

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

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BANK OF THE NORTHWEST	)	ORDER CONDITIONALLY
BELLEVUE, WASHINGTON	)	GRANTING APPROVAL
	)	FOR WAIVER OF CROSS-
	)	GUARANTEE LIABILITY
SUNRISE BANK	)	
SAN DIEGO, CALIFORNIA	)	FDIC-11-297kk
(INSURED DEPOSITORY INSTITUTIONS)	)	FDIC-11-298kk
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WHEREAS, on November 20, 2009, Commerce Bank of Southwest Florida, Fort Myers, Florida (Commerce) failed and caused a loss to the Federal Deposit Insurance Corporation (FDIC); and

WHEREAS, at the time of its failure, Commerce was controlled by Capitol Bancorp, Ltd., Lansing, Michigan, a bank holding company (BHC); and

WHEREAS, at the time of Commerce's failure, BHC also controlled Bank of the Northwest, Bellevue, Washington, (together with its predecessor institutions, Northwest and Sunrise Bank, San Diego, California, (Sunrise) (collectively, Banks); and

WHEREAS, pursuant to 12 U.S.C. § 1815(e)(8), Banks and Commerce were commonly controlled at the time of the failure of Commerce; and

WHEREAS, pursuant to 12 U.S.C. § 1815(e)(1)(A), at the time of Commerce's failure, Banks incurred a cross-guarantee liability to the FDIC in connection with the FDIC's actual and anticipated losses in connection with Commerce's failure; and

WHEREAS, on May 24, 2011, Northwest entered into a definitive agreement to merge with an interim bank subsidiary of SKBHC Holdings, LLC, Scottsdale, Arizona (SKBHC), a bank holding company; and

WHEREAS, on June 8, 2011, Sunrise entered into a definitive agreement to merge with an interim bank subsidiary of SKBHC; and

WHEREAS, immediately after their respective mergers with the interim bank subsidiaries of SKBHC, Northwest and Sunrise will each merge into AmericanWest Bank, Spokane, Washington (AmericanWest), a bank currently controlled by SKBHC; and

WHEREAS, the merger transactions are conditioned on receipt of a waiver of any cross-guarantee liability arising from Banks' affiliation with Commerce or BHC; and

WHEREAS, BHC, SKBHC, and Banks have filed applications with the FDIC pursuant to 12 U.S.C. § 1815(e)(5)(A) requesting the FDIC's consent to grant a conditional waiver of the Banks' cross-guarantee liability on the condition that all the proceeds from the sale of the shares of Banks that BHC receives are invested in other insured depository institutions that BHC controls; and

WHEREAS, BHC shall only use such sales proceeds to invest in other insured depository institutions controlled by BHC as permitted by prior, written non-objection from the Division of Risk Management Supervision (RMS) Chicago Regional Director; and

BE ADVISED, the Board of Directors (Board) of the FDIC has fully considered the facts and information relating to the conditional waivers of cross-guarantee liability and has concluded that approval of such applications will be in the best interests of the Deposit Insurance Fund and should be granted by FDIC staff, subject to certain conditions and restrictions.

IT IS THEREFORE ORDERED THAT:

1. This ORDER CONDITIONALLY GRANTING APPROVAL FOR WAIVER OF CROSS GUARANTEE LIABILITY (ORDER) will become effective, and the waiver shall be unconditional upon the consummation of the mergers contemplated herein, only upon approval of the transactions contemplated herein by the Federal Reserve Bank of San Francisco and Washington State Department of Financial Institutions. Absent such consummation within 120 days from the date of issuance of the Order, the Order would become null and void unless, upon the written request of SKBHC and BHC, the FDIC, in its discretion, grants an extension of that time period with a subsequent order issued by the Director of RMS.
2. The exemption granted by the ORDER may not be conveyed to a third party or otherwise transferred.
3. Concurrent with the mergers contemplated herein, all sales proceeds shall be paid by SKBHC to a transfer agent on behalf of BHC and its second tier holding company, and BHC and AmericanWest shall ensure the transfer agent transfers the proceeds due BHC and its second tier holding company to an escrow agent on behalf of BHC and its second-tier holding company, and the escrow agent shall immediately transfer (i) transaction expense payments to the accounts of documented recipients after

receiving written non-objection from the FDIC for payment of such expenses and (ii) all net sales proceeds due BHC and its second-tier holding company to the capital accounts of other insured depository institutions controlled by BHC as directed by BHC and specifically agreed to in writing by the FDIC Chicago Regional Director or his designee.

4. In the event that one or more other insured institutions commonly controlled by BHC fails prior to the consummation of the merger transactions contemplated herein, then upon consummation, the escrow agent shall immediately transfer all net sales proceeds due BHC or its second-tier holding company directly to the FDIC as satisfaction of Northwest's and Sunrise's cross-guarantee liability associated with such failure, unless specifically agreed to in writing by the FDIC Chicago Regional Director or his designee.
5. Immediately following consummation of the transaction, BHC shall provide evidence to the FDIC Chicago Regional Director that all of the sales proceeds were used consistent with Condition 3.
6. No proceeds from the transaction may be paid to any shareholder of BHC or any second-tier holding company controlled by BHC except payments in accordance with Condition 3.
7. Proceeds from the transaction may be used only as explicitly permitted in Condition 3, and may not otherwise be used for payment of operating or other expenses of BHC or any of its second-tier holding companies.

