

FEDERAL DEPOSIT INSURANCE CORPORATION
CONSUMER FINANCIAL PROTECTION BUREAU

WASHINGTON, D.C.

In the Matter of)	STIPULATION AND CONSENT
AMERICAN EXPRESS CENTURION BANK)	TO THE ISSUANCE OF A
SALT LAKE CITY, UTAH)	JOINT CONSENT ORDER,
(INSURED STATE NONMEMBER BANK))	JOINT ORDER FOR
)	RESTITUTION, AND
)	JOINT ORDER TO PAY
)	CIVIL MONEY PENALTY
)	FDIC-12-315b
)	FDIC-12-316k
)	2012-CFPB-0002

Subject to the acceptance of this Stipulation And Consent To The Issuance Of A Joint Consent Order, Joint Order For Restitution, and Joint Order To Pay Civil Money Penalty (“Stipulation”) by the Federal Deposit Insurance Corporation (“FDIC”) and the Consumer Financial Protection Bureau (“CFPB”), it is hereby stipulated and agreed by and between a representative of the Legal Division of the FDIC, the Office of Enforcement of the CFPB, and American Express Centurion Bank, Salt Lake City, Utah (“Bank”) as follows:

1. The Bank has been advised by the FDIC of its right to receive a Notice of Charges for a Consent Order and for Restitution, Notice of Assessment of Civil Money Penalties, Findings of Fact and Conclusions of Law, and Notice of Hearing (collectively, “Notice”) detailing the violations of law and/or regulations and unsafe or unsound banking practices alleged to have been committed by the Bank for which a Joint Consent Order, a Joint Order for Restitution and Joint Order to Pay Civil Money Penalty (collectively, “Joint Orders”) may issue

against the Bank pursuant to sections 8(b) and 8(i)(2) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. §§ 1818(b) and 1818(i)(2).

2. The Bank has been further advised by the FDIC of its right to a hearing on the charges under section 8(b) and 8(i)(2) of the FDI Act, 12 U.S.C. §§ 1818 (b) and 1818 (i)(2), and the FDIC’S Rules of Practice and Procedure, 12 C.F.R. Part 308.

3. The Bank admits that it is an “insured depository institution” and an insured “State nonmember bank” as those terms are defined in sections 3(c)(2) and 3(e)(2) of the FDI Act, 12 U.S.C. §§ 1813(c)(2) and 1813(e)(2).

4. The Bank admits that it is a “covered person” as that term is defined in section 1002(6)(A) of the Consumer Financial Protection Act (“CFP Act”), 12 U.S.C. § 5481(6)(A).

5. The Bank admits that the FDIC has jurisdiction over the Bank pursuant to section 3(q)(3) of the Act, 12 U.S.C. § 1813(q)(3), and that the CFPB has jurisdiction over the Bank pursuant to section 1002(6), 1025 and 1053(b) of the CFP Act, 12 U.S.C §§ 5481(6), 5515 and 5563(b).

6. The FDIC and the CFPB have reason to believe, as to matters within their respective jurisdiction, that the Bank has engaged in unsafe or unsound banking practices and in violation of various federal consumer financial laws and regulations, including Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1); sections 1031 and 1036 of the CFP Act, 12 U.S.C. §§ 5531 and 5536; the Truth in Lending Act, as amended by the Credit CARD Act of 2009, 15 U.S.C. §§ 1601 et seq., and section 1026.52(b)(1) of Regulation Z, 12 C.F.R. § 1026.52(b)(1); the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 et seq., 12 C.F.R. Part 1022;

the Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. §§ 1691 et seq., and section 1002.6 of Regulation B, 12 C.F.R. § 1002.6.¹

7. The Bank, solely for the purpose of this proceeding and without admitting or denying any of the alleged charges of unsafe or unsound banking practices, any of the findings of fact, and any violations of law, hereby consents and agrees to the issuance of the Joint Orders by the FDIC and the CFPB.

8. The Bank further consents and agrees to pay a civil money penalty in the amount of \$3,900,000 to the Treasury of the United States pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2), as directed by the FDIC, and a civil money penalty in the amount of \$3,900,000 to the CFPB pursuant to section 1017(d) of the CFP Act, 12 U.S.C. § 5497(d), as directed by the CFPB.

9. The Bank further stipulates and agrees that such Joint Orders will be deemed to be orders which have become final under the FDI Act and the CFP Act, and that said Joint Orders shall become effective upon their issuance by the FDIC and the CFPB, and fully enforceable by the FDIC pursuant to the provisions of the FDI Act and the CFPB pursuant to the provisions of the CFP Act.

10. In the event the FDIC accepts the Stipulation and issues the Joint Orders jointly with the CFPB, it is agreed that no action to enforce said Joint Orders in the United States District Court will be taken by the FDIC unless the Bank or any institution-affiliated party, as such term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), has violated or is about to violate any provision of the Joint Orders.

¹ Effective December 30, 2011, the Consumer Financial Protection Bureau republished some of the existing regulations implementing federal consumer financial laws, including Regulation Z and Regulation B, in Chapter X of Title 12 of the Code of Federal Regulations. All citations to these regulations will refer to the republished regulations for ease of reference.

11. The Bank hereby waives its right under the FDI Act to:

- (a) The receipt of a Notice;
- (b) All defenses in this proceeding;
- (c) A public hearing for the purpose of taking evidence on such alleged charges;
- (d) The filing of Proposed Findings of Fact and Conclusions of Law;
- (e) A recommended decision of an Administrative Law Judge;
- (f) Exceptions and briefs with respect to such recommended decision; and
- (g) Judicial review of the Joint Orders as provided by section 8(h) of the Act,

12 U.S.C. § 1818(h), or any other challenge to the validity of the Joint Orders.

12. The Bank hereby waives its right under the CFP Act to:

- (a) All hearings pursuant to the statutory provisions under which the proceeding has been instituted;
- (b) The filing of Proposed Findings of Fact and Conclusions of Law;
- (c) Proceedings before, and a recommended decision by, a hearing officer;
- (d) All post-hearing procedures;
- (e) Judicial review by any court; and
- (f) Any objection to the jurisdiction of the CFPB under section 1053 of the Dodd-Frank Act.

The Bank further waives (i) such provisions of the CFPB's rules or other requirements of law as may be construed to prevent any CFPB employee from participating in the preparation of, or advising the CFPB Director as to, any order, opinion, finding of fact, or conclusion of law to be entered pursuant to the offer; and (ii) any right to claim bias or pre-judgment by the CFPB Director based on the consideration of or discussions concerning settlement of all or any part of the proceeding.

Dated this 21st day of September, 2012.

FEDERAL DEPOSIT INSURANCE
CORPORATION, LEGAL DIVISION
BY:

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Joyce M. Raidle, Senior Regional Attorney

CONSUMER FINANCIAL PROTECTION
BUREAU
BY:

Erin Mary Kelly/
Erin Mary Kelly, Enforcement Attorney
Greg Nodler, Enforcement Attorney
Christina Coll, Enforcement Attorney

AMERICAN EXPRESS CENTURION BANK
SALT LAKE CITY, UTAH

/Tom Anderson/
Tom Anderson

/Andrea Moss/
Andrea Moss

/Robert Garinger/
Robert Garinger

/Val Oveson/
Val Oveson

/Maria Garciaz/
Maria Garciaz

/William Taylor/
William Taylor

Comprising the Board of Directors of
American Express Centurion Bank,
Salt Lake City, Utah