

UNITED STATES OF AMERICA  
BEFORE  
THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

STATE OF MICHIGAN  
OFFICE OF FINANCIAL AND INSURANCE SERVICES  
LANSING, MICHIGAN

_____	)	
Written Agreement by and among	)	
	)	
NEW CENTURY BANCORP	)	
Southfield, Michigan	)	
	)	
NEW CENTURY BANK	)	
Southfield, Michigan	)	Docket Nos. 00-004 WA/RB-HC
	)	00-004 WA/RB-SM
FEDERAL RESERVE BANK	)	
OF CHICAGO	)	
Chicago, Illinois	)	
	)	
and	)	
	)	
OFFICE OF FINANCIAL AND	)	
INSURANCE SERVICES	)	
Lansing, Michigan	)	
_____	)	

WHEREAS, in recognition of their common goal to restore and maintain the financial soundness of New Century Bancorp, Southfield, Michigan (the "BHC"), a registered bank holding company, and its subsidiary bank, the New Century Bank, Southfield, Michigan (the "Bank"), a state chartered bank that is a member of the Federal Reserve System, the BHC, the Bank, the Federal Reserve Bank of Chicago (the "Reserve Bank"), and the Office of Financial and Insurance Services (the "OFIS") have mutually agreed to enter into this Written Agreement (the "Agreement"); and

WHEREAS, on June 30, 2000 the boards of directors of the BHC and the Bank, at duly constituted meetings adopted resolutions authorizing and directing, Vincent DiLorenzo, Chairman of the BHC and the Bank, to enter into this Agreement on behalf of the BHC and the Bank, respectively, and consented to compliance by the BHC and the Bank and their institution-affiliated parties, as defined by sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1813(u) and (b)(3)) (the "FDI Act"), with each and every applicable provision of this Agreement.

NOW, THEREFORE, before the taking of any testimony or adjudication of or finding on any issue of fact or law herein, and without this Agreement constituting an admission of any allegation made or implied by the Board of Governors or the OFIS, the BHC, the Bank, the Reserve Bank, and the OFIS agree as follows:

#### **Capital Adequacy**

1. (a) Within 60 days of this Agreement, the BHC and the Bank shall submit to the Reserve Bank and the OFIS an acceptable joint written plan to achieve and maintain sufficient capital at the Bank. The plan shall, at a minimum, address and consider: (i) the Bank's current and future capital requirements, including compliance with the Capital Adequacy Guidelines of the Board of Governors (12 C.F.R. Part 208, App. A and B) and the minimum capital levels committed to as a condition of federal and state regulatory approval of the formation of the BHC and the Bank; (ii) any planned growth in the Bank's assets, including branches; (iii) the Bank's level of concentrations of credit; (iv) the volume of the Bank's adversely classified assets; (v) the Bank's anticipated level of retained earnings; and (vi) the

source and timing of additional funds to fulfill the future capital and allowance for loan and lease loss needs of the Bank.

(b) Notwithstanding the provisions of paragraph 1(a) hereof, the Bank shall by August 30, 2000 achieve and, at all times thereafter during the term of this Agreement and until July 1, 2002, maintain its tier 1 leverage ratio at a level of no less than 9 percent.

(c) The BHC shall take all actions necessary to perform its guarantee of the capital restoration plan accepted by the Board of Governors on May 12, 2000.

#### **Management and Board of Directors**

2. (a) Within 90 days of this Agreement, the Bank's board of directors shall conduct a review of all managerial and operational functions of the Bank and of the performance of all officers and employees of the Bank and shall forward to the Reserve Bank and the OFIS a written report that includes findings, conclusions, and a description of specific actions that the board of directors proposes to take to strengthen the Bank's management. The primary purpose of the review shall be to aid in the development of a management structure that is adequately staffed by qualified and trained personnel suitable to the Bank's needs. The review shall address, consider, and include, at a minimum, the following:

- (i) identification of the type and number of officer positions needed to manage and properly supervise the lending function of the Bank;
- (ii) an evaluation of each officer to determine whether the individual possess the ability, experience, and other qualifications required to

perform competently present and anticipated duties, including the ability to provide appropriate oversight of the lending function, to adhere to the Bank's established policies and procedures, to restore and maintain the Bank to a safe and sound condition, and to comply with the requirements of this Agreement; and

- (iii) a plan to recruit, hire, or appoint additional or replacement personnel with the ability, experience, and other qualifications required to perform competently their assigned duties.

(b) The Bank shall take all available actions as are necessary to have, at all times, a minimum of two outside directors with banking experience. For the purposes of this Agreement, the terms (i) "outside director" is defined as an individual, not an employee or executive officer of the BHC or the Bank, who owns less than 10 percent of the outstanding voting stock of the BHC or the Bank and who is not related in any manner to any shareholder who owns 10 percent or more of the outstanding voting stock of the BHC or the Bank or any related interest of such a shareholder; and (ii) "executive officer" shall be defined as set forth in section 215.2(e) of Regulation O of the Board of Governors ("Regulation O") (12 C.F.R. 215.2(e)).

(c) Prior to the election or appointment of any director or senior executive officer during the term of this Agreement, the BHC and the Bank shall provide notice to the

Reserve Bank and the OFIS of such election or appointment as required by Subpart H of Regulation Y of the Board of Governors (12 C.F.R. 225, Subpart H).

(d) The BHC and the Bank shall not, directly or indirectly, pay any salary or any bonus or increase the fees, or make any other payments, including, but not limited to, the reimbursement of expenses or the payment of indebtedness, to or on behalf of any of the BHC's or the Bank's directors without the prior written approval of the Reserve Bank and the OFIS.

### **Lease Policies and Procedures**

3. (a) Within 30 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFIS acceptable written policies and procedures for monitoring, reporting, and collecting past due leases.

(b) The Bank shall not originate or acquire any lease contracts except in accordance with the Bank's written lease policies and procedures that are acceptable to the Reserve Bank and the OFIS. Such policies and procedures shall, at a minimum, address, consider, and include, but not be limited to: underwriting and documentation standards; concentration limits; and approval authorities for individual lease officers.

### **Strategic Plan and Budget**

4. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFIS a written strategic plan and budget concerning the Bank's proposed business

activities for the remainder of 2000 and for 2001. This plan shall, at a minimum, provide for or describe:

- (i) the responsibilities of the Bank's board of directors regarding the definition, approval, implementation and monitoring of the strategic plan and budget, and the procedures designed to ensure that the board of directors fulfills such responsibilities;
- (ii) management, lending, and operational objectives, given the condition of the Bank as reflected in the most recent report of examination of the Bank and subsequent reports;
- (iii) an earnings improvement plan;
- (iv) the operating assumptions that form the bases for major projected income and expense components, and the sources and uses of new funds;
- (v) financial performance objectives, including plans for asset growth, earnings, liquidity, and capital supported by detailed quarterly and annual pro forma financial statements, including projected budgets, balance sheets and income statements; and
- (vi) the establishment of a monthly review process to monitor the actual income and expenses of the Bank in comparison to budgetary projections.

(b) The Bank shall submit to the Reserve Bank and the OFIS a revised strategic plan or budget at least 30 days prior to the occurrence of any planned material changes

to adopted strategic plans or budgets, and the Bank shall promptly notify the Reserve Bank and the OFIS of any significant deviations from adopted strategic plans or budgets.

(c) A strategic plan and budget for each calendar year subsequent to 2000 shall be submitted to the Reserve Bank and the OFIS at least one month prior to the beginning of that calendar year.

#### **Allowance for Loan and Lease Losses**

5. (a) Within 30 days from the receipt of any federal or state report of examination that classifies assets as "loss", the Bank shall charge-off all such assets, unless otherwise approved in writing by the Reserve Bank and the OFIS.

(b) The Bank shall maintain, through charges to current operating income, an adequate allowance for loan and lease losses. The adequacy of the allowance for loan and lease losses shall be determined in light of the volume of criticized loans and leases, the current level of past due and nonperforming loans and leases, past loan and lease loss experience, evaluation of the potential for loan and lease losses in the Bank's portfolio, current economic conditions, examiner's other criticisms as contained in the Bank's most recent report of examination, and the requirements of the Interagency Policy Statement on the Allowance for Loan and Lease Losses, dated December 22, 1993. The Bank shall conduct, at a minimum, a monthly assessment of its allowance for loan and lease losses and shall maintain a written record, for supervisory review, indicating the methodology used in determining the amount of the allowance needed.

(c) The Bank shall submit to the Reserve Bank and the OFIS a monthly report of past due loans and leases and adversely classified assets, with a written description of the current condition and status of each classified asset in excess of \$25,000, and the dollar amount of the allowance for loan and lease losses.

#### **Internal Controls**

6. (a) Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFIS acceptable written procedures designed to strengthen its internal controls and to maintain the accuracy of the Bank's books and records, which shall, at a minimum, address, consider, and include: (i) reconciliation of the Bank's lease accounting software to the Bank's general ledger account; and (ii) the accurate preparation of the Bank's Report of Condition and Income.

(b) Within 90 days of this Agreement, the Bank shall review its accounting procedures for conformance with current industry standards and practices. A written summary of the review and its conclusions shall be retained for future supervisory review.

#### **Asset/Liability Management**

7. Within 60 days of this Agreement, the Bank shall submit to the Reserve Bank and the OFIS an acceptable revised written asset/liability management policy designed to improve management of the Bank's liquidity. The revised policy shall, at a minimum, address the following: (a) a minimum level of temporary assets; (b) a maximum level of volatile liabilities; (c) an appropriate level of core deposits; (d) the number and amount of large deposits; (e) the



number, amount, and maturity dates of brokered deposits; (f) an appropriate level of loans and leases relative to deposits and capital; (g) the Bank's borrowing availability; and (h) appropriate standards for volume, mix, and maturity of the Bank's loans, leases, investments, and deposits.

### **Deposit Taking Activities**

8. (a) The Bank shall not accept brokered deposits except in compliance with the provisions of section 29 of the FDI Act (12 U. S. C. 1831f). The Bank shall notify the Reserve Bank and the OFIS if the Bank requests any waiver of the restrictions imposed by section 29 from the Federal Deposit Insurance Corporation (the "FDIC"), and shall notify the Reserve Bank and the OFIS of the FDIC's disposition of any request for such a waiver.

(b) The Bank shall not, directly or indirectly, solicit, renew or accept any deposits bearing an interest rate that exceeds the prevailing effective yields on insured deposits of comparable maturity in the Bank's normal market area, without prior written approval of the Reserve Bank and the OFIS.

### **Dividends**

9. (a) The Bank shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Director of the Division of Banking Supervision and Regulation of the Board of Governors (the "Director"), and the OFIS. Requests for approval shall be received at least 30 days prior to the proposed date for declaration of dividends and shall contain, but not be limited to, information on the Bank's earnings for the most recent annual period and the last quarter.

(b) The BHC shall not declare or pay any dividends without the prior written approval of the Reserve Bank and the Director. Requests for approval shall be received at least 30 days prior to the proposed date for declaration of dividends and shall contain, but not be limited to, information on consolidated earnings for the most recent annual period and the last quarter.

#### **Debt and Stock Redemption**

10. (a) The BHC shall not, directly or indirectly, incur any debt without the prior written approval of the Reserve Bank. All requests for prior written approval shall contain, but not be limited to, a statement regarding the purpose of the debt, the terms of the debt, and the planned source(s) for debt repayment and an analysis of the cash flow resources available to meet such debt repayment.

(b) The BHC shall not redeem any stock without the prior written approval of the Reserve Bank.

#### **Compliance with Laws and Regulations**

11. The Bank shall take the necessary steps, consistent with sound banking practices, to correct all violations of law and regulation set forth in the most recent report of examination of the Bank, including, but not limited to, divesting the Bank's impermissible investments.

## **Compliance with Agreement**

12. (a) Within 15 days of this Agreement, the Bank's board of directors shall appoint a committee (the "Compliance Committee") comprised of at least 5 directors, the majority of whom shall not be officers or principal shareholders, as defined in section 215.2(m) of Regulation O (12 C.F.R. 215.2(m)), of the Bank to monitor and coordinate the Bank's compliance with the provisions of this Agreement.

(b) Within 30 days of the appointment of the Compliance Committee, and, thereafter, within 30 days of the end of each quarter following the date of this Agreement, the Compliance Committee shall submit a written progress report to the Bank's board of directors setting forth in detail the actions taken to comply with each provision of this Agreement and the results of those actions.

(c) Within 15 days after its receipt from the Compliance Committee, the Bank's board of directors shall forward a copy of the report described in paragraph 12(b) hereof, with any additional comments made by the board of directors, to the Reserve Bank and the OFIS. The Bank's board of directors shall certify in writing to the Reserve Bank and the OFIS that each director has reviewed each quarterly progress report required by this paragraph. Such reports may be discontinued when the Reserve Bank and the OFIS, in writing, releases the Bank from making further reports.

### **Approval of Plans, Policies, and Procedures**

13. (a) The policies, procedures, and plan required by paragraphs 1(a), 3(a), 6 (a), and 7 hereof shall be submitted to the Reserve Bank and the OFIS for review and approval.

Acceptable policies, procedures, and the plan shall be submitted to the Reserve Bank and the OFIS within the time periods set forth in this Agreement. Where applicable, the BHC and the Bank shall adopt all approved policies, procedures, and the plan within 10 days of approval by the Reserve Bank and the OFIS and then shall fully comply with them. During the term of this Agreement, the BHC and the Bank shall not amend or rescind the approved policies, procedures, and the plan without the prior written approval of the Reserve Bank and the OFIS.

(b) The Bank's board of directors shall review all policies, procedures, and plans annually.

### **Communications**

14. All communications regarding this Agreement shall be sent to:

- (a) Mr. John J. Wixted, Jr.  
Senior Vice President  
Federal Reserve Bank of Chicago  
230 South LaSalle Street  
Chicago, Illinois 60690
- (b) Mr. Frank M. Fitzgerald  
Commissioner  
Office of Financial and Insurance Services  
P.O. Box 30224  
Lansing, Michigan 48909

(c) Mr. Vincent DiLorenzo  
Chairman  
New Century Bancorp  
New Century Bank  
23155 Northwest Highway  
Southfield, Michigan 48075

**Miscellaneous**

15. Notwithstanding any provision of this Agreement to the contrary, the Reserve Bank and the OFIS may, in their sole discretion, grant written extensions of time to the BHC and the Bank to comply with any provision of this Agreement.

16. The provisions of this Agreement shall be binding upon BHC and the Bank and all of their institution-affiliated parties, in their capacities as such, and their successors and assigns.

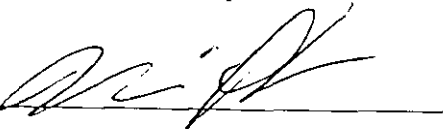
17. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated or suspended by the Reserve Bank and the OFIS.

18. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors or the OFIS or any other federal or state agency from taking any other action affecting the BHC or the Bank or any of their current or former institution-affiliated parties and their successors and assigns.

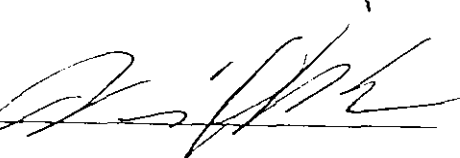
19. This Agreement is a "written agreement" for the purposes of section 8 of the FDI Act (12 U.S.C. 1818).

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed  
as of the 13 day of July, 2000.

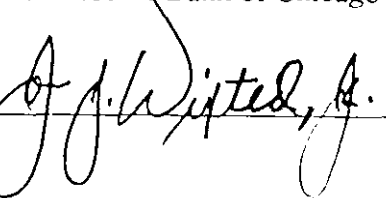
New Century Bancorp

By: 

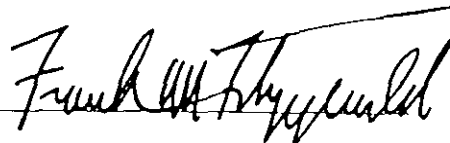
New Century Bank

By: 

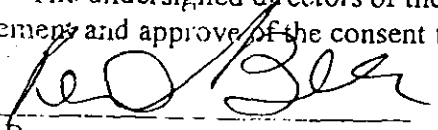
Federal Reserve Bank of Chicago

By: 

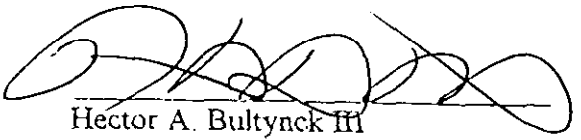
Office of Financial and  
Insurance Services


By: 

The undersigned directors of the BHC individually acknowledge reading the foregoing Agreement and approve of the consent thereto by the BHC.

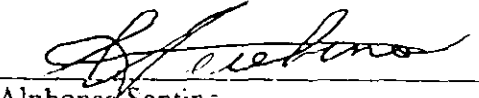
  
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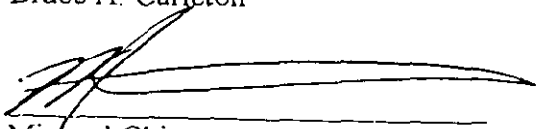
  
James Circo

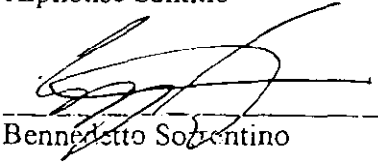
  
Hector A. Bultynck III

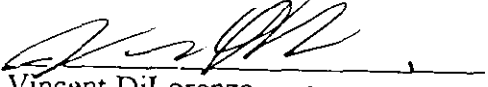
  
Kimberly R. Mitseff

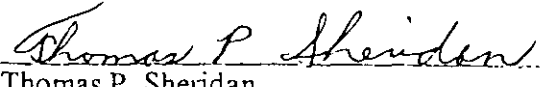
  
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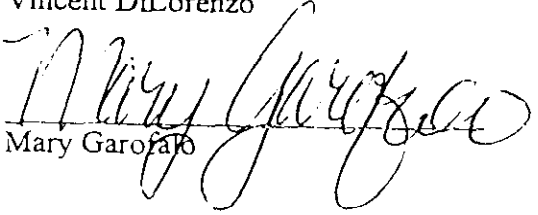
  
Alphonse Santino

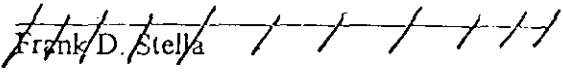
  
Michael Chirco

  
Benedetto Sozzantino

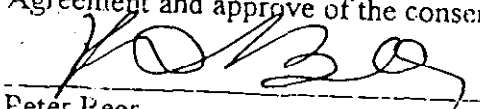
  
Vincent DiLorenzo

  
Thomas P. Sheridan


  
Mary Garofalo

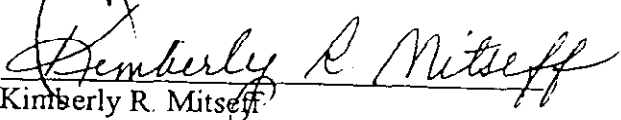
  
Frank D. Stella

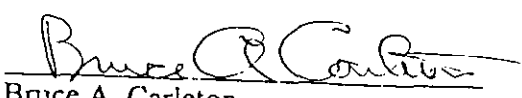
The undersigned directors of the Bank individually acknowledge reading the foregoing Agreement and approve of the consent thereto by the Bank.

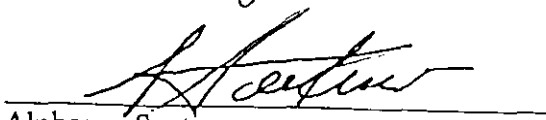
  
Peter Beer

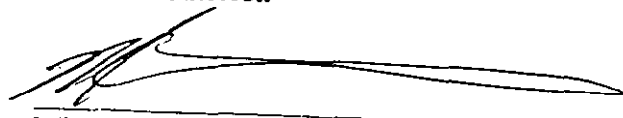
  
James Ciffo

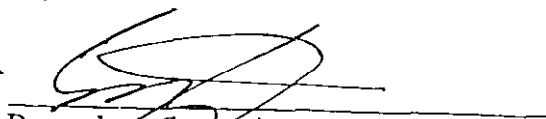
  
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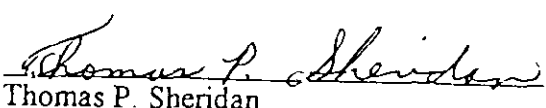
  
Bruce A. Carleton

  
Alphonse Santino

  
Michael Chirco

  
Benedetto Sorrentino

  
Vincent DiLorenzo

  
Thomas P. Sheridan

  
Mary Garofalo

  
Frank D. Stella