

Working Smarter  
*for you!*

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July 28, 2008

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal  
Reserve System  
20th St. and Constitution Avenue, NW.  
Washington, DC 20551  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW.,  
Washington, DC 20552  
ATTN: OTS-2008-0004

Re: FRB Docket No. R-1314; OTS Docket No. OTS-2008-0004;  
Unfair or Deceptive Acts or Practices; 73 *Federal Register* 28904;  
May 19, 2008

To Whom It May Concern:


I am writing to comment on the proposed regulation called Unfair or Deceptive Acts or Practices.

Hampton State Bank has offered Overdraft Privilege (ODP) services from Strunk and Associates since December of 2004. We consider Strunk to be the industry leader of overdraft payment programs, and they have always stressed operating these programs according to the 2005 Interagency guidance and best practices. Hampton State Bank has always operated its ODP Program according to Strunk's recommendation and has always followed the interagency guidelines.

At Hampton State Bank, we have always paid the overdrafts of certain customers, while others would have their checks returned. It was considered an accommodation for the customers who the bank felt comfortable in allowing the account to go overdrawn. This system was arbitrary and not always applied uniformly. The customer couldn't count on their check being paid. In either case, there was a fee.

Then along came ODP, which gave banks a system to set up customers so that they knew how much they could overdraw their account before checks were returned. The majority of our customers like this feature and feel it is a great value to them. Of course, no one likes to pay overdraft charges. But if your kid needs a lunch ticket or you need groceries to feed your family, with ODP you can go ahead and write that check, knowing the bank will cover it. It avoids the embarrassment of a returned check, not to mention the associated fees. If a check is returned, normally a business will send the check back through a second time, incurring a second return check charge at the bank, and also the business will assess their own returned check charge. For example, Hampton State charges \$26.00 per return and merchants typically charge at least a \$25 return fee. If the check is presented twice and returned both times and the merchant assesses his \$25 fee, you would potentially have \$77 in fees versus the \$26 overdraft fee he would have paid if he was on ODP.

The bank makes money on this program because the consumer sees it as something of value which could actually save them time, money and embarrassment.

 **Hampton State Bank**  
*Dedicated to Superior Service*

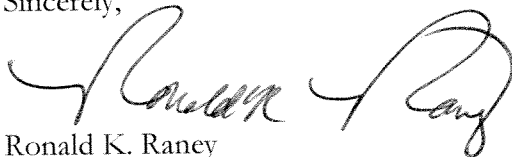
Per the 2005 Interagency Guidelines, our bank gives customers the ability to opt out of the program at the initial opening and also on an annual basis. (very few have chosen to opt out). We disclose on every periodic statement the amount of Overdraft fees and Return Check fees paid by the customer for the period and also year to date. The consumer does have other options to consider to avoid overdraft fees such as Automatic Transfer and Reserve Line of Credit. And of course, the easiest way to avoid an OD fee is to maintain an adequate balance in your account and do not write the check unless you have the money. And the majority of our customers on ODP do just that. It is a small percentage of our customers that actually use the service.

The proposal for a partial opt out (such as for ATM and debit card transactions) is not possible with our core processing system (and most others) without manually processing these items, which would increase our costs and ultimately result in higher costs to our customers. Also, we have had instances where our customers were out of town, and in need of cash. They were very thankful that they could overdraw their account at an ATM to get the cash they needed, even if it meant a fee. As far as opting out for debits, many of our customers are using debit cards for recurring payments. These are typically payments that they would want to be paid and not returned. And then there is the customer who no longer writes checks but uses his debt card exclusively. This customer would want those debits paid!

The same can be said for order of payment of checks. We disclose to our customers at account opening in what order their checks will be paid as well as the fees for overdrafts and returns. To have banks pay in one order (say largest first) and then charge in another order (charge as if smaller check had been paid first) again is not possible on our system and would require manual processing by our staff, again increasing costs to our customer.

In summary, the majority of our customers understand that if they write checks in excess of the balance of their account, they will incur a fee. They appreciate our bank paying the check, even if it means paying a fee. We have had no complaints by our customers who use the program and we have had very few opt out. Our customers see this service as something of value, and do not mind paying a fee for it. Paying a check will always be less expensive to our customers than returning a check. Why would we want legislation that ends up costing our customers more money? Thank you for considering my thoughts on this matter.

Sincerely,



Ronald K. Raney  
Executive Vice President

Contact Information: Ph 641-456-2559, e-mail: rraney@hamptonstate.com

cc: FDIC, Senators Grassley and Harkin, Representatives Latham and Braley