

MINUTES OF THE REGULAR MEETING
OF THE STATE BANKING BOARD

JANUARY 17, 2007

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 January 16, 2007. Notice of the meeting was also made available to the Secretary of State pursuant to Title 25 O.S. § 311 (The Open Meeting Act). 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
David Burrage
Chris Conn
John Goad
Bob Newcomb

Member Greer was absent.

Also present: Charles Griffith, Deputy Commissioner; Tony Reel, Assistant Deputy Commissioner; Sherbie Kiffin, Assistant Deputy Commissioner; Dudley Gilbert, Legal Counsel; Rhonda Bruno, Budget Director/Comptroller; and Angela Morris, Secretary.

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

Member Goad made the motion for approval of minutes of the meeting held December 13, 2006. Motion was seconded and approved as follows:

David Burrage – voted yes
Chris Conn – voted yes
John Goad – voted yes
Bob Newcomb – voted yes

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

Chairman Thompson said the new building is in the final stages of decision making regarding the architectural plans. The Department has been working with the Department of Central Services and hopefully it will go out to bid within the next thirty days.

Chairman Thompson discussed the budget. If there are any questions, Rhonda Bruno is present to answer them. He said the total fiscal year to date expenditure last year was \$2 million, this year it is \$2.2 million and we are 19% under budget at this time. The cash balance is \$740,000 over last year, this will go down when paying bills. He said column 1 is last year information and column 2 is this year. He said the big difference is #15 Professional Services – last year it was \$4,000, this year it is \$69,000 because this includes the architectural fees being paid. Column 4 shows over/under budget.

On salaries, insurance, retirement it is \$125,000 under budget but there will be promotions and insurance coming out of that figure. He said under travel reimbursement it is under budget mainly because now is a slow time for classes this time of year, but will pick up later. Rent expense is under budget by \$49,000 because Tulsa office rent is not being paid because the owners of the building have not paid their taxes and Department of Central Services ruled until they are paid, we cannot pay the rent. Eventually we will pay the rent. He said the income statement shows this month \$54,000 in fees (branch applications, etc.) have been taken in and \$217,000 for the first six months was received in fees. The revenue sheet fluctuates a lot more than assessments, because with assessments the Department has a good idea what amount will come in.

B. Examination Report.

Chairman Thompson gave the monthly examination report showing that during the month of December four fed member banks, three non member banks, two credit unions, two trust departments, and one cemetery were examined. Examinations in process at the end of December were two banks, two credit unions, and one cemetery.

One examiner attended CSBS Bank Dynamics School in California.

One examiner attended NCUA Fraud Prevention Seminar in Colorado.

Mr. Reel said currently the Department is ahead of bank examinations, but this may change shortly due to the weather.

C. Legislative Update.

Chairman Thompson said the Department has requested a bill for some amendments to the Banking Code. The legislature is being run a little differently this year. Legislation will be assigned to the Economic Development and Financial Services Committee and that committee Chairman will decide if that committee wants to hear the bill or if it needs to go to the Banking subcommittee.

Mr. Gilbert discussed items that have been requested in the bill. An amendment is requested to Banking Code section 402.18 to create parity for state banks with respect to public welfare investments. The federal Regulatory Relief Act passed in October, 2006, authorized a 15% investment for national banks and our law will need to be increased from 10 to 15%. An amendment is being suggested to section 512 to remove language in the ILC Branching Act passed last year that would discriminate against out-of-state ILCs. If we discriminate against out-of-state ILCs, then that could result in Oklahoma banks being unable to branch out of state.

Chairman Thompson said the Oklahoma Bankers Association had included a provision in the ILC bill last year which was targeted at Wal-Mart, but it affected the overall branching laws. This problem will be resolved this session.

Mr. Gilbert said we have requested an amendment that will give the Commissioner power to approve temporary branch or main office relocations in the case of an emergency. This is based on issues that arose during Hurricane Katrina. He said in the last week we've seen an ice storm cause towns to lose power and it could last for several days or weeks. Regarding financial institutions in those towns, the amendments would allow the Commissioner to approve temporary locations for the institutions to operate until the emergency passes, without having to pay a fee and get formal branch

approval.

Chairman Thompson said this came from his recent visit to New Orleans and the problems they have been faced with. He said he met with the Commissioners of Louisiana and Mississippi and they had problems regarding relocated branches. They said this type of arrangement would have been very helpful and problems could have been solved more quickly.

Mr. Gilbert said other amendments will made changes to the Banking Code and Credit Union Act's deposit account provisions to allow credit unions to offer some of the basic types of accounts allowed for banks. The Banking Code is not consistent in its inclusion of credit unions in the deposit account sections and these changes will create more uniformity.

Chairman Thompson said the Oklahoma Bankers Association has signed off on the cleanup of sections regarding credit unions.

Mr. Gilbert then discussed how no changes are being suggested by the Department to the statutory support trust language in title 6, section 3000. The Credit Union League had requested that credit unions be included in that section, but his review of the law indicated that the institution must have trust powers. Credit unions don't have trust powers.

Chairman Thompson asked Board members to talk to their legislators to help support this bill. The bill has not been assigned a number yet.

Fifth item on the agenda, Consideration of Request for Approval of Merger and Application for Certificate to Maintain and Operate a Branch by Acquisition:

- A. Application for Merger of Pioneer Bank & Trust, Ponca City, Oklahoma, with and into RCB Bank, Claremore, Oklahoma, pursuant to Title 6 O.S. § 1103.
- B. Branch Application of RCB Bank, Claremore, Oklahoma, pursuant to Title 6 O.S. § 501.2 and O.A.C. 85:10-9-2.
Branch Location – 1223 East Highland, Ponca City, Oklahoma
Proposed Name: “RCB Bank – Ponca City“

Tom Bayless, EVP/CFO of RCB Bank, Ted McGuire, President/CEO of RCB Bank, and Craig Myers, SVP/CFO of Pioneer Bank and Trust, Ponca City, were present to answer questions.

Mr. Bayless said they are asking for approval to merge Pioneer Bank into RCB Bank. He said the Bank of Nichols Hills merger was effective December 1. He said in April RCB Holding Company bought 100% of Pioneer Bancshares which has now been dissolved. The desire is to finalize Pioneer Bank effective February 9. There will be no material differences.

Member Goad made the motion to approve the merger. Motion was seconded and approved as follows:

David Burrage – voted yes
Chris Conn – voted yes
John Goad – voted yes
Bob Newcomb – voted yes

Member Goad made the motion to approve the branch. Motion was seconded and approved as follows:

David Burrage – voted yes
Chris Conn – voted yes
John Goad – voted yes
Bob Newcomb – voted yes

Sixth item on the agenda, Consideration and possible adoption of rules proposed under the Oklahoma Financial Transaction Reporting Act pursuant to Title 6 O.S. §1515.

- A. Public comments, if any.
- B. Discussion and possible adoption of rules.

Chapter 15. ~~Money Orders/Sale of Checks~~ Money Service Businesses [AMENDED]
Subchapter 1. General Provisions and Definitions [NEW]
85:15-1-1 Scope and purpose [NEW]
85:15-1-2 Definitions [NEW]
85:15-1-3 Exclusions [NEW]
Subchapter 3. Money Transmission Licenses [NEW]
85:15-3-1 License required [NEW]
85:15-3-2 Application for license [NEW]
85:15-3-3 Security [NEW]
85:15-3-4 Issuance of License [NEW]
85:15-3-5 Renewal of license [NEW]
85:15-3-6 Net worth [NEW]
Subchapter 5. Authorized Delegates [NEW]
85:15-5-1 Relationship between licensee and authorized delegate [NEW]
85:15-5-2 Unauthorized activities [NEW]
Subchapter 7. Examinations; Reports; Records [NEW]
85:15-7-1 Authority to conduct examinations [NEW]
85:15-7-2 Cooperation [NEW]
85:15-7-3 Reports [NEW]
85:15-7-4 Change of control [NEW]
85:15-7-5 Records [NEW]
85:15-7-6 Money laundering reports [NEW]
Subchapter 9. Permissible investments [NEW]
85:15-9-1 Maintenance of permissible investments [NEW]
85:15-9-2 Types of permissible investments [NEW]
Subchapter 11. Enforcement [New]
85:15-11-1 Suspension and revocation [NEW]
85:15-11-2 Suspension and revocation of authorized delegates [NEW]
85:15-11-3 Orders to cease and desist [NEW]
85:15-11-4 Consent orders [NEW]
85:15-11-5 Civil penalties [NEW]
85:15-11-6 Hearings [NEW]

Chairman Thompson explained that last year the Legislature passed a statute regarding money transmitters and now rules need to be developed.

Chairman Thompson introduced Marty Burns, Oklahoma Bureau of Narcotics. He has been working with the Department to develop the rules and the Bureau has been very helpful in the process. This bill was started when the Bureau came to the Department last year discussing money that is being transported illegally through wire transfers and they are unregulated in Oklahoma. Since the process began, Mr. Burns has had to pick up the ball because the Director had a heart attack and passed away, and the Legal Counsel left to work for the District Attorney in Oklahoma County. He told Mr. Burns he appreciated all the hard work he has done in this process. He said these rules are very complex and complimented Mr. Gilbert on his work. He said the Department received criticism of the original draft of the rules as being too strict in the area of recordkeeping. Changes have been agreed to so that legitimate companies will not be burdened. He said the rules regarding recordkeeping will be consistent with regulations of the Department of Treasury in Washington. He said the rules will be fair to legitimate companies, but still allow the Banking Department and Narcotics Bureau to examine companies which may be transmitting money for sale of narcotics. He said once everything is in place and a structure is set, the Bureau may later seek additional legislation regarding money transmission.

Mr. Gilbert then began discussing with the Board the comments received by the Department during the 30-day comment period. He stated that the original legislation required a license of all money service businesses, including agents. The license fee was \$500 each. Since April, 2006, the Department has identified over 2,100 agents, which would result in fees of over \$1 million. The Department did not begin the licensing process immediately after the legislation was passed because it needed to further clarify the law through rules and seek a reduction of the fee. He explained that the fees for the average money transmission company have been reduced significantly in the rules. He stated that the industry has not made any comments or suggested any changes with respect to the fees.

Comments were received from the Bureau of Narcotics, Department of Treasury in Washington, an attorney for money transmission companies (including MoneyGram and Western Union that have reported over 1,000 agents in Oklahoma), and the Money Services Roundtable, a group in Washington, D.C.

Mr. Gilbert directed the Board to the comments dated December 18, 2006, and stated that he would like to first address those comments, in order.

He referred the Board to proposed rule 85:15-1-1, regarding the scope of the proposed rules. An industry comment asked for a 90-day window after the rules become effective during which companies could submit an application for a license. This request is reasonable and the Department agreed to this change in proposed rule 85:15-1-1.

Chairman Thompson said overall the industry helped the Department develop a workable system. He said comments were received that we normally wouldn't get and the industry had a lot of positive ideas.

Member Conn asked how many license applications are anticipated.

Mr. Gilbert said approximately 25 are anticipated – based on the number of money transmission companies that have reported having agents in Oklahoma so far. The original Act required licensure of all 2,100 agents while the rules would license only the companies rather than all agents. Mr.

Gilbert said this is a way the industry helped the Department, because the way it will be done now is how similar laws work in other states.

Chairman Thompson said the fee structure will be based on how many agents a company has.

Mr. Gilbert referred the Board to the definition of “Bank” in proposed rule 85:15-1-2. A change will be made to correct the typographical error regarding the citation to the BSA regulations in title 31 of the C.F.R.

Mr. Gilbert referred the Board to the definition of “Licensee” in proposed rule 85:15-1-2. A commenter suggested making clear that a licensee is also defined as a “supplier” in the Act. This suggested comment was accepted and agreed to by the Department.

Mr. Gilbert referred the Board to the definition of “Money Services” in proposed rule 85:15-1-2. He said a comment was received asking that this definition be deleted because it includes check cashing, currency exchange, sale of checks and other activities that we do not regulate under these rules. The Department agreed to eliminate the definition and confine these rules and the Department’s focus on only money transmitters. Mr. Gilbert explained that the proposed rules were changed throughout to remove references to “money services” and clarify that the rules only apply to “money transmission.”

Mr. Gilbert referred the Board to the definition of “Money transmission” in proposed rule 85:15-1-2. He said that an industry comment asked that we clarify that “money transmission” does not include the sale of checks, which is already regulated under the Oklahoma Sale of Checks Act. The Department never intended that these rules apply to the Sale of Checks and so this change was accepted and agreed to.

Mr. Gilbert referred the Board to the proposed rule 85:15-3-3, regarding security. He said we did not receive any comments on this and we did a survey of states to check to see what bond requirements other states are imposing and we wanted to be consistent. The information received back indicated that some states require a bond as little as \$25,000 and some up to \$1 million. The proposed rules require a bond of \$50,000 and \$10,000 per location, with a cap of \$500,000. Some states require \$5,000 per location up to \$25,000 per location.

Chairman Thompson said all the Commissioners of other states he talked to said to be sure a bond is in place.

Mr. Gilbert referred the Board to proposed rule 85:15-5-2, regarding unauthorized activities. The industry suggested a change because the proposed language stating: “A person may not provide money transmission on behalf of a person not licensed under the Act and this Chapter” could mean that every consumer has to be licensed. A comment suggested including the phrase “engage in the business of providing” to clarify the issue. Mr. Gilbert told the Board he believed no change is necessary because the Department will never interpret the law to mean that customers must be licensed and we do not want to have a situation where an authorized delegate of a money transmitter claims that it is not “engaged in the business” because it only provides a few transmissions per week or month. Therefore, that suggested change is not agreed to by the Department.

Mr. Gilbert referred the Board to proposed rule 85:15-7-3, regarding reports from licensees. He directed the Board to proposed subsection c. which requires notice within one day of certain issues,

such as bankruptcy or some other significant event. A comment suggested a three-day notice period. The Department has agreed to change the notice period to two days. The person submitting the comment has also agreed to two days.

Mr. Gilbert referred the Board to proposed rule 85:15-7-5, regarding record keeping. He said all persons submitting comments addressed this proposed rule. The proposed rule required an authorized delegate to obtain a photocopy of a government-issued identification for any transmission of \$100 or more. The Bureau of Narcotics believed that requirement would give it a better chance in the prevention of drug trafficking. On the other hand, federal law currently requires banks and money service businesses to only collect information when the transmission is \$3,000 or more. The proposed rule would be a significant reduction in the \$3,000 threshold. The industry commenters and the Treasury Department each expressed concern over identity theft when agents have access to photocopies of a customer's ID. There is also an issue of security for these photocopy documents. Mr. Gilbert explained that he spoke with a member of the Treasury Department in Washington who described how the proposed Patriot Act regulations required banks to obtain photocopies of IDs. Treasury ultimately removed that requirement from the final rules.

Mr. Gilbert then explained that the industry and Treasury Department were concerned that if the threshold is low, it will drive a lot of money transmission "underground." He said that a lot of people that send money to other countries are not associated with illegal activities, but they are nevertheless very anxious about providing too much information. If they are required to give a photocopy of their ID, the Department of Treasury said these individuals may choose alternative means to get their money home such as money laundering which is harder to track and verify.

Member Newcomb asked what is required by 31 C.F.R. Section 103.33(f)?

Mr. Gilbert said that is the type of information currently obtained by, for example, banks when opening a new account or sending a money transmission, such as name, address, social security numbers, or passport numbers. The information is collected and then verified through the ID. The suggested revision to the proposed rule will require these money service businesses to collect the same information as is required by federal law.

Member Newcomb said the Department is going to require a \$1,000 threshold?

Mr. Gilbert said yes. The industry has agreed to \$1,000 because in July 2006, the Department of Treasury issued advance notice of rulemaking that asked law enforcement and the industry to consider whether the \$3,000 threshold should be lowered or eliminated. He said the Financial Transaction Task Force suggested it be lowered to \$1,000, and this change is likely to be made in the Treasury regulations. This suggested revision was discussed with the Bureau of Narcotics and they have stated they will support the Department on these rules. Mr. Gilbert stated that the Bureau will evaluate its needs over the next several months and if it turns out they need more information, they will likely go to the legislature in the next couple of years and explain they need more information for purposes of law enforcement.

Chairman Thompson said the original legislation was needed by the Bureau so that it could find out where the money service businesses were located. The Department is able to provide names and addresses where the companies are now. Additionally, these rules will allow the Bureau to examine these companies.

Mr. Gilbert stated that the Department will agree to the threshold increase of \$1,000, and that the photocopy requirement will be eliminated.

Mr. Gilbert referred the Board to proposed rule 85:15-7-6, regarding money laundering reports and stated that a typographical error should be corrected as shown in the comment.

Mr. Gilbert referred the Board to additional comments dated January 3, with handwritten information on it. These are additional comments provided by the same person who submitted the comments dated December 18, 2006. A suggestion was made regarding changing the title of Chapter 15. He explained that the Department does not support this change because Chapter 15 will be for the regulation of all Money Service Business. If there is ever a check cashing statute or other money service legislation, rules could be included under Chapter 15. The Department doesn't want to limit the entire chapter for money transmission, but will limit the subchapters. The Commenter agreed to this.

Mr. Gilbert referred the Board to the definition of "Bank" in proposed rule 85:15-1-2 and stated that the word "bank" has been capitalized. This is agreed to by the Department.

Mr. Gilbert referred the Board to proposed rule 85:15-3-2, regarding application for license. He explained that a comment suggested we limit the information requested in subsections (5) and (6) (such as license revocations and bankruptcy) to a period of 10 years prior to submitting the application. The Department agreed to this suggested change.

Mr. Gilbert referred the Board to proposed rule 85:15-3-3, regarding security. He explained that the comment asked that a bond be payable only for claims against the licensee rather than the authorized delegate. Mr. Gilbert said he supports the rule as proposed and does not support the suggested change because if the customer has a claim and wants to file a lawsuit or take action, the customer will name the licensee and the authorized delegate as defendants.

Mr. Gilbert referred the Board to proposed rule 85:15-7-1, regarding authority to conduct examinations. Mr. Gilbert said our proposed rule gives the Banking Commissioner the power to authorize other agencies to examine licensees and authorized delegates. A 10-day notice to the licensee will precede most standard exams. A comment suggested that the 10-day notice also be provided to the authorized delegates. The Department did not agree to this change. There may be certain times when law enforcement needs to examine the authorized delegate without prior notice.

Mr. Gilbert then stated that concludes the specific changes specified in the comments. He referred to the comment received from the Money Services Roundtable and stated that it was primarily directed at proposed rule 85:15-7-5, regarding record keeping. The change agreed to that rule should appropriately respond to the concerns of the Roundtable.

Mr. Gilbert said overall there were very few comments or opposition. He stated that opposition received was only with respect to the photocopying rule, and that other comments were constructive and helpful. He stated we received no comments positive or negative with respect to the fees and the industry is apparently agreeable to the fees and the bond requirements.

Mr. Gilbert and Commissioner Thompson then asked if there is any person present that wishes to make public comments today?

Mr. Marty Burns spoke on behalf of the Director of Bureau of Narcotics. He said the Director apologized for not attending the meeting because he was scheduled to be at the Capitol all day. He wanted to convey the Bureau of Narcotics is 100% behind the Department on these rules and will do anything it can to help enforce and to continue to help investigate any violations of the drug laws. He thanked Mr. Gilbert and the Commissioner for taking this cause for the Bureau.

Member Goad asked if the fees will be sufficient?

Chairman Thompson said it will be sufficient for what is needed at this time. He thanked Mr. Gilbert and Mrs. Morris for their work on the rules.

Member Newcomb asked if a motion now needs to be entertained?

Mr. Gilbert told the Board that if it desires to adopt the proposed rules as amended, then a motion could be made to approve the rules as amended and discussed and agreed to by the Department.

Member Newcomb made the motion to adopt the proposed rules to Chapter 15 as amended and agreed to by the Department. The motion was seconded and approved as follows:

David Burrage – voted yes
Chris Conn – voted yes
John Goad – voted yes
Bob Newcomb – voted yes

Chairman Thompson then discussed that this year the Department will begin the process of reviewing the rules applicable to banks and trust companies. He asked the Board members to notify the Department if you have a representative of your bank that may want to be on the Rule Task Force. There will be a couple of meetings in the office, then by telephone. They will probably meet once a month for a couple of hours.

Member Goad made the motion to adjourn at 11:05 a.m. Motion was seconded and unanimously approved as follows:

David Burrage – voted yes
Chris Conn – voted yes
John Goad – voted yes
Bob Newcomb – voted yes

Mick Thompson, Chairman

David Burrage

Chris Conn

John Goad

Bob Newcomb