

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

In the Matter of:)
)
BANK OF LOUISIANA,) DECISION AND ORDER TO
NEW ORLEANS, LOUISIANA) CEASE AND DESIST
)
(INSURED STATE NONMEMBER BANK)) FDIC-20-0086b
_____))

I. INTRODUCTION

This uncontested matter is before the Board of Directors (“Board”) of the Federal Deposit Insurance Corporation (“FDIC”) following issuance of a Recommended Decision (“Recommended Decision” or “R.D.”) by Administrative Law Judge Christopher B. McNeil (“ALJ”). On April 22, 2021, the ALJ recommended that the Board issue to the Bank of Louisiana, New Orleans, Louisiana (“Bank”), an order to cease and desist from engaging in unsafe or unsound banking practices and violations of law or regulation. For the following reasons, the Board adopts and affirms the Recommended Decision and issues the attached Order to Cease and Desist.

II. STATEMENT OF THE CASE

FDIC Enforcement Counsel (“Enforcement Counsel”) initiated this action on October 6, 2020, when it issued a Notice of Charges and of Hearing (“Notice”). The Notice alleged that the Bank, a federally insured State nonmember bank, engaged in unsafe or unsound banking practices and violations of state law and FDIC Rules and Regulations that would continue absent an order to cease and desist. Notice at 1.

On October 23, 2020, the Bank filed a Response to the Notice of Charges (“Response”) signed only by Bank Chairman G. Harrison Scott (“Chairman Scott”). Chairman Scott did not file an appearance as counsel in these proceedings. The Response admitted several of the key factual allegations set forth in the Notice concerning Management, Earnings, and Capital. Response at 2-5.

For example, the Response admitted violating Louisiana law La. Stat. Ann. § 6:281(A)(1) by operating with too few board members. *Id.* at 5, ¶ 30(b). However, the majority of the Response denied, ignored, or provided partial or vague responses to Enforcement Counsel’s allegations.¹

On December 31, 2020, the ALJ struck the Response because Chairman Scott failed to file a notice of appearance and because the Response failed to comply with the minimum requirements set forth in 12 C.F.R. § 308.19(b) (governing the contents of an Answer). *See* Exclusion Order and Order Striking Response to Notice of Charges at 7. The ALJ gave the Bank until January 21, 2021, to file an Answer. *Id.* The Bank failed to do so. On March 23, 2021, Enforcement Counsel filed a Motion for and Memorandum in Support of Summary and/or Partial Summary Disposition and Request to File Motions and Certain Exhibits Under Seal (“Motion for Summary Disposition”). Respondent did not file a response.

On April 22, 2021, the ALJ issued an Order Regarding Enforcement Counsel’s Motion for Summary Disposition, Recommended Findings of Fact, Recommended Conclusions of Law, Recommended Decision, and Proposed Order (“Recommended Decision” or “R.D.”). The Recommended Decision granted Enforcement Counsel’s Motion for Summary Disposition and recommended that the FDIC Board of Directors issue the proposed order to cease and desist. R.D.

¹ During the course of these proceedings, Chairman Scott sent correspondence (on October 23, 2020, November 9, 2020, November 13, 2020, and January 26, 2021) directly to the FDIC Chairman and members of the Board in an attempt to seek Board intervention. The October 23, 2020 correspondence, styled as a “Motion for Interlocutory Review of the Alleged Appointment of Administrative Law Judge” (“motion”) argued that the ALJ was improperly appointed and sought a hearing to vacate the ALJ, to vacate the proceedings, or to settle the matter. The November 9 and November 13, 2020 correspondence sought to stay the present matter. The January 26, 2021 correspondence referenced seven docket numbers, including the matter at hand. Respondent’s “motion” and all other correspondence was improper in both form and substance. Notably, in a November 24, 2020 email, the Executive Secretary acknowledged receipt of the “motion” and the November 9 and November 13 correspondence, and directed the Respondent to act pursuant to FDIC Rules of Practice and Procedure. In similar emails dated February 5, 2021, Executive Secretary Section staff informed Respondent that the January 26 correspondence did not comply with the FDIC Rules of Practice and Procedure. Neither the “motion” nor the other correspondence will be considered by this Board as part of the administrative record in this case.

Some 112 days after the record closed, Respondent submitted correspondence dated September 9, 2021, addressed to the Board seeking a request for hearing. The correspondence, received on September 13, 2020, was untimely and is not part of the administrative record in this case.

at 2. On the same day, the ALJ certified the record to the Executive Secretary pursuant to 12 C.F.R. § 308.38. Neither the Bank nor Enforcement Counsel filed written exceptions to the Recommended Decision. Pursuant to 12 C.F.R. § 308.40(c)(2), the Executive Secretary on July 23, 2021, submitted the record to the Board for final decision.

Upon careful review and consideration of Enforcement Counsel's motion and supporting memorandum and the uncontested evidence in the record, and for the reasons stated below, the Board finds that there is no genuine issue as to any material fact and that the FDIC is entitled to summary disposition as a matter of law. The Board adopts the ALJ's Recommended Decision and the Statement of Undisputed Material Facts set forth in Enforcement Counsel's Motion for Summary Disposition. Motion for Summary Disposition at 10-20. Below, the Board provides a brief analysis of uncontroverted facts in support of the decision to grant summary disposition and issues the attached Order to Cease and Desist.

III. FACTUAL OVERVIEW

The Bank is an insured state nonmember bank subject to FDIC supervision. 12 U.S.C. § 1813(e)(2), (q)(2). On December 30, 2019, the FDIC and the Louisiana Office of Financial Institutions commenced a joint bank examination culminating in the 2019 Report of Examination ("2019 ROE").² The 2019 ROE revealed that the Bank was substandard in Management, Asset Quality, Capital, Earnings, and Sensitivity to Market Risk. FDIC Exh. 1. The Bank's composite rating was critically deficient. *Id.* at 7.

² The examination used financial information as of September 30, 2019, and updated to December 31, 2019 when available. The examination also used loan and other assets information as of October 31, 2019. FDIC Exh. 1 at 7.

A. Management

During the examination period, the Bank's board of directors had four members—one fewer than required by Louisiana law. FDIC Exh. 1 at 13 (citing LA. STAT. ANN. § 6:281). Board member and President A. Glenn Geddis (“President Geddis”) managed daily Bank operations with assistance from Vice President and Chief Operations Officer Shannon Scott (“COO Scott”) and Vice President Daniel Wiemar. *Id.* at 11. Chairman Scott managed key Bank policies, wielding considerable influence over the Bank's board. *Id.* at 11-12.

Chairman Scott's influence on Bank policies, such as the Bank's Other Real Estate (“ORE”) portfolio, negatively impacted many aspects of the Bank's condition. FDIC Exh. 1 at 7. As of September 30, 2019, the Bank had 53 ORE properties with a book value of \$7,258,000. *Id.* at 8. At the time of the 2019 examination, the Bank listed for sale with a realtor 12 of its 53 properties representing 23 percent of its ORE.³ *Id.* The Bank employed a limited marketing strategy and sought significantly higher-than-appraised asking prices on ORE. *Id.* As a result, no offers had been made on 43 of the 53 properties in over a year. *Id.*

Nevertheless, Chairman Scott repeatedly declined reasonable offers—including ones offering the Bank's asking price or the property's appraised value—over the objections of other board members. FDIC Exh. 1 at 8, 40, and 43; Exh. 54 at 17, 92; Exh. 55 at 43; and Exh. 18 at 1. By obstructing the timely liquidation of ORE, Chairman Scott increased the Bank's overhead costs and prevented Bank management from developing and implementing specific and realistic strategies (including its own Strategic Plan) to improve the Bank's condition. FDIC Exh. 1 at 7, 8, 11-12, 13; Exh. 75 at 8, ¶ 21. Instead, the Bank's ORE portfolio impaired asset quality, earnings, and capital. Moreover, the Bank's ORE practice violated FDIC Rules and Regulations and Louisiana law

³ By comparison, the Bank listed 45 percent of its ORE portfolio under President Geddis's supervision during the previous exam period. FDIC Exh. 1 at 8.

pertaining to the duration and conditions under which a state bank may hold property. FDIC Exh. 75 at 8, ¶ 21.

Bank management was aware of these problems and their impact on the Bank both before and during the examination period but did little to correct course. Board member Sharry Scott stressed in the January 29 and September 11, 2019, board meetings that “the bank was drowning in ORE” during two separate attempts to convince the board and Chairman Scott to sell ORE. FDIC Exhs. 54 at 92; 55 at 43. More than a year and a half later, in a July 15, 2020, letter responding to the findings in the 2019 ROE, COO Scott acknowledged that ORE expenses and a large number of nonperforming assets were “a significant drag on earnings and [] the primary cause for operating losses.” FDIC Exh. 71 at 2.

In the same letter, COO Scott also acknowledged that Chairman Scott held a “dominant role within the organization.” FDIC Exh. 71 at 1. However, the Bank had “no immediate plan to replace [him].” *Id.* Instead, immediately following the onsite portion of the exam, Chairman Scott terminated President Geddis (who was credited with increasing ORE sales during the previous exam period) and assigned President Geddis’s duties to himself until a replacement could be found. FDIC Exh. 1 at 11; FDIC Exh. 71 at 1. Following President Geddis’s termination, effective March 30, 2020, the Bank was operating with only three board members or two fewer than required by Louisiana law.

B. Asset Quality

According to the 2019 ROE, the Bank’s adversely classified assets totaled \$11,936,000, with \$11,115,000 classified Substandard and \$821,000 classified as Loss. FDIC Exh. 1 at 28. The adversely classified items comprised loans (\$4,556,000), ORE properties (\$7,258,000), and other assets (\$122,000). *Id.* As of the 2019 examination, total adversely classified assets represented 138% of Tier 1 Capital plus the allowance for loan and lease losses (“ALLL”). FDIC Exh. 75 at 10, ¶ 24.

The 2019 ROE concluded that the Bank's credit administration was inadequate in relation to its risk profile. FDIC Exh. 1 at 9. In some cases, the Bank failed to follow its own policies. *Id.* For example, the 2019 ROE specified six separate occasions when the Bank failed to place loans on nonaccrual as set forth in its own loan policy. *Id.* In other cases, the Bank's loan policies were simply silent. For instance, the Bank's policies did not outline governance for Troubled Debt Restructuring recognition and ALLL impairment testing. *Id.* Past due loans made up 5.2 percent of gross loans which was well above peer average. *Id.*

In addition, Asset Quality remained critically deficient because the Bank failed to timely liquidate collateral obtained from loan foreclosures. FDIC Exh. 1 at 9. All of the Bank's 53 ORE properties were adversely classified with \$6,569,000 classified as Substandard, and \$689,000 classified as Loss. *Id.* at 28. ORE represented 9 percent of Total Assets, 73 percent of adverse classification and 84 percent of Tier 1 Capital plus ALLL. *Id.* at 8, 61.

C. Earnings

The 2019 ROE found Bank earnings were critically deficient. FDIC Exh. 1 at 13. The Bank suffered operational losses for seven consecutive years. *Id.* As of December 31, 2019, the Bank's reported net income was \$1,513,000, or a 1.92 percent return on average assets ("ROAA"). *Id.* Notably, net income for 2019 included \$3,792,000 in gains attributable to an accounting adjustment for and appreciation of the Bank's Mastercard stock. *Id.* Excluding this one-time adjustment, the examination findings revealed that the Bank experienced a net operating loss in 2019 of \$2,114,000, or a negative 2.69 ROAA. *Id.*

The 2019 ROE also revealed excessive overhead expenses attributable to branch operations, personnel, general, and ORE carrying costs. FDIC Exh. 1 at 14. Overhead expenses made up 7.60 percent of average assets. *Id.* The Bank's efficiency ratio, which reflects a bank's non-interest expenses over its revenue, also reflected uncontrolled overhead costs. *Id.* The Bank's efficiency ratio of 139 percent was substantially higher than the peer average of 77 percent. *Id.* Meanwhile,

the Bank's non-interest income of \$1,096,000 was insufficient to offset the Bank's non-interest expenses and had been trending downward year over year. *Id.*

Finally, the Bank's percentage of earning assets (82 percent) was significantly lower than its peer group average of 92 percent. FDIC Exh. 1 at 14. In short, the Bank's earnings were insufficient to adequately support operations, offset expenses and augment capital, and fund an appropriate ALLL. *Id.* at 5, 13–14.

D. Capital

The 2019 ROE found that the Bank operated with an inadequate level of capital protection for the type and quality of assets it holds. FDIC Exh. 1 at 14. The Bank had inadequate capital in light of its high risk profile, seven consecutive years of operational losses, and a significant decline in Tier 1 leverage capital between examinations. *Id.* at 14, 28 (noting that Tier 1 Capital ratio fell from 9.67 percent during the 2017 exam to 6.83 percent during the 2018 exam).

The Bank experienced an unexpected capital increase in the first quarter of 2019 when it recorded the fair market value of its Mastercard stock. FDIC Exh. 1 at 13.⁴ However, the Mastercard stock was an equity security that constituted 50 percent of Tier One capital at the time and also made the Bank's capital vulnerable to price volatility in the stock market. *Id.* at 10, 15; FDIC Exh. 75 at 13, ¶ 33. In addition, the Bank's history revealed steady, declining capital levels due to year-after-year operational losses. FDIC Exh. 1 at 28; FDIC Exh. 2 at 21. The Bank demonstrated this downward trend in the period leading up to the 2019 examination when its Tier 1 leverage capital ratio dropped to 8.89 percent. FDIC Exh. 1 at 14. And the Bank's capital levels were expected to continue to erode because state law required additional write-downs of certain ORE properties under a 10-year divestiture requirement. *Id.* at 38.

⁴ The Bank marked its Mastercard stock to market as of the first quarter 2019, which, combined with appreciation of the stock, added several million dollars to the Bank's capital levels and increased the Bank's Tier 1 leverage capital to 10.04 percent as of March 31, 2019. FDIC Exh. 1 at 13; Exh. 66 at 2.

E. Sensitivity to Market Risk

The 2019 ROE found that the Bank was very sensitive to market risk because its critically deficient earnings and insufficient capital did not support the Bank's current level of interest rate risk, equity price, and market risk. FDIC Exh. 1 at 15. For example, the Bank's interest rate risk model simulations demonstrated significant risk to capital in a declining interest rate environment. *Id.* A sharp decline in the Bank's Mastercard stock could have had a crippling effect on the Bank's capital position. *Id.* at 16.⁵ Meanwhile, the Bank's negative earnings provided no buffer to any such adverse price movements. *Id.* at 14, 16. As a result, the Bank was substantially more vulnerable to stock market declines than other banks of similar size. *Id.* at 14.⁶

F. Violations of Law

As noted above, the undisputed facts also revealed that the Bank violated FDIC Rules and Regulations and Louisiana law during and following the examination period. More specifically, the Bank violated 12 C.F.R. § 362.3(b)(1) by holding two ORE properties beyond the applicable 10-year divestiture period without obtaining approval from the FDIC. FDIC Exh. 1 at 23.⁷ Likewise, the Bank violated Louisiana law, LA. STAT. ANN. § 6:243(B), which provides that a state bank shall not hold immovable property as an asset for longer than 10 years. *Id.*⁸ Further, the Bank violated LA. STAT. ANN. § 6:281 by operating with four board members from February 2016 through March 2020 and three board members after April 2020, instead of the minimum five required by Louisiana law. *Id.* Finally, the Bank violated 12 C.F.R. § 304.3 when it failed to accurately report six

⁵ The Bank had no policies in place to manage its Mastercard stock concentration and its related price risk. FDIC Exh. 1 at 16.

⁶ The 2019 ROE also emphasized the risk posed by a single, adversely classified loan relationship that represented 31 percent of the Bank's total capital. FDIC Exh. 1 at 10 (the sizable loan was classified as "substandard").

⁷ Although the Bank had initially filed an application with respect to the two properties on October 27, 2017, the Bank withdrew the application on June 22, 2018. FDIC Exh. 2 at 16.

⁸ The Bank held three ORE properties beyond the 10-year statutory period without disposing of the properties or transferring them to a subsidiary. FDIC Exh. 1 at 23. This violation was also cited during the 2018 examination. FDIC Exh. 2 at 8.

nonaccrual loans (totaling \$1,279,308) pursuant to the instructions governing Consolidated Reports of Condition and Income (“Call Reports”). *Id.* at 9, 23.

IV. ANALYSIS

A. Standard for Summary Disposition

Under 12 C.F.R. § 308.29(a), summary disposition is appropriate

if the undisputed pleaded facts, admissions, affidavits, stipulations, documentary evidence, matters as to which official notice may be taken, and any other evidentiary materials properly submitted in connection with a motion for summary disposition show that: (1) [t]here is no genuine issue as to any material fact; and (2) [t]he moving party is entitled to a decision in its favor as a matter of law.

Id. The standard for summary disposition is similar to that for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. *See Matter of Cirino*, FDIC-99-011e, 2000 WL 1131919, at *23 (May 10, 2000); *see also Scott v. FDIC*, 684 F. App’x 391, 394 (5th Cir. 2017) (citing *Abbott v. Equity Grp., Inc.*, 2 F.3d 613, 618 (5th Cir. 1993)) (articulating the summary judgment standard).

“The movant has the initial burden of demonstrating the absence of material fact issues.” *Abbott*, 2 F.3d at 619 (citation omitted). To avoid summary judgment, the non-movant must adduce evidence which creates a material fact issue concerning each of the essential elements of its case for which it will bear the burden of proof at trial. “[A] dispute about a material fact is ‘genuine’ . . . if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.* (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)).

The administrative record offers extensive support for the conclusion that there is no genuine issue of material fact. Enforcement Counsel provided un rebutted evidence that the Bank repeatedly engaged in unsafe or unsound conduct in addition to violating FDIC Rules and Regulations and Louisiana law. The Bank, in turn, failed to respond to the Notice as well as the Motion for Summary Disposition. Having reviewed the record, the Board agrees with the ALJ that summary

disposition is appropriate as a matter of law and, as discussed further below, an Order to Cease and Desist is warranted.

B. The Cease and Desist Order is Appropriate

A Cease and Desist Order is appropriate when a depository institution has engaged in one or more “unsafe or unsound practice[s],” conduct “deemed contrary to accepted standards of banking operations which might result in abnormal risk or loss to a banking institution or shareholder.” 12 U.S.C. § 1818(b)(1); *see Greene Cty. Bank v. FDIC*, 92 F.3d 633, 636 (8th Cir. 1996) (citations omitted); *Matter of Frontier State Bank*, FDIC-07-228b, 2011 WL 2411399, at *5 (Apr. 12, 2011) (“In the case of a cease-and-desist action, the authority of the FDIC includes the power to craft a remedy requiring that affirmative action be taken to correct the conditions resulting from cited unsafe or unsound practices.” (citing 12 U.S.C. § 1818(b)(6))), *aff’d*, *Frontier State Bank v. FDIC*, 702 F.3d 588 (10th Cir. 2012). An unsafe or unsound banking practice is one that is “contrary to generally accepted standards of prudent operation” whose consequences pose an “abnormal risk of loss or harm” to a bank. *Michael v. FDIC*, 687 F.3d 337, 352 (7th Cir. 2012); *see also Seidman v. Office of Thrift Supervision*, 37 F.3d 911, 932 (3d Cir. 1994) (“imprudent act” posing an “abnormal risk of [financial] loss or damage to an institution, its shareholders, or the agencies administering the insurance funds” is an unsafe and unsound practice (citation omitted)). A cease and desist order is also appropriate when a bank has violated a law, rule or regulation. 12 U.S.C. § 1818(b)(1); *see, e.g., Matter of California Pacific Bank*, FDIC-13-094b, 2016 WL 2997645 (Feb. 17, 2016); *Matter of ****, FDIC-83-252b&c, 1984 WL 273950, at *36 (Nov. 20, 1984) (“Under Section 8(b) of the Act, Congress empowered the FDIC to initiate an action for the issuance of a cease and desist order for a violation of a law, rule or regulation.”).

In this case, the record contains ample evidence that the Bank engaged in unsafe or unsound banking practices. The Bank had less-than-satisfactory ratings in several critical components of the 2019 ROE including Management, Asset Quality, and Earnings. Independent of any other findings,

less-than-satisfactory ratings in those categories establish a statutory basis for finding that the Bank engaged in unsafe or unsound banking practices warranting an order to cease and desist. 12 U.S.C. § 1818(b)(8); see *Matter of Frontier State Bank*, 2011 WL 2411399, at *4 (“[T]he Bank’s less-than-satisfactory ratings for liquidity and management form independent statutory bases for imposing a cease and desist order under section 8(b).”); *Matter of Marine Bank & Trust Co.*, FDIC-10-825b, 2013 WL 2456822, at *7 (Mar. 19, 2013) (“[I]n addition to each of the detailed findings described above, the Bank’s less-than-satisfactory ratings for three critical components provide an independent basis for the ALJ to conclude that the Bank engaged in unsafe and unsound practices.”). Here, the Bank also violated FDIC Rules and Regulations (12 C.F.R. § 362.3(b)(1) and § 304.3) and Louisiana law (LA. STAT. ANN. §§ 6:243 and 6:281), providing a separate basis to warrant a cease and desist order. 12 U.S.C. § 1818(b)(1).

Because the Bank unquestionably engaged in unsafe or unsound practices and violations of FDIC Rules and Regulations and state law, it is appropriate and necessary for the Board to order the Bank to cease and desist from such practices and to take affirmative action to remedy their negative effects. The Board’s Order requires that the Bank implement policies and procedures designed to mitigate risk and promote safe and sound practices. The requirements in the Order are consistent with the purpose of section 8(b) of the FDI Act and are “reasonably related” to the Bank’s unsafe and unsound practices and violations of rule and law. *Matter of Frontier State Bank*, 2011 WL 2411399, at *5 (“[T]he appropriate inquiry [for the Board] is whether the remedy proposed by the ALJ is reasonably related to and in accordance with the legislative purpose of section 8(b) of the FDI Act.”); 12 U.S.C. § 1818(b)(1), (6).

IV. CONCLUSION

After a thorough review of the uncontested record in this proceeding and for the reasons set forth previously, the Board adopts the Recommended Decision and issues the following Order to Cease and Desist.

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

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In the Matter of:))
)) ORDER TO CEASE AND DESIST
BANK OF LOUISIANA,))
NEW ORLEANS, LOUISIANA)) FDIC-20-0086b
))
(INSURED STATE NONMEMBER BANK)))
_____))

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency for the Bank of Louisiana, New Orleans, Louisiana, (“Bank”), under section 3(q) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. § 1813(q).

IT IS ORDERED that the Bank, institution-affiliated parties of the Bank, as that term is defined in section 3(u) of the FDI Act, 12 U.S.C. § 1813(u), and its successors and assigns, cease and desist from the following unsafe or unsound banking practices:

1. Operating the Bank with management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits;
2. Operating the Bank in a manner that has caused the Bank’s overall financial condition to remain critically deficient;
3. Failing to develop and implement specific and realistic strategies to improve the condition of the Bank;
4. Operating with inadequate risk management processes in relation to credit quality and the excessive level of Other Real Estate (“ORE”) owned by the Bank;
5. Operating with significant deficiencies relating to the Bank’s ORE portfolio, negatively impacting the Bank’s asset quality, earnings, and capital;
6. Failing to implement measures designed to reduce the Bank’s ORE portfolio;
7. Failing to conduct adequate credit administration practices in relation to

- the Bank's risk profile;
8. Failing to establish adequate risk management processes in relation to economic conditions and asset concentrations;
 9. Operating the Bank with inadequate earnings to support Bank operations and maintain capital;
 10. Operating the Bank with an excessive level of adversely classified assets;
 11. Operating with excessive interest rate risk and equity price risk;
 12. Operating the Bank without adequate supervision and direction by the Bank's board; and
 13. Operating the Bank in violation of applicable laws and regulations.

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

Other Real Estate ("ORE")—Plan for Reduction

1. (a) Within 90 days after the effective date of this ORDER, the Bank shall formulate and submit to the Regional Director of the FDIC Dallas Regional Office ("Regional Director") and the Commissioner ("Commissioner") of the Louisiana Office of Financial Institutions ("OFI"), for review and comment, a written plan to reduce the dollar volume of ORE as a percent of Tier 1 Capital plus the Allowance for Loan and Lease Losses ("ALLL") identified in the Report of Examination as of September 30, 2019. The plan should include detailed proposed actions to dispose of 50 percent of ORE within 12 months and the remaining ORE within 18 months. Such plan shall include, but not be limited to, the following:

(i) A marketing strategy (including, but not limited to, a list of real estate agents, current appraisals, and comparisons between market value and listing price) for each ORE parcel and specific monthly reduction benchmarks for the ORE portfolio.

(ii) Quarterly status reports to the Regional Director and the Commissioner that track the Bank's progress in meeting the proposed benchmarks and any recent changes to its marketing strategies.

(b) For purposes of the plan, "reduce" means to transfer ownership of the ORE parcel to an entity not owned by the Bank.

(c) The plan shall include the appointment of a senior officer, other than Chairman G. Harrison Scott, to manage the ORE portfolio. His/her responsibilities shall include:

(i) Determining appropriate ORE pricing and marketing strategies for all ORE properties;

(ii) Approving sales, without the Bank's board approval, for ORE properties at less than a pre-determined dollar amount.

(d) After the Regional Director and the Commissioner have responded to the plan, the Bank's board of directors shall adopt the plan as amended or modified by the Regional Director and the Commissioner. The plan shall be implemented immediately to the extent that the provisions of the plan are not already in effect at the Bank.

RESTRICTIONS ON ADDITIONAL ADVANCES

2. (a) As of the effective date of this Order, the Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower whose extension of credit is classified "Doubtful" or "Substandard" without prior approval from the Regional Director and the Commissioner. The Bank's board should provide the FDIC and OFI a

detailed written statement giving reasons why failure to extend such credit would be detrimental to the Bank. The statement shall be placed in the appropriate loan file and included in the minutes of the applicable Board meeting.

(b) The requirements of this provision shall not prohibit the Bank from renewing credit already extended to a borrower after full collection, in cash, of all interest due from the borrower.

Profit Plan

3. (a) Within 90 days of the effective date of this Order, the Bank's board shall develop a written profit plan and submit it to the Regional Director and Commissioner for approval. The plan will establish specific strategies and remedial measures to improve the profitability of the Bank.

(b) At a minimum, the plan shall address the following items:

- (i) The major areas in which the Bank's board will seek to improve the Bank's operating performance;
- (ii) A budget which incorporates realistic and comprehensive assumptions;
- (iii) A budget review process which compares actual income and expenses with projections; and
- (iv) A description of the assumptions that support projected income and expense components.

(c) Thereafter, the Bank shall formulate such a plan and budget by January 31st of each subsequent year and submit it to the Commissioner and Regional Director for approval.

Capital

4. (a) The Bank shall maintain its Tier 1 Leverage Capital ratio equal to or greater than 8 percent of the Bank's Average Total Assets; maintain its Tier 1 Risk-Based Capital ratio equal to or greater than 10 percent of the Bank's Total Risk-Weighted Assets; and maintain its Total Risk-Based Capital ratio equal to or greater than 12 percent of the Bank's Total Risk Weighted Assets.

(b) If any capital ratio is less than, or falls below, what is required by the ORDER, as determined as of the date of any Report of Condition and Income or at an examination by the FDIC or the State, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director or the Commissioner, present to the Regional Director and the Commissioner a Capital Plan to increase the ratio(s), or to take such other measures to bring all the capital ratios in line with the percentages required by this ORDER. After the Regional Director and the Commissioner respond to the Capital Plan, the Bank's board of Directors shall adopt the Capital Plan, including any modifications or amendments requested by the Regional Director and the Commissioner.

(c) As of the effective date of this ORDER, the Bank shall not declare or pay any cash dividend without the prior written consent of the Regional Director and the Commissioner.

Management

5. Within 120 days after the effective date of this Order, the Bank's board shall appoint a Chief Executive Officer/President to manage daily operations. The Bank's board shall submit an application to appoint the new executive officer to the Regional Director and Commissioner.

Equity Security Policy

6. (a) Within 90 days after the effective date of this ORDER, the Bank's board shall develop policies and procedures to govern exposures and volatility associated with equity securities with readily determinable fair values.

(b) Policies and procedures should include, at a minimum:

- (i) Board approved risk limits for individual and total equity securities as a percent of total assets;
- (ii) Ongoing credit analysis of equity securities;
- (iii) Periodic stress testing of equity securities and maximum stress testing risk tolerances;
- (iv) Board reporting requirements;
- (v) Accounting and regulatory reporting guidelines; and
- (vi) Disposition strategies for equity securities, including a stop-loss requirement to minimize loss on the liquidation of equity securities.

Violations of Law and Regulations

7. Within 90 days after the effective date of this ORDER, the Bank's board shall eliminate and/or correct all violations of law and regulation noted in the December 30, 2019 Report of Examination.

Progress Reports

8. Within 30 days after the end of each calendar quarter following the effective date of this ORDER, the Bank shall furnish to the Regional Director and the Commissioner written progress reports signed by each member of the Bank's board of directors, detailing the actions taken to secure compliance with the ORDER and the results thereof. Such reports may be

discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and the Commissioner have released, in writing, the Bank from making further reports.

Shareholder Notification

9. After the effective date of this ORDER, the Bank shall send a copy of this ORDER, or otherwise furnish a description of this ORDER, to its shareholders (1) in conjunction with the Bank's next shareholder communication, and also (2) 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 Accounting and Securities Disclosure Section, Washington, D.C. 20429, for review at least 20 days prior to dissemination to shareholders. Any changes requested by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

The provisions of this ORDER shall not bar, stop, or otherwise prevent the FDIC from taking any other action against the Bank or any of the Bank's current or former institution-affiliated parties.

This ORDER shall be effective on the date of issuance.

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

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

By Order of the Board of Directors.

Dated at Washington, D.C. this 21st day of October, 2021.



James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation

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