



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

SCOTT G. ALVAREZ
GENERAL COUNSEL

March 2, 2010

Paul Pilecki, Esq.
Winston & Strawn LLP
1700 K Street, N.W.
Washington, D.C. 20006

Dear Mr. Pilecki:

This responds to your request for a determination that Continental Investors Fund LLC and Continental Investors LLC, both of Chicago, Illinois, and their subsidiaries and affiliates (collectively, "Continental"), 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 the acquisition of up to 9.9 percent of the voting and total equity of Three Shores.

Transaction Summary

Under the Preferred Stock Purchase Agreement between Continental and Three Shores (the "Agreement"), on November 24, 2009, Continental acquired Series D-3 Preferred Stock ("Preferred Stock") representing 9.9 percent of the voting equity of Three Shores. Preferred Stock is voting convertible preferred stock that has the same voting rights as common stock. Preferred Stock would be convertible at any time by Continental into common stock. The Preferred Stock ranks senior to common stock with respect to rights on liquidation, dissolution and winding up.¹

¹ 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.

The Agreement also provides that Continental 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 Continental from acquiring additional equity securities if Continental would own more than 9.9 percent of the voting equity or 24.9 percent of the total equity of Three Shores, unless Continental receives the Board's approval, in which case Continental may acquire up to 24.9 percent of the voting and total equity of Three Shores.

Under the Agreement, Continental will have the right to appoint a nonvoting observer to the boards of directors of Three Shores and Bank. In connection with its request, Continental 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.²

In addition to Continental, two other investors are purchasing shares of Three Shores. Each of Continental 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, Continental provided commitments to ensure that it is not associated with any other investor for purposes of the BHC Act.³

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

² A copy of all the commitments made by Continental is attached as an appendix.

³ Id.

management or policies of the other company.⁴ The Board's Regulation Y also sets forth a set of rebuttable presumptions of control.⁵

Under the proposal, Continental would be deemed to control Three Shores for purposes of the BHC Act only if the Board were to find that Continental exercised a controlling influence over the management or policies of Three Shores. Continental 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, Continental 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 Continental in Three Shores, when combined with Continental's nonvoting observer at meetings of the boards of directors of Three Shores and Bank, raise the issue of whether Continental would exercise a controlling influence over the management or policies of Three Shores or Bank.

Nonvoting Observer. In September 2008, the Board issued a policy statement regarding equity investments in banks, bank holding companies, and nonbanking firms.⁶ In its statement, the Board 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, Continental will have one nonvoting observer on the boards of directors of Three Shores and Bank. 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

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

⁵ See 12 CFR 225.31(d).

⁶ 12 CFR 225.144 ("Policy Statement").

to seven members.⁷ After these changes, the boards of directors at Three Shores and Bank will be substantially similar in composition and will have a majority of directors that are independent from both management and any investor. Despite the fact that the boards are slightly smaller than the Policy Statement contemplated, the attendance of a nonvoting observer for Continental at the board meetings of Three Shores and Bank conforms to the Policy Statement.

Equity Ownership. As noted above, Continental 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, Continental 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 Continental.

Based on all the facts of record in this case, staff would not at this time recommend that the Board find that Continental 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 Continental 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

⁷ 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. Continental has represented that the changes to the sizes of the two boards were not a condition to Continental's investment, and staff does not consider that such changes reflect a controlling influence by Continental.

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. Allen". The signature is written in a cursive style with a large, prominent loop at the end of the last name.

Appendix

Continental Investors Fund LLC and Continental Investors LLC (“Acquirer”), Chicago, Illinois, 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 a representative of Acquirer Group serve on the board of directors of Target or any of its subsidiaries;
3. 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;
4. Take any action that would cause Target or any of its subsidiaries to become a subsidiary of Acquirer Group;
5. 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;
6. 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;
7. 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;
8. 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;

9. Solicit or participate in soliciting proxies with respect to any matter presented to the shareholders of Target or any of its subsidiaries;
10. 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
11. 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:

12. Acquirer is not an affiliate of any other investor in the proposed transaction (individually, each an "Investor," and, collectively, the "Investors");
13. Acquirer has reached its decision to invest in Target independently from the other Investors;
14. Acquirer is not managed or advised by an investment manager or investment advisor who performs the same services for any other Investor;
15. 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; and
16. 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.

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.

Nothing in these commitments releases the Acquirer Group from compliance with the Change in Bank Control Act and the Board's regulations thereunder for any subsequent acquisition or increase in the percentage ownership of any class of voting shares of Target.

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 9.9 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.