Minutes for October 8, 1956

To: Members of the Board

From: Office of the Secretary

Attached is a copy of the minutes of the Board of Governors of the Federal Reserve System on the above date.

It is not proposed to include a statement with respect to any of the entries in this set of minutes in the record of policy actions required to be maintained pursuant to section 10 of the Federal Reserve Act.

Should you have any question with regard to the minutes, it will be appreciated if you will advise the Secretary's Office. Otherwise, if you were present at the meeting, please initial in column A below to indicate that you approve the minutes. If you were not present, please initial in column B below to indicate that you have seen the minutes.

Chm. Martin  
Gov. Szymczak  
Gov. Vardaman  
Gov. Mills  
Gov. Robertson  
Gov. Balderston  
Gov. Shepardson

A  

B
Minutes of actions taken by the Board of Governors of the Federal Reserve System on Monday, October 8, 1956. The Board met in the Board Room at 10:00 a.m.

PRESENT: Mr. Martin, Chairman
Mr. Balderston, Vice Chairman
Mr. Szymczak
Mr. Mills
Mr. Robertson
Mr. Shepardson
Mr. Sherman, Assistant Secretary
Mr. Kenyon, Assistant Secretary
Mr. Pauver, Assistant Secretary
Mr. Vest, General Counsel
Mr. Sloan, Director, Division of Examinations
Mr. Solomon, Assistant General Counsel
Mr. Hexter, Assistant General Counsel
Mr. O'Connell, Assistant General Counsel
Mr. Hostrup, Assistant Director, Division of Examinations
Mr. Thompson, Supervisory Review Examiner
Division of Examinations

Reference was made to the following draft of letter to Mr. Slade, Vice President of the Federal Reserve Bank of San Francisco, which had been circulated among the members of the Board:

This will acknowledge your letter of September 14, 1956, enclosing correspondence from Transamerica Corporation dated September 12, 1956, in which its Secretary states the Corporation's intention to apply to the Board of Governors for a determination, pursuant to section 4(c)(6) of the Bank Holding Company Act, regarding the alleged closely related activities of its "majority-owned financial, fiduciary and insurance subsidiaries".

In reference to the questions raised by Transamerica relating to the application for and hearings on such determination, your attention is directed to the Board's recent letter in response to Mr. John A. O'Kane's telegram of September 14, which letter contains statements responsive to Transamerica's
inquiry as to the information to be included in a request for determination. As to the procedural questions posed, any decision by the Board in this connection will necessarily depend upon possession by it of the information which heretofore has been indicated should be submitted with the application. Subsequent to the receipt of this information the Board will be glad to consider the questions of procedure.

Your attention in this matter, together with your offer of transmission, is appreciated.

When this file was in circulation, Governor Balderston raised a question as to whether the reply should be more directly responsive to Transamerica's inquiry concerning procedures contemplated by the Board; that is, whether there would be separate hearings on each subsidiary or on groups of subsidiaries, or whether the Board intended to consider in a single proceeding all subsidiaries of a bank holding company.

Governor Balderston stated that his question was prompted by the thought that counsel for the bank holding company should not be in a position to say later that the company could not prepare for the hearings because it did not know in which direction the Board was going to move.

In commenting on the point, Mr. Vest recalled that in the Board's letter of September 28, 1956, to Mr. O'Kane, General Counsel for the Federal Reserve Bank of San Francisco, an indication was given as to the nature of the information that should be submitted by a bank holding company in requesting a determination pursuant to section 4(c)(6) of the Bank Holding Company Act. It was the thought of the staff, he said, that when such information was available the Board would be in a position to decide
on the matter of joint or separate hearings. He also said that under the contemplated arrangement the bank holding company would be given ample time to prepare for any hearing following the initial submission of information.

Following further discussion on the basis of the statement made by Mr. Vest, the letter to Mr. Slade was approved unanimously.

There were presented telegrams proposed to be sent to the following Federal Reserve Banks approving the establishment without change on the dates indicated of the rates of discount and purchase in their existing schedules:

- Atlanta: October 1
- St. Louis: October 1
- Kansas City: October 2
- New York: October 4
- Philadelphia: October 4
- Chicago: October 4

Approved unanimously.

Messrs. Hostrup and Thompson then withdrew from the meeting.

Mr. Hexter, who had just returned from Salt Lake City, Utah, made a statement concerning developments in the proceeding against The Continental Bank and Trust Company of Salt Lake City under section 9 of the Federal Reserve Act. He said that on October 1 the Senior Judge of the Federal District Court in that city issued at the request of the member bank a temporary injunction against Mr. Emery J. Woodall, Hearing Examiner, restraining him from conducting the hearing on the ground that it would do irreparable harm to the bank to hold the public hearing.
This order was served the following day and on October 3, the day that the hearing was scheduled to begin, Mr. Woodall announced that he was under a restraining order and continued the hearing until the next day. Then an informal hearing was held before the Federal District Judge, at the end of which the Judge ruled in favor of the Board, dissolved the temporary restraining order, and dismissed the request for a permanent injunction. Counsel for Respondent then announced his intention to appeal to the Court of Appeals for the Tenth Circuit, and Special Counsel for the Board agreed to move the Hearing Examiner to postpone the hearing until October 9 in order to give Continental an opportunity to take whatever steps were necessary to enable the bank to appeal. On October 4, a hearing was held before Judge Lewis of the Court of Appeals, who resides in Salt Lake City and has his offices in that city, since the Court of Appeals was not sitting and was not scheduled to meet until the 12th of November. The next day the Circuit Judge said that, without ruling on the merits of the case with respect to either jurisdiction or substance, he was issuing a temporary restraining order against the conducting of the hearing to run until further order of the Court, but to expire in any event on November 16. Mr. Hexter went on to say that at present the Board's Special Counsel, Mr. Powell, was in Salt Lake City along with General Counsel for the San Francisco Reserve Bank but that other witnesses and counsel had returned to San Francisco and Washington. There would be a reconvening of the hearing tomorrow at which time, unless
the Board indicated to the contrary, Mr. Powell intended to move the
Hearing Examiner that the hearing be adjourned to Washington, D. C.,
at a date perhaps a week after the termination of the present injunc-
tive proceeding. He also said that Mr. Powell was considering going
to Albuquerque, New Mexico, later this week to meet with the Chief
Judge of the Court of Appeals and request that a special session of
the Court be convened before the beginning of the regular session on
November 12. Mr. Hexter doubted whether such a request would be granted
since he questioned whether a sufficient showing of emergency need could
be made.

In response to an inquiry by Governor Robertson regarding the
purpose of adjourning the hearing to Washington, Mr. Hexter said the
purpose would be to avoid the necessity of going to Salt Lake City if
it became necessary for any reason to continue the hearing further. How-
ever, if the hearing was to resume at that time, the hearing in Washington
would be simply for the purpose of adjourning to a suitable date there-
after in Salt Lake City.

Mr. Vest said that out of these developments there appeared to
arise the possibility of a considerable delay since the hearing was al-
ready stayed until November 16 unless the Court of Appeals should act
earlier. In addition, the arrangement would extend the time of the hear-
ing until seven days after final action by any court in this injunction
proceeding. That would appear to mean seven days after action by the
Supreme Court of the United States denying certiorari or on the merits, or seven days after the time had expired for an application for certiorari to the Supreme Court. In the circumstances, Mr. Vest suggested that it might be well for the Board to consider instructing the Legal Division to get in touch with Mr. Powell and say that, while the matter was left to his handling and discretion, if at all possible the matter should be set down for as early a date as possible after any restraining order had been lifted so that the Board would not be confronted with waiting for the expiration of the 90-day period allowed for filing a petition for certiorari with the Supreme Court.

After a discussion, it was agreed unanimously that the procedure suggested by Mr. Vest should be followed.

Mr. Hexter then withdrew from the meeting.

Consideration next was given to a memorandum from Mr. Vest dated October 4, 1956, copies of which had been sent to the members of the Board, submitting a draft of Statement and Order proposed to be issued by the Board in the matter of The Continental Bank and Trust Company with regard to Respondent's Motion for Production of Records and Supplemental Motion for Production of Documents and Records. The proposed Statement and Order would deny all of the various items of the two motions except for the following:

List of the last 25 banks in the United States admitted to membership in the Federal Reserve System, with copies of their balance sheets for the last few years, to
the extent available. (This would be published information, although probably not readily available in convenient form to Respondent.)

List of 25 member banks of comparable size to Respondent bank in cities with population between 150,000 and 300,000, with annual balance sheets since 1951, to the extent available. (This would be published information, although probably not readily available in convenient form to Respondent.)

List of all member banks for the examination of which George M. Walker, examiner for the Federal Reserve Bank of San Francisco, was examiner-in-charge during any of the last five years.

The memorandum pointed out that the proposed denials by the Board were based primarily on lack of relevancy, lack of specific designation of documents desired, and confidentiality of the documents desired. It also pointed out that the last paragraph of the proposed Statement would state that notwithstanding the Board's denial at this time, Respondent would not be precluded from again raising any of the matters by bringing them to the attention of the Trial Examiner on the basis of subsequent developments or testimony at the hearing.

Mr. Vest opened the discussion of the matter by saying that the staff had considered whether developments in the case suggested a delay in passing on the proposed Order. It was the feeling, however, that nothing would be gained by delaying, while on the other hand a delay might give rise to possible criticism on the part of Counsel for Respondent.

Mr. O'Connell then reviewed the nature of the motions and described the content of the proposed Statement and Order. In so doing, he discussed the grounds for denial of the various items in the two motions except as to the information referred to hereinbefore. Turning
to the third item of information proposed to be furnished, that is, the
banks for which George M. Walker had served as examiner-in-charge, Mr.
O'Connell said that the Board's legal staff had discussed the matter at
some length and felt that the information might be relevant to Respondent's
case. He said the only suggestion of privilege was that the inference
might be drawn that Mr. Walker was assigned particularly to problem banks,
and it had been ascertained from the Federal Reserve Bank of San Francisco
that such was not the case. Mr. O'Connell went on to say that in the
opinion of the staff any information that could be furnished without vio-
lating privilege or revealing matters of confidence ought to be furnished,
and the furnishing of as much information as possible would improve the
record.

After a question had been raised by Mr. Sloan regarding the fur-
nishing of the third item of information on the basis of possible damage
to the reputation of other banks through inferences that might be drawn
by Counsel for Respondent at the hearing, there ensued a discussion of
the arguments for and against complying with the request. The principal
arguments cited in favor of compliance related to the effect on the Board's
case and the general principle that the Board should furnish all available
information consistent with the reservations set forth in Mr. Vest's memo-
randum. The main argument against compliance had to do with the protection
of other System member banks from the possibility of injustice being done
to them through assertions that might be made during the course of the
hearing.
At the conclusion of the discussion, Governor Robertson stated that although he doubted the wisdom of furnishing the requested information regarding the banks examined by Mr. Walker, he did not feel that the matter was of sufficient importance to warrant his voting against the issuance of the Statement and Order in the form proposed.

Thereupon, unanimous approval was given to a Statement and Order reading as follows, with the understanding that copies would be sent to The Continental Bank and Trust Company, Counsel for the bank, Special Counsel for the Board, and the Federal Reserve Bank of San Francisco:

UNITED STATES OF AMERICA
BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

In the Matter of

THE CONTINENTAL BANK
AND TRUST COMPANY
Salt Lake City, Utah.

STATEMENT AND ORDER ON RESPONDENT'S MOTION FOR PRODUCTION OF RECORDS RELATING TO THIS PROCEEDING AND SUPPLEMENTAL MOTION FOR PRODUCTION OF DOCUMENTS AND RECORDS

On September 4, 1956, respondent, The Continental Bank and Trust Company, filed herein Motion For Production of Records Relating to This Proceeding and on September 21, 1956, Supplemental Motion For Production of Documents and Records, together with Memorandum in Support of both motions. Memorandum in Opposition to Respondent's Motion For Production of Records Relating to This Proceeding was filed herein by special counsel for the Board on September 12, 1956. The Board will dispose of respondent's motions in the order mentioned.

In the matter of the production of documents and records demanded by a party to a proceeding conducted before this Board, the Board is not required to allow the liberality of
production presently required by the Federal Rules Civil Procedure rule 34, 28 U.S.C., sec. 2072. Rule 34 may not be utilized before an administrative agency, Okun v. Kastner, 1 F.R.D. 599 (D.R.I., 1941), unless made applicable by some statute or rule. The application of the production rule is not required by any statute or rule pertinent to this matter. However, should the elements of fairness and justice dictate, the Board would not hesitate to require production similar to that available under rule 34 or any other procedural rule. In all demands such as that presently under consideration, the Board has a two-fold consideration. It must consider the interest of all parties in obtaining a hearing conducted without sacrifice of substantive or procedural rights. On the other hand, the Board must give consideration to the interests of non-parties, including other banking establishments and the public, both of which will be affected by the manner in which a proceeding of this kind is conducted. The importance of this public-interest consideration is emphasized in the Board's Rules of Organization, sec. 8(a) through (d), the effect of which is to forbid disclosure by any person, of any unpublished information of the Board to anyone, with stated exceptions, unless authorized by the Board. This discretionary responsibility is not lightly exercised. Its use, at all times, is governed by the factor which impelled its inception, namely, the public interest. A balance of the interests enumerated will determine the matters now before the Board.

Motion for Production of Records Relating to This Proceeding

Respondent's original motion called for the production of "any and all minutes, records, papers, documents, letters and memoranda contained in the files of the Board and the files of each member thereof and in the files of the Federal Reserve Bank of San Francisco, . . . ." Respondent purported to narrow its designation in paragraphs numbered 1., 2. and 3. The Board is of the opinion that the motion must be denied on several grounds. First, we do not concur in respondent's statement that "... the documents (sought) . . . are incapable of any more specific designation." The Board is referred by respondent, on the subject of designation, to "4 Moore, Federal Practice, sec. 34.07", with the statement that "The more recent cases are in accord with . . . the holdings in the Brown (Brown v. United States, 276 U.S. 134) and Consolidated Rendering (Consolidated Rendering Co. v. Vermont, 207 U.S. 541) cases." In the Brown case, supra,
the subpoena in question commanded production of letters and telegrams between specified persons during a three-year period and in reference to specific items listed. The Supreme Court sustained the validity of this subpoena with the statement, "But the form of the subpoena aside, it appears from Brown's own statement that, prior to the issue of the subpoena in question, a subpoena duces tecum had been directed and served upon him personally, commanding him to produce the same documents, and that in answer thereto he had appeared before the grand jury with them . . . . Having produced them once without difficulty and without undue interference with the affairs of the association, so far as appears, there is no reason why he should not produce them again in response to another subpoena identical in terms." In the Consolidated Rendering Co. case, supra, the notice to produce requested such books or papers as related to specified dealings, between named parties, from January, 1904, to October, 1906. The notice also gave in detail the dates and amounts of checks and vouchers which the Company was required to produce. The Board does not find its position in conflict with the Court's statements on adequacy of designation when those statements are read in light of the facts to which they were applied. Further, in reading the cases cited in 4 Moore Federal Practice, sec. 34.07, previously referred to, we find further support for our conclusion as to the insufficiency of respondent's demand. In United States v. United States Alkali Export Assn., Inc., 7 F.R.D. 256 (D.C. N.Y. 1946), the Court, in defining the scope of the "designation" requirement of the Federal Rules discovery provision, states:

"Most of the decided cases, including those of this district, seem to hold that Rule 34 requires that each document sought to be produced must be designated specifically with reasonable particularity. A request for all documents in the possession of an adverse party relating to a particular matter is not sufficiently specific to come within the requirement of Rule 34."


Further, in respect to the demand made by respondent in its paragraph numbered 1., the Board finds the material demanded to be irrelevant in all respects to the proceedings instituted, inasmuch as the Notice of Institution of Proceeding and of Hearing Therein, signed by the Board's Secretary, and properly sealed, is prima facie evidence of the vote of the Board, beyond which respondent may not inquire. In reaching this conclusion, the Board agrees with the statement by its special counsel in this connection, found at pp. 4 and 5 of his Memorandum in Opposition, and supported by a similar conclusion reached in the Matter of Berkshire Knitting Mills, 37 N.L.R.B. 926, holding that a subpoena duces tecum will not be issued for the production of documents to determine motives for filing of charges before the N.L.R.B., such motives, if any, being irrelevant to the proceedings. The demands made in paragraphs numbered 2. and 3. of respondent's motion fail for lack of specific designation, as previously explained. "'Designated' documents, etc., are those which can be identified with some degree of particularity. It was surely not intended . . . to permit a roving inspection of a promiscuous mass of documents thought to be in the possession, custody and control of the opposing party." Kenealy v. Texas Co., 29 F. Supp. 502, 503. In addition to the foregoing reasons for refusing production of the materials demanded, the Board holds, in respect to the information demanded in paragraph numbered 2., in the absence of proper designation and specificity, and subject to the provisions of the last paragraph of this Statement, that the information demanded is confidential, and thus, on the grounds of privilege, not susceptible to demand for production. Our reasons for so holding are fully set forth, infra, in connection with respondent's Supplemental Motion for Production.

For the foregoing reasons, respondent's Motion for Production will be denied.

Supplemental Motion for Production of Documents and Records

Respondent's paragraph numbered 1. of its Supplemental Motion for Production of Documents and Records demands the Board produce a "list of all banks in the United States stating their names and addresses, whose capital account (net capital and surplus funds) has been considered to be inadequate in relation to the character
and condition of their assets and to their present and prospective deposit liabilities and other corporate responsibilities . . . within the last ten years, or such shorter period as for which the records are available . . . ." In respect to each of these banks, respondent further demands copies of balance sheets for each of the past ten years; copies of "annual operating ratios" for the same years; copies of ratios of losses on loans and investments for each such bank for the same years and finally, as to each bank, disclosure in respect to twelve specific matters intimately connected with their financial structure, management functions and fiscal policies. Paragraph numbered 2. demands a "list of all banks in the United States, stating names and addresses, whose applications for membership in the Federal Reserve System have been denied for inadequacy of capital within the last ten years, or such shorter period as the records may be available, . . . ." In respect to each of these banks, demands are made for information similar to, but somewhat more limited in scope than that demanded in paragraph numbered 1., as enumerated, supra.

Paragraphs numbered 1. and 2. of respondent's Supplemental Motion for Production escape, for the most part, the defense of lack of designation and specificity to which its original motion was subject. However, the information which is the object of designation, is of such nature as to wholly fall within the class of unpublished, confidential information which, under secs. 8(a) and (c) of the Board's Rules of Organization, may not be disclosed except as authorized by said Rules of Organization. The information sought is clearly related to

"Sec. 8 . . .

"(c) . . .

"(1) Examinations, investigations, inspections, or reports of any particular bank . . .", and

"(2) Proceedings in connection with the consideration of . . . (iii) the granting or termination of membership in the Federal Reserve System, . . . (vi) the granting or termination of permission or authority in other cases in which public hearing is not required by statute or Board regulations.

"(3) . . .

"(4) Relations between the Board and any Federal Reserve Bank, . . ., and internal operations of the Board or any Reserve Bank, including, among other things, any matters of administration."
In sec. 8(d) of its Rules of Organization, the Board sets forth the reasons for non-disclosure of unpublished information. In that section, there are stated specific functions of the Board which, in the public interest, must be performed by and through the Board. Of these, particularly involved in the Board's determination of non-disclosure of the information demanded in respondent's paragraph numbered 1., are the investigating, examining and information-gathering functions, and appropriate safeguarding of information regarding such functions. As set forth in sec. 8(d), improper disclosure of such information would "... (iii) Unreasonably and unnecessarily disturb and interfere with individual privacy and confidential business relations; ... (v) Impede the Board's necessary collection of information and advice, much of which cannot be obtained except on a confidential and voluntary basis; and (vi) Cause misinterpretations and misunderstandings as to the Board's policies and purposes, and as to the status of particular financial institutions, with resulting ... impairment of public confidence in individual institutions or in the nation's financial structure." Production of the materials requested by respondent would, in the opinion of the Board, bring about each of the aforementioned harmful results. This conclusion is sufficient basis for the Board's action. However, additional support is found in the language of the United States Court of Appeals for the District of Columbia in Bank of America Nat. Trust & Savings Ass'n. v. Douglas et al., 105 F.2d 100. In that case, plaintiff, a national bank and member of the Federal Reserve System, brought suit to prevent members of the Securities and Exchange Commission from making public disclosure, during hearing, of the reports of bank examiners made to the Comptroller of the Currency with reference to plaintiff bank, and subsequently furnished to the Commission in connection with an investigation of a different bank. After deciding the act of the Secretary of the Treasury in furnishing the Commission with the reports of the bank examiners "was not inconsistent with law," the court turned to the question of whether such information should be used by the Commission only for the purpose of its investigation and inquiry, or whether the information should be subsequently introduced in evidence or otherwise made public. In this connection, the Court stated:

"According to a practice of long standing, the reports of bank examiners made to the Comptroller have been considered as private, and access to them for use by other government officials has been granted only in tax investigations and criminal prosecutions . . . ."

"Other instances to show that by unbroken custom reports of bank examiners have been regarded as privileged
are (1) the testimony of Chairman Douglas of the Commission in the hearings on the Barkley bill, to the effect that examiners' reports ought not to be made public; (2) the testimony of the Comptroller in the Pujo investigation that the reports of examiners had always been regarded as confidential; (3) legislation on the subject, where in each instance in which the rule was modified, Congress recognized the necessity of effecting it by express language even as to those agencies and instrumentalities authorized to deal with banks. And to all of this may be added the uncontradicted testimony that examiners' reports had never at any previous time been publicly used in any civil proceeding.

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"... As we have already pointed out, the unbroken administrative practice of the Secretary and the Comptroller, as well as the course of Congressional legislation, manifests a fixed purpose to confine the outside use of such information to criminal prosecutions, tax suits, and the like. And this is true because of the nature of banking, as to which, by universal recognition, public confidence is essential. The plenary power of the Comptroller over the conduct of the business and affairs of banks always has been considered ample to assure reasonable protection to depositors and the public.

"And so, as we think, while it must be decided that the Secretary was authorized to deliver the reports, their use should be confined to an investigation of the charges in proper proceedings by the Commission in the discharge of its duties under the Act. And this the Commission now assures us is the length and breadth of the purpose it has in mind. It says that it does not desire or intend to introduce the reports in evidence and that it will not make them public by any other means. This assurance we accept as conclusive of this branch of the case, and relying upon it we hold that the Commission may use the information at hand in preparation for the hearing and to aid it in obtaining the evidence believed by it to be necessary and proper in the hearing on its notice to Transamerica to show cause why its registration statement should not be suspended."
The Board has previously made reference to the interests requiring consideration in our deliberations. In particular, we must consider the interest of respondent in having available to it all relevant material reasonably calculated to assist in the conduct of its case, and also the interests of non-parties, including other banking establishments and the public, giving to each appropriate weight under the circumstances. This, the Board feels, it has done. The reasoning of the Board in reaching its decision in this matter has been well expressed by Lord Chancellor Simon of the English House of Lords in Duncan v. Cammell, Laird & Co., (1942) A.C. 624, 642, when, in discussing the nature and conditions of the privilege to withhold production of official documents on grounds of public interest, he stated: "When these conditions are satisfied and the minister feels it his duty to deny access to material which would otherwise be available, there is no question but that the public interest must be preferred to any private consideration."

In addition to the foregoing reasons requiring the Board's refusal to produce the information requested in paragraphs numbered 1. and 2., the Board is of the opinion that, in view of the issues of fact suggested by the Notice of Institution of Proceeding and of Hearing Therein, and the Statement of Particulars with Respect to Legal Authority and Jurisdiction and Matters of Fact and Law Asserted, filed herein on August 30, 1956, the information demanded is irrelevant to any issue involved in this matter. The information demanded in paragraphs numbered 1. and 2., has no bearing on the questions raised concerning respondent's condition, such questions having been raised on the basis of the fact set forth and referred to in the Notice and Statement. Further, the Board will be required, as any other litigant, to substantiate its inquiry during hearing. At that time, respondent will have ample opportunity to challenge the basis of the Board's inquiry, as it is then presented. The course of presentation adopted by the Board's representatives during hearing may suggest the relevancy of portions of the information demanded in paragraphs numbered 1. and 2. If so, upon such showing, the matter will then be properly addressed to the attention of the trial examiner. At the present time, no good cause being shown, and failing a showing of relevancy, the demands made in paragraphs numbered 1. and 2. are denied.

Respondent's paragraph numbered 3. demands production of a "list of all banks in the United States, stating their names and addresses, whose applications for membership in the Federal Reserve
System have been approved by the Board of Governors within the last ten years, or such shorter period as the records may be available, such approval being made on condition that the capital of such applicant be increased, . . . ."

In addition, as to these banks, respondent demands copies of the balance sheet of each for named years; copies of "annual operating ratios" for each such bank for the same period; statement as to the amount of capital increase required, the time allowed and method used for such increase, and a statement of such other conditions of membership as the Board may have imposed. The Board declines to furnish the information demanded in said paragraph numbered 3., for the reason that, despite the general statement of "good cause and scope of inquiry" contained in respondent's memorandum in support of this motion, the Board holds that, in fact, respondent has failed to establish the relevancy of the materials demanded to any issue of fact or law raised in this proceeding. Our earlier statement as to a possible showing of relevancy is equally applicable here. Moreover, the materials, as described, are of a confidential nature, consisting of unpublished information in the Board's possession, which, for the reasons set forth at length in response to the demands in paragraphs numbered 1. and 2., should not be made public, and thus, on the grounds of privilege, are not susceptible to demand for production.

Paragraph numbered 4. demands a "list of the last twenty-five banks in the United States, or such lesser number with respect to which the records are available, stating names and addresses, which were admitted to membership in the Federal Reserve System, . . . ." In addition, sub-paragraphs (a), (b), (c) and (d) demand, as to these twenty-five banks, detailed information of a nature similar to that demanded in paragraphs numbered 1., 2. and 3. As to the names and addresses of the last twenty-five banks admitted to membership in the Federal Reserve System, together with copies of the balance sheets of each such bank for each of the past ten years, or for such years as available, such data is published information available to the public generally, including respondent, thus not requiring production pursuant to this demand. However, it appearing that this information can possibly be compiled with greater facility and speed by the Board than by respondent, compilation of the information requested in paragraph numbered 4., with the exception of sub-paragraphs lettered (b), (c) and (d), has been ordered for the years since such banks were admitted to membership in the Federal Reserve System, and will be forwarded to respondent upon completion. (In this connection it has been assumed that respondent's Demand
refers to State member banks of the Federal Reserve System.) As to sub-paragraph lettered (a), the information therein requested is available in the materials requested in sub-paragraph lettered (a). The Board is of the opinion that the information demanded in sub-paragraphs lettered (b) and (c) of paragraph numbered 4, not being published information, and being of such nature as to require its being held in confidence, for the reasons previously given in connection with withholding privileged materials, are not susceptible to demand for production.

In respect to respondent's paragraph numbered 5, demanding a "list of all matters now pending before or under consideration by the Board of Governors relating to the adequacy of capital of member banks, . . . .", together with a demand for further detailed information set forth in sub-paragraphs lettered (a), (b), (c) and (d), the demands of said paragraph, and said sub-paragraphs thereof, are denied. The Board's refusal to furnish this information follows from its conclusion, reached after study of the demand and memorandum in support thereof, that "good cause" for such production is not shown, nor, in the opinion of the Board, is such information relevant to any issue raised. Further, the information demanded is privileged for the same reason and to the same extent as discussed in our rulings on demands numbered 1. through 4. In Heiner v. North American Coal Corp., 3 F.R.D. 63 (W.D. Pa., 1942), the Court succinctly stated the conditions precedent to the production of materials, which conditions the Board fails to find existing here. The Court stated:

"... (the applicant) must show good cause for the order, must designate the documents desired, and must show that they are not privileged and are material to any matter involved in the action."

The Board finds respondent's paragraph numbered 5, wholly deficient in regard to such requirements.

In respect to respondent's paragraph numbered 6, and in particular, the demand for a "list of twenty-five member banks of comparable size to respondent bank and located in communities whose population range between 150,000 and 300,000, . . . .", and respondent's sub-paragraph lettered (d) calling for the balance sheets as of December 31 for each of such banks for the past ten years, or such shorter period as the records may be available, such material is published information and is available
from several sources including the Rand McNally International Bankers Directory. However, for the reasons given in responding to the demands made in paragraph numbered 4., the Board has ordered prepared a list of approximately twenty-five member banks, whose deposits are comparable in volume to respondent bank and located in communities with populations ranging approximately between 150,000 and 300,000. In addition, copies of the balance sheets for each such bank as of December 31 for each year, since 1951, for which records are available, together with the list of banks, will be forwarded to respondent upon completion. As to the demand contained in sub-paragraph (a), for a breakdown of size of deposits by percentages, this information is not in the Board's possession. Furthermore, if available, such information would be unpublished information and, as such, privileged and, for the reasons previously given in connection with withholding privileged materials, not susceptible to demand for production. The demands contained in sub-paragraph (b), for the ratio of time deposits to total deposits, sub-paragraph (c), for a distribution of bonds by maturities, sub-paragraph (e), for copies of the annual operating ratios for each of these banks, and sub-paragraph (f), for the dollar amount of loans classified at the last examination as specially mentioned; substandard, doubtful or loss, are refused on the grounds that the information demanded, in relation to the banks specified, is irrelevant to any issue now presented in this matter. The course of presentation adopted by the Board's representatives during hearing may suggest the relevancy of portions of the information demanded. If so, upon such showing, the matter will then be properly addressed to the attention of the Trial Examiner. However, the demand must fail for the additional reason that, the materials listed being unpublished information, for the reasons previously given, it is not susceptible to demand for production.

In response to respondent's demand numbered 7. for a "list of all member banks, showing names and addresses, of which George M. Walker was the examiner in charge during any of the last five years", the Board has ordered that a list containing this information be prepared and forwarded to respondent.

The denial by the Board of any demand for production made by respondent in either motion here under consideration, on grounds of lack of relevancy or on grounds of privilege or confidentiality of the subject matter, is without prejudice to the right of the respondent at a later time in the hearing to submit any particular question to the Trial Examiner if the respondent is in a position to show, by reason of subsequent developments or testimony in the hearing or otherwise, a necessity for further reconsideration of any such matter.
ORDER

For the reasons set forth in the foregoing statement, IT IS ORDERED,

1. That respondent's Motion for Production of Records Relating to This Proceeding be and the same hereby is denied.

2. That respondent's Supplemental Motion for Production of Documents and Records be and the same hereby is denied in part and granted in part, as follows:

The demands for production contained in paragraphs numbered 1., 2. and 3. are denied. The demands for production contained in sub-paragraphs lettered (b), (c) and (d) of paragraph numbered 4. are denied. The remaining demands of paragraph numbered 4. are granted to the extent indicated above in the Board's Statement. The demands for production contained in paragraph numbered 5. are denied. The demands for production contained in sub-paragraphs lettered (a), (b), (c), (e) and (f) of paragraph numbered 6. are denied. The remaining demands of paragraph numbered 6. are granted to the extent indicated above in the Board's Statement. The demand for production contained in paragraph numbered 7. is granted.

This 8th day of October, 1956.

By order of the Board of Governors.

(signed) Merritt Sherman
Merritt Sherman, Assistant Secretary

(SEAL)

Washington, D. C.
October 8, 1956.

All of the members of the staff except Messrs. Sherman, Kenyon, and Fauver then withdrew from the meeting.
Pursuant to the understanding at the meeting on October 1, 1956, there had been sent to the members of the Board copies of a memorandum from Mr. Fauver dated October 5 giving the names of Federal Reserve Bank Class C directors and Board-appointed Federal Reserve Bank branch directors whose terms were to expire at the end of 1956 and who would be eligible for reappointment under the Board's current policy relating to length of service of directors.

After a discussion, the following persons were reappointed by unanimous vote as Class C directors of the respective Federal Reserve Banks indicated, each for a term of three years beginning January 1, 1957:

<table>
<thead>
<tr>
<th>Name</th>
<th>Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>James R. Killian, Jr.</td>
<td>Boston</td>
</tr>
<tr>
<td>Lester V. Chandler</td>
<td>Philadelphia</td>
</tr>
<tr>
<td>Alonzo G. Decker, Jr.</td>
<td>Richmond</td>
</tr>
<tr>
<td>Harllee Branch, Jr.</td>
<td>Atlanta</td>
</tr>
<tr>
<td>J. Stuart Russell</td>
<td>Chicago</td>
</tr>
<tr>
<td>Leslie N. Perrin</td>
<td>Minneapolis</td>
</tr>
<tr>
<td>Oliver S. Willham</td>
<td>Kansas City</td>
</tr>
<tr>
<td>Hal Bogle</td>
<td>Dallas</td>
</tr>
<tr>
<td>A. H. Brawner</td>
<td>San Francisco</td>
</tr>
</tbody>
</table>

The following persons were reappointed by unanimous vote as directors of the respective Federal Reserve Bank branches indicated, each for a term of three years beginning January 1, 1957:

<table>
<thead>
<tr>
<th>Name</th>
<th>Branch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anthony Haswell</td>
<td>Cincinnati</td>
</tr>
<tr>
<td>Theodore E. Fletcher</td>
<td>Baltimore</td>
</tr>
<tr>
<td>William H. Grier</td>
<td>Charlotte</td>
</tr>
<tr>
<td>Adolph Weil, Sr.</td>
<td>Birmingham</td>
</tr>
<tr>
<td>McGregor Smith</td>
<td>Jacksonville</td>
</tr>
<tr>
<td>Frank B. Ward</td>
<td>Nashville</td>
</tr>
<tr>
<td>E. E. Wild</td>
<td>New Orleans</td>
</tr>
</tbody>
</table>
The following persons were reappointed by unanimous vote as directors of the respective Federal Reserve Bank branches indicated, each for a term of two years beginning January 1, 1957:

<table>
<thead>
<tr>
<th>Name</th>
<th>Branch</th>
</tr>
</thead>
<tbody>
<tr>
<td>J. Thomas Smith</td>
<td>Detroit</td>
</tr>
<tr>
<td>T. Winfred Bell</td>
<td>Little Rock</td>
</tr>
<tr>
<td>David F. Cocks</td>
<td>Louisville</td>
</tr>
<tr>
<td>John D. Williams</td>
<td>Memphis</td>
</tr>
<tr>
<td>D. F. Stahmann</td>
<td>El Paso</td>
</tr>
<tr>
<td>Clarence E. Ayres</td>
<td>San Antonio</td>
</tr>
<tr>
<td>Carl McFarland</td>
<td>Helena</td>
</tr>
<tr>
<td>Ray Reynolds</td>
<td>Denver</td>
</tr>
<tr>
<td>Phil H. Lowery</td>
<td>Oklahoma City</td>
</tr>
<tr>
<td>Manville Kendrick</td>
<td>Omaha</td>
</tr>
<tr>
<td>Charles Detoy</td>
<td>Los Angeles</td>
</tr>
<tr>
<td>William H. Steiwer, Sr.</td>
<td>Portland</td>
</tr>
<tr>
<td>Geo. W. Watkins</td>
<td>Salt Lake City</td>
</tr>
</tbody>
</table>

The foregoing actions were taken with the understanding that in each case the appointment was made subject to a check by Chairman Martin with the Chairman of the Federal Reserve Bank concerned and that announcement of the appointments would not be made by the Board until such time as the check had been completed.

The members of the staff then withdrew and the Board went into executive session.

The Secretary's Office later was informed by the Chairman that during the executive session the following actions were taken:

The following persons were designated as Chairmen and Federal Reserve Agents at the Federal Reserve Banks.
indicated for the year 1957 and the compensation of each as Chairman and Federal Reserve Agent was fixed on the uniform basis for the same position at all Federal Reserve Banks, i.e., the same amount as the aggregate of the fees payable during the same period to any other director for attendance corresponding to his at meetings of the board of directors, executive committee, and other committees of the board of directors:

<table>
<thead>
<tr>
<th>Name</th>
<th>Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>Robert C. Sprague</td>
<td>Boston</td>
</tr>
<tr>
<td>William J. Meinel</td>
<td>Philadelphia</td>
</tr>
<tr>
<td>Arthur E. Van Buskirk</td>
<td>Cleveland</td>
</tr>
<tr>
<td>John B. Woodward, Jr.</td>
<td>Richmond</td>
</tr>
<tr>
<td>Walter M. Mitchell</td>
<td>Atlanta</td>
</tr>
<tr>
<td>Bert R. Prall</td>
<td>Chicago</td>
</tr>
<tr>
<td>Leslie N. Perrin</td>
<td>Minneapolis</td>
</tr>
<tr>
<td>Raymond W. Hall</td>
<td>Kansas City</td>
</tr>
<tr>
<td>Robert J. Smith</td>
<td>Dallas</td>
</tr>
<tr>
<td>A. H. Brawner</td>
<td>San Francisco</td>
</tr>
</tbody>
</table>

The following persons were appointed as Deputy Chairmen of the Federal Reserve Banks indicated for the year 1957:

<table>
<thead>
<tr>
<th>Name</th>
<th>Bank</th>
</tr>
</thead>
<tbody>
<tr>
<td>James R. Killian, Jr.</td>
<td>Boston</td>
</tr>
<tr>
<td>Henderson Supplee, Jr.</td>
<td>Philadelphia</td>
</tr>
<tr>
<td>Alonzo G. Decker, Jr.</td>
<td>Richmond</td>
</tr>
<tr>
<td>Harllee Branch, Jr.</td>
<td>Atlanta</td>
</tr>
<tr>
<td>J. Stuart Russell</td>
<td>Chicago</td>
</tr>
<tr>
<td>Caffey Robertson</td>
<td>St. Louis</td>
</tr>
<tr>
<td>O. B. Jesness</td>
<td>Minneapolis</td>
</tr>
<tr>
<td>Joe W. Seacrest</td>
<td>Kansas City</td>
</tr>
<tr>
<td>Hal Bogle</td>
<td>Dallas</td>
</tr>
<tr>
<td>Y. Frank Freeman</td>
<td>San Francisco</td>
</tr>
</tbody>
</table>

It was agreed to request Chairman Alexander of the Federal Reserve Bank of St. Louis to ascertain and advise whether
Mr. Ethan A. H. Shepley, Chancellor of Washington University, St. Louis, Missouri, would accept appointment, if tendered, as Class C director of the St. Louis Reserve Bank for the three-year term beginning January 1, 1957, with the understanding that if he would accept, the appointment would be made, that Mr. Shepley would be designated as Chairman and Federal Reserve Agent of the Bank for the year 1957, and that his compensation would be fixed on the same basis as for the same position at other Federal Reserve Banks.

It was also agreed to request Chairman Virden of the Federal Reserve Bank of Cleveland to ascertain and advise whether Mr. Joseph H. Thompson, President of The M. A. Hanna Company, Cleveland, Ohio, would accept appointment, if tendered, as Class C director of the Cleveland Reserve Bank for the three-year term beginning January 1, 1957, with the understanding that if he would accept, the appointment would be made.

In addition, the Secretary's Office was informed by Governor Shepardson that during the executive session the Board approved the following salary increases for members of the senior staff, effective October 8, 1956:

<table>
<thead>
<tr>
<th>Name and title</th>
<th>Basic annual salary</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winfield W. Riefler, Assistant to the Chairman</td>
<td>$16,000 $18,000</td>
</tr>
<tr>
<td>Woodlief Thomas, Economic Adviser to the Board</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>Elliott Thurston, Assistant to the Board</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>S. R. Carpenter, Secretary</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>George B. Vest, General Counsel</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>Ralph A. Young, Director, Division of Research</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>and Statistics</td>
<td></td>
</tr>
<tr>
<td>Arthur W. Marget, Director, Division of International Finance</td>
<td>16,000 17,000</td>
</tr>
<tr>
<td>George S. Sloan, Director, Division of Examinations</td>
<td>16,000 17,000</td>
</tr>
<tr>
<td>R. F. Leonard, Director, Division of Bank Operations</td>
<td>16,000 18,000</td>
</tr>
<tr>
<td>Edwin J. Johnson, Controller, and Director, Division of Personnel Administration</td>
<td>14,000 15,500</td>
</tr>
<tr>
<td>L. P. Bethea, Director, Division of Administrative Services</td>
<td>14,000 15,000</td>
</tr>
</tbody>
</table>
The meeting then adjourned.

Secretary's Note: Governor Szymczak, acting as alternate to Governor Shepardson, approved on behalf of the Board on October 5, 1956, the following actions relating to the Board's staff which had been recommended in memoranda from appropriate individuals concerned:

Appointments, effective as of the respective dates of assuming duties

Edna L. Stoll, as Records Clerk in the Office of the Secretary, with basic salary at the rate of $3,415 per annum.

Robert A. Ferris, as Elevator Operator in the Division of Administrative Services, on a temporary basis for a period of six months, with basic salary at the rate of $2,600 per annum.

Eleanor Wilson Yates, as Cafeteria Helper in the Division of Administrative Services, on a temporary basis for a period of two months, with basic salary at the rate of $2,600 per annum.

Salary increases, effective October 7, 1956

<table>
<thead>
<tr>
<th>Name and title</th>
<th>Division</th>
<th>Basic annual salary From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verna P. Ryon, Secretary 1/</td>
<td>Legal</td>
<td>$3,805</td>
<td>$4,080</td>
</tr>
<tr>
<td>C. Lavon Watson, Clerk</td>
<td>Research and Statistics</td>
<td>3,600</td>
<td>3,755</td>
</tr>
<tr>
<td>Wilhelmina K. Steele, Operator, Operator, Key Punch 2/</td>
<td>Administrative Services</td>
<td>2,600</td>
<td>3,175</td>
</tr>
</tbody>
</table>

1/ Title changed from Stenographer.

2/ Title changed from Elevator Operator for a period of six months from October 7, 1956.