

## OFFICE OF THRIFT SUPERVISION

### Receivership of a Federal Savings Bank

**Date:** August 20, 2010  
**Order No.:** 2010-48  
**OTS No.:** 07935

The Acting Director of the Office of Thrift Supervision (OTS), or his designee, in cooperation with the Federal Deposit Insurance Corporation (FDIC), has determined to appoint the FDIC as receiver of Los Padres Bank, Solvang, California (Savings Bank).

#### GROUND FOR APPOINTMENT OF FDIC AS RECEIVER FOR THE SAVINGS BANK

The Acting Director, or his designee, based upon the administrative record, finds and determines the following:

- (i) The Savings Bank is in an unsafe and unsound condition to transact business;
- (ii) The Savings Bank is undercapitalized, as defined in section 38(b) of the Federal Deposit Insurance Act (FDIA), and has no reasonable prospect of becoming adequately capitalized; and
- (iii) The Savings Bank is undercapitalized, as defined in 12 U.S.C. § 1831o(b), and failed to submit a capital restoration plan acceptable to the Office of Thrift Supervision (OTS) within the time prescribed under 12 U.S.C. § 1831o(e)(2)(D).

The Savings Bank is a Deposit Insurance Fund-insured, federally chartered stock savings bank headquartered in Solvang, California. The Savings Bank operates eleven branches located in the Central Coast area of California, and three branches in the Phoenix/Scottsdale, Arizona area. The Savings Bank is a wholly owned subsidiary of Harrington West Financial Group, Inc. (HWFG).

The Savings Bank's June 30, 2010, Thrift Financial Report (TFR) reported that the Savings Bank had approximately \$870.4 million in assets, \$839.8 million in liabilities, \$30.1 million in stockholders' equity as of June 30, 2010, and that the Savings Bank incurred a net loss for the quarter ended June 30, 2010, of approximately \$861,000. The Savings Bank reported a net loss for the year ended December 31, 2009, of approximately \$44.0 million. In its June 30, 2010, TFR the Savings Bank reported tier one (core) and total risk-based capital of 5.48 percent and 7.11 percent, respectively. Based on the capital ratios in the Savings Bank's June 30, 2010,

TFR, the Savings Bank is undercapitalized under OTS's Prompt Corrective Action (PCA) regulation.

### **DISCUSSION OF GROUNDS FOR APPOINTMENT OF A RECEIVER FOR THE SAVINGS BANK**

Section 5(d)(2)(A) of the Home Owners' Loan Act (HOLA), 12 U.S.C. § 1464(d)(2)(A), provides that OTS may appoint a receiver for any insured savings association if OTS determines that one or more grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1821(c)(5), exist.

#### **Unsafe or Unsound Condition to Transact Business**

Under section 11(c)(5)(C) of the FDIA, OTS may appoint a receiver for a savings association if it is in an unsafe or unsound condition to transact business. An unsafe or unsound condition has been identified as one where a savings association is operated in a manner that causes an unacceptable risk to its depositors' funds. See Franklin Savings Association v. Director, OTS, 934 F.2d 1127, 1145 (10<sup>th</sup> Cir. 1991), cert. denied, 503 U.S. 937 (1992).

The Savings Bank is in an unsafe and unsound condition due to its capital deficiency, asset quality problems, and significant losses. As of June 30, 2010, the Savings Bank reported tier 1 (core) leverage capital and total risk-based capital of 5.48 percent and 7.11 percent, respectively, and is therefore "undercapitalized" as defined in OTS's PCA Regulations. The Savings Bank has significant asset quality problems. As of June 30, 2010, total adversely classified assets equaled \$286 million, or 483 percent of tier 1 (core) capital plus the allowance for loan and lease losses. This measure of problem assets is extraordinarily high, and is the highest level for any currently operating OTS-regulated savings association. The Savings Bank continues to have a high concentration of high-risk assets located in geographic areas severely impacted by declining real estate prices. The Savings Bank recorded a net loss of \$44 million for calendar year 2009, and net losses of \$861,000 for the quarter ended June 30, 2010. The Savings Bank's investment portfolio has sustained significant losses, and a substantial portion of the portfolio consists of securities that are rated below investment grade. The Savings Bank has repeatedly failed to properly identify and classify its problem loans and recognize losses.

Therefore, the Acting Director, or his designee, concludes that the Savings Bank is in an unsafe and unsound condition to transact business.

#### **Undercapitalized and No Reasonable Prospect of Becoming Adequately Capitalized**

Under section 11(c)(5)(K)(i) of the FDIA, OTS may appoint a receiver if a savings association is undercapitalized as defined in 12 U.S.C. § 1831o(b) and has no reasonable prospect of becoming adequately capitalized. Under section 1831o(b) an institution is undercapitalized if it fails to meet any required minimum capital level. OTS has determined that a savings association is undercapitalized on the basis of its total risk-based capital ratio if such ratio is less than 8 percent.

The Savings Bank reported that, as of June 30, 2010, it had a total risk-based capital ratio of 7.11 percent. The Savings Bank remains undercapitalized.

During the past year, the Savings Bank has attempted to raise additional capital through various sources, and the Savings Bank and HWFG have attempted to recapitalize, sell or merge the Savings Bank. At present, no investor or investors have been identified that are willing and able to recapitalize or acquire the Savings Bank. Given the Savings Bank's lack of success in raising sufficient capital over the past year, and the Savings Bank's deteriorating financial position, it is unlikely that the Savings Bank will be able to raise additional capital through outside sources.

Also, in light of the Savings Bank's operations and assets, it is not likely that the Savings Bank will be able to achieve adequately capitalized status through internal means, such as profitable operations or sales of existing assets.

Therefore, the Acting Director, or his designee, concludes that the Savings Bank is undercapitalized and that it has no reasonable prospect of becoming adequately capitalized.

#### **Undercapitalized and Failed to Submit an Acceptable Capital Restoration Plan Within the Time Prescribed**

Under section 11(c)(5)(K)(iii) of the FDIA, OTS may appoint a receiver if a savings association is undercapitalized as defined in 12 U.S.C. § 1831o(b) and fails to submit a capital restoration plan that is acceptable to OTS within the time prescribed under 12 U.S.C. § 1831o(e)(2)(D). Section 1831o(e)(2)(D) provides for OTS to promulgate regulations generally requiring an institution to submit such a plan not later than 45 days after the savings association becomes undercapitalized. OTS promulgated such a regulation. See 12 C.F.R. § 565.5(a)(1). Section 1831o(e)(2)(C)(i)(II) provides that OTS shall not accept a capital restoration plan unless OTS concludes that the plan is based on realistic assumptions and is likely to succeed in restoring the institution's capital.

As discussed above, the Savings Bank is undercapitalized.

On April 23, 2010, OTS notified the Savings Bank that it had become undercapitalized as of December 31, 2009, and required the Savings Bank to submit a capital restoration plan by May 10, 2010. The Savings Bank submitted its capital restoration plan on May 10, 2010. OTS reviewed the capital restoration plan, and concluded that the plan was not acceptable because it was based on unrealistic assumptions regarding: (i) reliance upon an unsigned letter of intent for a merger with a party with no assurance the transaction would ever be completed; and (ii) a contingency plan for the Savings Bank becoming adequately capitalized that lacked support for the projected increase in the risk-based capital. OTS denied the capital restoration plan on June 28, 2010.

Therefore, the Acting Director, or his designee, concludes that the Savings Bank is undercapitalized and that the Savings Bank has failed to timely submit an acceptable capital restoration plan within the time prescribed in 12 C.F.R. § 565.5(a).

The Acting Director, or his designee, therefore, has determined that grounds for the appointment of a receiver for the Savings Bank exist under section 5(d)(2) of the HOLA, and sections 11(c)(5) (C), (K)(i), and (K)(iii) of the FDIA, 12 U.S.C. §§ 1821(c)(5)(C), (K)(i), and (K)(iii).

### **ACTIONS ORDERED OR APPROVED**

#### **Appointment of a Receiver**

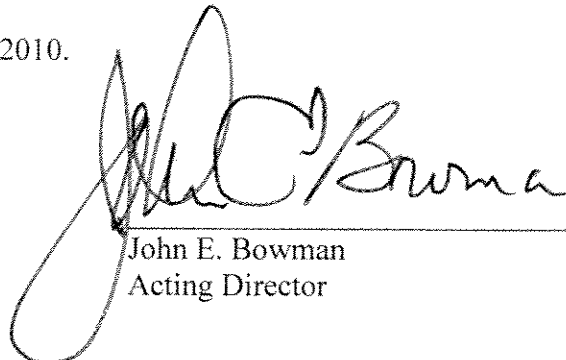
The Acting Director, or his designee, hereby appoints the FDIC as receiver for the Savings Bank, for the purpose of liquidation or winding up the affairs of the Savings Bank, pursuant to section 5(d)(2) of the HOLA, 12 U.S.C. § 1464(d)(2), and section 11(c)(6)(B) of the FDIA, 12 U.S.C. § 1821(c)(6)(B).

#### **Delegation of Authority to Act for OTS**

The Acting Director, or his designee, hereby authorizes the OTS Western Regional Director, or his designee, and the Deputy Chief Counsel for Business Transactions of the Chief Counsel's Office, or his designee, to: (i) certify orders; (ii) sign, execute, attest, or certify other documents of OTS issued or authorized by this Order; (iii) designate the persons or entity that will give notice of the appointment of a receiver for the Savings Bank and serve the Savings Bank with a copy of this Order pursuant to 12 C.F.R. § 558.2; and (iv) perform such other functions of OTS necessary or appropriate for implementation of this Order. All documents to be issued under the authority of this Order must be first approved, in form and content, by the Chief Counsel's Office. In addition, the Acting Director, or his designee, hereby authorizes the Deputy Chief Counsel for Business Transactions, or his designee, to make any subsequent technical corrections, that might be necessary, to this Order, or any documents issued under the authority of this Order.

By Order of the Acting Director of OTS, or his designee, effective: (a) as to the above matters regarding the delegation of authority, immediately upon signature; and (b) as to the above matters regarding the appointment of the FDIC as receiver, immediately upon service of this Order on the Savings Bank.

Executed this 20th day of August, 2010.



John E. Bowman  
Acting Director