



authority to issue a final Order where the Respondent consents to the issuance of such an Order; and

**WHEREAS**, the NCUA Board has considered the terms and conditions agreed to in the Stipulation and Consent;

**NOW THEREFORE, IT IS ORDERED THAT:**

1. The Stipulation and Consent docket No. 09-0059-IV is approved and is incorporated into this Order by reference.
2. The Region IV Director has delegated authority to extend any dates referenced in the Stipulation and Consent.
3. The Region IV Director has delegated authority to terminate this Order in whole or in part.

**FOR THE NATIONAL CREDIT UNION ADMINISTRATION BOARD**

BY: Mary F. Rupp  
Mary F. Rupp,  
Secretary of the Board

Dated: 2/25/10



2. Jurisdiction.

(a) The Credit Union is a “Federal credit union” and an “insured credit union” within the meaning of Section 101 of the FCUA, 12 U.S.C. §§ 1752(1), 1752(7).

(b) Pursuant to the authority vested in the NCUA Board under Section 206 of the FCUA, 12 U.S.C. § 1786, and Part 747 of the NCUA Rules and Regulations (“Rules”), 12 C.F.R. § 747, it is an appropriate Federal agency to maintain enforcement proceedings against an insured Federal credit union. Therefore, the Credit Union is subject to the NCUA Board’s authority to initiate and maintain proceedings against it.

3. Consent. The Credit Union consents to the issuance by the NCUA Board of the accompanying Cease and Desist Order. The Credit Union agrees that the Order complies with the Federal Credit Union Act and consents to the following terms and conditions. The Credit Union (including all directors, committee members, officers and employees) shall immediately:

(a) Cease and desist all work on the Rushmore Crossing construction project (“Rushmore Crossing”), unless authorized to continue by the express written consent of the Regional Director of NCUA Region IV (“Regional Director”).

(b) Cease and desist from purchasing any additional fixed assets for the Credit Union without the express written consent of NCUA, or until the Credit Union is in actual compliance with Section 701.36(a) of the Rules, 12 C.F.R. § 701.36(a).

(c) Cease and desist from paying any expenditure for Rushmore Crossing without written approval by the Regional Director.

(d) Provide to NCUA on an ongoing basis all documentation regarding expenditures, invoices or applications for payment submitted by the Architect, General Contractor, or other parties that performed or provided work, goods or services on Rushmore Crossing

prior to November 10, 2009 or which was otherwise approved by the Regional Director.

(e) Provide to NCUA the Credit Union's written plan ("Plan") to bring the Credit Union into compliance with Section 701.36(a) of the Rules, 12 C.F.R. § 701.36(a), while maintaining the safety and soundness of the Credit Union.<sup>1</sup> The Plan must include an analysis of the fixed asset costs of the Credit Union's operations, including a cost-benefit analysis with respect to implementing each of the following options:

- (1) Reduction of the planned purchases of furniture, fixtures, and equipment for all the Credit Union's service facilities;
- (2) Reduction in size of the Rushmore Crossing facility;
- (3) Termination of Rushmore Crossing, including penalties and costs related to closing the site and meeting local codes and ordinances;
- (4) Sale of the new Hills City branch;
- (5) Closure of the current main office and the Rapid City branch; and
- (6) Request for a fixed asset waiver under NCUA Rules, 12 C.F.R. § 701.36(a)(2).

(f) Engage a qualified third party architect or general contractor to give an independent written estimate of costs necessary to winterize Rushmore Crossing, as follows:

- (1) The written estimate of costs must include documentation that explains all necessary actions, the associated costs, and a deadline for completion in order to maintain the structural integrity of Rushmore Crossing for the winter; and
- (2) The written estimate of costs must be received by the Regional Director by no later than December 7, 2009.<sup>2</sup>

(g) Provide to the Regional Director by December 7, 2009 documented suspension

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<sup>1</sup> The Credit Union submitted a Plan to NCUA in compliance with this section and this requirement has been met as of the date hereof to the satisfaction of the NCUA Board. This Plan was supplemented on February 1, 2010 as part of a fixed asset waiver application submitted to NCUA pursuant to 12 C.F.R. § 701.36(a) (2).

<sup>2</sup> The Credit Union submitted this estimate to NCUA in compliance with this section, and this requirement has been met as of the date hereof to the satisfaction of the NCUA Board.

costs incurred as well as estimated termination costs for Rushmore Crossing, to be provided by the General Contractor, Architect, and any other qualified party.<sup>3</sup>

(h) The Supervisory Committee of the Credit Union shall hire by December 11, 2009 an independent firm to<sup>4</sup>:

(1) investigate the extent of planning documentation and cost projections that were created in advance of Rushmore Crossing, providing copies of any such documentation to NCUA;

(2) ascertain any reason for the Credit Union's lack of such documentation or planning;

(3) determine who was responsible for allowing work on Rushmore Crossing to continue for almost two weeks after the board notified NCUA by letter on November 10, 2009 that the project had been suspended; and

(4) provide to the Regional Director by December 28, 2009 a written report describing the above investigation and its results.<sup>5</sup>

(i) Provide to NCUA copies of any written documentation indicating that the Credit Union instructed its General Contractor, Architect, or any other party to suspend Rushmore Crossing on or before November 10, 2009.

(j) Notify by December 7, 2009 the Credit Union's bonding company that a regulatory violation has occurred, and request continued bond coverage on the board and other responsible parties.<sup>6</sup>

(k) Issue a new board of directors Resolution by March 31, 2010 that will:

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<sup>3</sup> The Credit Union submitted a documentation of these costs to NCUA by December 7, 2009.

<sup>4</sup> The Credit Union submitted proof to NCUA that they hired an independent firm on December 11, 2009 to conduct this investigation.

<sup>5</sup> The Credit Union provided a report to NCUA by December 28, 2009 summarizing the independent firm's investigations and conclusions.

<sup>6</sup> The Credit Union has provided NCUA documentation that the bonding company notification took place via phone and electronic correspondence by December 7, 2009 in compliance with this section, and this requirement has been met as of the date hereof to the satisfaction of the NCUA Board.

(1) set forth specific actions that the Credit Union will follow to ensure compliance with the written fixed asset Plan described in subsection (e), in order to meet the benchmarks outlined in the Plan and all fixed asset requirements under the Rules;

(2) create a specific timeline for accomplishing each of these specific actions, including the sale of any properties; and

(3) require that Credit Union management implements the written fixed asset Plan and that its employees continuously cooperate with NCUA examiners to ensure that the Credit Union:

(A) adequately meets or exceeds the stated benchmarks and due dates set forth in the Plan; and

(B) complies with the Rules pertaining to its ownership of fixed assets, 12 C.F.R. § 701.36(a).

(l) Require that the Supervisory Committee review the written fixed asset Plan described in subsection (e) on a quarterly basis in order to monitor actual progress, track and correct deviations from projected figures, and recommend appropriate courses of action to the board of directors as necessary to ensure continued compliance with the Rules. This review must be documented and made available to NCUA upon request.

(m) Require that the board of directors review the written fixed asset Plan described in subsection (e) at each regularly scheduled board meeting in order to monitor actual progress, track and correct deviations from projected figures, and to take action as necessary to ensure continued compliance with the Rules, including but not limited to the following remedial measures, as applicable:

(1) Should the net worth of the Credit Union as reported on its NCUA Call Report fail to remain at or above 6.5% (six and one-half per centum) for any two consecutive

quarters, its board of directors shall immediately engage a workout specialist to:

(A) advise the board on appropriate revisions to the Plan that will immediately arrest any further decline of the Credit Union's net worth; and

(B) assume whatever management duties are necessary to implement the revised Plan and correct the net worth decline;

(2) Should the net worth as reported on its NCUA Call Report fail to remain at or above 6.5% (six and one-half per centum) in any two consecutive quarters, the board of directors shall immediately develop a merger contingency plan in the interest of protecting the National Credit Union Share Insurance Fund ("NCUSIF") and of ensuring continuing credit union service to the membership. This plan must identify a credit union or credit unions willing and able to accept at no cost to the NCUSIF merger of the assets of the credit union. Should potential merger candidates not be located the Regional Director shall be notified within thirty (30) days of the effective date of net worth classification as defined by 12 U.S.C. § 702.101(b); and

(3) Should the net worth as reported on its NCUA Call Report fail to remain at or above 6% (six per centum) in any two consecutive quarters, the board of directors shall immediately implement the merger contingency plan identified in the preceding subsection.

(n) Institute a semiannual evaluation of senior executive officers,<sup>7</sup> to be conducted and retained in written form by the Credit Union's board of directors, with the following parameters:

(1) A certification of completion of said review shall be provided to the Regional Director after each set of evaluations is performed;

(2) The initial review and written appraisal shall commence within thirty (30) days of

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<sup>7</sup> See 12 C.F.R. § 701.14(b).

issuance of this Order; and

(3) The Credit Union's current performance standards for management should serve as a basis for evaluation; in addition, qualifications expected of senior executive officers shall include the ability to:

- (A) implement and comply with this Order;
- (B) operate the Credit Union in a safe and a sound manner; and
- (C) comply with all applicable Federal and State laws and regulations.

(o) The entire board of directors shall immediately participate in the affairs of the credit union, and in the interest of maintaining the level of expertise commonly expected for directors of credit unions of comparable size and complexity, shall devise an education program for the credit union directors within sixty (60) days of the issuance of this Order. This education plan shall be subject to the review and acceptance of the Regional Director prior to commencing any aspect of the program requiring direct expenditures. This education plan shall be a two-year education program for current and new directors that will, at a minimum:

- (1) provide training in lending, operations, and compliance with applicable Federal and State laws, rules, and regulations;
- (2) provide training on the duties and responsibilities of the board of directors in connection with the safe and sound operations of the Credit Union; and
- (3) provide specific and periodic technical training on topics related to effective governance of the Credit Union that will include, at a minimum:
  - (A) Strategic Planning;
  - (B) Policy Development and Oversight;
  - (C) Budget Development and Oversight;
  - (D) Asset Liability Management Program Development;

(E) Supervision and Evaluation of Management; and

(F) Fraud Prevention and Internal Controls.

(p) Implement the training and education program described in subsection (p) as soon as practicable, with its two-year cycle to commence immediately upon the issuance of this Order and continue as warranted by the addition of new credit union directors or updates to the curriculum.

4. Waivers. The Credit Union waives its right to an administrative hearing on this Order as provided for in Section 206 of the FCUA, 12 U.S.C. § 1786. It further waives its right to seek judicial review of the Order, or otherwise challenge the validity or legality of the Order.

5. Finality. The Order is issued pursuant to Section 206 of the FCUA, 12 U.S.C. § 1786. Upon its issuance by the NCUA Board, it shall be a final Order, effective and fully enforceable by the NCUA.

6. Extension of Dates. The Regional Director, and all successor Regional Directors, may in their discretion extend the time frames referred to in the Final Cease and Desist Order.

**WHEREFORE**, in consideration of the foregoing the undersigned, on behalf of the NCUA and the Credit Union, execute this Stipulation and Consent to Issuance of Cease and Desist Order. The parties may execute this Stipulation and Consent to Issuance of Cease and Desist Order in counterparts.



Ed Starr, Director

Rapid City Telco Federal Credit Union

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By: \_\_\_\_\_

Brian Watland, Director

Rapid City Telco Federal Credit Union