

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of	)	
	)	
BANK OF THE SOUTHWEST	)	
ROSWELL, NEW MEXICO	)	
	)	
(Insured state nonmember bank)	)	
_____	)	

ORDER TO PAY  
CIVIL MONEY PENALTY  
FDIC-12-643k

BANK OF THE SOUTHWEST, ROSWELL, NEW MEXICO (“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 section 102(f)(1) of the Flood Disaster Protection Act of 1973, as amended (“FDPA”), 42 U.S.C. § 4012a(f)(1); 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 Rules and Regulations, 12 C.F.R. Part 339, and has been further advised of its right to a hearing on the charges under section 102(f)(4) of the FDPA, 42 U.S.C. § 4012a(f)(4); section 8(i)(2)(H) of the FDI Act, 12 U.S.C. § 1818(i)(2)(H); and Part 308 of the FDIC Rules and Regulations, 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 of law or regulation, the Bank consented and agreed to pay a civil money penalty in the amount of **\$13,240.00** related to violations of the FDPA, the National Flood Insurance Act of 1968, as amended (“NFIA”), and Part 339 of the FDIC Rules and Regulations. The FDIC considered the matter and determined that the Bank violated the FDPA, NFIA and Part 339 of the FDIC Rules and Regulations, in that:

- Respondent failed to obtain flood insurance coverage or failed to obtain timely flood insurance coverage on eight (8) loans secured by a building or mobile home that is located or to be located in a special flood hazard area, as identified by the Director of the Federal Emergency Management Agency, in which flood insurance is available under the NFIA (“designated loan”), in violation of 42 U.S.C. § 4012a(b)(1) and 12 C.F.R. § 339.3(a);
- Respondent failed to maintain flood insurance coverage for the term of the loan on seven (7) designated loans, in violation of 42 U.S.C. § 4012a(b)(1) and 12 C.F.R. § 339.3(a);
- Respondent failed to obtain an adequate amount of flood insurance coverage on thirteen (13) designated loans, in violation of 42 U.S.C. § 4012a(b)(1) and 12 C.F.R. § 339.3(a);
- Respondent failed to notify the borrower or failed to notify the borrower timely of force placement of flood insurance on nine (9) designated loans, in violation of 42 U.S.C. § 4012a(e)(1) and 12 C.F.R. § 339.7;
- Respondent failed to force place timely flood insurance on one (1) designated loan, in violation of 42 U.S.C. § 4012a(e)(2) and 12 C.F.R. § 339.7;

- Respondent failed to provide a notice of special flood hazards to the borrower on thirteen (13) designated loans, in violation of 42 U.S.C. § 4104a(a)(1) and 12 C.F.R. § 339.9(a); and
- Respondent failed to provide timely a notice of special flood hazards to the borrower on four (4) designated loans, in violation of 42 U.S.C. § 4104a(a)(1) and 12 C.F.R. § 339.9(c).

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:

**ORDER TO PAY CIVIL MONEY PENALTY**

IT IS HEREBY ORDERED, that BANK OF THE SOUTHWEST, ROSWELL, NEW MEXICO, be, and hereby is, assessed a civil money penalty of **\$13,240.00**, pursuant to section 102(f)(1) of the FDPA, 42 U.S.C. § 4012a(f)(1); section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2); and Parts 308 and 339 of the FDIC 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.

Pursuant to delegated authority.

Dated at Dallas, Texas, this 23rd day of January, 2013.

/s/ \_\_\_\_\_  
Kristie K. Elmquist  
Regional Director  
Dallas Regional Office