no supervisory objection pursuant to paragraph (5) of this Article.

(3) At least monthly, the Board shall review financial reports and earnings analyses prepared by the Bank that evaluate the Bank's performance against the goals and objectives established in the Strategic Plan, as well as the Bank's written explanation of significant differences between actual and projected balance sheet, income statement, and expense accounts, including descriptions of extraordinary and/or nonrecurring items. Within ten (10) days of the completion of its review, the Board shall submit a copy of the reports to the Director.

(4) At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the Strategic Plan, based on the Bank's monthly reports, analyses, and written explanations of any differences between actual performance and the Bank's strategic goals and objectives, and shall include a description of the actions the Board will require the Bank to take to address any shortcomings, which shall be documented in the Board meeting minutes. Within ten (10) days of completing its evaluation, the Board shall submit a copy to the Director.

(5) 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 written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Director, the Board shall adopt and the Bank shall immediately implement and adhere to the Strategic Plan.

(6) The Bank may not initiate any action that deviates significantly from the Board-approved Strategic Plan without a written determination of no supervisory 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.

(7) For the purposes of this Article, changes that may constitute a significant deviation from the Strategic Plan include, but are not limited to, a change in the Bank's marketing strategies, marketing partners, underwriting practices and standards, credit administration, account management, collection strategies or operations, fee structure or pricing, accounting processes and practices, or funding strategy, any of which, alone or in aggregate, may have a material impact on the Bank's operations or financial performance; or any other changes in personnel, operations, or external factors that may have a material impact on the Bank's operations or financial performance. For purposes of this paragraph, "personnel" shall include the president, chief executive officer, chief operating officer, chief financial officer, chief credit officer, chief compliance officer, risk manager, auditor, member of the Bank's Board of Directors, or any other position subsequently identified in writing by the Director.

ARTICLE III

CAPITAL PLAN AND HIGHER MINIMUMS

(1) The Bank shall achieve within one hundred twenty (120) days, and thereafter maintain the following minimum capital ratios (as defined in 12 C.F.R. Part 3)¹:

- (a) Total risk-based capital at least equal to eleven and one half percent (11.5%) of risk-weighted assets;
- (b) Tier 1 capital at least equal to eight and one half percent (8.5%) of adjusted total assets.²

(2) Within sixty (60) days, the Board shall forward to the Director for his review, pursuant to paragraph (4) of this Article, a written Capital Plan for the Bank, covering at least a three-year period. At the next Board meeting following receipt of the Director's written determination of no supervisory objection, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to the Capital Plan. The Capital Plan shall include:

- (a) specific plans for the maintenance of adequate capital that may in no event be less than the requirements of paragraph (1);
- (b) projections for growth and capital requirements based upon a detailed analysis of the Bank's assets, liabilities, earnings, fixed assets, and off-balance sheet activities;
- (c) projections of the sources and timing of additional capital to meet the Bank's current and future needs;

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.

- (d) identification of the primary sources from which the Bank will maintain an appropriate capital structure to meet the Bank's future needs, as set forth in the Strategic Plan;
 - (e) specific plans detailing how the Bank will comply with restrictions or requirements set forth in this Order and with 12 U.S.C. § 1831o, including the restrictions against brokered deposits in 12 C.F.R. § 337.6;
 - (f) contingency plans that identify alternative methods should the primary source(s) under (d) above not be available; and
 - (g) a prohibition on the payment of director fees unless the Bank is in compliance with the minimum capital ratios identified in paragraph (1).
- (3) The Bank may pay a dividend or make a capital distribution only:
- (a) when the Bank is in compliance with its approved Capital Plan and would remain in compliance with its approved Capital Plan immediately following the payment of any dividend;
 - (b) when the Bank is in compliance with 12 U.S.C. §§ 56 and 60; and
 - (c) following the prior written determination of no supervisory objection by the Director.

(4) Prior to adoption by the Board, a copy of the Capital Plan shall be submitted to the Director for a prior written determination of no supervisory objection. Upon receiving a written determination of no supervisory objection from the Director, the Board shall adopt and the Bank shall immediately implement and adhere to the Capital Plan. The Board shall review and update the Bank's Capital Plan at least annually and more frequently if necessary or if requested by the Director. Revisions to the Bank's Capital Plan shall be submitted to the Director for a prior written determination of no supervisory objection.

(5) 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, has failed to implement or adhere to a Capital Plan to which the Director has taken no supervisory objection pursuant to paragraph (4) of this Article, or failed to achieve and maintain the minimum capital ratios as required by paragraph (1) of this Article; then in the sole discretion of the Director, the Bank shall, upon direction of the Director, within thirty (30) days develop and shall submit to the Director for his review and prior written determination of no supervisory objection a Disposition Plan that shall detail the Board's proposal to sell or merge the Bank, or liquidate the Bank under 12 U.S.C. § 181.

(6) In the event that the Disposition Plan submitted by the Bank's Board outlines a sale or merger of the Bank, the Disposition Plan shall, at a minimum, address the steps that will be taken and the associated timeline to ensure that a definitive agreement for the sale or merger is executed not later than ninety (90) days after the receipt of the Director's written determination of no supervisory objection to the Disposition Plan. If the Disposition Plan outlines a liquidation of the Bank, the Disposition Plan shall detail the actions and steps necessary to accomplish the liquidation in conformance with 12 U.S.C. §§ 181 and 182, and the dates by which each step of the liquidation shall be completed, including the date by which the Bank will terminate the national bank charter. In the event of liquidation, the Bank shall hold a shareholder vote, pursuant to 12 U.S.C. § 181, and commence liquidation within thirty (30) days of receiving the Director's written determination of no supervisory objection to the Disposition Plan.

(7) After the Director has advised the Bank in writing that he does not take supervisory objection to the Disposition Plan, the Board shall immediately adopt and implement, and shall thereafter ensure adherence to, the terms of the Disposition Plan. Failure to submit a timely, acceptable Disposition Plan, or failure to implement and adhere to the Disposition Plan

after the Board obtains a written determination of no supervisory objection from the Director, may be deemed a violation of this Order, in the exercise of the Director's sole discretion.

ARTICLE IV

BOARD'S COMMITTEE STRUCTURE

(1) Within ninety (90) days, the Compliance Committee shall conduct and complete a written review of the Board's committee structure. The review shall include an evaluation of the existing structure and shall include:

- (a) an analysis of the number of committees and the responsibilities assigned to each;
- (b) the composition of each committee with regard to the number of members and the technical expertise required for each committee; and
- (c) specific recommendations to improve the efficiency and responsiveness of each committee, including, but not limited to:
 - (i) recommendations for committee member education and training; and
 - (ii) committee reporting requirements to the Board, including the specific contents expected in each report and the frequency of such reports.

(2) Upon completion of the written review, a copy of the report shall be forwarded to the Director with a copy of the Board resolution making appropriate adjustments in the committee structure.

ARTICLE V

CRITICIZED ASSETS

(1) Within sixty (60) days, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to a written program designed to protect the Bank's interest in those assets criticized in the most recent

Report of Examination (“ROE”), in any subsequent ROE, 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.” The program shall include the development of Criticized Asset Reports (“CARs”) identifying all credit relationships and other assets totaling in aggregate two hundred fifty thousand (\$250,000) or more, criticized as "doubtful," "substandard," or "special mention." The CARs must be updated and submitted to the Board and the Directors monthly. Each CAR shall cover an entire credit relationship and include, at a minimum, analysis and documentation of the following:

- (a) the origination date and any renewal or extension dates, amount, purpose of the loan, and the originating and current loan officer(s);
- (b) the expected primary and secondary sources of repayment, and an analysis of the adequacy of the repayment source;
- (c) the 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 current collateral valuation;
- (d) an analysis of current and complete credit information, including cash flow analysis where loans are to be repaid from operations;
- (e) results of any FAS 114 impairment analysis;
- (f) significant developments, including a discussion of changes since the prior CAR, if any; and
- (g) the proposed action to eliminate the basis of criticism and the time frame for its accomplishment, including an appropriate exit strategy.

(2) The Bank may not extend credit, directly or indirectly, including renewals, modifications or extensions, to a borrower whose loans or other extensions of credit are

criticized in any ROE, in any internal or external loan review, or in any list provided to management by the National Bank Examiners during any examination, unless and until 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, modifying or extending 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. A copy of the findings and approval of the Board or designated committee shall be maintained in the credit file of the affected borrower and made available for review by National Bank Examiners;
- (b) the Bank performs a written credit and collateral analysis as required by paragraph (1)(d) of this Article and, if necessary, the proposed action referred to in paragraph (1)(g) of this Article is revised, as appropriate; and
- (c) the Board's formal plan to collect or strengthen the criticized asset will not be compromised by the extension of additional credit.

ARTICLE VI

LOAN REVIEW

(1) Within forty-five (45) days, the Board shall establish an effective, independent, and on-going loan review program to review, at least quarterly, for a total of eighty percent (80%) annually of the Bank's loan and lease portfolios, including credits less than \$250,000, to assure the timely identification and categorization of problem credits. The program shall provide for a written report to be filed with the Board promptly after each review and shall employ a loan

and lease rating system consistent with the guidelines set forth in “Rating Credit Risk” and “Allowance for Loan and Lease Losses,” booklets A-RCR and A-ALLL, respectively, of the *Comptroller’s Handbook*. Such reports shall include, at a minimum:

- (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) credit and collateral documentation exceptions;
- (e) loans meeting the criteria for nonaccrual status;
- (f) the identity of the loan officer of each loan reported in accordance with subparagraphs (b) through (e);
- (g) the identification and status of credit-related violations of law, rule, or regulation;
- (h) concentrations of credit;
- (i) loans and leases to the directors, executive officers, and principal shareholders of the Bank and to their related interests; and
- (j) loans and leases in nonconformance with the Bank's lending and leasing policies, and exceptions to the Bank’s lending and leasing policies.

(2) A written description of the program required by Paragraph (1) of this Article shall be forwarded to the Director immediately upon implementation.

(3) The Board shall evaluate the loan and lease review report(s) and shall ensure that immediate, adequate, and continuing remedial action, as appropriate, is taken upon all findings noted in the report(s), and documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be preserved in the Bank.

(4) A copy of the internal loan and lease review report(s) 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 sent to the Director for review each quarter.

ARTICLE VII

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) The Board shall immediately require and the Bank shall implement and thereafter adhere to a program for the maintenance of an adequate Allowance for Loan and Lease Losses ("ALLL"). The program shall be consistent with the comments on maintaining a proper ALLL found in the Interagency Policy Statement on the ALLL contained in OCC Bulletin 2006-47 (December 13, 2006) and with "Allowance for Loan and Lease Losses," booklet A-ALLL of the *Comptroller's Handbook*, and shall incorporate the following:

- (a) internal risk ratings of loans;
- (b) results of the Bank's independent loan review;
- (c) criteria for determining which loans will be reviewed under Financial Accounting Standard ("FAS") 114, how impairment will be determined, and procedures to ensure that the analysis of loans complies with FAS 114 requirements;
- (d) criteria for determining FAS 5 loan pools and an analysis of those loan pools;
- (e) recognition of non-accrual loans in conformance with generally accepted accounting principles ("GAAP") and regulatory guidance;
- (f) loan loss experience;
- (g) trends of delinquent and non-accrual loans;
- (h) concentrations of credit in the Bank; and

- (i) present and projected economic and market conditions.
- (2) The program shall provide for a review of the ALLL by the Board at least once each calendar quarter. Any deficiency in the ALLL shall be remedied in the quarter it is discovered, prior to filing the Consolidated Reports of Condition and Income, by additional provisions from earnings. Written documentation shall be maintained of the factors considered and conclusions reached by the Board in determining the adequacy of the ALLL and made available for review by National Bank Examiners.
- (3) A copy of the Board's ALLL program, and any subsequent revisions to the program, shall be submitted to the Director for review.

ARTICLE VIII

LOAN RISK RATING SYSTEM

- (1) Within thirty (30) days, and on an ongoing basis thereafter, the Board shall ensure that the Bank's internal risk ratings of commercial credit relationships in excess of \$250,000 (covered relationship), as assigned by responsible loan officers and by internal loan review, are timely, accurate, and consistent with the regulatory credit classification criteria set forth in the Rating Credit Risk Booklet, A-RCR, of the Comptroller's Handbook and the most current regulatory guidance. At a minimum, the Board must ensure, on an ongoing basis that with respect to the assessment of credit risk of any covered relationship:
 - (a) the primary consideration is the strength of the borrower's primary source of repayment (i.e., the probability of default rather than the risk of loss);
 - (b) if the primary source of repayment is cash flow from the borrower's operations, the strength of the borrower's cash flow is determined through analysis of the borrower's historical and projected financial statements, past performance, and future prospects in light of conditions that have occurred;

- (c) collateral, non-government guarantees, and other similar credit risk mitigates that affect potential loss in the event of default (rather than the probability of default) are taken into consideration only if the primary source of repayment has weakened and the probability of default has increased;
- (d) collateral values should reflect a current assessment of value based on actual market conditions and project status;
- (e) credit risk ratings are reviewed and updated whenever relevant new information is received, but no less frequently than annually; and
- (f) the credit risk rating analysis is documented and available for review by the Board and the OCC upon request.

(2) Within thirty (30) days, and on an ongoing basis thereafter, the Board shall ensure that any covered relationship with a high probability of payment default or other well-defined weakness is rated no better than Substandard, unless the debt is secured by marketable securities or cash. Consistent with the guidance in the Rating Credit Risk Booklet, A-RCR, of the Comptroller's Handbook, the presence of illiquid collateral or existence of a plan for improvement does not, and a non-government guarantee generally will not, mitigate the probability of default or a well-defined weakness.

ARTICLE IX

CREDIT AND COLLATERAL EXCEPTIONS

(1) Within sixty (60) days the Board shall obtain current and satisfactory credit information on all loans lacking such information, including those listed in the 2009 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 sixty (60) days the Board shall ensure proper collateral documentation is maintained on all loans and correct each collateral exception listed in the 2009 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:

- (a) documenting the specific reason or purpose for the extension of credit;
- (b) identifying the expected source of repayment in writing;
- (c) structuring the repayment terms to coincide with the expected source of repayment;
- (d) documenting, with adequate supporting material, the value of collateral and properly perfecting the Bank's lien on it where applicable; and
- (e) 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)(d) 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)(d) 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.

ARTICLE X

PARTICIPATIONS PURCHASED

(1) The Bank may grant, purchase, assume or acquire in any manner, directly or indirectly, or as a fiduciary or nominee, any loan, loan participation, loan obligation or other asset, as long as such grant, purchase, assumption, or acquisition is consistent with safe and sound banking practices, the guidelines set forth in Banking Circular 181 (Revised), dated August 2, 1984, and the requirements of 12 C.F.R. Part 34.

ARTICLE XI

APPRAISALS OF REAL PROPERTY

(1) Within sixty (60) days, the Bank shall engage the services of an independent, professionally certified, or licensed appraiser(s) to provide:

- (a) a written or updated appraisal, in accordance with 12 C.F.R. Part 34, for each parcel of real property that represents primary collateral behind any extension of credit for which the loan exceeds two hundred fifty thousand dollars (\$250,000) where:
 - (i) the loan was criticized in the 2009 ROE or by the Bank's internal loan review, and the most recent independent appraisal is more than twelve (12) months old; or
 - (ii) accrued interest or loan fees have been or will be added to the outstanding principal balance, and the most recent independent appraisal is more than twelve (12) months old;

(b) a written appraisal on each parcel of Other Real Estate Owned where it is needed to bring the Bank into conformity with the provisions of 12 C.F.R. Part 34.

(2) The Board shall specifically instruct the appraiser(s) to comply with the requirements of 12 C.F.R. Part 34. The details surrounding any and all other instructions given to the appraiser(s) by the Bank, whether written or oral, shall be provided to the Director for review prior to the appraiser(s) undertaking the actual appraisals.

(3) All such appraisals shall be completed within sixty (60) days of engagement and certification by the Board attesting to the completion of the appraisals shall be forwarded to the Director within ninety (90) days of engagement.

ARTICLE XII

LIQUIDITY RISK MANAGEMENT PROGRAM

(1) Within sixty (60) days, the Board shall revise and maintain a comprehensive liquidity risk management program which assesses, on an ongoing basis, the Bank's current and projected funding needs, and ensures that sufficient funds or access to funds exist to meet those needs. Such a program must include effective methods to achieve and maintain sufficient liquidity and to measure and monitor liquidity risk, to include at a minimum:

- (a) strategies to maintain sufficient liquidity at reasonable costs including, but not limited to, the following:
 - (i) better diversification of funding sources, reducing reliance on high cost providers;
 - (ii) reducing rollover risk;
 - (iii) increasing liquidity through such actions as obtaining additional capital, placing limits on asset growth, aggressive collection of

problem loans and recovery of charged-off assets, and asset sales;
and;

(iv) monitoring the projected impact on reputation, economic and credit conditions in the Bank's market(s).

(b) The preparation of liquidity reports which shall be reviewed by the Board on at least a monthly basis, to include, at a minimum, the following:

(i) a certificate of deposit maturity schedule, including separate line items for brokered deposits and uninsured deposits, depicting maturities on a weekly basis for the next two months and monthly for the following four months, which schedule shall be updated at least weekly;

(ii) a schedule of all funding obligations, including money market accounts, unfunded loan commitments, outstanding lines of credit and outstanding letters of credit, showing the obligations that can be drawn immediately, and on a weekly basis for the next two months and monthly for the following four months, which schedule shall be prepared and updated at least weekly;

(iii) a listing of funding sources, prepared and updated on a weekly basis for the next two months and monthly for the following four months, including federal funds sold; unpledged assets and assets available for sale; and borrowing lines by lender, including original amount, remaining availability, type and book value of collateral pledged, terms, and maturity date, if applicable.

(iv) a monthly sources and uses of funds report for a minimum period of six months, updated monthly, which reflects known and projected changes in asset and liability accounts, and the assumptions used in developing the projections. Such reports shall include, at a minimum:

1. the funding obligations and sources required by (b) and (c) of this paragraph;
2. projected additional funding sources, including loan payments, loan sales/participations, or deposit increases; and
3. projected additional funding requirements from a reduction in deposit accounts including uninsured and brokered deposits, inability to acquire federal funds purchased, or availability limitations or reductions associated with borrowing relationships.

(c) A contingency funding plan that, on a monthly basis, forecasts funding needs, and funding sources under different stress scenarios which represent management's best estimate of balance sheet changes that may result from a liquidity or credit event. The contingency funding plan shall include:

- (i) specific plans detailing how the Bank will comply with 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 (which plans may be subject to revision as may be appropriate upon the adoption, if any, of currently-proposed changes to 12 C.F.R.337.6);

- (ii) the preparation of reports which identify and quantify all sources of funding and funding obligations under best case and worst case scenarios, including asset funding, liability funding and off-balance sheet funding; and
- (iii) procedures which ensure that the Bank's contingency funding practices are consistent with the Board's guidance and risk tolerances.

(2) The Board shall submit a copy of the comprehensive liquidity risk management program, along with the reports required by this Article, to the Director for review.

ARTICLE XIII

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 loan review, internal audit, interest rate risk management, liquidity risk management, information technology, or financial 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 as those terms are defined at 12 C.F.R § 215.2; 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 of the Bank to assert legally recognized privileges where applicable.

(3) The Board must ensure all existing third party relationships for the performance of the services described in paragraph (1) of this Article 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.

ARTICLE XIV

CONTINGENCY PLANNING FOR THIRD PARTY SERVICES

(1) Within sixty (60) days, the Board shall develop a contingency plan for obtaining any services described in paragraph (1) of Article XIII that are currently being provided by a third party, the Bank's holding company, or an affiliate. At a minimum, the plan shall include:

- (a) a detailed list of the services currently being performed by a third party, the Bank's holding company, or an affiliate;
- (b) an identification of the skills and expertise needed to provide each of the currently outsourced services;
- (c) procedures for replacing the current servicer, which shall include, but not necessarily be limited to:
- (d) performance of comprehensive due diligence review by the Board of the potential servicer to assess management capabilities, adequacy of staffing and expertise, existence of proper internal controls, comprehensiveness of operating procedures and adequacy of MIS to fulfill the Bank's needs;
- (e) assessment by the Board of the financial strength of the servicer to determine the ongoing viability of the servicer.

(2) If the Board's evaluation required by paragraph (1)(c) does not demonstrate that the servicer possesses these attributes, then the Board shall not enter into the agreement. The Board shall submit to the Director a copy of their written evaluation before the execution of a contract with any servicer.

ARTICLE XV

INTERNAL AUDIT

- (1) Within thirty (30) days, the Board shall adopt, implement, and thereafter ensure Bank adherence to an independent, internal audit program sufficient to:
- (a) detect irregularities and weak practices in the Bank's operations;
 - (b) determine the Bank's level of compliance with all applicable laws, rules and regulations;

- (c) assess and report the effectiveness of policies, procedures, controls, and management oversight relating to accounting and financial reporting;
- (d) evaluate the Bank's adherence to established policies and procedures, with particular emphasis directed to the Bank's adherence to its loan policies concerning underwriting standards and problem loan identification and classification;
- (e) adequately cover all areas;
- (f) ensure timely follow-up on identified deficiencies to ensure their correction; and
- (g) establish an annual audit plan using a risk based approach sufficient to achieve these objectives.

(2) As part of this audit program, the Board shall evaluate the audit reports of any party providing services to the Bank, and shall assess the impact on the Bank of any audit deficiencies cited in such reports.

(3) The Board shall ensure that the 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 persons responsible for implementing the internal audit program described above shall report directly to the Board, or a designated committee thereof, which shall have the sole power to direct the audit program activities. All reports prepared by the audit staff shall be in writing and filed directly with the Board, or designated committee thereof, and not through any intervening party.

(5) The Board shall ensure that immediate actions are undertaken to remedy deficiencies cited in audit reports, and maintain a written record describing the deficiency, the

projected corrective action, and the status of the corrective action. The Board shall ensure that management provides detailed explanations in those circumstances, if any, where the deficiencies cannot be remedied, and that the audit staff maintain a written record describing those actions. The Board shall provide for a timely independent written follow-up for any unremedied deficiencies.

(6) The audit staff shall evaluate in writing the effectiveness of the corrective action and recommend additional corrective actions, as necessary.

(7) The audit staff shall have unfettered access to any records necessary for the proper conduct of its activities. The Board shall ensure that National Bank examiners have unrestricted access to all reports and work papers of the audit staff and any other parties working in the audit staff's behalf.

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

ARTICLE XVI

VIOLATIONS OF LAW

(1) The Board shall require and the Bank shall immediately take all necessary steps to correct each violation of law, rule, or regulation cited in the most recent ROE, any subsequent Report of Examination, or brought to the Board's or Bank's attention in writing by management, regulators, auditors, loan review, or other compliance efforts. Within ninety (90) days after the violation is cited or brought to the Board's attention, the Bank shall provide to the Board a list of any violations that have not been corrected. This list shall include an explanation of the actions taken to correct the violation, the reasons why the violation has not yet been corrected, and a plan to correct the violation by a specified time.

- (2) Within sixty (60) days, the Board shall adopt and the Bank (subject to Board review and ongoing monitoring) shall implement and thereafter ensure adherence to:
- (a) specific procedures to prevent future violations as cited in the most recent ROE; and
 - (b) general procedures addressing compliance management that incorporate internal control systems and education of employees regarding laws, rules, and regulations applicable to their areas of responsibility.
- (3) Upon adoption, the Board shall forward a copy of these policies and procedures to the Director.

ARTICLE XVII

ADMINISTRATIVE APPEALS AND EXTENSIONS OF TIME

- (1) If the Bank requires an extension of any timeframe within this Order, the Board shall submit a written request to the Director asking for relief. Any written requests submitted pursuant to this Article shall include a statement setting forth in detail the special circumstances that prevent the Bank from complying with a provision and that require an extension of a timeframe within this Order.
- (2) All such requests shall be accompanied by relevant supporting documentation, and any other facts upon which the Bank relies. The Director's decision concerning a request is final and not subject to further review.

ARTICLE XVIII

OTHER PROVISIONS

- (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 Director, 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) 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) Except as otherwise expressly provided herein, any time limitations imposed by this Order shall begin to run from the effective date of this Order.

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

(5) In each instance in this Order in which the Bank and/or the Board is required to take action, the Board shall, at a minimum:

- (a) authorize and direct measures necessary to take the required action;
- (b) require Bank management to make timely reports to the Board on the status of, and compliance with, the required action; and
- (c) take appropriate corrective measures for any failure to carry out the required action.

(6) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818, and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(7) The Bank entered into a Formal Agreement dated January 30, 2009. This Order replaces the Formal Agreement in its entirety and therefore, the January 30, 2009 Formal Agreement is hereby terminated.

(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 22nd day of December, 2009.

signed

Hank Fleming
Director for Special Supervision

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

In the Matter of:)
Capitol National Bank)
Lansing, Michigan)

AA-EC-09-79

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

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate cease and desist proceedings against Capitol National Bank, Lansing, Michigan (“Bank”) pursuant to 12 U.S.C. § 1818(b) through the issuance of Notice of Charges for unsafe and unsound banking practices relating to the supervision of the Bank

WHEREAS, the Bank, in the interest of compliance and cooperation, and without admitting or denying any wrong doing, consents to the issuance of a Consent Cease and Desist Order, dated 12/22/09 (“Order”);

NOW THEREFORE, 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).

(4) As a result of this Order:

- (a) the Bank is not an “eligible bank” pursuant to 12 C.F.R. § 5.3(g)(4) for the purposes of 12 C.F.R. Part 5 regarding rules, policies and procedures for corporate activities, unless otherwise informed in writing by the OCC;
- (b) the Bank is subject to the limitation of 12 C.F.R. § 5.51(c)(6)(ii) for the purposes of 12 C.F.R. § 5.51 requiring OCC approval of a change in directors and senior executive officers, unless otherwise informed in writing by the OCC; and
- (c) the Bank is subject to the limitation on golden parachute and indemnification payments provided by 12 C.F.R. § 359.1(f)(1)(ii)(C) and 12 C.F.R. § 5.51(c)(6)(ii), unless otherwise informed in writing by the OCC.

ARTICLE II

ACKNOWLEDGMENTS

(1) The Bank acknowledges 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 acknowledges 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. 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, 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.

(2) 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:
 - (d) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (e) any and all procedural rights available in connection with the issuance of the Order;
 - (f) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i) or 12 C.F.R. Part 19;
 - (g) all rights to seek any type of administrative or judicial review of the Order; and
 - (h) any and all rights to challenge or contest the validity of the Order.

ARTICLE XIX

CLOSING PROVISIONS

(1) 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, the Comptroller 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.

signed

12/22/09

Hank Fleming
Director for Special Supervision

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.

<i>signed</i>	12-16-09
_____ Christopher Abood	_____ Date
<i>signed</i>	12-17-09
_____ Nan Elizabeth Casey	_____ Date
<i>signed</i>	12-16-09
_____ Charles J. Clark	_____ Date
<i>signed</i>	12-17-09
_____ Paula D. Cunningham	_____ Date
<i>signed</i>	12-16-09
_____ Patrick F. Hayes	_____ Date
<i>signed</i>	12-17-09
_____ J. Christopher Holman	_____ Date
<i>signed</i>	12-16-09
_____ Lewis D. Johns II	_____ Date
<i>signed</i>	12-16-09
_____ John D. O’Leary	_____ Date
<i>signed</i>	12-16-09
_____ Robert Reid	_____ Date
<i>signed</i>	12-16-09
_____ Cristin Reid English	_____ Date
<i>Resigned</i>	12-13-09
_____ Patricia A. Reynolds	_____ Date