



Comptroller of the Currency
Administrator of National Banks

Midwestern District Office
2345 Grand Boulevard, Suite 700
Kansas City, MO 64108

**Conditional Approval #461
May 2001**

April 4, 2001

Ms. Brenda L. Rebel, CPA
Chief Financial Officer
BNCCORP, Inc.
322 East Main
P. O. Box 2316
Bismarck, ND 58502

Re: Application for De Novo Charter
BNC National Bank of Arizona, Tempe, AZ
CAIS Control #2001-MW-01-003

Dear Ms. Rebel:

The Comptroller of the Currency (OCC) has reviewed your application to establish a new national bank with the title of BNC National Bank of Arizona ("Bank"). On this date, after a thorough evaluation of all data available to the OCC, we found that your proposal met the requirements for preliminary conditional approval. The bank also may offer credit life, health, and accident insurance in accordance with 12 CFR 2.

This conditional approval is granted based on a thorough review of all information available, including the representations and commitments made in the application and by the proposed bank's representatives. We also made our decision to grant preliminary conditional approval with the understanding that the proposed national bank will apply for membership in the Federal Reserve System and obtain FDIC insurance.

In addition to the procedural requirements for all new national banks, the following requirements must be satisfied before the OCC will grant final charter approval:

1. The Bank must submit to the OCC for review and approval 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; personnel; internal controls; audit plans; and operating policies and procedures including, but not limited to, vendor management, customer authentication, privacy, and disaster recovery and business resumption plans.

2. The Bank must have performed an independent security review and test of its electronic banking platform. It 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 upon 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 encompass all access points, including the Internet, Intranet, or remote access, and it must cover 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. The report must critique the effectiveness of security policies and controls and confirm, with reasonable certainty, that unauthorized internal or external data and network access or access attempts are detected and recorded. As part of its decision to grant final charter approval, the OCC will consider the results of the report as well as any subsequent actions by the Bank or service provider to implement any recommendations or to remedy any noted security or control deficiencies.

Final charter approval will be subject to the following conditions:

1. This approval is subject to the condition that the Bank shall obtain prior approval from the OCC’s North Dakota and Northwestern Minnesota Field Office (Field Office) before any significant deviation or change from the proposed operating plan during the Bank’s first three years of operation. The Bank must notify the Field Office at least sixty (60) days prior to any proposed significant deviation or change. The Bank must also provide a copy of such notice to the FDIC’s Regional Office in Kansas City, Missouri.
2. The Bank must notify all potential technology-related vendors in writing of the OCC’s examination and regulatory authority under 12 U.S.C. § 1867(c). All final technology-related vendor contracts must stipulate that the performance of services provided by the vendors to the Bank is subject to the OCC’s examination and regulatory authority.

The conditions of this approval are conditions “imposed in writing by the agency in connection with the granting of any application or other request” within the meaning of 12 USC 1818. As such, the conditions are enforceable under 12 USC 1818.

This is preliminary conditional approval only. Final approval will not be granted until and unless the Federal Reserve Board acts favorably on your application with them to acquire this new Bank. You must furnish the OCC’s Midwestern District Office with a copy of all related filings to the Federal Reserve, including registration material.

Until final approval is granted, the OCC has the right to alter, suspend, or revoke preliminary approval should any interim development be deemed by the OCC to warrant such action.

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The organizers plan to offer a transactional Internet banking service. Although the Bank currently does not have plans to allow customers to open accounts online, please note that the OCC expects a national bank to exercise appropriate caution and due diligence when opening accounts using the Internet and other non-traditional means. Any plans should include internal systems and controls that address the risks associated with such accounts.¹ Systems and controls also should include appropriate procedures to verify customer information as part of the account opening process, to monitor for fraud after an account has been opened, and to properly authorize transactions. If the Bank plans to have its web page(s) contain links to its affiliates that provide financial products and services or to third party providers of products and services, the Bank should provide customers with appropriate disclosures via electronic means. For further guidance, please refer to “The Internet and the National Bank Charter” booklet (enclosed) in the Comptroller’s Corporate Manual.

Please refer to the “Corporate Organization” booklet (enclosed) in the Comptroller’s Corporate Manual for the instructions on organizing your bank. 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 acceptable Articles of Association and the Organization Certificate to this office. As a “body corporate” or legal entity, you may begin taking those steps necessary for obtaining final approval, but you may not begin the business of banking until you fulfill all requirements for a bank in organization and you are granted final approval by the OCC.

Enclosed are standard requirements that must be met before the bank will be allowed to commence business. Management must ensure that the applicable policies and procedures are established and adopted by the board of directors before the bank begins operation. Applicable standard requirements also must be satisfied before the bank will be allowed to commence business.

The OCC poses no objection to the following persons serving as executive officers as proposed in the application. Additional executive officers are subject to the OCC’s prior review and clearance.

| | |
|-------------------------|----------------------|
| Chairman of the Board | Tracy Scott |
| Chief Executive Officer | Gregory K. Cleveland |
| Senior Vice President: | Richard W. Warren |
| Chief Financial Officer | Brenda L. Rebel |
| Chief Operating Officer | Shawn Cleveland Goll |

¹ These internal systems and controls would include appropriate measures that respond to the risks of enabling Automatic Clearing House transactions on the Internet *see e.g.*, OCC Advisory Letter 2001-3 (January 29, 2001) (“Internet-Initiated ACH Debits/ACH Risks”).

Chief Credit officer
Investment Officer

Brad J. Scott
Mark Peiler

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The OCC poses no objection to Gregory K. Cleveland, Shawn Cleveland Goll, Brenda L. Rebel, Brad J. Scott, Tracy Scott and Richard W. Warren serving as directors. All other directors are subject to the OCC's prior review and clearance.

You are also reminded that for a period of two years after the bank has opened for business, the OCC must review and have no objection to any new executive officer or director prior to that person assuming such position.

The OCC also granted your waiver request of the residency requirements of 12 USC 72 for the majority of the board of directors of BNC National Bank of Arizona. This waiver is granted based upon a review of all available information, including the filing (subsequent correspondence and telephone conversations), and the bank's representation that this waiver will not affect the board's responsibility to direct the bank's operations in a safe, sound, and legal manner. Please understand that the OCC reserves the right to withdraw or modify this waiver and, at its discretion, to request additional information at any time in the future.

The OCC will send to you under separate cover an appropriate set of OCC handbooks, manuals, issuances, and selected other publications.

You should direct any questions concerning this preliminary conditional approval to National Bank Examiner Jill K. Kennard at (816) 556-1860.

Sincerely,

-signed-

Ellen Tanner Shepherd
Licensing Manager

Enclosures: "Corporate Organization" Booklet
"The Internet and the National Bank Charter" Booklet
Minimum Policies and Procedures
Standard Requirements