

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

|                                |   |               |
|--------------------------------|---|---------------|
| _____                          | ) |               |
| In the Matter of               | ) |               |
|                                | ) |               |
| THE BANK OF PERRY              | ) | CONSENT ORDER |
| PERRY, GEORGIA                 | ) |               |
|                                | ) |               |
| (Insured State Nonmember Bank) | ) | FDIC-09-638b  |
| _____                          | ) |               |

The Federal Deposit Insurance Corporation ("FDIC") is the appropriate Federal banking agency for THE BANK OF PERRY, PERRY, GEORGIA ("Bank") under 12 U.S.C. § 1813(q).

The Bank, by and through its duly elected and acting Board of Directors ("Board"), has executed a "Stipulation to the Issuance of a Consent Order" ("Stipulation"), dated February 18, 2010, that is accepted by the FDIC and the Georgia Department of Banking and Finance ("Department"). The Department may issue an order pursuant to section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. Section 7-1-91 (1985).

With this Stipulation, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices relating to weaknesses in asset quality, capital adequacy, earnings, concentration of credits and liquidity, to the issuance of this Consent Order ("ORDER") by the FDIC and the Department.

Having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) and section 7-1-91 of the Official Code of Georgia Annotated, GA Code Ann. Section 7-1-91 (1985) have been satisfied, the FDIC and the Department

hereby order that the Bank, its institution-affiliated parties, and its successors and assigns take affirmative action as follows:

**BOARD OF DIRECTORS**

1. (a) As of the effective date of this ORDER, the Board shall increase its participation in the affairs of the Bank, assuming full responsibility for the approval of sound policies and objectives and for the supervision of all of the Bank's activities, consistent with the role and expertise commonly expected for directors of banks of comparable size. The Board shall prepare in advance and follow a detailed written agenda for each meeting, including consideration of the actions of any committees. Nothing in the foregoing sentences shall preclude the Board from considering matters other than those contained in the agenda. This participation shall include meetings to be held no less frequently than monthly at which, at a minimum, the following areas shall be reviewed and approved: reports of income and expenses; new, overdue, renewal, insider, charged-off, and recovered loans; investment activity; operating policies; and individual committee actions. Board minutes shall document these reviews and approvals, including the names of any dissenting directors.

(b) Within 30 days from the effective date of this ORDER, the Board shall have in place a program that will provide for monitoring of the Bank's compliance with this ORDER. Following the adoption of the program, the Board shall review the Bank's compliance with this ORDER and record its review in the minutes of each regularly scheduled Board meeting. Establishment of this program does not in any way diminish the responsibility of the entire Board to ensure compliance with the provisions of this ORDER.

## MANAGEMENT

2. (a) During the life of this ORDER, the Bank shall have and retain qualified management with the qualifications and experience commensurate with assigned duties and responsibilities at the Bank. Each member of management shall be provided appropriate written authority from the Bank's Board to implement the provisions of this ORDER.

- (b) The qualifications of management shall be assessed on its ability to:
- (i) comply with the requirements of this ORDER;
  - (ii) operate the Bank in a safe and sound manner;
  - (iii) comply with applicable laws and regulations; and
  - (iv) restore all aspects of the Bank to a safe and sound condition, including, but not limited to, asset quality, capital adequacy, earnings, management effectiveness, risk management, liquidity and sensitivity to market risk.

## CAPITAL

3. (a) The Bank shall achieve and maintain the following minimum capital levels as defined in Part 325 of the FDIC Rules and Regulations, 12 C.F.R. Part 325, after establishing an adequate ALLL:

- (i) Tier 1 capital at least equal to eight (8.0%) percent of total assets;  
and
- (ii) Total risk-based capital at least equal to ten (10.0%) percent of total risk-weighted assets.

(b) Thereafter during the life of this ORDER, the Bank shall maintain Tier 1 capital in such an amount as to equal or exceed eight (8%) percent of the Bank's total assets and a Total risk-based capital ratio of at least ten (10%) percent as those capital ratios are described in Part 325 of the FDIC Rules and Regulations, 12 C.F.R. Part 325.

(c) Within 30 days of the last day of each calendar quarter, the Bank shall determine, from its Reports of Condition and Income, its capital ratios for that calendar quarter. If any capital measure falls below the established minimum, within 30 days of such required determination of capital ratios, the Bank shall submit a written plan to the FDIC, describing the means and timing by which the Bank shall increase such ratios up to or in excess of the established minimum.

#### **RESTRICTIONS ON CERTAIN PAYMENTS**

4. (a) While this ORDER is in effect, the Bank shall not declare or pay dividends or bonuses without the prior written approval of the Regional Director of the FDIC's Atlanta Regional Office ("Regional Director") and the Commissioner (collectively, "Supervisory Authorities"). All requests for prior approval shall be received at least 30 days prior to the proposed dividend declaration date (at least 5 days with respect to any request filed within the first 30 days after the date of this ORDER) and shall contain, but not be limited to, an analysis of the impact such dividend or bonus payment would have on the Bank's capital, income, and/or liquidity positions.

(b) During the term of this ORDER, the Bank shall not make any distributions of interest, principal or other sums on subordinated debentures, if any, without the prior written approval of the Supervisory Authorities.

## **CONCENTRATIONS OF CREDIT**

5. Within 45 days from the effective date of this ORDER, the Bank shall perform a risk segmentation analysis with respect to the concentrations of credit discussed in the FDIC Visitation Report dated August 31, 2009 (the "Report"), including acquisition, development and construction loans. Concentrations should be identified by product type, geographic distribution, underlying collateral or other asset groups, which are considered economically related and in the aggregate represent a large portion of the Bank's Tier 1 Capital. The Bank shall develop a written plan approved by its Board and acceptable to the FDIC to systematically reduce any segment of the portfolio which the FDIC deems to be an undue concentration of credit in relation to the Bank's Tier 1 Capital. At a minimum the plan must provide for written procedures for the ongoing measurement and monitoring of the concentrations of credit, and a limit on concentrations commensurate with the Bank's capital position, safe and sound banking practices, and the overall risk profile of the Bank.

## **CHARGE-OFF**

6. While this ORDER remains in effect, the Bank shall, within 10 days from the receipt of any official Report of Examination of the Bank from the FDIC or the Department, eliminate from its books, by collection, charge-off, or other proper entries, the remaining balance of any asset classified "Loss" and 50 percent of those classified "Doubtful" unless otherwise approved in writing by the Supervisory Authorities. If an asset classified "Doubtful" is a loan, the Bank may, in the alternative, increase its allowance for loan and lease losses ("ALLL") by an amount equal to 50 percent of the loan classified "Doubtful."

(c) Elimination or reduction of assets through proceeds of other loans made by the Bank is not considered collection for purposes of this provision.

**ADVERSELY CLASSIFIED ASSETS**

7. (a) Within 60 days from the effective date of this ORDER, the Bank shall submit to the Regional Director, for review and comment, a written plan to reduce the Bank's risk position in each asset in excess of \$250,000 which is classified "Substandard" or "Doubtful" in the internal watch list dated August 31, 2009 and the updated watch list dated September 5, 2009. Within 10 days from the receipt of any comment from the Regional Director, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of a Board meeting. Thereafter, the Bank shall implement and follow this plan.

**NO MATERIAL GROWTH WITHOUT PRIOR NOTICE**

8. During the life of this ORDER, the Bank shall limit asset growth to 10 percent per annum and in no event shall asset growth result in noncompliance with the capital maintenance provisions of this ORDER without receiving prior written approval of the Supervisory Authorities.

**LIQUIDITY AND FUNDS MANAGEMENT**

9. Within 60 days from the effective date of this ORDER, the Bank shall adopt and implement a written plan addressing liquidity, contingent funding, and asset liability management. A copy of the plan shall be submitted to the Supervisory Authorities upon its completion for review and comment. Within 30 days from the receipt of any comments from the Supervisory Authorities, the Bank shall incorporate those recommended changes. Thereafter, the Bank shall implement and follow the plan.

Annually during the life of this ORDER, the Bank shall review this plan for adequacy and, based upon such review, shall make appropriate revisions to the plan that are necessary to strengthen funds management procedures and maintain adequate provisions to meet the Bank's liquidity needs.

#### **PLAN FOR EXPENSES AND PROFITABILITY**

10. (a) Within 60 days from the effective date of this ORDER, the Bank shall formulate and implement a written profit plan and a realistic, comprehensive budget for all categories of income and expense. This plan shall be forwarded to the Regional Director for review and comment and shall address, at a minimum, the following:

- (i) goals and strategies for improving and sustaining the earnings of the Bank;
- (ii) the major areas in, and means by which the Bank will seek to improve the Bank's operating performance; and
- (iii) the operating assumptions that form the basis for, and adequately support, major projected income and expense components.

(b) Following the end of each calendar quarter, the Board shall evaluate the Bank's actual performance in relation to the plan required by this paragraph and shall record the results of the evaluation, and any actions taken by the Bank in the minutes of the Board meeting at which such evaluation is undertaken.

#### **BROKERED DEPOSITS**

11. (a) Throughout the effective life of this ORDER, the Bank shall not accept, renew, or rollover any brokered deposit, as defined by 12 C.F.R. § 337.6(a)(2), unless it

is in compliance with the requirements of 12 C.F.R. § 337.6(b), governing solicitation and acceptance of brokered deposits by insured depository institutions.

(b) The Bank shall comply with the restrictions on the effective yields on deposits described in 12 C.F.R. § 337.6.

### **DISCLOSURE TO SHAREHOLDERS**

12. Following the issuance of this ORDER, the Bank shall provide to its shareholders or otherwise furnish a description of this ORDER (i) in conjunction with the Bank's next shareholder communication or (ii) 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, Division of Supervision and Consumer Protection, Accounting and Securities Disclosure Section, 550 17<sup>th</sup> Street, N.W., Room F-6066, Washington, D.C. 20429 and to the Commissioner, Georgia Department of Banking and Finance, 2990 Brandywine Road, Suite 200, Atlanta, Georgia 30341-5565, to review at least twenty (20) days prior to dissemination to shareholders. Any changes requested to be made by the FDIC and the Commissioner shall be made prior to dissemination of the description, communication, notice, or statement.

### **PROGRESS REPORTS**

13. Within 30 days of the end of the first quarter following the effective date of this ORDER, and within 30 days of the end of each quarter thereafter, the Bank shall furnish written progress reports to the Supervisory Authorities detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports shall include a copy of the Bank's Report of Condition and the Bank's Report of

Income. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Supervisory Authorities have released the Bank in writing from making further reports.

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

This ORDER shall become 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 in writing.

Issued pursuant to Delegated Authority.

Dated this 25th day of February, 2010.

/s/

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Doreen Eberley  
Acting Regional Director  
Division of Supervision and Consumer Protection  
Atlanta Region  
Federal Deposit Insurance Corporation

The Georgia Department of Banking and Finance (“Department”), having duly approved the foregoing ORDER, and the Bank, through its Board, agree that the issuance of said ORDER by the FDIC shall be binding as between the Bank and the Georgia Commissioner of Banking and Finance to the same degree and to the same legal effect that such ORDER would be binding if the Department had issued a separate ORDER that included and incorporated all of the provisions of the foregoing ORDER, pursuant to Official Code of Georgia Annotated § 7-1-91, Ga. Code. Ann. § 7-1-91 (1985).

Dated this 23rd of February, 2010.

/s/

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Robert M. Braswell  
Commissioner  
Department of Banking and Finance  
State of Georgia