



Comptroller of the Currency
Administrator of National Banks

Western District Office
1225 17th Street, Suite 300
Denver, Colorado 80202
720-475-7650; Fax: 301-333-7010

Corporate Decision #2005-01
April 2005

March 4, 2005

Robert L. Tortoriello
Cleary, Gottlieb, Steen & Hamilton
One Liberty Plaza
New York, New York 10006-1470

Re: Change in Bank Control Act Notices in Connection with the Proposed Acquisition of First National Bank of Marin by Sherman Financial Group LLC, Radian Group, Inc., and MGIC Investment Corporation (collectively, "Notificants")
OCC Control Nos.: 2004-WE-11-0010, 0011, and 0012;
Request for Director Residency Waiver
OCC Control No.: 2004-WE-12-0352;
Dividend request

Dear Mr. Tortoriello:

The Comptroller of the Currency (OCC) has reviewed and evaluated the subject Change in Control Notices involving First National Bank of Marin, Las Vegas, Nevada (collectively, "Notices"). Based on a review of the facts of record and the representations made by the Notificants, the OCC has determined that the Notices are technically complete and decided that we will not disapprove the Notices. The OCC has determined the statutory factors it is required to consider under the Change in Bank Control Act are consistent with this decision. The OCC's action is expressly conditioned on compliance with the Agreement made in connection with these Notices between Sherman Financial Group LLC and the OCC dated February 25, 2005, which Agreement may be enforced under 12 U.S.C. § 1818. The proposed acquisition may proceed immediately.

The date of consummation of this change in control must be provided to the OCC's Western District Office within 10 days after consummation. The transaction must be consummated as proposed in the Notices, as amended. If any of the terms, conditions, or parties to the transaction described in the Notices change, the Notificants must inform the OCC in writing prior to consummation to determine if any additional action or reconsideration is required. In such situations, the OCC reserves the right to require submission of an amended or new Notices of Change in Bank Control.

Change In Bank Control Notices
First National Bank of Marin
Las Vegas, Nevada
OCC Control No.: 20043-WE-11-0010, 0011, and 0012

In addition, unless an extension is granted, the transaction must be consummated within six months of the date of this letter. Failure to consummate within six months or an approved extended time period granted by the OCC will cause our decision to lapse and require the filing of a new notice by the acquiring parties and the appropriate filing fee if the acquirers wish to proceed with the change in bank control.

You are reminded that the OCC requires pushdown purchase accounting for a change in control of at least 95 percent of the voting stock of a bank. Under pushdown accounting, when a bank is acquired, yet retains its separate corporate existence, the assets and liabilities of the acquired bank are restated to their fair values as of the acquisition date. Those values, including any goodwill, are reflected in the financial statements of the parent and the acquired bank.

The OCC approves the request for an extraordinary cash dividend not to exceed \$94 million, to be paid by First National Bank of Marin to Marin National Bancorp, the parent holding company of the bank. It is understood that this dividend is part of the multi-step acquisition process as set forth in the Notices. This dividend approval is void if the acquisition does not occur.

This letter also grants approval of your request for the OCC to waive the residency requirement under 12 USC 72 for Benjamin Navarro, Brett Hildebrand, Scott Silver, and Christopher Jones to be elected to the board of directors of First National Bank of Marin. We understand that after their election, 33 percent of the bank's board of directors will meet the residency requirements of 12 USC 72.

The OCC reserves the right to withdraw this waiver at any time and, at our discretion, to request additional biographical and/or financial information on any member of the board of directors. All other requirements of 12 USC 72 remain applicable.

This letter does not constitute approval for a change in director or senior executive officer under 12 USC 1831i and 12 CFR 5.51 (section 914). A separate decision is required for the new members of the board of directors, and was granted by the OCC in a series of letters to the board of First National Bank of Marin, dated January 10, 2005.

It is our understanding that shortly after consummation of the acquisition, the shareholder of First National Bank of Marin will amend the bank's Articles of Association to limit the bank's activities to that of a CEBA credit card bank. We understand the amended language of the Article will require OCC non-objection to amend that Article in the future. Please forward a certified copy of the amended Articles of Association to our Denver District Office for filing pursuant to 12 USC § 21a.

Our decisions are based upon a thorough review of all information available, including representations and commitments made in the Notices and subsequent correspondence and communications with the Notificants and their representatives, both written and verbal.

Change In Bank Control Notices
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These decisions noted above, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the United States (U.S.), any agency or entity of the U.S., or any officer or employee of the U.S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agent of the OCC or the U.S.

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service.

If you have any questions, contact me at 720-475-7656.

Sincerely,

-signed-

James A. Bundy
Senior Licensing Analyst

AGREEMENT BY AND BETWEEN

**Sherman Financial Group LLC
and
The Office of the Comptroller of the Currency**

WHEREAS, pursuant to 12 C.F.R. § 5.50, any person seeking to acquire control of a national bank shall provide 60 days' prior notice of a change in control to the Office of the Comptroller of the Currency ("OCC");

WHEREAS, Sherman Financial Group LLC ("Sherman"), a Delaware limited liability company has submitted a notice ("Change in Control Notice") to the OCC to acquire control of First National Bank of Marin, Las Vegas, Nevada (the "Bank");

WHEREAS, Sherman intends to acquire more than ninety percent (90%) of the issued and outstanding shares of Marin National Bancorp, and, thereby, acquire control of the Bank, which is a national bank chartered by the OCC and wholly-owned by Marin National Bancorp;

WHEREAS, Sherman and the OCC seek to ensure that the Bank, and each company that from time to time is an operating subsidiary of the Bank, will operate in a safe and sound manner and in accordance with all applicable laws, rules, regulations and a Consent Order issued by the OCC on or about May 24, 2004.

WHEREAS, Sherman and the OCC seek to enter into an agreement outlining the measures that Sherman will take to ensure that the Bank, and each company that from time to time is an operating subsidiary of the Bank, will operate in a safe and sound manner and in accordance with all applicable laws, rules, regulations and the Consent Order.

NOW, THEREFORE, in consideration of the above premises, the OCC and Sherman, by and through its duly elected representative, agree as follows ("Agreement"):

ARTICLE I
JURISDICTION

- (1) Sherman is an “institution-affiliated party” (“IAP”) of the Bank within the meaning of 12 U.S.C. § 1813(u)(1).
- (2) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. § 1818(b)(1).
- (3) This Agreement shall be construed to be a “written agreement” within the meaning of 12 U.S.C. § 1818(u)(1)(A).
- (4) This Agreement shall not be construed to be a “written agreement” within the meaning of 12 C.F.R. § 6.4.
- (5) All correspondence related to this Agreement, and any information, documentation, reports, plans and/or other written submissions which Sherman has agreed to submit pursuant to this Agreement shall be forwarded, by overnight mail, to:

EIC – FNB Marin
Office of the Comptroller of the Currency
2350 Market Street, Suite 100
St. Louis, MO 63103

Office of the Comptroller of the Currency
Mail Stop 6-4
250 E Street, S.W.
Washington, DC 20219

with copies sent by overnight mail to:

Assistant Deputy Comptroller
Credit Card Bank Supervision
1117 Perimeter Center West
Suite W401
Atlanta, GA 30338

- (6) The OCC may, by thirty (30) days written notice, change the OCC’s designated recipients listed in paragraph (5) of this Article.

ARTICLE II
OPERATING AGREEMENT

(1) No later than one (1) business day after Sherman acquires control of the Bank, Sherman shall cause the Bank to enter into a written agreement with the OCC (“Operating Agreement”), in the form attached hereto as Appendix A. After the Bank enters into the Operating Agreement with the OCC, Sherman shall take all necessary actions to ensure the Bank’s compliance with the Operating Agreement.

ARTICLE III
CAPITAL ASSURANCE AND LIQUIDITY MAINTENANCE AGREEMENT

(1) No later than two (2) business days after Sherman acquires control of the Bank, Sherman shall execute a Capital Assurance and Liquidity Maintenance Agreement (“CALMA”) with the Bank, in the form attached hereto as Appendix B. After execution of the CALMA, Sherman will comply with the CALMA and ensure that the Bank complies with the CALMA.

(2) At all times while the CALMA is in effect, Sherman shall maintain shareholders’ equity of not less than \$75,000,000.

(3) Sherman shall notify the Bank and the OCC in writing within five (5) calendar days after discovery of any material change(s) to the financial condition of Sherman which adversely affect its ability to comply with its obligations under the CALMA. For purposes of this Paragraph, “material” shall have the same meaning accorded to that term in Securities and Exchange Commission Staff Accounting Bulletin No. 99 on Materiality. Provided, however, that notification to the OCC pursuant to this paragraph is required if there is any reduction in the shareholders’ equity of Sherman below the amount of \$75,000,000.

ARTICLE IV
CONCLUDING PROVISIONS

(1) This Agreement shall become effective on the 25th day of February, 2005 (“effective date”), and shall remain in full force and effect until such time as: (i) Sherman (or any of its affiliates) ceases to own or control the Bank for the purposes of 12 C.F.R. § 5.50; (ii) Sherman ceases to be an IAP of the Bank pursuant to 12 U.S.C. § 1813(u) and Paragraph (1) of Article I of this Agreement; or (iii) the OCC, in a written notice to Sherman, indicates that the Agreement is no longer required.

(2) It is expressly understood that if, at any time, the OCC deems it appropriate in fulfilling the responsibilities placed upon it by the several laws of the United States of America to undertake any action affecting the Bank, or each company that from time to time is an operating subsidiary of the Bank, nothing in this Agreement shall in any way inhibit, estop, bar or otherwise prevent the OCC from so doing.

(3) Any time limitations imposed by this Agreement shall begin to run from the effective date. Such time requirements may be extended in writing by the OCC for good cause upon written application by Sherman.

(4) This Agreement may be amended only by mutual consent of Sherman and the OCC.

(5) This Agreement expressly does not form, and may not be construed to form, a contract binding on the OCC or the United States. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by Sherman under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. Sherman expressly acknowledges that neither Sherman nor the OCC has any intention to enter into a contract. Sherman also expressly

acknowledges that no OCC officer or employee has statutory or other authority to bind the United States, the U.S. Treasury Department, the OCC, or any other federal bank regulatory agency, or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities.

(6) This Agreement constitutes the entire agreement of the parties with regard to the specific subject matter hereof and supersedes all prior written and/or oral understandings between the parties.

(7) This Agreement may be executed in counterparts, each of which shall be considered an original and all of which together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by facsimile transmission or other comparable means.

(8) The headings and section references contained herein are included solely for ease of reference and in no way shall limit, expand or otherwise affect either the substance or construction of the terms and conditions of this Agreement or the intent of the parties hereto.

IN WITNESS WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set her hand on behalf of the Comptroller.

/s/ Jennifer C. Kelly
Jennifer C. Kelly
Deputy Comptroller
Midsize and Credit Card Bank Supervision

2/25/05
Date

IN WITNESS WHEREOF, the undersigned, as a duly appointed and authorized officer of Sherman, has hereunto set his/her hand on behalf of Sherman.

/S/ Benjamin W. Navarro

2/24/05
Date

Exhibit A

SHERMAN FINANCIAL GROUP LLC

Resolutions Adopted by the Board of Managers by Written Consent

AUTHORIZATION TO ENTER INTO CERTAIN AGREEMENTS IN CONNECTION WITH THE ACQUISITION OF MARIN NATIONAL BANCORP

WHEREAS, management of the Company has provided the board with the business rationale to enter into a series of transactions that would result in MBHC, LLC (“MBHC”), a wholly owned subsidiary of the Company, purchasing all of the issued and outstanding stock of Marin National Bancorp (“MNBC”), the sole shareholder of the First National Bank of Marin (“FNBM”) (such transactions herein referred to as the “Share Purchase”);

WHEREAS, the company, pursuant to authority granted to its management by previous resolution of the Board, has entered into a Stock Purchase Agreement dated as of October 6, 2004 between the Company, MBHC, FNMB and the principal shareholders of FNMB (the “Stock Purchase Agreement”), and certain ancillary transactions;

WHEREAS, in accordance with the foregoing, the Board believes that it is in the best interests of the Company to enter into the Share Purchase and, in connection therewith, for the Company to enter into (i) an Agreement between the Company and the Office of the Comptroller of the Currency, outlining the measures that the Company will take to ensure that FNBM will operate in a safe and sound manner and in accordance with all applicable laws, rules, regulations and consent orders (the “OCC Agreement”), (ii) a Capital Assurance and Liquidity Maintenance Agreement between the Company and FNBM (the “CALMA”), (iii) an Installment Notes Agreement between the Company, MBHC and the principal shareholders of MNBC (the “Installment Notes Agreement”) and (iv) a Guaranty by the Company of the obligations of MHC Receivables under the Receivables Purchase Agreement to be entered into by MHC Receivables and FNBM (the “MHC Guaranty”);

NOW, THEREFORE, BE IT RESOLVED, that (i) the OCC Agreement, the CALMA, the Installment Notes Agreement and the MHC Guaranty (together, the “Closing Agreements”), a summary of which has been provided to the Managers; (ii) the transactions contemplated by the Closing Agreements, and the obligations undertaken by the Company pursuant to the Closing Agreements; and (iii) all other transactions ancillary

to the aforesaid Closing Agreements be, and the same hereby are, authorized, ratified and approved; and

RESOLVED, that the negotiation, execution and delivery by any one of the following individuals, acting alone;

Benjamin W. Navarro
Scott E. Silver
S. Christopher Jones
Brett A. Hildebrand

(each an “Authorized Representative” and, collectively, the “Authorized Representatives”) of the Company, for and in the name and on behalf of the Company, of any Closing Agreement and of all instruments, agreements, certificates and other documents required to be executed and delivered in order to effectuate the transactions contemplated by any Closing Agreement, are hereby ratified, confirmed and approved as the act and deed of the Company, together with such changes, additions, deletions and modifications as the Authorized Representative executing the same may have approved, such approval to be conclusively evidenced by the execution and delivery thereof by such Authorized Representative; and

RESOLVED, that the Authorized Representatives be, and each hereby is, authorized for and in the name and on behalf of the Company to perform all the Company’s obligation and to exercise its rights under the Closing Agreements and under each agreement executed pursuant to the above resolutions.

EXECUTION IN COUNTERPARTS

RESOLVED, that this Consent Action may be signed in separate written counterparts which together shall constitute one and the same document, effective for all purposes as of the date written below.

SHERMAN FINANCIAL GROUP LLC

Secretary's Certificate

I, Scott E. Silver, Director and Secretary of Sherman Financial Group LLC, a Delaware LLC (the "Company"), DO HEREBY CERTIFY THAT:

Attached hereto as Exhibits A is true, complete and correct copies of certain resolutions of the Board of Managers of the Company, which resolutions were duly and validly adopted by the Board of Managers by written consent on February 24, 2005. All such resolutions are in full force and effect on the date hereof in the form in which adopted.

IN WITNESS WHEREOF, the Company has caused this Certificate to be executed on its behalf by the undersigned on and as of the 24th day of February 2005.

Signed

Name: Scott E. Silver
Title: Director and Secretary

I, Laura Schaible, a Director of the Company, DO HEREBY CERTIFY THAT Scott Silver is the duly elected or appointed, qualified and acting Secretary of the Company, and the signature set forth above is the genuine signature of such officer.

Signed

Name: Laura Schaible
Title: Director

OPERATING AGREEMENT

**Between
First National Bank of Marin, Las Vegas, Nevada,
and
The Office of the Comptroller of the Currency**

WHEREAS, pursuant to 12 C.F.R. § 5.50, any person seeking to acquire control of a national bank shall provide sixty (60) days prior notice of a change in control to the Office of the Comptroller of the Currency (“OCC”);

WHEREAS, Sherman Financial Group LLC (“Sherman”), a Delaware limited liability company, submitted a notice (“Change in Control Notice”) to the OCC to acquire control of First National Bank of Marin, Las Vegas, Nevada (the “Bank”), a national bank chartered by the OCC and wholly-owned by Marin National Bancorp;

WHEREAS, the Bank and the OCC seek to ensure that the Bank, and each company that from time to time is an operating subsidiary of the Bank, operate in a safe and sound manner, in accordance with all applicable laws, rules, regulations, and a Consent Order issued by the OCC on or about May 24, 2004 (“Consent Order”);

WHEREAS, Sherman committed to certain undertakings memorialized in an agreement entered into between Sherman and the OCC on or about February 25, 2005 ;

WHEREAS, those undertakings specified, inter alia, that after Sherman had acquired the Bank, the Bank, and each company that from time to time is an operating subsidiary of the Bank, would operate in a safe and sound manner, in accordance with all applicable laws, rules, regulations, and the Consent Order;

WHEREAS, those undertakings specified, inter alia, that after Sherman had acquired the Bank, Sherman would cause the Bank to enter into this Operating Agreement with the OCC;

WHEREAS, on or about March 4, 2005, the OCC issued its non-objection to the Change in Control Notice; and

WHEREAS, Sherman acquired more than ninety percent (90%) of the issued and outstanding shares of Marin National Bancorp, thereby acquiring control of the Bank.

NOW THEREFORE, in consideration of the above premises, the OCC, by and through its authorized representative, and the Bank, by and through its duly elected Board of Directors (“Board”), agree as follows (“Agreement”):

ARTICLE I
JURISDICTION

(1) This Agreement shall be construed to be a “written agreement entered into with the agency” within the meaning of 12 U.S.C. §§ 1818(b)(1) and 1818(e).

(2) This Agreement shall be construed to be a “written agreement between such depository institution and such agency” within the meaning of 12 U.S.C. § 1818(i)(2).

(3) This Agreement shall not be construed to be a “written agreement, order, or capital directive” within the meaning of 12 C.F.R. § 6.4.

(4) All correspondence related to this Agreement, and any information, documentation, reports, plans and/or other written submissions which the Bank or its Board have agreed to submit pursuant to this Agreement shall be forwarded, by overnight mail, to:

EIC – FNB Marin
Office of the Comptroller of the Currency
2350 Market Street, Suite 100
St. Louis, MO 63103

Office of the Comptroller of the Currency
Mail Stop 6-4
250 E. Street, S.W.
Washington, DC 20219

with copies sent by overnight mail to:

Assistant Deputy Comptroller
Credit Card Bank Supervision
1117 Perimeter Center West
Suite W401
Atlanta, GA 30338

(5) The OCC may, by thirty (30) days written notice, change the OCC's designated recipients listed in paragraph (4) of this Article.

ARTICLE II
AMENDMENTS TO CONSENT ORDER

(1) The Board stipulates and consents to amend the Consent Order, effective immediately, as follows:

- (a) Article III, sub-paragraph (1)(c): "Marin National Bancorp ('MNB')" is changed to "Sherman Financial Group, LLC ('Sherman')";
- (b) Article III, sub-paragraph (2)(c): "MNB" is changed to "Sherman";
- (c) Article III, paragraphs (4), (5), (6) and (7) are deleted;
- (d) Article IV, sub-paragraph (2)(h): "MNB" is changed to "Sherman"; and
- (e) Article VII is deleted.

(2) All other provisions of the Consent Order shall remain in full force and effect, except to the extent otherwise modified by the OCC in writing.

ARTICLE III
CAPITAL ASSURANCE AND LIQUIDITY MAINTENANCE AGREEMENT

(1) Effective one (1) business day after the effective date of this Agreement, the Bank shall at all times maintain a legally enforceable Capital Assurance and Liquidity Maintenance Agreement ("CALMA") that provides the Bank with the right to obtain capital and liquidity if and when needed by the Bank, and that complies with the requirements of this Article.

- (2) The terms of any such CALMA shall, at a minimum:
 - (a) ensure the maintenance of capital in accordance with Consent Order Article III, sub-paragraph (3)(b), or such lower amount detailed in the Bank's Capital and Funding Plan required to be submitted by the Consent Order and for which the Bank obtains a prior written non-objection from the OCC ("Effective Capital and Funding Plan"); and
 - (b) ensure the maintenance of liquidity in accordance with Consent Order Article III, sub-paragraph (3)(c), or such lower amount detailed in the Bank's Effective Capital and Funding Plan.

(3) The Bank shall take all actions necessary to exercise its rights and enforce the terms of a CALMA, if and when necessary. Any Bank demand or request to the counter-party for compliance with a CALMA shall be in writing, and the Bank shall provide the OCC with a copy of such written demand or request within one (1) business day after delivery to the counter-party.

(4) The Bank shall notify the OCC in writing within one (1) business day after the Bank discovers any breach or violation of a CALMA by the counter-party, or the Bank determines that a future breach or violation by the counter-party is probable.

(5) The Bank shall immediately upon notice from the OCC, cease to extend new or additional credit, including, but not limited to, credit that would produce any new or additional Credit Card Receivables when the OCC, in its sole discretion, has determined that:

- (a) the existing or probable breach or violation identified pursuant to paragraph 4 of this Article is significant; or
- (b) a change in the financial condition of the counter-party is such that it is insufficient to fulfill the counter-party's obligations under a CALMA.

(6) The Bank shall obtain a written non-objection from the OCC before entering into a CALMA. Within three (3) business days after entering into a CALMA, the Bank shall provide the OCC with:

- (a) the fully executed CALMA entered into by and between the Bank and the counter-party; and
- (b) the resolutions adopted by the Boards of the Bank and the counter-party evidencing the respective Boards' approvals and authorizations to enter into and be bound by the CALMA.

(7) The Bank shall not modify, amend or terminate, nor agree or consent to a modification, amendment or termination of a CALMA without obtaining a prior written non-objection from the OCC.

ARTICLE IV **RECEIVABLES PURCHASE AGREEMENT**

(1) Effective one (1) business day after the effective date of this Agreement, the Bank shall at all times maintain a legally enforceable Receivables Purchase Agreement that provides the Bank with the right to sell all Credit Card Receivables on a daily basis, and that complies with the requirements of this Article.

(2) Except as provided in a Receivables Purchase Agreement to which the OCC has issued a prior written non-objection, the terms of any such Receivables Purchase Agreement shall, at a minimum, ensure that the Bank has the right to sell all Credit Card Receivables:

- (a) on the day originated by the Bank;
- (b) at not less than the face value of the credit card receivables (other than receivables arising from finance charges or fees), without reduction or setoff of any kind; and

(c) with next-day settlement in cash; and

(3) Before entering into a Receivables Purchase Agreement, and continuing thereafter, the Bank shall apply prudent and conservative due diligence on the counter-party's:

(a) reputation;

(b) business practices;

(c) compliance with applicable consumer protection laws;

(d) business and strategic plans;

(e) corporate governance; and

(f) contracts, guarantees or other agreements with affiliates or third parties relevant to the counter-party's financial condition.

(4) The Bank shall ensure that it regularly analyzes sufficient information to reliably determine the financial condition of the counter-party to a Receivables Purchase Agreement and, as applicable, the financial condition of any guarantor or other third party relevant to the financial condition of the counter-party. The Bank shall notify the OCC in writing within five (5) calendar days after discovery of any material change(s) to the financial condition of the counter-party, any counter-party affiliate(s), or any other Bank affiliate(s) which would adversely affect the ability of the counter-party to perform under the Receivables Purchase Agreement. For purposes of this Paragraph, "material" shall have the same meaning accorded to that term in Securities and Exchange Commission Staff Accounting Bulletin No. 99 on Materiality.

(5) The Bank shall take all actions necessary to exercise its rights and enforce the terms of a Receivables Purchase Agreement, if and when necessary. Any Bank demand or request to the counter-party for compliance with a Receivables Purchase Agreement, where there

has been a breach or violation of the Receivables Purchase Agreement, shall be in writing, and the Bank shall provide the OCC with a copy of such written demand or request within one (1) business day after delivery to the counter-party.

(6) The Bank shall notify the OCC in writing within one (1) business day after the Bank discovers any breach or violation of a Receivables Purchase Agreement by the counter-party, or the Bank determines that a future breach or violation by the counter-party is probable.

(7) The Bank shall immediately upon notice from the OCC, cease to extend new or additional credit, including, but not limited to, credit that would produce any new or additional Credit Card Receivables when the OCC, in its sole discretion, has determined that:

- (a) the existing or probable breach or violation identified pursuant to paragraph 6 of this Article is significant; or
- (b) the financial condition of the counter-party is unlikely to be sufficient to indefinitely fulfill the counter-party's obligations under a Receivables Purchase Agreement.

(8) The Bank shall obtain a written non-objection from the OCC before entering into a Receivables Purchase Agreement. Within three (3) business days after entering into a Receivables Purchase Agreement, the Bank shall provide the OCC with:

- (a) the fully executed Receivables Purchase Agreement entered into by and between the Bank and the counter-party; and
- (b) the resolutions adopted by the Boards of the Bank and the counter-party evidencing the respective Boards' approvals and authorizations to enter into and be bound by the Receivables Purchase Agreement.

(9) The Bank shall not modify, amend or terminate, nor agree or consent to a modification, amendment or termination of a Receivables Purchase Agreement without obtaining a prior written non-objection from the OCC.

ARTICLE V
LIQUIDITY RESERVE DEPOSIT

(1) Within three (3) business days after the effective date of this Agreement, the Bank shall establish, and shall at all times thereafter maintain, a Liquidity Reserve Deposit (“LRD”), pursuant to a Liquidity Reserve Deposit Agreement (“LRD Agreement”) between the Bank, a third-party insured depository institution or a Federal Reserve Bank and the OCC. The LRD and the LRD Agreement shall comply with the requirements of this Article.

(2) The terms of the LRD Agreement shall require the Bank to deposit and maintain a minimum market value of Liquid Assets in the LRD (“LRD Requirement”). The LRD Requirement shall be adjusted monthly, and shall be calculated by the Bank no later than the fifteenth (15th) day of the preceding month (“Calculation Date”). The LRD Requirement for a given month shall not be less than the sum of:

- (a) the greater of five (5) times the daily average of the gross Credit Card Receivables:
 - (i) originated by the Bank during the same calendar month of the previous calendar year; or
 - (ii) projected to be originated by the Bank during that month by the Bank’s Effective Capital and Funding Plan; plus
- (b) the amount calculated in subparagraph (a) of this paragraph multiplied by the greatest percentage by which gross Credit Card Receivables originated

by the Bank in any of the three (3) months prior to the Calculation Date exceeded the gross Credit Card Receivables projected to be originated in that month by the Bank's Effective Capital and Funding Plan (but in no event less than zero percent (0%)).

(3) By the first (1st) business day of each month, the Bank shall ensure that the market value of Liquid Assets on deposit in the LRD is at least equal to the LRD Requirement for that month. If, at any time, the Bank discovers or is notified that the market value of Liquid Assets in the LRD is less than the LRD Requirement, then, within one (1) business day of such discovery or notification, the Bank shall add Liquid Assets to the LRD sufficient to bring the market value of the Liquid Assets in the LRD up to at least the LRD Requirement.

(4) In the event that the market value of Liquid Assets in the LRD exceeds the LRD Requirement, the OCC may, solely in its discretion and only in writing, allow the Bank to reduce the market value of Liquid Assets in the LRD.

(5) Any breach or violation of the LRD Agreement by the Bank shall be deemed to be a violation of this Agreement.

(6) The Bank shall notify the OCC in writing within one (1) business day after the Bank discovers any breach or violation of this Article by the Bank, or the Bank determines that a future breach or violation of this Article by the Bank is probable.

(7) The Bank shall immediately upon notice from the OCC, cease to extend new or additional credit, including, but not limited to, credit that would produce any new or additional Credit Card Receivables when the OCC, in its sole discretion, has determined that, the existing or probable breach or violation identified pursuant to paragraph 6 of this Article is significant.

(8) On or before the fifteenth (15th) day of each month, the Bank shall submit a written report to the OCC, certified by the Chief Financial Officer and at least one director, which contains:

- (a) the market value of the Liquid Assets maintained in the LRD as of the end of the immediately preceding month;
- (b) the LRD Requirement for that month;
- (c) the LRD Requirement as of the first (1st) day of the next month; and
- (d) the supporting documentation used in calculating the LRD Requirement as of the first (1st) day of the next month.

ARTICLE VI **DISPOSITION PLAN**

(1) The Board shall, within five (5) business days following notice from the OCC, prepare and submit to the OCC a Disposition Plan acceptable to the OCC, if the OCC determines, in its sole discretion, that:

- (a) an existing or probable breach or violation identified pursuant to Article III, paragraph 4 of this Agreement is deemed to be significant or a change in the financial condition of the counter-party is such that it is insufficient to fulfill the counter-party's obligations under a CALMA;
- (b) an existing or probable breach or violation identified pursuant to Article IV, paragraph 6 of this Agreement is deemed to be significant or the financial condition of the counter-party is unlikely to be sufficient to indefinitely fulfill the counter-party's obligations under a Receivables Purchase Agreement;

- (c) the Bank breaches or violates Article V of this Agreement, and does not cure such breach or violation within one (1) business day after discovery or notice of such breach of violation; or
- (d) the Bank has materially failed to implement the Consent Order, after having had thirty (30) days in which to cure the default.

(2) Upon obtaining a written non-objection from the OCC, the Board shall immediately implement and shall thereafter adhere to the Disposition Plan.

(3) The Disposition Plan shall detail the Board's proposal to liquidate the Bank, in conformance with 12 U.S.C. §§ 181 and 182, and in a manner that will result in no loss or cost to the Bank Insurance Fund of the Federal Deposit Insurance Corporation.

(4) The Disposition Plan shall include provisions addressing any potential harm caused or likely to be caused to consumers, the steps the Bank will take to mitigate such harm, and the steps the Bank will take to compensate consumers for harm that is not mitigated.

(5) Failure to submit a timely Disposition Plan that is acceptable to the OCC, or failure to implement and adhere to the Disposition Plan after the Board obtains a written non-objection from the OCC, may be deemed by the OCC to constitute a violation of this Agreement.

ARTICLE VII

EVENT OF UNDERCAPITALIZATION

(1) If the Bank fails to maintain either: (a) the level of total risk-based capital required by Consent Order Article III, sub-paragraph (3)(b), or (b) such lower amount of total risk-based capital detailed in the Bank's Effective Capital and Funding Plan, then the Bank shall be deemed "undercapitalized," for purposes of 12 U.S.C. § 1831o and 12 C.F.R. Part 6, and the OCC shall have the authority to take any action authorized under all provisions of 12 U.S.C.

§ 1831o and 12 C.F.R. Part 6 applicable to an undercapitalized national bank. For purposes of section 1831o(e)(5), an action “necessary to carry out the purpose of this section” shall include a restoration of the Bank’s capital so that it is not “undercapitalized,” and any other action deemed advisable by the OCC to address the Bank’s capital deficiency or the safety and soundness of its operations.

ARTICLE VIII
CORPORATE STRUCTURE AND GOVERNANCE

(1) The Bank shall adhere to its existing policies and procedures that delineate lines of reporting within the Bank, and specify requirements for information to be supplied to the Board of the Bank. The Bank shall not materially alter or amend such policies and procedures without obtaining the prior written non-objection from the OCC.

(2) The Board shall maintain and ensure Bank adherence to policies and procedures that preserve the Bank’s separate corporate identity, including, without limitation, the maintenance of books and records that are separate and apart from Sherman, under the control of the Bank, and readily available to OCC personnel upon request. The Bank shall not materially alter or amend such policies and procedures without obtaining the prior written non-objection from the OCC.

(3) Within thirty (30) days the Bank’s Audit Committee shall be comprised of at least three Bank directors who are not officers or employees of the Bank, and a majority of whom are not officers, directors or employees of any affiliate or subsidiary of the Bank or Sherman, with the exception that any entity that has an ownership interest in Sherman shall not be deemed an affiliate of the Bank or Sherman for purposes of this paragraph only.

(4) The Board shall ensure adherence to independent internal and external audit functions in accordance with the Comptroller’s Handbook titled “Internal and External Audits”

dated April 2003. The Bank's internal and external audit functions shall include regular audits of the Bank's compliance with each requirement of this Agreement and of the Bank's compliance with each requirement of the Consent Order.

ARTICLE IX
COMPLIANCE WITH REGULATORY ISSUANCES

(1) The Board shall ensure Bank compliance with all regulatory issuances, including OCC Bulletins and OCC Advisory Letters, including, but not limited to: OCC Bulletin 2001-47, OCC Bulletin 2003-1, OCC Advisory Letter 2004-4 and OCC Advisory Letter 2004-10.

(2) If the Bank maintains any interest in Credit Card Receivables on its balance sheet, then the Bank shall comply with OCC Bulletin 2000-20 titled "Uniform Retail Credit Classification and Account Management Policy."

ARTICLE X
AFFILIATE TRANSACTIONS

(1) The Board shall ensure that all contracts, agreements and transactions between the Bank and any affiliate are fair and equitable to the Bank and are in compliance with 12 U.S.C. §§ 371c and 371c-1, and 12 C.F.R. Part 223 ("Regulation W") (hereinafter "affiliate laws").

(2) Within ninety (90) days from the effective date of this Agreement and continuing at least yearly thereafter, the Board shall review all contracts and agreements with affiliates, whether then existing or proposed, and whether written or otherwise, to determine whether each contract and agreement is fair and equitable to the Bank and complies with the affiliate laws. The Board shall document its conclusions from each review, and shall submit such documentation and conclusions to the OCC within thirty (30) days of the close of each review.

(3) Within thirty (30) days of determining that any contract or agreement with an affiliate is not in writing, the Bank shall reduce such contract or agreement to writing and a copy shall be submitted to the OCC.

(4) Within sixty (60) days and continuing thereafter, the Bank shall maintain, in a centralized location, a listing of all contracts, agreements and transactions with any affiliate, and records and documentation showing that such contracts, agreements and transactions are fair and equitable to the Bank and in compliance with the affiliate laws. Such listing, records and documentation shall be updated no less frequently than each month. OCC personnel shall have prompt and unrestricted access to such listing, records and documentation.

(5) Within thirty (30) days of the date that the Bank determines that any contract or agreement is not fair and equitable to the Bank or is not in compliance with the affiliate laws, the Bank shall:

- (a) renegotiate the terms of such contract or agreement to ensure that it is fair and equitable to the Bank and in compliance with the affiliate laws; and/or
- (b) take other steps acceptable to the OCC to address the issues raised by the terms of the contract or agreement.

(6) Within thirty (30) days of the date that the OCC provides the Bank with an objection to any contract or agreement, the Bank shall renegotiate the terms of such contract or agreement, or take other steps acceptable to the OCC, to resolve such objection.

(7) The Bank shall not enter into any new contract, agreement or transaction with any of its affiliates, unless the contract, agreement or transaction:

- (a) is in writing;
- (b) is fair and equitable to the Bank;

- (c) is in compliance with the affiliate laws;
- (d) has been approved in advance by the Board in writing; and
- (e) provides that, if the Federal Deposit Insurance Corporation (“FDIC”) is appointed receiver for the Bank, then to the extent requested by the FDIC, the affiliate agrees to continue to fulfill its obligations under the contract or agreement, on commercially reasonable terms, until such time as the Bank obtains the goods or services from another party.

(8) Notwithstanding anything in this Agreement to the contrary, the Bank shall not enter into any contract or agreement with any Bank affiliate or with Sherman or with any of Sherman’s affiliates or subsidiaries, whereby credit extended by the Bank is proposed or designed to be used to repay indebtedness to any Bank affiliate, Sherman or any of Sherman’s affiliates or subsidiaries.

ARTICLE XI **STRATEGIC PLAN**

(1) The Board shall ensure Bank compliance with the Effective Capital and Funding Plan adopted pursuant to Article IV of the Consent Order, the Underwriting, Marketing and Business Strategy that complies with Article V of the Consent Order, and the Credit Card Management Plan adopted pursuant to Article VI of the Consent Order (together the “Strategic Plan”).

(2) Prior to making any changes that may have a material impact on the Strategic Plan, the Bank shall give the OCC thirty (30) days advance written notice of such changes, and shall not implement such changes without obtaining a written non-objection from the OCC. For

purposes of this paragraph, changes that may have a material impact on the Strategic Plan include, but are not limited to, any significant deviations from or material changes to:

- (a) marketing strategies, marketing partners, or acquisition channels;
- (b) underwriting practices and standards for account and/or portfolio acquisition;
- (c) account management strategies and test programs;
- (d) collection strategies, partners or operations;
- (e) fee structure or fee application methods;
- (f) accounting processes and practices;
- (g) the current business focus, including entering into or exiting from a business segment, including the issuance of convenience checks;
- (h) any other changes in personnel or operations that may have a material impact on the Bank's operations or financial performance;
- (i) new products or services to be offered;
- (j) alterations or modifications, including changes in terms, to existing products or services; and
- (k) funding strategies and capital maintenance.

(3) Notwithstanding paragraph (2) of this Article, the Bank shall give the OCC thirty (30) days written notice and shall obtain a written non-objection from the OCC before:

- (a) entering into any agreements with an existing or new private label merchant or credit card partner; or
- (b) making any portfolio acquisitions, if such agreements or acquisitions would have a material impact on the Bank.

- (4) The Bank shall provide the OCC, on a monthly basis:
- (a) reports detailing credit, collections, and profit and loss information used by executive management;
 - (b) monthly risk management reports;
 - (c) the Board package, including all attachments; and
 - (d) Board and Audit Committee minutes, including all attachments.

(5) The Board shall ensure that the Bank has processes, personnel, and control systems to ensure implementation of and adherence to the Strategic Plan and ensure that the Strategic Plan is updated annually, within sixty (60) days of the anniversary of the effective date of this Agreement, to cover the next three (3) year period. The Strategic Plan shall be consistent with the requirements of Articles IV, V and VI of the Consent Order and shall establish objectives for the Bank's over-all risk profile, earnings performance, growth, balance sheet mix, off-balance sheet activities, liability structure, capital adequacy, product line development and market segments that the Bank intends to promote or develop, together with strategies to achieve those objectives and, at a minimum, include:

- (a) a mission statement that forms the framework for the establishment of strategic goals and objectives;
- (b) an assessment of the Bank's present and future operating environment;
- (c) the development of strategic goals and objectives to be accomplished over the short and long term;
- (d) an identification of the present and future product lines that will be utilized to accomplish the strategic goals and objectives established in (1)(c) of this Article;

- (e) an evaluation of the Bank's internal operations, staffing requirements, Board and management information systems and policies and procedures for their adequacy and contribution to the accomplishment of the goals and objectives developed under (1)(c) of this Article;
- (f) any new specific plans to outsource functions and responsibilities to third parties;
- (g) an action plan to accomplish identified strategic goals and objectives, including executive management responsibilities in respect of such plan and target dates;
- (h) a financial forecast to include projections for major balance sheet and income statement accounts and desired financial ratios over the period covered by the strategic plan;
- (i) control systems to mitigate risks associated with planned new products, new services, alterations or modifications to existing products or services, growth, or any proposed changes in the Bank's operating environment;
- (j) to the extent not already addressed, any specific plans that may exist to establish responsibilities and accountability for the strategic planning process, new products, growth goals, or proposed changes in the Bank's operating environment; and
- (k) systems to monitor the Bank's progress in meeting the plan's goals and objectives.

(6) The Board shall implement and thereafter adhere to the Strategic Plan developed pursuant to paragraph (5) of this Article after obtaining a written non-objection from the OCC.

ARTICLE XII
CREDIT CARD ADMINISTRATION

(1) The Board shall ensure that the Bank continues to maintain appropriate management information systems sufficient to effectively monitor the performance of each of the Bank's credit card products by marketing initiative and vintage. The Bank shall produce reports to analyze the quality of Credit Card Receivables generated by the Bank in terms of volume, composition and performance. Reports shall include trends relating to volume, product profitability, delinquencies, charge-offs, recoveries, bankruptcies, fraud, over-limits, credit line increases, reissues, renewals, re-aging, debt management programs, aggregation, and other appropriate areas as described in the Comptroller's Handbook, Credit Card Lending, dated October 1996.

ARTICLE XIII
RISK MANAGEMENT

(1) The Board shall continue to ensure Bank adherence to its written risk management program, that is consistent with the Comptroller's Handbook, Bank Supervision Process, dated April 1996. Such risk management program includes, at a minimum, the following:

- (a) identification of credit, interest rate, liquidity, transaction, compliance, strategic, reputation and price risks, and a written analysis of those risks;
- (b) actions plans and time frames to reduce risks where exposure is high;
- (c) policies, procedures or standards that:
 - (i) limit the degree of risk the Board is willing to incur, consistent with the Bank's financial condition and with the Strategic Plan required to be submitted pursuant to this Agreement and for which the Bank obtains a non-objection from the OCC;

- (ii) include provisions for analyzing and limiting the risks associated with any new products or new lines of business that the Board undertakes;
 - (iii) ensure that the strategic direction and risk tolerances determined by the Board are effectively communicated and followed throughout the Bank; and
 - (iv) describe the actions to be taken where noncompliance with risk policies, procedures or standards is identified;
- (d) systems to timely and accurately measure and control risk within the Bank, including risk reports by product; and
- (e) procedures to ensure that Bank staffing is sufficient, that Bank employees and management have the necessary skills to effectively execute or supervise the current and new business risks within the Bank, and a description of any actions taken to address deficiencies in staff levels and skills when identified.

ARTICLE XIV
COMPLIANCE REPORTS

(1) Each month for the first three (3) months following the effective date of this Agreement, and on a quarterly basis thereafter, the Bank's Board of Directors shall require the submission of a written progress report to them setting forth in detail:

- (a) actions taken to comply with each Article of this Agreement; and
- (b) the results of those actions.

(2) The Board shall promptly forward a copy of this report, with any additional comments by the Board, to the OCC.

ARTICLE XV
DEFINITIONS

(1) For purposes of this Agreement, the following terms shall have the below-described meanings:

- (a) The term “Capital Assurance and Liquidity Maintenance Agreement” shall mean that certain agreement entered into between the Bank and a counter-party pursuant to the terms of this Agreement;
- (b) The term “Credit Card Receivables” shall mean indebtedness relating to any purchase, cash advance, balance transfer, convenience check or other charge to a credit card issued by the Bank in excess of any deposit balance securing the account. The term “gross Credit Card Receivables” shall mean the total amount of Credit Card Receivables generated during a day, prior to the application of any payments received or charge-backs expected on such day.
- (c) The term “Receivables Purchase Agreement” shall mean that certain agreement entered into between the Bank and a counter-party pursuant to the terms of this Agreement.
- (d) The term “Liquidity Reserve Deposit Agreement” shall mean that certain agreement entered into between the Bank, a third-party insured depository institution or a Federal Reserve Bank and the OCC pursuant to the terms of this Agreement.

- (e) The term “Liquid Assets” shall mean: (i) cash deposits; (ii) overnight federal funds sold; (iii) Type I Securities under 12 C.F.R. § 1.2; and (iv) such other assets as to which the Bank has obtained a non-objection from the OCC. The term Liquid Assets shall not include any assets that are pledged in any manner, nor any assets that are not free and kept free from any lien, encumbrance, charge, right of set off, credit or preference in connection with any claim against the Bank.
- (f) The term “affiliate” shall be defined as set forth in 12 U.S.C. § 371c(b)(1).
- (g) The term “business day” shall mean any day other than Saturday, Sunday, a “legal public holiday,” as listed in 5 U.S.C. § 6103(a) or any successor statute, as either may be amended or modified, or any day the OCC has permitted the Bank to be closed; provided, however, if a January 1, July 4, November 11, or December 25 falls on a Sunday, the next Monday is not a business day.

ARTICLE XVI
TERM OF AGREEMENT

(1) This Agreement shall become effective immediately upon its execution by all parties (“effective date”).

(2) This Agreement will remain in full force and effect until the OCC, in its sole discretion, elects to terminate the Agreement.

ARTICLE XVII
CONCLUDING PROVISIONS

(1) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon her by the several laws of the United

States of America to undertake any action affecting the Bank, nothing in this Agreement shall in any way inhibit, estop, bar, or otherwise prevent the Comptroller from so doing.

(2) Any time limitations imposed by this Agreement shall begin to run from the effective date of this Agreement, unless otherwise provided. Such time requirements may be extended in writing by the Comptroller or her duly authorized representative for good cause upon written application by the Board.

(3) The provisions of this Agreement shall be effective upon execution by the parties hereto and its provisions shall continue in full force and effect unless or until such provisions are amended in writing by mutual consent of the parties to the Agreement or excepted, waived, or terminated in writing by the Comptroller or her duly authorized representative.

(4) To the extent that any of the provisions of this Agreement conflict with the terms found in any existing agreement between the Comptroller and the Bank, the provisions of this Agreement shall control; provided, however, to the extent that any of the provisions of this Agreement conflict with the terms of the Consent Order, the provisions of the Consent Order shall control.

(5) In each instance in this Agreement in which the Board is required to act, the Board shall be obligated to take such measures within the scope of their authority necessary to accomplish such act, and, to the extent that such measures involve directions to management of the Bank, the Board shall be obligated to ensure that management of the Bank follows such directions.

(6) This Agreement is intended, and shall be construed to be a supervisory “written agreement entered into with the agency” as contemplated by 12 U.S.C. § 1818(b)(1), and expressly does not form, and may not be construed to form, a contract binding on the OCC or the

United States of America. Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the OCC may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(b)(1), and not as a matter of contract law. The Bank expressly acknowledges that neither the Bank nor the OCC has any intention to enter into a contract. The Bank also expressly acknowledges that no OCC officer or employee has statutory or other authority to bind the United States of America, the United States Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer or employee of any of those entities to a contract affecting the OCC's exercise of its supervisory responsibilities. The terms of this Agreement, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or arrangements, or negotiations between the parties, whether oral or written.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller, has hereunto set her hand on behalf of the Comptroller.

/s/ Jennifer C. Kelly

Jennifer C. Kelly
Deputy Comptroller
Midsize and Credit Card Bank Supervision

March 11, 2005

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly elected and acting Board of Directors of the Bank, have hereunto set their hands on behalf of the Bank.

Signed	March 10, 2005
Benjamin W. Navarro	Date
Signed	March 10, 2005
Scott E. Silver	Date
Signed	March 10, 2005
S. Chris Jones	Date
Signed	March 10, 2005
Brett A. Hildebrand	Date
Signed	March 10, 2005
Robert DeJong	Date
Signed	March 10, 2005
Berkman Hong	Date
	Date
	Date