



THE FEDERAL RESERVE BANK OF RICHMOND

RICHMOND ■ BALTIMORE ■ CHARLOTTE

Post Office Box 27622-Richmond, VA 23261  
Phone 804-697-8000 · www.richmondfed.org

January 15, 2009

Mr. Nicholas Lanham

[REDACTED]

St. Marys, West Virginia 26170

Re: Criminal Conviction – Prohibition from Banking Industry

Dear Mr. Lanham:

The Federal Reserve Bank of Richmond has become aware that you were convicted upon a plea of guilty of embezzlement in connection with your employment by United Bank, Parkersburg, West Virginia. A copy of your judgment of conviction is attached. Because you have been convicted of a crime involving dishonesty or breach of trust [or money laundering], you are automatically subject to the prohibitions set forth in Section 19 of the Federal Deposit Insurance Act, as amended (“Section 19”)(12 U.S.C. § 1829) for banking organizations and in Section 205 of the National Credit Union Act, as amended (“Section 205(d)”) (12 U.S.C. § 1785(d)) for insured credit unions.

Section 19 and Section 205(d) prohibit you from becoming or continuing as an institution-affiliated party with respect to any of the banking organizations or credit unions described below. This means that you may not, among other things, act as an employee, officer, director, or agent of these banking organizations or credit unions. Nor may you otherwise participate, directly or indirectly, in the conduct of the affairs of any of these organizations. You are also prohibited from directly or indirectly owning or controlling any insured depository institution or holding company. These statutes do not prohibit you from being a normal, arms-length customer of a banking organization or credit union, such as having a loan, checking or savings account.

The prohibitions of Section 19 and Section 205(d) cover all insured depository institutions, including, but not limited to, any bank, savings association or credit union, and their holding companies, as well as Edge corporations and Agreement corporations. The Federal Deposit Insurance Corporation may grant written consent for you to engage in otherwise prohibited conduct with respect to insured depository institutions, and the Federal Reserve may grant written consent with respect to bank holding companies and Edge and Agreement corporations. The Office of Thrift Supervision may grant consent with respect to savings and loan association holding companies. The National Credit

Mr. Lanham

January 15, 2009

Union Administration Board may grant consent for insured credit unions. The automatic prohibition does not cover non-bank subsidiaries of bank holding companies or uninsured branches or agencies of foreign banks, unless the appropriate federal banking agency takes further action against you.

Should you engage in prohibited conduct without obtaining the required consent from the appropriate agency, you could be subject to daily criminal fines of up to \$1,000,000 or up to five years imprisonment.

This letter will be posted on the website of the Board of Governors of the Federal Reserve System. If you believe that the prohibitions of Section 19 and Section 205(d) do not apply to you, because, for example, your conviction has been reversed on appeal, or for any other reason, please contact Michael Breeding in writing at this Reserve Bank.

Sincerely,



Barbara J. Moss  
Assistant Vice President

cc: Mr. Bill Merriman, Attorney  
625 Market Street  
Parkersburg, West Virginia 26101

John A. McCoy  
Monogalia County Probation  
265 Spruce Street, Suite 120  
Morgantown, West Virginia 26501

Mr. Stephen H. Meyer  
Assistant General Counsel  
Board of Governors  
Legal Division-Mail Stop 13  
20<sup>th</sup> & Constitution Avenue  
Washington, D.C. 20429

Director  
Department of Supervision  
National Credit Union Administration  
1775 Duke Street  
Alexandria, VA 22314

Mr. Lanham

January 15, 2009

Mr. Richard Gross  
Case Manager, Special Activities Section  
Division of Supervision  
Federal Deposit Insurance Corporation  
550 17th Street, NW  
Washington, DC 20429

Mr. Larry A Stark  
Commissioner  
1900 Kanawha Blvd East, Bldg 3, Rm 311  
Charleston, WV 25305

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA  
Division No. 2

STATE OF WEST VIRGINIA

Vs.

Case No. 08-F-87

NICHOLAS LANHAM,  
Defendant.

**INFORMATION/PLEA/SENTENCING ORDER**

On April 14, 2008, came the State of West Virginia by and through Assistant Prosecuting Attorney, Gail M. Voorhees, and also came the defendant in person and with his attorney, Bill Merriman, for a hearing with the Honorable Russell M. Clawges, Jr., presiding. The Court was informed that the purpose of the hearing was to present to the Court a proposed plea agreement and a guilty plea.

The Court placed the defendant under oath and advised the defendant that he must answer the Court's questions honestly and completely. The Court first inquired as to the defendant's name, age, education, residence, medical condition and if the defendant was currently under the influence of alcohol or a controlled substance. The Court determined that the defendant is both mentally and physically fit to voluntarily participate in these proceedings.

The Court reviewed with the defendant his constitutional right to indictment by the Grand Jury, to which the defendant indicated he understood and then indicated to the Court he wished to waive said right. A written waiver was executed by the defendant and his counsel and the Prosecutor's Information was filed. The Court then inquired of him whether he had received a copy of the Prosecutor's Information and had an opportunity to discuss the same with his attorney. The defendant indicated that he had discussed the Prosecutor's Information and all aspects of his case with his attorney.

The proposed plea and plea agreement were then presented to the Court, and the Court made inquiry of the defendant designed to determine whether or not the defendant was voluntarily and knowingly participating in the proceedings. After questioning as to the defendant's understanding of the charge against him and the potential penalty for the offense, and further questioning of the defendant as to his understanding of his right to trial and all attendant rights thereto, the Court is persuaded that the defendant understands the charge against him and the potential penalty, and that he understands his right to trial on the charge, and that the defendant also understands the charge to which he is offering his plea and the penalty for the offense. The Court is further persuaded that the defendant is knowingly and voluntarily waiving his right to trial on the charge contained within the Prosecutor's Information.

Thereafter, the defendant entered his oral plea of guilty to Embezzlement (non-banking agent), a felony as charged in the Prosecutor's Information. After offering his plea to the Court, the defendant and all parties signed the written plea agreement and plea of guilty pertaining to the charge, and these documents are hereby ORDERED filed and made a part of the record. The Court finds that the defendant's plea is freely and voluntarily given. The Court then determined after inquiry of the defendant and the State that there exists a factual basis in support of the plea to the charge.

Based upon all of the foregoing, the Court announced the following findings concerning the plea hearing:

1. The defendant and his attorney have received a copy of the Prosecutor's Information in this case, and further the defendant understands the nature and meaning of the charge contained in said Prosecutor's Information;

2. The defendant has an attorney who is competent in criminal matters, and the defendant is totally satisfied with the representation and advice he has received from his attorney;
3. The defendant has consulted with and the defendant has been advised by his attorney with respect to his constitutional rights and his waiver thereof;
4. The defendant understands that he has a right to a trial by an impartial jury of twelve persons and a right to have the State prove its case against him beyond a reasonable doubt, but by pleading guilty, he understands that he waives such a trial and he would not receive a trial.
5. The Court also finds that the defendant understands that he has the following constitutional rights prior to and during a trial:
  - (a) the right to stand silent during all proceedings,
  - (b) the right to confront and cross-examine his accusers,
  - (c) the right to present witnesses in his own defense and to testify in his own defense,
  - (d) the right to petition to appeal any conviction for any errors of law, and
  - (e) the right to move to suppress illegally obtained evidence and illegally obtained confessions, if any, and a right to challenge in the trial court and on appeal all pre-trial proceedings.
6. The Court further finds:
  - (a) that the defendant also understands that by pleading guilty he waives all pre-trial defects with regard to, among others, his arrest, the gathering of evidence

and prior confessions, as well as all non-jurisdictional defects in the criminal proceedings,

- (b) that any plea agreement that appears in the record of this case is not binding on this Court with respect to punishment or probation, and
- (c) that he may be sentenced to serve a term of one (1) to ten (10) years in the WV State Penitentiary for the offense of Embezzlement (non-banking agent), a felony, the charge for which he has entered his plea.
- (d) The Court further finds that the defendant has knowingly and intelligently waived all of his constitutional rights, and that he has freely, voluntarily, intelligently, knowingly and understandingly tendered to the Court both his written and oral plea of guilty to the charge of Embezzlement (non-banking agent), a felony, as charged in the Prosecutor's Information.
- (e) There is a factual basis for the guilty plea.

7. The plea agreement is consistent with the fair administration of justice.

Therefore, the Court accepted the defendant's plea of guilty tendered to the Court.

Accordingly, the defendant's plea is accepted and he is hereby ORDERED and ADJUDGED guilty of **Embezzlement (non-banking agent)**, a felony as charged in the Prosecutor's Information.

Counsel for the defendant then moved to proceed to sentencing in this matter and informed the Court that the defendant wished to waive the pre-sentence investigation. The Court granted the defendant's request and proceeded to sentencing.

The Court then informed the defendant of his right of allocution before sentencing, whereupon the Court heard representations of all parties, all of which are more fully set forth on the record.

After hearing all representations, the Court ORDERS the defendant sentenced on the charge of Embezzlement (non-banking agent), a felony as charged in the Prosecutor's Information, to one (1) to ten (10) years in the WV State Penitentiary.

However, after due consideration, the Court ORDERED that said sentence be SUSPENDED and placed the defendant on probation for a period of three (3) years with the following conditions:

1. The defendant shall obey the laws of West Virginia.
2. The defendant shall follow all rules and recommendations by the Probation Office.
3. The defendant must continue his treatment program for drug and alcohol.
4. The defendant must maintain employment.
5. The defendant must be incarcerated at North Central Regional Jail for sixty (60) days.

This shall be served as follows:

- Begin: May 5, 2008                      Released: May 11, 2008
  - Begin: May 22, 2008                     Released: June 1, 2008
  - Begin: July 3, 2008                      Released: July 13, 2008
  - Begin: August 23, 2008                 Released: September 1, 2008
  - Begin: October 5, 2008                 Released: October 13, 2008
  - Begin: November 2, 2008               Released: November 12, 2008
6. The defendant must pay Court costs and attorney fees incurred in this matter.
  7. The defendant must complete 150 hours of community service.

8. The defendant's probation may be transferred to Pleasants County.
9. The Court ORDERED that the defendant pay a probation fee of \$10.00 per month and community correction fee of \$10.00 per month.
10. Pursuant to W.Va. Code §61-11A-4, the defendant is to pay a one time restitution fee of \$10.00 payable to the Monongalia County Victim/Witness Assistance Program, to be paid to the Circuit Clerk's Office.
7. The defendant shall report as directed to the Court or his Probation Officer and permit the officer to visit his home, place of employment or school. The defendant shall answer truthfully all reasonable inquiries made of him by the Probation Officer. He shall submit to any and all searches of his person, residence, property or effects by his Probation Officer at any time his Probation Officer deems it necessary based upon reasonable suspicion or safety concerns and agrees to the seizure of any property found or discovered as a result of the search.

The Court ORDERED the defendant shall pay restitution through the Court in the amount of \$36,757.11 to the victim, United Bank. The Court was informed that restitution is paid in full this day.

The Defendant further agrees and the Court ORDERS that he is not to become or continue serving as an officer, director, employee, or institution-affiliated party, as defined in 12 U.S.C. Section 1813(u), (the Federal Deposit Insurance Act, as amended), or participate in any manner in the conduct of the affairs of any institution or agency specified in the 12 U.S.C. Section 1818(e)(7)(A), without the prior approval of the appropriate federal financial institution regulatory agency as defined in the 12 U.S.C. Section 1818(e)(7)(D).

CONVICTION/SENTENCE DATE: April 14, 2008

It is ORDERED that a copy of this Order shall be provided by the Clerk to the Monongalia County Probation Office; to Bill Merriman, counsel for the defendant; to North Central Regional Jail; to Warren Elliott, Victim Witness Coordinator; and to the Prosecuting Attorney's Office.

ENTERED: May 2, 2008

[REDACTED]

JUDGE

[REDACTED]

STATE OF WEST VIRGINIA SS:

I, Jean Friend, Clerk of the Circuit Court and Family Court of Monongalia County State aforesaid do hereby certify that the attached Order is a true copy of the original Order of the said Court.

[REDACTED]

Circuit Clerk

ENTERED May 2, 2008

LAW ORDER BOOK 145 PAGE 47

JEAN FRIEND, CLERK