

OFFICE OF THRIFT SUPERVISION

Approval of Holding Company Application

Order No.: 2008-32

Date: September 11, 2008

Docket Nos.: H-1299, 7173

Morton A. Bender and Grace M. Bender (collectively, Applicants) have applied to the Office of Thrift Supervision (OTS), pursuant to 12 U.S.C. § 1467a(e)(4) and 12 C.F.R. § 574.3, to acquire up to 67 percent of the common stock of Independence Federal Savings Bank, Washington, D.C. (Association) and otherwise exercise control over the Association, including seeking and effecting changes in directors and management (Application).

Background

Mr. Bender is Chairman of the Board of Colombo Bancshares, Inc. (Holding Company) and its wholly owned federal savings bank subsidiary, Colombo Bank, Rockville, Maryland (Bank). Mr. Bender, along with his immediate family members, owns over 90 percent of the Holding Company's common stock. The Bank is a Deposit Insurance Fund (DIF)-insured federal stock savings bank.

The Applicants currently hold approximately 51 percent of the Association's common stock, and Mr. Bender is a director of the Association. The Association is a DIF-insured federal stock savings bank. The Applicants propose to acquire additional shares of the Association's common stock to increase their holdings to up to 67 percent of the Association's stock through open market purchases and privately negotiated transactions with individual shareholders.

Holding Company Application

Section 10(h)(2) of the Home Owners' Loan Act (HOLA)¹ provides that it is unlawful for any individual who owns, controls, or holds with power to vote more than 25 percent of the voting shares of a savings and loan holding company to acquire control of a savings association not a subsidiary of such savings and loan holding company, unless OTS approves the acquisition pursuant to section 10(e)(4) of the HOLA.² Section 10(e)(4)(A) repeats the substance of section 10(h)(2), providing for OTS approval of acquisitions described in section 10(h)(2). Section 574.3(a) of the Acquisition of Control Regulations restates the statutory approval requirement.

¹ 12 U.S.C. § 1467a(h)(2).

² 12 U.S.C. § 1467a(e)(4).

The Applicants hold, in the aggregate, more than 25 percent of the shares of the Holding Company, a savings and loan holding company controlling the Bank. The Applicants propose to acquire up to 67 percent of the Association's common stock. Accordingly, the proposed transaction requires OTS approval under HOLA section 10(e)(4).

OTS regulations, at 12 C.F.R. §§ 574.7(b) and (c), require OTS to consider the managerial and financial resources and future prospects of the company and associations involved, the effect of the acquisition on the associations, the insurance risk to the DIF, and the convenience and needs of the community to be served.³ Consideration of the managerial resources of a company or savings association must include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or savings association.⁴ OTS must consider the impact of any acquisition on competition.⁵ Also, 12 C.F.R. § 563e.29 requires that OTS take into account assessments under the Community Reinvestment Act (CRA) when approving holding company acquisitions.

With respect to managerial resources, OTS has considered the background of the Applicants, the Association, the Bank and the Holding Company. OTS, as the regulator of the Association, the Bank and the Holding Company, is familiar with their managerial resources and has extensive experience with the Applicants. We conclude that the managerial resources of the Applicants, the Association, the Bank and the Holding Company meet the standards for approval.

With respect to financial resources, OTS has considered the Applicants' financial position. The Applicants have sufficient capital to effect the acquisition. The Association and the Bank are "well capitalized." The Holding Company is a shell corporation. OTS concludes that the financial resources of the Applicants, the Association, the Bank and the Holding Company are consistent with approval.

With respect to future prospects, and risks to the DIF, based on its review of the financial and managerial resources of the Applicants, the Association, the Bank and the Holding Company, OTS concludes that the future prospects of the Applicants, the Association, the Bank and the Holding Company, and the risk to the DIF are consistent with approval, subject to the conditions set forth below.

With respect to the competitive impact of the transaction, the Applicants currently hold more than 50 percent of the common stock of both the Association and the Holding Company, and the two depository institutions are therefore already under common control. Accordingly, OTS concludes that the transaction is not objectionable on anti-competitive grounds.

³ 12 U.S.C. § 1467a(e)(2); 12 C.F.R. § 574.7 (2008).

⁴ Id.

⁵ Id.

With respect to the convenience and needs of the community, the Applicants anticipate making no significant changes in services or products offered by the Association or the Bank as a result of the acquisition. The Applicants intend to continue the two institutions' present policies and procedures addressing the needs of the relevant communities. The Applicants represent that the Association will continue to provide programs, products and services that meet the existing or anticipated needs of the community, including low- and moderate-income geographies. Accordingly, OTS concludes that approval of the Application is consistent with the convenience and needs of the communities to be served.

As for the CRA, both the Association and the Bank have "Satisfactory" CRA ratings. OTS has received no comments from the public objecting to the proposed transaction on CRA grounds. Accordingly, OTS concludes that approval of the proposed acquisition of the Association by the Applicants is consistent with the CRA.

Conclusions

Based on the Application and the foregoing analysis, OTS concludes that the Application satisfies the applicable approval standards, provided that the following conditions are complied with in a manner satisfactory to the OTS Southeast Regional Director, or his designee (Regional Director). Accordingly, the Application is hereby approved, subject to the following conditions:

1. The proposed acquisition contemplated by the Application must be consummated within one year from the date of this Order, in accordance with the terms and representations in the Application;
2. The Applicants must advise the Regional Director in writing within 5 calendar days after the effective date of the acquisition of 67 percent of the stock of the Association: (a) of the effective date of the acquisition; and (b) that the acquisition was consummated in accordance with all applicable laws and regulations, the Application and this Order; and
3. The Association must operate within the parameters of its revised business plan for three years, commencing with the Regional Director's approval of the revised business plan. During that period, any proposed major deviations or material changes from the plan must be submitted for the prior, written non-objection of the Regional Director. The request for change must be submitted no later than 60 calendar days prior to the desired implementation.

Any other acquisitions of control of the Association, including, but not limited to acquisitions of stock or voting power, under circumstances materially inconsistent with or in a manner materially different from the information and representations contained in the Application, requires a separate filing with OTS under 12 C.F.R. Part 574.

The Regional Director may, for good cause, extend any time period specified herein for up to 120 calendar days.

By order of the Director of the Office of Thrift Supervision, or his designee, effective September 11, 2008.



Grovetta N. Gardineer
Managing Director
Corporate and International Activities