

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

BEREAN BANK,)
Philadelphia, Pennsylvania)
(OTS Docket No. 02967))

Order No.: NE-02-03

Dated: June 19, 2002

CAPITAL DIRECTIVE

WHEREAS, BEREAN BANK, Philadelphia, Pennsylvania (the "Association", OTS Docket No. 02967), is: (i) a federally chartered mutual savings association regulated by the OTS, and (ii) an insured depository institution for purposes of the Federal Deposit Insurance Act, 12 U.S.C. §§ 1811 *et seq.* ("FDIA"); and

WHEREAS, the Association is subject to an individual minimum capital requirement ("IMCR") that is set out in paragraph 4 of OTS Cease-and-Desist Order No. NE-01-10, dated December 20, 2001 (the "C&D Order"), and

WHEREAS, the Association has a capital deficiency because it has insufficient capital to meet the requirements of the IMCR (the "Capital Deficiency"); and

WHEREAS, the Association and the Board of Directors thereof, by the execution of the accompanying Stipulation and Consent to Issuance of a Capital Directive ("Stipulation"), have stipulated and consented to the issuance of this Capital Directive (the "Capital Directive" or "Directive").

NOW THEREFORE, IT IS ORDERED, as of the Effective Date hereof, that the Association and its Board of Directors shall adhere to the following:

1. Plan for Resolving Capital Deficiency ("Capital Plan").

(a) By no later than 5:00 p.m. on Friday, June 14, 2002, the Association shall submit to the Regional Director and adhere to a written plan to resolve its Capital Deficiency ("Capital Plan"), which plan must be acceptable to the Regional Director. The Capital Plan must describe the means and time schedule by which the Association will resolve its Capital Deficiency. The required time schedule must include a final deadline and a schedule of interim tasks and goals with appropriate deadlines. The Capital Plan also must specify the directors, officers, employees, committees, attorneys, consultants and/or agents that will be responsible for accomplishing specific tasks by specific dates.

(b) In order for the Capital Plan to be found acceptable by the Regional Director, the Capital Plan must provide for the Association to resolve its Capital Deficiency by no later than December 31, 2002 (the "Final Deadline") by providing for the Association to take promptly one or more of the following actions: (i) the merger of the Association with and into another mutual insured depository institution that is an Eligible Depository Institution; (ii) the merger of the

Association with and into a stock-form Eligible Depository Institution following a mutual-to-stock conversion by the Association; (iii) the recapitalization of the Association to capital levels in excess of those required by the IMCR by issuing equity securities to one or more investors acceptable to the OTS following a mutual-to-stock conversion by the Association; (iv) the acceptance of an appropriate dollar amount of Nonwithdrawable (Pledged) Deposit Accounts (see 12 C.F.R. § 567.5(a)(1)(iv) and OTS Thrift Activities Handbook § 110); or (v) accomplishing a voluntary dissolution of the Association pursuant to 12 C.F.R. § 546.4.

(c) For purposes of this Capital Directive the term "Eligible Depository Institution" means a well-capitalized or adequately capitalized FDIC-insured depository institution that is expected to be at least adequately capitalized following consummation of the proposed merger/acquisition transaction.

2. Restrictions by Compliance with C&D Order; Contract Restrictions.

(a) The Association shall comply with the C&D Order, a copy of which is attached hereto and incorporated herein by this reference.

(b) The Association shall not enter into any third-party contracts outside of the normal course of business without the Regional Director's prior written approval, and to seek such approval the Savings Association shall provide 30 days advance written notice to the Regional Director of any such proposed contract. The Regional Director reserves the right, *inter alia*, to shorten the 30-day notice period where the Regional Director has determined, in the exercise of his discretion, that good cause has been shown therefor.

3. Liquidity.

The Association shall, at all times, maintain sufficient unpledged assets (giving effect to the applicable margin requirements or "haircut" requirements) that will enable it to secure advances from a Federal Home Loan Bank or a Federal Reserve Bank in an amount which, when added to the Association's credit facilities not then drawn on, will equal not less than 10.0% of the dollar amount of the Association's Total Assets. The dollar amount of "Total Assets" refers to the dollar amount of assets reported by the Association in the most recent Thrift Financial Report (at Schedule SC - Line SC60). The Association shall immediately notify the Regional Director of any violation of this Section. The requirements of this paragraph are in addition to the Association's pre-existing obligation to comply with paragraph 12 of the C&D Order (liquidity) and 12 C.F.R. § 563.161(a)(2) (maintenance of liquidity)

4. Board of Director Review and Reporting to the OTS.

(a) Within 15 days of the Effective Date of this Capital Directive, the Board of Directors shall appoint a committee (the "Compliance Committee") comprised of 3 or more directors, the majority of whom shall be outside directors, to monitor and coordinate the Association's compliance with the requirements of this Capital Directive and of the C&D Order.

(b) On a monthly basis the Compliance Committee shall submit to the Board of Directors a written progress report ("Monthly Progress Report"). The Monthly Progress Report shall specify in detail: (i) the actions taken by the Association to comply with each of the requirements of this Capital Directive, the Capital Plan, and the C&D Order; (ii) the results of each such actions; (iii) how, if at all, full compliance was found not to exist with requirements of the Capital Directive, Capital Plan, and the C&D Order; and (iv) all notices of exemption (if any) issued by the Regional Director that were outstanding as of the date of the Monthly Progress Report. The Association's

Board of Directors shall review, evaluate, and discuss the contents of each Monthly Progress Report submitted to it by the Compliance Committee, and the minutes of each board-of-directors meeting shall reflect such action by the Board of Directors.

(c) Within 15 days after each meeting of the Board of Directors, the Board of Directors shall submit to the Regional Director: (i) a copy of the Monthly Progress Report considered at said Board meeting, together with any additional comments made by the Board of Directors (as a whole) or any member thereof, and (ii) a written certification representing that each member of the Board of Directors has reviewed the report.

(d) While this Capital Directive is outstanding and effective the Board of Director review and reporting requirements set out in this Capital Directive shall supersede the review and reporting requirements set out in paragraphs 20(c), 20(d) and 20(e) of the C&D Order.

5. Board of Director Responsibility.

(a) Notwithstanding that certain provisions of this Capital Directive require the Board of Directors to submit various matters to the Regional Director for the purpose of receiving approval, notice of acceptability or non-objection, such regulatory oversight does not derogate or supplant the fiduciary duties owed by the members of the Board of Directors of the Association. The Board of Directors, at all times, shall have the ultimate responsibility for overseeing the safe and sound operation of the Association.

(b) The Board of Directors of the Association shall take immediate action for the purpose of causing the Association to comply with this Capital Directive.

6. No Violations Authorized; OTS Not Restricted; PCA Rules Controlling.

(a) Nothing in this Capital Directive shall be construed as: (i) allowing the Association to violate any law, rule, regulation, or policy statement to which it is subject or (ii) restricting, in any way, the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

(b) Whenever the Association's capital levels are less than those required for the Association to be at least "adequately capitalized" for purposes of 12 U.S.C. § 1831o and the OTS Regulations thereunder at 12 C.F.R. Part 565, then to the extent that any provision of 12 U.S.C. § 1831o or of 12 C.F.R. Part 565 imposes more restrictive requirements than any provision contained in this Capital Directive (either expressly or through OTS interpretive Bulletins or policy statements), such provision(s) of 12 U.S.C. § 1831o and/or such regulation(s) shall be controlling.

7. Notices.

(a) Except as otherwise provided in the Capital Directive, any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by the Capital Directive to be made upon, given or furnished to, delivered to, or filed with:

- (1) The OTS by the Association shall be sufficient for every purpose hereunder if in writing and mailed, first class or airmail postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Regional Director, Office of Thrift Supervision, Department of the Treasury, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302, or telecopied to (201) 413-7543 and confirmed by mail, first class or airmail postage prepaid, overnight delivery

service or physically delivered, in each case to the above address.

- (2) The Association by the OTS shall be sufficient for every purpose hereunder if in writing and mailed, first class or airmail postage prepaid or sent via overnight delivery service or physically delivered, in each case addressed to the Association at 5228 Chestnut Street, Philadelphia, Pennsylvania 19139 or telecopied to (215) 474-4463 and confirmed by mail, first class or airmail postage prepaid, overnight delivery service or physically delivered, in each case to the above address.

(b) Notices hereunder shall be effective upon receipt, if by registered or certified mail, overnight delivery service or telecopy, and upon delivery, if by physical delivery. If there is a dispute about the date on which a written notice has been received by a party to this Directive then, in the event such notice was sent by the United States mail, there shall be a presumption that the notice was received three Business Days after the date of the postmark on the envelope in which the notice was enclosed.

8. Effect on Prior Enforcement Actions.

The C&D Order (No. NE-01-10) issued against the Association continues to be outstanding and effective, and the Association remains subject to the requirements of the C&D Order, except as otherwise provided in paragraph 4(d) hereof (board of director review and reporting).

9. Definitions.

(a) All technical words or terms used in this Directive, for which meanings are not specified or otherwise provided by the provisions of this Capital Directive, shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, HOLA, FDIA, OTS Bulletins, or OTS Thrift Activities Handbook. Any such technical words or terms used in this Directive and undefined in Code of Federal Regulations, HOLA, FDIA, OTS Bulletins or OTS Thrift Activities Handbook shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

(b) The term "Effective Date" refers to the date on which this Capital Directive issued and effective, which date is indicated near the Regional Director's signature line (below).

(c) The words "herein", "hereof", and "hereunder" and other words of similar import refer to this Capital Directive as a whole and not to any particular paragraph, section or other subdivision of this Capital Directive, unless the context otherwise requires.

10. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Capital Directive to provisions of statutes, regulations, and OTS written guidance (including bulletins and handbooks) shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date hereof and references to successor provisions as they become applicable.

11. Separability Clause; Effect of Headings.

(a) In case any provision in this Capital Directive 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 sole discretion determines otherwise.

(b) The paragraph headings herein are for convenience only and shall not affect the construction hereof.

12. Incorporation of Stipulation.

The Stipulation is made a part of this Capital Directive and is incorporated herein by this reference.

13. Duration, Termination or Suspension of Directive.

(a) This Capital Directive shall remain in effect until terminated, modified or suspended in writing by the OTS, acting through its Director or the Regional Director (including any authorized designee thereof).

(b) The Regional Director (or his designee), in his or her sole discretion, may, by written notice, suspend any or all provisions of this Capital Directive.

IT IS SO ORDERED on this 19 day of June, 2002 (the "Effective Date").

OFFICE OF THRIFT SUPERVISION

By: _____



Robert C. Albanese
Regional Director, Northeast Region

05.16

UNITED STATES OF AMERICA
 Before The
 OFFICE OF THRIFT SUPERVISION

In the Matter of)

BEREAN BANK,)
 Philadelphia, Pennsylvania)
 (OTS Docket No. 02967))

Re: Order No.: NE-02-03

Dated: June 19, 2002

STIPULATION AND CONSENT TO ISSUANCE OF A CAPITAL DIRECTIVE

WHEREAS, Section 5(s) of the Home Owners' Loan Act ("HOLA"), 12 U.S.C. § 1464(s) authorizes the Office of Thrift Supervision ("OTS"), United States Department of the Treasury, to issue capital directives to savings associations where the grounds exist therefore; and

WHEREAS, BEREAN BANK, Philadelphia, Pennsylvania (the "Association") is: (i) a federally chartered, mutual savings association regulated by the OTS, and (ii) an insured depository institution for purposes of the Federal Deposit Insurance Act, 12 U.S.C. §§ 1811 *et seq.* ("FDIA"); and

WHEREAS, the Association is subject to an individual minimum capital requirement ("IMCR"), which is set out in paragraph 4 of OTS Cease-and-Desist Order No. NE-01-10, dated December 20, 2001, and the IMCR establishes the following minimum capital requirements for the Association:

	12/31/01 – 3/30/02	3/31/02 – 6/29/02	6/30/02 & thereafter
Minimum Leverage Ratio	5.50%	6.50%	7.00%
Minimum Total Risk-Based Capital Ratio	12.50%	12.50%	12.50%

WHEREAS, the IMCR is an individual minimum capital requirement for purposes of Section 5(s)(2) of the HOLA, 12 U.S.C. § 1464(s)(2), and Part 567 of the OTS's Regulations, 12 C.F.R. § 567.1 *et seq.*; and

WHEREAS, the Association's Thrift Financial Report for the quarter ended March 31, 2002 shows the Association's leverage ratio of capital at 3.82% and total-risk-based capital ratio at 8.35%, and therefore: (i) the Association has insufficient capital to meet the minimum requirements established by the IMCR, and (ii) the Association is "undercapitalized" for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 565; and

WHEREAS, the OTS has determined, pursuant to 12 U.S.C. § 1464(s)(3), that the failure of the Association to maintain capital at or above the level required by the IMCR is an unsafe or unsound practice; and

WHEREAS, the Association's Board of Directors has determined that it is in the best interests of the Association to resolve its capital deficiency and that the Association should: (i) consent to the accompanying Capital Directive, and (ii) adopt and successfully implement the capital plan required by the Capital Directive.

NOW, THEREFORE, the Association hereby stipulates and agrees to the following:

1. Jurisdiction. The Association is a "savings association" as that term is used in the HOLA, and, as such, is subject to the OTS's authority, under 12 U.S.C. § 1464(s) and 12 C.F.R. § 567.4, to pursue issuance against it of a capital directive. The Director of the OTS has delegated to the Regional Director of the Northeast Region of the OTS or his/her designee ("Regional Director") the authority to issue capital directives.

2. Consent. The Association consents to the issuance by the OTS of the accompanying Capital Directive ("Capital Directive"). The Association further agrees to comply with the terms of the Capital Directive upon issuance and stipulates that the Capital Directive complies with all requirements of law.

3. Finality and Enforceability. The Capital Directive upon its issuance shall be enforceable under 12 U.S.C. § 1818 to the same extent and in the same manner as an outstanding and effective order issued under 12 U.S.C. § 1818. See 12 U.S.C. § 1464(s)(4)(B); also see 12 U.S.C. § 1818(i).

4. Waivers. With respect to the OTS's issuance of the Order the Association waives: (i) the right to pursue the OTS's administrative process for issuance of a Capital Directive pursuant to 12 C.F.R. § 567.4, and (ii) the right to seek judicial review of the Capital Directive, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Capital Directive.

5. Miscellaneous.

(a) The construction and validity of this Stipulation and the Capital Directive shall be governed by the laws of the United States of America.

(b) All references to the OTS in this Stipulation and the Capital Directive shall also mean any of the OTS's predecessors, successors, and assigns.

(c) The paragraph headings in this Stipulation and the Capital Directive are for convenience only and shall not affect the construction hereof.

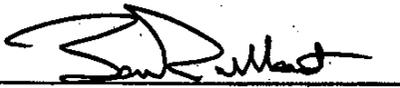
(d) The terms of this Stipulation and the Capital Directive represent the final written agreement of the parties with respect to the subject matters hereof, and constitute the sole agreement of the parties with respect to such subject matters.

6. Action Authorized by Board of Directors; Signatures. Each member of the Association's Board of Directors signing Addendum A attached to this Stipulation attests that he/she voted in favor of a duly adopted resolution of the Board of Directors authorizing (i) the undersigned officer of the Association to execute this Stipulation on behalf of the Association and (ii) the Association's consent to issuance of the Capital Directive.

WHEREFORE, BEREAN BANK, by a duly authorized officer thereof, hereby executes this Stipulation on this 13th day of June, 2002, intending to be legally bound hereby.

BEREAN BANK

OFFICE OF THRIFT SUPERVISION

By: 

Benjamin F. Gilbert
President and Chief Executive Officer

By: 

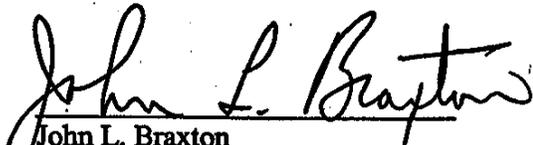
Robert C. Albanese
Regional Director, Northeast Region

Date: June 19, 2002

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ADDENDUM A TO STIPULATION AND CONSENT OF BEREAN BANK

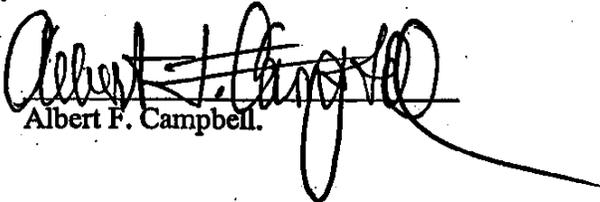
Each of the undersigned individuals, being a member of the Board of Directors of Berean Bank, Philadelphia, Pennsylvania, and having read the foregoing Stipulation and Consent and the related OTS Capital Directive, hereby acknowledges that he has voted in favor of a duly adopted resolution of the Board of Directors (submitted to the OTS herewith), authorizing (i) the Association's President to execute the Stipulation on behalf of the Association and (ii) the Association's consent to issuance of the Capital Directive. This Addendum may be signed in counterparts.



John L. Braxton
Chairman of the Board of Directors



Benjamin F. Gilbert



Albert F. Campbell.

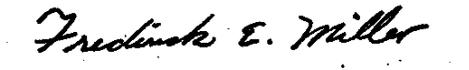


Fred G. Choate

John A. Dawkins, III

Wesley K. McGavock

Edward H. Morris, Jr.



Frederick E. Miller

ATTACHMENT TO CAPITAL DIRECTIVE

**ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF
ISSUED TO
BEREAN BANK
ON DECEMBER 20, 2001 (No. NE-01-10)**

UNITED STATES OF AMERICA
Before The
OFFICE OF THRIFT SUPERVISION

In the Matter of)

BEREAN BANK,)
Philadelphia, Pennsylvania)
(OTS Docket No.: 02967))

Order No. NE- 01-10

Date: December 20, 2001

ORDER TO CEASE AND DESIST FOR AFFIRMATIVE RELIEF

WHEREAS, BEREAN BANK, Philadelphia, Pennsylvania (the "Bank", OTS Docket Number 02967), by and through its Board of Directors ("Board"), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist for Affirmative Relief ("Stipulation"); and

WHEREAS, the OTS has prepared a Report of Examination concerning the regular examination of the Bank it started on May 29, 2001 (the "Report of Examination"), which identifies regulatory and operational deficiencies of concern to the OTS;

WHEREAS, the Bank, in the Stipulation, has consented to the issuance of this Consent Order to Cease and Desist for Affirmative Relief ("Order") pursuant to 12 U.S.C. § 1818(b);¹ and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue cease-and-desist orders on behalf of the OTS where the OTS-regulated institution has consented to the issuance of the order.

NOW THEREFORE, IT IS ORDERED, on this 20th day of December, 2001 (the "Effective Date"), as follows:

1. Compliance with Laws and Regulations. The Bank, its directors, officers, employees, agents, service corporations and subsidiaries shall comply with:

- (i) 12 C.F.R. § 560.170 (concerning records for lending transactions);
- (ii) 12 C.F.R. §§ 562.1 and 562.2 (concerning bank records and regulatory reports);
- (iii) 12 C.F.R. § 563.22 (requiring application with and OTS approval of certain transactions);
- (iv) 12 C.F.R. § 563.161 (concerning management and financial policies);

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

- (v) 12 C.F.R. § 563.170 (concerning accounting records);
- (vi) 12 C.F.R. § 563.176 (concerning interest-rate-risk management procedures);
- (vii) 12 C.F.R. § 566.4 (concerning liquidity records); and
- (viii) 12 U.S.C. § 1831i and 12 C.F.R. § 563.560 (requiring notice to and OTS non-objection of troubled institution changes of directors and/or senior executive officers).

2. Asset Growth Restriction. The Bank shall limit its asset growth in any quarter to an amount not to exceed net interest credited on deposit liabilities during the quarter, unless otherwise permitted in writing by the OTS's Regional Director. The Bank may submit written requests to the Regional Director to obtain permission for asset growth in excess of the limitation set forth above. The Regional Director, in his sole discretion, shall determine whether to grant any such requests from the Bank, and any request not granted within 30 days of the date of the request shall be deemed denied.

3. Restrictions on Deposit-Taking Activities.

(a) The Bank shall not accept, renew or roll over – (i) any high-rate deposits (as defined below), or (ii) any deposit account in an amount exceeding \$50,000 where the depositor is a company (within the meaning of 12 C.F.R. § 574.2(f)) whose principal place of business is located outside the Philadelphia, Pennsylvania Metropolitan Statistical Area, except with the prior written non-objection of the Regional Director, and *provided, however*, that the foregoing restriction shall not prohibit the Bank from accepting non-high-rate deposits of no greater than \$99,000.00 received through the United States Treasury Department Minority Bank Deposit Program or from the Community Development Financial Institution. For purposes of this Order, the term “high rate deposit” means any deposit the contractual terms of which provide for the Bank to pay an effective yield that exceeds by more than 25 basis points the effective yield paid on deposits of comparable size and maturity in the Bank's normal market area for deposits accepted from within its normal market area. The Bank shall maintain documentation to demonstrate its compliance with the restrictions of this paragraph.

(b) The Bank shall not accept, renew or roll over “brokered deposits.” The term “brokered deposit” is defined at 12 C.F.R. § 337.6(a)(2).

4. Individual Minimum Capital Requirement. The Bank shall increase its capital levels to comply with the following requirements:

- (i) At December 31, 2001 (as reported in its TFR as of that date) and thereafter until March 30, 2002, the Bank's leverage ratio of capital shall be no less than 5.50 percent, and its total risk-based capital ratio shall be no less than 12.50 percent;² and
- (ii) The Bank, from March 31, 2002 (as reported in its TFR as of that date) through June 29, 2002, shall maintain – (i) its leverage ratio of capital at a level of no less than 6.50 percent, and (ii) its total risk-based capital ratio at a level of no less than 12.50 percent; and
- (iii) On June 30, 2002 (as reported in the Bank's TFR as of that date) and at all times thereafter, the Bank shall maintain (i) its leverage ratio at a level of no less than 7.00 percent, and (ii) its total risk-based capital ratio at a level of no less than 12.50 percent.

This phase-in of the required additional capital for the Bank is described in the table below.

	12/31/01 – 3/30/02	3/31/01 – 6/29/02	6/30/02 & thereafter
Minimum Leverage Ratio	5.50%	6.50%	7.00%
Minimum Total Risk-Based Capital Ratio	12.50%	12.50%	12.50%

5. Reduction and Control of Non-Interest Expenses.

(a) Within sixty (60) days of the Effective Date hereof, the Bank shall adopt and submit to the OTS's Regional Director an acceptable and achievable one-year plan to reduce and control its Total Non-Interest Expenses³ ("Expense Reduction Plan"), which plan shall be subject to non-objection in writing from the OTS's Regional Director. The Expense Reduction Plan shall be designed to reduce the Bank's non-interest expenses in an amount sufficient for the Bank to achieve core profitability (*i.e.*, positive net income minus extraordinary items) by, among other things, effecting at least a twenty percent (20%) reduction in non-interest expense relative to the amount of such expenses during calendar year 2000. In no event shall the Bank's Total Non-Interest Expenses during calendar year 2002 exceed the lesser of: (i) \$1.725 million in the aggregate or (ii) when expressed as percentage of average assets, 150 percent of the peer group median ratio of Non-Interest Expense/Average Assets (as calculated/reported on the UTPR).

(b) The Expense Reduction Plan shall incorporate the following:

- (i) consideration of the observations about noninterest expenses made in the Report of

² The terms "leverage ratio" and "total risk-based capital ratio" have the meanings assigned to them in 12 C.F.R. Part 565. See, e.g., 12 C.F.R. §§ 565.2(c) ("leverage ratio means the ratio of Tier 1 capital to adjusted total assets, as calculated in accordance with part 567 of this chapter.")

³ Total Noninterest Expenses are reported at line SO51 of the TFR.

Examination,

- (ii) consideration of ratios measuring noninterest expenses in the UTPR, including those measuring non-interest expenses as a percentage of average assets as well as the Bank's Efficiency Ratio,⁴ and comparison of such ratios to those of its peer group;
- (iii) an in-depth review of and realistic safe-and-sound plan for reducing all categories of non-interest expenses, with particular emphasis on the expenses reported on following TFR lines items: (i) SO510 All Personnel Compensation and Expense; (ii) SO530 Office Occupancy and Equipment Expense and (iii) SO540 Marketing and Other Professional Services;
- (iv) classification of all non-interest expenses as either essential or nonessential;
- (v) identification, with particularity, of those nonessential expense items to be reduced or eliminated, together with a related timetable; and
- (vi) a reduction in the level of compensation paid to the members of the Board.

(c) Until the Bank has received the Regional Director's written notice of non-objection concerning its Expense Reduction Plan, the Bank's monthly payment of fees and other compensation to members of the Bank's Board shall not exceed 50% of the average monthly Board fees/compensation paid during calendar year 2001.

(d) Unless otherwise allowed in writing by the Regional Director, the Bank, in December 2002, must adopt and submit to the Regional Director for his non-objection, an acceptable and achievable Expense Reduction Plan for calendar year 2003. The goal of the calendar 2003 plan shall be continued reduction in the Bank's Non-Interest Expenses. Among other things, the plan must set out acceptable and achievable quarterly targets in the form of: (i) dollar amount ceilings on Non-Interest Expenses and (ii) goals (expressed as percentage of average assets) designed to bring such expenses more in line with the peer group median ratio of Non-Interest Expense/Average Assets (as calculated/reported on the UTPR).

6. Commercial/Business Lending Prohibited.

(a) The Bank, whether directly or indirectly, shall not make, invest in, purchase, refinance, extend or otherwise modify or commit to make, invest in, purchase, refinance, extend or otherwise modify any loan for a business purpose, *provided, however*, the foregoing restriction shall not prohibit the Bank from making, purchasing, extending, modifying or refinancing business-purpose loans guaranteed by the United States Small Business Administration ("SBA") or the United States

⁴ The Efficiency Ratio is defined as Total General & Administrative Expenses (*i.e.*, Non-Interest Expenses reported on TFR line item SO51) divided by the sum of (i) Net Interest Margin (Total Interest Income less Total Interest Expense reported on TFR line items SO11 and SO21) plus (ii) Fees (reported on TFR Line items SO 410 & 420), plus (iii) FHLB dividends (reported on TFR line item SO494)

Department of Agriculture ("USDA"), and *provided further*, however, that any purchases of loans guaranteed by the SBA or the USDA shall conform with parameters set forth in written policies submitted to and found acceptable by the Regional Director. For purposes of this Order, a "loan for a business purpose" means (i) a commercial loan whether or not secured by real estate; and (ii) any loan or lease other than one for a personal, family, or household purpose or use.

(b) Notwithstanding the restrictions imposed in subparagraph (a) hereof, the Bank may make advances necessary to honor legally binding commitments, existing on or before December 10, 2001, to fund specified loans for a business purpose ("Commitments"), *provided that* the Bank:

- (i) prior to finalizing any Commitment, shall affirmatively determine that all conditions precedent to the Commitment or disbursement have been satisfied;
- (ii) will not violate any law or regulation applicable to it on account of the honoring of such Commitment; and
- (iii) within 10 calendar days of the date of this Order, shall provide the OTS's Regional Director with a list of all Commitments existing as of December 10, 2001. The list of Commitments must set forth: (A) the amount and type of Commitment or LIP, (B) the date the Commitment was issued, (C) the identity of the borrower/loan applicant, and (D) the schedule of anticipated funding.

7. Restrictions on Transactions in Equity Securities. The Bank shall not engage in purchases and sales of equity securities unless – (i) the Bank's capital levels meet or exceed the minimum requirements specified by paragraph 4 of the Order; (ii) such equity investment activities are consistent with the Business Plan required by paragraph 8 hereof; and (iii) the Bank previously has received from the OTS's Regional Director written notice of his non-objection to acceptable written policies and procedures governing the Bank's investment transactions in equity securities ("Equity Security Investment Policy"), which policy shall – (A) conform with the guidance in OTS Thrift Activities Handbook Section 540; (B) limit the Bank's aggregate investment in equity securities to 25% of the Bank's Tier 1 capital; and (C) establish an acceptable stop-loss limit. In no event, however, shall the Bank engage in equity-security-related transactions that would cause the equity securities to be categorized as "trading assets" or held for its "trading account" within the meaning of FASB Statement No. 115, as amended (Accounting for Certain Investments in Debt and Equity Securities).

8. Business Plan to Improve Earnings and Enhance Capital.

(a) Within sixty (60) days of the Effective Date hereof, the Bank's Board shall adopt and submit to the OTS's Regional Director an acceptable written 3-year Business Plan (the "Business

Plan") addressing the Bank's projected operations during calendar years 2002, 2003 and 2004, and the Bank's Business Plan shall be subject to the non-objection in writing from the OTS's Regional Director. See paragraph 18 of this Order.

(b) The primary goal of the Business Plan shall be improvement of the financial condition of the Bank through improved core earnings in a manner consistent with: (i) the safe and sound operation of the Bank and (ii) the requirements of this Order. The Business Plan must not rely on earnings from transactions not in the ordinary course of business,⁵ but on a limited basis may contemplate certain such transactions to the extent such transactions are contemplated by an acceptable Expense Reduction Plan submitted pursuant to paragraph 5 of this Order.

(c) The Business Plan must include the following elements:

- (i) An analysis of the Bank's current financial condition and assessment of its strengths and weaknesses. This shall include a discussion of the Bank's current financial condition and its performance relative to its peer group⁶ in the following areas: capital, earnings, asset quality and interest rate risk, taking into account the comments in the Report of Examination;
- (ii) The Board's general business philosophy, strategic goals and objectives for the 3-year period and the means by which the Bank will achieve the strategic goals and objectives; this portion of the Business Plan must explain how the Bank will operate profitably in areas of banking with which it is familiar;
- (iii) Quarterly projected (A) Balance Sheets, (B) Income Statements and (C) Regulatory Capital Schedule for each quarter of the 3-year period. These projections shall be prepared in a manner consistent with the Thrift Financial Report so that projected items may be conveniently compared with actual performance. In particular, the projections shall be prepared in the format and according to the instructions contained Section 625 of the OTS Applications Handbook, and include the following:

Form 1 – Balance Sheet

Form 2 – Income Statement

Form 4 – Table of Regulatory Capital Levels

Form 5 – Table of Loan Origination Levels

Form 6 – Interest Rate Assumptions for New Production

(d) No less than monthly, Bank management shall prepare written reports with adequate information for management and the Board to assess the Bank's performance relative to the plan's projections ("Monitoring Reports"). Each month such reports shall be submitted to the Bank's Board with a copy promptly sent to the OTS's Regional Director (or his designee).

⁵ Examples of a transactions not in the ordinary course of business are: (i) branch sales and (ii) sales of deposits. The Bank also must comply with 12 C.F.R. § 563.22 in connection with branch sale and deposit sale transactions.

⁶ Peer group information is available in the Uniform Thrift Performance Report ("UTPR") available from the OTS.

(e) On a monthly basis, the Board must review, evaluate, and discuss the information from the above-required Monitoring Reports. In connection with such review and evaluation, the Board must analyze variances and develop and discuss specific measures that have been implemented or are proposed to correct or abate adverse variances, including, when necessary, adjustments to the Business Plan. All reports considered by the Board shall be attached to the minutes of the meeting at which they are considered, and the minutes shall reflect all pertinent discussions.

(f) The Board must update the Business Plan at least once each year to take into account the Bank's performance under the Business Plan and any changes in interest rates and market conditions. By November 20th of each year (beginning November 20, 2002), the Bank must submit its updated Business Plan to the OTS Regional Director for non-objection. The Bank shall not implement any updated or revised Business Plan without the Regional Director's prior written non-objection.

(g) The Bank, except with the prior written non-objection of the Regional Director, shall not revise any Business Plan previously found non-objectionable by the Regional Director (or his designee). The Bank also shall not engage in any activity that is not specifically contemplated by or is otherwise inconsistent with the Business Plan unless the Regional Director previously has provided the Bank with written non-objection to the Bank's proposed activity. The Bank may seek the Regional Director's written non-objection to proposed new safe-and-sound activities by submitting written requests to the Regional Director.

9. Policies and Procedures for Loan Administration and Documentation. Within ninety (90) days of the Effective Date hereof, the Bank's Board shall adopt and the Bank thereafter shall implement written policies and procedures for credit administration and loan documentation that conform with the requirements of: 12 C.F.R. §§ 560.170 and 560.101 (including the Interagency Guidelines for Real Estate Lending Policies at Appendix A thereof); and section II.C of the Part 570 Safety and Soundness Standards. Among other things, the loan administration policies and procedures must establish a loan file and record retention and administration system that is designed to provide for all required records, filings, and documents to be retained, reviewed, renewed and updated as appropriate.

10. Allowance for Loan and Lease Losses. The Bank shall maintain an adequate and appropriate allowance for loan and lease losses ("ALLL") determined in compliance with the

guidance in the published Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions issued by the Federal Financial Institutions Examination Council in July 2001. See OTS CEO Memo 142. To the extent it has not previously done so, the Bank shall increase its ALLL so as to correct the shortfall noted at page 6 of the Report of Examination.

11. Bank Must File Accurate Thrift Financial Reports.

(a) The Bank must timely file accurate Thrift Financial Reports ("TFR") in accordance with the OTS's published TFR Instructions, as required by 12 C.F.R. §§ 562.1(b) and 562.2. To facilitate accurate preparation of its TFRs the Bank must regularly and accurately reconcile its general ledger and subsidiary ledger accounts.

(b) The Bank, within thirty (30) days of the Effective Date hereof, shall adopt and thereafter shall comply with such written policies and procedures that will require – (i) the Bank to prepare and timely submit to the OTS accurate TFRs and (ii) the Board to provide the Certification on the form prescribed by the TFR.

12. Liquidity. The Bank, within ninety (90) days of the Effective Date hereof, shall adopt (by action of its Board) and thereafter shall fully implement appropriate written policies and procedures concerning liquidity management. Such written policies and procedures must comply with the guidelines in OTS Thrift Bulletin 77 (Sound Practices for Liquidity Management at Savings Associations), as recommended in the Report of Examination at pages 16 and 17. Among other things, the Bank must – (i) amend, approve and implement an investment policy that improves the pricing and accounting procedures for investments held as available for sale, along with detailing the desired investment portfolio composition; and (ii) develop and utilize on a regular basis cash flow reports to improve funds management.

13. Information Technology Controls and Enhancement; Privacy.

(a) The Bank, within sixty (60) days of the Effective Date hereof, shall prepare and adopt (by action of the Board) appropriate written policies and procedures that –

(i) provide for the monitoring and control of the Bank's information technology ("IT") control risk in order to safeguard the integrity of the information system and protect customer privacy; and

(ii) set out a comprehensive Disaster Recovery and Contingency Plan.

(b) The Bank, within (90) days of the Effective Date hereof, shall complete correction of all critical IT-related weaknesses and deficiencies, as recommended in the report prepared by the Bank's IT consulting firm, and as discussed in the Report of Examination.

14. Monitoring of Regulatory Compliance.

(a) Within thirty (30) days of the Effective Date hereof, the Bank's Board, by duly adopted resolution, shall assign responsibility to one of the Bank's senior officers to serve as the Bank's duly authorized Regulatory Compliance Officer, who shall – (i) monitor, on a regular basis, the Bank's compliance with all applicable law and regulations; and (ii) require the Bank to take prompt corrective action to address any and all identified regulatory compliance deficiencies.

(b) The Bank's Board (or the Audit Committee thereof) shall monitor the Bank's regulatory compliance and shall require the Bank's Regulatory Compliance Officer to report thereon at each of its meetings. The minutes of each such meeting shall set forth – (i) a detailed record of the Regulatory Compliance Officer's report on regulatory compliance; and (ii) a detailed record of all actions taken by the Board (or Audit Committee thereof) relative to its oversight of regulatory compliance.

15. Regulatory Review of Board and Management Changes. The Bank shall be and is subject to the requirements and limitations set out in Subpart H of Part 563 of the OTS's regulations (12 C.F.R. §§ 563.550 - .590). Without limitation on such requirements and limitations, this means, among other things, that, except as otherwise permitted by 12 C.F.R. § 563.590, no person shall be appointed to the position of or be hired as a member of the Board or as a senior executive officer of the Bank unless -- (1) the Bank (or the individual, if appropriate) previously has filed with the OTS an appropriate and complete notice pursuant to 12 C.F.R. Part 563, Subpart H; and (2) the person's commencement of service on behalf of the Bank is permissible under 12 C.F.R. § 563.585 and 12 U.S.C. § 1831i.

16. Compensation and Benefit Arrangements. The Bank shall not enter into, renew, extend or revise any contractual arrangement related to compensation or benefits with any director or senior executive officer of the Bank or unless the Bank first -- (1) provides a minimum of 30 days advance notice of the proposed transaction and (2) receives a written notice of non-objection from the Regional Director. For purposes of this paragraph the term "Bank" refers to the Bank and any subsidiary of the Bank.

17. Golden Parachute Restrictions. The restrictions at 12 C.F.R. Part 359 are applicable to the Bank; such restrictions concern "golden parachute payments" and "prohibited indemnification payments." Without limitation on the generality of the foregoing, this means, *inter alia*, that the Bank shall not make any "golden parachute payment", as that term is defined 12 U.S.C. § 1828(k) and in 12 C.F.R. Part 359, except as may be permitted by the aforesaid statutory provision and regulations, including but not limited to 12 C.F.R. §§ 359.1(f)(2), 359.4, and 359.6.

18. Adoption and Compliance with Required Plans and Procedures. The Bank shall submit to the OTS's Northeast Regional Office the plans, policies, and procedures required by paragraphs 5, 7 and 8 hereof for review and approval/non-objection by the Regional Director (or his designee). Acceptable plans, policies and procedures shall be submitted to the Regional Office by the required due dates or within the required time periods. The Bank's Board shall adopt the approved plans, policies, and procedures within twenty-one (21) days of approval (or non-objection) by the Regional Director (or his designee) and then shall fully implement and comply with them. While this Order is outstanding and effective, the approved plans, policies, and procedures shall not be amended or rescinded without the prior written approval/non-objection of the Regional Director (or his designee), and any material non-compliance with the plans, policies and procedures, required by this Order, shall be deemed a violation of this Order. The plans, policies and procedures shall be sent to:

Mr. Robert C. Albanese
Regional Director
Office of Thrift Supervision
10 Exchange Place, 18th Floor
Jersey City, New Jersey 07302

and a copy shall be to Mr. Martin J. Lavelle, Assistant Director, at the aforesaid address.

19. Director Responsibility. Notwithstanding the requirements of this Order that the Board submit various matters to the Regional Director (or his designee) for the purpose of receiving his approval, non-objection or notice of acceptability, such regulatory oversight does not derogate or supplant each individual Board member's continuing fiduciary duty. The Board shall have the ultimate responsibility for overseeing the safe and sound operation of the Bank at all times, including compliance with the determinations of the Regional Director as required by this Order.

20. Compliance with Order, Compliance Resolutions, Submission of Documents.

(a) The Board and officers of the Bank shall promptly take action to cause the Bank to comply with the terms of this Order and shall take the actions necessary or appropriate thereafter to cause the Bank to continue to carry out the provisions of this Order.

(b) The Board, during each monthly meeting thereof, shall evaluate the Bank's compliance with the requirements of this Order, and in connection therewith shall receive and review reports from the Bank's management, attorneys, and/or consultants. The Board's detailed evaluation of such compliance must be reflected in the minutes of the Board meeting.

(c) The Board, within 30 calendar days following the end of each fiscal quarter, shall adopt a resolution of the Board (the "Compliance Resolution") formally resolving that, following a diligent inquiry of relevant information (including reports from the Regulatory Compliance Officer and other members of management), to the best of its knowledge and belief, during the immediately preceding calendar quarter, the Bank has complied with each provision of this Order currently in effect, except as otherwise stated in a portion of said Compliance Resolution identifying each and every compliance exception/deficiency. The Compliance Resolution shall: (i) specify in detail how, if at all, full compliance was found not to exist, and (ii) identify all notices of exemption issued by the Regional Director that were outstanding as of the date of its adoption.

(d) The minutes of the meeting of the Board shall set forth the following information with respect to the adoption of each Compliance Resolution: (i) the identity of each director voting in favor of its adoption; and (ii) the identity of each director voting in opposition to its adoption or abstaining from voting thereon, setting forth each such director's reasoning for opposing or abstaining.

(e) No later than five (5) calendar days following a written OTS request for such documents, the Bank shall provide to the OTS's Regional Director (or appropriate OTS Assistant Director) a certified true copy of the Compliance Resolution(s) adopted at the Board meeting. The Board, by virtue of the Bank's submission of a certified true copy of each such Compliance Resolution to the OTS, shall be deemed to have certified to the accuracy of the statements set forth in each Compliance Resolution, except as provided in the next sentence. In the event that one or more directors do not agree with the representations set forth in a Compliance Resolution, such disagreement and the nature thereof shall be noted in the minutes of the Bank.

(f) The Bank, its Board, officers and institution-affiliated parties shall promptly respond to any request from the OTS for documents that the OTS reasonably requests to demonstrate compliance with this Order.

21. Definitions. All technical words or terms used in this Order for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act ("HOLA"), the Federal Deposit Insurance Act ("FDIA") or OTS Memoranda. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, the HOLA, the FDIA, or OTS Memoranda shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

22. Successor Statutes, Regulations, Guidance, Amendments. Reference in this Order to provisions of statutes, regulations, and OTS Memoranda shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

23. No Violations Authorized; OTS Not Restricted. Nothing in this Order or the Stipulation shall be construed as: (i) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject, or (ii) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed upon it by law.

24. Relation to Prior Regulatory Actions. The requirements, restrictions and other terms of this Order supersede the requirements, restrictions and other terms of the Supervisory Directives issued to the Bank by the OTS on March 26, 1999 (as modified on May 22, 2000) and October 3, 2001.

25. Time Limits; Effect of Headings; Separability Clause; Stipulation Incorporated.

(a) Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted.

(b) The section and paragraph headings herein are for convenience only and shall not affect the construction hereof.

(c) In case any provision in this 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/her sole discretion determines otherwise.

(d) The Stipulation is made a part hereof and is incorporated herein by this reference.

26. Effective Date; Duration. This Order is and shall become effective on the date it is issued, *i.e.*, the Effective Date as shown on the first page hereof. The Stipulation and the Order shall remain in effect until terminated, modified or suspended, in writing by the OTS, acting through its Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

By: 
Robert C. Albanese
Regional Director, Northeast Region

12.19