

MINUTES OF THE REGULAR MEETING  
OF THE STATE BANKING BOARD

SEPTEMBER 15, 1999

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 which was posted for public display prior to 10:00 a.m. on September 14, 1999. 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  
Brad Burgess  
Chris Conn  
Gary Huckabay  
Gordon Greer  
Carlisle Mabrey  
Jarrett Parker

Also present: Charles R. Griffith, Deputy Commissioner; Dudley Gilbert, Legal Counsel; Sherbie Kiffin, Supervisory Examiner; Randall J. Brooks, Director of Examinations; Tony Reel, S&L Administrator/Senior Examiner; and Angela Morris, Secretary.

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

Chairman Thompson welcomed everyone to the newly expanded Board room. He said that a larger Board table, furniture and chairs have also been ordered.

Third item on the agenda, Chairman Thompson called for approval or discussion of the Minutes of the Meeting of the State Banking Board held July 21, 1999.

Member Parker made the motion to approve the minutes. Motion was seconded and approved as follows:

Gary Huckabay - voted yes  
Chris Conn - voted yes

Gordon Greer - voted yes  
Jarrett Parker - voted yes  
Brad Burgess - voted yes  
Carlisle Mabrey - voted yes

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

A. Department Status Update.

Chairman Thompson again said a new Board table, furniture and chairs have been ordered for the Board room. He said the Department has obtained pictures of previous Commissioner's to put in the room with all the minutes from the beginning of the State Banking Department to preserve history of the Department.

Chairman Thompson said after the meeting, Deron Brubaker, Computer Specialist, would give a demonstration of the Department's Home Page. He said two Board members have provided pictures for the Home Page. You will be able to download forms, find information on active and inactive banks, credit unions, trust companies, and savings and loans, and Rules and Regulations will also be available.

B. Examination Report.

Chairman Thompson gave the monthly examination report showing that during the month of August six banks, five credit unions, one savings & loan, and two cemeteries were examined. Examinations in process at the end of August were nine banks, two credit unions, one cemetery, one trust department and one holding company. During the month of August one examiner attended the FRB Specialized Lending School, Washington, D.C., for one week; one examiner attended the CSBS Credit Evaluation School, Dallas, Texas, for one week; one examiner attended the CSBS Bank Operations School, Dallas, Texas, for one week; and one office person attended the CSBS Technology Conference, Cincinnati, Ohio, for three days.

Chairman Thompson said the Department is working toward catching up on examinations, but are still behind in some areas.

Chairman Thompson said the examination process may be changed and some things may be deleted that may be insignificant in a well managed bank. The examiners spent several days going through criteria and establishing a new process for examinations. Banks that are well managed and are "1" rated will have an express examination. This will not

lessen asset quality. The field examiner will have the opportunity to override criteria for a shorter examination if they feel management is not satisfactory or for other reasons. Banks that are well managed and well run will have less examiner time in the bank and more examiner time in the office which should shorten the process.

Member Huckabay asked how many banks will be affected with a shorter examination process?

Chairman Thompson said approximately 60.

Member Greer asked what is the examination frequency?

Chairman Thompson said 18 months unless they are a problem bank then it would be 12 months.

Member Greer asked if banks are ever examined after 18 months?

Chairman Thompson said some may go longer than 18 months, but not many. Chairman Thompson said coordinating with the FDIC on start time, who will be in charge and other factors may make some banks go beyond the 18 month examination start time.

Member Parker asked if internet banking is being looked at from a security standpoint?

Chairman Thompson said it is an issue, but doesn't know how much of an issue it will become. This will be something that Congress will deal with at some time.

Member Huckabay said a person from his bank attended a seminar recently that will be providing software for internet banking and security is being looked at so hackers will not be able to access information. He said that from the banks he knows of that are online, the number of new accounts being opened is phenomenal.

Member Parker said he attended a similar conference and they believe internet security is going to be a big issue soon. He said he doesn't know if it would be the federal or state that would regulate it, but would hate to see a whole new regulatory agency formed to check these issues.

Chairman Thompson said CSBS has a technology committee that is looking at this issue.

Chairman Thompson gave Board members the 1999-2000 Oklahoma Banking Code and asked them to use them as reference guides only.

### C. Legislative Update

Chairman Thompson said the Savings and Loan Review Committee has been formed which will be headed by Tony Reel with the assistance of Dudley Gilbert. They have put together a group of people who will help in updating the Savings and Loan Code.

Chairman Thompson said he met with the legislative committee of the Oklahoma Bankers Association and Paul Hill, President of the Community Bankers Association was also there. The Community Bankers Association and Oklahoma Bankers Association agree that Section 501.1 of the Banking Code should be eliminated/repealed. Chairman Thompson made a commitment that if both trade organizations agree that it should be repealed, the Department would ask Chairman Weaver to introduce legislation so that the Department could have control of the bill through Mr. Weaver. Chairman Thompson said he has talked with Roger Beverage and Terry Hague, Chairman of the Oklahoma Bankers Association, and they are attending the regional meetings. As of Monday, at all the meetings the bankers have supported repealing Section 501.1 of the Code. A Bill will be introduced to repeal the branching section of the Code giving unlimited de novo branching. He asked the Board if they have any items they feel should be addressed or looked at concerning the Code, please let the Department know in writing as quickly as possible.

Member Greer asked if this Bill would be passed by the end of session or early in the session?

Chairman Thompson said it would be addressed early in the session.

Member Greer said it would be helpful to get any information submitted as quickly as possible.

Member Huckabay said it would be helpful if attorneys would help with Code changes. He said the Code sometimes isn't written clearly as to what can and can't be done. He said it would be helpful if everything was easily understandable.

D. Report to the Board on status of pending applications.

Chairman Thompson said the de novo branch of People First, Hennessey, to Edmond was approved. There were no protests. There have been 10 OCC applications approved, 3 or 4 have been operating for several weeks with no protests or litigation. The Department is in the process of final review of several branch applications that have been filed with the Department and should be decided this week.

Member Greer asked what the process is when a protest is filed? He said protests were filed on a couple of applications and asked if the Commissioner will determine if the protest is valid and decide on approval/disapproval or will the Board decide?

Chairman Thompson said on the branch side, if there is a protest and no new issue has been raised, then the Commissioner will approve or disapprove. If a decision is denial, then it may be appealed to the Board. If a decision is approved, a protestant may appeal to the Supreme Court. Chairman Thompson also said it would have to be a "1" or "2" rated bank, otherwise it would go to the Board.

Fifth item on the agenda, Upon Remand from the Oklahoma Supreme Court to the Banking Board, reconsideration of the following applications:

Chairman Thompson asked Legal Counsel, Dudley Gilbert, to give the Board a quick history of why these are before the Board.

Mr. Gilbert said the Armstrong decision was decided in March by the Supreme Court which was the first decision of a branch using Section 502(H). The Board's decision was overruled and the matter remanded back to the Board. The Board then denied the Armstrong branch application at the May meeting.

He said those banks that applied after Armstrong and received Board approval were appealed to the Supreme Court and the decision on those banks was rendered July 13 by the Supreme Court. A mandate was issued August 27 for the Board to deny those applications. For 1 ½ months after the Supreme Court decision was rendered, the Court held the matters before itself pending any post decisional applications for rehearing, etc. The mandate of August 27 reverts jurisdiction to the Board and in the Court's decision, the Board is required to reconsider the branch applications consistent with the Supreme Court's opinion. The Supreme Court's opinion in each case says that the Board's Order is unlawful in so far as it approves establishment of a branch bank at a location prohibited by law and must be reversed. With respect to state banks the Board made three decisions under 502(H): approving a charter, approving a merger, and approving the branch. The Supreme Court only overruled the Board with respect to approval of the branch. The Board's requirement today is to reverse its decision and deny the branch application of the state banks. The last two items are national banks and only an interim charter was approved by the Board for those banks. The Board did not approve the merger or the branch. The Supreme Court's order says that with respect to First Fidelity and First Midwest Bancorp, the Board is reversed insofar as the Board's decision approved the branch even though the Board did not approve the branch. Mr. Gilbert said that Clyde Crutchmer, Attorney, is here on behalf of First Fidelity and has asked that the Board rescind its approval instead of denying the application and there is no reason why the Board can't rescind approval. He said Bob Nance will represent the Board as Independent Counsel with respect to First Midwest Bancorp. since Mr. Gilbert represented First Midwest Bancorp. in connection with the 502(H) charter.

Marion Bauman, Attorney, said he would like to mention another 502(H) application which is not on the agenda which may need action. The branch by First American Bank, Purcell to Maysville was not appealed to the Supreme Court, but the bank agreed with the Board that it would abide by the Supreme Court's decision. That bank would not object to taking similar action on this application.

Member Huckabay asked if this would be lawful?

Chairman Thompson asked if this was known prior to today's meeting?

Mr. Gilbert said he did not know this.

Mr. Bauman said he didn't realize it wasn't on the agenda.

Mr. Gilbert said that it might be considered New Business, but because it doesn't require immediate action, it should be postponed to the next meeting.

Mr. Bauman said he agrees and the location is not yet open.

Chairman Thompson said in the Court's decision they dealt with only the branch issues. The Board only approved the state bank's branches but did not approve branches for the two national banks.

Mr. Burgess asked Mr. Gilbert on the first four items (A-D) on the agenda, would it be appropriate for the Board to deal with those by a motion to deny the branch applications?

Mr. Gilbert said yes.

Mr. Burgess asked Mr. Gilbert on item F, if there needs to be a motion to rescind the approval of the merger?

Mr. Gilbert said only a motion to rescind the interim charter is needed because the Board only dealt with the interim charter and not the branch. He said the Board could technically do nothing with the interim charter because the Supreme Court's decision addressed only the branch issue and the Board didn't approve a branch for the national banks. First Fidelity has requested the Board to rescind its approval.

Mr. Burgess asked on item E, is the same thing being done for this one?

Mr. Bob Nance said a similar motion will be made on this request.

Mr. Pape said when item E is brought up, it will be dealt with then.

Chairman Thompson said if the Board follows the Supreme Court's decision, the Department will notify each bank to return their Certificate of Authority.

Chairman Thompson said all applicants have applied for branches based on branching developments under the new laws. Some may have to close under FDIC rule unless a branch is approved within 90 days and are issued a new certificate to operate a de novo branch. He said a clean break will be made and the 502(H) branch certificate will be taken from the bank and if they have filed an application for a new facility, a new certificate will be issued. If they are denied, they will either operate as an LPO/DPO or close. Those are the steps they will go through so there will be no questions. We wanted to be sure a clear break was made from the 502(H) and a letter will be issued to the bank to close and then they will decide if they want to operate as an LPO/DPO or apply under the new branching law.

- A. First American Bank and Trust Company, Purcell, Oklahoma, Application for Certificate to Maintain and Operate a Branch in Norman, Oklahoma by acquisition of interim charter.

Member Burgess made the motion to deny the Application for Certificate to Maintain and Operate a Branch in Norman in regard to First American Bank and Trust Company, Purcell. Motion was seconded and unanimously approved as follows:

Chris Conn - voted yes  
Gary Huckabay - voted yes  
Gordon Greer - voted yes  
Jarrett Parker - voted yes  
Brad Burgess - voted yes  
Carlisle Mabrey - voted yes

- B. Farmers & Merchants Bank, Crescent, Oklahoma, Application for Certificate to Maintain and Operate a Branch in Guthrie, Oklahoma by acquisition of interim charter.

Member Burgess made the motion to deny the Application for Certificate to Maintain and Operate a Branch in Guthrie in regard to Farmers & Merchants Bank, Crescent. Motion was seconded and unanimously approved as follows:

Chris Conn - voted yes  
Gary Huckabay - voted yes  
Gordon Greer - voted yes

Jarrett Parker - voted yes

Brad Burgess - voted yes

Carlisle Mabrey - voted yes

- C. BancFirst, Oklahoma City, Oklahoma, Application for Certificate to Maintain and Operate a Branch in Edmond, Oklahoma by acquisition of interim charter.

Member Burgess made the motion to deny the Application for Certificate to Maintain and Operate a Branch in Edmond in regard to BancFirst, Oklahoma City. Motion was seconded and approved as follows:

Chris Conn - voted yes

Gary Huckabay - voted yes

Gordon Greer - abstained

Jarrett Parker - voted yes

Brad Burgess - voted yes

Carlisle Mabrey - voted yes

- D. Poteau State Bank, Poteau, Oklahoma, Application for Certificate to Maintain and Operate a Branch in Spiro, Oklahoma by acquisition of interim charter.

Member Burgess made the motion to deny the Application for Certificate to Maintain and Operate a Branch in Spiro in regard to Poteau State Bank, Poteau. Motion was seconded and approved as follows:

Chris Conn - abstained

Gary Huckabay - voted yes

Gordon Greer - voted yes

Jarrett Parker - voted yes

Brad Burgess - voted yes

Carlisle Mabrey - voted yes

- E. First Midwest Bancorp., Inc., Application for Authority to Engage in the Banking Business in Harrah, Oklahoma pursuant to Banking Code §502(H); and rescission of approval granted September 16, 1998.

Donald Pape, Attorney, on behalf of First Midwest Bancorp., Inc., requested the Board to rescind its approval of the interim charter it had approved for First Midwest Bancorp. under Section 502(H).

Member Burgess made the motion to rescind the approval of the interim charter of First Midwest Bancorp, Inc. in regard to the Harrah location. Motion was seconded and approved as follows:

Chris Conn - voted yes  
Gary Huckabay - voted yes  
Gordon Greer - voted yes  
Jarrett Parker - voted yes  
Brad Burgess - voted yes  
Carlisle Mabrey - voted yes

- F. First Fidelity Bancorp, Inc., Application for Authority to Engage in the Banking Business in Edmond, Oklahoma pursuant to Banking Code §502(H); and rescission of approval granted September 16, 1998.

Mr. Gilbert said that a written request for rescission has been received by the Department on this request.

Member Burgess made the motion to rescind the approval of the interim charter of First Fidelity Bancorp., Inc. Motion was seconded and unanimously approved as follows:

Chris Conn - voted yes  
Gary Huckabay - voted yes  
Gordon Greer - voted yes  
Jarrett Parker - voted yes  
Brad Burgess - voted yes  
Carlisle Mabrey - voted yes

Chairman Thompson said that at this point there will be no further discussion of 502(H).

Sixth item on the agenda, New Business. There was none.

Seventh item on the agenda. Member Conn made the motion to adjourn at 10:47 a.m. Motion was seconded and unanimously approved as follows:

Chris Conn - voted yes  
Gary Huckabay - voted yes  
Gordon Greer - voted yes  
Jarrett Parker - voted yes  
Brad Burgess - voted yes  
Carlisle Mabrey - voted yes

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Mick Thompson, Chairman

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Gordon Greer

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Gary Huckabay

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Chris Conn

Jarrett Parker

Brad Burgess

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Carlisle Mabrey