

{{9-30-00 p.C-4962}}

¶11,727] **In the Matter of Unity Bank, Clinton, New Jersey**, Docket No. 00-082b (7-18-00)

A cease and desist order was issued, based on findings by the FDIC that it had reason to believe that respondent had engaged in unsafe and unsound practices. (*This order was terminated by order of the FDIC dated 1-25-02; see ¶16,302.*)

[.1] **Management—Qualifications Specified**

[.2] **Management—Management Report Required**

[.3] **Capital—Increase Required**

[.4] **Loan Loss Reserve—Establishment of or Increase Required**

[.5] **Strategic Plan—Preparation of Required**

[.6] **Earnings Plan—Written Earnings Plan Required**

[.7] **Bank Operations—Conflict of Interest Policy Regarding Insiders Required**

[.8] **Loans—Collections Policies—Review and Strengthen**

[.9] **Loan Portfolio—Review and Grading System**

[.10] **Violations of Law—Correction of Violations Required**

[.11] **Funds Management and Liquidity—Preparation or Revision of Funds Management Policy Required**

[.12] **Reports of Condition and Income—Amendment Required**

[.13] **Interest Rate Risk Policy—Minimum Requirements**

[.14] **Bank Holding Company—Fees Paid to Bank Holding Companies, Limitations Imposed On**

[.15] **Dividends—Dividends Restricted**

[.16] **Compensation—Written Analysis Required**

[.17] **Golden Parachute Payments—Prohibited**

[.18] **Brokered Deposits—Restricted**

[.19] **Shareholders—Disclosure of Cease and Desist Order Required**

[.20] **Board of Directors—Committee to Review Compliance with Cease and Desist Order Required**

{{9-30-00 p.C-4963}}

In the Matter of

**UNITY BANK
CLINTON, NEW JERSEY
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

FDIC-00-082b

Unity Bank, Clinton, New Jersey ("Bank"), having been advised of its right to a Notice of Charges and of Hearing detailing the unsafe or unsound banking practices and violations of law and/or regulations alleged to have been committed by the Bank and of its right to a hearing on the alleged charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §1818(b), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with counsel for the Federal Deposit Insurance Corporation ("FDIC"), dated July 18, 2000, whereby, solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and violations of law and/or regulations, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Bank had engaged in unsafe or unsound banking practices and had committed violations of law and/or regulations. The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

IT IS HEREBY ORDERED that the Bank, its successors, assigns, directors, officers, employees, agents, and other "institution-affiliated parties," as defined in section 3(u) of the Act, 12 U.S.C. §1813(u), CEASE AND DESIST from the following unsafe or unsound banking practices and violations:

- (a) Engaging or entering into hazardous lending, loan administration and/or lax collection practices;
- (b) Operating the Bank with inadequate capital in relation to the kind of assets held by the Bank;
- (c) Operating the Bank with an inadequate allowance for loan and lease losses;
- (d) Operating the Bank with inadequate liquidity and funds management;
- (e) Operating the Bank in such a manner as to produce unsatisfactory earnings;
- (f) Engaging in violations of applicable Federal and State laws and/or regulations, as more fully set forth in the concurrent Reports of Examination of the Bank by the FDIC and the Department of Banking and Insurance of the State of New Jersey ("Department") as of February 28, 2000;
- (g) Operating the Bank with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;
- (h) Operating the Bank with a board of directors which has failed to provide adequate supervision over and direction to the operating management of the Bank;
- (i) Operating the Bank with an excessive reliance upon volatile funding; and
- (j) Engaging or entering into agreements with and/or making payments to present and/or former officers which provide for and/or result in payments which constitute "golden parachute payments", as defined in section 18(k)(4) of the Act, 12 U.S.C. §1828(k)(4).
- (k) Operating the Bank with an increased level of interest rate risk which exceeds limits set by the board of directors and is not mitigated by earnings or capital.

IT IS FURTHER ORDERED that the Bank take AFFIRMATIVE action as follows:

[.1] 1. (a) The Bank shall have and retain qualified management. Each member of management shall have qualifications and experience commensurate with his or her duties and responsibilities at the Bank. The qualifications of management shall be assessed on its ability to:

- (i) comply with the requirements of this ORDER;
- (ii) operate the Bank in a safe and sound manner;
- (iii) comply with all applicable laws and regulations; and
- (iv) restore all aspects of the Bank to a safe and sound condition, including capital adequacy,

asset quality, management effectiveness, earnings, liquidity and sensitivity to market risk.

(b) (i) During the life of this ORDER, the Bank shall notify the Regional Director of the New York Regional Office of the FDIC [{{9-30-00 p.C-4964}}](#) ("Regional Director") and the Commissioner of the Department of Banking and Insurance of the State of New Jersey ("Commissioner") in writing of any resignations and/or terminations of any members of its board of directors and/or any of its officers.

(ii) The Bank shall comply with section 32 of the Act, 12 U.S.C. §1831i, which includes a requirement that the Bank shall notify the Regional Director and the Commissioner in writing at least 30 days prior to any individual assuming a new position as a senior executive officer or any additions to its board of directors.

[.2] 2. (a) To facilitate having and retaining qualified management, the board of directors of the Bank shall, within 60 days from the effective date of this ORDER, undertake an in-depth analysis and review of the Bank's managerial requirements and make a written report ("Management Report") on the Bank's management needs. The Management Report shall incorporate an analysis of the Bank's management and staffing requirements and shall, at a minimum:

(i) provide a review of the composition, policies and practices of the Bank's current operating management;

(ii) provide a recommendation of whether current operating management should be changed, or the terms and conditions under which current operating management should be continued;

(iii) provide an evaluation of each Bank officer indicating whether these officials possess the ability, experience and other qualifications required to perform present and anticipated duties, including adherence to the Bank's established policies and practices and maintenance of the Bank in a safe and sound condition;

(iv) identify both the number and type of positions needed to properly supervise the Bank's lending functions, giving appropriate consideration to the Bank's loan volume, customer base and the number of problem credits;

(v) provide a clear and concise description of the general duties and responsibilities for each bank officer and their key support staff;

(vi) identify the skills, experience and compensation required for each position;

(vii) establish a plan to recruit, hire and/or replace personnel based on ability and experience;

(viii) establish a plan providing for periodic evaluation of each individual's job performance; and

(ix) provide for periodic review of the Bank's management and updating of lending policies and procedures.

(b) The board of directors of the Bank shall obtain the services of an outside consultant, acceptable to the FDIC and the Department, who is knowledgeable in the area of bank management, lending, collections and personnel evaluation to assist the board of directors in reviewing the Bank's management needs and preparing the Management Report. The acceptability of the consultant shall be based on the consultant's ability to advise the Bank in each of the areas identified in paragraph 2(a).

(c) Within 90 days from the effective date of this ORDER, the board of directors of the Bank, with the assistance of the outside consultant, shall prepare a written plan of implementation ("Plan") addressing the findings of the Management Report. The Plan shall specify the actions to be taken by the board of directors and the time frames for each action.

(d) Within 90 days from the effective date of this ORDER, the board of directors of the Bank shall prepare a written report ("Written Report") which shall contain (1) a recitation identifying the recommendations made by the outside consultant which have been incorporated in the Management Report and Plan, (2) a recitation identifying the recommendations made by the outside consultant which were not incorporated in the Management Report and Plan and the reasons for not including such recommendations, and (3) a copy of any report prepared by the outside consultant.

(e) A copy of the Management Report, Plan, and Written Report shall promptly be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors of the Bank shall approve the Management Report and Plan, which approval shall be recorded in the minutes of the meeting of the board of directors. It shall remain the responsibility of the board to fully implement the Plan within the specified time frames. In the event the Plan, or any portion thereof, is not implemented, the board shall immediately advise the Regional Director and the Commissioner, in writing, of the specific reasons for deviating from the Plan.

[.3] 3. (a) Within 510 days from the effective date of this ORDER, the Bank shall have adjusted Tier 1 capital equal to or greater than 6 percent of the Bank's adjusted Part 325 total assets. Thereafter, during the life of this ORDER, the Bank shall maintain adjusted Tier 1 capital equal to or greater than 6 percent of the Bank's adjusted Part 325 total assets.

(b) Any increase in Tier 1 capital necessary to meet the ratio required by paragraph 3(a) of this ORDER may be accomplished by the following:

(i) the sale of new securities in the form of common stock or non-cumulative perpetual preferred stock; or

(ii) the direct contribution of cash by the directors or parent bank holding company of the Bank; or

(iii) any combination of the above or other method acceptable to the FDIC and the Department.

(c) If all or part of the increase in Tier 1 capital required by paragraph 3(a) of this ORDER is accomplished by the sale of new securities, the board of directors of the Bank shall forthwith adopt and implement a plan for the sale of such additional securities, including the voting of any shares owned or proxies held or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of Bank securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with Federal and State securities laws. Prior to the implementation of the plan and, in any event, not less than 20 days prior to the dissemination of such materials, the plan and any materials used in the sale of the securities shall be submitted to the FDIC, Registration and Disclosure Section, Washington, D.C. 20429 and the Department. Any changes requested to be made in the plan or materials by the FDIC and the Department shall be made prior to their dissemination. If any part of the increase in Tier 1 capital is provided by the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue, including but not limited to those terms and conditions relative to interest rate and any convertibility factor, shall be presented to the Regional Director and the Commissioner for prior approval.

(d) In complying with the provisions of paragraph 3 of this ORDER, the Bank shall provide to any subscriber and/or purchaser of Bank securities written notice of any planned or existing development or other changes which are materially different from the information reflected in any offering materials used in connection with the sale of Bank securities. The written notice required by this paragraph shall be furnished within 10 calendar days from the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every subscriber and/or purchaser of Bank securities who received or was tendered the information contained in the Bank's original offering materials.

(e) For the purposes of this ORDER, the terms "Tier 1 capital" and "Part 325 total assets" shall have the meanings ascribed to them in Part 325 of the FDIC's Rules and Regulations, respectively sections 325.2(t) and 325.2(v), 12 C.F.R. §325.2(t) and (v). The "Capital Calculations" schedule in the FDIC Report of Examination provides the method for determining the ratio of adjusted Tier 1 capital to adjusted Part 325 total assets as required by this ORDER.

(f) The Bank shall not lend funds directly or indirectly, whether secured or unsecured, to any purchaser of Bank stock or to any investor by any other means for any portion of any increase in Tier 1 capital required herein.

[.4] 4. (a) Within 30 days from the effective date of this ORDER, the board of directors of the Bank shall

review the adequacy of the Bank's allowance for loan and lease losses. This review shall focus particular attention upon: (i) results of the Bank's internal loan review; (ii) loan loss experience; (iii) an estimate of potential loss exposure on each significant credit; (iv) concentrations of credit in the Bank; and (v) present and prospective economic conditions.

(b) Immediately upon completing the review required by paragraph 4(a) of this ORDER, the Bank's board of directors shall [{{9-30-00 p.C-4966}}](#) adopt a method of computing the balance of the Bank's allowance for loan and lease losses that gives consideration to the volume and composition of the loan portfolio not subject to criticism, as well as to the volume and composition of criticized loans, including, but not limited to, the factors referenced in paragraph 4(a). Thereafter, the Bank's board of directors shall, during the first month of each quarter, reevaluate the allowance for loan and lease losses and make such additional provisions for loan and lease losses that are necessary to maintain the allowance at an adequate level relative to the volume of risk in the Bank's loan portfolio. All such additional provisions for loan and lease losses shall be made in the first month of the calendar quarter in which the deficiency in the allowance is identified, but as of the end of the preceding calendar quarter, and shall be reflected in the Report of Condition and the Report of Income filed in the calendar quarter in which the deficiency is identified with respect to the preceding calendar quarter. The minutes of the board of directors of the Bank shall reflect that such reevaluation has been performed, and documentary proof of the method employed in determining the level of the allowance shall be maintained for future regulatory review.

(c) All increases in the allowance for loan and lease losses, with the exception of recoveries credited directly to the allowance, shall be accomplished by charges to operating earnings through the provision for loan and lease losses.

[.5] 5. Within 30 days from the effective date of this ORDER, the Board shall adopt a three-year Strategic Business Plan/Budget, which includes at a minimum, objectives and specific strategies for serving the identified targeted markets, in addition to strategies for managing the various types of risk facing the Bank, and a minimum of three years of pro-forma quarterly financial statements, supported by the underlying financial and economic assumptions.

[.6] 6. (a) Within 30 days from the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors of the Bank shall develop a written earnings plan consisting of goals and strategies for improving the earnings of the Bank for each calendar year. The written earnings plan shall include, at a minimum:

- (i) identification of the major areas in, and means by, which the board of directors will seek to improve the Bank's operating performance;
- (ii) realistic and comprehensive budgets;
- (iii) a budget review process to monitor the income and expenses of the Bank to compare actual figures with budgetary projections on not less than a quarterly basis; and
- (iv) a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(b) Such written earnings plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. Within 30 days after the receipt of any comment from the Regional Director and the Commissioner, the board of directors shall approve the written earnings plan, which approval shall be recorded in the minutes of the meeting of the board of directors of the Bank. Thereafter, the Bank shall follow the written earnings plan and/or any subsequent modification thereto.

[.7] 7. Within 60 days from the effective date of this ORDER, the Bank shall develop, adopt and implement written policies and procedures designed to bring to the attention of each member of the board conflicts of interest which may exist in approving loans or other transactions in which officers, directors or principal stockholders of the Bank ("Insiders") are involved. Such policies and procedures shall, at a minimum, ensure that each member of the board has been apprised of any potential conflict prior to making a decision and has acted specifically on any loan or other transaction in which Insiders and/or their business associates are, directly or indirectly, involved. The results of board deliberations as to potential conflicts shall be reflected in the minutes of the meeting of the board of directors.

[.8] 8. (a) Within 60 days from the effective date of this ORDER, the Bank shall review its written loan and collection policy and make whatever changes may be necessary to provide for the safe and sound administration of all aspects of the lending and collection function. At a minimum, specific procedures shall be included for: (i) prior approval of loans to directors, officers and principal shareholders and their related interests in compliance with applicable laws and regulations, and (ii) compliance with {{9-30-00 p.C-4967}} the loan-to-value limits for real estate loans outlined in Appendix A to Part 365, Inter Agency Guidelines for Real Estate Lending Policies, December 31, 1992. Loan documentation, repayment programs, collection and charge-off procedures and internal loan review shall also be included as a part of the review. The Bank shall adopt changes it considers necessary and appropriate and management shall reaffirm its intent to comply with the policy, as amended. Evidence of management's reaffirmation shall be reduced to writing. The policy and its implementation shall be in a form and manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

(b) Within 60 days from the effective date of this ORDER, the board of directors of the Bank shall adopt and implement a written program with regard to each asset equal to or in excess of \$100,000 criticized internally or by the FDIC and the Department as a result of their concurrent examinations of the Bank as of February 28, 2000, so as to eliminate the basis of criticism of each such asset. This program shall include, at a minimum, an assessment of the status of each criticized asset, the proposed action for eliminating the basis of criticism, and the time frame for its accomplishment. Once all such programs are adopted, a copy of the program for each criticized asset which equals or exceeds \$100,000 shall be forwarded to the Regional Director and the Commissioner. Furthermore, while this ORDER is in effect, the Bank's board of directors shall, within 30 days following receipt of any Report of Examination of the Bank from the FDIC or the Department, adopt and implement written programs, as specified above, for any assets criticized in said Reports, and forward copies of such programs to the Regional Director and the Commissioner. For the purposes of this ORDER, the term "criticized asset" means any asset, or portion thereof, scheduled as "Special Mention", "Substandard", or "Doubtful" internally, or in any Report of Examination of the Bank by the FDIC or the Department.

(c) The Bank's board of directors shall conduct a review of each program adopted pursuant to paragraph 10(a) of this ORDER on at least a monthly basis, to determine:

- (i) the status of each criticized asset;
- (ii) management's adherence to each written program;
- (iii) the status and effectiveness of each written program; and
- (iv) the need to revise each written program and/or take other actions.

The board shall send quarterly progress reports on the status of each criticized asset equal to or exceeding \$100,000 to the Regional Director and the Commissioner.

[.9] 9. (a) Within 30 days from the effective date of this ORDER, the board of directors of the Bank shall adopt and implement an internal loan review and grading system ("System") to periodically review the Bank's loan portfolio and identify and categorize problem credits. At a minimum, the System shall provide for:

- (i) identifying the overall quality of the loan portfolio;
- (ii) the identification and amount of each delinquent loan;
- (iii) an identification or grouping of loans that warrant the special attention of management;
- (iv) for each loan identified, a statement of the amount and an indication of the degree of risk that the loan will not be fully repaid according to its terms and the reason(s) why the particular loan merits special attention;
- (v) an identification of credit and collateral documentation exceptions;
- (vi) the identification and status of each violation of law, rule or regulation;
- (vii) an identification of loans not in conformance with the Bank's lending policy, and exceptions

to the Bank's lending policy;

(viii) an identification of insider loan transactions; and

(ix) a mechanism for reporting periodically, but in any event no less than quarterly, to the board of directors on the status of each loan identified and the action(s) taken by operating management.

(b) A copy of the reports submitted to the board, as well as documentation of the action taken by the Bank to collect or strengthen assets identified as problem credits, shall be kept with the minutes of the board of directors.

(c) Within 60 days from the effective date of this ORDER the Bank's board of directors shall establish and appoint a loan committee to review and approve in advance all extensions of credit and/or renewals that, when aggregated with all other extensions of credit to that borrower, either directly or indirectly, exceed or would exceed \$1.5 million. The review shall include financial, income and cash flow information, collateral values and lien information, repayment terms, past performance by the borrower, the purpose of the extension, and whether the extension complies with the Bank's loan policy and applicable laws, rules, and regulations. The loan committee shall meet at least twice monthly and shall maintain written minutes which detail the information reviewed by the loan committee, its conclusions, approvals, denials, recommendations, and reasons for the approval of any credit which does not fully comply with the review requirements set forth in this paragraph. At least monthly, the loan committee shall submit its written minutes to the board of directors.

[.10] 10. Within 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and/or regulations, as described in the concurrent Reports of Examination of the Bank by the FDIC and the Department as of February 28, 2000. In addition, the Bank shall take all steps necessary to ensure future compliance with all applicable Federal and State laws and regulations.

[.11] 11. Within 60 days from the effective date of this ORDER, the Bank shall adopt and implement a written liquidity and funds management policy. Such policy shall include the establishment of acceptable ranges of ratios in the following areas: volatile liability dependence, total loans to total deposits and temporary investments to volatile liabilities. In addition, the liquidity policy shall incorporate a funds management program which designates acceptable levels for: volatile liabilities, including borrowings; asset mix, including temporary funds and investments, long-term investment securities and classes of obligors, and loans to deposits; and rate-sensitive assets as a percent of rate-sensitive liabilities. Such policy and its implementation shall be in a form and manner acceptable to the Regional Director and the Commissioner as determined at subsequent examinations and/or visitations.

[.12] 12. (a) Within 30 days from the effective date of this ORDER, the Bank shall review all Reports of Condition and Income filed with the FDIC on and after June 30, 1999, and shall amend and file with the FDIC amended Reports of Condition and Income which accurately reflect the financial condition of the Bank as of the date of each such Report.

(b) In addition to the above and during the life of this ORDER, the Bank shall file with the FDIC Consolidated Reports of Condition and Income which accurately reflect the financial condition of the Bank as of the reporting period. In particular such Reports shall include any adjustment in the Bank's books made necessary or appropriate as a consequence of any State or FDIC examination of the Bank during that reporting period.

[.13] 13. Within 30 days from the effective date of this ORDER, the Bank shall maintain its interest rate risk ("IRR") exposure within the limits and parameters established and approved by the Bank's board of directors and in accordance with safe and sound banking practices, including holding, at a minimum, monthly meetings of the Bank's Asset/Liability Committee ("ALCO"). Reports of the Bank's IRR and liquidity positions shall be presented at least monthly to the board of directors. The minimum time periods set forth in this paragraph are not to be construed so as to prevent more frequent analyses, ALCO meetings, and reports to the Bank's board of directors. In appropriate circumstances, prudent banking will dictate that more frequent analyses of the Bank's IRR and liquidity positions take place, that more frequent ALCO meetings be held, and/or more frequent reports be made by management to the Bank's board of directors.

[.14] 14. Within 60 days from the effective date of this ORDER, the Bank shall develop, adopt, and implement a written policy satisfactory to the Regional Director and the Commissioner, which policy shall

govern the relationship between the Bank and its holding company, and shall limit the payment of any management, consulting, or other fees or funds of any nature, directly or indirectly, to or for the benefit of the Bank's holding company to only those fees or funds paid in connection with services performed by the Bank's holding company on behalf of or for the benefit of the Bank.

[.15] 15. While this ORDER is in effect, the Bank shall not declare or pay either directly or indirectly any dividends, whether [{{3-31-03 p.C-4969}}](#) in cash, stock, or otherwise, on any class of its stock, without the prior written consent of the Regional Director and the Commissioner.

[.16] 16. Within 60 days from the effective date of this ORDER, and thereafter on an annual basis, the Bank shall review the total compensation (both current and deferred) being paid to Bank directors and executive officers to determine whether the compensation received by each such person is reasonable in relation to the services provided to the Bank. The minutes of the board meeting at which such review is undertaken shall indicate the results of the review and the basis for determination of the reasonableness of the compensation. For the purposes of this paragraph, "compensation" refers to any and all salaries, bonuses, and other benefits of every kind and nature whatsoever, whether paid directly or indirectly.

[.17] 17. Immediately upon the effective date of this ORDER, the Bank shall: (a) not enter into any agreements with present and former officers of the Bank which constitute "golden parachute payments", as defined in section 18(k)(4) of the Act, 12 U.S.C. §1828(k)(4); (b) rescind all agreements or portions of agreements with present and former officers of the Bank which constitute "golden parachute payments"; (c) cease making any payments to present and former officers of the Bank which constitute "golden parachute payments"; and (d) take whatever legal steps are necessary to obtain reimbursement from all former officers of the Bank of any payments which have already been made to them and which constitute "golden parachute payments".

[.18] 18. While this ORDER is in effect, the Bank shall not accept, renew, or rollover brokered deposits other than as and to the extent permitted pursuant to section 29 of the Act, 12 U.S.C. §1831f, as amended, and the FDIC's Rules and Regulations, including section 337.6, 12 C.F.R. §337.6, as amended and supplemented. For the purposes of this ORDER, the term "brokered deposits" shall have the same meaning as is found in section 337.6(a)(2) of the FDIC's Rules and Regulations, as amended.

[.19] 19. Following the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER (i) in conjunction with the Bank's next shareholder communication, and also (ii) in conjunction with its notice or proxy statement preceding the Bank's next shareholder meeting. The description shall fully describe the ORDER in all material respects. The description and any accompanying communication, statement, or notice shall be sent to the FDIC, Registration and Disclosure Section, Washington, D.C. 20429, and the Department for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC and the Department shall be made prior to dissemination of the description, communication, notice, or statement.

[.20] 20. The Bank's board of directors shall appoint a committee composed of at least three directors who are not now and have never been involved in the daily operations of the Bank, and whose composition is acceptable to the Regional Director and the Commissioner (the "Compliance Committee"), to monitor the Bank's compliance with this ORDER. Within 30 days from the effective date of this ORDER, and at monthly intervals thereafter, such Compliance Committee shall prepare and present to the Bank's board of directors a written report of its findings, detailing the form, content, and manner of any action taken to secure compliance with this ORDER and the results thereof, and any recommendations with respect to such compliance. Such progress reports shall be included in the minutes of the meeting of the Bank's board of directors.

21. The Bank will provide on a monthly basis to the Regional Director and Commissioner reports for the prior month as follows:

- a) consolidated and bank-only statements of condition and income;
- b) report of performance indicators for the month including: calculations providing Tier 1 and total leverage and Tier 1 and total risk-based capital ratios; return on average assets (annualized to date; net interest margin (annualized to date);
- c) loan portfolio reports of delinquency and charge-off activity, and

d) interest rate risk analysis and results and comparison to Board-approved limits

22. By the 30th day after the end of the calendar quarter following the effective date of this ORDER, and by the 25th day after the end of every calendar quarter thereafter, [{{3-31-03 p.C-4970}}](#) the Bank shall furnish written progress reports to the Regional Director and the Commissioner detailing the form, content, and manner of any actions taken to secure compliance with this ORDER, and the results thereof. These progress reports should also include a description of the Bank's progress in achieving the established goals and timelines of the Capital Plan and an explanation of any variances from these goals and timelines.

23. The Bank shall notify the Regional Director and the Commissioner immediately of any material adverse development affecting its condition, performance, or outlook.

The effective date of this ORDER shall be 10 days from the date of issuance.

The provisions of this ORDER shall be binding upon the Bank, its successors, assigns, directors, officers, employees, agents, and other institution-affiliated parties.

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

Pursuant to delegated authority.

Dated: July 18, 2000.