

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**WASHINGTON, D.C.**

**And**

KANSAS OFFICE OF THE STATE BANK COMMISSIONER  
TOPEKA, KANSAS

**In the Matter of**

**FIRST STATE BANK AND TRUST  
TONGANOXIE, KANSAS**

**(Insured State Nonmember Bank)**

## CONSENT ORDER

**FDIC-10-752b**  
**OSBC-2010-206**

The Kansas State Banking Board ("KSBB") granted a state charter to First State Bank and Trust, Tonganoxie, Kansas ("Bank") pursuant to K.S.A. 9-1801.

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for the Bank under 12 U.S.C. § 1813(q).

Based on the findings set forth in the July 12, 2010, Joint Report of Examination ("Report of Examination"), by the FDIC and the Kansas Office of State Bank Commissioner ("OSBC") (collectively "Supervisory Authorities"), the FDIC and the KSBB determined that the requirements for an order under 12 U.S.C.

§ 1818(b) and Kansas Statutes Annotated 9-1807, have been satisfied.

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 18, 2010, that is accepted by the FDIC and the KSBB. With the Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law and/or regulation, to the issuance of this Consent Order ("Order") by the FDIC and the KSBB.

Based on the above, the FDIC and KSBB hereby order that:

**1. Maintain Qualified Management.**

During the life of this Order, the Bank shall have and retain qualified management. Management shall be provided the necessary written authority to implement the provisions of this Order. The qualifications of management shall be assessed on its ability to:

(a) comply with the requirements of this Order; all applicable State and Federal laws and regulations; FDIC and Federal Financial Institutions Examination Council policy statements; and the Bank's approved policies and procedures; and

(b) restore and thereafter maintain the Bank in a safe and sound condition, including, but not limited to, capital adequacy, asset quality, earnings, management effectiveness, liquidity, and sensitivity to market risks.

**2. Charge-off of Adversely Classified Assets.**

(a) Within 10 days of the effective date of this ORDER and within 10 days after the receipt of any future reports of examination of the Bank from either of the Supervisory Authorities, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified "Loss" in the Report of Examination, and such future reports of examination that have not been previously collected or charged off.

(b) Elimination or reduction of assets through the proceeds of other loans or extensions of credit made by the Bank is not considered collection for purposes of this ORDER.

**3. Reduction of Adversely Classified Assets.**

(a) Within 60 days from the effective date of this ORDER, and 60 days from receipt of future reports of examination from either of the Supervisory Authorities, the Bank shall develop and complete a written plan to reduce the Bank's risk exposure in each asset in excess of \$250,000 classified "Substandard" or

"Doubtful" in the Report of Examination and in such future reports of examination. For purposes of this provision, "reduce" means to collect, charge off, or improve the quality of an asset so as to warrant its removal from such adverse classification.

(b) In developing the plans mandated by this paragraph, the Bank shall, at a minimum, review, analyze, and document the financial position of the borrower, including sources of repayment and repayment ability, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position.

(c) The plans mandated by this provision shall include, at a minimum, the following:

(i) specific action plans intended to reduce the Bank's risk exposure in each classified asset;

(ii) a requirement that quarterly written progress reports be submitted to the Board; and

(iii) a requirement that the Board review the progress reports and record with a notation of the review in the minutes of the Board meetings at which such reports are reviewed.

(d) The Board shall approve the plans, which approval shall be recorded in the Board's minutes. Thereafter, a copy of the plan or portion thereof that pertains to a specific borrower

shall be maintained in the borrower's credit file, and the Bank shall implement and fully comply with the plan.

**4. Restrictions on Advances to Adversely Classified Borrowers.**

(a) While this ORDER is in effect, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit or obligation with the Bank that has been, in whole or in part, charged off or adversely classified "Substandard" or "Doubtful" in the Report of Examination and is uncollected, or classified "Substandard" or "Doubtful" in any future reports of examination from either of the Supervisory Authorities and is uncollected. The requirements of this subparagraph (a) shall not prohibit the Bank from renewing, after collecting in cash all interest and fees due from a borrower, any credit already extended to the borrower.

(b) Subparagraph (a) of this provision shall not apply if the Bank's failure to extend further credit to a particular borrower would be detrimental to the best interests of the Bank. Prior to extending additional credit pursuant to this subparagraph (b), whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Board, or a committee thereof, who shall conclude:

(i) the failure of the Bank to extend such credit would be detrimental to the best interests of the Bank, with an explanation of why it would be detrimental;

(ii) that the extension of such credit would improve the Bank's position, with an explanatory statement of why the Bank's position would improve; and

(iii) an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended.

(c) The conclusions and approval made pursuant to subparagraph (b) of this provision shall be made a part of the minutes of the meeting of the Board, or committee thereof, at which the extension of credit is approved, with a copy retained in the borrower's credit file.

**5. Maintenance of Allowance for Loan and Lease Losses**  
**("ALLL").**

The Board shall review the Bank's ALLL at least once each calendar quarter. That review should be completed at such time to ensure that the findings of the Board will be properly reported in the Bank's Call Reports. Such reviews shall, at a minimum, be made in accordance with the Call Report Instructions, the Interagency Statement of Policy on the Allowance for Loan and Lease Losses, other applicable regulatory

guidance that addresses the appropriateness of the Bank's ALLL, and any analysis of the Bank's ALLL provided by either of the Supervisory Authorities. The Board's review of the ALLL shall be documented in the Board's minutes.

**6. Maintenance of Capital.**

(a) While this ORDER is in effect, the Bank shall have and maintain the following minimum capital ratios (as defined in Part 325 of the FDIC's Rules and Regulations), after establishing an appropriate ALLL:

(i) Tier 1 "Leverage Capital Ratio" at least equal to 8 percent; and

(ii) "Total Risk-Based Capital Ratio" at least equal to 12 percent.

(b) In the event any ratio is or becomes less than the minimum required by subparagraph (a) of this provision, the Bank shall immediately notify the Supervisory Authorities and within 30 days shall: (1) increase capital in an amount sufficient to comply with subparagraph (a) of this provision, or (2) submit a written plan to the Supervisory Authorities for review and comment, describing the primary means and timing by which the Bank shall increase its capital ratios up to or in excess of the minimum requirements of subparagraph (a) above, as well as a contingency plan, in the event the primary sources of capital

are not available. Within 30 days of receipt of any such comments from the Supervisory Authorities, and after consideration of all such comments, the Board shall approve the written plan, which approval shall be recorded in the Board's minutes. Thereafter, the Bank shall implement and fully comply with the written plan.

(c) Any increase in Tier 1 leverage capital necessary to meet the requirements of this section may not be accomplished through a deduction from the ALLL.

**7. Dividend Restriction.**

While this ORDER is in effect, the Bank shall not declare or pay any dividends without the prior written approval of the Supervisory Authorities.

**8. Liquidity and Funds Management.**

By February 15, 2011, the Bank shall review and revise its liquidity, contingency funding, and interest rate risk policies and procedures to address the criticisms detailed in the Report of Examination. The policies shall incorporate the guidance contained in: Financial Institution Letter 84-2008, dated August 26, 2008, entitled *Liquidity Risk Management*; Financial Institution Letter 13-2010, dated April 5, 2010, entitled *Funding and Liquidity Risk Management*; Financial Institution

Letter 2-2010, dated January 20, 2010, entitled *FFIEC Advisory on Interest Rate Risk Management*; and the 1996 *Joint Agency Policy Statement on Interest Rate Risk*. Thereafter, the Bank shall implement and fully comply with those policies and procedures.

**9. Business/Strategic Plan and Profit and Budget Plan.**

(a) By January 31, 2011, and within the first 30 days of each calendar year thereafter, the Board shall develop a written three-year business/strategic plan and one-year profit and budget plan covering the overall operation of the Bank and its goals and strategies, consistent with sound banking practices, and taking into account the Bank's other written plans, policies, or other actions as required by this ORDER.

(b) The business/strategic plan shall provide specific objectives for asset growth, loan portfolio mix, market focus, earnings projections, capital needs, and liquidity position. The profit and budget plan shall include goals and strategies for improving the earnings of the Bank, including a written review of staffing needs, salaries, employee benefits, and specific strategies for reducing overhead expenses. The budget shall include a description of the operating assumptions that form the basis for and adequately support major projected income and expense components.

(c) The Board shall approve the business/ strategic plan and the profit and budget plan, which approval shall be recorded in the Board's minutes. Thereafter, the business/strategic plan and the profit and budget plan, and any subsequent modification thereto, shall be submitted to the Supervisory Authorities, and the Bank shall implement and fully comply with the plans.

**10. Elimination and/or Correction of Violations of Law, Rules, and Regulations.**

By February 15, 2011, and within 60 days after receipt of any future reports of examination by either of the Supervisory Authorities, the Bank shall take steps necessary consistent with sound banking practices to correct all violations of laws and regulations cited by the Report of Examination and such future reports of examination, and shall adopt and implement appropriate procedures to ensure future compliance with all such applicable federal and state laws and regulations.

**11. Disclosure of Order to Sole Shareholder.**

Following the effective date of this ORDER, the Bank shall provide a copy of this ORDER to its sole shareholder, (i) in conjunction with the Bank's next shareholder communication, and (ii) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting.

**12. Progress Reports Detailing Compliance with ORDER.**

(a) Within 45 days of the end of the first calendar quarter following the effective date of this ORDER, and within 45 days of the end of each calendar quarter thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form, manner, and results of any actions taken to secure compliance with this ORDER. Such written progress reports shall provide cumulative detail of the Bank's progress toward achieving compliance with each provision of the ORDER.

(b) Progress reports may be discontinued when the Supervisory Authorities have, in writing, released the Bank from making additional reports.

**MISCELLANEOUS**

The provisions of this ORDER shall not bar, estop or otherwise prevent the FDIC, the KSBB, or the OSBC 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.

The KSBB hereby expressly delegates the authority to the OSBC to monitor and determine compliance with the ORDER and to pursue adequate remedies for any areas of noncompliance.

Nothing herein shall prevent the FDIC or the OSBC from

conducting on-site reviews and or examinations of the Bank, its affiliates, agents, servicers, and other institution-affiliated parties at any time to monitor compliance with this ORDER.

The provisions of this ORDER shall be binding upon the Bank, its institution-affiliated parties, and any successors and assigns 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 and the KSBB.

This ORDER shall be effective the 3<sup>rd</sup> day of December, 2010.

KANSAS STATE BANKING BOARD

By: /s/  
James O'Sullivan, Chairman  
Kansas State Banking Board

By: /s/  
Judi M. Stork, Acting Bank Commissioner  
And Secretary  
Kansas State Banking Board

FEDERAL DEPOSIT INSURANCE CORPORATION  
Issued Pursuant to Delegated Authority

By: /s/  
Mark S. Moylan  
Deputy Regional Director  
Federal Deposit Insurance Corporation  
Kansas City Regional Office