



Comptroller of the Currency
Administrator of National Banks

Northeastern District Office
340 Madison Avenue, 5th FL
New York, N.Y. 10017-2613

Licensing Division
Telephone No.: 212.790.4055
Fax No.: 301.333.7015

July 27, 2006

Corporate Decision #2006-07
August 2006

Mary L. Snyder, Esquire
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202-1355

Re: Application filed by Community Bank, National Association, Canton, NY to merge in
Elmira Savings and Loan, F. A., Elmira, NY
Control No.: 2006 NE 02 0010

Charter No.: 8531

Dear Ms. Snyder:

This is to inform you that on today's date, the Office of the Comptroller of the Currency ("OCC") approved your proposal to merge in Elmira Savings and Loan, F.A., Elmira, New York (the Federal Thrift) under the charter and title of Community Bank, National Association (the National Bank). This approval is granted based on a thorough review of all information available, including commitments and representations made in the application and the merger agreement and those of your representatives.

The OCC reviewed the proposed merger transaction under the criteria of the Bank Merger Act, 12 USC 1828(c), and applicable OCC regulations and policies. We analyzed the proposed transaction and found it would not have significant anticompetitive effects. The OCC considered the financial and managerial resources of the banks, their future prospects, the convenience and needs of the communities to be served, and their effectiveness in combating money laundering activities. We considered these factors and found them consistent with approval.

We also found that the acquisition by means of a merger of the Federal Thrift into the National Bank is authorized under 12 U.S.C. § 215c, which permits mergers between national banks and other insured depository institutions, including insured federal thrifts. Moreover, the retention of the main office of the Federal Thrift in Elmira, New York, and its branch in Ithaca, New York, by the National Bank following the merger also is authorized. National banks may branch within a state to the same extent that state banks in that state may branch. 12 U.S.C § 36(c). While Elmira is subject to New York's home office protection provision because it is a community of under 50,000 in population in which is located the principal office of another bank, home office protection generally does not apply to acquisitions of existing offices of other institutions by means of a merger or

otherwise. N.Y. Banking Law §§ 105.1(a) and 105.5(a). *See also* Letter to George J. Getman, attorney for the National Bank, by Megan Prendergast, associate attorney, New York State Banking Department (July 24, 2006). Consequently, because a state bank that acquires by merger a federal thrift with offices in a home office protected community or otherwise could retain and continue to operate those offices as branches following the merger, so may a national bank. As a result, the National Bank, following consummation of the merger, may operate the Federal Thrift's former main office in Elmira and its branch in Ithaca as branches (the Branches). The Branches are also authorized as Branch No. 135274A and 135275A, located at 300 West Water Street, Elmira, NY 14902, and 200 East Buffalo Street, Ithaca, NY 14850, respectively.

It is our understanding that Community Bank System, Inc. will form ES&L Acquisition Corp. ES&L Acquisition Corp will merge with and into the Federal Thrift's parent, ES&L Bancorp, Inc. and ES&L Bancorp Inc. will merge with and into Community Bank System, Inc. Immediately following the consummation of the merger of Community Bank System, Inc. with and into ES&L Bancorp, Inc., the Federal Thrift will merge into the National Bank. Further, Brillie Corporation, a service corporation of the Federal Thrift (that ultimately will be owned by the National Bank), owns a 50% interest in Barrington Associates. Community Bank has represented that it will divest of its interest in Barrington Associates and dissolve Brillie Corporation within two years of the closing date of the merger. Community will retain its interest in Town & Country Agency, LLC, as it already engages in title insurance through an operating subsidiary.

As a reminder, the district office must be advised in writing in advance of the desired effective date for the merger so that the OCC may issue the necessary certification letter. The effective date must follow the applicable Department of Justice injunction period and any other required regulatory approval.

If the merger is not consummated within one year from the approval date, the approval shall automatically terminate, unless the OCC grants an extension of the time period.

The OCC will issue a letter certifying consummation of the transaction when we receive the following, if not previously provided:

- 1) A Secretary's Certificate for each institution, certifying that a majority of the board of directors approved the merger.
- 2) An executed merger agreement with Articles of Association for the resulting bank attached.
- 3) A Secretary's Certificate from each institution, certifying that the shareholder approvals have been obtained.
- 4) A copy of the letter from the Federal Reserve Bank of New York waiving the related holding company application.

Please notify the Supervisory Office of the divestiture of Brillie Corporation within 10 days.

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This approval, and the activities and communications by OCC employees in connection with the filing, do not constitute a contract, express or implied, or any other obligation binding upon the OCC, the U.S., any agency or entity of the U.S., or any officer or employee of the U. S., and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. The foregoing may not be waived or modified by any employee or agency of the OCC or the U.S.

If you have any questions, please contact Gail Alston, Licensing Technician, at 212-790-4055.

Sincerely,

signed

Beverly L. Evans
Director for District Licensing