

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of:)
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LIBERTY BANK, INC.)
SALT LAKE CITY, UTAH)

(INSURED STATE NONMEMBER BANK))
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_____)

CONSENT ORDER

FDIC-23-0082b

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for Liberty Bank, Inc., Salt Lake City, Utah (“Bank”) under Section 3(q) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1813(q).

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a Stipulation to the Issuance of a Consent Order (“Stipulation”), dated November 9, 2023, that is accepted by the FDIC. With the Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices relating to capital deterioration, operating losses, inaccuracy of books and records, and deficiencies in management and Board oversight, to the issuance of this Consent Order (“Order”) by the FDIC pursuant to Section 8(b)(1) of the FDI Act.

Having determined that the requirements for issuance of an order under Section 8(b) of the FDI Act, 12 U.S.C. § 1818(b), have been satisfied, the FDIC hereby orders that:

RECAPITALIZE AND SELL, MERGE OR LIQUIDATE

1. The Bank shall take the following actions:

- (a) The Bank shall increase its Tier 1 capital by not less than \$750,000 within 30 days of the effective date of the Order, and by not less than an additional \$500,000 within 90 days of the effective date of the Order (for a total of \$1,250,000). Thereafter the Bank shall maintain its Tier 1 capital in an amount not less than 12 percent of its total assets. For the purposes of this Order, the terms “Tier 1 capital” and “total assets” shall have the meanings ascribed to them in Part 324 of the FDIC’s Rules and Regulations, 12 C.F.R. §§ 324.2 and 324.401(g).
- (b) Within 90 days of the effective date of the Order, the Bank shall develop a comprehensive plan to liquidate the Bank and submit the plan to the Regional Director for prior written approval.
- (c) Within 90 days of the effective date of the Order, the Bank shall enter into a definitive agreement to merge the Bank with an insured depository institution acceptable to the Regional Director of the FDIC’s San Francisco Regional Office (“Regional Director”), or to sell the Bank to an acquirer acceptable to the Regional Director. If the Bank fails to enter into such a definitive agreement within 90 days of the effective date of the Order, the Bank shall immediately begin to execute its plan to liquidate the Bank.
- (d) If the Bank enters into such a definitive agreement within 90 days of the effective date of this Order, and such definitive agreement does not result in the submission of a substantially complete application to the appropriate

bank regulatory authorities within 30 days of the definitive agreement, the Bank shall immediately begin to execute its plan to liquidate the Bank.

- (e) If the Bank enters into such a definitive agreement within 90 days of the effective date of this Order, and submits a substantially complete application to the appropriate authority within 30 days of the definitive agreement, but such application does not receive the required bank regulatory approvals or is abandoned for any reason, the Bank shall immediately begin to execute its plan to liquidate the Bank.
- (f) Beginning 2 weeks after the effective date of this Order and on a weekly basis thereafter, the Board shall provide the Regional Director with a written update on the status of its efforts to recapitalize the Bank in accordance with subparagraph 1(a) of this Order, and to effect a liquidation, merger or acquisition of the Bank in accordance with subparagraphs 1(b), 1(c), 1(d) and 1(e) of this Order.

PRIOR APPROVAL FOR CAPITAL INCREASES

- 2. The Bank shall not engage in any non-cash transaction the purpose of which is to increase the Bank's Tier 1 capital without the prior written approval of the Regional Director.

RESTORE BOOKS AND RECORDS

- 3. Effective immediately, the Bank shall take all necessary actions to ensure that its books and records are complete and accurate in order to enable FDIC examiners to determine, through the normal supervisory process, the financial condition of the Bank or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of the Bank.

AGREED UPON ACCOUNTING PROCEDURES

4. (a) Within 30 days from the effective date of this Order, the Bank shall engage an independent public accounting firm that has experience with financial institution accounting and auditing, or similar expertise. The firm must be knowledgeable about relevant laws and regulations, be in compliance with accounting, auditing, and other professional standards, and be acceptable to the Regional Director to perform certain agreed upon procedures of the Bank's financial statements, internal controls, and operating procedures, as set forth in subparagraph 4(b) below ("Agreed Upon Procedures"). The Bank shall require, as part of its agreement with the accepted firm, that the firm complete the Agreed Upon Procedures within 75 days from the effective date of this Order. The accounting firm's initial written report, whether in draft or final form, shall be submitted concurrently to the Regional Director and the Bank's Board. Further, the engagement letter, which shall be submitted to the Regional Director for prior written approval before it is executed, shall include, at a minimum:

- (i) a description of the work to be performed under the engagement letter, the fees for each significant element of the engagement, and the aggregate fee;
- (ii) the responsibilities of the accounting firm;
- (iii) an identification of the professional standards covering the work to be performed;
- (iv) identification of the specific procedures to be used when carrying out the work to be performed;
- (v) the qualifications of the employee(s) who are to perform the work;
- (vi) the time frame for completion of the work;
- (vii) any restrictions on the use of the reported findings; and

(viii) a provision for unrestricted examiner access to work papers.

(b) In addition to other procedures to be conducted, the Agreed Upon Procedures shall include or determine:

(i) reconciliation of the financial statements of the Bank as of December 31, 2022; and general ledger accounts as of June 30, 2023, or the most recent month-end date available;

(ii) whether the Bank has reconciled all accounts and the date of the most recent reconciliation of each account;

(iii) whether reconciliations are done in a timely manner based on the risk and volume of activity in each account;

(iv) whether reconciliations adequately report the dollar amount and the description of any outstanding unreconciled transactions;

(v) the adequacy of the segregation of duties of the personnel preparing the reconciliations;

(vi) the collectability of any unreconciled debits outstanding in excess of 90 days, as of June 30, 2023 or the most recent month-end date available;

(vii) whether the Bank has reasonable written reconciliation procedures for each account;

(viii) the adequacy of the Bank's accounting practices, including general ledger accounting, reconciliation and auditing;

(ix) the accuracy and completeness of the bank's books and records;

(x) the adequacy of controls over the Bank's core operating system;

and

(xi) whether the data provided in management reports, call reports and Board reports is accurate and consistent and, if not, the root cause of the data integrity issue.

(c) During the life of this Order, the Bank shall forward copies of all external audit reports, along with the engagement letter, management letter regarding internal control deficiencies and any Bank response, to the Regional Director within 15 days from the Bank's receipt of such documents.

(d) Within 30 days from the Bank's receipt of the Agreed Upon Procedures report, the Bank shall carry out all recommendations made therein, including any and all financial adjustments to the Bank's books and records, as well as the refiling of any Reports of Condition and Income affected by such financial adjustments.

MATERIAL TRANSACTIONS

5. Effective immediately, the Bank shall not enter into any material transaction or launch any new product or activity that would have a significant financial impact on the Bank, including any investment, expansion, acquisition, sale of assets, third-party contract, business plan change, or other similar transaction, without the prior written approval of the Regional Director.

BANK PREMISES

6. (a) Within 30 days of the effective date of this Order, the Bank shall obtain a conforming appraisal for the Bank premises located at 326 South 500 East, Salt Lake City, Utah, with a valuation date of November 9, 2022.

(b) Prior to entering into any agreement for the conforming appraisal required in subparagraph 6(a) above, the Bank shall submit a copy of the proposed engagement letter to the Regional Director for prior written approval.

(c) Within 30 days of the effective date of this Order, the Bank shall provide a report to the Regional Director as to the status of the secondary parcel of Bank premises traditionally used for extra parking. Such report shall include information as to the current ownership and use of the parcel and, in the event that any interest in the parcel has been transferred to an outside party, the date and terms of such transfer, and all legal documentation in support thereof.

The provisions of this Order shall not bar, estop, or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties, as that term is defined in Section 3(u) of the FDI Act, 12 U.S.C. § 1813(u).

This Order will become effective upon its issuance by the FDIC.

The provisions of this Order shall be binding upon the Bank, its institution-affiliated parties, and any successors and assignors thereof.

The provisions of this Order shall remain effective and enforceable except to the extent that and until such time as any provision has been modified, terminated, suspended, or set aside by the FDIC.

Issued pursuant to delegated authority.

Dated this 21st day of November, 2023.

/s/

Paul P. Worthing
Regional Director
Division of Risk Management Supervision
San Francisco Region
Federal Deposit Insurance Corporation