

OFFICE OF THRIFT SUPERVISION

**APPROVAL OF APPLICATION FOR PERMISSION TO
ORGANIZE A FEDERAL SAVINGS BANK AND
HOLDING COMPANY ACQUISITION
AND REBUTTAL OF CONTROL**

Order No.: 2000-17

Date: February 11, 2000

1st Virtual, Inc., Palm Beach Gardens, Florida (the "Holding Company"), has applied for approval of the Office of Thrift Supervision ("OTS") pursuant to 12 U.S.C. §§ 1464(e) and 1467a(e) and 12 C.F.R. §§ 552.2-1 and 574.3 for permission to organize and acquire VirtualBank, Palm Beach Gardens, Florida (the "Savings Bank"). In addition, James Bourne, Bernard J. Ebbers, Stiles A. Kellett, Jr., Kellett Partners, L.P., John E. Cunningham, Clear Fir Partners, LP, Gary V. Sledge, Mark Lewis, and Carl Stork (the "Shareholder Group") have filed, pursuant to 12 C.F.R. § 574.4(e), a rebuttal of control submission that includes a rebuttal of control agreement (collectively, the "Applications").

The OTS has considered the Applications under the standards set forth in 12 U.S.C. §§ 1464(e) and 1467a(e); and 12 C.F.R. §§ 543.3, 552.2-1, 574.4 and 574.7, and other applicable statutes and regulations. The OTS also has considered the Applications under the Community Reinvestment Act, 12 U.S.C. §§ 2901 *et seq.*, and the OTS regulations thereunder, 12 C.F.R. Part 563e.

In addition, the OTS has considered a digest by the OTS Southeast Regional Office, an analysis prepared by the Office of Examination and Supervision, and a legal opinion from the Business Transactions Division (collectively the "Staff Memoranda"). For the reasons set forth in the Staff Memoranda, the OTS has determined that the Applications satisfy all applicable statutory and regulatory criteria, provided that the conditions set forth below are complied with in a manner satisfactory to the Southeast Regional Director, or his designee ("Regional Director"). Accordingly, the Applications are hereby approved, subject to the following conditions:

1. The Savings Bank and the Holding Company must receive all required regulatory approvals prior to consummation of the proposed transaction with copies of all such approvals provided to the Regional Director;

2. The proposed transaction must be consummated within one hundred and twenty (120) calendar days from the date of this Order;
3. Prior to the consummation of the proposed transaction, the Chief Financial Officers of the Holding Company and the Savings Bank must certify in writing to the Regional Director that no material adverse changes have occurred with respect to the financial condition or operation of the Holding Company and the Savings Bank as disclosed in the Applications, including but not limited to directors, major shareholders, technology or the business plan. In addition, should additional information having a material adverse bearing on any feature of the Applications be brought to the attention of the Holding Company, the Savings Bank or the OTS, since the date of the financial statements submitted with the Applications, the transaction shall not be consummated unless the information is presented to the Regional Director, and the Regional Director provides written non-objection to consummation of the transaction;
4. No later than 5 calendar days from the date of consummation of the proposed transaction, the Savings Bank must file with the Regional Director a certification by legal counsel stating the effective date of the proposed transaction and of the Savings Bank's insurance of accounts, and that the transaction has been consummated in accordance with the provisions of all applicable laws and regulations, the Applications, and this Order;
5. The Savings Bank must submit independent audit reports to the Regional Director for its first three fiscal years. These reports must be in compliance with the audit rules set forth at 12 C.F.R. § 562.4;
6. The Savings Bank must operate within the parameters of its business plan. The Holding Company and the Savings Bank must submit any proposed major deviations or material changes from the plan, including those pertaining to the level of capital and Internet operations, for the prior written approval of the Regional Director. The request for approval must be submitted no later than 60 days prior to the desired implementation date. The Savings Bank must also submit quarterly variance reports depicting the Savings Bank's operations versus the submitted business plan to the Regional Director within 45 days of the end of each quarter for the first three years of operation;
7. The Savings Bank's initial capitalization must be no less than \$36.5 million. No later than 5 days following the date that the Savings Bank opens for business, the Chief Financial Officer must provide to the Regional Director a reconciliation of capital for the Savings Bank;
8. The Savings Bank must submit to the OTS the quarterly Schedule CMR (Consolidated Maturity and Rates) during the first three years of operation;

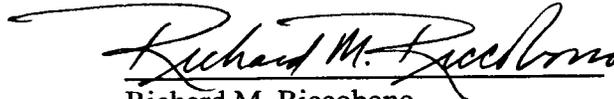
9. The Savings Bank must establish detailed policies and procedures for all operations. Prior to opening, the Savings Bank must provide to the Regional Director copies of such policies and procedures and a resolution of its board of directors that indicates that the board has reviewed, approved, and implemented such policies and procedures;
10. The Savings Bank's CRA Plan shall be subject to any future changes in requirements contained in regulatory policies or regulations that the OTS on its own, or acting in concert with other financial institution regulatory agencies, determines are appropriate for depository institutions operating primarily through non-traditional channels;
11. Prior to engaging in any activities other than owning the Savings Bank in its first three years of operation, the Holding Company must submit for review and approval of the Regional Director, a three year business plan for the Holding Company;
12. For a period of three years following the date of consummation, the Savings Bank must receive the prior written non-objection of the Regional Director for any proposed new directors or senior executive officers or any significant change in responsibilities of any senior executive officer;
13. During the first year of operation, all stock option and incentive plans and agreements that have not been previously submitted to the OTS must be provided to the Regional Director for his written non-objection and must receive the prior approval of the Holding Company and its shareholders;
14. Prior to their execution, all employment contracts to be implemented within the Savings Bank's first year of operation must be submitted to the Regional Director for his written non-objection;
15. Within 30 days after opening for business, the Holding Company and the Savings Bank must submit a tax sharing agreement between the Holding Company and the Savings Bank to the Regional Director for his prior written non-objection;
16. Before the Savings Bank's customers may transfer directly from the Savings Bank's web site to another web site selling uninsured financial products, the Savings Bank must submit copies of all proposed web site disclosures and/or its policies regarding such disclosures for the review and non-objection of the Regional Director. This information must be submitted at least 30 days prior to the desired implementation date; and

17. Prior to opening for business, the Savings Bank must submit written evidence, acceptable to the Regional Director that its data systems, programs, software and business applications will operate properly.

Any time period set forth herein may be extended for up to 120 calendar days, for good cause, by the Regional Director.

By order of the Director of the Office of Thrift Supervision, or her designee, effective

FEB. 11, 2000



Richard M. Riccobono

Deputy Director