

**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**

In the Matter of

ORION BANCORP, INC.  
Naples, Florida

ORION BANK  
Naples, Florida

Docket Nos. 09-138-B-HC  
09-138-B-SM

OFR Administrative File  
No. 0661-FI-08/09

Cease and Desist Order Issued  
Upon Consent Pursuant to the  
Federal Deposit Insurance Act, as  
Amended

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”), Orion Bancorp, Inc., Naples, Florida (“Bancorp”), a registered bank holding company, and its subsidiary bank, Orion Bank, Naples, Florida (the “Bank”), a state chartered bank that is a member of the Federal Reserve System, and the State of Florida Office of Financial Regulation (the “OFR”) have the common goal to restore and maintain the financial soundness of the Bank;

WHEREAS, on August 25, 2008, Bancorp and the Bank entered into a Written Agreement with the Federal Reserve Bank of Atlanta (the “Reserve Bank”) and the OFR designed to correct certain deficiencies at the Bank relating to safety and soundness (the “Written Agreement”);

WHEREAS, the Bank has taken steps to comply with the Written Agreement but has not yet fully complied with all of the provisions of the Written Agreement;

WHEREAS, following the execution of the Written Agreement, the Reserve Bank and the OFR conducted concurrent full scope examinations of the Bank beginning January 30, 2009 and concluding on April 15, 2009 (collectively, the “Reports of Examination”) and identified additional safety and soundness deficiencies at the Bank;

WHEREAS, in order to address the unsafe and unsound practices identified below, Bancorp, the Bank, the Board of Governors, and the OFR have mutually agreed to enter into this consent Cease and Desist Order (the “Order”); and

WHEREAS, on September 16, 2009, the boards of directors of Bancorp and the Bank, at a duly constituted meeting, adopted resolutions authorizing and directing Jerry J. Williams, President and Chief Executive Officer of Bancorp and the Bank, to enter into this Order on behalf of Bancorp and the Bank, and consenting to compliance by Bancorp and the Bank, and their respective institution-affiliated parties, as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. §§ 1813(u) and 1818(b)(3)), and Section 655.005 (1) (i), Florida Statutes, with each and every applicable provision of this Order and waiving any and all rights that Bancorp and the Bank may have pursuant to section 8 of the FDIC Act (12 U.S.C. § 1818) and Chapters 120, 655, or 658, Florida Statutes, to: (i) the issuance of a notice of charges on any and all matters set forth in this Order; (ii) an administrative hearing for the purpose of taking evidence on any matters set forth in this Order or the issuance of a recommended order; (iii) judicial review or appeal of this Order; (iv) any requirement that this Order contain stated Findings of Fact or Conclusions of Law or a Notice of Rights; (v) contest the issuance of this Order by the Board of Governors pursuant to section 8 of the FDI Act and by the OFR pursuant to the Florida Financial Institutions Codes, Title 38, Florida Statutes; and

(vi) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of this Order or any provision hereof in any judicial or administrative forum.

NOW, THEREFORE, IT IS HEREBY ORDERED that pursuant to sections 8(b)(1) and (3) of the FDI Act (12 U.S.C. §§1818(b)(1) and 1818(b)(3)), and Section 655.033, Florida Statutes, Bancorp, the Bank, and their respective institution-affiliated parties shall cease and desist and take affirmative action as follows:

### **Corporate Governance and Management Review**

1. (a) Within 30 days of this Order, the boards of directors of Bancorp and the Bank shall retain an independent consultant acceptable to the Reserve Bank and the OFR to conduct a review of the effectiveness of Bancorp's and 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 Order;
- (ii) the identification of present and future management and staffing needs for each area of the Bank, particularly in the areas of

accounting, regulatory reporting, loan administration, problem credit resolution, and credit risk management;

- (iii) an assessment of the current structure, qualifications, and composition of the boards of directors and the Bank's committees, and a determination of the structure and composition needed to effectively supervise the affairs of the consolidated organization and the Bank;
- (iv) the effectiveness of the Bank's board of directors' oversight of the special assets function; and
- (v) development of a formal management succession plan for all executive management positions.

(b) Within 10 days of the Reserve Bank's and the OFR's approval of the independent consultant selection, Bancorp and 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 60 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 Bancorp's and the Bank's boards of directors.

2. Within 45 days of receipt of the Report, the boards of directors of Bancorp and the Bank 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 and time frames that the boards of directors shall take to strengthen Bancorp's and the Bank's corporate governance and management, and to hire, as necessary, additional or replacement officers or staff to properly manage and operate Bancorp and the Bank.

## **Books and Records**

### Completeness and Accuracy

3. Bancorp and the Bank shall ensure the completeness and accuracy of Bancorp's and the Bank's books and records, regulatory reports, and financial statements, which shall include:

- (a) Accurate accounting of nonaccrual loans and leases in the Bank's loan portfolio;
- (b) accurate accounting of impaired loans, taking into account:
  - (i) examination classifications;
  - (ii) external loan grades by a qualified consultant; and
  - (iii) internal loan grading based on an effective internal loan review function;
- (c) sufficient loan loss provisions based on an appropriate loan loss reserve methodology; and
- (d) accurate accounting for Other Than Temporary Impairment within the Bank's securities portfolio.

### Regulatory Reports

4. Bancorp and the Bank shall promptly refile any and all regulatory reports as required by the Reserve Bank and the OFR.

## **Brokered Deposits**

5. At all times during the term of this Order that the Bank is well capitalized, the Bank shall not increase the level of brokered deposits. For purposes of this subparagraph, the term "brokered deposits" is defined as set forth in section 337.6(a) of the regulations of the

Federal Deposit Insurance Corporation (the “FDIC”) (12 C.F.R. § 337.6(a)) and includes deposits funded by third party agents or nominees for depositors.

6. The Bank shall comply with the provisions of section 29 of the FDI Act (12 U.S.C. § 1831f) and the FDIC’s accompanying regulations at 12 C.F.R. § 337 that are applicable to the Bank. The Bank shall notify the Reserve Bank and the OFR, in writing, if the Bank requests any waiver of the restrictions imposed by section 29 from the FDIC and shall notify the Reserve Bank and the OFR of the FDIC’s disposition of any request for such a waiver.

#### **Accuracy of Written Materials**

7. Within 30 days of this Order, Bancorp and the Bank shall submit to the Reserve Bank and the OFR an acceptable written plan to ensure that advertising, promotional, and investment materials used in any medium (including the internet and email transmissions) that contain representations about the financial condition of Bancorp or the Bank are accurate, sufficiently complete, up-to-date, and in compliance with 12 C.F.R. § 208.40(d) and the Board’s guidance on Unfair or Deceptive Acts or Practices by State-Chartered Banks, CA 04-2. The plan shall include, at a minimum:

(a) Review and approval by senior management, counsel, or both, of advertising and promotional materials prior to publication, with such prior review and approval documented in writing; and

(b) training to ensure that all directors, officers, and employees develop and maintain a sufficient understanding of the requirements of the plan.

#### **Compliance with Order**

8. (a) Within 10 days of this Order, the boards of directors of Bancorp and the Bank shall appoint a joint committee (the “Compliance Committee”) to monitor and coordinate

compliance with the provisions of this Order and the Written Agreement. The Compliance Committee shall include a majority of outside directors who are not executive officers or principal shareholders of Bancorp or 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)). At a minimum, the Compliance Committee shall meet at least monthly, keep detailed minutes of each meeting, and periodically report its findings to the boards of directors of Bancorp and the Bank.

(b) Within 30 days after the end of each calendar quarter following the date of this Order, Bancorp and 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 Order and the Written Agreement and the results thereof.

### **Approval and Implementation**

9. (a) Bancorp and the Bank shall submit an engagement letter and a written plan that are acceptable to the Reserve Bank and OFR within the applicable time periods set forth in paragraphs 1(b) and 7 of this Order. An independent consultant acceptable to the Reserve Bank and the OFR shall be retained in the time period set forth in paragraph 1(a).

(b) Within 10 days of approval by the Reserve Bank and the OFR, Bancorp and the Bank shall adopt the approved plan. Upon adoption, Bancorp and the Bank shall promptly implement the approved plan and thereafter fully comply with it.

(c) During the term of this Agreement, the engagement letter and the approved plan shall not be amended or rescinded without the prior written approval of the Reserve Bank and the OFR.

## **Communications**

10. All communications regarding this Order shall be sent to:

- (a) Andre Anderson  
Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309-4470
- (b) Linda B. Charity  
Director  
State of Florida  
Office of Financial Regulation  
200 E. Gaines Street  
Tallahassee, Florida 32399-0371
- (c) Jerry J. Williams  
President and Chief Executive Officer  
Orion Bancorp, Inc.  
Orion Bank  
2150 Goodlette Road North  
Naples, Florida 34102

## **Miscellaneous**

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

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

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

14. The provisions of this Order 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 Bancorp or the Bank or any of their current or former institution-affiliated parties and their successors and assigns.

15. This Order does not supersede, stay, terminate, or suspend any provision of the Written Agreement.

By Order of the Board of Governors of the Federal Reserve System and the OFR effective this 18<sup>th</sup> day of September, 2009.

ORION BANCORP, INC.  
ORION BANK

By: /s/ Jerry J. Williams  
Jerry J. Williams  
President and Chief Executive Officer

BOARD OF GOVERNORS OF  
THE FEDERAL RESERVE SYSTEM

By: /s/ Jennifer J. Johnson  
Jennifer J. Johnson  
Secretary of the Board

THE STATE OF FLORIDA  
Office of Financial Regulation

By: /s/ Linda B. Charity  
Linda B. Charity  
Director