Minutes for September 7, 1962

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, please initial below. If you were present at the meeting, your initials will indicate approval of the minutes. If you were not present, your initials will indicate only that you have seen the minutes.

Chm. Martin
Gov. Mills
Gov. Robertson
Gov. Balderston
Gov. Shepardson
Gov. King
Gov. Mitchell
Money market review. Mr. Bernard commented on developments in the Government securities market, including the market reaction to the terms of the advance refunding recently announced by the Treasury. In this connection there were distributed (a) a maturity schedule of marketable U. S. Government securities held by the public as of July 31, 1962, exclusive of regular bills, and (b) a statement of securities eligible for advance refunding and securities offered in

1/ Withdrew from meeting at point indicated in minutes.
exchange. There was also distributed a summary of monetary developments during the five weeks ended September 5, 1962.

The money market review concluded with a report on credit developments by Mr. Eckert.

All of the members of the staff except Messrs. Sherman and Kenyon then withdrew from the meeting.

Discount rates. The establishment without change by the Federal Reserve Banks of New York, Philadelphia, Cleveland, Richmond, St. Louis, Kansas City, Dallas, and San Francisco on September 6, 1962, of the rates on discounts and advances in their existing schedules was approved unanimously, with the understanding that appropriate advice would be sent to those Banks.

Blood Donor Program. Governor Shepardson referred to a communication from the Red Cross indicating that the Board had gone above its quota in the Blood Donor Program and that it was among the agencies to which certificates of recognition would be presented. It was suggested, and agreed, that John C. Brennan, Chairman of the Board's Blood Donor Program, should receive the certificate of recognition on behalf of the Board.

Messrs. Powell and Chase, Counsel to the Board in the matter of The Continental Bank and Trust Company, Salt Lake City, entered the room at this point, along with Mr. Shay, Assistant General Counsel, and Messrs. Solomon, Director, and Leavitt, Assistant Director, Division of Examinations.
Continental Bank and Trust Company (Item No. 1). Governor Robertson requested that the record show that although he would remain in the room during the following discussion of a matter relating to the administrative proceeding against Continental Bank and Trust Company, he would not participate in the discussion or in any action taken by the Board, in accordance with his long-standing position of having withdrawn from participation in the proceeding.

Pursuant to the action of the Board on August 29, 1962, Mr. O'Connell of the Board's staff had been designated by the Board to confer with Mr. Kenneth J. Sullivan, President of Continental Bank and Trust Company, with regard to the verbal proposal that Mr. Sullivan had submitted through President Swan of the Federal Reserve Bank of San Francisco as a possible basis for settlement of the current administrative proceeding against Continental. Mr. O'Connell thereafter proceeded to Salt Lake City for discussion with Mr. Sullivan, the latter's illness having made it impossible for him to meet with Mr. O'Connell in San Francisco. Following such discussion, Mr. O'Connell had been authorized by Mr. Sullivan to communicate verbatim a letter from Mr. Sullivan addressed to the Board under date of September 6, 1962, and to state that the same was submitted to the Board of Governors as the submission of Mr. Sullivan. The letter, which was transmitted by telephone, had been transcribed, and copies had been distributed to the Board prior to this meeting.
In his letter Mr. Sullivan stated that he had been furnished a copy of the memorandum prepared by President Swan under date of August 18, 1962, covering the essential phases of Mr. Sullivan's verbal proposal. After informal discussion with Mr. O'Connell and Mr. Ahlf of the Federal Reserve Bank of San Francisco in connection with some of the specific details of the proposal, and as clarification of these items, Mr. Sullivan submitted the following:

At the outset, let me assure you that the proposal as outlined by Mr. Swan is essentially and basically correct as it was offered by me and that the essential objectives of the proposed plan have been discussed informally by me with our Board of Directors and have the informal approval of that Board of Directors and, further, it is my opinion that if the Board of Governors indicates its informal approval to this plan, the plan will be formally approved by the Board of Directors of this bank and it is my opinion that upon the recommendation of the Board of Directors of this bank the majority stockholders will approve the over-all plan, including approval for increasing the capital stock of our bank as outlined in the proposal.

In connection with the availability of funds from the Paramount Life Insurance Company of Texas, I wish to advise the Board that the Trustees under date of February 15, 1961, agreed that they would take certain action "unless and until the Trust is terminated as provided in section 6(b)" of the Original Trust Agreement, and that the Trustees will take such steps as are necessary to liquidate the corporation and concurrently therewith terminate this Trust and in accordance with the terms of said Trust, the Trustees shall thereafter pay all funds received in liquidation over to the bank for the benefit of its shareholders in accordance with the terms of said Trust Agreement. It is the bank's opinion that the action outlined above is entirely consistent with the original terms of the Trust and the Agreement offered by the Trustees under date of February 15, 1961, and is entirely consistent with the position taken by the Board of Governors in its letter under date of January 23, 1961.
As of June 30, 1962, the bank's buildings are carried on the bank's books at $1,552,000. It is recognized that management may decide, in the near future, to obtain approval for a new branch, which matter normally involves some additional investment in fixed assets. It is also recognized that it is undoubtedly necessary and desirable for the management of this bank to install adequate air conditioning in the non-bank premises of the building in order to maintain its available rental space on a reasonably competitive basis. It will be my recommendation that our Board of Directors agree that during the next 3-year period the investment in bank buildings be limited to a figure not to exceed $1,750,000, subject only to the possibility that this figure may be exceeded if found necessary and desirable, provided that for the total dollar amount by which the investment figure may exceed $1,750,000, there will be an equal amount available in the adjusted capital account over and above the sum of $6,500,000.

It is specifically understood and agreed that such dividends as will be paid from the affiliated companies will be paid only from available cash in such companies and without any write-up on the bank's books of its investment in such affiliates.

In conclusion, let me state that it is my opinion that the examination reports of our bank over a period of the last few years indicate a continuing improvement in asset condition and I wish to assure the Board of Governors that the Board of Directors of our bank has a constant goal of continuing to improve the asset condition of our bank, and that management is making strong efforts to improve net earnings so as to show a continued improvement in the capital structure through net retained earnings.

This morning there had been received by phone from Mr. O'Connell a revised version of the letter from Mr. Sullivan. The changes were of a grammatical nature, except that the following paragraph had been substituted for the pertinent paragraph in the letter previously distributed to the Board:

As of June 30, 1962, the bank buildings are carried on the bank's books at $1,552,000.00. It is recognized that management may desire, in the future, to obtain approval
for a new branch, which matter normally involves some additional investment in fixed assets. It is also recognized that it is undoubtedly necessary and desirable for the management of this bank to install adequate air conditioning in the non-bank premises of the building in order to maintain its available rental space on a reasonably competitive basis. It will be my recommendation that our Board of Directors agree that during the next three-year period, except for some unusual and unforeseen circumstances, the investment in bank buildings be limited to a figure not to exceed $1,750,000.00.

In response to an inquiry by Chairman Martin, Mr. Powell confirmed that he had received copies of the original and revised versions of Mr. Sullivan's letter.

Chairman Martin then stated that the Board would like to have any comments Mr. Powell might wish to make at this point.

Mr. Powell replied that it seemed to him, basically, that all Mr. Sullivan's letter did was confirm the fact that he had made the proposal previously reported by Mr. Swan. That proposal, as communicated by President Swan, had been discussed at the meeting of the Board and Board Counsel on August 29, 1962.

Mr. Powell went on to say that the September 6 letter did not in any way increase the offer or make it any more attractive in substance. Mr. Sullivan did say that he had discussed the objectives of the offer informally with his Board of Directors, which Mr. Powell noted was made up almost entirely of the bank's officers and was not an independent board of directors. Mr. Sullivan did not indicate to what extent he had discussed the details of the offer with the Board
of Directors or whether he had informed the three principal shareholders of the bank (members of the Cosgriff family) about the proposal. In his letter Mr. Sullivan dealt with the use of the proceeds of liquidation of the life insurance company, but in Mr. Powell's view this was not an important phase of the matter. He had assumed that those funds would be available in some manner. The letter, he noted, did put the Board on notice that Mr. Sullivan would recommend to the Board of Directors that it agree that during the next three-year period the bank's investment in bank premises would be limited to an increase of about $200,000. This was with the caveat, however, that nothing unusual or unforeseen developed that might make it desirable to spend more on fixed assets. In view of that caveat, the limitation was left wide open.

Mr. Powell said he thought Mr. Chase shared his view that basically Mr. Sullivan's letter was simply a confirmation of the fact that Mr. Sullivan did make the proposal that President Swan said he made. On that basis the comments Mr. Powell had made to the Board previously would still obtain.

Mr. Powell then stated that he thought the greatest assistance he might give to the Board at this point would be to aid it in an evaluation of the merit, or lack of merit, of Mr. Sullivan's proposal. Perhaps the best way to proceed would be for him to summarize the nature of certain evidence that was to be presented by Board witnesses
at the show cause hearing scheduled to begin September 10, 1962; that is, to indicate what the evidence would show regarding the bank's capital requirements and how Mr. Sullivan's proposal for the addition of $1,111,000 of new capital funds would affect the situation.

First, there were the ratios and formulas that the Board had recognized as useful in appraising a bank's capital requirement. The so-called primary risk asset ratio was the only one based wholly on published information, as contained in reports of condition. As of year-end 1961, Continental's capital was 10.5 per cent of its primary risk assets, which compared with an average figure for member banks in the Twelfth District of 15.9 per cent. On the basis of the June 30, 1962, report of condition, the additional capital proposed by Mr. Sullivan would result in a ratio of only 10.8 per cent. (Between the date of the most recent examination of Continental (January 8, 1962) and mid-year, Continental's risk assets had increased substantially.) Continental's primary risk asset ratio at year-end 1961 was based on an average of the entire year 1961 to smooth out any seasonal fluctuations from quarter to quarter that might be reflected in reports of condition, whereas the June 30 computation was based on the mid-year call report only. Continental's ratios could be compared with a median year-end ratio of 13.3 per cent for 200 banks in the same size group as Continental. It would have required $2,315,000 of additional capital as of June 30 to bring Continental up to the median. Of the banks in its size group, Continental ranked 194 as
of year-end 1961; with the additional capital proposed by Mr. Sullivan it would rank 181.

In response to questions at this point, Mr. Powell said that Continental's ratio had not been worked out on average for the four condition reports ending with the June 30, 1962, report. However, there was no indication that the ratio would be substantially different.

Turning to the so-called adjusted risk asset ratio, Mr. Powell noted that comparisons could not be made between Continental and other banks because the ratio was based on information contained only in reports of examination. However, the generally accepted standard was 16-2/3 per cent; evidence at the hearing would show that such a ratio was justified by the history of losses sustained by banks in past recessions. Based on the January examination of Continental, witnesses would testify at the hearing that Continental needed an additional $2.009 million of capital to achieve a 16-2/3 per cent ratio. Applying the adjusted ratio to the mid-year condition report and making certain assumptions, experts would testify that Continental would have needed an additional $1.925 million.

Turning next to the Federal Reserve Bank of New York's capital formula, Mr. Powell said Vice President Crosse would testify that on the basis of this formula Continental's capital deficiency amounted to $1.922 million as of the January examination date. On the basis of limited information contained in the mid-year call report, Mr. Crosse would estimate a capital deficiency of $2.054 million.
The Form for Analyzing Bank Capital worked out by the Board's Division of Examinations was the only one that specifically evaluated the liquidity of a bank. Thus, this formula would be particularly applicable to Continental because of its high liquidity requirements as the key bank in a chain and as correspondent for a large number of smaller banks carrying substantial amounts on deposit with it. Mr. Stephenson of the Board's staff would testify that the application of the formula showed a deficiency of $2,415 million as of the January examination date. Applying the formula to the mid-year condition report, using information given to Mr. Stephenson by Mr. Sullivan during the former's recent visit to Salt Lake City, and making every adjustment that Mr. Stephenson felt could reasonably be made in favor of Continental, Mr. Stephenson would testify that Continental's mid-year deficiency was $2,568 million.

All of these ratios and formulas, Mr. Powell pointed out, indicated that Mr. Sullivan's proposal would supply only 50 to 60 per cent of the additional capital indicated to be needed by Continental at this time. Further, a representative of the Federal Deposit Insurance Corporation was going to testify at the hearing that, upon evaluating Continental's capital requirement in the way such evaluations were made by the Corporation, Continental should be required to inject $2 million additional capital immediately to remedy its present capital deficiency. Mr. Crosse, in evaluating the factors not fully reflected
in any ratio or formula, would recommend $2 million as a round figure of new capital that should be supplied at this time. He would also express the opinion that retained earnings of the bank probably would suffice only to keep up with increased capital requirements, resulting from deposit and asset increases that might be expected following the completion of this case. Continental's deposits had leveled off during the period from 1956 to 1962, Mr. Powell noted. The bank had not kept pace with the growth of competing banks in Salt Lake City. There was no way to prove that this was due to the Pendency of the capital adequacy proceeding, but it might reasonably be assumed that this was one of the contributing factors. Also, during that period Continental had established no branches. In a hypothetical way, Mr. Powell said, Mr. Sullivan's proposal had been tried out on Mr. Crosse, who stated flatly that such a proposal should be rejected as completely inadequate.

Expert witnesses would also describe at the hearing certain factors relating to the character and volume of Continental's operations that they felt had a direct bearing on the bank's capital requirement and were not fully evaluated in any ratio or formula. For example, Continental continued to have responsibilities as the key bank in a chain and as correspondent for a large number of small banks. This was reflected in its deposit structure, which showed that 14 per cent of its total deposits were deposits of other banks, as compared with a 1.46 per cent median for other banks in its size group.
Further, Continental's net current earnings were low and its dividend pay-out high for a bank with a low capital structure. Earnings in 1959 were inflated by a $300,000 dividend from Paramount Life Insurance Company, a one-shot affair; in view of the Board's 1961 ruling, this would no longer be in the picture.

Continental also continued to follow the practice of selling substantial amounts of loans to other banks. These were sold on a nonrecourse basis, but Continental stood ready to repurchase the loans whenever requested, even after they had developed credit difficulties. Thus, in addition to the loans shown by Continental on its books, there was an additional amount of some $3 million of potential loans representing loans sold to other banks.

Witnesses also would point out that Continental continued to make a number of long-term loans of a capital nature and on liberal terms, particularly to officers of banks carrying deposits with Continental. Further, Continental was a heavily loaned bank compared with others in the same size group. Its loans as a percentage of total assets had increased since 1956 and now stood at 54.5 per cent; while its Government bond portfolio had dropped substantially in that period. Continental's present portfolio of Government bonds was small: only 19 per cent of total assets as compared with a median of 26 per cent for other banks in its size group. Also, Continental had continued to invest a substantial part of its portfolio in relatively
long-term securities; and it had a market depreciation of over $500,000 in its bonds as of the January 1962 examination date. It had 41 per cent of its capital invested in fixed assets compared with a median of 17 per cent. Continental still did not have an independent board of directors as a check on management practices; the board was made up of officers of the bank, the president of an affiliated bank, and regularly-retained bank counsel. Salaries and bonuses to officers of the bank had been increased following the death of former President Cosgriff. While Continental had reduced the amount of substandard loans compared with 1956, there was still an excessive amount of loans criticized by examiners for various reasons.

These factors, Mr. Powell said, certainly did not tend to justify Continental's having a low capital structure. All of these factors tended to increase the exposure to risk of loss. If anything, Continental should have more capital than suggested by the ratios or formulas. The evaluation of Mr. Sullivan's proposal in the light of these factors revealed its insufficiency. Acceptance of the proposal in the present posture of the administrative proceeding would leave the issue of the Board's statutory authority to require the maintenance of adequate capitalization unresolved, and perhaps leave even greater doubt than at the beginning of the proceeding, particularly because of Hearing Examiner Woodall's conclusion that the Board did not have the power. This doubt would be increased by the Board's acceptance of a proposal that was patently on the low side and insufficient.
Those were the factors, Mr. Powell concluded, that he felt -- and he thought Mr. Chase felt -- the Board should have in mind when it undertook to evaluate Mr. Sullivan's proposal.

There ensued discussion of Continental's investment in fixed assets, after which Governor Mills said he would make certain comments that he hoped would elicit observations from Board Counsel. Mr. Powell, he said, had completely convinced him that the case--if not carried through to a proper conclusion--could serve to cast doubt on, rather than clarify, the Board's statutory authority to require a member bank to introduce additional capital on penalty of forfeiture of membership. The Board had been engaged in this adversary proceeding for several years, and he presumed the purpose of instituting such a proceeding was to carry it through to a conclusion in the belief that the cause was a good one. Otherwise, the Board presumably would not have instituted this proceeding. He was fearful of any kind of arrangement that might prevent a clear determination of the issues involved.

Governor Mills expressed skepticism with regard to the conclusiveness of the various capital formulas. They involved questions of judgment. The formulas and ratios were useful measurements and instruments, but he continued to have some reservations about any rigid use of them. As he understood it, Mr. Powell was preparing for a hearing at which Continental would be required to show cause why it had not acceded to the Board's demand to introduce
a certain amount of additional capital. In the circumstances, he did not understand why there was any reason to present additional witnesses; this might result in prolonging the proceeding for a further protracted period. In the meanwhile Mr. Sullivan had made a proposal, presumably in good faith. However, the flavor of it left him (Governor Mills) with the impression that Mr. Sullivan and his associates were taking the case out of the Board's hands. He thought that was a dangerous attitude. If the Board accepted such a proposal in good faith as a starting point and accepted the view that over a period of years changed management in Continental would endeavor to improve the bank's position and meet acceptable capital standards, there might be some reason for considering the validity of the proposal. However, this should be a proposal that would come out of the show cause hearing, not a proposal that would stop the hearing in its tracks and leave the whole case at loose ends as far as the statutory authority of the Board was at stake.

In reply, Mr. Powell noted that the Board had already defined the issues in its orders and statement of August 9, 1962. As stated by the Board, the show cause hearing was required by the statutes. Its purpose was to determine whether there was any justifiable reason why Continental had not increased its capital as required by the Board's 1960 order. That issue necessarily involved the question whether at present—or as of the most recent date for which it was
possible to get figures--Continental's capital had become adequate. It had not been made adequate by any sale of new stock, because Continental admitted it had not complied with the Board's order. However, other factors could have brought about capital adequacy. So the question was whether there existed any justifiable reason why the Board should not order the forfeiture of Continental's membership in the System. The evidence to be given had been prepared in the light of the present condition of Continental. It would demonstrate that Continental's capital was still deficient and that the Board should order forfeiture of membership for that reason.

As to the question of the potential length of the hearing, Mr. Powell said the evidence to be presented would take only a few days. There were only seven Board witnesses. The witnesses would simply take the January 8 examination report and the latest report of condition, analyze them on the basis of informed judgment, and show that Continental's capital was still inadequate.

Governor Mills then suggested a hypothetical situation in which Mr. Sullivan's proposal would be coupled with an acknowledgment of the Board's authority to require adequate capital. Then, if testimony at the hearing reflected expert opinion that an introduction of capital such as proposed would fall far short of a proper capitalization of the bank, and if the Board after maturing its thinking should be disposed to accept the proposal, the record
of the case would indicate that the expert witnesses had said one thing and the Board, in flagrant disregard of those statements, had accepted an additional amount of capital far below the indicated requirement.

Mr. Powell responded that the Board was the judge in this case. The witnesses would present their ideas and the Board would evaluate them and decide what was correct. If Continental should make a proposal that recognized the statutory authority of the Board in this field and accompanied it by a plan to increase the present capital structure to within any reasonable distance of what all of the experts believed to represent the bank's needs, such a proposal should be accepted. However, Mr. Sullivan had not done that. He continued to take the position that the Board did not have this power; his offer was not an acknowledgment that the Board had the power. In addition, the proposal was patently low compared with the views of knowledgeable men in the bank supervisory field. The combination of these factors, along with Hearing Examiner Woodall's finding on the record in this proceeding that the Board did not have the power to require additional capital, would not only leave that basic issue unresolved but even more cloudy than at the beginning of the case. This would be a frustrating result after more than five years of litigation.
Chairman Martin asked Mr. Powell whether he had talked with Mr. O'Connell, and Mr. Powell replied that he had not talked with Mr. O'Connell since the latter went to Salt Lake City. Mr. Chase likewise stated that he had not talked with Mr. O'Connell since the latter went to Salt Lake City.

Chairman Martin then asked Mr. Chase whether he concurred in Mr. Powell's views, and Mr. Chase replied that he attached more importance to the size of the offer than anything else. He had felt for years that if the Board could get Continental to increase its capital to a reasonable extent, that would be more important than anything else.

Messrs. Powell and Chase then withdrew.

The discussion turned to the differences between the proposal submitted originally through President Swan and the proposal as stated in Mr. Sullivan's letter. It was noted that the procedure for contributing the proceeds of liquidation of Paramount Life Insurance Company to Continental Bank had been clarified to Mr. O'Connell's satisfaction. Furthermore, there had been included in the letter a statement reflecting a policy of working toward further improvement of the capital position and asset condition of Continental. Also, Mr. Sullivan indicated in his letter that, in effect, he had secured the approval of his Board of Directors to the proposal.
Mr. Leavitt said that Mr. O'Connell, in a telephone conversation, had appeared impressed by what he sensed to be Mr. Sullivan's obvious desire to clear up the capital problem. Mr. O'Connell apparently had the distinct feeling that Mr. Sullivan intended to operate the bank soundly and that it would be possible for the System to work with Mr. Sullivan satisfactorily in the future.

The Chairman then turned to Mr. Solomon for comments, and the latter stated that Mr. O'Connell, in the telephone conversation referred to by Mr. Leavitt, had indicated that he would not have forwarded the revised proposal to the Board unless he had felt personally that the proposal deserved sympathetic consideration by the Board. That appeared to be Mr. O'Connell's considered judgment.

Mr. Solomon went on to say that a great deal depended, as Mr. Chase had said, on how one appraised the size of Mr. Sullivan's offer. No one would want to settle a case like this on the basis of a trivial offer. As Mr. Powell had said, however, the Board should settle if a reasonable proposal was submitted. There appeared, incidentally, to have been some arithmetical mistake in the calculation of Continental's primary risk asset ratio, after giving consideration to Mr. Sullivan's proposal. Based on the mid-year call report, if the capital of Continental was increased to $6.5 million, he (Mr. Solomon) and Mr. Leavitt obtained a percentage of 13.5 rather than 10.8. By that standard, and he thought by other
standards also, the Sullivan proposal was not a ridiculous type of offer. As to Continental's capital deficiency, according to most methods of calculation it was apparently about in the area Mr. Powell had mentioned: $2 million. Most of the witnesses -- and probably most of the people working in this field -- would say that the deficiency was about $2 million. The offer of $1,111,000 would make up only 55 per cent of the deficiency, but Mr. Solomon felt that that was not necessarily the right approach. The question was whether one should talk about the deficiency or about the capital position of the bank after the proposal was implemented, at which point Continental would have about 87 per cent of the capital of a well-capitalized bank. There were many banks in the System, and out of the System, that were capitalized no better, if in fact not as well. In Mr. Solomon's view the Board would be in almost a vindictive position if it said, in effect: "You have offered to place your capital at 87 per cent of what would ordinarily be considered an optimum capital position, but because you have not proposed to bring it up the remaining 13 per cent and did not act as quickly as you should have, we are going to expel your bank from the System."

If the person with whom the Board was dealing had consistently taken the position that his bank would not put up more capital, and if he was a person who obviously wanted to load as much risk on the capital structure as possible, that would be a different matter. However,
it did not appear that that was the kind of person with whom the Board was dealing. Everyone who had had dealings with Mr. Sullivan seemed to feel that what he said could be taken at face value. If so, this represented a changed situation in the bank's management.

Mr. Solomon said that he also had been somewhat concerned about a factor Governor Mills mentioned. If the show cause hearing occurred and witnesses expressed the opinion that there was a $2 million deficiency by all the standards usually applied, but the Board then accepted an offer of an additional $1,111,000 of additional capital, the Board would seem almost to be flying in the face of the record. The situation would be much more awkward than if the Board decided at the present stage that Mr. Sullivan's offer was a reasonable basis for settling the case.

Chairman Martin referred at this point to the differences in the points of view expressed by Mr. Powell and by Mr. Solomon, part of which apparently resulted from an error in the reading of certain facts. Further, Mr. O'Connell had not talked with Mr. Powell recently, and their contrary points of view were before the Board.

The Chairman inquired, therefore, whether there was any compelling reason why Mr. Powell should not be called back into the room to hear and comment on the views expressed by Mr. Solomon.

Mr. Solomon replied that the problem related to the separation of functions within the Board's staff; that is, between the persons
assisting the Board in an adjudicatory capacity and those assisting
the Board in the investigation or prosecution of the case. Offhand,
he would have some misgivings about having adjudicatory personnel
get into a general discussion, give and take, with prosecuting
personnel.

Mr. Shay said he felt that the independence of judgment of
the people advising the Board on the one hand and on the other hand
should be preserved to the extent feasible. The Board, of course,
could listen to Mr. Solomon and then ask Mr. Powell to come back
into the room and talk with him.

Governor Mills stated that he would have to leave shortly to
keep another engagement. He went on to say that he did not see why
Board Counsel could not be instructed to proceed with the show cause
hearing to a point that would fall short of the introduction of Board
witnesses and allow Continental at the hearing to make a proposal.
If Continental made such a proposal, that would be conveyed to the
Board and the hearing could be recessed until the Board had reached
a judgment on whether it would accept the proposal.

Chairman Martin then expressed the view that the Board should
have more time to consider the current proposal. He noted that there
were only four members present who were participating in the case.
If there was a way to get more time by postponing the date of the
hearing without committing the Board to acceptance of the Sullivan
Proposal, he felt that that would be desirable, particularly in light of the differences of view that had been presented to the Board concerning the proposal.

Governor King said he would favor the idea of postponing the hearing. He had developed some fairly firm views at this stage, but it would take some little time for him to present them. If the hearing could be postponed, the Board could consider the matter more thoroughly when additional members of the Board were present.

Mr. Shay commented that yesterday he had received by telephone, in the Board's behalf, a joint motion by Mr. O'Connell, Board Counsel, and Mr. Billings, Counsel for Continental, for continuation of the hearing for 60 days, but he understood the granting of the motion would be regarded as reflecting a favorable Board reaction to the Sullivan proposal. The Board was not prepared to grant the motion on any basis that inferred a favorable commitment on the proposal. Therefore, the option would be to continue the date of the hearing on the Board's own motion. Of course, if the facts were placed before Mr. Sullivan and Mr. Billings it might be possible to obtain a request for continuance of the hearing for a shorter time than 60 days simply in order to allow the Board to consider the Sullivan proposal at greater length. This could be checked with Mr. O'Connell.
Governor Robertson withdrew from the meeting at this point.

Governor Mills inquired of the Chairman whether his thinking was in terms of a continuation of the hearing for a period of 30 days, and this was confirmed.

After further discussion it was agreed unanimously to issue an order extending the date of the show cause hearing from September 10 to October 15, 1962, on a basis that would clearly not constitute any commitment either to approve or reject the proposal for settlement of the administrative proceeding submitted by Mr. Sullivan, but rather in order to give the Board a more ample opportunity to consider the proposal.

Governor Mills withdrew from the meeting at this point.

A telephone call was then placed to Mr. O'Connell in Salt Lake City for the purpose of explaining to him the action that had been agreed upon by the Board and obtaining his reaction. During the telephone conversation, it was indicated to Mr. O'Connell that the Board would not issue any statement of reasons in connection with its order postponing the date of the hearing. However, the Board wanted it clearly understood by Mr. Sullivan that the extension of time was for the purpose of giving the Board a more ample opportunity to consider Mr. Sullivan's proposal, without any commitment either to accept or reject this particular offer. It was understood from Mr. O'Connell that the joint motion from him and Counsel for
Continental, to which Mr. Shay had referred previously, had been placed in the mail to the Board yesterday afternoon. It was further understood that the Board's order would be in terms that the joint motion having been considered, the Board had ordered the hearing continued to commence on October 15, 1962, unless otherwise ordered by the Board or by the Hearing Examiner. Thus, the order of the Board would not be issued in response to the joint request. Mr O'Connell indicated that he would make this clear to Mr. Sullivan.

Chairman Martin repeated to Mr. O'Connell that it was important for him to convey to Mr. Sullivan that the Board was neither accepting nor rejecting Mr. Sullivan's proposal, but that it wanted more time to consider the proposal.

Mr. O'Connell assured the Board that he had not joined in the motion for an extension of time on any condition that contemplated approval of Mr. Sullivan's proposal by the Board. The joint request was agreed to by him simply with the thought of giving the Board an opportunity to take whatever action it considered necessary in the circumstances. However, if the joint request had been granted, that would have been regarded by Continental as a signal to firm up the Sullivan proposal. Mr. O'Connell further stated that when he talked with Mr. Sullivan he would leave no doubt in Mr. Sullivan's mind that the Board's order postponing the date of the hearing was solely for the purpose of giving the Board time to consider the proposal further
and that it in no way implied a commitment on the part of the Board with respect to the proposal.

It was understood that after Mr. O'Connell had talked with Mr. Sullivan he would call the Board's Secretary and advise whether there were any developments that were not presently contemplated. Unless there were, the Board's order postponing the date of the hearing would then be issued. It was also understood that in the absence of any unexpected developments, Mr. O'Connell would return to Washington after talking with Mr. Sullivan and reporting to the Board's Secretary the results of their conversation.

Secretary's Note: Attached to these minutes as Item No. 1 is a copy of the order issued later in the day, pursuant to the action taken at this meeting, following receipt of advice from Mr. O'Connell that he had talked with Mr. Sullivan.

The meeting then adjourned.
In the Matter of:
THE CONTINENTAL BANK AND TRUST COMPANY
Salt Lake City 10, Utah

ORDER CONTINUING DATE FOR SHOW CAUSE HEARING

On June 28, 1961, the Board of Governors of the Federal Reserve System issued an Order (26 Fed. Reg. 6044) for a hearing (herein referred to as "Show Cause Hearing") to be held in connection with this matter for the purposes therein stated, and the Board's Order dated June 8, 1962 (27 Fed. Reg. 5679), provided that the hearing would be open to the public. The date for commencement of the Show Cause Hearing was continued by Orders of the Board dated August 21, 1961 (26 Fed. Reg. 7991), May 28, 1962 (27 Fed. Reg. 5357), and July 11, 1962 (27 Fed. Reg. 6764), for reasons therein stated, and is presently scheduled to commence on September 10, 1962.

There having been received by the Board from Counsel for Respondent, The Continental Bank and Trust Company, and Counsel for the Board a joint motion for continuance of the Show Cause Hearing requesting continuance for 60 days of the presently scheduled date for commencement of such hearing, and the Board having considered the same,

IT IS HEREBY ORDERED:

(1) That the Show Cause Hearing in this matter scheduled to commence on September 10, 1962, shall be
continued to commence at 10 a.m. on October 15, 1962, in
the offices of the Salt Lake City, Utah, Branch of the
Federal Reserve Bank of San Francisco, unless otherwise
ordered by the Board or by the Hearing Examiner; and

(2) That a certified copy of this Order be forthwith
served upon the Respondent by postage prepaid, registered
mail, return receipt requested.

Dated at Washington, D. C., this 7th day of September, 1962.

By order of the Board of Governors.

Voting for this action: Chairman Martin, and Governors Mills,
Shepardson, and King.

Absent and not voting: Governors Balderston and Mitchell.

Governor Robertson took no part in the Board's
consideration of this matter or in the Board's
action of this date, having voluntarily withdrawn
from participation in the matter for the reasons
set forth in the Statement issued by him on
June 30, 1959, and made a part of the record
in these proceedings.

(Signed) Merritt Sherman

Merritt Sherman,
Secretary.