

{{1-31-03 p.C-5318}}

[¶11,884] **In the Matter of First Commercial Bank (USA), Alhambra, California**, Docket No. 01-146b (1-3-02).

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 11-13-02; see ¶16,322.*)

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

[.2] **Bank Secrecy Act—Compliance Program—Minimum Requirements**

[.3] **Enhanced Customer Due Diligence—Program Required**

[.4] **Account Holders Accorded "W-8" Tax Exempt Status—Review Required**

[.5] **Bank Secrecy Act—Officer, Designate**

[.6] **Bank Secrecy Act—Implement Policy**

[.7] **Board of Directors—Monitoring and Written Confirmation of Compliance with Cease and Desist Order Required**

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

**In the Matter of
FIRST COMMERCIAL BANK (USA)
ALHAMBRA, CALIFORNIA
(Insured State Nonmember Bank)
ORDER TO CEASE AND DESIST**

FDIC-01-146b

First Commercial Bank (USA), Alhambra, California, ("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)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §1818(b)(1), 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 January 2, 2002, 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:

{{3-31-02 p.C-5319}}

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 regulation:

- (a) operating in violation of sections 326.8(c) of the Rules and Regulations of the FDIC, 12 C.F.R. §326.8(c) as more fully described on page 21 of the FDIC's Report of Examination dated July 9, 2001; and

(b) operating in violation of sections 353.3(a)(4) and 353.3(b) of the FDIC's Rules and Regulations, 12 C.F.R. §§ 353.3(a)(4) and 353.3(b), as more fully described on pages 21 through 23 of the Report of Examination dated July 9, 2001.

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

[.1]1. Within 45 days from the effective date of this ORDER, the Bank shall eliminate and/or correct the violations cited on pages 21 through 23 of the FDIC's Report of Examination of the Bank dated July 9, 2001. In addition, the Bank shall take all necessary steps to ensure future compliance with the Bank Secrecy Act ("BSA") or any rules or regulations issued pursuant thereto.

[.2]2. Within 45 days from the effective date of this Order, the Bank shall provide for an acceptable internal compliance program, designed to, among other things, ensure and maintain compliance by the Bank with the BSA and related rules and regulations. The program, at a minimum, shall:

(a) provide the means to detect and monitor all currency and other transactions occurring at the Bank to ensure the identification and timely reporting of known or suspected criminal violations of federal law, suspicious transactions related to money laundering activity, or a violation of the Bank Secrecy Act, as required pursuant to Part 353 of the FDIC's Rules and Regulations, 12 C.F.R. Part 353;

(b) provide effective training to all appropriate personnel at the Bank (including, but not limited to, tellers, customer service representatives, lending officers, branch managers and all other customer contact personnel) in all aspects of regulatory and internal policies and procedures related to BSA and the identification and reporting of suspicious transactions and to update the training on a regular basis to ensure that all personnel have the most current and up to date information. Written reports should be provided which verify the scope, nature and frequency of the Bank's BSA training efforts. The documentation should also describe, with specificity, the Bank's communication methods and/or systems utilized to enhance the knowledge of and to inform appropriate personnel of changes to and developments in BSA regulations. In addition, the report should address how management measures the success of the training program, how objectives of the training program are met and how oversight of the training is implemented amongst bank management and other bank employees that are involved in BSA compliance measures; and

(c) provide a system for independent testing by an outside party of its policies, procedures, and practices for compliance with the FDIC's Rules and Regulations relating to the identification and reporting of suspicious transactions, and a system for independent testing of BSA compliance by Bank personnel and/or an outside party, in accordance with section 326.8(c)(2) of the FDIC's Rules and Regulations. The independent testing should be conducted on an annual basis in compliance with the procedures described in the FDIC's "Guidelines for Monitoring Bank Secrecy Act Compliance." The independent testing of suspicious activity reporting compliance should be conducted by qualified, trained and experienced third parties, such as independent public accountants or specialists in this subject matter who are not affiliated with the Bank. Written reports documenting the testing procedures performed, the testing findings, and providing recommendations for improvement shall be presented to the Bank's Audit Committee and noted in official meeting minutes.

[.3]3. Within 45 days from the effective date of this Order, the Bank shall provide an acceptable enhanced customer due diligence program designed to reasonably ensure the identification and timely, accurate and complete reporting of known or suspected criminal activity against or involving the Bank to law enforcement and supervisory authorities, as required by sections 353.3(a) and (b) [{{3-31-02 p.C-5320}}](#)

of the FDIC's Rules and Regulations, 12 C.F.R. Part 353. The program shall provide:

(a) The means to determine the appropriate level of enhanced due diligence necessary for those customers that the Bank has reason to believe are conducting transactions as described in section 353.3(a)(4)(i), (ii) and/or (iii) of the FDIC's Rules and Regulations. For those customers whose transactions require enhanced due diligence, develop procedures to (1) determine the appropriate

documentation reasonably necessary to confirm the identity and business activities of the customer; (2) understand the normal and expected transactions of the customer; and (3) report suspicious activities in compliance with existing reporting requirements set forth in the regulations of the FDIC.

(b) For the development and implementation of appropriate guidelines for closing accounts, particularly for accounts the Bank has determined to be suspicious in nature where the customer is not forthcoming with requested information that satisfactorily explains or justifies currency and/or other account activity.

[.4]4. Within 90 days from the effective date of this ORDER, the Board shall develop a program for reviewing the files of account holders at the Bank who have been accorded "W-8" tax exempt status, but who appear to hold such accounts for the benefit of third parties (i.e., "straw accounts") and do not qualify for "W-8" tax exempt status. The Bank shall take appropriate action with respect to such accounts, including as appropriate: (a) removing the "W-8" status of an account; (b) filing a Suspicious Activity Report; (c) re-documenting an account to reflect its actual ownership; and/or (d) closing an account.

[.5]5. Within 45 days of the effective date of this Order, the Bank shall ensure that the BSA compliance program is managed by a qualified officer who shall have the responsibility and necessary authority to ensure compliance with the BSA and related matters, including, without limitation, the identification and timely, accurate and complete reporting to law enforcement and supervisory authorities of unusual or suspicious activity or known or suspected criminal activity perpetrated against or involving the Bank. Copies of any and all Suspicious Activity Reports filed by the Bank shall be submitted to the Regional Director.

[.6]6. Within 45 days of the effective date of this Order, the Bank shall revise, adopt and implement the Bank's BSA Policy to include provisions which implement the requirements of Paragraphs 2, 3, and 4 of this Order. The Bank's Board of Directors and senior management shall fully implement the provisions of the revised BSA Policy. The revised BSA Policy, and its implementation, shall be in a form and manner acceptable to the Regional Director as determined at subsequent examinations and/or visitations of the Bank.

[.7]7. Following the effective date of this Order, the Board of Directors shall monitor and confirm the completion of actions taken by management to comply with the terms of this ORDER. The Board of Directors shall certify in writing to the Regional Director when all of the above actions have been accomplished. All actions taken by the Board of Directors to this ORDER shall be duly noted in the minutes of its meetings.

[.8]8. Following the effective date of this ORDER, the Bank shall send to its shareholders a copy of this ORDER or a description of this ORDER in conjunction both with the Bank's next shareholders communication and with its notice and/or proxy statement preceding the Bank's next shareholder meeting. If the Bank sends its shareholders a description of this ORDER rather than a copy of it, the description shall fully describe this ORDER in all respects.

9. Within 30 days of the end of the calendar quarter following the effective date of this ORDER, and within 30 days of the end of each calendar quarter thereafter, the Bank shall furnish written progress reports to the Regional Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director has released the bank in writing from making further reports.

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

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 at San Francisco, California, this 3rd day of January, 2002.

