
Comptroller of the Currency
Administrator of National Banks

Washington, DC 20219

Conditional Approval #410 September 2000

August 20, 2000

Donal J. Hummer, Jr.
Vice President, General Counsel and Secretary
Eaglemark Bank, National Association
4126 Technology Way
Carson City, Nevada 89706

Re: Application by Eaglemark Bank, National Association, to reduce permanent capital
Application Control Number: 2000-WE-12-0082

Dear Mr. Hummer:

The Office of the Comptroller of the Currency ("OCC") has determined to approve your application for a permanent capital reduction as outlined in your letter of April 6, 2000, subject to the condition set forth herein. This decision is based on a thorough review of all information available, including representations made in the application and by the applicant's representatives.

Eaglemark Bank, National Association, Carson City, Nevada ("Eaglemark") opened on August 25, 1997. Eaglemark's operations were limited to those of a credit card bank so that it would meet the conditions of 12 U.S.C. § 1841(c)(2)(F) and thus would not be considered a "bank" for purposes of the Bank Holding Company Act.¹ Eaglemark is wholly-owned by Eaglemark Financial Service Inc., a subsidiary of Harley Davidson, Inc.

Earlier this year, Harley Davidson decided to wind down Eaglemark's credit card program. On March 21, 2000, Eaglemark sold in full its credit card portfolio to U.S. Bank National Association ND, Fargo, North Dakota, and entered into a five-year non-compete clause. The effect of the sale and non-compete clause, combined with the charter's limitation to credit card operations, is that Eaglemark can no longer conduct the limited banking business it was approved to do. Therefore, Eaglemark has discontinued banking operations as stipulated in its Articles of Association.

We understand that Harley Davidson's future plans for Eaglemark include the possibility of a sale to a third party or conversion to another type of charter (e.g., thrift or industrial loan bank). Further, we understand that, if neither of these alternatives is successful, you have indicated Eaglemark will enter into voluntary liquidation.

¹ To meet the requirements of 12 U.S.C. § 1841(c)(2)(F), an institution: (1) must engage only in credit card operations; (2) cannot accept demand deposit or deposits that the depositor may withdraw by check or similar means for payment to third parties; (3) may not accept any savings or time deposits of less than \$100,000, except if they are used as collateral for secured credit card loans; (4) may maintain only one office that accepts deposits; and (5) may not engage in the business of making commercial loans.

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The national bank charter carries with it the benefits and responsibilities of being a federally regulated institution. As the regulator of the national banking system, the OCC's primary mission is to ensure the safety and soundness of the system, including the obligation to maintain adequate regulatory and supervisory control over banks that are part of the system.

Therefore, when substantially all the business of a national bank has been sold, the OCC strongly discourages proposals to sell the charter or to hold the charter in a dormant state for an unspecified period of time or for undetermined future operations, typically holding the charter with a view to a sale in the future. The sale and/or holding of a charter in a dormant state may encourage a misuse of the chartering process.

In general, the OCC expects a bank to enter voluntary liquidation as soon as its banking activities are discontinued.² Accordingly, approval for the capital reduction is hereby granted, subject to the condition that the disbursement of capital by Eaglemark shall be made pursuant to and in accordance with a plan of voluntary liquidation adopted pursuant to 12 U.S.C. § 181. Please be advised that this condition of approval is deemed to be 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. This condition is enforceable under 12 U.S.C. § 1818.

If you have any questions, please contact Licensing Expert Jan Kalmus or Senior Licensing Analyst Maria Arevalo at 202-874-5060.

Sincerely,

-signed-

Julie L. Williams
First Senior Deputy Comptroller
and Chief Counsel

² The OCC's policy of encouraging voluntary liquidation in these circumstances is also consistent with congressional intent in 12 U.S.C. § 288. Under section 288, if any national bank which has not gone into liquidation as provided in 12 U.S.C. § 181, and for which a receiver has not already been appointed for other lawful cause, shall discontinue its banking operations for a period of sixty days, the OCC may appoint a receiver for such bank.