

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

IN RE:

VALLEY BANK,
a state-chartered bank with
its main office located in
Fort Lauderdale, Broward County, Florida.

Civil Division
Case No. 14011679

OFR File No.: 53230-FI-05/14

(02)

**EMERGENCY PETITION FOR ORDER
CONFIRMING APPOINTMENT OF RECEIVER**

The Florida Office of Financial Regulation ("Office"), by and through the undersigned attorney, hereby files this Emergency Petition for Order Confirming Appointment of Receiver, pursuant to Section 658.81, Florida Statutes (2013), to confirm the Commissioner's action taken on June 17, 2014, appointing the Federal Deposit Insurance Corporation ("FDIC") as receiver of VALLEY BANK ("Bank"), and as grounds therefore states:

1. Pursuant to Sections 655.001 and 655.012, Florida Statutes, the Office is the state agency authorized and charged with the administration and enforcement of the Florida Financial Institutions Codes pertaining to banks, and the Office has jurisdiction over VALLEY BANK.

2. VALLEY BANK is a Florida state-chartered bank operating under Charter Number 765 and is therefore a state financial institution as that term is defined in Section 655.005(1)(w), Florida Statutes, with its principal place of business located at 300 West Broward Boulevard, Fort Lauderdale, Broward County, Florida 33312.

3. The Bank has deposits insured by the FDIC, pursuant to Section 658.38, Florida Statutes, and the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1811.

4. As a state financial institution with insured deposits, the Bank is subject to the regulatory authority and jurisdiction of the Office and the FDIC.

5. This Court has exclusive jurisdiction over this matter pursuant to Section 658.81, Florida Statutes.

6. Venue is proper pursuant to Sections 47.051 and 658.81, Florida Statutes.

7. Through both a variety of reports submitted by the Bank and on site examinations and reviews of the Bank's books and records by federal and state examiners, the Office and the FDIC have closely monitored certain critical aspects of the Bank's financial condition, notably the quality of its assets, liquidity, and capital position. The information conclusively demonstrates a severe and continuing deterioration of the Bank's financial condition such that the Bank is imminently insolvent as that term is defined in Section 655.005(1)(o), Florida Statutes.

8. The Office has prepared a final report regarding the financial condition of the Bank as of June 16, 2014. The final report and records of the Office show that the Bank is imminently insolvent. Pursuant to Section 658.94, Florida Statutes, the final report and such other records of the Office relating to the Bank are prima facie evidence of the subject matter contained therein regarding the financial condition of the Bank.

9. On June 17, 2014, after consideration of the Office's and FDIC's examinations, visitations, other on and off-site reviews of the Bank's books and records, the Bank's own quarterly "*Consolidated Reports of Condition and Income for A Bank With Domestic Offices Only*", other financial reports submitted to the Office and the FDIC, the examiner's final report, and other satisfactory evidence concerning the Bank, the Office determined that the Bank is imminently insolvent as that term is defined in 655.005(1)(o),

Florida Statutes, and issued an Order appointing the FDIC as Receiver of the Bank effective June 20, 2014. See §§ 658.79-80, Fla. Stat.; see also Garrett v. Tunncliffe, 145 So. 213, 215-16 (Fla. 1932) ("The act of declaring a bank insolvent is no trivial matter. It is affected by many considerations, and should not be done so long as the bank is able to keep open and meet its obligations with reasonable prospect of continuing in business. When it can no longer do this, and the officers whose duty it is to take it in charge and declare it insolvent have done so, their judgment will not be disturbed, unless shown to be clearly arbitrary and erroneous.").

A copy of the Order Appointing Receiver is attached as **Exhibit A** and incorporated herein by reference.

10. Notice of Taking Possession and Appointment of Receiver will be served upon representatives of the Bank as required in Section 658.81, Florida Statutes, prior to the hearing scheduled in this matter. A copy of the Notice is attached as **Exhibit B** and incorporated herein by reference.

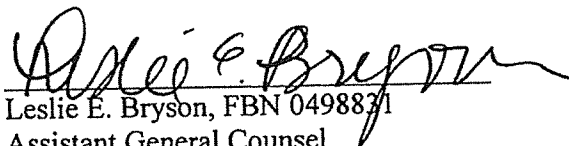
11. Section 658.81, Florida Statutes, provides with emphasis added, that:

The office, immediately upon appointing such liquidator or receiver, shall serve notice upon any other person having the charge or management of any such bank or trust company, informing him or her of its action in appointing such liquidator or receiver and notifying him or her that the office will apply on a date named therein, not to exceed 10 days from the date of service of such notice, to a circuit judge in the court circuit in which the principal office of such bank or trust company is located for an order confirming its action. A copy of such application together with a notice of hearing thereon shall be served on the person receiving the above notice prior to the time set for such hearing. Such proceedings shall be given precedence over other cases pending in such court and shall in every way be expedited. Upon the office's showing at the hearing on such application that such bank or trust company is insolvent or threatened with imminent insolvency, the court shall enter an order confirming the action of the office and the appointment of such liquidator or receiver; otherwise, the court shall enter an order dismissing the liquidator or receiver, and such liquidator or receiver shall relinquish his or her control over the assets and affairs of such bank or trust company.

12. It is necessary and appropriate for the Office to seek the emergency entry of the confirmation Order in order to allow the FDIC, as Receiver, to commence its operations of the Bank immediately, to ensure the protection of insured depositors, minimize disruption to all account holders and creditors, and maintain the public confidence in the banking system.

WHEREFORE, the Office of Financial Regulation respectfully requests that this Court issue an Order Confirming the Appointment of the Federal Deposit Insurance Corporation as Receiver of VALLEY BANK.

RESPECTFULLY SUBMITTED this 20th day of June, 2014.



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STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION



IN RE:

Administrative Proceeding
OFR File No.: 53230-FI-05/14

VALLEY BANK, a state-chartered
bank with its main office located in
Fort Lauderdale, Broward County, Florida.

ORDER APPOINTING RECEIVER

This matter came before the Florida Office of Financial Regulation ("Office") upon its review and consideration of information provided by VALLEY BANK ("Bank"), examinations conducted by state and/or federal bank examiners, reports prepared by state and/or federal bank examiners, and/or other satisfactory evidence made available to the Office regarding the condition of the Bank, and the Office, being otherwise fully advised in this matter, finds and declares as follows:

1. Pursuant to Sections 655.001 and 655.012, Florida Statutes (2013), the Office is the state agency authorized and charged with the administration and enforcement of the Financial Institutions Codes applicable to state financial institutions, including Chapters 655 and 658, Florida Statutes, pertaining to banks, and the rules promulgated thereunder as contained in Chapter 69U, Florida Administrative Code.

2. The Bank is a Florida state-chartered bank operating under Charter Number 765, with its principal place of business located at 300 West Broward Boulevard, Fort Lauderdale, Florida 33312, and is a state financial institution as that term is defined in Section 655.005(1)(w), Florida Statutes.

3. The Bank has deposits insured by the Federal Deposit Insurance Corporation ("FDIC") pursuant to Section 658.38, Florida Statutes, and the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1811.

4. As a state-chartered bank with insured deposits, the Bank is subject to the regulatory authority and jurisdiction of the Office and the FDIC.

5. On May 16, 2014, the Bank filed its updated *Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only* ("Call Report") for the quarter ending September 30, 2013. This Call Report reported that the Bank had suffered losses year-to-date (September 30, 2013) of approximately \$214,000. The Bank's total assets were \$85,865,000, total liabilities were \$83,820,000, and the balance of the capital accounts totaled approximately \$2,002,000, or 2.33 percent of its total assets.

6. In its Call Report for the quarter ending December 31, 2013, the Bank reported losses of approximately \$970,000 for the year. The Bank's total assets were \$85,636,000, total liabilities were \$84,254,000, and the balance of the capital accounts totaled approximately \$1,353,000, or 1.58 percent of its total assets.

7. On or about May 16, 2014 the Bank filed its Call Report for the quarter ending March 31, 2014. This Call Report reported the Bank's losses year-to-date (March 31, 2014) totaled \$1.034 million, further reducing the total of the Bank's capital accounts to \$422 thousand, or 0.52 percent of its total assets (approximately \$81.843 million).

8. The Bank has been providing the Office with reports regarding its financial condition on a regular basis. These reports provide up-to-date information on the Bank's current financial condition including its current capital levels.

9. The Bank's balance sheet for the month ending May 31, 2014, listed total assets (adjusted for apparent losses) of \$82.617 million, and total capital accounts of approximately \$467 thousand, resulting in a capital to assets ratio of 0.57 percent.

10. The Office has conducted a final review of the Bank's books and records as of June 16, 2014, prior to the entry of this Order. The Bank's daily balance sheet shows that total assets adjusted for apparent losses are \$82.420 million, and total capital accounts are approximately \$463 thousand, resulting in a capital to assets ratio of 0.56 percent.

11. Section 655.005(1)(o), Florida Statutes, provides, with emphasis added, that:

"Imminently insolvent" means a condition in which a financial institution has total capital accounts, or equity in the case of a credit union, of less than 2 percent of its total assets, after adjustment for apparent losses.

12. Section 658.79, Florida Statutes, provides, with emphasis added, that:

Whenever the office has reason to conclude, based upon the reports furnished to it by a state bank or trust company examiner or upon other satisfactory evidence, that any state bank or trust company:

- (1) Is insolvent or imminently insolvent; or
- (2) Is transacting its business in an unsound, unsafe, or unauthorized manner such that it is threatened with imminent insolvency,

the office may, in its discretion, forthwith designate and appoint a liquidator or receiver to take charge of the assets and affairs of such bank or trust company and require of him or her such bond and security as the office deems proper, not exceeding double the amount that may come into his or her hands. The office may enlist the services of any state or local law enforcement agency in taking possession and securing the assets of the bank or trust company.

13. Section 658.80, Florida Statutes, provides that:

- (1) Upon taking possession of a state bank or trust company pursuant to s. 658.79, the office shall appoint either a receiver to conserve the assets

of the institution or a liquidator to liquidate the assets of the institution and wind up its affairs.

(2) The Federal Deposit Insurance Corporation or any appropriate federal agency shall be appointed by the office as receiver or liquidator of any state bank, the deposits of which are to any extent insured by the corporation, and which shall have been closed by the office. Upon appointment, the corporation may act without bond as receiver or liquidator and shall have and possess all the powers and privileges provided by the laws of this state with respect to a receiver or liquidator, respectively, of such institution, its depositors and other creditors. If the corporation declines to accept the tendered appointment, the office may appoint and thereafter dismiss or replace such other receiver or liquidator as deemed necessary or advisable.

14. A portion of the deposits held by the Bank are insured by the FDIC. Therefore, the Office is required by Section 658.80(2), Florida Statutes, to appoint the FDIC as receiver of the Bank.

15. The Office has continued to closely monitor the Bank's financial condition prior to the entry of this Order. As of the date of this Order, there has been no positive material change in the Bank's capital position, its financial condition continues to deteriorate, and the Office has not received any information to date that would indicate any reasonable expectation that the Bank will become adequately capitalized. With a capital to assets ratio of less than 2 percent, the Bank is imminently insolvent as that term is defined in Section 655.005(1)(o), Florida Statutes.

16. The public interest would be served by the appointment of a receiver of the Bank, its assets, and affairs.

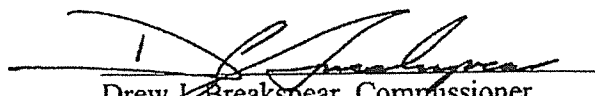
Upon consideration, it is therefore ORDERED:

a) That the Florida Office of Financial Regulation hereby designates and appoints the Federal Deposit Insurance Corporation as Receiver of VALLEY BANK and its assets and affairs, effective Friday, June 20, 2014.

b) The Federal Deposit Insurance Corporation is authorized to assume receivership of VALLEY BANK immediately upon service of a copy of this Order on the Bank.

c) Upon acceptance of the appointment as Receiver of VALLEY BANK, the Federal Deposit Insurance Corporation shall have all of the powers and duties provided in Section 658.82, Florida Statutes, and such additional powers and duties as may be provided and authorized by Section 11 of the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1821.

DONE AND ORDERED this 17th day of June, 2014, in Tallahassee, Leon County, Florida.


Drew J. Breakspear, Commissioner
Office of Financial Regulation

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION

IN RE:

VALLEY BANK, a state-chartered
bank with its main office located in
Fort Lauderdale, Broward County, Florida.

Administrative Proceeding
OFR File No.: 53230-FI-05/14

**NOTICE OF TAKING POSSESSION OF
VALLEY BANK AND APPOINTMENT OF RECEIVER**

NOTICE IS HEREBY GIVEN that as Commissioner of the Office of Financial Regulation, in accordance with the authority vested in me by the laws of the State of Florida, I have taken possession of VALLEY BANK, appointed the Federal Deposit Insurance Corporation ("FDIC") as Receiver of VALLEY BANK, and have authorized the FDIC to take charge and possession of all assets and affairs of VALLEY BANK, pursuant to Sections 658.79, 658.80, and 658.82, Florida Statutes (2013), effective Friday, June 20, 2014, at 6:00 p.m. Eastern Time, or at such earlier time on that date as the Office's duly authorized on-site representative specifies.

Seal:





Drew J. Breakspear, Commissioner
Office of Financial Regulation

Exhibit B

**** FILED: BROWARD COUNTY, FL Howard C. Forman, CLERK 6/20/2014 10:21:07 AM.****

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA**

IN RE:

VALLEY BANK,
a state-chartered bank with
its main office located in
Fort Lauderdale, Broward County, Florida.

Civil Division
Case No. CACE 14-11679 (02)
OFR File No.: 53230-FI-05/14

**ORDER CONFIRMING APPOINTMENT OF THE
FEDERAL DEPOSIT INSURANCE CORPORATION
AS RECEIVER OF VALLEY BANK**

THIS CAUSE has come before the Court on the Emergency Petition of the State of Florida, Office of Financial Regulation ("Office"), for an Order Confirming the Appointment of the Federal Deposit Insurance Corporation ("FDIC") as Receiver of VALLEY BANK ("Bank"), Fort Lauderdale, Broward County, Florida. Having heard arguments of counsel, and being otherwise fully advised in the premises, upon due consideration this Court finds as follows:

1. This Court has jurisdiction over these parties and over the subject matter of this action pursuant to Section 658.81, Florida Statutes (2013).
2. Venue is proper pursuant to Sections 47.051 and 658.81, Florida Statutes.
3. On June 17, 2014, the Office issued an Order Appointing Receiver for VALLEY BANK in which the Office authorized the FDIC to take charge and possession of all assets and affairs of the Bank on June 20, 2014.
4. On June 20, 2014, the Office served the Bank with the Office's Notice of Taking Possession of VALLEY BANK, the Office's Order Appointing Receiver for VALLEY BANK, and the Notice of Hearing for the instant proceeding.
5. In accordance with Section 658.81, Florida Statutes, the Office has shown that the Bank is imminently insolvent as that term is defined in Section 655.005(1)(o), Florida Statutes.

6. It is in the public interest that a Receiver be appointed for the Bank.

THEREFORE, it is **ORDERED AND ADJUDGED**:

That the Order Appointing Receiver for VALLEY BANK, issued by the Florida Office of Financial Regulation on June 17, 2014, pursuant to Sections 658.79, 658.80, and 658.82, Florida Statutes, appointing the FDIC as receiver to take charge and possession of all assets and affairs of VALLEY BANK, effective on June 20, 2014, is hereby CONFIRMED.

DONE AND ORDERED in Broward County, Florida, this 20 day of June, 2014.



CIRCUIT COURT JUDGE

Copies furnished to:

VALLEY BANK
The Federal Deposit Insurance Corporation
The Office of Financial Regulation

STATE OF FLORIDA
OFFICE OF FINANCIAL REGULATION


IN RE:

VALLEY BANK, a state-chartered
bank with its main office located in
Fort Lauderdale, Broward County, Florida.

Administrative Proceeding
OFR File No.: 53230-FI-05/14

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Drew J. Breakspear, Commissioner
Office of Financial Regulation

Seal:



Exhibit B