

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

November 12, 2015

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, November 12, 2015, by conference call.

MEMBERS PRESENT: Robert J. Entringer, Chairman (*Office*)
Nancy Baerwald, Member (*Fargo*)
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: Aaron Webb, Secretary (*Office*)
Suzette Richardson, Administrative Staff Officer (*Office*)
Jan Murtha, Assistant Attorney General (*Office*)
Lise Kruse, Chief Examiner – Banks (*Fargo*)
David Katz, Counsel (*Washington, DC*)
Brad Kraft, Ascensus (*Fargo*)
Bob Guillocheau, Ascensus (*Dresher, PA*)
Vincenzo La Ruffa, Aquiline (*New York*)
David Golde, Genstar Capital (*New York*)
Mike Devins, Counsel (*New York*)
Christina Young, Aquiline (*New York*)
Joe Danski, Counsel (*Cedar Knolls, NJ*)
Frank Pearson (*Kindred*)
Todd Wold (*Kindred*)

APPROVAL OF MINUTES

Chairman Entringer indicated the Board received copies of the minutes of the regular meeting held on September 18, 2015, and the special meeting held October 15, 2015.

It was moved by Member Baerwald, seconded by Member Schmid, and unanimously carried, to approve the minutes of the regular meeting held September 18, 2015, and the special meeting held October 15, 2015, as presented.

CHANGE OF CONTROL – AQGEN ISLAND HOLDINGS, INC., AQUILINE FINANCIAL SERVICES FUND III L.P. AND GENSTAR CAPITAL PARTNERS VII L.P. TO INDIVIDUALLY ACQUIRE ASCENSUS TRUST COMPANY, FARGO

Chairman Entringer reviewed his Memorandum dated November 2, 2015, indicating the Department received the change of control application on October 13, 2015, for AqGen Island Holdings, Inc., Aquiline Financial Services Fund III L.P. and Genstar Capital Partners VII L.P. (Applicant) to individually acquire Ascensus Trust Company, Fargo (Ascensus). Chairman Entringer indicated the application was deemed complete on October 19, 2015.

Chairman Entringer indicated pursuant to North Dakota Administrative Code § 13-02-17-01, notice of the above transaction was published in *The Forum*, Fargo, on October 26, 2015. Chairman Entringer indicated the comment period ended November 4, 2015, 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 outlines criteria for the Board to disapprove a change of control application.

Chairman Entringer indicated the proposed acquisition is summarized in the October 12, 2015, letter from David Katz. Chairman Entringer indicated the applicant will merge with CG JCF L.P., which is the current ultimate parent of Ascensus, and as a result, the applicant will indirectly acquire control of Ascensus.

Chairman Entringer indicated the Applicant does not expect to rely on funds from Ascensus to repay the indebtedness, and there are no expected changes to the senior executive officers or board of directors of Ascensus. Chairman Entringer indicated the application includes an Agreement and Plan of Merger, a loan commitment letter, and financial information related to the principal owners of the Applicant.

Mr. Katz explained a recent change to the application is that co-investors may directly invest in Aquiline Holdings in a minority position by acquiring up to 3% of the buyer; however, this has not yet been finalized. Mr. Katz continued he does not believe this is a substantive change to the application as these co-investors will not have the ability to exercise any direct or indirect control.

Chairman Entringer explained “control” is defined under statute as 25% of the power to vote; therefore, the above-mentioned change to the application would not be germane.

Mr. Katz explained Exhibit C, the amended or restated commitment letter from the lender, indicates the acquisition of Ascensus will be funded through a debt transaction. Mr. Katz indicated another amendment was submitted on November 4, 2015, by the acquirers and various banks; however, no material changes would occur.

Mr. Guillocheau stated he is the CEO of Ascensus predating the acquisition of Frontier Trust Company. Mr. Guillocheau indicated the proposed transaction changes ownership from one private equity owner to another. Mr. Guillocheau stated the investors determined it was an appropriate time to seek to divest of their investment and this process resulted in the combination of Genstar and Aquiline acquiring the organization.

Mr. Guillocheau explained that Ascensus management and clients view the proposed transaction as a very positive development, as Genstar and Aquiline are very strong firms with a lot of experience in the financial technology sector and committed to growing and strengthening Ascensus. Mr. Guillocheau indicated there will not be any location, staffing, or leadership changes to Ascensus as a result of the acquisition.

Mr. Guillocheau indicated the possible target date for closing the transaction is December 1, 2015, and thanked the Department for its assistance in this process.

Mr. Guillocheau explained that Ascensus is an independent high quality technology service company which services U.S. employer sponsored retirement plan marketplace primarily through 401K plans. Mr. Guillocheau noted that Ascensus is also a service provider to college savings programs, including the State of North Dakota's program; however, this business is not connected to the trust company.

Mr. Kraft further explained the functions of Ascensus; adding it acts as a directed trustee and the majority of its client base is mutual funds.

Chairman Entringer indicated the Department recommends approval of the change of control application for AqGen Island Holdings, Inc., to indirectly acquire control of Ascensus Trust Company based on the fact that the approval criteria have been met.

It was moved by Member Larson, seconded by Member Beall, and unanimously carried to approve the application for AqGen Island Holdings, Inc., Aquiline Financial Services Fund III L.P. and Genstar Capital Partners VII L.P. to acquire Ascensus Trust Company, Fargo.

On behalf of Aquiline and Genstar, Mr. Katz thanked the Department for all the help with the application, as well as facilitating an easy working relationship.

All representatives of the Ascensus Trust Company change of control application left the conference call at 9:25 a.m.

FRANK PEARSON TO ACQUIRE 40.4% OF KINDRED STATE BANK, KINDRED

Chairman Entringer reviewed his Memorandum dated November 2, 2015, indicating the Department received the change of control application on October 26, 2015, for Frank Pearson to acquire 40.4% of the voting shares and thereby

control of the Kindred State Bank, Kindred. Chairman Entringer indicated the application was deemed complete on October 27, 2015.

Chairman Entringer indicated pursuant to North Dakota Administrative Code § 13-02-17-01, notice of the above transaction was published in *The Forum*, Fargo, on October 28, 2015. Chairman Entringer indicated the comment period ended November 6, 2015, 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 outlines criteria for the Board to disapprove a change of control application.

Chairman Entringer indicated Mr. Pearson is increasing his ownership from 2.33% to 40.4% as a result of the acquisition of shares currently held by Otis Bank Stock Trust, with one beneficiary of the trust retaining her shares in the bank. Chairman Entringer indicated upon completion of the acquisition of shares Mr. Pearson will control 40.4% of the outstanding shares of Kindred State Bank.

In response to Chairman Entringer Mr. Pearson stated it is accurate that following the proposed transaction, Otis Bank Stock Trust will be dissolved.

Mr. Pearson indicated his unsecured loan from The Citizens State Bank of Finley will be reduced by \$200,000 in January 2016 due to a land sale. Mr. Pearson explained two Board members will be replaced following the transaction; however, there will be no changes of executive officers of the bank.

Chairman Entringer indicated the Department recommends approval of the change of control for Frank Pearson to acquire 40.4% of the voting shares and thereby control of the Kindred State Bank, Kindred.

In response to Member Schmid, Mr. Pearson indicated he would remain a part-time employee at the Kindred State Bank.

It was moved by Member Thompson, seconded by Member Schmid, and unanimously carried to approve the change of control application for Frank Pearson to acquire 40.4% of the outstanding shares of Kindred State Bank, Kindred.

Messrs. Pearson and Wold left the conference call at 9:34 a.m.

PEOPLES STATE BANK OF VELVA TO PURCHASE STOCK IN ICB SERVICES, INC.

Chairman Entringer indicated that Peoples State Bank of Velva is requesting permission to purchase and own stock in its credit card service corporation, Independent Community Banks Services, Inc. (ICB Services).

Chairman Entringer indicated the Department recommends approval for Peoples State Bank of Velva to purchase five shares of stock for \$1,625 per share for a total of \$8,125 in ICB Services, Inc.

It was moved by Member Larson and seconded by Member Baerwald to approve the request by Peoples State Bank of Velva to purchase five shares of stock for \$1,625 per share for a total of \$8,125 from the Independent Community Bank Services, Inc. Member Beall abstained; however, her vote was cast with the majority and the motion carried by a vote of 7 to 0.

PROPOSED REMOVAL ORDER

Assistant Commissioner Webb indicated that while Rhonda Binder was employed with Northland Financial, Steele (now merged with Choice Financial Group, Fargo) she was an authorized signer on non-profit accounts and embezzled approximately \$16,800 from these accounts. Assistant Commissioner Webb explained even though Ms. Binder had reimbursed the money to the nonprofit accounts, Northland Financial became aware of this based on questionable transactions and performed an audit. Assistant Commissioner Webb indicated Ms. Binder pled guilty to a charge of Misapplication of Entrusted Property, a class B Felony.

Assistant Commissioner Webb reviewed the proposed Order he drafted for the Board regarding the removal of Rhonda Binder. Assistant Commissioner Webb explained that pursuant to Section 6-01-04.1 of the North Dakota Century Code, the Commissioner has the authority to issue a temporary removal order when a felony is committed by an employee of any entity licensed and/or

supervised by the Department; however, a permanent removal Order must be issued by the State Banking Board. Assistant Commissioner Webb explained that the Order remains permanent until such time that the Board would choose to amend the Order or it is modified by a court of law. Assistant Commissioner Webb stated that Ms. Binder has the right to contest the Order by requesting an administrative hearing pursuant to Chapter 28-32 of the North Dakota Century Code within twenty business days of the date the Order is served.

In response to Member Thompson, Assistant Commissioner Webb explained the Order is permanent; however, after three years Ms. Binder could petition the Board to amend this Order.

Assistant Attorney General Murtha indicated all information within the criminal investigation is considered public information; however, any of the examination records would have to be reviewed in order to determine whether they are considered public or confidential information.

It was moved by Member Schmid, seconded by Member Baerwald, and unanimously carried to approve the Order in the matter of the removal of Rhonda Binder from employment or participation in the affairs of any financial corporation, financial institution, credit union, or any other entity licensed by the Department of Financial Institutions, and that Chairman Entringer be authorized to sign the Order on behalf of the Board.

MEETING DATES FOR 2016

Chairman Entringer indicated the proposed meeting dates for 2016 are January 14, March 10, May 12, July 14, September 8, and November 10.

Member Baerwald indicated she would have a conflict on March 10. After discussion it was decided to move the March 10 meeting to March 3.

Chairman Entringer indicated the 2016 meeting dates will be set for January 14, March 3, May 12, July 14, September 8, and November 10.

ITEMS TO BE NOTED

Chairman Entringer indicated on October 14, 2015, he approved, as Commissioner, the application by Kirkwood Bank & Trust Co., Bismarck, to discontinue its facility at 826 Kirkwood Plaza, Bismarck.

Chairman Entringer indicated on October 26, 2015, he approved, as Commissioner, the application by First International Bank & Trust, Watford City, to establish a facility at 215 Hwy 2 SW, Rugby.

Chairman Entringer indicated on October 1, 2015, he approved, as Commissioner, the application by Bell State Bank & Trust, Fargo, to establish LPO at 619 Riverwood Dr, Ste 202, Bismarck.

Chairman Entringer indicated on October 28, 2015, he approved, as Commissioner, the application by Bell State Bank & Trust, Fargo, to establish LPO at 2774 Commerce Dr NW, Ste A, Rochester, MN.

BANK BUDGET UPDATE

Chairman Entringer indicated the Board received the September 30, 2015, Organizational Status Report by Summary Account for the bank division. Chairman Entringer indicated per the 2015 Legislative session all state agencies with 40 or fewer employees are subject to desktop support through the Information Technology Department (ITD). Chairman Entringer indicated the cost of new computers and the ITD desktop support will be highlighted in the next bank budget update.

The Board went into closed session at 9:49 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., and returned to open session at 10:13 a.m.

APPROVAL OF EXECUTIVE SESSION MINUTES

It was moved by Member Beall, seconded by Member Stennes, and unanimously carried, to approve the executive session minutes of the regular meeting held September 18, 2015, as presented.

The meeting adjourned at 10:14 a.m.

Robert J. Entringer, Chairman

Aaron Webb, Secretary