FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

In the Matter of **THE FIRST STATE BANK** **OF BURLINGAME** **BURLINGAME, KANSAS** **(Insured State Nonmember Bank)**	)	**ORDER TO CEASE AND DESIST** **FDIC-08-280b**

The First State Bank of Burlingame, Burlingame, Kansas ("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices and violations of law and regulation alleged to have been committed by the Bank, and its right to a hearing on those charges under section 8(b) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") dated December 15, 2008, with counsel for the Federal Deposit Insurance Corporation ("FDIC"), whereby, solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices or violations of law or regulation, the Bank consented to the issuance of the following ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it has reason to believe that the Bank has engaged in unsafe and unsound banking practices and violations of law and regulation. The FDIC, therefore, accepts the CONSENT AGREEMENT and issues the following:

ORDER TO CEASE AND DESIST

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

A. Engaging in hazardous lending and lax collection practices including, but are not limited to:

1. failing to obtain proper loan documentation;

2. failing to obtain adequate collateral;

3. failing to obtain current and complete financial information;

4. failing to adequately identify the extent of the risk in existing loans;

5. operating without an effective loan review program;

6. making extensions of credit without adequate diversification of risk;

7. operating with an excessive concentration in loans purchased from a single-entity;

8. failing to establish risk exposure levels on loans purchased from a single-entity; and

9. failing to adequately monitor purchased loans.

B. Operating with an excessive level of adversely classified loans or assets.

C. Operating with an inadequate level of capital for the kind and quality of assets held.

D. Operating with an inadequate allowance for loan and lease losses for the volume, kind, and quality of loans held.

E. Operating in such a manner as to produce inadequate earnings.

F. Violating laws and regulations, including:

1. The loan documentation requirements as set forth in K.A.R. 17-11-18; and

2. Real Estate Appraisal requirements as set forth in K.A.R. 17-11-21.

G. Operating in contravention of the Interagency Policy Statement on External Auditing Programs of Banks and Savings Associations.

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

1. Assessment of Management.

(a) Within 30 days from the effective date of this ORDER, the board of directors shall engage an independent third party acceptable to the FDIC and the Office of the State Bank Commissioner for the State of Kansas ("Commissioner") (collectively, the "Supervisory Authorities"), and that possesses appropriate expertise and qualifications to analyze and assess the Bank's management and staffing performance and needs. The engagement shall require that the analysis and assessment shall be summarized in a written report to the board of directors ("Management Report") within 60 days of engagement. Within 10 days of receipt of the Management Report, the board will conduct a full and complete review of the Management Report, which review shall be recorded in the minutes of the meeting of the board of directors.

(b) The Bank shall provide the Supervisory Authorities with a copy of the proposed engagement letter or contract with the third party for review before it is executed. The contract or engagement letter, at a minimum, shall include:

(i) A description of the work to be performed under the contract or engagement letter, the fees for each significant element of the engagement, and the aggregate fee;

(ii) The responsibilities of the firm or individual;

(iii) An identification of the professional standards covering the work to be performed;

(iv) Identification of the specific procedures to be used when carrying out the work to be performed;

(v) The qualifications of the employee(s) who are to perform the work;

(vi) The time frame for completion of the work;

(vii) Any restrictions on the use of the reported findings;

(viii) A provision for unrestricted examiner access to workpapers; and

(ix) A certification that the firm or individual is not affiliated in any manner with the Bank.

(c) Within 30 days of receipt of the Management Report, the board will develop a written Management Plan that incorporates the findings of the report, a plan of action in response to each recommendation contained in the Management Report, and a time frame for completing each action. A copy of the Management Report and Management Plan and any subsequent modification thereto shall be submitted to the Supervisory

Authorities for review and comment. Within 30 days from receipt of any comment, and after consideration of such comment, the board of directors shall approve the Management Plan which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank and its directors, officers and employees shall implement and follow the Management Plan and any modifications thereto. It shall remain the responsibility of the board to fully implement the plan within the specified time frames. In the event the plan, or any portion thereof, is not implemented, the board shall immediately advise the Supervisory Authorities, in writing, of specific reasons for deviating from the Management Plan. At a minimum, the Management Plan shall:

(i) Contain a recitation of the recommendations included in the Management Report or otherwise communicated to the Bank, along with a copy of any report(s) prepared by the outside consultant(s);

(ii) Identify the type and number of officer positions needed to manage and supervise the affairs of the Bank, detailing any vacancies or additional needs and giving appropriate consideration to the size and complexity of the Bank;

(iii) Identify the type and number of staff positions needed to carry out the Bank's strategic plan, detailing any vacancies or additional needs;

(iv) Present a clear and concise description of the relevant knowledge, skills, abilities, and experience necessary for each position, including delegations of authority and performance objectives;

(v) Identify and establish Bank committees needed to provide guidance and oversight to management;

(vi) Establish procedures to periodically review and update the Management Plan, as well as periodically review and assess the performance of each officer and staff member; and

(vii) Contain a current management succession plan.

2. Minimum Capital Requirements.

(a) The Bank shall achieve and maintain the following minimum capital levels (as defined in Part 325 of the FDIC's Rules and Regulations), after establishing an adequate allowance for loan and lease losses:

(i) Tier 1 capital at least equal to Eight (8.0) percent of total assets;

(ii) Tier 1 risk-based capital at least equal to Eight (8.0) percent of total risk-weighted assets; and

(iii) Total risk-based capital at least equal to Ten (10.0) percent of total risk-weighted assets.

(b) In addition, the Bank shall comply with the FDIC's Statement of Policy on Risk-Based Capital found in Appendix A to Part 325 of the FDIC Rules and Regulations, 12 C.F.R. Part 325, App. A.

3. Capital Plan.

(a) In the event any of the above ratios set forth in paragraph 2 above fall below the required minimum, the board shall, within 15 days thereafter, develop a capital plan that shall be submitted to the Supervisory Authorities for review and comment. Within 10 days of receipt of all such comments from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the meetings of the board of directors. Thereafter, the Bank shall implement and fully comply with the capital plan. At a minimum, the program shall include:

(i) Specific plans to achieve the capital levels required under the plan and this ORDER;

(ii) Specific plans for the maintenance of adequate capital that may in no event be less than the requirements of the provisions of this paragraph;

(iii) Projections for asset growth and capital requirements, and such projections shall be based upon a detailed analysis of the Bank's current and projected assets, liabilities, earnings, fixed assets, and off-balance sheet activities, each of which shall be consistent with the Bank's strategic business plan;

(iv) Projections for the amount and timing of the capital necessary to meet the Bank's current and future needs;

(v) The primary source(s) from which the Bank will strengthen its capital to meet the Bank's needs; and

(vi) Contingency plans that identify alternative sources of capital should the primary source(s) under (v) above not be available.

(b) The board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the program developed pursuant to this paragraph.

(c) No increase in Tier 1 capital necessary to meet the requirements of this ORDER may be accomplished through a deduction from the Bank's allowance for loan and lease losses or other reserve accounts. Further, the Bank shall not lend funds directly or indirectly, whether secured or unsecured, to any purchaser of institution or affiliate stock or other securities, or to any investor by any other means for any portion of any increase in Tier 1 capital required herein.

4. Dividend Restrictions.

While this ORDER is in effect, the Bank shall not declare or pay any cash dividends without the prior written approval of the Supervisory Authorities.

5. Concentrations of Credit.

(a) Within 30 days from the effective date of this ORDER, the Bank shall develop and submit a written plan to the Supervisory Authorities for systematically reducing and monitoring the Bank's loan portfolio of industry-related borrowers listed on pages 34 and 35 in the FDIC's Report of Examination dated July 28, 2008, to an amount which is commensurate with the Bank's business strategy, management expertise, size, and location. At a minimum, the plan shall include:

(i) Dollar levels and percent of capital to which the Bank shall reduce each concentration;

(ii) Timeframes for achieving the reduction in dollar levels identified in response to (i) above;

(iii) Provisions for the submission of monthly written progress reports to the Bank's board of directors for review and notation in minutes of the meetings of the board of directors; and

(iv) Procedures for monitoring the Bank's compliance with the plan.

(b) The Bank shall submit the concentration plan to the Supervisory Authorities for review and comment. Within 30 days of receipt of any comments by the Supervisory Authorities, and after due consideration of any recommended changes, the board of directors shall approve the Concentration Plan, which approval shall be recorded in the minutes of the meeting of the board. Thereafter, the Bank shall implement and fully comply with the Concentration Plan.

6. Participations of Credit.

While the ORDER is in effect, the Bank shall not purchase any loans from another entity unless the Bank has conducted an independent analysis of the borrower's financial condition, repayment ability, and adequacy of any collateral. The Bank shall ensure it has and maintains adequate documentation for any such loan, and that the loan complies with the Bank's loan policies.

7. Implementation of Loan Review.

(a) Within 30 days of the effective date of this ORDER, the board shall develop a program of independent loan review that will provide for a periodic review of the Bank's loan portfolio and the identification and categorization of problem credits. At a minimum, the system shall provide for:

(i) Prompt identification of loans with credit weaknesses that warrant the special attention of management, including the name of the borrower, amount of the loan, reason why the loan warrants special attention; and assessment of the degree of risk that the loan will not be fully repaid according to its terms;

(ii) action plans to reduce the Bank's risk exposure from each identified relationship;

(iii) prompt identification of all outstanding balances and commitments attributable to each obligor identified under the requirements of subparagraph (i), including outstanding balances and commitments attributable to related interests of such obligors, including the obligor of record, relationship to the primary obligor identified under subparagraph (i), and an assessment of the risk exposure from the aggregate relationship;

(iv) identification of trends affecting the quality of the loan portfolio, potential problem areas, and action plans to reduce the Bank's risk exposure;

(v) assessment of the overall quality of the loan portfolio;

(vi) identification of credit and collateral documentation exceptions and an action plan to address the identified deficiencies;

(vii) identification and status of violations of laws, rules, or regulations with respect to the lending function and an action plan to address the identified violations;

(viii) identification of loans that are not in conformance with the Bank's lending policy and an action plan to address the identified deficiencies;

(ix) identification of loans to directors, officers, principal shareholders, and their related interests; and

(x) a mechanism for reporting periodically, but in no event less than quarterly, the information developed in (i) through (viii) above to the board of directors. The report should also describe the action(s) taken by management with respect to problem credits.

(b) The Bank shall submit the program to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from the Supervisory Authorities, and after due consideration of any recommended changes, the Bank shall approve the program, which approval shall be recorded in the minutes of the board of directors meeting. Thereafter, the Bank shall implement and fully comply with the program.

(c) Upon implementation, a copy of each report shall be submitted to the board, as well as documentation of the actions taken by the Bank or recommendations to the board that address identified deficiencies in specific loan relationships or the Bank's policies, procedures, strategies, or other elements of the Bank's lending activities. Such reports and recommendations, as well as any resulting determinations, shall be recorded and retained in the minutes of the meeting of the board of directors.

8. Reduction of Adversely Classified Assets.

(a) Within 60 days from the effective date of this ORDER, the Bank shall formulate a written plan to reduce the Bank's risk exposure in each asset in excess of $50,000 "Substandard" or "Doubtful" in the Report of Examination. For purposes of this provision, "reduce" means to collect, charge off, or improve the quality of an asset so as to warrant its removal from adverse classification by the FDIC and the Commissioner. In developing the plan mandated by this paragraph, the Bank shall, at a minimum, and with respect to each adversely classified loan or lease, review, analyze, and document the financial position of the borrower, including source of repayment, repayment ability, and alternative repayment sources, as well as the value and accessibility of any pledged or assigned collateral, and any possible actions to improve the Bank's collateral position.

(b) Upon completion of the plan, the Bank shall immediately submit it to the Supervisory Authorities for review and comment. Within 30 days from receipt of any comment from Supervisory Authorities, and after due consideration of any recommended changes, the Bank shall approve the plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement and fully comply with the plan.

9. Restrictions on Advances to Adversely Classified Borrowers.

(a) The Bank shall not extend, directly or indirectly, any additional credit to, or for the benefit of, any borrower who has a loan or other extension of credit or obligation with the Bank that has been, in whole or in part, charged off or classified "Substandard" or "Doubtful" and is uncollected. The requirements of this paragraph shall not prohibit the Bank from renewing, after collecting in cash all interest and fees due from a borrower, any credit already extended to the borrower.

(b) This provision shall not apply if the Bank's failure to extend further credit to a particular borrower would be detrimental to the best interests of the Bank. Prior to extending additional credit pursuant to this paragraph, whether in the form of a renewal, extension, or further advance of funds, such additional credit shall be approved by the Bank's board of directors, or a designated committee thereof, who shall certify, in writing:

(i) why failure of the Bank to extend such credit would be detrimental to the best interests of the Bank;

(ii) that the extension of such credit would improve the Bank's position, including an explanatory statement of how the Bank's position would improve; and

(iii) an appropriate workout plan has been developed and will be implemented in conjunction with the additional credit to be extended.

The written certification shall be made a part of the minutes of the meeting of the board of directors, or designated committee, with a copy retained in the borrower's credit file.

10. Correction of Technical Exceptions.

(a) Within 90 days from the effective date of this ORDER, the Bank shall correct the exceptions listed on the "Assets with Credit Data or Collateral Documentation Exceptions" pages of the Report of Examination. All attempts to correct exceptions shall be documented in the borrowers' credit files. In all future operations, the Bank shall ensure that all necessary supporting documentation is obtained and evaluated before any credit or loan is extended by the Bank.

(b) Progress reports detailing each outstanding exception and the Bank’s plan for corrective action shall be submitted to the board for review during each regularly scheduled meeting. The review shall be noted in the minutes of the meeting of the board of directors.

11. Strategic Planning.

(a) Within 90 days after the effective date of this ORDER, the Bank shall develop a comprehensive business/strategic plan covering at least an operating period of three years. The plan required by this paragraph shall contain an assessment of the Bank’s current financial condition and market area, and a description of the operating assumptions that form the basis for major projected income and expense components.

(b) The written strategic plan shall address short-term goals and operating plans to comply with the terms of this ORDER and correct all regulatory criticisms; intermediate goals and project plans; and long-range goals and project plans. In addition, the plan shall address, at a minimum:

(i) Strategies for pricing policies and asset/liability management;

(ii) The anticipated average maturity and average yield on loans and securities; the average maturity and average cost of deposits; the level of earning assets as a percentage of total assets; and the ratio of net interest income to average earning assets;

(iii) The dollar volume of total loans, total investment securities, and total deposits;

(iv) Plans for sustaining adequate liquidity, including back-up lines of credit to meet any unanticipated deposit withdrawals;

(v) Goals for reducing problem loans; and

(vi) Financial goals, including pro forma statements for asset growth, capital adequacy, and earnings.

(c) The Bank shall submit the strategic plan to the Supervisory Authorities for review and comment. Within 10 days of receipt of all such comments from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement and follow the strategic plan.

(d) Within 30 days from the end of each calendar quarter following the effective date of this ORDER, the Bank’s board of directors shall evaluate the Bank’s performance in relation to the strategic plan required by this paragraph and record the results of the evaluation, and any actions taken by the Bank, in the minutes of the meeting of the board of directors during which such evaluation is undertaken. In the event the board of directors determines that the strategic plan should be revised in any manner, the strategic plan shall be revised and submitted to the Regional Director and the Commissioner for review and comment within 30 days after such revisions have been approved by the board of directors. Within 10 days of receipt of all such comments from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement the revised plan.

12. Profit and Budget Plan.

Within 60 days from the effective date of this ORDER, and within the first 30 days of each calendar year thereafter, the board of directors shall develop and fully implement a written profit plan consisting of goals and strategies, consistent with sound banking practices, and taking into account the Bank's other written plans, policies, or other actions as required by this Order. The profit plan and any subsequent modification thereto shall be submitted to the Supervisory Authorities for review and comment. No more than 30 days after the receipt of any comment from the Supervisory Authorities, the board of directors shall approve the profit plan which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank, its directors, officers, and employees shall fully implement the profit plan and any subsequently approved modification. The written profit plan shall include, at a minimum:

(a) Identification of the major areas in and means by which the board of directors will seek to improve the Insured Bank’s operating performance;

(b) Specific goals to improve the net interest margin, increase interest income, reduce discretionary expenses, and improve and sustain earnings, as well as maintain adequate provisions to the allowance for loan and lease losses;

(c) Realistic and comprehensive budgets for all categories of income and expense items;

(d) A description of the operating assumptions that form the basis for, and adequately support, material projected revenue and expense components;

(e) Coordination of the Bank’s loan, investment, funds management, and operating policies; strategic plan; and allowance for loan and lease loss methodology with the profit and budget planning;

(f) A budget review process to monitor the revenue and expenses of the Bank whereby actual performance is compared against budgetary projections not less than quarterly; recording the results of the evaluation and any actions taken by the Bank in the minutes of the board of directors meeting at which such evaluation is undertaken; and

(g) Individual(s) responsible for implementing each of the goals and strategies of the Profit Plan.

13. <u>Violations and Contravention of Statement of Policy</u>.

(a) Within 60 days after the effective date of this ORDER, the Bank shall take steps necessary, consistent with sound banking practices, to eliminate and/or correct all violations of laws, rules and regulations cited by the FDIC, on pages 11 through 13 in the Report of Examination. In addition, within 30 days from the effective date of this ORDER, the Bank shall adopt and implement appropriate procedures to ensure future compliance with all applicable laws, rules and regulations.

(b) Within 60 days after the effective date of this ORDER, the Bank shall take steps necessary, consistent with sound banking practices, to eliminate and/or correct the contravention of policy cited by the FDIC, on pages 13 and 14 in the Report of Examination. In addition, within 30 days from the effective date of this ORDER, the Bank shall adopt and implement appropriate procedures to ensure future compliance with all applicable policies.

14. Liquidity Plan.

Within 30 days from the effective date of this ORDER, the Bank shall review its liquidity position. The Bank shall submit a liquidity plan to the Supervisory Authorities for review and comment. Within 10 days of receipt of all such comments from the Supervisory Authorities, and after consideration of all such comments, the Bank shall approve the revised plan, which approval shall be recorded in the minutes of the meeting of the board of directors. Thereafter, the Bank shall implement and fully comply with the plan. Annually or more frequently thereafter, while this ORDER is in effect, the Bank shall review this plan for adequacy and, based upon the above criteria, shall make necessary revisions to the plan.

15. Shareholder Disclosure.

Following the effective date 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, and (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 17th Street, N.W., Room F-6066, Washington, D.C. 20429 for review at least 20 days prior to dissemination to shareholders. Any changes requested to be made by the FDIC shall be made prior to dissemination of the description, communication, notice, or statement.

16. Progress Reports.

(a) 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, manner, and results of any actions taken to secure compliance with this ORDER. Such written progress reports shall provide cumulative detail of the Bank's progress toward achieving compliance with each provision of the ORDER, including appropriate supporting documentation.

(b) Progress reports may be discontinued when the Supervisory Authorities have, in writing, released the Bank from making additional reports.

Issued Pursuant to Delegated Authority.

Dated: December 22, 2008

By:

Mark S. Moylan
Deputy Regional Director
Kansas City Regional Office