



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

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

July 24, 1997

Mr. Michael Yeager
5016 McDougal Road
Deer Park, Washington 99006

Dear Mr. Yeager:

This letter responds to your letters dated June 27 and July 4, 1997, requesting that the Board reconsider its approval of the applications and notices of First Bank System, Inc., Minneapolis, Minnesota ("First Bank System"), to acquire U.S. Bancorp, Portland, Oregon ("U.S. Bancorp").^{1/}

The Board's Rules of Procedure require that a request for reconsideration present relevant facts that for good cause shown were not previously presented to the Board. 12 C.F.R. 262.3(k). The members of the Board have considered your request in light of this standard.

You were a creditor of a Washington State dairy that defaulted on a loan made by a subsidiary bank of U.S. Bancorp, and you reiterate your contentions that the bank engaged in improper conduct in making the loan and in the foreclosure and bankruptcy proceedings that resulted when the dairy defaulted on the loan. Your request maintains that the Order erroneously stated that the matters raised in your comments were reviewed by the court in those proceedings. As explained in the Order, the Board carefully considered your comments in light of all the facts of record, including supervisory assessments of the management and the loan policies of both organizations in relevant reports of examination. The Board also noted that the rights of creditors to recover from the defaulting dairy were adjudicated by the courts under

^{1/} First Bank System, Inc., 83 Federal Reserve Bulletin__ (1997) (Order dated June 23, 1997) ("the Order").

applicable law. The Board also noted that the courts had authority to adjudicate allegations of improper conduct by the bank after the dairy defaulted on the loan and to provide you with an appropriate remedy if your contentions could be substantiated.^{2/} Your request disagrees with the weight given to the facts of record and the conclusions reached in the Order without presenting new relevant facts that, for good cause shown, were not previously presented to the Board.

Based on all the facts of record, including the considerations discussed in this letter, no member of the Board has requested reconsideration of the Order, or determined that the Board's decision in this case should be altered. Accordingly, the Board has denied your request for reconsideration.

You also request that the Board delay its approval until you have had an opportunity to meet with management of the U.S. Bancorp subsidiary bank involved in the matters raised in your comments. The Board concluded in the Order that delay of the proposal was not warranted. Your request, furthermore, does not meet the standards applied by the courts or the Board for a stay of the Board's order. Courts have stated that a stay request must establish: (1) whether the movant will suffer irreparable injury absent a stay; (2) whether a party will suffer substantial injury if a stay is issued; (3) whether the movant has demonstrated the likelihood of success on appeal; and (4) the public interests that may be affected.^{3/}

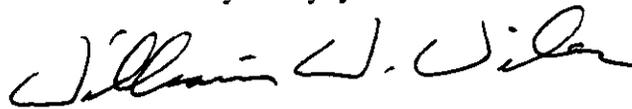
^{2/} You also contend that a letter from a national bank examiner to another dairy farmer, which was received after the close of the public comment period on the First Bank System/U.S. Bancorp proposal, supports your contention that the dairy loan was improperly underwritten. The letter presents no new facts or findings of improper conduct by the U.S. Bancorp bank but instead indicates that the allegations raised by you are matters appropriately resolved by the courts.

^{3/} See e.g., McClendon v. City of Albuquerque, 79 F.3d 1014 (10th Cir. 1996). In considering a request for a stay of a Board order, the Board applies the same factors that courts consider in acting on such requests. See e.g., Board letter to Mr. James B. Weidner dated May 6, 1987.

Your request for a stay fails to present facts demonstrating that consummation of First Bank System's acquisition of U.S. Bancorp would cause irreparable harm to you. In addition, for the reasons discussed in this letter, and in light of all the facts of record, the Board believes that its findings and conclusions are supported by substantial evidence, and that there is not a likelihood that you would prevail on the merits of this matter. A stay of the Order, furthermore, may have adverse economic effects on First Bank System and U.S. Bancorp that would not be warranted in light of the unlikelihood that you would prevail on the merits. Finally, for the reasons discussed in the Order, the Board believes that consummation of the proposal would be in the public interest. Accordingly, the Board has denied your request for a stay.

In your letter dated June 27, you also request that we return your 'Federal Hearing.' The only documents that contain any material pertaining to a hearing are the documents you submitted on April 23 as a part of your comments on First Bank System's proposal, which include portions of your testimony from a congressional hearing. Inasmuch as we cannot determine which of the documents from that submission were a part of the record of the hearing, we have enclosed a copy of your entire submission with this letter.

Very truly yours,



William W. Wiles
Secretary of the Board

Enclosures

cc: JoAnne Lewellen, Vice President
Federal Reserve Bank of Minneapolis

John Cooney
Dorsey & Whitney LLP