



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

SCOTT G. ALVAREZ
GENERAL COUNSEL

March 2, 2010

Judith Muncy, Esq.
Barack Ferrazano Kirschbaum
& Nagelberg LLP
200 West Madison Street
Suite 3900
Chicago, Illinois 60606

Dear Ms. Muncy:

This responds to your request for a determination that the following entities would not be deemed to control Three Shores Bancorporation, Inc. (“Three Shores”) and its wholly owned subsidiary, Seaside National Bank & Trust (“Bank”), both of Orlando, Florida, for purposes of the Bank Holding Company Act of 1956, as amended, as a result of their direct or indirect acquisition of up to 24.9 percent of the voting and total equity of Three Shores: PCAP Managers, LLC; Parthenon Investors III, L.P.; PCAP Partners III, LLC; PCAP Associates; PCAP III, LLC; PCAP Associates-SNBT LLC; PCAP-SNBT LLC; J&R Advisors F.F., LLC; J&R Founders Fund II, L.P.; and J&R Founders-SNBT LLC; all of Boston, Massachusetts (collectively, “Parthenon”).

Transaction Summary

Parthenon submitted a notice to the Board pursuant to the Change in Bank Control Act¹ (“CIBCA”) to acquire up to 24.9 percent of the outstanding shares of Three Shores through the purchase of Series D-1 Preferred Stock (“Preferred Stock”).² Preferred Stock is voting convertible

¹ 12 U.S.C. 1817(j).

² By letter dated November 24, 2009, the Federal Reserve Bank of Atlanta, acting pursuant to delegated authority, determined not to object to Parthenon’s CIBCA notice.

preferred stock that has the same voting rights as common stock. Preferred Stock would be convertible at any time by Parthenon into common stock. The Preferred Stock ranks senior to common stock with respect to rights on liquidation, dissolution and winding up.³

Under the Preferred Stock Purchase Agreement between Parthenon and Three Shores (the "Agreement"), on November 24, 2009, Parthenon acquired Preferred Stock representing 23.15 percent of the voting equity of Three Shores. The Agreement also provides that Parthenon may provide additional equity financing in follow-on investments and grants preemptive rights if Three Shores or its subsidiaries offer to sell equity securities. The preemptive rights provision of the Agreement restricts Parthenon from acquiring additional equity securities if Parthenon would be deemed to own greater than 24.9 percent of the voting or total equity of Three Shores. In addition, Parthenon has represented that in no event would it acquire shares of any class of equity of Three Shores if such acquisition would cause Parthenon to own, control, or hold with power to vote more than 24.9 percent of any class of Three Shores' voting securities. Parthenon also committed not to own or control equity interests equal to or in excess of 25 percent of the total equity capital of Three Shores or any of its subsidiaries.

Under the Restated Articles of Incorporation of Three Shores, Parthenon has the right to elect one director to the boards of directors of both Three Shores and Bank. Parthenon has confirmed that each board will have a majority of directors that are independent from both management of the banking organization and any investor. Parthenon also will have the right to appoint a nonvoting observer to Bank's board of directors until such time as that board is reduced to seven members. In connection with its request, Parthenon has provided commitments that are similar to those on which the Board previously has relied to ensure that an investor is not able to exercise a controlling influence over a bank or bank holding company.⁴

³ When dividends are paid to holders of common stock, the holders of Preferred Stock are entitled to dividends in an amount equal to that which they would have been entitled to receive had the Preferred Stock been converted into common stock.

⁴ A copy of all the commitments made by Parthenon is attached as an appendix.

In addition to Parthenon, two other investors are purchasing shares of Three Shores. Each of Parthenon and the other investors represented that it conducted its own due diligence review and made an independent decision to invest in Three Shores. In addition, each of them represented that it is not an affiliate of any other investor and has not had any relationship with, or made any investments with, any other investor prior to the investment in Three Shores. Finally, Parthenon provided commitments to ensure that it is not associated with any other investor for purposes of the BHC Act.⁵

Legal Framework

For purposes of the BHC Act, a company has control over another company if the first company (i) directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other company; (ii) controls in any manner the election of a majority of the directors of the other company; or (iii) directly or indirectly exercises a controlling influence over the management or policies of the other company.⁶ The Board's Regulation Y also sets forth a set of rebuttable presumptions of control.⁷

Under the proposal, Parthenon would be deemed to control Three Shores for purposes of the BHC Act only if the Board were to find that Parthenon exercised a controlling influence over the management or policies of Three Shores. Parthenon would not own, control, or hold with power to vote 25 percent or more of any class of voting securities of, or control the election of a majority of the directors of, Three Shores. In addition, Parthenon would not trigger any of the rebuttable presumptions of control in Regulation Y with respect to Three Shores as a result of the transactions.

Discussion and Analysis

The size and nature of the equity investment by Parthenon in Three Shores, when combined with Parthenon's representation on the board of directors of Three Shores and Bank and its nonvoting observer of meetings

⁵ Id.

⁶ 12 U.S.C. § 1841(a)(2); 12 CFR 225.2(e).

⁷ See 12 CFR 225.31(d).

of the board of directors of Bank, raise the issue of whether Parthenon would exercise a controlling influence over the management or policies of Three Shores or Bank.

Director Representation and Nonvoting Observer. In September 2008, the Board issued a policy statement regarding equity investments in banks, bank holding companies, and nonbanking firms.⁸ In its statement, the Board noted that a minority investor generally should be able to have a single representative on the board of directors of a nonbanking organization without acquiring a controlling influence over that organization's management or policies. The Policy Statement also noted that boards of directors of banking organizations typically have nine or ten members, and that attendance by a representative of a minority investor as an observer to allow the investor access to information and as a mechanism for providing advice to the banking organization generally would not permit the investor to exercise a controlling influence over the banking organization, as long as the observer does not have any right to vote at meetings of the board.

As noted above, Parthenon will have one representative on the board of directors of Three Shores and Bank.⁹ Parthenon also proposes to have a nonvoting observer at the meetings of the board of directors of Bank but only until such time as that board is reduced to seven members. Three Shores represented that it would be increasing the board of directors of Three Shores from one to seven members and decreasing the board of directors of Bank from fourteen to seven members.¹⁰ After these changes, the boards of directors at Three Shores and Bank will be substantially

⁸ 12 CFR 225.144 ("Policy Statement").

⁹ An investor group is considered to have one director representative where the boards of directors of the bank holding company and bank are substantially similar and the same director representative of the investor would serve as a member of each board.

¹⁰ The changes to the size of the boards are due to the fact that the banking organization recently established Three Shores as a holding company above Bank and has an established plan to enlarge the board of Three Shores and streamline the size and composition of the board of Bank. Parthenon has represented that the changes to the sizes of the two boards were not a condition to Parthenon's investment, and staff does not consider that such changes reflect a controlling influence by Parthenon.

similar in composition. Also as noted above, the boards of directors of Three Shores and Bank will have a majority of directors that are independent from both management and any investor. Accordingly, Parthenon's director representation conforms to the Policy Statement.

Equity Ownership. As noted above, Parthenon would not own, control, or hold with power to vote 25 percent or more of any class of voting securities or of the total equity of Three Shores, as required by the BHC Act and the Policy Statement. In addition, Parthenon has provided sufficient information to demonstrate that it is not associated with any other investor, and therefore the equity investments of such other investors would not be attributable to Parthenon.

Based on all the facts of record in this case, staff would not at this time recommend that the Board find that Parthenon exercises a controlling influence over the management or policies of Three Shores for purposes of the BHC Act. In reaching this determination, staff relied on all the facts of record, including all the representations and commitments made by or on behalf of Parthenon and Three Shores (whether noted in this letter or otherwise contained in your correspondence with the Board).

This opinion is specifically conditioned on compliance with all the commitments and conditions discussed in this letter. Any change in the facts presented could result in a different conclusion and should be reported immediately. If you have any questions about this matter, please contact Sebastian Astrada, Attorney (202-452-3594), or Pat Robinson, Assistant General Counsel (202-452-3005), of the Board's Legal Division.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott G. O'Leary". The signature is written in a cursive style with a large, looping flourish at the end.

Appendix

PCAP-SNBT, LLC, J&R Founders-SNBT LLC, PCAP Associates-SNBT LLC, Parthenon Investors III, L.P., J&R Founders Fund II, L.P., J&R Advisors F.F., LLC, PCAP Associates, PCAP Partners III, LLC PCAP Managers, LLC, and PCAP III, LLC, (collectively, "Acquirer"), all of Boston, Massachusetts, and their subsidiaries and affiliates (collectively, "Acquirer Group"), will not, without the prior approval of the Board or its staff, directly or indirectly:

1. Exercise or attempt to exercise a controlling influence over the management or policies of Three Shores Bancorporation ("Target"), Orlando, Florida, or any of its subsidiaries;
2. Have or seek to have more than one representative of Acquirer Group serve on the board of directors of Target or any of its subsidiaries;
3. Permit any representative of the Acquirer Group who serves on the board of directors of Target or any of its subsidiaries to serve (i) as the chairman of the board of directors of Target or any of its subsidiaries, (ii) as the chairman of any committee of the board of directors of Target or any of its subsidiaries, or (iii) serve as a member of any committee of the board of directors of Target or any of its subsidiaries if the Acquirer Group representative occupies more than 25 percent of the seats on the committee;
4. Have or seek to have any employee or representative of the Acquirer Group serve as an officer, agent, or employee of Target or any of its subsidiaries;
5. Take any action that would cause Target or any of its subsidiaries to become a subsidiary of Acquirer Group;
6. Own, control, or hold with power to vote securities that (when aggregated with securities that the officers and directors of the Acquirer Group own, control, or hold with power to vote) represent 25 percent or more of any class of voting securities of Target or any of its subsidiaries;
7. Own or control equity interests that would result in the combined voting and nonvoting equity interests of the Acquirer Group and its officers and directors to equal or exceed 25 percent of the total equity capital of

Target or any of its subsidiaries, except that, if the Acquirer Group owns, holds, or has the power to vote less than 15 percent of the outstanding shares of any classes of voting securities of Target, it may own or control equity interests greater than 25 percent, but in no case more than 33.3 percent, of the total equity capital of Target or any of its subsidiaries;

8. Propose a director or slate of directors in opposition to a nominee or slate of nominees proposed by the management or board of directors of Target or any of its subsidiaries;
9. Enter into any agreement with Target or any of its subsidiaries that substantially limits the discretion of Target's management over major policies and decisions, including, but not limited to, policies or decisions about employing and compensating executive officers; engaging in new business lines; raising additional debt or equity capital; merging or consolidating with another firm; or acquiring, selling, leasing, transferring, or disposing of material assets, subsidiaries, or other entities;
10. Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of Target or any of its subsidiaries;
11. Dispose or threaten to dispose (explicitly or implicitly) of equity interests of Target or any of its subsidiaries in any manner as a condition or inducement of specific action or non-action by Target or any of its subsidiaries; or
12. Enter into any other banking or nonbanking transactions with Target or any of its subsidiaries, except that the Acquirer Group may establish and maintain deposit accounts with Target, provided that the aggregate balance of all such deposit accounts does not exceed \$500,000 and that the accounts are maintained on substantially the same terms as those prevailing for comparable accounts of persons unaffiliated with Target.

Acquirer also certifies that:

13. Acquirer is not an affiliate of any other investor in the proposed transaction (individually, each an "Investor," and, collectively, the "Investors");
14. Acquirer has reached its decision to invest in Target independently from the other Investors;

15. Acquirer is not managed or advised by an investment manager or investment advisor who performs the same services for any other Investor;
16. Acquirer has not engaged and will not engage as part of a group consisting of substantially the same entities as the Investors, in substantially the same combination of interests, in any additional banking or nonbanking activities or business ventures in the United States without prior consultation with the Board;
17. Acquirer has not and will not enter any agreements or understandings with any other Investor to act in concert for the purpose of exercising a controlling influence over Target or any of its subsidiaries, including, but not limited to, any agreements or understandings regarding the voting or transfer of shares of Target, other than the agreements considered by the Board for the proposed transaction; and
18. Any director representing Acquirer will not collude or conspire with any other directors or shareholders of Target with respect to the exercise of any director's voting rights. Nothing in this commitment shall limit a director's ability to exercise their legitimate duties/rights as a director of Target, including the ability to consult with other directors and shareholders as appropriate.

The terms used in these commitments have the same meanings as set forth in the Bank Holding Company Act of 1956, as amended, and the Board's Regulation Y.

Acquirer understands that these commitments constitute conditions imposed in writing in connection with the Board's findings and decisions related to Acquirer's acquisition of up to 24.9 percent of voting shares of Target, including a determination that no filing under the Bank Holding Company Act is required for this transaction by Acquirer, and, as such, may be enforced in proceedings under applicable law.