STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
BOARD OF BANK INCORPORATION
233 RICHMOND STREET
PROVIDENCE, RHODE ISLAND 02903

ORDER

IN RE:

APPLICATION OF CHARLES A PAQUIN, *et als*, FOR THE ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE ESTABLISHMENT OF BANNER LOAN & INVESTMENT BANK

HEARING HELD ON: June 5, 1990

BEFORE THE BOARD OF BANK INCORPORATION:

Joseph L. Casinelli	Chairman; State Representative
Anthony J. Solomon	Vice-Chairman General Treasurer
Robert J. Janes	Secretary Director, Department of Business Regulation
William V. Irons	State Senator,

APPEARANCES:

Robert E. Liguori, Esq. Jeffrey J. Giguere, Esq.	Counsel for the Applicant
V. James Santaniello, Esq.	Counsel, Rhode Island Share & Deposit Indemnity Corporation

Attorney General O'Neil recused himself in this matter and did not participate in the Board's deliberations for hearing.

JURISDICTIONAL STATEMENT

This matter came to be heard before the Board of Bank Incorporation on June 5, 1990 on the application of Charles A. Paquin, Louis R. Brown, Paul O. Sheahan, Sylvia J. Perreault and Steven A. Franchetti for the issuance of a certificate of public convenience and necessity to establish a state-chartered loan and investment bank to be known as Banner Loan & Investment Bank and to be located in the City of Warwick, Rhode Island. The application was filed and heard in accordance with the jurisdiction conferred upon this Board by G.L. 1956 (1989 Reenactment) §§19-20-1 through -3.

DECISION

The Board of Bank Incorporation is expressly authorized by G.L. 1956 (1989 Reenactment) §19-20-3 to grant a certificate that public convenience and necessity will be promoted by the issuance of a loan and investment company charter. In the sole case in which the statutory standard has been evaluated by the Rhode Island Supreme Court in the context of banking, the Court restated its opinion of this terminology in the area of public utilities and noted that

> 'Public convenience and necessity' has no well-defined meaning. "Need' is a relative term . . . .Domestic Safe Deposit Co. v Hawksley, 111 R.I. 224, 227, 301 A2d 342 (1973), citing Abbott v Public Utilities Commission, 48 R.I. 96, 136 A. 490 (1927).

The Supreme Court in the above-cited case approved the notion that the Board of Bank Incorporation, in issuing a certificate of public convenience and necessity, "may consider such factors as competitive stimulation and anti-monopoly prophylaxis". Id. at 228, citing Short Line, Inc. v United States, 290 F. Supp. 939 (D.R.I. 1968). The Court in Abbott stated that the term "public convenience" refers to "something fitting or suited to the public need" and that "necessity" refers not to that which is an "indispensible necessity" but rather to that which is "reasonably requisite". Abbott, supra at 198, 136 A. at 491.

Predecessor boards of bank incorporation have held that the standard for granting a certificate of public convenience and necessity for the establishment of a loan and investment company charter under G.L. 1956 (1989 Reenactment) §19-20-3 is more rigorous than the standard for granting a certificate of public convenience and advantage for the establishment of a branch office by an existing bank or trust company under §19-1-13. See In re: Application of Ocean State Deposit Corporation for a Loan and Investment Company in North Kingstown, Rhode Island, (Decision dated September 26, 1977). This Board reaffirms that position. However, in the case at bar, the Board concludes that the statutory standard has been satisfied.

This Board considers the effect of any new loan and investment company charter on competing financial institutions with offices in the immediate vicinity of the proposed loan and investment company to be a component of the determination as to whether the public convenience and necessity test has been met; however, the mere fact that there are competing financial institutions in the immediate vicinity does not negate the statutory standard of necessity. While public convenience and necessity would be ill-served if the granting of a charter to the applicants herein would result in serious disintermediation of funds from existing institutions which could undermine their financial stability, there is no such spectre raised by this application. Rather, the applicants have testified that the issuance of this charter will permit the Rhode Island Share & Deposit Indemnity Corporation to transfer certain assets and liabilities presently held by the state-chartered, RISDIC-insured Jefferson Loan & Investment Bank to a new entity which will not be subject to the claims and legal obligations of

Jefferson Loan & Investment Bank. The applicants will be the successors-in-interest to the public convenience and necessity previously demonstrated by Jefferson Loan & Investment Bank. As further evidence of this transference of the statutory standard to the applicants herein, this Board hereby makes the surrender of the Certificate of Public Convenience & Necessity previously issued to Jefferson Loan & Investment Bank a condition to its findings with respect to the application herein. In order to permit the deposit insurer to defend and prosecute all claims arising from and/or relating to Jefferson Loan & Investment Bank, however, this Board expressly authorizes the retention of the physical Certificate of Public Convenience & Necessity by the deposit insurer for these purposes for a period not to exceed two years from the date of the issuance of the Certificate of Public Convenience & Necessity to the applicants herein.

Due to the unique factual and legal circumstances surrounding the application herein, the Board approves the issuance of the Certificate of Public Convenience & Necessity to the applicants herein with the understanding that after being properly capitalized and after having satisfied all conditions precedent to the issuance of a charter to commence business in the City of Warwick, State of Rhode Island as Banner Loan & Investment Bank, the bank will also temporarily operate at 1728 Cranston Street within the City of Cranston, this location being the site of Jefferson Loan & Investment Bank for the forty-five (45) day period required by state law when notice is to be sent to all Jefferson depositors that their accounts will be serviced by the applicants at their Warwick location. The Board further requires the applicants herein to notify in writing all account holders of Jefferson Loan & Investment Bank whose accounts will be maintained or serviced by Banner Loan & Investment Bank that their accounts have been transferred and that business may be transacted at the Cranston location for the statutory branch closing time period only.

After reviewing the application of the incorporators of Banner Loan & Investment Bank, as well as supporting documentary materials and oral testimony, it is the finding of this Board that the issuance of a Certificate of Public Convenience and Necessity to Banner Loan & Investment Bank for the operation of a loan and investment bank in Warwick, Rhode Island, is consistent with the public interest and will promote public convenience and necessity.

IV. FINDINGS OF FACT

The Board of Bank Incorporation hereby makes the following findings of fact:

1. On May 14, 1990, Charles A. Paquin, Louis R. Brown, Paul O. Sheahan, Sylvia J. Perreault and Steven A. Franchetti (the applicants) applied to the Board for a certificate that the public convenience and necessity would be promoted by the issuance of a loan and investment company charter to Banner Loan & Investment Bank doing business in the City of Warwick, Rhode Island pursuant to the provisions of G.L. 1956 (1989 Reenactment) §19-20-3.
2. The Board scheduled a hearing thereon on June 5, 1990 and, in accordance with the provisions of statute, notice of said application and for the hearing thereon was published once a week for the consecutive weeks of May 26, 31 and June 4, 1990 in the Providence Journal.
3. The applicants are officers, directors and/or employees of Marquette Credit Union, a state-chartered credit union with its principal office in the City of Woonsocket.

4. Marquette Credit Union will own 100% of the stock of Banner Loan & Investment Bank subsequent to the applicants having satisfied all statutory and regulatory preconditions to the establishment of Banner.
5. In accordance with a Letter of Intent executed by Marquette Credit Union and the Rhode Island Share & Deposit Indemnity Corporation on May 15, 1990, certain assets and liabilities of Jefferson Loan & Investment Bank of Cranston, Rhode Island will be transferred to Banner Loan & Investment Bank contemporaneously with its commencement of business.
6. The applicants have applied to Rhode Island Share and Deposit Indemnity Corporation for insurance of all deposits of the proposed Banner Loan & Investment Bank.
7. The applicants will operate Banner Loan & Investment Bank in the City of Warwick, Rhode Island and will provide present account holders of Jefferson Loan & Investment Bank the opportunity to continue to transact business at 1728 Cranston Street in the City of Cranston for a forty-five day period prior to closing the Cranston office.
8. The applicants will notify all pertinent account holders of Jefferson Loan & Investment Bank that they have assumed certain of Jefferson's assets and liabilities and that all business will be transacted at the Warwick site of Banner Loan & Investment Bank within forty-five (45) days.
9. No written objections have been filed with respect to the present application, nor was any oral objection raised at the hearing with respect to this application.
10. Any finding of fact that is also a conclusion of law is

hereby adopted as a conclusion of law; any conclusion of law that involves a finding of fact is hereby adopted as a finding of fact.

V. CONCLUSIONS OF LAW

Based upon the evidence presented to this Board at its public hearing on the pending application and based upon the findings of fact and decision, the Board of Bank Incorporation, in accordance with its oral vote on June 5, 1990, concludes that:

1. The Board of Bank Incorporation has jurisdiction to consider the present application.
2. The applicants herein have established that the issuance of a loan and investment company charter in the City of Warwick, State of Rhode Island will promote the public convenience and necessity.
3. The applicants herein have established that the issuance of a Certificate of Public Convenience & Necessity for the operation of Banner Loan & Investment Bank is in the best interests of the public and particularly in the interest of protecting the existing depositors of Jefferson Loan & Investment Bank and providing continued banking services to such depositors.
4. The finding of this Board with respect to the existence of public convenience and necessity is expressly conditioned upon the cessation of the operation of Jefferson Loan & Investment Bank as a depository institution and the surrender of its charter and/or Certificate of Public Convenience & Necessity as soon as the Rhode Island Share & Deposit Indemnity Corporation has determined that its physical retention for purposes of commencing, prosecuting and/or

litigating all suits and other legal actions is no longer necessary.

5. The finding of this Board with respect to the existence of public convenience and necessity is further expressly conditioned upon the applicants' agreement to assume those certain assets and liabilities of Jefferson Loan & Investment Bank as identified in the submissions to this Board and to service that institution's account holders.

6. The ultimate ownership of a state-chartered loan and investment bank by a state-chartered credit union is not barred by any existing or applicable Rhode Island law or regulation.

ORDER

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that this Board of Bank Incorporation, in accordance with its oral vote on June 5, 1990, endorse the Articles of Incorporation filed by the applicants and issue a Certificate of Public Convenience & Necessity to the applicants as soon as these applicants have demonstrated compliance with all pertinent provisions of Chapters 1 and 20 of Title 19 of the Rhode Island General Laws, including but not limited to

a) payment in cash of all fees due and owing to the State of Rhode Island; and

b) establishing compliance with applicable capitalization requirements; and

c) procuring acceptable surety bonding for all officers, directors and employees; and

d) obtaining deposit insurance for all deposits to be held by Banner Loan & Investment Bank; and

e) payment in cash of all capital required by the Articles of Incorporation or applicable law, whichever is greater; and

f) verification of the payment in cash of the whole capital stock by the Board or its representatives.

It is further ORDERED that, upon satisfaction of all regulatory and statutory preconditions as outlined above, the applicants shall be permitted to transact the business of a state-chartered loan and investment bank at the charter location in the City of Warwick and, for a period not to exceed forty-five (45) days, at the 1728 Cranston Street location of Jefferson Loan & Investment Bank in the City of Cranston. This limited period permission to operate shall not be deemed to prohibit any future requests to relocate the bank or to establish other branch locations.

It is further ORDERED, ADJUDGED and DECREED that, contemporaneously with the commencement of operations of Banner Loan & Investment Bank, the authority previously conferred upon Jefferson Loan & Investment Bank and its predecessors to transact the business of a loan and investment bank, including but not limited to the acceptance of deposits and making of loans shall be abrogated in full. As the successor-in-interest and equitable owner of Jefferson Loan & Investment Bank, the Rhode Island Share & Deposit Indemnity Corporation shall be permitted to retain the Certificate of Public Convenience and Necessity of Jefferson Loan & Investment Bank and any and all other records, documents and books belonging to said bank for a period not to exceed two years from June 5, 1990, unless good cause for an extension of that time is demonstrated and approved in writing by the Board of Bank Incorporation. During this two-year period, the institution shall not act as a depository nor make any loans or grant any extensions of credit. After the completion and/or resolution of all legal proceedings, the Certificate shall be surrendered and revoked in full so that it shall have no further force and effect for the purpose of transacting the business of a loan and investment bank or exercising any other powers under Chapter 20 of Title 19 of the Rhode Island General Laws.

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