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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

June 24, 2000

**Corporate Decision #2000-11  
July 2000**

Mr. William W. Templeton  
Senior Counsel  
Legal Department  
Fleet Financial Group  
Mail Stop: RI MO F18C  
50 Kennedy Plaza  
Providence, RI 02903

Re: Fleet National Bank, Providence, Rhode Island/Operating Subsidiary Application  
Application Control Number: 2000-ML-08-018

Dear Mr. Templeton:

This responds to the application filed by Fleet National Bank, Providence, Rhode Island (“Fleet”), to acquire and hold as an operating subsidiary Curtis Associates, Inc. (“Curtis”), a company engaged in providing government “welfare-to-work” program counseling and related activities. Based upon the representations and commitments made by the Bank, the Bank’s application is approved.

**BACKGROUND**

Curtis is a closely held company based in Kearny, Nebraska. Fleet has entered into an agreement to acquire Curtis, subject to OCC approval of this application. Under the terms of the agreement, Curtis will be acquired and held as a wholly-owned subsidiary of an existing operating subsidiary, ASFA Data Corporation (“AFSA”). AFSA, a wholly-owned subsidiary of Fleet, engages in financial processing and administrative services for government sponsored and guaranteed student loan programs.

AFSA’s business strategy is to expand its financial processing and administrative capabilities to include government health and human services programs. To further its business strategy and to broaden its capabilities, AFSA acquired Benova, Inc. (“Benova”) in 1998.<sup>1</sup> Benova contracts with federal and state governments to provide Medicare and Medicaid enrollment counseling to the programs’

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<sup>1</sup> Corporate Decision No. 98-13 (February 9, 1998).

beneficiaries. In connection with Benova's activities, AFSA bid successfully on contracts for the payment processing components of the health care entitlement programs.

Recent welfare legislation created an opportunity for AFSA to expand further in the health and human services arena.<sup>2</sup> However, to bid successfully on welfare contracts, AFSA must be able to perform not only payment processing capabilities but also the related administrative services. To strengthen its administrative service capabilities, AFSA proposes to acquire Curtis. The acquisition of Curtis will augment AFSA's payment processing and servicing capabilities and improve its standing as a bidder on both welfare contracts and, as AFSA's expertise develops, contracts outsourcing the servicing and administration of other health care entitlement programs.

Curtis serves as an intermediary between those people who are eligible to participate in the welfare-to-work program and potential employers. Curtis provides welfare-to-work program counseling and related administrative services. These services focus on bringing together potential employers with welfare-to-work program beneficiaries. As a welfare-to-work counselor, Curtis advises potential employers, usually small and medium-sized businesses, on their needs for unskilled labor and the availability of welfare-to-work participants to meet those needs; counsels welfare-to-work program beneficiaries on the program's requirements, the work skills necessary to participate (*e.g.*, how to dress, appropriate office conduct), and other program benefits (*i.e.*, child care subsidies); brings together potential employers and program beneficiaries; and performs related recordkeeping activities. Once acquired by AFSA, Curtis will also possess payments processing capabilities, allowing it to handle the transmission of all cash or cash equivalent payments from the government agency to the employer or employee.

## **DISCUSSION**

The services proposed to be provided by Curtis following the planned acquisition are all aspects of well-recognized banking activities previously approved by the OCC: (1) financial planning and counseling; (2) payment processing and benefits disbursement; (3) acting as a finder; and (4) collecting banking, financial, or related economic data. National banks may engage in activities that are part of or incidental to the business of banking, or otherwise authorized for a national bank, by means of an operating subsidiary. 12 C.F.R. § 5.34(e).

### **Financial Planning and Counseling**

It is well established that national banks have the power to provide financial advice and counseling to their customers as part of or incidental to the business of banking pursuant to 12 U.S.C. § 24(Seventh).<sup>3</sup> Curtis is a welfare-to-work counselor. As discussed above, Curtis provides potential

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<sup>2</sup> See Workforce Investment Act, Pub. L. No. 105-220, 112 Stat. 936 (1998); Personal Responsibility and Work Opportunity Reconciliation Act, Pub. L. No. 104-193, 110 Stat. 2105 (1996).

<sup>3</sup> See, *e.g.*, Corporate Decision No. 99-43 (November 29, 1999) (approving application to provide relocation services counseling and advice); Corporate Decision No. 98-51 (November 30, 1998) (approving

employers with information about the availability of program participants to meet the employers' needs for unskilled labor. Curtis also provides program beneficiaries, the potential employees, with information about program benefits and requirements.<sup>4</sup>

Curtis's activities in the area of welfare-to-work counseling are aspects of the financial planning and counseling services that are permissible for national banks and their subsidiaries. The administration of the welfare-to-work program directly impacts the financial condition of participating employers. The cost of labor and employee turnover rates bear upon the operating budgets and finances of potential employers, and the welfare-to-work program allows the participating employers to better manage their labor costs and reduce employee turnover.<sup>5</sup> Similarly, administration of the program confers a direct financial benefit to the program beneficiaries. Since income is a significant and necessary component of an individual's finances, eligible program participants will accordingly seek information regarding both employment opportunities and other benefits available through the welfare-to-work program.

### **Payment Processing**

Once acquired by AFSA, Curtis will possess payment processing capabilities. Curtis will handle the transmission of all cash or cash equivalent payments from the government agency to the employer or employee, such as child care subsidies or wage support. Such payment processing activities are permissible for national banks and their subsidiaries.<sup>6</sup>

### **Finder Activity**

After counseling a potential employer on the availability of welfare-to-work participants to meet its need and counseling program participants on necessary work skills and program benefits, Curtis brings together employers and employees by matching program participants together with potential employers. Curtis only brings the parties together; it does not represent or act as an agent for either the program participants or the potential employers. The employers make the hiring decisions, and Curtis takes no financial interest in the terms negotiated between the employers and the employees.

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application to provide employee benefit consulting and compensation advisory services); Corporate Decision No. 98-13, *supra* (approving application to provide, *inter alia*, medical insurance cost information and benefits counseling); Letter from Judy Walter, Senior Deputy Comptroller for National Operations (July 17, 1986) (unpublished) (national bank operating subsidiary may provide financial advice and planning to customers interested in establishing a business).

<sup>4</sup> Curtis does not charge program participants and potential employers for its services. Rather, Curtis is compensated under a contract with the sponsoring government agency.

<sup>5</sup> AFSA estimates clerical employee turnover cost at approximately \$6,000 per employee, assuming two months training for the new employee at \$2,500 per month and \$1,000 cost of recruiting. Therefore, a company with an employee base of 100 will save approximately \$60,000 for each 10% reduction in employee turnover.

<sup>6</sup> Corporate Decision No. 98-13, *supra*; Interpretive Letter No. 712 (February 29, 1996), *reprinted in* [1995-1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-027.

Curtis's role in bringing program participants together with employers is properly characterized as a finder activity. The permissibility of a national bank acting as a finder to bring together buyers and sellers of various types of products and services is specifically set forth in Interpretive Ruling 7.1002, 12 C.F.R. § 7.1002.<sup>7</sup> More specifically, in the area of government-sponsored entitlement programs, the OCC has confirmed the permissibility of a national bank acting as a finder to bring program beneficiaries together with program benefits.<sup>8</sup>

### **Collecting Banking, Financial, or Related Economic Data**

Curtis also tracks the services it provides and the outcome of these services in terms of employment placements, employee retention, and length of employment. This information allows the sponsoring state agencies to determine the cost-effectiveness of the programs. We have long held that as part of the business of banking, national banks may collect, transcribe, process, analyze, and store for themselves and others banking, financial, or related economic data.<sup>9</sup> Here, Curtis provides the sponsoring state agency with similar information as part of its administration of the welfare-to-work programs.

### **CONCLUSION**

Based on the facts as described, I conclude that the activities proposed to be conducted by Curtis are permissible activities for a national bank and its operating subsidiaries. Accordingly, the Bank's application is approved.

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<sup>7</sup> See Interpretive Letter No. 653 (December 22, 1994), *reprinted in* [1994-1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,601 (finder with respect to certain insurance services); Interpretive Letter No. 567 (October 29, 1991), *reprinted in* [1991-1992 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,337 (finder services for personal property leasing); Interpretive Letter No. 437 (July 27, 1988), *reprinted in* [1988-1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,661 (selling tax auditing representation services to customers).

<sup>8</sup> See Corporate Decision No. 98-13 (February 9, 1998) (finder services for callers seeking federal- or state-sponsored health insurance); *cf.* Conditional Approval No. 361 (March 3, 2000) (national bank operating subsidiary may, as finder, bring together potential consumers and suppliers of government services and goods).

<sup>9</sup> See Interpretive Letter No. 875 (October 31, 1999), *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81-369; Interpretive Letter No. 677 (June 28, 1995), *reprinted in* [1994-1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,625. See also Interpretive Letter No. 737, *supra* (national bank may provide transaction and information processing services to support an electronic stored value system); Interpretive Letter No. 653 (December 22, 1994), *reprinted in* [1994-1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,601 (national bank may act as an informational and payments interface between insurance underwriters and general insurance agents); Interpretive Letter No. 346 (July 31, 1985), *reprinted in* (1985-1987 Transfer Binder) Fed. Banking L. Rep. (CCH) ¶ 85,516 (national banks may maintain records on commodities transactions).

This approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by Bank representatives. If you have any questions, please do not hesitate to contact Richard Erb, Licensing Manager, (202) 874-5060.

Sincerely,

**-signed-**

Julie L. Williams  
First Senior Deputy Comptroller and Chief Counsel