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

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Southern District Licensing  
1600 Lincoln Plaza  
500 North Akard  
Dallas, Texas 75201-3323

September 17, 2008

**Conditional Approval #877  
October 2008**

Shannon Marks  
Chief Executive Officer  
Emergent National Bank (Proposed)  
940 Centre Circle, Suite 3006  
Altamonte Springs, Florida 32714

Re: New Bank Charter Application Number 2008 SO 01 0002, Sale of Common Stock for  
Property Application Number 2008-SO-12-0074  
Emergent National Bank, Winter Park, Florida (Proposed)  
Charter No. 24863

Dear Mr. Marks:

The Office of the Comptroller of the Currency (OCC) has reviewed your application to establish a new national bank with the title of Emergent National Bank (Emergent). On September 17, 2008, the OCC granted preliminary conditional approval of your charter application after a determination that your proposal met certain regulatory and policy requirements.

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. We also made our decision to grant preliminary conditional approval with the understanding that the proposed Bank will apply for Federal Reserve membership and will obtain deposit insurance from the Federal Deposit Insurance Corporation (FDIC).

The OCC has granted preliminary conditional approval only. Final approval and authorization for the Bank to open will not be granted until all pre-opening requirements are met. Until final approval is granted, the OCC has the right to alter, suspend, or revoke this preliminary conditional approval should the OCC deem any interim development to warrant such action.

This preliminary conditional approval is subject to the following condition:

During the first three years of operation, the Bank: (i) shall give the North Florida Field Office at least sixty (60) days prior written notice of the Bank's intent to significantly deviate or

change from its business plan or operations<sup>1</sup> 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. The OCC may impose additional conditions it deems appropriate in a written determination of no objection to a bank's notice. The Bank also must provide a copy of such written notice to the FDIC's Atlanta Regional Office.

This condition of approval is a condition "imposed in writing by the agency in connection with the granting of any application or other request" within the meaning of 12 U.S.C. § 1818. As such, this condition is enforceable under 12 U.S.C. § 1818.

Pursuant to the terms of a Contribution Agreement to be entered into by Emergent and Mercantile Commercial Capital, LLC (MCC), we understand that MCC will transfer its bank-permissible assets to Emergent, and Emergent will assume MCC's bank-permissible liabilities, in exchange for the issuance to MCC's unit holders of 889,000 shares of Emergent stock and cash in an amount still to be determined, but in no event more than \$2 million (collectively, the Contribution Transaction). Assuming that Emergent receives final approval and authorization to open as a national bank, it is our understanding that the Contribution Transaction will occur on the same day that Emergent will open for business, but immediately prior to that occurring. We also understand that the Contribution Transaction will occur simultaneously with the closing of the Bank's stock offering and its issuance of stock to investors. We further understand that Emergent will engage in no lending activities prior to its opening. Based upon the information provided to us to date, we have determined that MCC's proposed transfer of its bank-permissible assets to Emergent, and Emergent's assumption of MCC's bank-permissible liabilities, is consistent with safe and sound banking practices and is approved pursuant to 12 C.F.R. §§5.46 and 223.42(i).

The OCC poses no objection to the following persons serving as executive officers, directors, and/or organizers as proposed in the application:

<u>Name</u>	<u>Title</u>
Timothy Bailey	Director
Dwayne Hamner	Executive Vice President/Senior Lending Officer
Christopher Hurn	Senior Executive Vice President/Director
Gene Josephs	Director
Howard Lefkowitz	Director
Geoffrey Longstaff	Chief Credit Officer/Director
Shannon Marks	President/Chief Executive Officer/Director
Steven Podolsky	Director

We have not completed our background checks for proposed directors James Lane, Jason Rottenberg, and Howard Schieferdecker or for proposed executive officer Colin Betty. While we have decided not to delay action pending completion of these reviews, continued service of

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

these individuals will be dependent on satisfactory completion of the background investigation process. Prior to opening, the Bank must obtain the OCC's prior written determination of no objection for any additional organizers, executive officers or directors appointed or elected before the person assumes the position. For a two-year period after the Bank commences business, the Bank must file an *Interagency Biographical and Financial Report* with the OCC and receive a letter of no objection from the OCC prior to any new executive officer or director assuming such position.

The "Charters" booklet in the *Comptroller's Licensing Manual* provides guidance for organizing your bank. The booklet is located at the OCC's web site: <http://www.occ.treas.gov/corpbook/group4/public/pdf/charters.pdf>. The booklet contains all of the steps you must take to receive your charter.

As detailed in the booklet, you may establish the corporate existence of and begin organizing the Bank as soon as you adopt and forward Articles of Association and the Organization Certificate to Licensing Analyst Elizabeth Classey Phan in this office for our review and acceptance. As a "body corporate," or legal entity, you may begin taking those steps necessary for obtaining final approval. The Bank may not begin the business of banking until it fulfills all requirements for a bank in organization and the OCC grants final approval.

Enclosed are standard requirements and minimum policies and procedures for new national banks. The Bank must meet the standard requirements before it is allowed to commence business and the Board of Directors must ensure that the applicable policies and procedures are established and adopted before the Bank begins operation.

In addition to the standard requirements for all new national banks, the following special requirements must be satisfied prior to the Bank's request for a pre-opening examination and before the OCC will grant final charter approval:

1. The Bank must submit to the North Florida Field Office for review, and prior written determination of no supervisory objection, a complete description of the Bank's final information systems and operations architecture as well as the information systems risk assessment and management plan. This should include a schematic drawing and discussion of the following items:

Vendor due diligence and contracts; electronic banking security mechanisms and policies; information systems personnel; internal controls; audit plans; and operating policies and procedures, including, but not limited to, vendor management, weblinking, customer authentication and verification, and business resumption contingency plans.

2. The Bank must have performed an independent security review and test of its electronic banking platform. The Bank must have this review performed regardless of whether the platform is operated in-house or by one or more third-party service providers. If the Bank outsources the technology platform, it can rely on testing performed for the service

provider to the extent that it satisfies the scope and requirements listed herein. The review must be conducted by an objective, qualified independent source (Reviewer). The scope should cover:

- All access points, including the Internet, Intranet, or remote access.
- The adequacy of physical and logical protection against unauthorized access including individual penetration attempts, computer viruses, denial of service, and other forms of electronic access.

By written report, the Reviewer must confirm that the security measures, including the firewall, have been satisfactorily implemented and tested. For additional guidance, refer to the *FFIEC IT Examination E-Banking Handbook*, pages 26-30, Information Security Program. The booklet is located at the FFIEC's Web site:

[http://www.ffiec.gov/ffiecinfobase/booklets/e\\_banking/e\\_banking.pdf](http://www.ffiec.gov/ffiecinfobase/booklets/e_banking/e_banking.pdf).

3. The Bank must have a security program in place that complies with the "Interagency Guidelines Establishing Standards for Safeguarding Customer Information" specified at 12 CFR 30, Appendix B.

Under separate cover, the OCC will send to you an appropriate set of OCC handbooks, manuals, issuances, and selected other publications. This information does not include the *Comptroller's Licensing Manual*, which is available only in electronic form at our web site:

<http://www.occ.treas.gov/corpapps/corpapplic.htm>.

A separate letter is enclosed requesting your feedback on how we handled your application. We would appreciate your response so we may improve our service. Please direct any questions concerning this preliminary conditional approval to me or Licensing Analyst Elizabeth Classey Phan at (214) 720-7052.

Yours truly,

*signed*

Joseph T. Burbridge  
Acting Director for District Licensing

Enclosures: Standard Requirements  
Minimum Policies and Procedures  
Survey Letter