

MINUTES OF THE REGULAR MEETING

OF THE STATE BANKING BOARD

FEBRUARY 19, 2003

As first item in order of business on the agenda, Chairman Thompson called the Banking Board meeting to order at 10:00 a.m., pursuant to the Agenda that was posted for public display prior to 10:00 a.m. on February 18, 2003. The meeting was held in the Conference Room of the State Banking Department, Oklahoma City, Oklahoma.

Second item on the agenda was roll call; the following members were present:

Mick Thompson, Chairman
Chris Conn
John Goad
Brad Burgess
Gary Huckabay

Members Greer and Newcomb were absent.

Also present: Charles R. Griffith, Deputy Commissioner; Dudley Gilbert, Legal Counsel; Tony Reel, Assistant Deputy Commissioner ; Randy Brooks, Director of Examinations; Sherbie Kiffin, Assistant Deputy Commissioner; Wayne Arbuthnot, Senior Examiner; Stacey Tayar, Administrative Assistant; and Angela Morris, Secretary.

The Chairman noted for the record that a quorum was present.

Third item on the agenda, Chairman Thompson called for approval or discussion of the Minutes of the Meeting of the State Banking Board held December 18, 2002. Member Goad made the motion for approval. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Brad Burgess – voted yes
Gary Huckabay – voted yes

Fourth item on the agenda, Commissioner's Monthly Reports:

A. Department Status Update.

Chairman Thompson said he will be combining this section and the legislative update section together. He said the newspaper is reporting today an additional 10% short fall based on the \$85 million the state is short in funds. He said H.B. 1522 has been introduced which is commonly known as the Commissioner's Bill (summary of this Bill was given to the Board). He said there are several items the OBA and the Department wanted in this Bill. He said the first section allows the Department to

charge fees to other state Banking Departments when a cooperative examination is done on an out-of-state bank.

Mr. Parker entered the Board meeting by conference call. Mr. Parker asked Mr. Brooks if examinations are up to date.

Mr. Brooks said at the end of January there was one bank overdue, but it has been examined. He said at the end of February there will be one bank overdue and it is on the schedule to be done March 10. He said examinations should be kept up for the next eighteen months.

The Commissioner then continued explaining H.B. 1522. He said the second section is the funding for the Department. He passed out the Governor's budget and said \$3.9 million was put into general revenue and he has recommended that the Department receive \$2.5 million. The proposal reduces the Department's funding an additional 10% (\$295,081) and reduces travel by 10% (\$34,000) which is another \$300,000 cut. He said last year the Department was appropriated \$3.1 million, but after the shortfall the Department was only given \$2.9 million, so last year a \$200,000 cut was taken. He said in 2002, the Department deposited \$3.8 million and was appropriated \$3.1 million, and they kept \$669,000. He said in 2003, they kept \$1 million. He said in 2004, \$1.3 million will be deposited in general revenue and the Department will receive \$2.5 million under the Governor's recommendation. He said the bankers are paying additional tax to general revenue. He said in 2002, the Department was short \$338,000, but made the shortage up with conversions, branch applications, etc. Last year, actual expenses went up \$30,000 and appropriated funds went down, and the Department was short \$637,000 but was able to offset it by reducing expenses, etc. He said this year the Department is \$961,000 short. He said it is time to try to become a self-funded agency. He said there are twenty-seven regulatory agencies and twenty-two are self-funded. He said the Bill passed out of House Committee 18-0. He said Representative Rice authored the amendment, and it will probably be on the floor next week. He said he plans to strike the title and send it to conference. He said he doesn't think there will be a problem in the House, but the Senate will be looking at how much this will cost them for the Department to be self-funded. He said currently the Department receives its appropriations in July and assesses the banks in January, so the Department is being fronted its money six months and at some time this will cost the Department. He said if it can be shown that it wouldn't cost the general revenue any money, it should make it through.

Member Huckabay asked who is carrying the Bill?

Chairman Thompson said Senator Jeff Rabon in the Senate, Representative Mary Easley in the House. He said Community Bankers, OBA, Credit Union League, and individual lobbyists are helping to get it through.

Member Huckabay asked if a one time supplemental assessment could be sent to the banks to help with the general revenue during that six month transition period?

Chairman Thompson said this may be an option. He said it would only cost 20-30% of the bank's normal assessment fee.

Chairman Thompson said Section 5 is cleanup language. Section 6 makes out-of-state banks wanting to establish an LPO follow the same rules as in state banks. Section 7 will require bond evidence, not

the whole bond. Section 8 requires mergers to come before the Board. Section 9 requires out-of-state trust companies to pay the same as in-state trust companies to establish trust offices. Section 15 regarding LLC's was a separate bill, but has been added to this one.

Chairman Thompson said there are two predatory lending bills in conference today.

Chairman Thompson gave Board members the quarterly composite ratings list.

B. Examination Report .

Chairman Thompson gave the monthly examination report showing that during the month of January two fed member banks, eight nonmember banks, one credit union, two trust companies, and one cemetery were examined. Examinations in process at the end of January were three banks, three credit unions, one cemetery, and one trust company.

One Senior Examiner attended the CSBS Risk-Focused Supervision program January 13-15, 2003.

C. Legislative Update

D. Pending Applications

Fifth item on the agenda, Proposed Adoption of Permanent Rules:

- A. Banking Board Rule 85:10-5-3. Minimum control elements for bank internal control program [AMENDED]
- B. Banking Board Rule 85:10-5-3.1 Additional Elements for Fiduciary Activities of Trust Department and Trust Companies [NEW]

Chairman Thompson said he met with OBA, Community Bankers, and Senior Examiners Wayne Arbuthnot and Rick Nelson which is where the recommended rule changes were developed.

Mr. Gilbert said the first rule amendment is to clarify what will now apply only to bank internal controls. He said Wayne Arbuthnot and Rick Nelson do a lot of trust company examinations and believe it is better to separate bank and trust companies and came up with a new section for trust companies.

Mr. Arbuthnot said he has visited with a couple of trust companies, and they are in agreement with this change. He said weaknesses found in trust company internal controls helped to create this rule, which will help to reduce their liability.

Mr. Gilbert said there is a thirty-day comment period which began in January and, as of now, there have been none other than one trust officer called for clarification.

Member Huckabay asked how the word "threatened" is defined in the context of "threatened litigation"?

Mr. Gilbert said it is not defined in the rule. He said Member Burgess may be able to explain this more clearly. He said something should be in writing from an attorney or the account holder which shows serious disagreement beyond a simple dispute.

Member Huckabay encouraged this to be defined.

Mr. Gilbert said this could be done by rulemaking or by a Commissioner's Interpretation.

Member Burgess said something needs to be in there that relates to a serious demand letter other than an oral threat.

The members agreed clarification could be accomplished by interpretive ruling.

Member Conn made the motion to approve rule 85:10-5-3 as proposed. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Brad Burgess – voted yes
Gary Huckabay – voted yes

Member Huckabay made the motion to approve rule 85:10-5-3.1 as proposed. Motion was seconded and approved as follows:

Chris Conn – voted yes
John Goad – voted yes
Brad Burgess – voted yes
Gary Huckabay – voted yes

Member Huckabay commended the Department for the hard work on the Bill and rules.

Member Conn made the motion to adjourn at 10:40 a.m. Motion was seconded and unanimously approved as follows:

Chris Conn - voted yes
Brad Burgess – voted yes
John Goad – voted yes
Gary Huckabay – voted yes

Mick Thompson, Chairman

John Goad

Brad Burgess

Chris Conn

Gary Huckabay