

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

January 9, 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, January 9, 2014, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman (*Office*)
Nancy Baerwald, Member (*Cando*)
Linda Beall, Member (*Velva*)
Bill Daniel, Member (*Bismarck*)
Kim Larson, Member (*Casselton*)
Anita Quale, Member (*Watford City*)
Tom Stennes, Member (*Harwood*)

MEMBERS ABSENT: None

ALSO PRESENT: Aaron K. Webb, Secretary (*Office*)
Suzette Richardson, Administrative Staff Officer (*Office*)
Jan Murtha, Assistant Attorney General (*Office*)
Lise Kruse, Chief Examiner – Banks (*Fargo*)

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on November 14, 2013, and the special meeting held on December 4, 2013.

It was moved by Member Beall, seconded by Member Baerwald, and unanimously carried, to approve the minutes of the regular meeting held

November 14, 2013, and the special meeting held December 4, 2013, as presented.

QUALITY BANK, FINGAL

Chairman Entringer indicated on January 6, 2014, the Department received a request from Quality Bank, Fingal, to transfer \$2,500,000 from Surplus to Undivided Profits, and also declare a \$200,000 dividend.

Chairman Entringer reviewed his Memorandum dated January 7, 2014, indicating that Quality Bank has negative undivided profits of approximately \$2 million. Chairman Entringer indicated Section 6-03-34 of the North Dakota Century Code, only permits dividends from the earnings of a bank, and since Quality Bank's retained earnings is negative, the Department cannot approve a dividend.

Chairman Entringer indicated President Bruns was informed in order for the bank to receive approval to declare a dividend the bank must transfer money from Surplus to Undivided Profits.

Chairman Entringer indicated since the Federal Deposit Insurance Corporation considers the transfer of \$2,500,000 from Surplus to Undivided Profits a retirement of capital stock, Quality Bank completed FDIC's required application, which was approved by the Board of Directors on December 27, 2013.

Chairman Entringer indicated the Board will not act on the bank's request to transfer \$200,000 from ALLL to capital in order to declare a \$200,000 dividend at this time, as the Department will request more detailed information with respect to the allowance and the bank's future dividend plans. Chairman Entringer explained the bank has not restored its earning capacity to be sufficient to declare dividends in the amount necessary to service the holding company debt without the negative provision.

Chairman Entringer indicated the capital ratios will not be affected if the Board approves the requested transfer of \$2,500,000 from Surplus to Undivided Profits.

It was moved by Member Larson, seconded by Member Stennes, and unanimously carried to approve the request by Quality Bank, Fingal, to transfer \$2,500,000 from Surplus to Undivided Earnings.

Chairman Entringer indicated the Board will be informed of any approval he grants as Commissioner for Quality Bank to declare a dividend.

ITEM TO BE NOTED

Chairman Entringer indicated that on September 16, 2013, he approved, as Commissioner, an application by The First State Bank of Munich (now known as Horizon Financial Bank), Munich, to establish a facility at 1207 West Divide Avenue, Bismarck.

BANK BUDGET UPDATE

The November 30, 2013, Organizational Status Report by Summary Account for the bank division was included with the agenda for the Board's review.

Chairman Entringer informed the Board the Department presently has two vacancies in the bank division, and one in both the credit union and consumer divisions.

CAPITAL ADEQUACY AND MAINTENANCE POLICY

Chairman Entringer explained the Capital Adequacy and Maintenance Policy was approved and adopted by the State Banking Board on July 7, 1986. Chairman Entringer indicated this Policy is not enforceable; however, the Department does monitor capital levels.

Chief Examiner Kruse indicated the standard primary capital ratio threshold is presently 7%, and as of September 30, 2013, two state-chartered banks fall below that threshold and four state-chartered banks fall within the 7% to 8% threshold.

Chairman Entringer indicated he is asking for the Board's recommendation on whether this outdated Policy should be rescinded and replaced with an Administrative Rule.

Member Larson stated he believes if it is the Department's goal to give direction to the state-chartered banks, it should be done by something other than this Policy.

Member Stennes questioned whether the North Dakota Bankers Association (NDBA) or Independent Community Banks of North Dakota (ICBND) would oppose an administrative rule as more regulation. Chairman Entringer indicated he believes NDBA and ICBND would possibly oppose more regulatory burden; adding that is why he would communicate with them on this possible rule process.

Member Beall indicated she believes it is a good idea to get feedback from NDBA and ICBND since the banks are already working with federal guidelines and Basel III guidelines.

Member Quale stated she does not believe there would be a problem as long as a proposed Administrative Rule was not more stringent than the Basel III since all banks already adhere to those guidelines. In answer to Member Quale's question whether state rules supersede federal guidelines, Chairman Entringer indicated state regulations can be more restrictive, but cannot be more lenient than federal guidelines.

Member Quale indicated she feels it is confusing when the federal regulations are different than state regulations, and Chairman Entringer agreed.

Chairman Entringer stated the Capital Adequacy and Maintenance Policy is of no value at this point since it does not contain any enforcement capabilities.

Member Larson explained his intention is not to have an Administrative Rule that is more stringent than federal regulations; however, questions why the state cannot have the power to enforce the level of federal regulations.

Chairman Entringer agreed, stating his thought is that by having an Administrative Rule that mirrors federal regulation, it would give the Board the authority to issue Orders to enforce a capital ratio requirement.

After further discussion, Chairman Entringer indicated he will include the NDBA and ICBND in any proposed rule discussion, and report back to the Board.

It was moved by Member Stennes, seconded by Member Larson, and unanimously carried that the Capital Adequacy and Maintenance Policy adopted by the State Banking Board on July 7, 1986, be rescinded.

The Board went into closed session at 9:20 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 9:40 a.m.

DISCUSSION ITEM

Chairman Entringer indicated the Department hopes to organize a “Day With The Commissioner” to be held the day before the FDIC Director’s College in Bismarck. Chairman Entringer asked the Board to let him know of any suggestions they have for presentations at the Day With The Commisisoner.

The meeting adjourned at 9:42 a.m.

Robert J. Entringer, Chairman

Aaron K. Webb, Secretary