

**REGULAR STATE BANKING BOARD MEETING  
OFFICE OF THE COMMISSIONER  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
2000 SCHAFFER STREET, SUITE G  
BISMARCK, NORTH DAKOTA**

**July 10, 2014**

The regular meeting of the State Banking Board was held in the Office of the Commissioner, Department of Financial Institutions, 2000 Schafer Street, Suite G, Bismarck, North Dakota. Chairman Entringer called the meeting to order at 9:00 a.m., Thursday, July 10, 2014, by conference call.

**MEMBERS PRESENT:** Robert J. Entringer, Chairman (*Office*)  
Nancy Baerwald, Member (*Cando*)  
Linda Beall, Member (*Velva*)  
Kim Larson, Member (*Casselton*)  
John Schmid, Member (*Carson*)  
Tom Stennes, Member (*Harwood*)  
Cheryl Thompson, Member (*Fargo*)

**MEMBERS ABSENT:** None

**ALSO PRESENT:** Suzette Richardson, Acting Secretary (*Office*)  
Jan Murtha, Assistant Attorney General (*Office*)  
Jeff Kram, Choice Financial Group (*Langdon*)  
Joshua Gutttau, TS Contrarian (*Iowa*)  
Chris Graham, TS Contrarian (*Iowa*)

**ACTING SECRETARY**

**It was moved by Member Baerwald, seconded by Member Thompson, and unanimously carried that Suzette Richardson be appointed Acting Secretary.**

## **NEW BOARD MEMBERS**

Chairman Entringer welcomed John Schmid and Cheryl Thompson to the State Banking Board. Chairman Entringer indicated Member Schmid is President of Grant County State Bank, Carson, and Member Thompson formerly worked at the North Dakota Bankers Association and is currently with the North Dakota University System.

## **APPROVAL OF MINUTES**

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on May 9, 2014.

**It was moved by Member Beall, seconded by Member Larson, and unanimously carried, to approve the minutes of the regular meeting held May 9, 2014.**

## **CHOICE FINANCIAL GROUP, GRAFTON – RELOCATION OF MAIN OFFICE AND FACILITY**

Chairman Entringer reviewed Assistant Commissioner Webb's Memorandum dated June 25, 2014, indicating on June 13, 2014, the Department received an application from Choice Financial Group, Grafton, North Dakota (Choice), to relocate its main office from 645 Hill Avenue, Grafton, North Dakota, to its existing facility location at 4501 23<sup>rd</sup> Avenue South, Fargo, North Dakota, and to operate 645 Hill Avenue, Grafton, North Dakota as a facility.

Chairman Entringer indicated Section 6-03-13 of the North Dakota Century Code provides in part that a banking association may apply to the Board for authority to move its main office to any location currently being operated by the banking association as a facility or to another location within the same corporate city limits. Chairman Entringer stated Choice would in essence be swapping its main office and facility locations.

Chairman Entringer indicated since Choice currently operates in both locations this application will not have any significant financial impacts on the bank; therefore,

there are no estimates of costs or statements relating to impact to the statutory fixed asset limitation.

CFO Kram explained in 2001 First Capital Bank of North Dakota, West Fargo; Walhalla State Bank, Walhalla; and First State Bank Langdon, Langdon, merged into the surviving charter of Citizens State Bank Grafton-Petersburg, Grafton (now known as Choice Financial Group). CFO Kram explained reasons to move the charter from Grafton to Fargo is that over the years the operations have migrated and centralized in Fargo, with the majority of corporate records in that location; as well as Fargo being more nationally recognized than Grafton.

In response to Member Schmid, CFO Kram explained the Grafton location would remain operational as the lending activity and deposits have been growing the past several years.

In response to Chairman Entringer, CFO confirmed that the FDIC granted approval of the application on July 3, 2014.

Chairman Entringer explained that Assistant Commissioner Webb determined there was no publication requirement regarding this application pursuant to Section 6-03-13.3, North Dakota Century Code. Assistant Attorney General Murtha indicated she concurred with Assistant Commissioner Webb's determination. CFO Kram added the FDIC also did not require publication in regard to the application.

Chairman Entringer indicated the Department recommends approval of the application from Choice Financial Group, Grafton, North Dakota, to relocate its main office from 645 Hill Avenue, Grafton, North Dakota, to its existing facility location at 4501 23<sup>rd</sup> Avenue South, Fargo, North Dakota, and to operate its former main office as a facility of the bank; as well as the Board authorizing the Commissioner to sign the proposed Order on behalf of the Board. Chairman Entringer then reviewed the conditions of the proposed Order with CFO Kram.

**It was moved by Member Beall, seconded by Member Baerwald, and unanimously carried to approve the application by Choice Financial Group, Grafton, North Dakota, to relocate its main office from 645 Hill Avenue, Grafton, North Dakota, to its existing facility location at 4501 23<sup>rd</sup> Avenue South, Fargo, North Dakota, and to operate its former main office as a facility of**

**the bank; as well as authorizing Chairman Entringer to sign the proposed Order on behalf of the Board.**

CFO Kram left the conference call at 9:10 a.m.

## **TS CONTRARION BANCSHARES, INC., TREYNOR, IA – CHANGE OF CONTROL**

Chairman Entringer reviewed Assistant Commissioner Webb's Memorandum dated July 7, 2014, indicating the Department received the change of control application on June 18, 2014, for TS Contrarion Bancshares, Inc., (Contrarion) to acquire control of The Bank of Tioga, and the application was deemed complete on July 7, 2014.

Chairman Entringer indicated pursuant to North Dakota Administrative Code § 13-02-17-01, notice of the above transaction was published in the *Williston Herald*, Williston, ND, on June 27, 2014. Chairman Entringer indicated the comment period ended July 7, 2014, and no comments have been received nor were there any requests for copies of the application.

Chairman Entringer reviewed the provisions of Section 6-08-08.1(4), North Dakota Century Code, which allow the Board to disapprove a change of control application.

Chairman Entringer indicated that Contrarian is requesting permission from the Federal Reserve to establish itself as a bank holding company by acquiring 100% of the shares of The Bank of Tioga through a cash purchase from existing capital of the company. Chairman Entringer indicated this transaction also requires approval from the Board under North Dakota Century Code Section 6-08-08.1(4). Chairman Entringer indicated since this acquisition will be funded from existing capital of the company, there is no new debt being issued by the company.

Chairman Entringer referred to the letter dated July 7, 2014, wherein Mr. Guttau indicates David Grubb will remain as President of The Bank of Tioga as well as a member of the Board of Directors; Mr. Guttau will be CEO/CFO of the bank and a member of the board; and a third member of the board is currently being sought.

Chairman Entringer indicated Contrarian is concurrently involved with a second transaction whereby Treynor Bancshares, Inc. is acquiring 20% of TS Contrarian Bancshares, Inc; however, since this transaction is below the 25% threshold it does not constitute a change in control requiring Board approval. Chairman Entringer added that this is a cash transaction.

Mr. Guttau informed the Board Contrarian is currently under an exclusive Letter of Intent and working on the purchase agreement to acquire a second North Dakota bank, Farmers State Bank of Crosby, from the Hanisch family. Mr. Guttau indicated the plan is to merge Farmers State Bank of Crosby into The Bank of Tioga, and establish a facility in Crosby.

Chairman Entringer indicated based on the statutory criterion the Department recommends approval of the application by TS Contrarian Bancshares, Inc., Treynor, Iowa, to acquire 100% of the voting shares of The Bank of Tioga, Tioga, North Dakota.

In response to Chairman Entringer, Mr. Graham indicated the Federal Reserve has five days following the last publication date of July 25, 2014, to act on this application. Mr. Graham indicated the Federal Reserve should make a decision by the end of July of early August 2014.

Mr. Guttau indicated if the Federal Reserve approves the application, the transaction must be consummated within 90 days; therefore, this change of control should be finalized by September 30 or October 31, 2014. Chairman Entringer added that the Department does not impose a consummation date; however, does request notification of the transaction consummation date.

Chairman Entringer encouraged Mr. Guttau that a third board member be obtained prior to the consummation date, as North Dakota statute does require that a state-chartered bank has a minimum of three directors.

**It was moved by Schmid, seconded by Member Stennes, and unanimously carried to approve the application by TS Contrarian Bancshares, Inc., Treynor, Iowa, to acquire 100% of the voting shares of The Bank of Tioga, Tioga, North Dakota.**

Messrs. Guttau and Graham left the conference call at 9:20 a.m.

## **ROBERT F. WISHEK, ASHLEY – CHANGE OF CONTROL**

Chairman Entringer reviewed Assistant Commissioner Webb’s Memorandum dated May 19, 2014, indicating on April 21, 2014, the Department received the change of control application for Robert F. Wishek, Ashley, North Dakota, as Co-Trustee of the McIntosh County Bank Holding Company, Inc.’s 2012 Voting Trust Agreement, Ashley, North Dakota, to retain control of 67.33% of the voting shares of McIntosh County Bank Holding Company, Inc; and that the application was deemed complete on May 19, 2014.

Chairman Entringer indicated pursuant to North Dakota Administrative Code § 13-02-17-01, notice of the above transaction was published jointly with the Federal Reserve Bank of Minneapolis in the *Jamestown Sun* on April 30, 2014, and in the *Ashley Tribune* on May 7, 2014. Chairman Entringer indicated as of the date of this Memorandum no comments were received nor were there any requests for copies of the application.

Chairman Entringer reviewed the provisions of Section 6-08-08.1(4), North Dakota Century Code, which allow the Board to disapprove a change of control application.

Chairman Entringer indicated that Robert F. Wishek was named co-trustee of the McIntosh County Bank Holding Company, Inc.’s 2012 Voting Trust Agreement (“Trust”); and the Trust controls 67.33% of the voting common stock of McIntosh County Bank Holding Company, Inc. Chairman Entringer continued that as a result of being named co-trustee of the Trust, Robert F. Wishek acquired control of McIntosh County Bank Holding Company, Inc., since he now has the power to vote 25% or more of the voting stock of holding company. Chairman Entringer indicated that McIntosh County Bank Holding Company Inc. controls McIntosh County Bank, Ashley, and North Star Holding Company, Inc., Jamestown, North Dakota, which in turn controls Unison Bank, Jamestown.

Chairman Entringer explained this is a retroactive application for a change in control because the transfers actually occurred in 2012. Chairman Entringer indicated since Robert F. Wishek is merely replacing Max A. Wishek as co-trustee of the Trust, there is no sale or change in ownership taking place. Chairman Entringer indicated the applicant further indicated there are no anticipated changes to the board of directors or senior executives of the depository institution or holding company.

Chairman Entringer indicated in a voting trust each trustee has the power to vote the entire block of shares and as a result of that, because a trustee has the power to control more than 25% of the shares, it constitutes a change of control.

Chairman Entringer indicated based on the statutory criterion, the Department recommends approval of the retroactive change of control for Robert F. Wishek, Ashley, North Dakota, as Co-Trustee of the McIntosh County Bank Holding Company, Inc.'s 2012 Voting Trust Agreement, Ashley, North Dakota, to retain control of 67.33% of the voting shares of McIntosh County Bank Holding Company, Inc.

**It was moved by Member Baerwald, seconded by Member Beall, and unanimously carried to approve the retroactive change of control for Robert F. Wishek, Ashley, North Dakota, as Co-Trustee of the McIntosh County Bank Holding Company, Inc.'s 2012 Voting Trust Agreement, Ashley, North Dakota, to retain control of 67.33% of the voting shares of McIntosh County Bank Holding Company, Inc.**

## **CHARLES A. BON AND THOMAS A. BON – CHANGE OF CONTROL**

Chairman Entringer reviewed Assistant Commissioner Webb's Memorandum dated June 4, 2014, indicating on May 27, 2014, the Department received the change of control application for Charles A. Bon and Thomas A. Bon, Fargo, North Dakota, to each acquire 25% or more of the voting shares and thereby the control of The First and Farmers Bank Holding Company, Portland, North Dakota, which controls The First and Farmers Bank, Portland, North Dakota. Chairman Entringer indicated the application was deemed complete on June 4, 2014.

Chairman Entringer indicated pursuant to Section 13-02-17-01, North Dakota Administrative Code, notice of the transaction was published jointly with the Federal Reserve Bank of Minneapolis in the *Traill County Tribune*, Portland, on May 24, 2014, with the comment period not ending before June 13, 2014. Chairman Entringer indicated as of the date of this memo, no comments were received nor were there any requests for copies of the application.

Chairman Entringer reviewed the provisions of Section 6-08-08.1(4), North Dakota Century Code, which allow the Board to disapprove a change of control application.

Chairman Entringer explained Charles A. Bon and Thomas A. Bon are both acquiring the transferred shares through an inheritance from the acquirer's father, Fred Bon. Chairman Entringer stated that Fred Bon died March 22, 2013, and the bank holding company shares in question are currently being held by his estate. Chairman Entringer indicated of the 80 shares being transferred, 30 shares will be acquired by Thomas A. Bon and 50 shares by Charles A. Bon. Chairman Entringer indicated upon completion of the transfers each of the applicants would control a total of 50 shares or 41.67% of The First and Farmers Bank Holding Company, which owns and controls 100% of the stock of The First and Farmers Bank, Portland, North Dakota.

Chairman Entringer indicated since the transfers are occurring as a result of inheritance, there is no purchase and sale agreements, shareholder agreements, non-compete agreements, employment contracts, or trust agreements. Chairman Entringer indicated the applicant further indicated there will not be any changes to the board of directors or senior executives of the bank or holding company due to the inheritance of the stock and corresponding change in control.

In response to Member Stennes, Chairman Entringer indicated both Thomas A. Bon and Charles A. Bon are on the Board of Directors of The First and Farmers Bank.

Chairman Entringer stated based on the statutory criterion, the Department recommends approval of the change of control for Charles A. Bon and Thomas A. Bon, Fargo, North Dakota, to each acquire 25% or more of the voting shares and thereby the control of The First and Farmers Bank Holding Company, Portland, North Dakota.

**It was moved by Member Thompson, seconded by Member Larson, and unanimously carried to approve the change of control application for Charles A. Bon and Thomas A. Bon, Fargo, North Dakota, to each acquire 25% or more of the voting shares and thereby the control of The First and Farmers Bank Holding Company, Portland, North Dakota.**



## **FIRST WESTERN BANK & TRUST, MINOT – REQUEST TO PURCHASE STOCK**

Chairman Entringer reviewed the letter dated June 26, 2014, from Richard Campbell, President of First Western Bank & Trust, requesting permission pursuant to Section 6-03-49.1 of the North Dakota Century Code, to purchase and own stock in the bank's credit card service corporation, Independent Community Banks Services, Inc. (ICB Services).

Chairman Entringer indicated First Western Bank & Trust is requesting permission to purchase 5 shares of stock for \$1,645 per share for a total of \$8,225.

Chairman Entringer indicated the bank cannot purchase the requested shares unless approved by the Board.

**It was moved by Member Beall, seconded by Member Schmid, and unanimously carried to approve the request by First Western Bank & Trust, Minot, to purchase 5 shares of stock for \$1,645 per share for a total of \$8,225 from the Independent Community Bank Services, Inc.**

## **MCKENZIE COUNTY BANK, WATFORD CITY – ARTICLES OF ASSOCIATION**

Chairman Entringer indicated McKenzie County Bank has submitted Articles of Amendment in order to restate its Articles of Association. Chairman Entringer explained that the Board recently approved the same request by Lakeside State Bank, New Town.

Chairman Entringer referred to the announcement that Lakeside Bank Holding Company, New Town, entered into an agreement with Cornerstone Holding Company, Inc., Fargo, to merge. Chairman Entringer continued because of the pending merger, Lakeside State Bank, New Town, and McKenzie County Bank, Watford City, are both updating and modernizing their Articles of Association.

In response to Member Thompson, Chairman Entringer explained that Lakeside Bank Holding Company owns Lakeside State Bank, New Town, and McKenzie

County Bank, Watford City; adding that the holding company is owned primarily by the Petersen family.

**It was moved by Member Beall, seconded by Member Baerwald, and unanimously carried to approve the Articles of Amendment for McKenzie County Bank, Watford City, to amend and restate the Articles of Association.**

## **MCKENZIE COUNTY BANK, WATFORD CITY – PURCHASE OF REAL ESTATE**

Chairman Entringer reviewed Assistant Commissioner Webb’s Memorandum dated July 2, 2014, indicating on June 19, 2014, the Department received an application from McKenzie County Bank, Watford City, to purchase real estate to be used as employee housing. Chairman Entringer indicated the bank is seeking approval to purchase two housing units, possibly town homes, in Watford City.

Chairman Entringer indicated the Board by Order dated November 10, 2010, granted the following authorization for North Dakota state-chartered banks: “A bank may own residential property for the use of bank officers and employees who are located in a remote area where suitable housing is not readily available at a reasonable price. However, prior to constructing or acquiring residential real estate the bank must first apply for permission to the North Dakota State Banking Board; such application must include: evidence supporting the bank’s contention that reasonably priced, suitable housing is not readily available; evidence the bank will not exceed the fixed asset limitation found in § 6-03-07, North Dakota Century Code by its ownership of the residential property; and, document the bank’s exit strategy when the residential property is no longer used by bank officers or employees.”

Chairman Entringer indicated the Department received a letter dated June 17, 2014, from President Dale Patten requesting authorization for McKenzie County Bank to purchase real estate for the purpose of employee housing. Chairman Entringer continued that President Patten indicated that due to the limited availability of affordable housing as a result of the increase in population due to the oil boom it is necessary for the bank to take this step in order to attract qualified employees.

Chairman Entringer indicated President Patten explained the purchase would not cause noncompliance with the bank’s fixed asset limitation under Section 6-03-07

of the North Dakota Century Code; and the bank would list the property for sale with a broker once it is no longer necessary for the bank to provide employee housing.

Chairman Entringer indicated that based on the information provided, the Department recommends the Board approve the application by McKenzie County Bank, Watford City, to purchase real estate in Watford City to be used as employee housing, subject to the following conditions: (a) The total purchase shall not to exceed \$500,000; (b) The bank shall notify the Department immediately upon purchase of the property, and include the purchase price; (c) The bank shall notify the Department immediately when the bank is no longer using the property for employee housing; and (c) When the property is no longer used as employee housing, the bank shall divest itself of the real property within five years, unless this time period is extended by certificate of the commissioner.

Chairman Entringer indicated if approval is granted for McKenzie County Bank to invest up to \$500,000 in residential real estate, the bank would remain under 30% of fixed assets to capital, surplus, and undivided profits. Chairman Entringer added he confirmed with President Patten that once the property is no longer occupied or needed for employee housing it will be listed for sale with a broker immediately.

**It was moved by Member Larson, seconded by Member Thompson, and unanimously carried to approve the request by McKenzie County Bank, Watford City, to own residential real estate for the benefit of employees.**

## **ITEMS TO BE NOTED**

Chairman Entringer indicated that on June 25, 2014, he approved, as Commissioner, the request by Choice Financial Group, Grafton, to establish a LPO at 324 N 3<sup>rd</sup> St, Bismarck.

Chairman Entringer indicated that on June 25, 2014, he approved, as Commissioner, the request by First State Bank of North Dakota, Arthur, to relocate its facility from 502 Main St, Lisbon, to 1002 Main St, Lisbon.

Chairman Entringer indicated that on May 28, 2014, he approved, as Commissioner, the request to North Country Bank, McClusky, to discontinue its facilities located at 101 Clark Ave, Goodrich, and 302 Second St, Riverdale.

Chairman Entringer indicated that on May 28, 2014, he approved, as Commissioner, the request by Union State Bank of Fargo, Fargo, to discontinue its facility located at 3902 13<sup>th</sup> Ave S, Ste 5245, Fargo.

Chairman Entringer indicated that on July 1, 2014, Inland Bank and Trust, Chicago, IL, opened a LPO to be known as Inland Home Mortgage at 4265 45<sup>th</sup> St, Ste 200, Fargo, ND.

Chairman Entringer explained that out of state banks are asked to notify the Department of any LPOs opened in North Dakota.

In response to Member Thompson, Chairman Entringer indicated a LPO is usually the first step for a state-chartered bank to establishing a facility. Chairman Entringer referred to approval for Choice Financial Group, Grafton, to establish a LPO in Bismarck, and indicated the Department has since received an application to establish a facility at that location.

Chairman Entringer indicated he is not sure if the Inland Bank and Trust, Chicago, IL, plans to open an interstate branch in Fargo; however, it is possible. Chairman Entringer continued that pursuant to the Nationwide Cooperative Agreement, the applicant home state regulator is supposed to seek the views of the host state regulator; therefore, this Department will be notified if an application is submitted.

In response to Member Schmid, Chairman Entringer indicated a LPO has the authority to solicit loans, gather credit information, prepare applications, etc., but money cannot be lent.

Chairman Entringer informed the Board he recently approved an application by Choice Financial Group, Grafton, to establish a DPO in Bismarck.

Chairman Entringer explained a LPO and DPO have the authority to solicit loans or deposits, as well as give information regarding deposits; however, neither is authorized to open accounts or accept deposits.

## **BANK BUDGET UPDATE**

Chairman Entringer reviewed the May 31, 2014, Organizational Status Report by Summary Account for the bank division.

## **DEPARTMENT LEASE**

Chairman Entringer indicated there is a potential sale of the Dakota Collectibles Building, and the buyer has asked to review all tenant leases. Chairman Entringer indicated there is a possibility the Department could be relocating; however, the current lease goes through June 30, 2015, and hopefully can re-negotiate another four-year lease.

**The Board went into closed session at 9:45 a.m. to review the Supervisory Reports of Examination pursuant to North Dakota Century Code 6-01-07.1, and to discuss any confidential records pursuant to North Dakota Century Code 44-04-19.2.**

**The Board reconvened to open session at 10:36 a.m.**

## **SPECIAL MEETING**

Chairman Entringer indicated a special meeting is scheduled for July 17, 2014, by conference call. Chairman Entringer informed the Board that the call-in number and passcode for conference calls will not change.

The meeting adjourned at 10:37 a.m.

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Robert J. Entringer, Chairman

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Suzette Richardson, Acting Secretary