

Cable Address--Bamerical

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BANK OF AMERICA
National Trust and Savings
Association

San Francisco Headquarters

San Francisco, California
December 29, 1939

Board of Governors
Federal Reserve System
Washington, D. C.

Gentlemen:

We are taking the liberty by means of this letter of inviting your attention to a situation which appears to us to be of grave concern to the Board of Governors of the Federal Reserve System. It relates to the operations of our bank -- Bank of America, National Trust and Savings Association -- as a member bank in the Twelfth Federal Reserve District and to the responsibilities to the community which that membership entails.

We are fully aware that the Board of Governors is not directly concerned with the manner in which the functions of other agencies of the government are discharged. On the other hand, there may arise situations where, from whatever causes, a member bank may be so harassed and pursued with the publication of unproven and unadmitted charges of misconduct that its usefulness as a member bank may become jeopardized and the Federal Reserve System thereby adversely affected.

It is not necessary to give to your Board detailed statistical information as to the comparative status of this bank as a member bank of the Twelfth Federal Reserve District. It embraces in its assets about 30% of all of the Federal Reserve member bank assets of the Twelfth District. Its assets eligible for loans and discounts with the Federal Reserve Bank in San Francisco are approximately \$1,183,000,000. Its reserves carried with that bank are \$157,000,000. We have no doubt of the authority of your Board under the Federal Reserve Act to make its own investigation at any time, in order to inform yourselves for your own purposes under the law, of the condition of the assets of any member bank.

Up to the beginning of the spring of 1938 our bank enjoyed -- as we believe the record will show -- a normal relationship to the office of the Comptroller of the Currency. Later on that year the Comptroller's office appeared to assume a hostile attitude toward our entire institution, first evidenced by the examination completed April 28, 1938, and

later by the letter signed by Deputy Comptroller Gough on September 13, 1938, upon the same day that the Secretary of the Treasury had by Departmental Circular #595 transferred to his office the entire legal staff of the Comptroller of the Currency; and the same day also that the telegram (referred to below) was sent by the Acting Comptroller to the bank's directors respecting the dividend. Since that time our bank has been harried and threatened privately and publicly -- and we think unfairly and unjustly -- until ground is being laid for confusion in the public mind as to its condition and consequently occasion for gossip and rumor to the detriment of its welfare and that of the Federal Reserve System.

We shall call to your attention some of the incidents which give rise to these conditions. This is **done** not with any idea that your Board will concern itself with personalities, motives, or jurisdictional questions, but with the effect which may ultimately be produced by these attacks on the bank.

On September 13, 1938, the Acting Comptroller sent a telegram to be read by his examiner to the board of directors of the bank in which he threatened to cite the bank's officers and directors to your Board of Governors under section 30 of the Banking Act of 1933 on account of the declaration of the regular dividend. This action was taken without prior notice to or formal discussion with the bank. Following this action, President L. M. Giannini telegraphed your Board of Governors requesting that it set a date for hearing of the Comptroller's charges. He at the same time notified the Comptroller of this message to your Board.

On September 23, 1938, ten days later, the Acting Comptroller addressed a letter to our board of directors at their places of business without indication of its personal and confidential nature, making theretofore unheard of drastic criticisms of the affairs of the bank with a further threat to invoke section 30 of the Banking Act of 1933 before your Board and further to invoke the terms of section 5239 of the Revised Statutes. (This letter was answered in detail by the Board of Directors of the bank on October 11, 1938, and a conference with the Comptroller requested.)

On November 23, 1938, Comptroller Delano complied with the request of the board of directors for a conference with the management and President L. M. Giannini, with two other officers of the bank, arrived in Washington on December 5, 1938. After waiting three days, conferences were held from December 8th to December 15th with the Comptroller and members of the Interdepartmental Committee, invited in by the Comptroller, upon written agenda prepared and insisted upon by the Comptroller. On December 15th, a final agreement was reached and reduced to writing by the Treasury Department which bound the bank to a working program and which embraced such items submitted by the Comptroller for discussion as he desired to insist upon. This program, notwithstanding the circumstance that President Giannini thought its terms unduly harsh (as shown by his letter to the Comptroller), was accepted by the bank and was approved by the members of the Interdepartmental Committee who attended the conferences. Since

that time we have consistently adhered to its terms although the Comptroller of the Currency has in his treatment of the bank acted as though no such conferences had ever been held.

Subsequent examinations of the bank have completely ignored the program of December 15, 1938, and have become more and more arbitrary and vindictive. This is clearly illustrated by the recent arbitrary valuations of banking premises by the examiner. And letters from the Comptroller following these examinations have become more and more threatening, captious, and discourteous in respect to the very items of the program of December 15th which he imposed upon the bank and under which it is operating, so far as those items are concerned.

Beginning with the events which came to pass on September 13, 1938, the Comptroller began to address letters to the board of directors in respect to the affairs of the bank instead of to the officers. While we do not question the right of the Comptroller to address whatever communications he may see fit to the board of directors, we make the comment here that, considering the history of the relationship of this bank to the Comptroller's office, the sudden shift from direct communication with the management to communication with the board of directors was unusual and in sharp contrast to the regular procedure. Under ordinary circumstances, its effect might have been to destroy the confidence of the board in the management. A statewide board of business men have thus been repeatedly called upon to re-examine their responsibilities under the national banking laws under thinly veiled threats that they would be proceeded against personally for failure to manage the bank properly. Such communications to the board of directors were made on the following dates: September 13, 1938 (two communications); September 23, 1938 (two communications); April 14, 1939; July 31, 1939; August 29, 1939; October 2, 1939; October 27, 1939; and November 15, 1939.

As indicated above the Comptroller on September 13, 1938, made his first threat or warning to invoke section 30 of the Banking Act of 1933 which provides for an investigation by the Board of Governors of the Federal Reserve System. We accepted this challenge and on September 20, 1938, requested your Board to set a date for a hearing. Subsequently the Comptroller threatened in several communications, namely, September 23, 1938, July 31, 1939, and October 2, 1939, to invoke section 30; and we again on July 21, 1939, August 5, 1939, November 2, 1939, and November 8, 1939, indicated our willingness and desire to have the questions raised by the Comptroller placed before your Board for determination. His last letter dated December 12, 1939, to Mr. A. P. Giannini goes so far as to state that our bank is guilty of unsafe and unsound banking practices and violations of law as though there has been an actual citation to and determination upon these questions by your Board.

Unfortunately personalities have entered into the situation. The record clearly shows that the Secretary of the Treasury, contrary to tradition and practice, has personally taken over from the Comptroller of

the Currency the supervision of our bank and the unusual and extraordinary (and in some respects unlawful as already adjudicated) procedures which have been adopted are due to this situation. We have thus been put into a class to ourselves alone and our bank is not being examined and supervised as are other national banks. We have conferred with the Comptroller and with persons designated by him but we feel that we have received no fair and just consideration of our problems. Specifically we do not know who is directing in detail the supervision of our bank. It has now come to pass, after nearly sixteen months of this treatment, that all rational approach to the administration of the national banking laws in our case seems to have been lost.

The Secretary of the Treasury in the conduct of his proceedings against our bank, has, without our knowledge or consent, seen fit on more than one occasion to discuss the private and confidential affairs of our bank with other bankers who were not engaged in the service of the United States and who had no responsibility for the supervision of our bank. The mere statement of this fact would seem to condemn it as an improper method of bank supervision because it violates the fundamental principle that the affairs of a bank should be held in the strictest confidence by the supervising authorities.

The proceedings of the Securities and Exchange Commission against Transamerica Corporation which involved also the bank, have supplemented Treasury action. The great amount of unlawful publication of unproven charges against our bank by the Commission based upon unauthoritative but confidential data furnished from the files of the Comptroller of the Currency to the Commission by the Secretary of the Treasury, and the vicious methods pursued by the Commission in cooperation with the Secretary to condemn the bank in the eyes of the public on ex parte data without a hearing (now all a matter of court record), would have destroyed a bank whose good will was less strongly entrenched than is the case with our bank.

The proceedings of the Securities and Exchange Commission may be regarded as a passing phenomenon so far as the bank is concerned. But Treasury action is continuous and in the present state of affairs, the kind of examinations which are being conducted of our bank under the direction of the Secretary are not such as to reveal its true condition as a member bank, and your Board of Governors is not therefore correctly informed of its condition by these examinations.

Mr. A. P. Giannini, Chairman, and Mr. L. M. Giannini, President, came to Washington and with our counsel, Mr. Charles W. Collins, conferred with the Comptroller of the Currency and several Treasury lawyers on November 16, 17, and 18, 1939. We had never felt that there could be any serious disagreement between us and the Comptroller especially after the bank had accepted his program of December 15, 1938, and had put it in operation. But while the above mentioned conferences were in progress, the Comptroller dispatched a letter to our board of directors demanding that

an item of \$9,000,000 be immediately charged off or a republication of the last report of condition be made which would show the \$9,000,000 as a loss. This was supposed to be the principal subject matter of the conferences. It involved a dispute between the bank and the examiner over the latter's arbitrary valuation of the bank premises. We had recent appraisals by the American Appraisal Company of these properties which showed that the bank was carrying them at figures below their appraisal values and therefore that the examiner's figures had no standing. The Comptroller knew we had the figures of these new appraisals. We cite this as an illustration of the spirit in which the Comptroller entered the conferences.

At the conclusion of the conferences, the Comptroller announced that his position remained unchanged but that he would consult with the office of General Counsel for the Treasury Department and would give the matters consideration. On December 12, 1939, he addressed a letter to Mr. A. P. Giannini in which he made accusations which we regard as grossly defamatory and libelous, and in which he appears to give notice that after ninety days from the date of the letter, he will publish the last report of examination of the bank, as authorized by section 5240 of the Revised Statutes.

Bank of America is by far the most important bank in the Twelfth Federal Reserve District. It is the fourth largest bank in the United States. Under the law the Federal Reserve Bank in San Francisco is charged with the responsibility of informing your Board of the condition of any member bank in the Twelfth District, if and when your Board requests. The situation set forth in this letter could possibly result in a grave financial disturbance which would involve the entire District. It would seem therefore that your Board has ample occasion to order the Federal Reserve Bank of San Francisco to make an examination of the bank for your information.

Our responsibilities in the Twelfth District are very heavy. In the state of California alone, our customers and stockholders number more than 2,500,000 persons, well over one-third of the population of the state. Our banking services reach directly and indirectly nearly every household in California. No other member bank has such an extensive and intimate contact with the community which it serves. We ought not to be left in a position where constant questions of our financial condition are fostered by the Treasury while at the same time completely ignoring our well authenticated answers to them. We appear to have reached an impasse.

We and our own board of directors are entitled to some consideration in this matter. One of the results of an investigation by your Board would be to give us the benefit of another point of view as to the condition of the bank.

For the reasons set forth above, we request that your Board of Governors upon its own responsibility under the law order an examination of the bank and determine for itself its condition.

Respectfully,

BANK OF AMERICA, NATIONAL TRUST & SAVINGS ASSOCIATION

by Charles W. Collins (Signed)

Charles W. Collins
Counsel