

#2015-002

Also *Terminates* **#2009-216**

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

In the Matter of:)	
Capitol National Bank)	AA-EC-2014-87
Lansing, Michigan)	

CONSENT ORDER

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

WHEREAS, 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” (“Stipulation”), dated January 30, 2015, that is accepted by the Comptroller, through his duly authorized representative; and

WHEREAS, by this Stipulation, which is incorporated by reference, the Bank has consented to the issuance of this Consent Order (“Order”) by the Comptroller.

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

ARTICLE I

COMPLIANCE COMMITTEE

(1) The Board shall continue to maintain an active Compliance Committee of at least three (3) directors, of which at least two (2) shall not be employees, former employees, or controlling shareholders of the Bank or any of its affiliates (as the term “affiliate” is defined in 12 U.S.C. § 371c(b)(1) and 12 C.F.R. § 223.2), or a family member of any such person. In the

event of a change of the membership, the name of any new member shall be immediately 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 by the end of every month thereafter or within such other time period as the Director requires in writing, the Compliance Committee shall submit a written progress report to the Board setting forth in detail:

- (a) a description of the actions needed to achieve full compliance with each Article of this Order, Bank personnel responsible for implementing the corrective actions, and the timeframes for completion;
- (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.

ARTICLE II

BOARD TO ENSURE EFFECTIVE AND QUALIFIED MANAGEMENT AND BOARD STRUCTURE

(1) Within one-hundred and twenty (120) days of the date of this Order, the Board must ensure that the Bank has effective and qualified management in place for all senior executive officer positions to: (i) effectively carry out the Board’s policies, (ii) take the necessary steps to implement effective corporate governance and decision-making processes to correct the Bank’s deficiencies in management, leadership and Board oversight as described in the most

recent Report of Examination (“ROE”) and any subsequent ROE, and (iii) ensure compliance with this Order, applicable laws, rules, and regulations, and manage the day-to-day operations of the Bank in a safe and sound manner.

(2) Within sixty (60) days of the date of this Order and annually thereafter, the Board must perform an evaluation of corporate governance processes and management supervision in light of the Bank’s present condition. At a minimum, this evaluation shall address subparagraphs (a)-(g) below. This evaluation shall be documented in a written report and include corrective actions along with timeframes to ensure compliance with paragraph (1) of this Article. This report shall be submitted to the Director upon completion and shall address whether:

- (a) senior executive officers are capable of performing present and anticipated duties or senior executive officer changes should be made, factoring in each officer’s past actual performance, experience, and qualifications, compared to their position description, duties and responsibilities, with particular emphasis on their proposed responsibilities to execute the Strategic Plan required by Article III of this Order, to achieve and maintain the minimum capital ratios required by Article IV of this Order, and correct the concerns raised in the most recent ROE and any subsequent ROE;
- (b) clear lines of responsibility and authority exist for each member of senior executive management, including but not limited to, the Chairman of the Board, Chief Executive Officer (“CEO”), President, Chief Credit Officer (“CCO”), and Chief Financial Officer;
- (c) a management employment and succession program is in place to identify

future senior executive management staffing requirements of each area of the Bank and to promote the retention and continuity of capable management;

- (d) sufficient Bank policies, processes, personnel, and control systems are in place to effectively implement and adhere to all provisions of this Order;
- (e) Bank personnel have sufficient training and authority to execute their duties and responsibilities under this Order;
- (f) an adequate process is in place to evaluate, at least annually, the Bank's overall internal operations, staffing, Board and management oversight and information systems, policies, procedures, and other risk management systems with time sensitive strategies to address any deficiencies and to ensure that the findings from the evaluation are documented; and
- (g) an adequate process is in place to ensure management promptly responds to and appropriately corrects any audit, compliance, and/or regulatory criticisms.

(3) The Board shall ensure it receives and reviews sufficient information from management (including scope, frequency, timing and content) regarding the operation of the Bank and compliance with this Order to enable them to provide effective oversight and fulfill their fiduciary duties and other responsibilities under law and as outlined in the OCC's "The Directors Book: the Role of a National Bank Director" (October 2010) and "Duties and Responsibilities of Directors" booklet (Section 501) of the *Comptroller's Handbook*.

(4) The Board shall establish, at least annually, the objectives by which Bank senior executive officers' effectiveness shall be measured.

(5) The Board shall engage a qualified independent third party to assist the Board in preparing annual written performance appraisals for any senior executive officer who is also a member of the Board and for the Bank's Chairman of the Board. The Board shall perform and prepare annual written performance appraisals for each Bank senior executive officer. Each annual written performance appraisal shall evaluate the performance of the Chairman of the Board and each senior executive officer according to position description and responsibilities. Each annual written performance appraisal also must evaluate the following as it applies to the Bank's Chairman of the Board and each senior executive officer:

- (a) compliance with objectives established by the Board;
- (b) compliance with Board approved policies and procedures;
- (c) compliance with Board approved Strategic Plan and Capital Plan;
- (d) development and implementation of action plans to remedy issues, including correcting Matters Requiring Attention raised in ROEs or audit reports and compliance therewith; and
- (e) compliance with laws, regulations, regulatory guidance, and the Order.

(6) The Board shall ensure that the Bank addresses any deficiencies identified pursuant to paragraph five (5) of this Article.

(7) Within ninety (90) days of the date of this Order, the Board shall review and assess the Bank's committee structure and document the findings and commitments for corrective action in a written report. The review and assessment shall include:

- (a) an evaluation of the existing committee structure and charters;
- (b) an analysis of the type and frequency of information committees' provide to the Board;

- (c) the composition of each committee with regard to the number of members and the technical expertise required for each committee member;
- (d) an analysis of the composition and size of the Board;
- (e) an analysis of all insider transactions and a determination of whether conflicts of interest exist that limit the effectiveness of any Board member; and
- (f) specific recommendations to improve the efficiency and responsiveness of the Board and each committee.

(8) Upon completion of the review and assessment required in paragraph seven (7) the Board shall ensure that the Bank addresses and implements effective actions to correct any deficiencies identified pursuant to paragraph seven (7) of this Article.

ARTICLE III

STRATEGIC PLAN

(1) Within ninety (90) days of the date of this Order, the Board shall prepare and forward to the Director for his review, pursuant to paragraph (3) of this Article, a written Strategic Plan for the Bank that is acceptable to the Director, covering at least a two (2) year period. The Strategic Plan shall establish objectives for the Bank's overall risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital and liquidity adequacy, 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) the strategic goals and objectives to be accomplished over the short and long term, including key financial indicators, risk tolerances and realistic strategies to improve the overall condition of the Bank;
- (c) an assessment of the Bank's strengths, weaknesses, opportunities and threats that impact strategic goals and objectives;
- (d) an identification and prioritization of initiatives and opportunities, including timeframes that take into account the requirements of this Order;
- (e) a description of the Bank's targeted market(s), competitive factors in its identified target market(s), and a description of control systems to mitigate risks in the Bank's market(s);
- (f) an assessment of the Bank's present and planned products and services, including assets and liabilities;
- (g) a financial forecast that reflects the condition of the Bank and includes projections for balance sheet and income statement accounts and desired financial ratios over the period covered by the Strategic Plan, which shall be consistent with the Capital Plan required by Article IV of this Order;
- (h) the identification of appropriate risk management systems to identify, measure, monitor, and control risks (including, but not limited to, underwriting practices and standards, credit administration, collection strategies or operations, fee structure or pricing, and accounting processes (that are consistent with safe and sound banking practices) within the Bank's present and planned products and services;

- (i) assigned responsibilities and accountability for the strategic planning process; and
- (j) a description of systems and metrics designed 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 includes a proposed 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 within ninety (90) days after the receipt of the Director's written determination of no supervisory objection to the Strategic Plan, a definitive agreement for the sale or merger is executed.

(3) Prior to adoption by the Board, a copy of the Strategic Plan and any subsequent amendments or revisions thereto shall be submitted to the Director for review and prior written determination of no supervisory objection. 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 immediately implement and thereafter ensure adherence to the Strategic Plan and any amendments or revisions thereto.

(4) The Bank must give the Director at least thirty (30) days advance written notice of its intent to deviate significantly from the Strategic Plan for which the OCC has taken no supervisory objection pursuant to paragraph one (1) of this Article.

- (a) For purposes of this Article, changes that may constitute a significant deviation from the Strategic Plan include, but are not limited to, any significant deviations from the products, services, marketing strategies, marketing partners, business lines, asset composition and size, funding sources, structure, operations, accounting processes and practices and

markets of the Bank any of which, alone or in the 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; and

- (b) Prior to making any changes that significantly deviate from the Bank's Strategic Plan, the Board shall perform 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 product or service. The evaluation shall include an assessment of the impact of such change on the Bank's condition, including a profitability analysis.

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

(6) At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the Strategic Plan that includes 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.

(7) The Board shall review and update the Strategic Plan at least annually, no later than January 31 each year, and more frequently if necessary or if requested by the Director in writing, to cover the next two (2) year period.

(8) Until the Strategic Plan required under this Article has received a written determination of no supervisory objection from the Director, the Bank shall not significantly

deviate from the products, services, asset composition and/or size, funding sources, structure, operations, policies, procedures, and/or market(s) of the Bank that existed before the effective date of this Order without first obtaining the Director's prior written determination of no supervisory objection to such significant deviation. Any request to the Director for prior written determination of no supervisory objection to a significant deviation must be submitted to the Director at least thirty (30) days in advance of the significant deviation, 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, MIS, internal controls, and written policies and procedures to identify, measure, monitor, and control the risks associated with the change.

ARTICLE IV

CAPITAL PLAN AND HIGHER MINIMUMS

- (1) The Bank shall continue to achieve and maintain at all times the following minimum capital ratios (as defined in 12 C.F.R. Part 3):
 - (a) Total risk-based capital ratio at least equal to eleven and one half percent (11.5%); and
 - (b) Tier 1 capital to adjusted total asset ratio equal to or greater than eight and one half percent (8.5%).
- (2) The requirement in this Order to 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. Parts 6, pursuant to 12 C.F.R. § 6.4 (b)(1)(iv).
- (3) Within sixty (60) days of the date of this Order, the Board shall develop and implement an effective internal capital planning process to assess the Bank's capital adequacy in

relation to its overall risks and to ensure maintenance of appropriate capital levels, which shall in no event be less than the requirements of paragraph one (1) of this Article. The capital planning process shall be consistent with OCC Bulletin 2012-16, *Guidance for Evaluating Capital Planning and Adequacy* (June 7, 2012), and shall ensure the integrity, objectivity, and consistency of the process through adequate governance. The Board shall document the initial capital planning process and thereafter review and document the capital planning process at least annually or more frequently if requested by the Director in writing.

(4) Within ninety (90) days of the date of this Order, the Board shall prepare and forward to the Director for his review and written determination of no supervisory objection, a written Capital Plan for the Bank, consistent with the Strategic Plan required by Article III of this Order, covering at least a two (2) year period. The written Capital Plan shall, at a minimum:

- (a) include specific plans for the maintenance of adequate capital, which shall in no event be less than the requirements of paragraph one (1) of this Article;
- (b) identify and evaluate all material risks;
- (c) determine the Bank's capital needs in relation to material risks and strategic direction;
- (d) identify and establish a strategy to maintain capital adequacy and strengthen capital if necessary and establish a contingency or back-up capital plan commensurate with the Bank's overall risk and complexity;
- (e) include detailed quarterly financial projections which shall be consistent with the Strategic Plan required by Article III of this Order; and
- (f) include specific plans detailing how the Bank will comply with restrictions

or requirements set forth in this Order that will have an impact on the Bank's capital.

(5) If the Bank's written Capital Plan outlines a sale or merger of the Bank, the written Capital Plan shall address the steps that will be taken and the associated timeline to ensure that within ninety (90) days after the receipt of the Director's written determination of no supervisory objection to the written Capital Plan, a definitive agreement for the sale or merger is executed.

(6) The Bank may declare or pay a dividend or make a capital distribution only:

- (a) when the Bank is in compliance with its approved written Capital Plan and would remain in compliance with its approved written Capital Plan immediately following the declaration or payment of any dividend or capital distribution;
- (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.

(7) Prior to adoption by the Board, a copy of the Bank's written Capital Plan shall be submitted to the Director for prior written determination of no supervisory objection. The Board shall review and update the Bank's written Capital Plan at least annually, no later than January 31 each year, and more frequently if requested by the Director in writing. Revisions to the Bank's written Capital Plan shall be submitted to the Director for a prior written determination of no supervisory objection. 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 immediately implement and thereafter ensure adherence to

the written Capital Plan and any amendments or revisions thereto.

(8) At least quarterly, the Board shall review financial reports and earnings analyses that evaluate the Bank's performance against the goals and objectives established in the written Capital Plan, as well as the Bank's written explanation of significant differences between the actual and projected balance sheet, income statement, and expense accounts, including descriptions of extraordinary and/or nonrecurring items. This review shall include a description of the actions the Board will require the Bank to take to address any deficiencies.

At least quarterly, the Board shall prepare a written evaluation of the Bank's performance against the written Capital Plan, which shall include a description of the actions the Board will require the Bank to take to address any deficiencies, which shall be documented in the Board meeting minutes.

(9) If the Bank fails to maintain capital ratios required by paragraph one (1) of this Article, fails to submit a Capital Plan as required by paragraph four (4) of this Article, or fails to implement a Capital Plan to which the Director has provided a written determination of no supervisory objection, then the Bank may, in the Director's sole discretion, be deemed undercapitalized for purpose of this Order. The Bank shall take such corrective measures as the OCC may direct in writing from among the provisions applicable to undercapitalized depository institutions under 12 U.S.C. § 1831o(e) and 12 C.F.R. Part 6. For purposes of this requirement, an action "necessary to carry out the purpose of this section" under 12 U.S.C. § 1831o(e)(5) shall include restoration of the Bank's capital to the minimum ratios required by this Order, and any other action deemed advisable by the OCC to address the Bank's capital deficiency or the safety and soundness of its operations.

ARTICLE V

LOAN PORTFOLIO MANAGEMENT

(1) Within ninety (90) days of the date of this Order, the Board shall adopt, and the Bank, subject to Board review and ongoing monitoring, shall implement and thereafter ensure Bank adherence to a written program to improve the Bank's loan portfolio management. The program and corresponding policies and procedures shall be consistent with the "Loan Portfolio Management" booklet of the *Comptroller's Handbook*. The program shall include, but not be limited to, the following minimum requirements:

- (a) a revised written loan policy that is tailored to fit the Bank's needs and loan products;
- (b) procedures to ensure conformance with sound loan underwriting and approval requirements;
- (c) 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 and ensuring perfected collateral documentation;
- (d) procedures to ensure satisfactory credit and collateral documentation;
- (e) procedures to track and analyze policy exceptions;
- (f) procedures to implement a post loan closing function with adequate and qualified personnel to implement controls over loan closings; and
- (g) procedures to ensure the implementation of timely, complete, and accurate internal loan portfolio MIS.

(2) The Board shall ensure that all Bank lenders or any other personnel performing credit analyses receive loan policy training at least annually and are adequately trained in cash flow analysis, particularly analysis using information on a global cash flow basis, evaluation of contingent liabilities, and verification of liquidity. The Board shall ensure that processes and procedures are in place to ensure that additional training is provided as needed.

ARTICLE VI

CONCENTRATION RISK MANAGEMENT

(1) Within sixty (60) days of the date of this Order, the Board shall adopt, and the Bank, subject to Board review and monitoring, shall implement, and thereafter ensure Bank adherence to a written program including written policies and procedures for identifying, measuring, monitoring, and controlling risks associated with concentrations of credit and ensure that the policies and procedures address all corrective actions related to concentrations of credit as identified in the most recent ROE, or by any internal or external loan review, and are consistent with the guidance set forth in OCC Bulletin 2006-46, *Interagency Guidance on CRE Concentration Risk Management* (December 6, 2006), OCC Bulletin 2012-33, *Community Bank Stress Testing* (October 8, 2012), and the “Concentrations of Credit” booklet of the *Comptroller’s Handbook*. The program shall include, but is not limited to, the following minimum requirements:

- (a) a review of the balance sheet to identify any concentrations of credit;
- (b) a written analysis of any concentration of credit identified above in order to identify and assess the inherent credit, liquidity, and interest rate risk (“IRR”);
- (c) policy guidelines addressing the level and nature of exposures acceptable

to the Bank and setting concentration limits, including limits on commitments to borrowers with particular emphasis on non-owner occupied loans;

- (d) quarterly portfolio-level stress tests or sensitivity analysis to quantify the impact of changing economic conditions on asset quality, earnings, and capital with particular emphasis on larger concentrations including non-owner occupied commercial real estate loans; and
- (e) strategies for managing concentration levels, including a contingency plan to reduce or mitigate concentrations in the event that the concentrations are deemed imprudent for the Bank's earnings or capital, or adverse market conditions.

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

(3) The Board shall ensure that concentrations of credit subjected to the ongoing analysis required by subparagraph (1)(b) of this Article will not subject the Bank to undue credit, liquidity, or IRR.

ARTICLE VII

RETAIL CREDIT ADMINISTRATION

(1) Within sixty (60) days from the date of this Order, the Board shall develop, implement and thereafter ensure Bank adherence to procedures and management information systems consistent with the requirements of OCC Bulletin 2000-20, *Uniform Retail Credit Classification and Account Management Policy* (June 20, 2000). The program shall include, but not be limited to:

- (a) procedures to ensure adherence with the Bank's retail credit management policy;
- (b) procedures and timeframes for the classification and charge off requirements associated with bankrupt, past due, deceased and/or fraudulent retail consumer loan customers; and
- (c) comprehensive MIS reporting and tracking reports to effectively monitor and track the level and trends of bankrupt, deceased and/or fraudulent consumer loans.

ARTICLE VIII

PROBLEM ASSET MANAGEMENT

(1) Within ninety (90) days of the date of this Order, the Bank shall revise its written program designed to eliminate the basis of criticism of those assets with a credit risk rating of "special mention," "substandard," or "doubtful" in the most recent ROE, in any subsequent ROE, by any internal or external loan review, or in any list provided to management by OCC Examiners during any examination. The Board shall adopt and the Bank, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure Bank adherence to the revised program. At a minimum, the revised program shall ensure that the Bank's Criticized Asset Reports ("CARs") identify all credit relationships and other assets totaling in the aggregate two hundred thousand dollars (\$200,000) or more with a credit risk rating of "special mention," "substandard," or "doubtful." The CARs must be updated and submitted to the Board, or a committee thereof, monthly and to the Director quarterly.

(2) 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 value, within the preceding 12 months, of the supporting collateral (based off an appraisal or appropriate evaluation consistent with the standards and requirements in 12 C.F.R. Part 34, Subpart C, as applicable), along with the date and source of the appraisal or evaluation, and the position of the Bank's lien on such collateral, where applicable, as well as other necessary documentation (including valuation reviews identifying when the appraisal or evaluation is inadequate, requiring management to obtain a new appraisal or evaluation) to support the current collateral valuation;
- (d) an analysis of current and complete credit information, including global cash flow analysis where loans are to be repaid from operations;
- (e) results of an impairment analysis as required under Accounting Standards Codification (“ASC”) 310-10;
- (f) accurate credit risk ratings consistent with the classification standards contained in the “Rating Credit Risk” booklet of the *Comptroller’s Handbook*;
- (g) appropriate accrual status pursuant to the FFIEC Instructions for Preparation of Consolidated Reports of Condition and Income (“Call Report Instructions”);

- (h) significant developments, including a discussion of changes since the prior CAR, if any; and
- (i) the proposed action to eliminate the basis of criticism and the timeframe for its accomplishment, including, if appropriate, an exit strategy.

(3) The Bank shall not extend credit, directly or indirectly, including renewals, modifications, or extensions, to borrowers whose loans or other extensions of credit that aggregate two hundred thousand dollars (\$200,000) or more and have a credit risk rating of “special mention,” “substandard,” or “doubtful” as identified in any CAR, ROE, internal or external loan review, or in any list provided to management by OCC Examiners during any examination, unless and until a majority of the Board, or a designated committee thereof, determines in writing that each of the following conditions are met:

- (a) the extension of additional credit is necessary to promote the best interests of the Bank;
- (b) the Bank has performed a written credit and collateral analysis as required by paragraphs (2)(c) and (2)(d) of this Article and, if necessary, the proposed action referred to in paragraph (2)(i) 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.

(4) A copy of the findings and approval of the Board or designated committee thereof shall be maintained in the credit file of the affected borrower.

(5) At least quarterly, the Board or a designated committee thereof shall review and evaluate the effectiveness of the program and the CARs. The Board’s review shall include an

assessment of the Bank's compliance with the program and the CARs. Written documentation of the factors considered and conclusions reached by the Board in determining the Bank's compliance and progress reducing the level of problem assets shall be maintained.

ARTICLE IX

LOAN REVIEW

(1) Within sixty (60) days of the date of this Order, the Board shall implement systems to ensure Bank adherence to an effective, independent, and on-going loan review system to review, at least quarterly, the Bank's loan and lease portfolios, to ensure timely identification and categorization of problem credits. The system shall provide for a quarterly written report to be filed with the Board, or a designated committee thereof, promptly after each review and shall use a loan and lease credit risk rating system consistent with the guidelines set forth in "Rating Credit Risk" and "Allowance for Loan and Lease Losses" booklets of the *Comptroller's Handbook*. Further, the loan review system shall be consistent with generally accepted accounting principles ("GAAP"). Such quarterly written reports shall include, at a minimum, conclusions regarding:

- (a) the loan review scope and coverage parameters;
- (b) the overall quality of the loan and lease portfolios;
- (c) the overall quality of the underwriting and approval process;
- (d) the overall credit administration process;
- (e) the types and volume of concentrations of credit and corresponding internal risk management;
- (f) the identification, type, rating, and amount of problem loans and leases;

- (g) the identification and amount of delinquent and nonaccrual loans and leases;
- (h) policy, credit underwriting and collateral documentation exceptions;
- (i) the identification and status of credit-related violations of law, rule, or regulation;
- (j) credit analysis and documentation of such analysis;
- (k) independence and appropriateness of collateral valuation processes;
- (l) accuracy of internal risk ratings;
- (m) completeness and effectiveness of problem loan workout plans;
- (n) the accuracy of the Bank's identification of troubled debt restructurings;
- (o) loans and leases to executive officers, directors, or principal shareholders of the Bank, as well as the related interest of any such executive officers, directors, or principal shareholders and compliance with 12 U.S.C. §§ 375a and 375b, 12 C.F.R. Part 215, 12 U.S.C. § 371c and 12 C.F.R. Part 223;
- (p) loans, leases, and other extensions of credit considered exceptions to, or not in conformance with, the Bank's lending policies and procedures; and
- (q) the adequacy and accuracy of the Bank's Allowance for Loan and Lease Losses ("ALLL") and the ALLL methodology.

(2) The Board shall ensure loan review workpapers are complete and include historical financial analysis and a complete financial narrative.

(3) At the next Board meeting following receipt of the loan and lease review written report(s) required by paragraph (1) of this Article the Board shall ensure that the Bank takes

immediate, adequate, and continuing remedial action to correct all deficiencies noted in the report(s). At least quarterly, the Bank shall provide written reports to the Board on the remedial actions taken by the Bank regarding the deficiencies noted in the loan review report(s). The Board shall also ensure that the Bank preserves documentation of any actions taken by the Bank to collect or strengthen assets identified as problem credits.

ARTICLE X

ALLOWANCE FOR LOAN AND LEASE LOSSES

(1) Within sixty (60) days of the date of this Order, the Board shall adopt and thereafter ensure that the Bank implements and adheres to written policies and procedures to maintain an adequate ALLL in accordance with GAAP. The Bank's ALLL policies and procedures shall be consistent with the guidance set forth in OCC Bulletin 2001-37, *Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions* (July 20, 2001), OCC Bulletin 2006-47, *Allowance for Loan and Lease Losses* (December 13, 2006), and with the "Allowance for Loan and Lease Losses," booklet of the *Comptroller's Handbook*, and shall include at a minimum:

- (a) policies and procedures over the systems and controls that maintain an appropriate ALLL level and over the ALLL methodology;
- (b) accurate internal loan risk ratings;
- (c) results of the Bank's independent loan review;
- (d) criteria for determining which loans will be reviewed under Accounting Standards Codification ("ASC") Topic 310-10, how impairment will be determined, and procedures to ensure the analysis of loans complies with ASC 310 requirements;

- (e) criteria for determining loan pools under ASC 450-20 and an analysis of those loan pools with accurate loss rates and qualitative factor adjustments for each pool;
- (f) recognition of non-accrual loans in conformance with GAAP and regulatory guidance;
- (g) loan loss experience;
- (h) trends of delinquent and non-accrual loans;
- (i) concentrations of credit in the Bank;
- (j) present and projected economic and market conditions;
- (k) procedures for testing and ensuring data integrity;
- (l) procedures for validating the ALLL methodology, inclusive of an annual independent third party validation;
- (m) support for each of the qualitative factor adjustments and impairment analysis calculations included in the written analysis;
- (n) a process for summarizing and documenting, for the Board's prior review and approval, the amount to be reported in the Consolidated Reports of Condition and Income ("Call Reports") for the ALLL; and
- (o) training for individuals responsible for the ALLL model and ALLL migration model used to determine the ALLL.

(2) The policies and procedures shall provide for a review of the ALLL by the Board at least once each calendar quarter. Any deficiency in the ALLL shall be corrected in the quarter it is discovered, prior to filing the Call Report, by additional provisions from earnings.

Written documentation of the factors considered and conclusions reached by the Board in determining the adequacy of the ALLL shall be maintained.

ARTICLE XI

AUDIT PROGRAM

(1) Within sixty (60) days of the date of this Order, the Board shall adopt, and the Bank, subject to Board review and monitoring, shall immediately 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, regulations and regulatory guidance, including affiliate and insider transactions;
- (c) assess and report the effectiveness of policies, procedures, controls, and management information systems;
- (d) evaluate the Bank's adherence to established policies and procedures;
- (e) adequately and timely evaluate the efficiency and effectiveness of the Bank's risk management, internal controls, and corporate governance functions;
- (f) ensure timely follow-up on identified deficiencies to ensure their correction;
- (g) review and evaluate the Bank's actions taken to comply with this Order;
and
- (h) establish an annual audit plan using a risk based approach sufficient to achieve objectives outlined in this Article, including requirements for

written reports to the Board or Board Audit Committee at least quarterly.

(2) The persons responsible for implementing the internal audit program described in paragraph (1) above shall be independent, qualified, and report directly to the Board or Board Audit Committee, which shall have the sole power to direct their activities. All reports prepared by the audit staff shall be filed directly with the Board or Board Audit Committee and not through any intervening party.

(3) The Board shall ensure immediate actions are undertaken to correct deficiencies cited in audit reports and shall 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 written 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 uncorrected deficiencies.

ARTICLE XII

INTEREST RATE RISK MANAGEMENT

(1) Within sixty (60) days of the date of this Order the Board shall review and revise its written IRR program and policy to ensure it addresses all IRR-related deficiencies in the most recent ROE, is consistent with applicable regulatory guidance, including the guidelines in the “Interest Rate Risk” booklet of the *Comptroller’s Handbook*, OCC Bulletin 2010-1, *Interest Rate Risk: Interagency Advisory on IRR Management*, (January 6, 2010), and OCC Bulletin 2012-5, *IRR Management: FAQs on 2010 Interagency Advisory on Interest Rate Risk Management* (January 12, 2012) and ensures that the Bank utilizes an appropriate measurement model that captures the significant forms of IRR exposure affecting the Bank’s performance.

The Board shall adopt and the Bank, subject to Board review and ongoing monitoring, shall immediately implement and thereafter ensure Bank adherence to the revised written IRR program and policy. The program and policy shall at a minimum:

- (a) establish adequate management reports on which to base sound IRR management decisions for both short- and long-term interest rate risks;
- (b) establish safe and sound short- and long-term limits on the nature and amount of IRR that can be taken, including earnings at risk and economic value of equity; and
- (c) implement effective tools to measure and monitor the Bank's performance and overall IRR profile, including back-testing procedures, an annual independent IRR model validation and testing of the accuracy of information inputs.

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 to perform critical activities (including but not limited to internal audit, IRR management, loan review, liquidity risk management, information technology, legal services, financial services, compliance, or any type of consulting services) for or on behalf of the Bank unless the engagements are in compliance with OCC Bulletin 2013-29, *Third-Party Relationships: Risk Management Guidance* (October 30, 2013).

(2) The Bank must routinely monitor and document its review of the performance and

activities of each third party, including ensuring that committed goods and services are received, that the third party is in compliance with the written contract, and that the third party remains a viable provider of services. The Board shall immediately take appropriate action if the third party is not complying with the written contract or engagement and shall maintain documentation of any such action.

ARTICLE XIV

THIRD PARTY CONTRACTS INVOLVING SALE, MERGER, OR RECAPITALIZATION

(1) The Bank shall not enter into any contract with a third party to assist in the sale, merger, or recapitalization of the Bank that requires the payment of anything other than expenses prior to such sale, merger, or recapitalization, or that requires the Bank to pay, directly or indirectly, the cost of performing due diligence, or other services related to the transaction, unless the Bank first receives the Director's written determination of no supervisory objection.

(2) Any request for the Director's written determination of no supervisory objection shall include:

- (a) the Board's written analysis of why the proposed contract is in the best interests of the Bank;
- (b) a description of the due diligence credit review, fairness opinion or any other services to be performed by the third party, including a copy of the proposed contract or engagement;
- (c) a description of the Bank's due diligence process for agreeing to the services to be performed by a potential purchaser or merger partner; and
- (d) a determination by the Board that:
 - (i) the activities to be performed by the third party as part of the sale

- or merger requirements are fair and reasonable to the Bank;
- (ii) the parties are able to perform under the contract or commitment;
- (iii) the fees the Bank is required to pay to the third party are reasonable for the services provided; and
- (iv) the contract is in the best interests of the Bank.

(3) Following any written determination of no supervisory objection by the Director, the Board shall regularly monitor the contractor or service provider's performance to ensure that the contractor or service provider is complying with the written contract or engagement. The Board shall immediately take appropriate action if the contractor or service provider is not complying with the written contract or engagement and shall maintain documentation of any such items.

ARTICLE XV

VIOLATIONS OF LAWS

(1) The Board shall immediately take all necessary steps to ensure that Bank management corrects each violation of law, rule, or regulation cited in the most recent ROE or any subsequent ROE, or brought to the Board's or Bank's attention in writing by management, regulators, auditors, loan review, or other compliance efforts. Within sixty (60) days after the violation is cited or brought to the Board's or Bank'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 date.

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

(3) Within sixty (60) days of the date of this Order, the Board shall adopt and the Bank, subject to Board review and ongoing monitoring, shall implement and thereafter ensure Bank adherence to:

- (a) specific procedures to prevent future violations as cited in any 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.

ARTICLE XVI

OTHER PROVISIONS

(1) Although the Bank is by this Order 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) In each instance in this Order in which the Board is required to take action, ensure adherence to and undertake to perform certain obligations of the Board or of the Bank, it is intended to mean that the Board shall:

- (a) authorize, direct and adopt such actions on behalf of the Bank as may be necessary to perform its obligations and undertakings under the terms of this Order;
- (b) ensure that the Bank has sufficient processes, management, personnel and control systems to ensure implementation of and adherence to the program developed pursuant to this Order, and that Bank management and

personnel have sufficient training and authority to execute their duties under this Order;

- (c) require the timely reporting by Bank management of such actions directed by the Board to be taken under the terms of this Order;
- (d) follow-up on any non-compliance with such actions in a timely and appropriate manner; and
- (e) require corrective action to be taken in a timely manner of any non-compliance with such actions.

(3) Each citation or referenced guidance included in this Order includes any subsequent guidance that replaces, supersedes, amends, or revises the cited law, regulation, or guidance.

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

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

(6) If the Bank requires a waiver or suspension of any provision or 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, with relevant supporting documentation, the special facts and circumstances that support the waiver or suspension of any provision or an extension of a

timeframe within this Order.

(7) The Director's decision concerning a request submitted pursuant to paragraph six (6) of this Article is final and not subject to further review.

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

(9) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon it 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.

(10) 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.

(11) 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
400 7th St., S.W., Suite 3E-218
Mail Stop 8E-12
Washington, DC 20219

with a copy to:
Cleveland Field Office
Comptroller of the Currency
200 Public Square, Suite 1610
Cleveland, OH 44114-2241

(12) The OCC and the Bank entered into a Consent Order dated December 22, 2009 OCC Order # AA-EC-09-79 ("2009 Consent Order"). This Order replaces the 2009 Consent Order in its entirety and, therefore, the 2009 Consent Order is hereby terminated. Provided however, no provision in this Order shall bar or otherwise limit any enforcement action the OCC

may choose to initiate, in its discretion, against the Bank or its institution-affiliated parties for any failure to comply with the 2009 Consent Order while it was effective.

IT IS SO ORDERED, this 30th day of January 2015.

/S/

Steven D. Jacobs
Director for Special Supervision

01/30/15

Date

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

In the Matter of:)	
Capitol National Bank)	AA-EC-2014-87
Lansing, Michigan)	

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

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller” or “OCC”) 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 a Notice of Charges for unsafe or unsound banking practices, including those relating to violations of the Order, Board and management oversight, corporate governance, asset quality, and earnings; and

WHEREAS, the Bank, in the interest of compliance and cooperation, consents to the issuance of a Consent Order, dated January 30, 2015 (“Order”) by executing this Stipulation and Consent to the Issuance of a Consent Order (“Stipulation”).

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 Bank is an “insured depository institution” within the meaning of 12 U.S.C. §§ 1813(c) and 1818(b).

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

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).

(3) 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.

(4) The Bank declares that no separate promise or inducement of any kind has been made by the Comptroller, or by his agents or employees, to cause or induce the Bank to consent to the issuance of the Order and/or execute the Order.

(5) The Bank also expressly acknowledges that no officer or employee of the OCC has statutory or other authority to bind the United States, the Department of the Treasury, 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 and provisions of the Stipulation and the Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in interest. Nothing in this Stipulation or the Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Stipulation or the Order.

ARTICLE III

WAIVERS

- (1) The Bank, by signing this Stipulation, 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(b) and (h), 12 C.F.R. Part 19;
 - (d) all rights to seek any type of administrative or judicial review of

the Order;

(e) any and all rights to challenge or contest the validity of the Order;

and

(f) any and all claims for fees, costs, or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or the terms of any statute, including, but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

ARTICLE IV

CLOSING PROVISIONS

(1) The provisions of this Stipulation and Order shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

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

/S/

Steven D. Jacobs
Director for Special Supervision

01/30/15

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.

<u>/S/</u> Paula D. Cunningham	<u>01/30/15</u> Date
<u>/S/</u> Lewis D. Johns II	<u>01/30/15</u> Date
<u>/S/</u> Robert Reid	<u>01/30/15</u> Date
<u>/S/</u> Steven R. Butler	<u>01/21/15</u> Date
<u>/S/</u> Edgar L. Harden II	<u>01/30/15</u> Date
<u>/S/</u> Daniel J. Warmels	<u>01/30/15</u> Date