

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
TALLAHASSEE, FLORIDA

Written Agreement by and among

FLAGLER BANK
West Palm Beach, Florida

FEDERAL RESERVE BANK
OF ATLANTA
Atlanta, Georgia

and

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION
Tallahassee, Florida

Docket Nos. 09-155-WA/RB-HC
09-155-WA/RB-SM

OFR Administrative File No.
0685-FI-10/09

WHEREAS, in recognition of their common goal to maintain the financial soundness of Flagler Bank, West Palm Beach, Florida (the “Bank”), a state chartered bank that is a member of the Federal Reserve System, the Bank, the Federal Reserve Bank of Atlanta (the “Reserve Bank”), and the State of Florida Office of Financial Regulation, Tallahassee, Florida (the “OFR”) have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on November 5, 2009, the board of directors of the Bank, at a duly constituted meeting, adopted a resolution authorizing and directing Ronald Y. Schram, Chairman of the Board, to enter into this Agreement on behalf of the Bank, and consenting to compliance

with each and every applicable provision of this Agreement by the Bank, and its institution-affiliated parties, as defined in Section 3(u) of the Federal Deposit Insurance Act, as amended (the “FDI Act”)(12 U.S.C. § 1813(u)) and Section 655.005(1)(i), Florida Statutes.

NOW, THEREFORE, the Bank, the Reserve Bank, and the OFR agree as follows:

Board Oversight

1. Within 60 days of this Agreement, the board of directors of the Bank shall submit to the Reserve Bank and the OFR a written plan to strengthen board oversight of the management and operations of the Bank. The plan shall, at a minimum, address, consider, and include:

(a) The actions that the board of directors will take to improve the Bank’s condition and maintain effective control over, and supervision of, the Bank’s major operations and activities, including but not limited to, credit risk management, loan review, processes to mitigate risks associated with credit concentrations, loan workouts and liquidity;

(b) a revised strategic plan to improve the Bank’s condition; and

(c) a description of the information and reports that will be regularly reviewed by the board of directors in its oversight of the operations and management of the Bank, including information on the Bank’s adversely classified assets, concentrations of credits, allowance for loan and lease losses (“ALLL”), capital, liquidity, and earnings.

Corporate Governance and Management Review

2. (a) Within 30 days of this Agreement, the board of directors of the Bank shall retain an independent consultant acceptable to the Reserve Bank and the OFR to conduct a review of the effectiveness of the Bank’s corporate governance and management structure (the

“Review”) and to prepare a written report of findings and recommendations (the “Report”). The Review shall, at a minimum, address, consider, and include:

- (i) the qualifications and performance of each of the Bank’s senior executive officers to determine whether the individual possesses the ability, experience, and other qualifications to competently perform present and anticipated duties, including their ability to: adhere to applicable laws and regulations and the Bank’s established policies and procedures; restore and maintain the Bank to a safe and sound condition; and comply with the requirements of this Agreement;
- (ii) the identification of present and future management and staffing needs for each area of the Bank, particularly in the areas of credit risk management, liquidity, loan review, appraisals, and loan workouts; and
- (iii) an assessment of the current structure and composition of the board of directors and their committees, and a determination of the structure and composition needed to adequately supervise the affairs of the Bank.

(b) Within 10 days of the Reserve Bank’s and the OFR’s approval of the independent consultant selection, the Bank shall submit an engagement letter to the Reserve Bank and the OFR for approval. The engagement letter shall require the independent consultant to submit the Report within 30 days of regulatory approval of the engagement letter and to

provide a copy of the Report to the Reserve Bank and the OFR at the same time that it is provided to the Bank's board of directors.

3. Within 30 days of receipt of the Report, the Bank's board of directors shall submit a written management plan to the Reserve Bank and the OFR that fully addresses the findings and recommendations in the Report and describes the specific actions that the board of directors proposes to take in order to strengthen the Bank's management and to hire, as necessary, officers or staff to properly manage and operate the Bank.

Credit Risk Management and Credit Administration

4. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen credit risk management practices. The plan shall, at a minimum, address, consider, and include:

- (a) Periodic review and revision of risk exposure limits to address changes in market conditions;
- (b) strategies to minimize credit losses and reduce the level of problem assets;
- (c) timely and accurate identification and quantification of credit risk within the loan portfolio;
- (d) underwriting standards that require documented analyses on an on-going basis of the borrower's and guarantor's repayment sources, global cash flow, creditworthiness, and overall debt service ability, and the periodic submission of current financial statements;
- (e) stress testing of loan and portfolio segments; and
- (f) management's monitoring and controlling of problem assets.

Concentrations of Credit

5. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to strengthen the Bank's management of commercial real estate ("CRE") concentrations, including steps to reduce or mitigate the risk of concentrations. The plan shall be consistent with the Interagency Guidance on Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices, dated December 12, 2006 (SR 07-1), and, at a minimum, address, consider, and include:

- (a) Establishment of concentration of credit risk tolerances or limits by types of loan products, geographic locations, and other common risk characteristics or sensitivities;
- (b) ongoing risk assessments;
- (c) strategic planning regarding risks associated with CRE concentrations, including steps to control and mitigate such risks; and
- (d) enhanced periodic reporting to management and the board of directors.

Loan Policies and Procedures

6. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR acceptable loan policies and procedures. The policies and procedures shall, at a minimum, address, consider, and include:

- (a) Lending strategies for CRE;
- (b) the level and nature of CRE exposure limits;
- (c) CRE loan underwriting standards;
- (d) acceptable use of interest reserves; and
- (e) procedures for approving and monitoring technical exceptions.

Loan Documentation

7. Within 60 days of this Agreement, the Bank shall take all steps necessary to correct the documentation and credit information deficiencies in the Bank's loan files listed in the report of the examination commencing May 4, 2009 and conducted by the Reserve Bank ("Report of Examination"). In all cases where the Bank is unable to obtain needed documentation or credit information, the Bank shall document the actions taken to secure the information and the reasons the information could not be obtained. The Bank shall maintain this documentation in the related credit file for supervisory review.

Loan Review Program

8. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for the ongoing review and grading of the Bank's loan portfolio by a qualified independent party or by qualified staff that is independent of the Bank's lending function. The program shall, at a minimum, address, consider, and include:

- (a) The scope and frequency of loan review;
- (b) standards and criteria for assessing the credit quality of loans;
- (c) application of loan grading standards and criteria to the loan portfolio;
- (d) controls to ensure adherence to the revised loan review and grading standards; and
- (e) written reports to the board of directors, at least quarterly, that identify the status of those loans that are nonperforming or adversely graded and the prospects for full collection or strengthening of the quality of any such loans.

Appraisal and Appraisal Review Program

9. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for real estate appraisals and appraisal reviews that shall, at a minimum, address, consider, and include:

(a) Procedures to ensure that appraisals conform to accepted appraisal standards, as defined in the Uniform Standards of Professional Appraisal Practice, and comply with the requirements of Subpart G of Regulation Y of the Board of Governors of the Federal Reserve System (the “Board of Governors”) (12 C.F.R. Part 225, Subpart G) made applicable to state member banks by section 208.50 of Regulation H of the Board of Governors (12 C.F.R. § 208.50), and the Interagency Appraisal and Evaluation Guidelines, dated October 27, 1994 (SR 94-55);

(b) the review of appraisals by qualified individuals who are independent of the loan production process;

(c) written standards for when reappraisals and reevaluations must be conducted, including, but not limited to, when new funds are advanced or when changes in market conditions or the condition of the collateral or project occur; and

(d) enhanced appraisal review procedures to ensure the quality and timeliness of appraisals.

Asset Improvement

10. (a) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, who is obligated to the Bank in any manner on any extension of credit or portion thereof that has been charged off by

the Bank or classified, in whole or in part, “loss” in the Report of Examination or in any subsequent report of examination, as long as such credit remains uncollected.

(b) The Bank shall not, directly or indirectly, extend or renew any credit to or for the benefit of any borrower, including any related interest of the borrower, whose extension of credit has been classified “doubtful” or “substandard” in the Report of Examination or in any subsequent report of examination, without the prior approval of the board of directors. The board of directors shall document in writing the reasons for the extension of credit or renewal, specifically certifying that: (i) the extension of credit is necessary to protect the Bank’s interest in the ultimate collection of the credit already granted or (ii) the extension of credit is in full compliance with the Bank’s written loan policy, is adequately secured, and a thorough credit analysis has been performed indicating that the extension or renewal is reasonable and justified, all necessary loan documentation has been properly and accurately prepared and filed, the extension of credit will not impair the Bank’s interest in obtaining repayment of the already outstanding credit, and the board of directors reasonably believes that the extension of credit or renewal will be repaid according to its terms. The written certification shall be made a part of the minutes of the board of directors meetings, and a copy of the signed certification, together with the credit analysis and related information that was used in the determination, shall be retained by the Bank in the borrower’s credit file for subsequent supervisory review. For purposes of this Agreement, the term “related interest” is defined as set forth in Section 215.2(n) of Regulation O of the Board of Governors (12 C.F.R. § 215.2(n)) and Section 658.48(4), Florida Statutes.

11. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan designed to improve the Bank’s position through

repayment, amortization, liquidation, additional collateral, or other means on each loan, relationship, or other asset in excess of \$250,000, including other real estate owned (“OREO”) and pools of loans, that are past due as to principal or interest more than 90 days as of the date of this Agreement, are on the Bank’s problem loan list, or were adversely classified in the Report of Examination.

(b) Within 30 days of the date that any additional loan, relationship, or other asset in excess of \$250,000, including OREO, becomes past due as to principal or interest for more than 90 days, is on the Bank’s problem loan list, or is adversely classified in any subsequent report of examination of the Bank, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to improve the Bank’s position on such loan, relationship, or asset.

(c) Within 30 days after the end of each calendar quarter thereafter, the Bank shall submit a written progress report to the Reserve Bank and the OFR to update each asset improvement plan, which shall include, at a minimum, the carrying value of the loan or other asset and changes in the nature and value of supporting collateral, along with a copy of the Bank’s current problem loan list, a list of all loan renewals and extensions without full collection of interest in the last quarter, and past due/non-accrual report.

Allowance for Loan and Lease Losses

12. (a) Within 10 days of this Agreement, the Bank shall eliminate from its books, by charge-off or collection, all assets or portions of assets classified “loss” in the Report of Examination that have not been previously collected in full or charged off. Thereafter the Bank shall, within 30 days from the receipt of any federal or state report of examination, charge off all assets classified “loss” unless otherwise approved in writing by the Reserve Bank and the

OFR.

(b) Within 60 days of this Agreement, the Bank shall review and revise its allowance for loan and lease losses (“ALLL”) methodology consistent with relevant supervisory guidance, including the Interagency Policy Statements on the Allowance for Loan and Lease Losses, dated July 2, 2001 (SR 01-17 (Sup)) and December 13, 2006 (SR 06-17), and the findings and recommendations regarding the ALLL set forth in the Report of Examination, and submit a description of the revised methodology to the Reserve Bank and the OFR. The revised ALLL methodology shall be designed to maintain an adequate ALLL and shall address, consider, and include, at a minimum, the reliability of the Bank’s loan grading system, the volume of criticized loans, concentrations of credit, the current level of past due and nonperforming loans, past loan loss experience, evaluation of probable losses in the Bank’s loan portfolio, including adversely classified loans, and the impact of market conditions on loan and collateral valuations and collectability.

(c) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written program for the maintenance of an adequate ALLL. The program shall include policies and procedures to ensure adherence to the Bank’s revised ALLL methodology and provide for periodic reviews and updates to the ALLL methodology, as appropriate. The program shall also provide for a review of the ALLL by the board of directors on at least a quarterly calendar basis. Any deficiency found in the ALLL shall be remedied in the quarter it is discovered, prior to the filing of the Consolidated Reports of Condition and Income, by additional provisions. The board of directors shall maintain written documentation of its review, including the factors considered and conclusions reached by the Bank in determining the adequacy of the ALLL. During the term of this Agreement, the Bank shall submit to the Reserve

Bank and the OFR, within 30 days after the end of each calendar quarter, a written report regarding the board of directors' quarterly review of the ALLL and a description of any changes to the methodology used in determining the amount of the ALLL for that quarter.

Internal Audit

13. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written internal audit program that shall, at a minimum, provide for:

- (a) Improved oversight of all aspects of the audit program by the board of directors' audit committee;
- (b) an enhanced audit committee charter and audit-related policies;
- (c) timely engagement of an independent firm to provide internal audit services;
- (d) controls to ensure that audits are completed on a timely basis in accordance with the approved audit plan;
- (e) requirements for detailed, comprehensive audit reports and adequate work papers from the independent firm;
- (f) accurate identification of the scope for internal audits;
- (g) accurate and complete audit committee minutes; and
- (h) timely resolution of audit findings and follow-up reviews to ensure completion of corrective measures.

Capital Plan

14. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to maintain sufficient capital at the Bank. The plan shall, at a minimum, address, consider, and include the Bank's current and future capital requirements,

including:

(a) Compliance with the Capital Adequacy Guidelines for State Member Banks: Risk-Based Measure and Tier 1 Leverage Measure, Appendices A and B of Regulation H of the Board of Governors (12 C.F.R. Part 208, App. A and B);

(b) the volume of adversely classified assets;

(c) the adequacy of the loan loss reserve;

(d) any planned asset growth;

(e) the anticipated level of retained earnings;

(f) anticipated and contingent liquidity needs; and

(g) the source and timing of additional funds to fulfill the future capital and loan loss reserve needs of the Bank.

15. The Bank shall notify the Reserve Bank and the OFR, in writing, no more than 30 days after the end of any quarter in which any of the Bank's capital ratios (total risk-based, Tier 1, or leverage) fall below the plan's minimum ratios. Together with the notification, the Bank shall submit an acceptable capital plan that details the steps the Bank will take to increase the Bank's capital ratios to or above the plan's minimums.

Liquidity and Funds Management

16. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to improve management of the Bank's liquidity position and funds management practices. The plan shall, at a minimum, address, consider, and include:

(a) Measures to enhance the monitoring, measurement, and reporting of the Bank's liquidity to the board of directors;

(b) enhanced liquidity and cash flow analyses;

- (c) adherence to internal policies for the frequency of meetings of the Asset/Liability Committee (“ALCO”);
- (d) detailed written minutes for all ALCO meetings; and
- (e) specific liquidity targets and parameters and the maintenance of sufficient liquidity to meet contractual obligations and unanticipated demands.

17. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR an acceptable revised written contingency funding plan that, at a minimum, includes adverse scenario planning and identifies and quantifies available sources of liquidity for each scenario.

Earnings Plan and Budget

18. (a) Within 90 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFR a written business plan for 2010 to improve the Bank’s earnings and overall condition. The plan, at a minimum, shall provide for or describe:

- (i) a realistic and comprehensive budget for calendar year 2010, including income statement and balance sheet projections; and
- (ii) a description of the operating assumptions that form the basis for, and adequately support, major projected income, expense, and balance sheet components.

(b) During the term of this Agreement, a business plan and budget for each calendar year subsequent to 2010 shall be submitted to the Reserve Bank and the OFR with the at least 30 days prior to the beginning of that calendar year.

Dividends

19. (a) The Bank shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Director of the Division of Banking Supervision and

Regulation of the Board of Governors, and the OFR.

(b) Any request to declare or pay dividends must be consistent with the Board of Governors' Policy Statement on the Payment of Cash Dividends by State Member Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323) and Section 658.37, Florida Statutes. All requests for prior approval shall be received by the Reserve Bank and the OFR at least 30 days prior to the proposed dividend declaration date and shall contain, at a minimum, current and projected information on earnings, capital, asset quality, and loan loss reserve needs of the Bank.

Compliance with Laws and Regulations

20. In appointing any new director or senior executive officer, or changing the responsibilities of any senior executive officer so that the officer would assume a different senior executive officer position, the Bank shall comply with the notice provisions of Section 32 of the FDI Act (12 U.S.C. § 1831i) and Subpart H of Regulation Y of the Board of Governors of the Federal Reserve System (the "Board of Governors") (12 C.F.R. §§ 225.71 *et seq.*) and the notice provisions of Section 655.0385, Florida Statutes, and Rule 69U-100.03582, Florida Administrative Code, for directors and executive officers as defined in Section 655.005(1)(f), Florida Statutes.

21. The Bank shall comply with the restrictions on indemnification and severance payments of Section 18(k) of the FDI Act (12 U.S.C. § 1828(k)) and Part 359 of the Federal Deposit Insurance Corporation's regulations (12 C.F.R. Part 359).

Compliance with the Agreement

22. (a) Within 10 days of this Agreement, the board of directors of the Bank shall appoint a committee (the "Compliance Committee") to monitor and coordinate the Bank's

compliance with the provisions of this Agreement. The Compliance Committee shall include a majority of outside directors who are not executive officers of the Bank as defined in Sections 215.2(e)(1) and 215.2(m)(1) of Regulation O of the Board of Governors (12 C.F.R. §§ 215.2(e)(1) and 215.2(m)(1)) and Section 655.005(1)(f), Florida Statutes. The Compliance Committee shall meet at least monthly, keep detailed minutes of each meeting, and report its findings to the board of directors of the Bank.

(b) Within 30 days after the end of each calendar quarter following the date of this Agreement, the Bank shall submit to the Reserve Bank and the OFR written progress reports detailing the form and manner of all actions taken to secure compliance with this Agreement and the results thereof.

Approval and Implementation of Plans, Policies, Procedures, and Programs

23. (a) The written plans, policies, procedures, programs, and an engagement letter required by paragraphs 2(b), 4, 5, 6, 8, 10, 11(a), 12(c), 13, 14, 15, 16, and 17 of this Agreement shall be submitted to the Reserve Bank and the OFR for review and approval. Acceptable plans, policies, procedures, and programs shall be submitted within the time periods set forth in the Agreement. An independent consultant acceptable to the Reserve Bank shall be retained in the time period set forth in paragraph 2(a).

(b) Within 10 days of approval by the Reserve Bank and the OFR, the Bank shall adopt the approved plans, policies, procedures, and programs. Upon adoption, the Bank shall promptly implement the approved plans, policies, procedures, and programs.

(c) During the term of this Agreement, the approved plans, policies, procedures, and programs shall not be amended or rescinded without the prior written approval of the Reserve Bank and the OFR.

Communications

24. All communications regarding this Agreement shall be sent to:
- (a) Mr. Steve Wise
Assistant Vice President
Federal Reserve Bank of Atlanta
1000 Peachtree Street, N.E.
Atlanta, Georgia 30309-4470
 - (b) Ms. Linda R. Townsend
Chief, Bureau of Bank Regulation
State of Florida
Office of Financial Regulation
200 E. Gaines Street
Tallahassee, Florida 32399-0371
 - (c) Mr. Ronald Y. Schram
Chairman of the Board
Flagler Bank
1801 Forest Hill Blvd.
West Palm Beach, Florida 33406

Miscellaneous

25. Notwithstanding any provision of this Agreement, the Reserve Bank and the OFR may, in their sole discretion, grant written extensions of time to the Bank to comply with any provision of this Agreement.

26. The provisions of this Agreement shall be binding upon the Bank and its institution-affiliated parties, in their capacities as such, and their successors and assigns.

27. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank and the OFR.

28. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, the OFR or any other federal or state agency from taking

any other action affecting the Bank or any of its current or former institution-affiliated parties and their successors and assigns.

29. Pursuant to Section 50 of the FDI Act (12 U.S.C. § 1831aa), this Agreement is enforceable by the Board of Governors under Section 8 of the FDI Act (12 U.S.C. § 1818) and by the OFR pursuant to Sections 655.033 and 655.041, Florida Statutes, and Chapters 120, 655 and 658, Florida Statutes.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 12th of November, 2009.

FLAGLER BANK

FEDERAL RESERVE BANK
OF ATLANTA

By: /s/ Ronald Y. Schram
Ronald Y. Schram
Chairman of the Board

By: /s/ Steve Wise
Steve Wise
Assistant Vice President

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION

By: /s/ Linda B. Charity
Linda B. Charity, Director
Division of Financial Institutions
Office of Financial Regulation

