



The Breakers
PALM BEACH
FLORIDA

7/16-40

Dear Larry:

Maria just phoned me
to say that he had to stay over
there until Monday.

I wonder why it is everytime
our people go to Washington
to talk things over with the
Treasury Dept or Comptroller -
the Comptroller is either coming
or finds that he has to leave
there - in other cases we are
always asked to await his return.
Apparently the fellows think
we have no business to take care
of our home. Its certainly the limit
the way they proceed.



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January

Mr. Lamm, if you can keep
to get an official hearing
before DLRB - so that any
decision now made will
then be rendered in accordance
with the law - after I'm
assuming of course, we
get our side of the case
into the record completely
just as the other side
will get theirs in.

I know the hearing is not public
but its very important to get
the complete case into the
record - so that the Public will be
given an opportunity to determine
as to which side is right.

If this can be done & the Congress
takes an investigation I think I
feel that is the only way for me



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To get the whole story to
the people of the country
except thru Pamphlets
or Radio.

and this we can
avoid you can have
a hearing before HRB
where the complete records
of the case can be presented
would appreciate your
doing, as you usually do your
utmost for us.

Thank you. Sincerely,
a. s.



The Breakers
PALM BEACH
FLORIDA

(Personal), 2/18/40

Dear Larry:

At the time that the Treasury Dept opened up an office in Los Angeles, by sending the Comptroller representing to the Board of Directors ^{meeting} to read a half minute telegram -

(Apr 13, 1938) I wrote up a letter in which I made mention of the fact that Fleischacker's Bank had been paying dividends regularly up to that time - when it was really insolvent. With its Capital Funds practically wiped out at the beginning of 1933 - at the time of the Moratorium.

And if you will check with Diggs I believe you will find that he started jumping Fleischacker shortly after the bank office but that he was



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prevented from doing so by order
of the Secretary - who instructed
him to lay off of that case -
with consequence that no action
was taken against them until
after he had been jumped on.
and I think that ^{was the} letter I
wrote Secretary McIntyre at the time.
about the same as yours.

after my letter had reached Washington
the Secretary got busy at once and
sent for Herbert J. and the papers
that his petition subsequently
followed.

In reminding you of the above
in the hope, of course, you deem it
proper so to do, that you be acquainted
thoroughly with the above facts if you had not
previously done so.

Sorry to bother you so but it just can't
be done any other way for our case is so important
to our country and the people of St. Louis.
Respectfully,
C. P.

February 20, 1940

Mr. A. P. Giannini
The Breakers
Palm Beach, Florida

Dear A. P.:

This will acknowledge your two personal notes of February 16 and February 18 respectively.

In your first letter you called attention to the delay that had been encountered by Mario and his fellow workers here due to the Comptroller leaving the city for several days. You have no doubt since heard from Mario that we did what we could here to avoid the consequences of delay by having Mr. Cushing come over here to the Board and present to its committee (Eccles and McKee)* the bank's counter-proposals to the program submitted by the Comptroller's office. That procedure at least gave our people here an opportunity to study over the counter-proposals prior to the meeting of the three banking agencies with Mario and Mr. Cushing which is in session this afternoon.

In the same letter you expressed the desire that the matters in controversy be heard before the Board of Governors under a section 30 proceeding. As you know, there is no way in which the Board itself can initiate such a move since the citation must come from the Comptroller. It is the feeling of everyone here, I am sure, that it is much preferable that the issues be composed through an agreement between the bank and the three bank supervisory agencies so as to put a stop to the injurious effects which inevitably flow from the public discussion of the conflict. However, it is quite apparent that if the parties cannot get together a section 30 proceeding may result.

In your second letter you referred to the treatment accorded the Fleishhacker bank and referred to a letter you wrote me in the fall of 1938 on this subject. You also suggest that I might check with Marshall Diggs as to the accuracy of the statements made in your letter.

* Mr. Crowley sat in also.

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I had already acquainted Marriner with the letter I received from you at the time it came but neither one of us was aware of the letter you wrote to Marvin McIntyre along about the same time, at least I have never heard Marriner mention this. Although I doubt that there is any use at this late date in pursuing the matter further, I shall be glad to check with Mr. Diggs when a suitable opportunity presents itself as a matter of personal curiosity, if for no other reason.

In both your letters you urge that I do what I can to bring the controversy before the Board of Governors, but as pointed out above, there is no way of my moving in that direction. What I am earnestly hoping, however, is that the bank and the Federal banking agencies can get together on a program. Section 30 relates solely to the removal of officers for continuing unsafe or unsound practices or violations of law and the end point does not in any way solve the issues between the bank and the Comptroller. In other words, while a section 30 proceeding is in progress the Comptroller's office can have other issues to complain about and could invoke other sanctions even more disturbing to the bank's standing in the public mind than a section 30 proceeding. To put it in another way, section 30 is based upon past performances whereas the solution of the problem at hand is an agreement respecting future performance. Now no one questions the ability of the bank's organization to render high class banking service to its customers. The principal issues relate to the sufficiency of the bank's capital funds in view of the tremendous growth in deposit structure over the past eight years and the bank's present asset condition with special reference to its real estate concentrations and again the propriety of taking bond profits into the bank's earnings for the purpose of maintaining the present dividend rate. These are not so much legal questions as questions of banking judgment. And while it might be said that the earning power of the bank justifies the present practice, I am sure that many bankers, including my chief and myself, would feel that this is a fair weather assumption. The bank ought to be so managed that it would be accumulating more rapidly the necessary reserves out of earnings to provide ample cushion for a change for the worse in the general economic situation. However this sounds like a discussion of the merits whereas I only intended to indicate the broad lines of the principal issues. As stated, I urgently hope that a program can be agreed upon so that the bank's management can devote its energies to operating the bank under an agreed program instead of spending most of its time defending its policies before the regulatory agencies. A compromise by the bank in the direction of more conservatism does not deprive the stockholders or the management of

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any rightful remuneration; whatever is earned is still in the bank and belongs to the stockholders, it is simply a question of whether they shall have all their cake as soon as it is baked or keep some in reserve.

I hope that you can stop in Washington when you leave Florida for California and I also trust that by that time these issues will be composed.

With best wishes, I am

Yours sincerely,

Lawrence Clayton

LC/fg

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WESTERN UNION

1220

SYMBOLS

DL-Deferred
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J. C. WILLEVER
FIRST VICE-PRESIDENT

(34)

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Received at

DUPLICATE OF TELEPHONED TELEGRAM

JND370 79 NT=BR PALMBEACH FLO 22

LAWRENCE CLAYTON, PERSONAL EXECUTIVE ASSISTANT TO CHAIRMAN
OF BOARD OF GOVERNORS OF FEDERAL RESERVE SYSTEM=
(DLR ONLY AT RES NOT OFFICE) WASHDC=

JUST RECEIVED YOUR LETTER. WHILE I DONT AGREE WITH SOME OF
THE CONTENTIONS THEREIN I HAVE NEVERTHELESS WIRED MARIO TO
AT HIS NEXT MEETING DO HIS UTMOST TO GET TOGETHER IF IT IS
AT ALL POSSIBLE TO DO SO ON A BASIS THAT WILL NOT HAMSTRING
US IN THE INTEREST OF THE DASTARDLY AND DIABOLICAL
CONSPIRACY BACK OF THE HAPPENINGS OF THE PAST YEAR AND HALF.
THANK YOU LARRY AND WARMEST REGARDS TO YOU AND TO YOUR
GOOD CHIEF=

A P.

A P.

No. <i>WU 6878</i>		ADSE
By FA	At 808 A	To Bc MAIL
TO OFS (MARK ENVELOPE PSNL AND CONFIDENTIAL)		

February 23, 1940

Mr. A. P. Giannini
The Breakers
Palm Beach, Florida

Dear A. P.:

I was glad to have your telegram this morning and gratified that you had wired Mario urging that he make every effort to agree upon a program.

In your wire you stated that you disagreed with some of my contentions and I want to make sure that you have not considered my statement of the issues to be a position on my part as to how these issues should be resolved. The only position I took was that necessary reserves should have been accumulated more rapidly out of earnings but again this should be considered in the light of the remarkable deposit growth of the bank. When things like this happen it is of course preferable that the capital structure be increased proportionately, not necessarily in strict proportion but substantially so. This could not have been done in your case except with a drastic curtailment of dividends which under all the circumstances probably would have prevented the bank's rapid progress in covering the State of California with banking services. In other words, I agree that the dividends should have been resumed when they were and gradually increased as earnings increased. On the other hand, I would not necessarily agree that dividends had to be increased to the same extent they were in order to keep stockholders satisfied. But in any event a deposit growth as spectacular as was achieved under your leadership should best be accommodated by an increase in the capital structure not through the curtailment of dividends so much as through the addition of capital funds by the issue of new stock. In fact the suggested program for thirty or thirty-five million of new capital would make the payment of dividends at the current rate entirely defensible so long as the current earnings are in excess of the dividend by a reasonable margin. On the other hand, the current rate is difficult to justify without the addition of capital funds. I say this not because of a belief in any arbitrary capital ratio but because I would like to see in a bank with a billion and a-half of deposits more generous volume of undivided profits than is shown by the bank's current statement. Therefore I think it is to the interest of the bank to obtain the added capital providing, of course, a workable and

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reasonable program can be agreed upon including the settlement of the various controversies by the government and the bank and its allied interests.

The reference I made to "the propriety of taking bond profits into the bank's earnings for the purpose of maintaining the present dividend rate" was a mere statement of the contention made by the Comptroller. Personally I have taken the position all the way along that thus far at least the bank's use of bond profits to absorb losses has been entirely consonant with the so-called "Revision in Bank Examination Procedure" as agreed to by the Treasury, the Board and the FDIC. Others have argued that the losses have absorbed all the bank's earnings and that the dividends therefore were paid out of bond profits. This is simply arguing in a circle and I think is contrary to the plain implication of the uniform agreement. The only point at which the treatment of bond profits might raise any issue would be in a situation where the bond profits were in excess of losses and should be added to undivided profits. In such a situation if the dividend were in excess of current earnings outside of bond profits the uniform agreement would require that such bond profits should be set aside in reserves until such reserves were "adequate". This point, of course, has not been reached over the past six or eight years although it may well be reached from here on out, as it is reasonable to assume that the bank's losses from now on will be very considerably less.

There was a postponement today of the scheduled conference between the parties originally set for this afternoon and I have not yet found out what was behind it, but I still feel optimistic for the prospects for an agreement.

With warmest regards, I am

Yours sincerely,

Lawrence Clayton

LC/fgf