



**Comptroller of the Currency
Administrator of National Banks**

Southern District Licensing
1600 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

March 16, 2009

**Conditional Approval #894
April 2009**

James A. Barnes
100 Myer Hill Road
Mountain View, AR 72560

Re: Interim Bank Merger Application No. 2008 SO 02 0023
Ozark Heritage, National Association (Proposed)
Mountain View, Arkansas, Charter No. 24888

Dear Mr. Barnes:

The Office of the Comptroller of the Currency (OCC) hereby grants conditional approval to the above-referenced application, which is described below, for the reasons and subject to the requirements set forth herein. This preliminary conditional approval is granted after a thorough review of the application, other materials you have supplied, and other information available to the OCC, including commitments and representations made in the application and by the applicants' representatives during the application process. This approval is also subject to the conditions set forth herein.

The application seeks approval for the establishment of Ozark Heritage Bank, National Association, Mountain View, Arkansas as an interim bank (Bank) pursuant to 12 U.S.C. § 21 *et seq.*; and, pursuant to 12 U.S.C. § 215a, the merger of First National Bank, Altheimer, Arkansas (Target Bank) with, and into, the Bank, under the title of Ozark Heritage Bank, National Association, Charter No. 24888. The main office location of the Bank will be in Mountain View, Arkansas.

Discussion

In the first step of this transaction, the Bank will be chartered as an interim bank pursuant to the National Bank Act, 12 U.S.C. § 21 *et seq.* Interim national banks may be formed to facilitate corporate reorganizations and accomplish a business combination and are insured institutions. See 12 U.S.C. § 1815(a)(2); 12 C.F.R. § 5.33(e)(4). Here, the interim bank is being used to facilitate the acquisition of Target Bank. Therefore, the formation of the Bank is legally authorized and is hereby approved.

The second step of the transaction will be the merger of the Target Bank with, and into, the Bank, under the charter and title of the latter. A national bank may merge into a national bank located in the same state under 12 U.S.C. § 215a. In addition, the merger of an insured depository institution into an insured national bank is subject to review under the Bank Merger Act, 12 U.S.C. § 1818(c)(2). The OCC has reviewed the proposed merger transaction under the criteria set forth in the Bank Merger Act and applicable OCC regulations and policies. Among other matters, we found that the proposed transaction would not have significant anti-competitive 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.

Accordingly, the formation of the Bank and the merger of the Target Bank with, and into, it are legally authorized.

Consummation Requirements and Conditions

As noted above, this preliminary conditional approval is granted based on a thorough evaluation of all information available to the OCC, including the representations and commitments made in the application and by the Bank's representatives. In particular, the Bank's initial paid-in capital shall be no less than \$6.0 million. The manner in which the capital is raised must not deviate from that described in the business plan unless the Bank obtains the OCC's prior written determination of no objection.

The OCC poses no objection to the following persons serving as controlling shareholders, executive officers, directors, and/or organizers of the interim bank and the resulting bank as proposed in the application:

<u>Name</u>	<u>Title</u>
David Ault	Chief Executive Officer, Director
Marvin Sutterfield	President/Chief Lending Officer, Director
James Barnes	Director, Controlling Shareholder
Martha Blackwell	Director
Buddy Bolin	Director
Jim Ed Cash	Director
James Compton	Director, Controlling Shareholder
Emmett O'Ryan	Director
Ron Willis	Director

Background checks requested by the OCC have not been completed for prospective Chief Operating Office Sheila Ault. Accordingly, the continued service of this individual will be dependent on satisfactory completion of the background investigation process.

The district office must be advised in writing in advance of the desired effective date for the merger so the necessary certification letter may be issued. The merger may not consummate before March 31, 2009, which allows for the Department of Justice's 15-day injunction period.

The OCC will issue a letter certifying consummation of the merger transaction when we receive:

- A Secretary's Certificate for each institution, certifying that a majority of the board of directors approved.
- An executed merger agreement with Articles of Association for the resulting bank attached.
- A Secretary's Certificate from each institution, certifying that the shareholder approvals have been obtained, if required.
- Documentation that all other conditions the OCC imposed have been met.

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.

This preliminary approval is subject to the following conditions:

1. For the first three years after consummation the Bank: (i) shall give the Assistant Deputy Comptroller for the Little Rock Office at least sixty (60) days prior written notice of the Bank's intent to significantly deviate or change from its business plan or operations¹ and (ii) shall obtain the OCC's written determination of no objection before the Bank engages in any significant deviation or change from its business plan or operations.
2. Prior to consummation, the Board of Directors shall cause the Bank to enter into an Operating Agreement (Agreement) with the OCC on terms and provisions acceptable to the OCC. The Board shall assure that the Agreement is adopted fully and timely implemented and adhered to thereafter.

These conditions of approval are conditions "imposed in writing by a Federal banking agency in connection with any action on any application, notice or other request" within the meaning of 12 U.S.C. § 1818. As such, the conditions are enforceable under 12 U.S.C. § 1818.

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 United States, any agency or entity of the United States, or any officer or employee of the United States, and do not affect the ability of the OCC to exercise its supervisory, regulatory and examination authorities under applicable law and regulations. Our approval is based on the

¹ If such deviation is the subject of an application filed with the OCC, no separate notice to the supervisory office is required.

bank's representations, submissions, and information available to the OCC as of this date. The OCC may modify, suspend or rescind this approval if a material change in the information on which the OCC relied occurs prior to the date of the transaction to which this decision pertains. The foregoing may not be waived or modified by any employee or agent of the OCC or the United States.

Please direct any questions to me or Joseph T. Burbridge, Senior Licensing Analyst at (214) 720-7052, e-mail joseph.burbridge@occ.treas.gov.

Sincerely,

signed

Karen H. Bryant
Director for District Licensing

Enclosures