

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.
and
NEW MEXICO FINANCIAL INSTITUTIONS DIVISION
SANTA FE, NEW MEXICO

_____)	
In the Matter of)	ORDER TO CEASE AND DESIST
)	
MESILLA VALLEY BANK)	
LAS CRUCES, NEW MEXICO)	FDIC 08-040b
)	
(Insured State Nonmember Bank))	FID 2008-001
_____)	

The Mesilla Valley Bank, Las Cruces, New Mexico (“Bank”), through its board of directors, having been advised of its right to the issuance and service of a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices alleged to have been committed by the Bank and of its right to a hearing on the alleged charges under section 8(b) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. § 1818(b), and Article 1, Section 34 of Chapter 58 of the New Mexico Statutes, N.M. Stat. Ann. § 58-1-34 (Matthew Bender, 1978), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST (“CONSENT AGREEMENT”) with counsel for the Federal Deposit Insurance Corporation (“FDIC”) and a representative of the New Mexico Financial Institutions Division (“State”) dated March 6, 2008, whereby, solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST (“ORDER”) by the FDIC and the State.

The FDIC and the State considered the matter and determined that they had reason to believe that the Bank had engaged in unsafe or unsound banking practices. The FDIC and the State, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER TO CEASE AND DESIST

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

(a) Operating the Bank with an inadequate level of capital protection for the kind and quality of assets held by the Bank.

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

1. (a) Within 30 days after the effective date of this ORDER, and for so long thereafter as this ORDER is outstanding, the Bank shall achieve and maintain, after establishing an allowance for loan and lease losses as required herein: Tier 1 Capital equal to or greater than 10 percent of its average Total Assets after establishing an Allowance for Loan and Lease Losses as required herein (“Tier 1 Capital Ratio”), and Total Risk-Based Capital equal to or greater than 12 percent of Total Risk-Weighted Assets (“Total Risk-Based Capital Ratio”).

(b) If the Tier 1 Capital Ratio is less than 10 percent as determined at an examination by the FDIC or the State, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director, Dallas Regional Office, FDIC (“Regional Director”) or the Director for the State (“Director”), present to the Regional Director and the Director a plan to increase the Tier 1 Capital Ratio of the Bank or to take other measures to bring the Tier 1 Capital Ratio to 10 percent. After the Regional Director and the Director respond to the plan,

the board of directors of the Bank shall adopt the plan, including any modifications or amendments requested by the Regional Director and the Director.

Thereafter, to the extent such measures have not previously been initiated, the Bank shall immediately initiate measures detailed in the plan to increase its Tier 1 Capital Ratio by an amount sufficient to bring the ratio to 10 percent within 30 days after the Regional Director and the Director respond to the plan. Such increase in Capital and any increase in Capital necessary to meet the ratio required by this ORDER may be accomplished by:

- (i) The sale of securities in the form of common stock; or
- (ii) The direct contribution of cash subsequent to January 28, 2008, by the directors and/or shareholders of the Bank or by the Bank's holding company; or
- (iii) Receipt of an income tax refund or the capitalization subsequent to January 28, 2008, of a bona fide tax refund certified as being accurate by a certified public accounting firm; or
- (iv) Any other method approved by the Regional Director and the Director.

(c) If the Total Risk-Based Capital Ratio is less than 12 percent as determined at an examination by the FDIC or the State, the Bank shall, within 30 days after receipt of a written notice of the capital deficiency from the Regional Director or the Director, present to the Regional Director and the Director a plan to increase the Total Risk-Based Capital Ratio of the Bank or to take other measures to bring the Total Risk-Based Capital Ratio to 12 percent. After the Regional Director and the Director respond to the plan, the board of directors of the Bank shall adopt the plan, including any modifications or amendments requested by the Regional Director and the Director.

Thereafter, to the extent such measures have not previously been initiated, the Bank shall immediately initiate measures detailed in the plan to increase its Total Risk-Based Capital Ratio by an amount sufficient to bring the ratio to 12 percent within 30 days after the Regional Director and the Director respond to the plan. Such increase in Capital and any increase in Capital necessary to meet the ratio required by this ORDER may be accomplished by:

- (i) The sale of securities in the form of common stock; or
- (ii) The direct contribution of cash subsequent to January 28, 2008, by the directors and/or shareholders of the Bank or by the Bank's holding company; or
- (iii) Receipt of an income tax refund or the capitalization subsequent to January 28, 2008, of a bona fide tax refund certified as being accurate by a certified public accounting firm; or
- (iv) Any other method approved by the Regional Director and the Director.

(d) If all or part of the increase in Capital required by this ORDER is to be accomplished by the sale of new securities, the Bank's board of directors shall adopt and implement a plan for the sale of such additional securities, including soliciting proxies and the voting of any shares or proxies owned or controlled by them in favor of the plan. Should the implementation of the plan involve a public distribution of the Bank's securities (including a distribution limited only to the Bank's existing shareholders), the Bank shall prepare offering materials fully describing the securities being offered, including an accurate description of the financial condition of the Bank and the circumstances giving rise to the offering, and any other material disclosures necessary to comply with Federal securities laws. Prior to the implementation of the plan, and in any event, not less than

20 days prior to the dissemination of such materials, the plan and any materials used in the sale of the securities shall be submitted to the FDIC, Accounting and Securities Disclosure Section, Washington, D.C. 20429, for review. Any changes requested to be made in the plan or the materials by the FDIC shall be made prior to their dissemination. If the increase in Capital is to be provided by the sale of non-cumulative perpetual preferred stock, then all terms and conditions of the issue shall be presented to the Regional Director and the Director for prior approval.

(e) In complying with the provisions of this ORDER and until such time as any such public offering is terminated, the Bank shall provide to any subscriber and/or purchaser of the Bank's securities written notice of any planned or existing development or other change which is materially different from the information reflected in any offering materials used in connection with the sale of the Bank's securities. The written notice required by this paragraph shall be furnished within 10 days after the date such material development or change was planned or occurred, whichever is earlier, and shall be furnished to every purchaser and/or subscriber who received or was tendered the information contained in the Bank's original offering materials.

(f) In addition to the requirements of subparagraphs (a), (b) and (c), 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.

(g) For the purposes of this ORDER, the terms "Allowance for Loan and Lease Losses", "Risk-Weighted Assets", "Tier 1 Capital", "Total Assets", and "Total Risk-Based Capital Ratio" shall be as defined in Part 325 of the FDIC's Rules and Regulations, respectively Sections 325.2(a), (s), (v), (x), and (y), 12 C.F.R. §§ 325.2(a), (s), (v), (x), and (y). "Average Total Assets" shall be calculated according to the methodology set forth in the Report of Examination.

2. After the effective date of this ORDER, the Bank shall send to its shareholders or otherwise furnish a description of this ORDER, (1) in conjunction with the Bank's next shareholder communication, and also (2) 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, Accountant and Securities Disclosure Section, Washington, D.C. 20429, and the Director for review at least 20 days prior to dissemination to shareholders. Any changes requested by the FDIC or the State shall be made prior to dissemination of the description, communication, notice, or statement.

3. Within 30 days after the end of the first calendar quarter following the effective date of this ORDER, and within 30 days after the end of each successive calendar quarter, the Bank shall furnish written progress reports to the Regional Director and the Director detailing the form and manner of any actions taken to secure compliance with this ORDER and the results thereof. Such reports may be discontinued when the corrections required by this ORDER have been accomplished and the Regional Director and the Director have released the Bank in writing from making additional reports.

This ORDER shall be binding upon the Bank, its successors and assigns, and all institution-affiliated parties of the Bank. The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, superseded, or set aside by the FDIC and the Director.

This ORDER will become effective upon its issuance by the FDIC.

Pursuant to delegated authority.

Dated at Dallas, Texas, this 10th day of March, 2008.

Thomas J. Dujenski
Regional Director
Division of Supervision and Consumer Protection

William J. Verant
Director
State of New Mexico
Financial Institutions Division