

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )	Order No.: WN-10-036
)	
)	
<b>GRAND MOUNTAIN BANK, FSB</b> )	Effective Date: December 15, 2010
)	
Granby, Colorado )	
OTS Docket No. 17950 )	
_____ )	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Grand Mountain Bank, FSB, Granby, Colorado, OTS Docket No. 17950 (Association), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

**WHEREAS**, the Association, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

**WHEREAS**, pursuant to delegated authority, the OTS Regional Director for the Western Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order.

**NOW, THEREFORE, IT IS ORDERED that:**

**Cease and Desist.**

1. The Association, its institution-affiliated parties,<sup>1</sup> and its successors and assigns, shall cease and desist from any action (alone or with others) for or toward causing, bringing about,

<sup>1</sup> The term "institution-affiliated party" is defined at 12 C.F.R. § 1813(u).

participating in, counseling, or the aiding and abetting the unsafe or unsound banking practices that resulted in inadequate oversight and supervision of the lending and compliance functions at the Association.

2. The Association, its institution-affiliated parties, and its successors and assigns, shall also cease and desist from any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding and abetting violations of the following laws and regulations:

- (a) 12 U.S.C. § 2604 (Real Estate Settlement Procedures Act (RESPA) disclosures) and 24 C.F.R. §§ 3500.7, 3500.8, 3500.17, and Appendix A and C (RESPA requirements);
- (b) 12 C.F.R. §§ 226.5b, 226.7, 226.15, 226.18, and 226.19 (Truth in Lending Act (TILA)/Regulation Z requirements);
- (c) 15 U.S.C. § 1581g (Fair Credit Reporting Act (FCRA) disclosures) and 12 C.F.R. §§ 571.82 and 571.90 (detection, prevention, and mitigation of identity theft pursuant to the FCRA and identity theft “red flags”);
- (d) 12 C.F.R. § 202.9 (Equal Credit Opportunity Act (ECOA)/Regulation B--adverse action notices);
- (e) 12 C.F.R. § 205.11 (Electronic Fund Transfer Act (EFTA)/Regulation E--claims and credits); and
- (f) 12 C.F.R. Part 229, Subpart B (Expedited Funds Availability Act (EFAA)/Regulation CC--availability of funds requirements).

**Compliance Consultant.**

3. Within fifteen (15) days, the Association shall engage an independent qualified third-party consultant(s) acceptable to the Regional Director to perform the restitution review and consumer compliance program review described in Paragraph 4 (Compliance Consultant). The Association shall receive written notice of non-objection of the Regional Director prior to retaining the Compliance Consultant.

**Restitution Review.**

4. Within thirty (30) days, the Association shall obtain and submit to the Regional Director a written report (Restitution Report) from the Compliance Consultant that details the results of a comprehensive review (Restitution Review) performed by the Compliance Consultant and covering the period beginning January 1, 2010, to the present, regarding violations by the Association of Compliance Laws and Regulations.<sup>2</sup> The Restitution Report shall identify each customer financial remediation or restitution payment that, in the opinion of the Compliance Consultant, is or may be required by Compliance Laws and Regulations, including written descriptions of each identified violation. In each case where Compliance Laws and Regulations may require the Association to pay customer financial remediation or restitution in connection with identified violations, the Restitution Report shall set forth a schedule of remediation and restitution payments to be made by the Association to each customer, by no later than February 15, 2011, including a detailed list of individual customers to be paid or reimbursed and applicable dollar amounts.

5. In accordance with the schedule set forth in the Restitution Report, and by no later than February 15, 2011, the Association shall pay in full all customer remediation or restitution

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<sup>2</sup> The term “consumer and other compliance laws, regulations and regulatory guidance” includes all laws and regulations referenced in Section 1100 (Compliance Oversight Examination Program) of the OTS Examination Handbook.

required by Compliance Laws and Regulations (whether or not identified in the Restitution Report and whenever the applicable violation may have been committed) to all applicable customers of the Association. By February 15, 2011, the Association shall submit a written statement (Restitution Statement) to the Regional Director confirming that the Association has fully complied with this Paragraph 5, including a written description of each remediation or restitution payment made by the Association, a detailed list of customers reimbursed, the date of payment made by the Association, and applicable dollar amounts. The Board shall review and approve the Restitution Statement prior to submission to the Regional Director, and the Board's review of the Restitution Statement shall be documented in the Board meeting minutes.

**Compliance Report.**

6. Within thirty (30) days, the Association shall obtain and submit to the Regional Director a written report (Compliance Report) from the Compliance Consultant that includes:

- (a) an assessment of the adequacy of the Association's consumer compliance program (Compliance Program) under all applicable consumer and other compliance laws, regulations and regulatory guidance (Compliance Laws and Regulations), including a review of the Association's current lending activity; and
- (b) detailed strategies for addressing each corrective action set forth in the OTS Report of Examination as of May 3, 2010 of the Association (2010 ROE) relating to consumer compliance.

7. Within sixty (60) days, the Association shall revise its written consumer compliance program (Compliance Program) so that it is acceptable to the Regional Director, addresses all corrective actions set forth in the 2010 ROE relating to consumer compliance, and addresses all findings and recommendations contained in the Compliance Report. The Association's Compliance Program shall comply with all Compliance Laws and Regulations and shall be

appropriate for the Association's size, complexity, product lines and business operations. At a minimum, the Compliance Program shall:

- (a) address all customer remediation and restitution issues identified in the Restitution Report required by Paragraph 4;
- (b) establish a claims process for the Association's customers to submit claims for payment or reimbursement in connection with any future violations by the Association of Compliance Laws and Regulations that provides such claims shall be processed in good faith and reimbursement shall be provided not later than sixty (60) days from the date of receipt of the claim;
- (c) require that the Association have and retain a qualified full-time compliance officer, acceptable to the Regional Director, whose sole responsibility shall be to implement and supervise compliance with the Compliance Laws and Regulations by the Association (Compliance Officer);
- (d) include written job descriptions of the duties and responsibilities of the Compliance Officer and other consumer compliance staff positions that clearly define authority and accountability and establish a consumer compliance organizational and reporting structure, including any Board-level compliance committees;
- (e) require that the Association allocate resources to the compliance area that are commensurate with the Association's size, complexity, product lines, and business operations to ensure the implementation of an adequate Compliance Program, including appropriate staffing levels with qualified and experienced personnel;
- (f) require a formal training program that provides for ongoing training in Compliance Laws and Regulations for all Board members and appropriate Association employees, including training in loan origination and loan servicing;

- (g) establish compliance self-assessment procedures that include transaction testing and procedures to document, analyze, and trend the assessment results;
- (h) require a written consumer compliance review process before implementing new or changed products and services; and
- (i) require written record retention requirements, reporting requirements and internal control systems to facilitate the oversight of the effectiveness of the Compliance Program by the Board and Senior Executive Officers.<sup>3</sup>

8. Upon written notification from the Regional Director that the Compliance Program is acceptable, the Association shall implement and adhere to the Compliance Program. The Board's review of the Compliance Program shall be documented in the Board meeting minutes. A copy of the adopted Compliance Program shall be provided to the Regional Director within ten (10) days of adoption by the Board.

**Follow-Up Compliance Audit.**

9. By April 30, 2011, the Association shall retain an independent third-party acceptable to the Regional Director to conduct an audit of the Association's compliance with Compliance Laws and Regulations (Follow-Up Compliance Audit).

10. The Follow-Up Compliance Audit shall be completed after the Association's adoption of the Compliance Program but no later than May 15, 2011, and shall result in a written report containing audit findings, identified deficiencies, and specific recommendations to be sent to the Board and Regional Director simultaneously. The Board's review of the Follow-Up Compliance Audit shall be documented in the Board meeting minutes.

11. Within thirty (30) days after receipt of the Follow-Up Compliance Audit, the Board shall take action to address the audit findings, deficiencies noted, and specific recommendations

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<sup>3</sup> The term "Senior Executive Officer" is defined at 12 C.F.R. § 563.555.

contained in the Follow-Up Compliance Audit, or document in a writing signed by all Board members why a particular recommendation has not been implemented.

**Matters Requiring Board Attention/Corrective Actions.**

12. Within sixty (60) days, the Association shall complete all matters requiring board attention and all corrective actions in the 2010 ROE.

**Violations of Law.**

13. Within sixty (60) days, the Association shall ensure that all violations of law and/or regulation discussed in the 2010 ROE are corrected and that adequate policies, procedures and systems are established or revised and thereafter implemented to prevent future violations.

**Board Oversight of Compliance with Order.**

14. Within thirty (30) days, the Board shall designate a committee to monitor and coordinate the Association's compliance with the provisions of this Order, the Order to Cease and Desist issued by the OTS to the Association on November 9, 2009 (Order No. WN-09-036) (2009 Order) and which remains in full force and effect, and the completion of all corrective actions required in the 2010 ROE (Oversight Committee). The Oversight Committee shall be comprised of three or more directors, all of whom shall be Independent Directors.<sup>4</sup>

15. Within fifteen (15) days after the end of each quarter, beginning with the quarter ending December 31, 2010, the Oversight Committee shall submit a written compliance progress report

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<sup>4</sup> For purposes of this Order, an Independent Director with respect to the Association shall be any director who:

- (a) is not employed in any capacity by the Association, its subsidiaries, or its affiliates, other than as a director;
- (b) does not own or control more than ten percent (10%) of the outstanding shares of the Association or any of its affiliates;
- (c) is not related by blood or marriage to any officer or director of the Association or any of its affiliates, or to any shareholder owning more than ten percent (10%) of the outstanding shares of the Association or any of its affiliates, and who does not otherwise share a common financial interest with any such officer, director or shareholder;
- (d) is not indebted, directly or indirectly, to the Association or any of its affiliates, including the indebtedness of any entity in which the individual has a substantial financial interest; and
- (e) has not served as a consultant, advisor, underwriter, or legal counsel to the Association or any of its affiliates.

to the Board (Compliance Tracking Report). The Compliance Tracking Report shall, at a minimum:

- (a) separately list each corrective action required by this Order, the 2009 Order, and the 2010 ROE;
- (b) identify the required or anticipated completion date for each corrective action; and
- (c) discuss the current status of each corrective action, including the action(s) taken or to be taken to comply with each corrective action.

16. Within fifteen (15) days after the end of each quarter, beginning with the quarter ending December 31, 2010, the Board shall review the Compliance Tracking Report and all reports required to be prepared by this Order and the 2009 Order. Following its review, the Board shall adopt a resolution: (a) certifying that each director has reviewed the Compliance Tracking Report and all required reports; and (b) documenting any corrective actions adopted by the Board. A copy of the Compliance Tracking Report and the Board resolution shall be provided to the Regional Director within ten (10) days after the Board meeting.

17. Nothing contained herein shall diminish the responsibility of the entire Board to ensure the Association's compliance with the provisions of this Order and the 2009 Order. The Board shall review and adopt all policies and procedures required by this Order and the 2009 Order prior to submission to the OTS.

**Effective Date, Incorporation of Stipulation.**

18. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

**Duration.**

19. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives.

**Time Calculations.**

20. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

21. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Association that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

**Submissions and Notices.**

22. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

23. Except as otherwise provided herein, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and sent by first-class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission or hand delivery by messenger) addressed as follows:

(a) To the OTS:  
Philip A. Gerbick, Regional Director  
Attn: Laura M. Fiene, Assistant Director  
Office of Thrift Supervision, Western Region  
2001 Junipero Serra Boulevard, Suite 650  
Daly City, CA 94014-3897

(b) To the Association:  
John B. Selman, Chairman  
Grand Mountain Bank, FSB  
Post Office Box 964  
Granby, CO 80446

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**No Violations Authorized.**

24. Nothing in this Order or the Stipulation shall be construed as allowing the Association, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED.**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_/s/  
Philip A. Gerbick  
Regional Director, Western Region

Date: See Effective Date on page 1

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )	Order No.: WN-10-036
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<b>GRAND MOUNTAIN BANK, FSB</b> )	Effective Date: December 15, 2010
)	
Granby, Colorado )	
OTS Docket No. 17950 )	
_____ )	

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

**WHEREAS**, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Western Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Grand Mountain Bank, FSB, Granby, Colorado, OTS Docket No. 17950 (Association), that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Association pursuant to 12 U.S.C. § 1818(b);

**WHEREAS**, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings association has consented to the issuance of an order; and

**WHEREAS**, the Association desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or

denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs 1 and 2 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

**Jurisdiction.**

1. The Association is a “savings association” within the meaning of 12 U.S.C. § 1813(b) and 12 U.S.C. § 1462(4). Accordingly, the Association is “an insured depository institution” as that term is defined in 12 U.S.C. § 1813(c).
2. Pursuant to 12 U.S.C. § 1813(q), the Director of the OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings association. Therefore, the Association is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

**OTS Findings of Fact.**

3. Based on its May 3, 2010 examination of the Association (2010 ROE), the OTS finds that the Association has engaged in unsafe or unsound banking practices that resulted in inadequate oversight and supervision of the lending and compliance functions at the Association.
4. Based on its May 3, 2010 examination of the Association, the OTS finds that the Association has engaged in violations of law and regulation, including:
  - (a) 12 U.S.C. § 2604 (Real Estate Settlement Procedures Act (RESPA) disclosures) and 24 C.F.R. §§ 3500.7, 3500.8, 3500.17, and Appendix A and C (RESPA requirements);
  - (b) 12 C.F.R. §§ 226.5b, 226.7, 226.15, 226.18, and 226.19 (Truth in Lending Act (TILA)/Regulation Z requirements);

- (c) 15 U.S.C. § 1581g (Fair Credit Reporting Act (FCRA) disclosures) and 12 C.F.R. §§ 571.82 and 571.90 (detection, prevention, and mitigation of identity theft pursuant to the FCRA and identity theft “red flags”);
- (d) 12 C.F.R. § 202.9 (Equal Credit Opportunity Act (ECOA)/Regulation B--adverse action notices);
- (e) 12 C.F.R. § 205.11 (Electronic Fund Transfer Act (EFTA)/Regulation E--claims and credits); and
- (f) 12 C.F.R. Part 229, Subpart B (Expedited Funds Availability Act (EFAA)/Regulation CC--availability of funds requirements).

**Consent.**

5. The Association consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Association further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

**Finality.**

6. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

**Waivers.**

7. The Association waives the following:
- (a) the right to be served with a written notice of the OTS’s charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;

(b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;

(c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and

(d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes, or otherwise.

**OTS Authority Not Affected.**

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Association if at any time the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

9. The Association acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Association that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

11. If any provision of this Stipulation and/or the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.
12. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.
13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.
14. The terms of this Stipulation and of the Order represent the final agreement of the parties with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.
15. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

**Signature of Directors/Board Resolution.**

16. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Association to the issuance of the Order and the execution of the Stipulation. This Stipulation may be executed in counterparts by the directors after approval of execution of the Stipulation at a duly called board meeting. A copy of the Board Resolution authorizing execution of this Stipulation shall be delivered to the OTS, along with the executed original(s) of this Stipulation.

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**WHEREFORE**, the Association, by its directors, executes this Stipulation.

Accepted by:

**GRAND MOUNTAIN BANK, FSB  
Granby, Colorado**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_/s/  
John B. Selman, Chairman

By: \_\_\_\_\_/s/  
Philip A. Gerbick  
Regional Director, Western Region

Date: See Effective Date on page 1

\_\_\_\_\_/s/  
Alan B. Carter, Director

\_\_\_\_\_/s/  
Frank L. DeLay, Director

\_\_\_\_\_/s/  
Mark R. Lund, Director

\_\_\_\_\_/s/  
Clyde J. McLennan, Director

\_\_\_\_\_/s/  
James L. Roberts, Director

\_\_\_\_\_/s/  
Timothy M. Thorpe, Director

\_\_\_\_\_/s/  
Michael Tompkins, Director

\_\_\_\_\_/s/  
Lorence D. Wheeler, Director