

## Litigation

During 1998, the Board of Governors was a party in eighteen lawsuits or appeals filed that year and was a party in fifteen other cases pending from previous years, for a total of thirty-three cases. In 1997, the Board had been a party in a total of thirty-eight cases. Four of the eighteen lawsuits or appeals filed in 1998 raised questions under the Bank Holding Company Act. As of December 31, 1998, fourteen cases were pending.

### Judicial Review of Board Orders under the Bank Holding Company Act

*Independent Bankers Association of America v. Board of Governors*, No. 98-1482 (D.C. Circuit, filed October 21, 1998), is a petition for review of a Board order dated September 23, 1998, conditionally approving the applications of Travelers Group, Inc., New York, New York, to become a bank holding company by acquiring Citicorp, New York, New York, and its bank and nonbank subsidiaries (84 *Federal Reserve Bulletin* 985). Another case challenging the same order, *Cunningham v. Board of Governors*, No. 98-1459 (D.C. Circuit, filed September 30, 1998), was dismissed by the court on December 4, 1998.

In *Attorneys Against American Apartheid v. Board of Governors*, No. 98-1483 (D.C. Circuit, filed October 21, 1998), petitioners seek review of a Board order dated August 17, 1998, approving the application by NationsBank Corporation, Charlotte, North Carolina, to merge with BankAmerica Corpora-

tion, San Francisco, California (84 *Federal Reserve Bulletin* 858).

In *Inner City Press/Community on the Move v. Board of Governors*, No. 97-1514 (U.S. Supreme Court, petition for *certiorari* filed March 12, 1998), petitioners sought review of the dismissal by the U.S. Court of Appeals for the District of Columbia Circuit (130 F.3d 1088) of their petition for review of a Board order dated May 14, 1997, approving the application of Banc One Corporation, Inc., Columbus, Ohio, to merge with First USA, Inc., Dallas, Texas (83 *Federal Reserve Bulletin* 602). On June 22, 1998, the Supreme Court denied review (118 S. Ct. 2341).

*Greeff v. Board of Governors*, No. 97-1976 (4th Circuit, filed June 17, 1997), was a petition for review of a Board order dated May 19, 1997, approving the application of Allied Irish Banks, plc, Dublin, Ireland, and First Maryland Bancorp, Baltimore, Maryland, to acquire Dauphin Deposit Corporation, Harrisburg, Pennsylvania, and thereby acquire Dauphin's banking and non-banking subsidiaries (83 *Federal Reserve Bulletin* 607). On August 14, 1998, the court denied the petition.

In *The New Mexico Alliance v. Board of Governors*, No. 96-9552 (10th Circuit, filed December 24, 1996), petitioners sought 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* 148). On January 21, 1998, the court transferred the case to the U.S. Court of Appeals for the District of Columbia Circuit

(No. 98-1049), and on May 27, 1998, that court granted the Board's motion to dismiss the petition.

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

In *Pharaon v. Board of Governors*, No. 98-103 (U.S. Supreme Court, petition for *certiorari* filed July 15, 1998), petitioner sought review of a decision by the U.S. Court of Appeals for the District of Columbia Circuit (135 F.3d 148) denying a petition for review of a Board order dated January 31, 1997, imposing civil money penalties and an order of prohibition against Ghaith R. Pharaon for violations of the Bank Holding Company Act (83 *Federal Reserve Bulletin* 347). On October 19, 1998, the Supreme Court denied review (119 S. Ct. 371).

In *Board of Governors v. Carrasco*, No. 98-3474 (S.D. New York, filed May 15, 1998), the Board seeks to freeze the assets of an individual pending the administrative adjudication of an action by the Board requiring restitution by the individual. On May 26, 1998, the district court granted the Board's request for a preliminary injunction.

In *Board of Governors v. Pharaon*, Nos. 98-6101 and 98-6121 (2d Circuit, filed May 4 and May 22, 1998), both parties appeal an order of the U.S. District Court for the Southern District of New York (No. 91-6250, March 18, 1998) granting in part and denying in part the Board's motion for partial summary judgment in an action to freeze assets of an individual pending adjudication of a civil money penalty assessment by the Board.

In *Banking Consultants of America v. Board of Governors*, No. 98-5354 (6th Circuit, filed March 10, 1998), plaintiffs appeal an order of the U.S. District Court for the Western District of Ten-

nessee (No. 97-2791, January 23, 1998) dismissing their action to enjoin an investigation by the Board, the Office of the Comptroller of the Currency, and the Department of Labor.

*Leuthe v. Office of Financial Institution Adjudication*, No. 97-1826 (3d Circuit, filed October 7, 1997), was an appeal of a district court dismissal (977 F. Supp. 537 (E.D. Pa. 1997)) of an action against the Board and other federal banking agencies challenging the constitutionality of the Office of Financial Institution Adjudication. On June 8, 1998, the court of appeals affirmed the district court's dismissal.

*Towe v. Board of Governors*, No. 97-71143 (9th Circuit, filed September 15, 1997), is a petition for review of a Board order dated August 18, 1997 (83 *Federal Reserve Bulletin* 849), prohibiting Edward Towe and Thomas E. Towe from further participation in the banking industry.

In *Vickery v. Board of Governors*, No. 97-1344 (D.C. Circuit, filed May 9, 1997), petitioner sought review of a Board order dated April 14, 1997, prohibiting Charles R. Vickery, Jr., from further participation in the banking industry (83 *Federal Reserve Bulletin* 535). On March 3, 1998, the court of appeals denied the petition, and on May 4, 1998, it denied petitioner's petition for rehearing and suggestion for rehearing *in banc* (159 F.3d 638).

### **Other Actions**

In *Fraternal Order of Police v. Board of Governors*, No. 98-3116 (D. District of Columbia, filed December 22, 1998), plaintiff seeks a declaratory judgment regarding the Board's labor practices.

*Inner City Press/Community on the Move v. Board of Governors*, No. 98-4608 (2d Circuit, filed December 3, 1998), is an appeal of an order of the

U.S. District Court for the Southern District of New York (No. 98-4608, September 30, 1998) granting the Board's motion for summary judgment on plaintiff's Freedom of Information Act complaint.

*Goldman v. Department of the Treasury*, No. 98-9451 (11th Circuit, filed November 10, 1998), is an appeal from an order of the U.S. District Court for the Northern District of Georgia (No. 1-97-CV-3798, November 2, 1998) dismissing an action challenging Federal Reserve notes as lawful money.

In *Wasserman v. Board of Governors*, No. 98-CIV-6017 (S.D. New York, filed August 24, 1998), plaintiff alleged that the Board wrongfully failed to investigate the activities of a bank. The plaintiff voluntarily withdrew his complaint on October 14, 1998, following the filing of the Board's motion to dismiss.

*Clarkson v. Greenspan*, No. 98-5349 (D.C. Circuit, filed July 29, 1998), is an appeal of a district court order granting the Board's motion for summary judgment on plaintiff's Freedom of Information Act complaint.

In *Research Triangle Institute v. Board of Governors*, No. 97-1759 (U.S. Supreme Court, petition for *certiorari* filed April 28, 1998), petitioners sought review of a decision by the U.S. Court of Appeals for the Fourth Circuit (132 F.3d 985) affirming the dismissal of a contract action against the Board. On October 5, 1998, the Supreme Court denied review (119 S. Ct. 44).

*Fenili v. Davidson*, No. C-98-01568CW (N.D. California, filed April 17, 1998), is a case claiming tort and constitutional violations arising out of the return of a check.

*Wilkins v. Warren*, No. 98-1320 (4th Circuit, filed March 5, 1998), was an appeal of an order of the U.S. District Court for the Eastern District of Vir-

ginia dismissing plaintiff's complaint arising out of a dispute with a bank. On June 10, 1998, the court of appeals affirmed the district court dismissal.

*Jones v. Board of Governors*, No. 98-30138 (5th Circuit, filed February 9, 1998), was an appeal of a decision by the U.S. District Court for the Western District of Louisiana dismissing plaintiff's complaint alleging violations of the Fair Housing Act. On November 19, 1998, the court of appeals dismissed the action.

*Logan v. Greenspan*, No. 98-0049 (D. District of Columbia, filed January 9, 1998), is an employment discrimination action.

*Kerr v. Department of the Treasury*, No. CV-S-97-01877-DWH (D. Nevada, filed December 22, 1997), is a challenge to income taxation and Federal Reserve notes.

*Allen v. Indiana Western Mortgage Corp.*, No. 97-7744 RJK (C.D. California, filed November 12, 1997), was a customer dispute with a bank. On March 25, 1998, the court dismissed the action.

*Patrick v. United States*, No. 97-75564 (E.D. Michigan, filed November 7, 1997), and *Patrick v. United States*, No. 97-75017 (E.D. Michigan, filed September 30, 1997), were actions for damages arising out of tax disputes. On August 20, 1998, both cases were dismissed.

*Artis v. Greenspan*, No. 97-5235 (D.C. Circuit, filed September 19, 1997), was an appeal of a district court order dismissing a class complaint alleging race discrimination in employment. The court of appeals affirmed the dismissal on October 20, 1998 (158 F.3d 1301). A related employment discrimination case, *Artis v. Greenspan*, No. 97-5234 (D.C. Circuit, filed September 19, 1997), was an appeal of the dismissal of an individual discrimination claim. On

January 29, 1998, the court of appeals granted the Board's motion for summary affirmation of the district court's dismissal.

In *In re Subpoena Duces Tecum Served on the Board of Governors*, No. 97-5229 (D.C. Circuit, filed September 12, 1997), the plaintiff appealed a district court order denying his motion to compel production of pre-decisional supervisory documents and testimony sought in connection with an action by Bank of New England Corporation's trustee in bankruptcy against the Federal Deposit Insurance Corporation. On June 26, 1998, the court of appeals reversed the district court's order, 145 F.3d 1422, and on October 6, 1998, the court amended its opinion following the Board's petition for rehearing (156 F.3d 1279).

*Bettersworth v. Board of Governors*, No. 97-CA-624 (W.D. Texas, filed

August 21, 1997), is a complaint under the Privacy Act.

*Maunsell v. Greenspan*, No. 97-6131 (2d Circuit, filed May 22, 1997), was an appeal of district court dismissal of an action for compensatory and punitive damages for alleged violations of civil rights by a federal savings bank. On May 12, 1998, the court dismissed the appeal.

*American Bankers Insurance Group, Inc. v. Board of Governors*, No. 96-CV-2383-EGS (D. District of Columbia, filed October 16, 1996), was 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 April 21, 1998, the district court granted the Board's motion for summary judgment (3 F. Supp. 237). ■