

{{3-31-94 p.C-1399}}

[¶10,325] In the Matter of The Union Bank, Halliday, North Dakota, Docket No. FDIC-91-267b (9-10-91).

Bank to cease and desist from such unsafe or unsound practices as operating with excessive volumes of adversely classified assets; following hazardous lending and lax collection practices; operating with inadequate capital; operating in violation of applicable laws or regulations; operating with management whose policies are detrimental to the Bank; operating with inadequate loan documentation; engaging in practices which produce inadequate operating income; failing to provide adequate supervision over the Bank's affairs; paying excessive cash dividends; and failing to submit Reports of Condition and Income in accordance with instructions. *(This order was terminated by order of the FDIC dated 1-6-94; see ¶ 15,785.)*

- [.1] Management—Qualifications—Review
- [.2] Management—Management Plan—Minimum Requirements
- [.3] Board of Directors—Election—Outside Directors Added
- [.4] Assets—Adversely Classified—Eliminate/Reduce
- [.5] Allowance for Loan and Lease Losses—Establish/Maintain
- [.6] Capital—Tier 1 Capital—Increase/Maintain—Methods
- [.7] Loans—Risk Position—Reduce—Written Plan Required
- [.8] Loans—Extensions of Credit—Existing Borrowers—Curtail
- [.9] Loans—Overdue—Accrual of Interest
- [.10] Loan Policy—Written Revision—Minimum Requirements
- [.11] Profit Plan—Minimum Requirements
- [.12] Funds Management—Written Policy Required
- [.13] Investment Policy—Revision—Minimum Requirements
- [.14] Dividends—Restricted
- [.15] Violations of Law—Eliminate/Correct
- [.16] Technical Exceptions—Correct/Eliminate
- [.17] Shareholders—Disclosure—Cease and Desist Order
- [.18] Compliance Reports—Frequency

In the Matter of

THE UNION BANK
HALLIDAY, NORTH DAKOTA
(Insured State Nonmember Bank)
ORDER TO CEASE
AND DESIST

The Union Bank, Halliday, North Dakota ("Bank"), having been advised of its right to a Notice of Charges and of Hearing de- {{3-31-94 p.C-1400}}tailing the unsafe or unsound banking practices and violations of law and regulations alleged to have been committed by the Bank and of its right to a hearing on such alleged charges under section 8(b) of the Federal Deposit Insurance 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 August 29, 1991, whereby solely for the purpose of this proceedings and without admitting or denying any unsafe or unsound banking practices or 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 violated laws 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 institution-affiliated parties, as that term is defined in Section 3(u) of the Act, 12 U.S.C. § 1813(u), and its successors and assigns cease and desist from the

following unsafe and unsound banking practices and violations of law and/or regulations:

- A. operating with an excessive volume of adversely classified assets;
- B. engaging in hazardous lending and lax collection practices, including maintaining an excessive volume of adversely classified loans;
- C. operating with inadequate Tier 1 or core capital and allowance for loan and lease losses for the kind and quality of assets held;
- D. engaging in violations of applicable laws and regulations;
- E. operating with management whose policies and practices are detrimental to the Bank or engaging in management policies and practices which are detrimental to the Bank;
- F. operating with deficient or inadequate loan documentation, including but not limited to current financial statements, insurance coverage, title searches or legal opinions, and cash flow and/or operating information;
- G. engaging in practices which produce inadequate operating income and excessive loan losses;
- H. failing to provide adequate supervision and direction over the affairs of the Bank to prevent unsafe or unsound practices and violations of law and/or regulations;
- I. paying excessive cash dividends in relation to the Bank's net income and/or capital position; and
- J. failing to submit Reports of Condition and Income in accordance with prevailing instructions.

IT IS FURTHER ORDERED, that the Bank, its institution-affiliated parties, and its successors and assigns, take affirmative action as follows:

[.1] 1. (a) (i) No more than 45 days from the effective date of this ORDER, the Bank shall have and thereafter retain qualified management. Such management shall include a qualified senior lending officer who shall be given stated written authority by the Bank's board of directors, including responsibility for implementing and maintaining the lending policies of the Bank. The senior lending officer shall have an appropriate level of lending, collections, and loan supervision experience to perform the duties assigned to that individual by the Bank's board of directors. The Bank shall promptly notify the Regional Director of the FDIC's Kansas City Regional Office ("Regional Director") of the identity of said senior lending officer. Prior to the addition of any individual to the board of directors or the employment of any individual as a senior executive officer, the Bank shall comply with the requirements of section 32 of the Act, 12 U.S.C. § 18311 and section 303.14 of the FDIC's Rules and Regulations, 12 C.F.R. § 303.14.

(ii) The assessment of whether the Bank has "qualified management" shall be based upon management's conduct, both individual and joint, with respect to the Bank in: (A) complying with the requirements of this ORDER; (B) complying with applicable laws and regulations; and (C) not engaging in any unsafe or unsound banking practice which has an adverse effect on the Bank's asset quality, capital adequacy, earnings, or liquidity.

[.2] (b) No more than 90 days from the effective date of this ORDER, the board of directors shall develop a written analysis and assessment of the Bank's management and staffing needs ("management plan"), which shall include, at a minimum:

- (i) identification of both the type and number of officer positions needed to manage and supervise properly the affairs of the Bank;
- (ii) identification and establishment of such Bank committees as are needed to provide guidance and oversight to active management;
- (iii) evaluation of each Bank officer, and in particular the chief executive officer, and staff member to determine whether these individuals 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; and
- (iv) a plan of action to recruit and hire any additional or replacement personnel with the requisite ability, experience and other qualifications, which the board of directors determines are necessary to fill Bank officer or staff member positions consistent with the board's analysis, evaluation and assessment as provided in paragraphs 1(b)(i) and 1(b)(iii) of this ORDER.

(c) The written management plan and any subsequent modification thereto shall be submitted to the Regional Director for review and comment. No more than 30 days from the receipt of any comment from the Regional Director, and after consideration of such comment, the board of directors shall approve the written management plan and/or any subsequent modification thereto which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall implement and follow the written management plan and/or any subsequent modification.

[.3] (d) (i) No more than 90 days from the effective date of this ORDER, the board of directors shall prepare a list of potential candidates for the board of directors for consideration by the shareholders of the Bank. The list of potential candidates shall include individuals who are independent with respect to the Bank, in such number that, if elected, would cause a majority of the board of directors to be independent with respect to the Bank. The actions taken in identifying potential candidates, including any communication with such individuals, shall be documented and made a part of the minutes of the board of directors. Copies of these board minutes shall be provided to the Regional Director no more than 120 days from the effective date of this ORDER.

(ii) At the next meeting of the shareholders of the Bank, and at each succeeding meeting of the shareholders at which Bank directors are to be elected, the members of the board of directors who are also shareholders shall nominate and support the election of candidates to the board of directors who are independent with respect to the Bank and who have agreed to stand for election to the board of directors, in such number as are necessary to cause a majority of the board of directors to be and to remain independent with respect to the Bank.

(iii) For purposes of this ORDER, an individual who is "independent with respect to the Bank" shall be any individual (A) who is not an officer of the Bank, any subsidiary of the Bank, or any of its affiliated organizations and who does not own more than 5 percent of the outstanding shares of the Bank or any of its affiliated organizations, (B) who is not related by blood, marriage or common financial interest to an officer of the Bank, any subsidiary of the Bank, or any of its affiliated organizations or to any stockholder owning more than 5 percent of the outstanding shares of the Bank, any subsidiary of the Bank, or any of its affiliated organizations, and (C) who is not indebted to the Bank, directly or indirectly (including the indebtedness of any entity in which the individual has a substantial financial interest), in an amount exceeding 5 percent of the Bank's Tier 1 or core capital and allowance.

(e) Effective the date of this ORDER, the Bank's board of directors shall meet at least monthly. The board shall prepare in advance and shall follow a detailed written agenda at each meeting, which shall include consideration of actions of any committees. Nothing in the foregoing sentence shall preclude the board from considering matters other than those contained in the agenda. Detailed written minutes of all board meetings shall be maintained and recorded on a timely basis.

[.4] 2. No more than 10 days from the effective date of this ORDER, the Bank: (a) shall eliminate from its books, by charge-off, collection, or other proper entries, all assets or portions of assets classified "Loss" as of March 15, 1991; and (b) shall either (i) eliminate from its books by charge-off, collection, or other proper entries, or (ii) if the asset is an extension of credit or lease, increase its allowance by an amount equal to 50 percent of those assets or portions of assets classified "Doubtful" as of March 15, 1991, which have not been previously collected, charged off, or otherwise eliminated by other proper entries. Reduction of these assets through use of proceeds of loans made by the Bank does not constitute collection for the purpose of this paragraph.

[.5] 3. (a) As used in this ORDER, "allowance for loan and lease losses" ("allowance") means the same as the term in section 325.2(a) of the FDIC's Rules and Regulations, 56 Fed. Reg. 10154, 10160 (1991), to be codified at 12 C.F.R. § 325.2(a), and in the Instructions for Preparation of Reports of Condition and Income ("Instructions").

(b) The Bank shall have and maintain an adequate allowance in accordance with the requirements of the Instructions.

(c) Reports of Condition and Income required to be submitted by the Bank as of each Report date, as that term is used in the Instructions, between and including March 15, 1991, and the effective date of this ORDER, shall, at a minimum, reflect an allowance maintained in accordance with the Instructions. If necessary to comply with this paragraph, the Bank shall file amended Reports of Condition and Income within 10 days from the effective date of this ORDER.

(d) Prior to the submission of any Report of Condition and Income required to be filed by the Bank after the effective date of this ORDER, the board of directors of the Bank shall: (i) review the adequacy of the Bank's allowance, (ii) provide for an adequate allowance, and (iii) accurately report the allowance in any such Report of Condition and Income. The minutes of the board meeting at which such review is undertaken shall indicate the results of the review, including any increases in the allowance, and the basis for determining the amount of allowance provided.

[.6] 4. (a) As used in this ORDER:

(i) "Tier 1 or core capital" ("Tier 1 capital") means the same as the term in section 325.2(m) of the FDIC's Rules and Regulations, 56 Fed. Reg. 10154, 10161 (1991), to be codified at 12 C.F.R.

§ 325.2(m).

(ii) "Noncumulative perpetual preferred stock" means the same of the term in section 325.2(j) of the FDIC's Rules and Regulations, 56 Fed. Reg. 10154, 10161 (1991), to be codified at 12 C.F.R. § 325.2(j).

(iii) "Total assets" means the same as the term in section 325.2(n) of the FDIC's Rules and Regulations, 56 Fed. Reg. 10154, 10161 (1991), to be codified at 12 C.F.R. § 325.2(n).

(iv) "Securities" means common and noncumulative perpetual preferred stock.

(b) No more than 120 days from the effective date of this ORDER, the Bank shall increase its Tier 1 capital by not less than \$180,000. Such increase in Tier 1 capital may be accomplished by:

(i) the sale of new offerings of common or noncumulative perpetual preferred stock;

(ii) the sale of outstanding shares by the Bank's shareholders to any investor who has the financial capability to make the additions to the Bank's Tier 1 capital required by this paragraph 4(b);

(iii) the direct contribution of cash by the shareholders and/or directors of the Bank;

(iv) the collection of all or part of assets classified "Loss" or "Doubtful" as of March 15, 1991, without loss or liability to the Bank, provided any such collection on a partially charged off asset shall first be applied to that portion of the asset which was not charged off pursuant to paragraph 2 of this ORDER. Collections on loans or leases classified "Loss" or "Doubtful" which [{{11-30-91 p.C-1403}}](#) have been charged off shall be credited to the Bank's allowance and, if the board of directors' review of the adequacy of the allowance required by paragraph 3 of this ORDER indicates that such allowance has a balance in excess of that required for adequacy, any such excess may only be transferred to Tier 1 capital through the income statement by a negative provision for the allowance;

(v) the collection in cash of assets previously charged off, except that any collections on previously charged off loans and leases shall be accounted for in accordance with the requirements of the second sentence of paragraph 4(b)(iv) above. "Assets previously charged off" means any asset charged off other than assets classified "Loss" as of March 15, 1991;

(vi) any combination of the above means; or

(vii) any other means acceptable to the Regional Director.

(c) If all or part of the increase in Tier 1 capital required under paragraph 4(b) of this ORDER involves an offering, other than an offering deemed not to be a public securities offering pursuant to 17 C.F.R. § 230.506 or as hereafter amended, of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare detailed offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and of this ORDER as well as the circumstances giving rise to the offering, and any other material disclosures necessary to comply with the Federal securities laws. Prior to the sale of the securities, and, in any event, not less than 20 days prior to the dissemination of such materials, the materials used in the sale of the securities shall be submitted to the FDIC, Registration and Disclosure Section, 550 - 17th Street, N.W., Washington, D.C. 20429, for review. Any changes requested in the materials by the FDIC shall be made prior to their dissemination. In addition, any terms and conditions of the issue of new securities shall be submitted to the Regional Director for prior approval.

(d) In complying with the provisions of paragraph 4(c) of this ORDER, the Bank shall provide to any subscriber and/or purchaser of Bank stock, written notice of any planned or existing development or other change which is 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 (d) shall be furnished within 10 days from the date such material development or change was planned or occurred, whichever is earlier, to every purchaser and/or subscriber of Bank stock who received or was tendered the information contained in the Bank's original offering materials.

(e) After appropriate entries for an adequate allowance are made in accordance with the requirements of paragraph 3 of this ORDER, but no later than December 31, 1991, the Bank shall have and maintain Tier 1 capital at or in excess of 6 percent of the Bank's total assets ("Tier 1 capital ratio"). From and after December 31, 1991, for purposes of calculating Tier 1 capital ratio, Tier 1 capital shall be the dollar amount reported in the Bank's most recent Report of Condition and Income.

(f) During the period this ORDER is in effect, if the Tier 1 capital ratio declines below 6 percent, the Bank shall, within 60 days after the date on which the said ratio so declined, submit a written plan to the Regional Director and Commissioner of Banking and Financial Institutions for the State of North Dakota ("Commissioner") for approval describing the means and timing by which the Bank shall increase such ratio up to or in excess of 6 percent. Upon receiving written notification of the approval of the plan, the

Bank shall increase its Tier 1 capital ratio to equal or exceed 6 percent in accordance with the approval plan and shall thereafter maintain its Tier 1 capital ratio at or in excess of such level while this ORDER is in effect.

(g) The Bank's board of directors shall maintain in its minutes a written record of all actions taken by the Bank to comply with the capital requirements of paragraphs 4(b) through 4(f) of this ORDER, including, at a minimum, any action to increase its Tier 1 capital by each of the methods specified in paragraphs 4(b)(i) through 4(b)(vii) of this ORDER.

[{{11-30-91 p.C-1404}}](#)

(h) Nothing in this ORDER shall operate to subject any individual director of the Bank to a Federal District Court order of enforcement pursuant to section 8(i)(1) of the Act, 12 U.S.C. § 1818(i)(1), or imposition of civil money penalties pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2), for failure to utilize such director's personal assets to satisfy the capital requirements of paragraph 4(a) through 4(f) of this ORDER. For the purpose of this paragraph (h), the diminution in the value of stock held by any director as the result of the sale of new offerings of common stock or noncumulative perpetual preferred stock pursuant to paragraph 4(b)(i) of this ORDER shall not be considered to be a utilization of such director's personal assets.

[.7] 5. (a) No more than 90 days from the effective date of this ORDER, the board of directors shall develop a written plan of action to lessen the Bank's risk position in each line of credit aggregating \$25,000 or more which was classified "Substandard" or "Doubtful" as of March 15, 1991. In developing such plan, the Bank shall, at a minimum:

- (i) review the financial position of each such borrower, including source of repayment, repayment ability, and alternative repayment sources; and
- (ii) evaluate the available collateral for each such credit, including possible actions to improve the Bank's collateral position.

Based upon such review and evaluation, the written plan of action shall: (A) established target dollar levels to which the Bank shall reduce the aggregate dollar volume of "Substandard" or "Doubtful" classifications within 6 and 12 months from the effective date of this ORDER; and (B) provide for the submission of written monthly progress reports to the Bank's board of directors for review and notation in the board minutes. As used in this paragraph, "reduce" means to (1) collect, (2) charge off, or (3) improve the quality of such assets so as to warrant removal of any adverse classification by the FDIC.

(b) The written plan of action described by paragraph 5(a) and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director, the board of directors shall approve the written plan of action, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall follow the written plan of action and/or any subsequent modification.

[.8] 6. Effective the date of this ORDER, the Bank shall not extend, directly or indirectly, credit to, or for the benefit of, any borrower who has a loan or other extension of credit with the Bank that has been charged off or classified, in whole or in part, "Loss," "Doubtful," or "Substandard," and is uncollected, unless a majority of the Bank's board of directors first (a) determines that such advance is in the best interest of the Bank. (b) determines that the Bank had satisfied the requirements set out in paragraph 5 of this ORDER as to such borrower, and (c) approves such advance. A written record of the board of directors' determination and approval of any advance under the terms of this paragraph shall be maintained in the credit file of the affected borrower(s) as well as the minutes of the board of directors. The requirements of this paragraph do not prohibit the Bank from renewing any credit already extended to the borrower.

[.9] 7. Effective the date of this Order, the Bank shall not accrue interest on any loan that is, or becomes, 90 days or more delinquent as to principal or interest, unless the loan is both well secured and in the process of collection; "well secured" and "in the process of collection" shall have the same meaning as those terms have in the prevailing Instructions for the Reports of Condition and Income. The Bank shall reverse on its books all previously accrued but uncollected interest on any loan that has ceased to accrue interest pursuant to this provision.

[.10] 8. (a) No more than 90 days from the effective date of this ORDER, the Bank shall revise its written loan policies which revision shall include, at a minimum:

- (i) the lending authority of the loan officer;

- (ii) the lending authority of a loan or executive committee, if any;
- (iii) the responsibility of the board of directors in reviewing, ratifying and approving loans;
- (iv) the guidelines under which unsecured loans will be granted;

[{{11-30-91 p.C-1405}}](#)

- (v) the guidelines for rates of interest and terms of repayment for unsecured loans and secured loans;
- (vi) with regard to secured loans: (A) limitations on the amount advanced in relation to the value of the collateral, and (B) the documentation required by the Bank for each type of secured loan;
- (vii) the maintenance and review of complete and current credit files on each borrower;
- (viii) appropriate and adequate collection procedures, including, but not limited to, the actions to be taken against borrowers who fail to make timely payments;
- (ix) guidelines establishing limitations on the maximum volume of loans in relation to total assets;
- (x) appropriate limitations on extension of credit through overdrafts and cash items;
- (xi) the determination and documentation of sources and terms of loan repayment;
- (xii) retention of lien searches and appraisals covering personal property and liens on real estate;
- (xiii) maintenance of written, individual loan file comments by officers;
- (xiv) provisions addressing the capitalization of accrued and unpaid interest on loans;
- (xv) procedures regarding designations of nonaccrual loans;
- (xvi) procedures for identifying, supervising, and collecting problem loans; and
- (xvii) periodic review of the overdue, problem and/or adversely-classified or special-mention loans by the directorate, so as to monitor management's administration of such distressed credits, and to provide guidance.

(b) The revised written loan policies and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director and the Commissioner, the board of directors shall approve the written loan policies and/or any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall follow the written loan policies and/or any subsequent modification thereto.

[.11] 9. (a) No more than 90 days from the effective date of this ORDER, the Bank shall develop a written profit plan consisting of goals and strategies for improving the earnings of the Bank, which written profit 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; and
- (iv) a description of the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(b) The written profit plan and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days after the receipt of any comment from the Regional Director, the board of directors shall approve the written profit plan and any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall follow the written profit plan and/or any subsequent modification thereto.

[.12] 10. (a) No more than 30 days from the effective date of this ORDER, the Bank shall develop a written funds management policy which shall, at a minimum:

- (i) establish adequate recordkeeping systems to track the volume of (A) rate-sensitive assets and (B) rate-sensitive liabilities. Rate-sensitive assets and liabilities are generally defined as those that either mature or can be repriced during a specified time period (90 days, 180 days, one year);
- (ii) establish a range of acceptable ratios for rate-sensitive assets to rate-sensitive liabilities sufficient to protect the Bank against excessive interest-rate [{{11-30-91 p.C-1406}}](#) risk and ensure that an adequate net interest margin is maintained;
- (iii) establish adequate recordkeeping systems to track the volume of (A) stable or core deposits

and (B) volatile deposits;

(iv) establish guidelines for offsetting a substantial portion of the Bank's volatile deposits and borrowings with liquid, short-term assets;

(v) establish investment guidelines for funds derived from negotiable-rate certificates of deposit and borrowings, including a maximum large liability dependency ratio. A large liability dependency ratio means the percentage of loans plus other long-term earning assets that may be funded by negotiable-rate certificates of deposit and borrowings;

(vi) establish a range of acceptable loan-to-deposit ratios, taking into account seasonal deposit fluctuations;

(vii) establish a borrowing policy which addresses: (A) when or under what conditions the Bank may borrow, (B) maximum amounts that may be borrowed, (C) a list of acceptable creditors, and (D) which officers are authorized to borrow;

(viii) establish contingency plans for meeting large, unexpected withdrawals, which should include: (A) curtailing lending activity with priority given to specific types of credit and (B) establishing lines of credit with other financial institutions which will advance funds on short notice; and

(ix) establish a funds-management committee to meet at least monthly to determine how best to allocate the Bank's available funding sources among various asset categories after reviewing: (A) the Bank's liquidity position. (B) outstanding commitments such as loan commitments and letters of credit, and (C) the Bank's rate-sensitivity position and net interest margin.

(b) The funds management policy shall be coordinated with the Bank's loan, investment, operating, and budget and profit planning policies.

(c) The written funds management policy and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days from the receipt of any comment from the Regional Director, the board of directors shall approve the written funds management policy and any subsequent modification thereto, which approval shall be recorded in the minutes of the board of directors. Thereafter, the Bank and its institution-affiliated parties shall follow the written funds management policy and/or any subsequent modification thereto.

[.13] 11. No more than 30 days from the effective date of this ORDER, the Bank shall develop a written investment policy consisting of goals and strategies for improving the investments of the Bank. The written investment policy and any subsequent modification thereto shall be submitted to the Regional Director and the Commissioner for review and comment. No more than 30 days from the receipt of any comment from the Regional Director, the board of directors shall approve the written investment plan and any subsequent modification thereto, which approval shall be recorded in the minutes of the board. Thereafter, the Bank and its institution-affiliated parties shall follow the written investment plan and/or any subsequent modification thereto.

[.14] 12. The Bank shall not pay or declare any cash dividends without the prior written consent of the Regional Director and the Commissioner.

[.15] 13. No more than 60 days from the effective date of this ORDER, the Bank shall eliminate and/or correct all violations of law and regulations committed by the Bank as described on pages 6-1 through 6-1-b of the FDIC's Report of Examination of the Bank as of March 15, 1991.

[.16] 14. No more than 90 days from the effective date of this ORDER, the Bank shall correct the technical exceptions on loans noted on pages 2-c through 2-c-1 of the FDIC's Report of Examination of the Bank as of March 15, 1991. For any technical exception with respect to which correction is not accomplished due to the conduct and/ or condition of the borrower outside the reasonable control of the Bank, the Bank shall promptly correct the technical exception when such conduct or condition no longer exists. For any technical exception for which correction is not accomplished, the Bank's board of directors shall maintain in its minutes, and include in the appropriate individual credit file, a written record of all actions [{{8-31-92 p.C-1407}}](#) taken by the Bank to correct such technical exception, including an express description of the conduct and/or condition of the borrower which is outside the reasonable control of the Bank.

[.17] 15. Following the effective date of this ORDER, the Bank shall send to its shareholders a description of this ORDER, (a) in conjunction with the Bank's next shareholder communication, and also (b) 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, 550 - 17th Street, N.W., Washington, D.C. 20429, for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

[.18] 16. Beginning 90 days from the effective date of this ORDER, the Bank shall furnish written progress reports every 90 days to the Regional Director and the Commissioner detailing the form and manner of any action taken to secure compliance with this ORDER and the results. In addition, the Bank shall furnish such reports on request of either the Regional Director or the Commissioner. All progress reports and other written responses to this ORDER shall be reviewed by the board of directors of the Bank and made a part of the minutes of the board meeting.

This ORDER shall become effective 10 days from the date of its issuance.

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

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.

Dated this 10th day of September, 1991.

Pursuant to delegated authority.