

## Litigation

During 1996 the Board of Governors was a party in eighteen lawsuits filed that year and was a party in eleven other cases pending from previous years, for a total of twenty-nine cases. In 1995 the Board had been a party in a total of twenty-two lawsuits. Five of the eighteen lawsuits filed in 1996 raised questions under the Bank Holding Company Act. As of December 31, 1996, twenty-one cases were pending.

### Bank Holding Company Act— Review of Board Actions

In *The New Mexico Alliance v. Board of Governors*, No. 96-9552 (10th Circuit, filed December 24, 1996), petitioners seek review of a Board order dated December 16, 1996, approving the acquisition by NationsBank Corporation and NB Holdings Corporation, both of Charlotte, North Carolina, of Boatmen's Bancshares, Inc., St. Louis, Missouri (83 *Federal Reserve Bulletin* 221).

*First Baird Bancshares, Inc. v. Board of Governors*, No. 96-1426 (D.C. Circuit, filed November 18, 1996), is a petition for review of a Board order dated November 6, 1996, approving applications of First Commercial Corporation, Little Rock, Arkansas; Arvest Bank Group, Inc., Bentonville, Arkansas; and TRH Bank Group, Inc., Norman, Oklahoma, to acquire all the shares of The Oklahoma National Bank of Duncan, Duncan, Oklahoma (83 *Federal Reserve Bulletin* 41). On November 20, 1996, the court denied petitioners' motion for a stay.

*Kuntz v. Board of Governors*, No. 96-1147 (D.C. Circuit, filed April 25, 1996), was a petition for review of a

Board order, dated March 25, 1996, approving the acquisition by CoreStates Financial Corp., Philadelphia, Pennsylvania, of Meridian Bancorp, Inc., Reading, Pennsylvania (82 *Federal Reserve Bulletin* 430). On October 24, 1996, the court of appeals dismissed the petition.

*The Southeast Raleigh Community Development Corporation v. Board of Governors*, No. 96-1054 (D.C. Circuit, filed February 16, 1996), is a petition for review of a Board order dated January 17, 1996, approving the merger of First Citizens BancShares, Inc., Raleigh, North Carolina, with Allied Bank Capital, Inc., Sanford, North Carolina (82 *Federal Reserve Bulletin* 232). Petitioners' motion for a stay was denied on March 5, 1996. On December 19, 1996, petitioners filed a motion for voluntary dismissal of the action.

*Inner City Press/Community on the Move v. Board of Governors*, No. 96-4008 (2d Circuit, filed January 19, 1996), is a petition for review of a Board order dated January 5, 1996 (82 *Federal Reserve Bulletin* 239) approving the merger of Chemical Banking Corporation and The Chase Manhattan Corporation, both of New York, New York. On March 26, 1996, the court denied petitioners' motion for a stay. The case was consolidated with *Lee v. Board of Governors*, No. 95-4134.

*Lee v. Board of Governors*, No. 95-4134 (2d Circuit, filed August 22, 1995), is a petition for review of two Board orders, dated July 24, 1995, approving certain steps of a corporate reorganization of U.S. Trust Corporation, New York, New York, and the acquisition of U.S. Trust by The Chase Manhattan Corporation, New York, New York

(81 *Federal Reserve Bulletin* 893). On September 12, 1995, the court denied petitioner's motion for an emergency stay of the Board's orders.

*Jones v. Board of Governors*, No. 95-1359 (D.C. Circuit, filed July 17, 1995), was a petition for review of a Board order, dated June 19, 1995, approving the application by First Commerce Corporation, New Orleans, Louisiana, to acquire Lakeside Bancshares, Lake Charles, Louisiana (81 *Federal Reserve Bulletin* 793). On November 15, 1995, the court granted the Board's motion to dismiss the petition, and on February 22, 1996, the court rejected petitioner's motion for reconsideration.

*Money Station, Inc. v. Board of Governors*, No. 95-1182 (D.C. Circuit, filed March 30, 1995), is a petition for review of a Board order, dated March 1, 1995, approving notices by Banc One Corporation, Columbus, Ohio; CoreStates Financial Corp., Philadelphia, Pennsylvania; PNC Bank Corp., Pittsburgh, Pennsylvania; and KeyCorp, Cleveland, Ohio, to acquire certain data processing assets of National City Corporation, Cleveland, Ohio, through a joint venture (81 *Federal Reserve Bulletin* 491). On April 23, 1996, a panel of the court of appeals granted the petition for review and vacated the Board's order. The full court subsequently granted the Board's request for rehearing *en banc* and vacated the panel's judgment (94 F.3d 658). On Dec. 19, 1996, the parties filed a motion for voluntary dismissal of the action.

*Jones v. Board of Governors*, No. 95-1142 (D.C. Circuit, filed March 3, 1995), was a petition for review of a Board order, dated February 2, 1995, approving applications by First Commerce Corporation, New Orleans, Louisiana, to merge with City Bancorp, Inc., New Iberia, Louisiana, and First Bankshares, Inc., Slidell, Louisiana (81 *Fed-*

*eral Reserve Bulletin* 379). Petitioner's motion for injunctive relief and for a stay of the Board's order was denied on August 17, 1995. On March 26, 1996, the court denied the petition for review (79 F.3d 1168).

### **Litigation Under the Financial Institutions Supervisory Act**

*Snyder v. Board of Governors*, No. 96-1403 (D.C. Circuit, filed October 23, 1996), is a petition for review of a Board order dated September 11, 1996, prohibiting petitioners from further participation in the banking industry (82 *Federal Reserve Bulletin* 1067).

In *Clifford v. Board of Governors*, No. 96-1342 (D.C. Circuit, filed September 17, 1996), petitioners seek review of a Board order dated August 21, 1996, denying petitioners' motion to dismiss an enforcement action against them.

*Long v. Board of Governors*, No. 96-9526 (10th Circuit, filed July 31, 1996), is a petition for review of a Board order dated July 2, 1996, assessing a civil money penalty and imposing a cease and desist order for violations of the Bank Holding Company Act (82 *Federal Reserve Bulletin* 871).

In *Board of Governors v. Scott*, No. 96-7108 (D.C. Circuit, filed May 31, 1996), the appellants sought review of an order of a magistrate judge enforcing an administrative investigatory subpoena issued by the Board. On November 15, 1996, the court dismissed the petition on appellant's motion.

In *Interamericas Investments, Ltd. v. Board of Governors*, No. 96-60326 (5th Circuit, filed May 8, 1996), petitioners seek review of a Board order dated April 9, 1996, imposing civil money penalties and a cease and desist order against petitioners (82 *Federal Reserve Bulletin* 609). Petitioners' motion to stay

the order pending judicial review was denied on August 20, 1996.

In *Board of Governors v. Hotchkiss*, Adversary No. 95-3146 (U.S. Bankruptcy Court, N.D. Ohio, filed May 1, 1995), the Board sought a determination that a restitution obligation arising from a Board consent order (81 *Federal Reserve Bulletin* 406) was nondischargeable in bankruptcy. On December 15, 1995, the court granted the Board's motion for summary judgment. The debtor's notice of appeal, filed on December 22, 1995, was voluntarily dismissed on June 21, 1996.

In *Board of Governors v. Interamericas Investments, Ltd.*, No. H-95-565 (S.D. Texas, filed February 24, 1995), the Board sought to freeze certain assets of a company pending the administrative adjudication of a civil money penalty assessment by the Board. On March 1, 1995, the court issued a stipulated order requiring the company to deposit \$1 million into the registry of the court.

In *Board of Governors v. Pharaon*, No. 91-CIV-6250 (S.D. New York, filed September 17, 1991), the Board sought to freeze the assets of an individual pending the administrative adjudication of a civil money penalty assessment by the Board. On September 17, 1991, the court issued an order temporarily restraining the transfer or disposition of the individual's assets. The order has been extended by agreement.

## Other Actions

*American Bankers Insurance Group, Inc. v. Board of Governors*, No. 96-CV-2383-EGS (D. District of Columbia, filed October 16, 1996), is an action seeking declaratory and injunctive relief invalidating a new regulation issued by the Board under the Truth in Lending

Act relating to treatment of fees for debt cancellation agreements (12 C.F.R. section 226.4 (d)(3)). On October 18, 1996, the district court denied plaintiffs' motion for a temporary restraining order.

*Artis v. Greenspan*, No. 96-CV-02105 (D. District of Columbia, filed September 11, 1996), is a class complaint alleging race discrimination in employment. A related employment discrimination case, *Artis v. Greenspan*, No. 96-CV-02619 (D. District of Columbia), was filed November 19, 1996.

*Leuthe v. Board of Governors*, No. 96-5725 (E.D. Pennsylvania, filed August 16, 1996), is an action against the Board and other federal banking agencies challenging the constitutionality of the Office of Financial Institution Adjudication.

In *Esformes v. Board of Governors*, No. 96-1916 (S.D. Florida, filed July 12, 1996), plaintiffs challenged the Board's denial of an administrative request for confidential supervisory information. Plaintiffs' motion for an expedited hearing was denied on August 1, 1996. On October 22, the case was dismissed on plaintiffs' motion.

*Kuntz v. Board of Governors*, No. 96-1079 (D.C. Circuit, filed March 7, 1996), is a petition for review of a Board order, issued under the Federal Reserve Act and the Bank Merger Act, approving the application of The Fifth Third Bank, Cincinnati, Ohio, and The Fifth Third Bank of Columbus, Columbus, Ohio, to acquire certain assets and assume certain liabilities of twenty-five branches of NBD Bank, Columbus, Ohio (82 *Federal Reserve Bulletin* 366).

In *Research Triangle Institute v. Board of Governors*, No. 1:96CV00102 (M.D. North Carolina, filed February 12, 1996), the plaintiff seeks reimbursement of costs under a contract with the Board.

*In re Subpoena Duces Tecum*, Misc. No. 96-MS-43 (TPJ) (D. District of Columbia, filed February 7, 1996), was an action seeking to compel production of confidential Board documents relating to the supervision of Bankers Trust Company. The case was dismissed on the parties' stipulation on May 20, 1996.

*Menick v. Greenspan*, No. 95-CV-01916 (D. District of Columbia, filed October 10, 1995), was a complaint alleging discrimination in employment. On November 4, 1996, the action was dismissed on the parties' joint motion.

*Kuntz v. Board of Governors*, No. 95-1485 (D.C. Circuit, filed September 21, 1995), is a petition for review of a Board order issued under the Federal Reserve Act and the Bank Merger Act approving the application of the Fifth Third Bank, Cincinnati, Ohio, to acquire certain assets and assume certain liabilities of twelve branches of PNC Bank, Ohio, N.A., Cincinnati, Ohio, and to establish certain branches (81 *Federal Reserve Bulletin* 976).

*Beckman v. Greenspan*, No. 95-35473 (9th Circuit, filed May 4, 1995), is an appeal of an order dismissing an action against the Board and others seeking damages for alleged violations of constitutional and common law rights.

In *In re Subpoena Duces Tecum*, Misc. No. 95-06 (D. District of Columbia, filed January 6, 1995), the plaintiff sought to enforce a subpoena for pre-decisional supervisory documents relating to an action by Bank of England Corporation's trustee in bankruptcy against the Federal Deposit Insurance Corporation. ■