Minutes of actions taken by the Board of Governors of the Federal Reserve System on Tuesday, March 4, 1952. The Board met in executive session in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Szymczak
Mr. Evans
Mr. Vardaman
Mr. Powell
Mr. Mills
Mr. Robertson

At the conclusion of the executive session the following members of the staff joined the meeting:

Mr. Carpenter, Secretary
Mr. Sherman, Assistant Secretary
Mr. Kenyon, Assistant Secretary
Mr. Thurston, Assistant to the Board
Mr. Riefler, Assistant to the Chairman
Mr. Vest, General Counsel
Mr. Noyes, Director, Division of Selective Credit Regulation
Mr. Chase, Assistant Solicitor
Mr. Solomon, Assistant General Counsel

It was stated that consideration had been given in the executive session to the issuance by the Board of a statement along the lines of a draft prepared by Mr. Powell concerning the advantages to banks of membership in the Federal Reserve System but that no conclusion was reached and that the matter would be considered further following Mr. Vardaman's return to his office from a forthcoming trip.

At the meeting on January 8, 1952, the Board decided that an order should be issued suspending the license of H. Bartels, Inc., Philadelphia, Pennsylvania, a registrant under Regulation W, Consumer Credit, with respect

to instalment sales of all articles covered by the regulation for a period of 30 days, and the Legal Division was requested to draw up the necessary order. Accordingly, there had been sent to each member of the Board before this meeting drafts of a suggested statement of Findings and Opinion of the Board and a suggested Order.

During a discussion of the drafts it was noted that Chairman Martin did not sit with the other members of the Board when the oral argument of the case was made before the Board, and that at the time Mr. Vest was asked to prepare the opinion and order Messrs. Mills and Robertson were not members of the Board. Messrs. Martin, Mills, and Robertson stated that, for the reasons above set forth, they would not participate in the action on or consideration of the Board's opinion and order.

Thereupon, upon motion by Mr. Evans and the affirmative votes of Messrs. Szymczak, Evans, Vardaman, and Powell, the Board approved the above-mentioned statement of Findings and Opinion of the Board, and the issuance of an Order suspending the license of H. Bartels, Inc. under Regulation W.

Secretary's Note: A copy of the Findings and Opinion of the Board, dated March 4, 1952, has been placed in the Board's files, and the Order, issued under date of March 4, 1952, read as follows:

"UNITED STATES OF AMERICA
BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
In the Matter of
H. BARTELS, INC.
52nd and Market Streets,
Philadelphia, Pa.

"ORDER SUSPENDING LICENSE UNDER REGULATION W

On May 28, 1951, the Board of Governors of the Federal Reserve System ordered that a hearing be held to determine whether or not the license of H. Bartels, Inc., (hereinafter called the Registrant) should be suspended, and

Hearings were held before a Hearing Examiner and oral arguments were heard by the Board, and

The Board, having considered the record in the matter,

HEREBY ORDERS, under authority of Regulation W and the authority cited therein, that:

1. The license of said Registrant granted by Regulation W be and the same is hereby suspended, in all respects and as to all credits subject to the regulation, for 30 days, from March 24, 1952, to April 22, 1952, both days inclusive; provided, that this order does not prohibit the receipt of any payments on obligations existing on March 23, 1952, or the making of payments on any obligations, including obligations to employees for salaries and wages;

2. Any terms used in this order that are defined in Regulation W shall have the meaning therein given them.

By order of the Board of Governors of the Federal Reserve System this 4th day of March 1952.

(Signed) S. R. Carpenter,
Secretary."

(SEAL)

At the request of Mr. Evans, Mr. Chase referred to the matter of T & E Company, Inc., 15 S. Franklin Street, Wilkes-Barre, Pennsylvania, a firm engaged in the automobile rental business which had declined to file a registration statement on the grounds that its business was not subject to Regulation W and which had also declined to make its records available for inspection by representatives of the Federal Reserve Bank of Philadelphia pending a determination by appropriate authority of the question whether it was subject to the regulation. Mr. Chase recalled that this matter had been the subject of discussion at meetings of the

Board on December 4 and December 14, 1951, and that in accordance with a suggestion which was approved at the earlier meeting, representatives of the company conferred with members of the Board's staff on December 11, 1951 for the purpose of exploring the possibility of some solution to the problem without resort to litigation. He went on to say that the company had now filed suit in the United States District Court naming the Federal Reserve Bank of Philadelphia as defendant and asking for a declaratory judgment that its business was not subject to Regulation W and for certain other relief. Mr. Chase said that the suit did not name the Board and consequently it might be possible to delay action by procedural moves, such as a motion to dismiss the suit and require the Board to be made a defendant, but that the question of leasing arrangements under Regulation W was one that would have to be settled and in the circumstances both he and Mr. Townsend, the Board's Solicitor, with whom the matter had been discussed by telephone, concurred in the recommendation of the Philadelphia Reserve Bank that the Board authorize filing of a cross complaint asking that the court order T & E Company to register under the regulation and permit inspection of its books and records.

In response to a question by Chairman Martin, Mr. Vest said that he was inclined to believe that the recommendation was proper since it seemed that the issue was one which must be met and it might be just as well for the Board to join in the pending suit rather than to file a motion which would have the effect of postponing the issue. He added that a

decision on the question of leasing arrangements was desirable for administrative reasons and it seemed on this account that it would be better to have a decision as soon as possible.

Mr. Vardaman said that inasmuch as this point had not been adjudicated heretofore he would favor the taking of steps to obtain a decision as quickly as this could be done.

Thereupon, upon motion by Mr. Evans, the Office of the Solicitor was authorized by unanimous vote to proceed with the filing of a cross complaint against T & E Company, requesting that the United States District Court order the company to register under Regulation W and to permit inspection of its books and records by representatives of the Federal Reserve Bank of Philadelphia.

At this point all of the members of the staff with the exception of Messrs. Carpenter, Sherman, and Kenyon withdrew, and the action stated with respect to each of the matters hereinafter referred to was taken by the Board:

Minutes of actions taken by the Board of Governors of the Federal Reserve System on March 3, 1952, were approved unanimously.

Memorandum dated March 3, 1952, from Mr. Marget, Director, Division of International Finance, recommending an increase in the basic salary of Lawrence Bostow, Economist in that Division, from $4,580 to $4,705 per annum, effective March 16, 1952.

Approved unanimously.

Memorandum dated February 29, 1952, from Mr. Bethea, Director, Division of Administrative Services, recommending the appointment of Helen Adair Golway as Cafeteria Helper in that Division, on a temporary basis for a period of two months, with basic salary at the rate of $2,420 per annum, effective as of the date she enters upon the performance of her duties after having passed the usual physical examination and subject to the completion of a satisfactory employment investigation.

Approved unanimously.

Memorandum dated March 4, 1952, from Mr. Bethea, Director, Division of Administrative Services, recommending the reinstatement of Thomas N. Buckley, who had been on military leave, as Telegraph Operator in that Division, with basic salary at the rate of $4,035 per annum, effective as of the date upon which he reports for duty.

Approved unanimously.

Letter to Mr. Hill, Vice President, Federal Reserve Bank of Philadelphia, reading as follows:

"In accordance with the request contained in your letter of February 27, 1952, the Board approves the designation of Joseph R. Campbell, an examiner who was transferred to the Department of Selective Credit Control of your bank effective February 18, 1952, as a special examiner for the Federal Reserve Bank of Philadelphia."

Approved unanimously.

Telegram to Mr. Pondrom, Vice President, Federal Reserve Bank of Dallas, reading as follows:

"Relet February 26, 1952 Board approves appointment of George A. Holder as an examiner for the Federal Reserve Bank of Dallas. Advise effective date.

"It is understood that Mr. Holder will not be authorized to examine any banks to which he may be indebted."

Approved unanimously.

Letter to Bank of America National Trust and Savings Association, San Francisco, California, reading as follows:

"The Board of Governors of the Federal Reserve System authorizes Bank of America National Trust and Savings Association, San Francisco, California, pursuant to the provisions of Section 25 of the Federal Reserve Act, to establish a branch in Osaka, Japan, and to operate and maintain such branch subject to the provisions of such section; upon condition that unless the branch is actually established and opened for business on or before March 1, 1953, all rights granted hereby shall be deemed to have been abandoned and the authority hereby granted shall automatically terminate on such date.

"In taking the foregoing action, the Board notes that the proposed branch represents an extension of facilities in an area now served by a branch of Bank of America National Trust and Savings Association and does not consider such action to be a departure from the position taken in its letter of May 16, 1949."

Approved unanimously, for transmittal through the Federal Reserve Bank of San Francisco.

Letter to the Presidents of all Federal Reserve Banks, reading as follows:

"A question has been presented concerning the application of Regulation W to instalment credit for the purchase or installation of a home kitchen ventilating device known as the 'Vent-A-Hood'. Briefly, the 'Vent-A-Hood' is constructed for attachment to the wall to the rear and directly above a cooking stove, and is designed to catch cooking heat, steam, and vapor which are ejected

"from the house by means of an exhaust unit and duct leading to a flue or to an opening in an outside wall.

"The Board is of the view that the 'Vent-A-Hood', if sold or delivered by the Registrant to the customer at or about the time of the sale or delivery of a cooking stove, should be regarded as 'an accessory' under section 8(j)(7) of the regulation. Consequently, the 'cash price' of the stove, a Group B article, would include the price of the 'Vent-A-Hood'. On the other hand, a 'Vent-A-Hood' sold separately and not in connection with the sale or delivery of a cooking stove should be regarded as a Group D article in view of the nature of its installation."

Approved unanimously.

Letter to Mr. William L. Donohue, Business Manager, Don Allen Organization, Don Allen Building, 2585 Main Street, Buffalo, New York, reading as follows:

"This refers to your letter of February 9, 1952, and its enclosures, to Mr. Pawley concerning Regulation W and the leasing of automobiles by your organization. You asked particularly for advice as to the application of the regulation to arrangements to lease automobiles to salesmen of Prentice-Hall, Inc.

"From the above correspondence it appears that a separate, individual lease of an automobile would be entered into with each of several Prentice-Hall salesmen. Each such lease would be for an initial term of one year and the rental payments would be made in monthly instalments. You indicate further that, under a separate agreement with your organization, Prentice-Hall, Inc. would guarantee both payment and performance of the individual leases executed by its salesmen.

"On the basis of the information presented, it is the Board's view that each of the individual leases in question would be subject to the regulation. The fact that some third party, such as the employer, Prentice-Hall in this case, undertakes to guarantee payment and performance in the manner described would not change that result. The essential nature of each of the transactions between your organization and the individual salesmen would remain unaffected for the purposes of the regulation. The performance of contracts, of course, may be secured in various ways, including, for example, conveyances of property for security

"purposes or various types of surety undertakings. However, whether or not an instalment contract is secured or unsecured does not of itself relieve the transaction from the provisions of the regulation.

"Nor is it of controlling significance that it is not your practice to sell leased automobiles to your various lessees. The Board has felt that neither an adequate nor appropriate differentiation could be based on whether in connection with particular leases there may or may not be an ultimate passage of title of the leased property to the lessee. In those cases of leasing arrangements subject to the regulation, the substance of the transaction, though perhaps not the form, appears little if any different from ordinary conditional sales or chattel mortgage arrangements. In either case the customer obtains the continuous use of an automobile or other listed article.

"To be effective and equitable in its application, the regulation cannot properly disregard competitive forms of transactions which are of a character to add to the over-all problem which the statute and regulation were designed to meet. However, as you know, the regulation does not prohibit instalment leasing. As is true also with ordinary instalment loans and conditional sales, the regulation merely requires that the transactions subject to the regulation meet certain requirements.

"In the event that you may wish further to discuss the leasing arrangements of your organization with the Regulation W staff members at the Buffalo Branch of the Federal Reserve Bank of New York, we are sending that office a copy of this letter in order that they may be fully informed and, therefore, in a better position to be of such further assistance as you may desire."

Approved unanimously, with the understanding that the Presidents of all Federal Reserve Banks would be advised of the substance of this interpretation by letter.

Letter to Mr. Millard, Vice President, Federal Reserve Bank of San Francisco, reading as follows:

"This refers to your letter of February 11, 1952, and its enclosures, concerning the application of Regulation W to a proposed television rental and sales promotion plan

"submitted for consideration by Video Meter, Inc. of San Francisco.

"From the above correspondence it appears that the Registrant proposes to install television sets under leases for periods not exceeding 90 days and calling for specified monthly rentals payable in advance. If, at or before the expiration of any such 90-day instalment lease, the lessee decides to purchase a new television set, it is understood or agreed by the parties that the lessee may have the rental payments previously made applied to reduce the purchase price of the new set, and an instalment sale would be executed on the basis of the price as so reduced. While the rental set may not be purchased and there would be no legal obligation on the part of the lessee to purchase a new set, it is clear from the above correspondence that the Registrant hopes and anticipates that the temporary rental installation will result in the sale of a new television set.

"On the basis of these facts as presented, the Board agrees with your conclusion that the rentals in question would not be exempt under section 7(1)(1), and particularly clause (ii) thereof. This view follows the principles stated in S-1295 (W-138); Regulation W Service 761. As you will recall, an arrangement similar to the plan in question was involved in S-1214 (W-107) which also would be relevant in considering matters of this kind.

"While not of controlling significance, an additional substantiating circumstance is the proposed use on the above rental sets of a coin-meter operating device. The Board has previously indicated that, in the case of either an instalment lease or instalment sale, the use of a meter as a collection facility would not, of itself, constitute a violation of the regulation if there were compliance with the applicable requirements of the regulation. Thus, the mere use of a meter to assist the customer in accumulating funds with which to meet the instalment payments would not be objectionable. However, in this case, the installation and use of a meter on the rental sets, although installed at the option of the lessee who remains the owner of the meter accumulation, if any, further relates the rental to a subsequent sale of a new television, since such accumulation may be applied against the price of a new set in the same way as the monthly rental payments.

"In connection with a television set leased on an instalment basis for a period in excess of 90 days, we have noted that the Registrant proposes to obtain an initial deposit of 15 per cent of a 'presumed' or 'average' value. Under S-1386

"(W-164) and S-1432-b (W-180) it was indicated that a Registrant may select 'any reasonable method for computing value' for the purposes of the regulation provided, of course, that all appropriate items of cost passed on to the customer are included in the calculations under the regulation. If the television sets so leased vary widely, whether judged on a cost price or selling price basis, the use of the proposed 'average' or 'presumed' value would clearly be improper under the regulation. In addition, in the case of such a lease of a new television set, there would appear to be no justification for calculating the required, initial deposit on a value less 20 per cent for depreciation, although, of course, depreciation properly could be taken into account in the case of a second or subsequent lease of a television or other listed article, as indicated in W-164."

Approved unanimously.

Telegram to Mr. Cook, Vice President and Cashier, Federal Reserve Bank of Dallas, reading as follows:

"Reurlet January 16, 1952 and your telegram February 27, 1952 concerning proposed financing Plans A, B, and C of Humble Oil and Refining Company. We agree with your tentative conclusion that Plans A and C would not be in violation of Regulation X.

"As for Plan B, we understand a bank would lend the owner-lessor 50 per cent of the cost of constructing a filling station and take a note for that amount secured by an assignment of the rentals to be paid by Humble. Humble would pay the other 50 per cent of the station's cost under a lease contract similar to that used in Plans A and C. In our opinion, the payment by Humble should not be considered credit which must be taken into consideration in determining the amount the bank could lend. As stated in footnote 18a of the regulation, however, and explained more fully in X-72, a lease such as those in question remains 'subject to' the regulation for purposes of section 4(a)(5) and the lessee must have deposited an amount at least equal to 50 per cent of the value of the leased property before a Registrant may purchase, discount or lend on such a lease. Thus, the bank is prohibited from extending any credit secured by an assignment of rentals unless

"Humble has deposited 50 per cent of the value of the property. It is not clear whether this would be done in the proposed Plan B, or whether it would be 50 per cent of the cost of construction exclusive of land. In any event, however, if Humble advances 50 per cent of the value of the leased property, or 50 per cent of the cost of construction in the case of a major addition, and the credit extended by the bank does not exceed 50 per cent of the value of the property, we believe that Plan B also would be permissible under the regulation.

"It is expected that an interpretation covering this and similar questions will soon be issued and, although the conclusions in regard to Plans A and C will be the same as yours, it is quite possible that our reasoning will differ."

Approved unanimously.

Telegram to Mr. Everson, Assistant Vice President, Federal Reserve Bank of San Francisco, reading as follows:

"Reurlet of January 7, 1952, enclosing a copy of a letter from the Northern California Regional Office of the Prudential Insurance Company of America. In answer to the question whether a prepayment of rent should be considered an extension of credit by the lessee to the lessor, on further analysis we believe the answer depends upon whether the lease is 'credit' as that term is defined in section 2 (c) of Regulation X. If the lease is 'credit', a prepayment of rent should not be considered an extension of credit, but if the lease is not 'credit', then the prepayment should be considered an extension of credit by the lessee to the lessor.

"In answer to the specific inquiry enclosed with your letter, we do not know whether the lease in question is 'credit' within the meaning of the regulation. If, after further investigation, it appears that it is, then the $50,000 payment by the lessee to finance the $75,000 major improvement should not be considered an extension of credit by the lessee to the lessor and, accordingly, it would be permissible for a Registrant to lend the remaining $25,000 of the cost.

"It is expected that an interpretation will soon be

"issued covering this and other similar questions which will state in more detail the reasons underlying this conclusion."

Approved unanimously.

Secretary.