

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

|                                |   |                     |
|--------------------------------|---|---------------------|
| _____                          | ) |                     |
| In the Matter of               | ) |                     |
|                                | ) | ORDER TO PAY        |
|                                | ) |                     |
| CAPMARK BANK                   | ) | CIVIL MONEY PENALTY |
| MIDVALE, UTAH                  | ) |                     |
|                                | ) |                     |
|                                | ) | FDIC-12-038k        |
| (INSURED STATE NONMEMBER BANK) | ) |                     |
| _____                          | ) |                     |

CAPMARK BANK, MIDVALE, UTAH (“Bank”), has been advised of its right to receive a NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, AND NOTICE OF HEARING (“NOTICE OF ASSESSMENT”) issued by the Federal Deposit Insurance Corporation (“FDIC”) detailing the violations for which a civil money penalty may be assessed against the Bank pursuant to the Flood Disaster Protection Act of 1973 (“Flood Act”), as amended, 42 U.S.C. § 4012a, section 8(i)(2) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1818(i)(2), and Part 339 of the FDIC’s Rules and Regulations, 12 C.F.R. Part 339 (“Part 339”), and has been further advised of its right to a hearing on the charges under the Flood Act, 42 U.S.C. § 4012a(f)(4), and Part 308 of the FDIC’s Rules of Practice and Procedure, 12 C.F.R. Part 308.

Having waived those rights, the Bank entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO PAY CIVIL MONEY PENALTY (“CONSENT AGREEMENT”) with a representative of the Legal Division of the FDIC, whereby solely for the purpose of this proceeding, and without admitting or denying any

violations, the Bank consented and agreed to pay a civil money penalty in the amount of \$8,500 related to the violations of the Flood Act and Part 339.

The FDIC has reason to believe that the Bank violated the Flood Act and 12 C.F.R. § 339.3(a) on fourteen occasions by failing to secure insurance when the loan was made, increased, extended, or renewed.

The FDIC has reason to believe that the Bank violated the Flood Act and 12 C.F.R. § 339.3(a) on nine occasions by failing to maintain flood insurance for the term of the loan and/or lapse in coverage.

The FDIC has reason to believe that the Bank violated the Flood Act and 12 C.F.R. § 339.9(a) on twenty-seven occasions by failing to notify the borrowers prior to the closing date that the property securing the loan was located in a flood hazard area and that the borrowers were required to obtain flood insurance.

The FDIC has reason to believe that the Bank violated the Flood Act and 12 C.F.R. § 339.9(a) on thirty-three occasions by failing to furnish the appropriate notice to borrowers upon the occurrence of a triggering event.

Further, the FDIC has reason to believe that the Bank violated the Flood Act and 12 C.F.R. § 339.9(c) on two occasions by failing to timely notify borrowers of insurance.

After taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of the Bank, the gravity of the violations by the Bank, the history of previous violations by the Bank, and such other matters as justice may require, the FDIC accepts the CONSENT AGREEMENT and issues the following:

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ORDER TO PAY CIVIL MONEY PENALTY

IT IS HEREBY ORDERED that CAPMARK BANK, MIDVALE, UTAH, be, and hereby is, assessed a civil money penalty of \$8,500 pursuant to the Flood Act, 42 U.S.C. § 4012a, section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2), and Parts 308 and 339 of the FDIC's Rules and Regulations, 12 C.F.R. Parts 308 and 339. The Bank shall pay the civil money penalty to the Treasury of the United States.

This Order to Pay Civil Money Penalty shall be effective upon issuance.

Issued pursuant to delegated authority.

Dated: 26<sup>th</sup> day of March, 2012

By:

/s/

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Scott D. Strockoz  
Deputy Regional Director  
New York Region  
Division of Depositor and Consumer Protection