

300.011 - Gross Harry vs FRBank Cleveland

Suits Against FRBanks - FRBANKS

TRANSFER

RETURN TO
FILES SECTION
DO NOT REMOVE ANY
PAPERS FROM THIS FILE

REC'D IN FILES SECTION
R FEB 19 1940
300 • 011
VH Gross, Harry

February 16, 1940.

Squire, Sanders & Dampsey,
Union Commerce Building,
Cleveland, Ohio.

Attention: Mr. Sterling Newell

Gentlemen:

I enclose for your files a photostat of a
^{see} letter dated January 25, 1940, addressed to Mr. Tietjens,
Assistant General Counsel, Treasury Department, by Mr.
Shea, Assistant Attorney General, regarding the case of
Harry Gross v. Federal Reserve Bank of Cleveland, which
I received without a covering letter in the envelope a
photostat of which is also enclosed.

Cordially yours,

Walter Wyatt,
General Counsel.

Enclosures 2
GHC:hvd

GENERAL COUNSEL'S OFFICE,

Dictated by *lc*

Approved by

Revised by

FILE COPY

Files
O. M. Croghan

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE

WASHINGTON, D. C.

mgk

REC'D IN FILES SECTION
R FEB 19 1940
300 011
VH Gross, Harry

FMS:ERE

77-58-55

January 25, 1940

Norman O. Tietjens, Esq.
Assistant General Counsel
Treasury Department
Washington, D. C.

Re: Harry Gross v. Federal Reserve Bank
of Cleveland; in the United States
District Court for the Southern District
of Ohio, Western Division, No. 50 Civil.

Sir:

Reference is made to your letter of October 18,
1939, relative to the above case.

Please be advised that this Department is in
receipt of a letter from the United States Attorney under
date of January 18, 1940, with which was enclosed a copy
of a judgment entry bearing the same date, granting the
defendant's motion for summary judgment and awarding
judgment in favor of the defendant at plaintiff's costs.

Unless an appeal is taken, this matter will be
considered closed.

Respectfully,

For the Attorney General

Francis M. Shea

FRANCIS M. SHEA
Assistant Attorney General

For Files
O. M. Croghan

(letter) 2/16/40

REC'D IN FILES SECTION
APR 5 1939
300 011

VH
Gross, Harry E

April 4, 1939

Messrs. Squire, Sanders & Dempsey,
Union Commerce Building,
Cleveland, Ohio.

Gentlemen:

Please accept my thanks for your letter of March 29, 1939 inclosing copies of correspondence between the Federal Reserve Bank of Cleveland and the Treasury Department regarding the case of Harry Gross vs. Federal Reserve Bank of Cleveland.

Your courtesy in forwarding these copies for my information is greatly appreciated.

Cordially yours,



Walter Wyatt,
General Counsel.

WV:scba

FILE COPY

For Files
O. M. Croghan

Squire, Sanders & Dempsey
Counsellors at Law
Union Commerce Building
Cleveland

Cable Address: Squires and
REC'D IN FILES SECTION
APR 5 1939 K
300 011
Dean, Harry

March 29, 1939.

Walter Wyatt, General Counsel,
Board of Governors,
Federal Reserve System,
Washington, D. C.

Re: Harry Gross vs. Federal Reserve Bank of
Cleveland.

Dear Mr. Wyatt:

At the request of Mr. M. J. Fleming, President of Federal Reserve Bank of Cleveland, we are forwarding to you two copies each of the following letters exchanged between the bank and the Treasury Department respecting the subject case, to-wit:

- (1) Letter from the bank, dated February 2, 1939,
- (2) Letter from the Treasury Department, dated March 13, 1939,
- (3) Letter from the bank, dated March 15, 1939,
- (4) Letter from the Treasury Department, dated March 27, 1939,
- (5) Letter from the bank dated March 29, 1939.

The foregoing are delivered to you for your information and for such suggestions as you may care to make.

Very truly yours,

RSTjr:RG
-enc.

Squire, Sanders & Dempsey

Acknowledged with check

Have no comments or suggestions to offer

O.M.

February 2, 1939

Mrs. Marion Banister,
Assistant Treasurer,
Treasury Department,
Washington, D.C.

Re: Harry Gross vs. Federal Reserve Bank
of Cleveland.

My dear Mrs. Banister:

Reference is made to our previous correspondence with respect to cancelled order gold certificate No. H 4395, series of 1900, in the denomination of \$10,000, and particularly to our letter of February 1, 1938 and your letter of February 9, 1938.

Please be advised that Harry Gross, the person who surrendered this certificate to our Cincinnati Branch, which thereupon transmitted it to you, has instituted suit against this Bank in the Common Pleas Court of Hamilton County, Ohio, for the principal sum of \$10,000, costs and interest at the rate of six per centum per annum from July 22, 1937. A copy of plaintiff's petition is enclosed herewith. We have caused the case to be removed to the United States District Court for the Southern District of Ohio, Western Division, where it is now pending.

In view of the fact that we were acting under instructions from and as agent for you, in receiving such gold certificate and transmitting it to you, we hereby tender the defense of this litigation to you, and advise that we shall look to you for reimbursement in respect of all loss, cost, damage and expense, including reasonable attorneys' fees, which we may incur or suffer.

In order that we may be further advised as to the facts of the situation, we ask that you forward to us under trust receipt the above described gold certificate, or rather the portion thereof which was delivered to our Cincinnati Branch and transmitted by it to you. We shall also appreciate being advised as to the section or sections of the Revised Statutes of the United States under which such gold certificate was originally issued and paid.

Your prompt attention to this matter will be greatly appreciated as the answer day in the subject case is February 11, 1939.

Very truly yours,

(S) G.H.W.
Vice President.

enc.

For
O. M. Croghan

TREASURY DEPARTMENT

Washington

March 13, 1939

My dear Mr. Wagner:

Further reference is made to your letter addressed to Mrs. Marion Banister, Assistant Treasurer of the United States, dated February 2, 1939, relative to the case of Harry Gross v. Federal Reserve Bank of Cleveland. In the third paragraph of that letter you stated:

"In view of the fact that we were acting under instructions from and as agent for you, in receiving such gold certificate and transmitting it to you, we hereby tender the defense of this litigation to you, and advise that we shall look to you for reimbursement in respect of all loss, cost, damage and expense, including reasonable attorneys' fees, which we may incur or suffer."

On February 8, 1939, the Treasury Department referred the matter to the Attorney General of the United States for such action as he might deem appropriate in the premises. By letter of February 8, 1939, signed by the Acting Treasurer of the United States, you were advised of that action. This Department is now in receipt of advice from the Attorney General that the United States Attorney at Cincinnati, Ohio, has been directed to appear for the Federal Reserve Bank of Cleveland and to take such steps as may properly protect its interests in the matter. The United States attorney, therefore, stands ready to take over the defense of this litigation. Under these circumstances, of course, this Department can accept no liability for reimbursing your bank for reasonable attorneys' fees should you decide to employ your own counsel in defense of the suit.

Very truly yours,

(S) W.A. Julian
Treasurer.

Mr. G.H. Wagner,
Vice President,
Federal Reserve Bank,
Cleveland, Ohio.

For 1
O. M. Croghan

March 15, 1939

Hon. W.A. Julian
Treasurer of the United States
Treasury Department
Washington, D.C.

Re: Harry Gross v. Federal
Reserve Bank of Cleveland.

My dear Mr. Julian:

We have your letter of March 13, 1939, respecting the subject case, in which you refer to and quote the third paragraph of our letter of February 2, 1939, to Mrs. Marion Bannister, Assistant Treasurer of the United States.

In reply thereto you advise that the subject case has been referred to the Attorney General of the United States for such action as he might deem appropriate, that the Attorney General has directed the United States attorney at Cincinnati, Ohio to appear for this bank in such case and to take such steps as may properly protect its interests, and that such United States attorney stands ready to take over the defense of the litigation.

You further advise that in these circumstances your department can accept no liability for reimbursement to this bank for reasonable attorney fees should we decide to employ our own counsel in the matter.

From the foregoing it is our understanding that the defense of this case has been assumed by the United States attorney at Cincinnati, Ohio, acting under instructions of your legal advisor, the Attorney General of the United States, and that you will reimburse us for all loss, cost, damage and expense which we may incur or suffer in the subject case, other than attorneys' fees incurred after March 13, 1939, the date of your letter in which you gave the advice above outlined.

We believe that such reimbursement should include not only the amount of any judgment and court costs, which may be assessed against this bank in the subject case, but also the amount of legal fees and expenses which were incurred prior to March 13, 1939, in conducting the defense of the case.

If the foregoing is in accordance with your understanding will you kindly so advise.

Very truly yours,

(S) G.H.W.
Vice President.

T.W.m

G. M. Croghan

TREASURY DEPARTMENT
Washington

March 27, 1939

My dear Mr. Wagner:

Reference is made to your letter, dated March 15, 1939, relative to the case of Harry Gross v. Federal Reserve Bank of Cleveland. In that letter you state:

"From the foregoing it is our understanding that the defense of this case has been assumed by the United States Attorney at Cincinnati, Ohio, acting under instructions of your legal advisor, the Attorney General of the United States, and that you will reimburse us for all loss, cost, damage and expense which we may incur or suffer in the subject case, other than attorneys' fees incurred after March 13, 1939, the date of your letter in which you gave the advice above outlined.

"We believe that such reimbursement should include not only the amount of any judgment and court costs, which may be assessed against this bank in the subject case, but also the amount of legal fees and expenses which were incurred prior to March 13, 1939, in conducting the defense of the case.

"If the foregoing is in accordance with your understanding will you kindly so advise."

This Office, of course, has no authority to pledge the credit of the United States to reimburse the Federal Reserve Bank of Cleveland for any loss which it may suffer as a result of this case should the decision be in favor of Harry Gross. This Office does not anticipate a decision adverse to the bank in this case, but should there be one, you must understand that any claim which you may consider that the bank may have against the United States should, and must, be presented through the ordinary and usual channels. This Office has no authority to warrant approval of any such claim.

So far as counsel fees are concerned, the first intimation that this Office received to the effect that the bank desired the United States to relieve it of the defense in this case was on February 6, 1939, when your letter of February 2, 1939, was received by Mrs. Marion Banister, Assistant Treasurer. It is obvious, of course, that the Treasury Department could not take steps to cause the United States Attorney to take over the defense of a suit against your bank until you requested it. This Office can admit no liability on the part of the United States for counsel fees prior to the time you tendered the defense of the suit to the United States.

For Files
U. M. Crozier

Upon receipt of your letter of February 2, 1939, the matter was given immediate consideration by the Office of the General Counsel for the Department of the Treasury. Within two days (on February 8) the Acting General Counsel for the Department of the Treasury called upon the Attorney General of the United States to take such action as might be deemed appropriate in the premises. On the same date (February 8) the Acting Treasurer advised you by air mail of the action taken by the Acting General Counsel for the Department of the Treasury. At that point, the Treasury Department had taken all action which could be taken in the matter. It is understood that the Attorney General communicated with the United States Attorney advising him to appear for the bank and to take such steps as might properly protect its interests in the matter. If, under these circumstances and notwithstanding that expeditious action on the part of the Treasury, you still feel that there may be a claim by the bank against the United States, it is submitted that you must present that claim through the usual and ordinary channels. Whether it will be allowed or considered is a matter over which this Office has no control.

Very truly yours,

(S) W.A. Julian,
Treasurer.

Mr. G.H. Wagner,
Vice President,
Federal Reserve Bank,
Cleveland, Ohio.

March 29, 1939.

Honorable W. A. Julian,
Treasurer of the United States Treasury Department,
Washington, D. C.

Re: Harry Gross vs. Federal Reserve Bank of
Cleveland.

My dear Mr. Julian:

We have your letter of March 27, 1939 respecting the subject case.

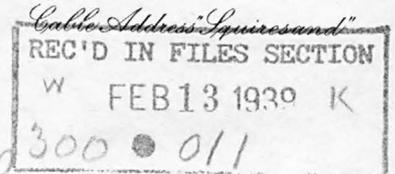
While we can appreciate the limitations of your authority, we did, and do, wish to make it clear the Federal Reserve Bank of Cleveland will look to the Treasury Department for reimbursement for all loss, cost, damage and expense which it may incur or suffer in the subject case, other than attorneys fees incurred after March 13, 1939, the last items being excluded for the reason that under said date you advised that the United States Attorney at Cincinnati was assuming the defense of the case. As to attorneys fees and other expenses incurred prior to March 13, 1939, we shall expect reimbursement therefor, inasmuch as it was necessary, both for the protection of the Treasury Department and the protection of this bank, that steps should be taken without delay to effect the removal of the case from the State Court to the United States District Court and to file an answer to the plaintiff's petition. Such steps could not have been postponed from February 6, 1939 to March 13, 1939 without substantially prejudicing both your interest and that of this bank.

Accordingly, at the proper time in accordance with the foregoing, we shall make claim through the usual and proper channels for any reimbursement to which we may be properly entitled.

Very truly yours,

Vice President.

Squire, Sanders & Dempsey
Counsellors at Law
Union Commerce Building
Cleveland



Harry Gross

February 10, 1939.

Walter Wyatt, General Counsel,
Board of Governors,
Federal Reserve System,
Washington, D. C.

Re: Harry Gross vs. Federal Reserve Bank
of Cleveland.

Dear Mr. Wyatt:

We have your letter of February 7, 1939 with respect to the
subject case.

You are correct in your assumption that we are protecting
Federal Reserve Bank of Cleveland in this matter. We have taken the
necessary steps to effect a removal of the case from the Court of Common
Pleas of Hamilton County to the District Court of the United States for
the Southern District of Ohio, Western Division.

We shall keep you advised of the important developments
in the matter.

Very truly yours,

RSTjr:RG

Squire, Sanders & Dempsey

O. M. Croghan

REC'D IN FILES SECTION

W FEB 7 1939

300 ● 011

February 7, 1939.

Squire, Sanders & Dempsey,
Union Commerce Building,
Cleveland, Ohio.

Attention Mr. Sterling Newell.

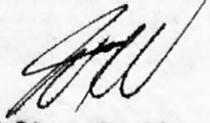
Gentlemen:

I have just seen a copy of a letter which Mr. G.H.Wagner, Vice President of the Federal Reserve Bank of Cleveland, addressed to Mr. S. R. Carpenter, Assistant Secretary of the Board of Governors of the Federal Reserve System, under date of February 2, 1939, inclosing a copy of the petition in the suit of Harry Gross v. Federal Reserve Bank of Cleveland to recover the amount of a \$10,000 gold certificate alleged to have been converted by the Federal Reserve Bank of Cleveland, and also inclosing a copy of a letter on this subject, addressed by Mr. Wagner to Mrs. Marion Banister, Assistant Treasurer of the United States, under date of February 2, 1939.

I assume that you are representing the Federal Reserve Bank of Cleveland in this case and shall appreciate it very much if you will keep me advised of any important developments.

With kindest personal regards and all best wishes, I am

Cordially yours,


Walter Wyatt,
General Counsel.

WW sad

FILE COPY

For Files
O. M. Croghan

REC'D IN FILES SECTION
W FEB 7 1939
3000011

FEDERAL RESERVE BANK
OF CLEVELAND

*Mr. Board
Mr. Carpenter
Mr. Smith
Council*

February 2, 1939

Mr. S. R. Carpenter, Assistant Secretary
Board of Governors of the
Federal Reserve System
Washington, D. C.

My dear Mr. Carpenter:

You will probably recall our correspondence of about a year ago relative to a cancelled order gold certificate H-4395, series of 1900, issued for \$10,000.

The portion of this certificate was presented at our Cincinnati branch by Harry Gross and in accordance with instructions from the Assistant Treasurer of the United States possession was taken of the portion of the certificate and it was forwarded to the treasurer's office.

Recently Harry Gross sued this bank, as indicated in an enclosed copy of the petition. We have had the case removed from the Common Pleas Court of Hamilton County, Ohio to the United States District Court for the Southern District of Ohio, Western Division and have so informed the Assistant Treasurer of the United States, as indicated by copy of a letter dated February 2, 1939, enclosed.

These facts are passed on to you in order to keep you informed of the case.

Yours very truly,

J. Wagner
Vice President

For
O. M. Cronan

IN THE COURT OF COMMON PLEAS

HAMILTON COUNTY, OHIO

HARRY GROSS,
12 East 12th St.,
Cincinnati, Ohio,

Plaintiff,

v.

FEDERAL RESERVE BANK OF CLEVELAND,
a corporation organized under the
laws of the United States,
Chamber of Commerce Building,
Fourth and Race Sts.,
Cincinnati, Ohio,

Defendant.

No. A65064

PETITION

Plaintiff states that the defendant is a corporation organized under the laws of the United States, a member of the Federal Reserve Board, maintaining a branch in Cincinnati, Hamilton County, Ohio.

Plaintiff further states that on July 22, 1937, he was the owner of and in possession of a Ten Thousand (\$10,000.00) Dollar gold certificate No. H-4395, Series of 1900, dated September 18, 1906, of the value of Ten Thousand (\$10,000.00) Dollars, said certificate being currency of the United States and the legal tender for all debts public and private; that on said day the defendant corporation through B. J. Lazar, Managing Director of the Cincinnati Branch of the defendant corporation, acting for and on behalf of the defendant corporation, obtained possession of said gold certificate, previously described, and wrongfully and unlawfully converted the same to its own uses to the damage of the plaintiff in the sum of Ten Thousand (\$10,000.00) Dollars.

WHEREFORE, plaintiff prays judgment against the defendant in the sum of Ten Thousand (\$10,000.00) Dollars for damages as aforesaid sustained, and his costs herein incurred, together with interest at the rate of 6% from July 22nd, 1937.

(s) Sol Goodman & Hyman B. Rosen
Attorneys for Plaintiff

STATE OF OHIO :
: SS
HAMILTON COUNTY :

COMES now Harry Gross who being duly sworn according to law deposes and says that he is the plaintiff in the within and foregoing action and that the facts set forth in the annexed Petition are true, as he verily believes.

(s) Harry Gross

Sworn to before me and subscribed in my presence this 7th day of January, 1939.

(s) Hyman Rosen
Notary Public,
Hamilton County, Ohio.

P R A E C I P E

TO THE CLERK:

Issue summons directed to the defendant. Endorse same: Action for \$10,000.00 and costs, and interest at 6% from July 22, 1937. Have same served on B. J. Lazar, Managing Director of the Cincinnati Branch of the Federal Reserve Bank of Cleveland.

(s) Sol Goodman & Hyman B. Rosen
Attorneys for Plaintiff

February 2, 1939.

Mrs. Marion Banister,
Assistant Treasurer,
Treasury Department,
Washington, D. C.

Re: Harry Gross vs. Federal Reserve Bank
of Cleveland.

My dear Mrs. Banister:

Reference is made to our previous correspondence with respect to cancelled order gold certificate No. H 4395, series of 1900, in the denomination of \$10,000, and particularly to our letter of February 1, 1938 and your letter of February 9, 1938.

Please be advised that Harry Gross, the person who surrendered this certificate to our Cincinnati Branch, which thereupon transmitted it to you, has instituted suit against this Bank in the Common Pleas Court of Hamilton County, Ohio, for the principal sum of \$10,000, costs and interest at the rate of six per centum per annum from July 22, 1937. A copy of plaintiff's petition is enclosed herewith. We have caused the case to be removed to the United States District Court for the Southern District of Ohio, Western Division, where it is now pending.

In view of the fact that we were acting under instructions from and as agent for you, in receiving such gold certificate and transmitting it to you, we hereby tender the defense of this litigation to you, and advise that we shall look to you for reimbursement in respect of all loss, cost, damage and expense, including reasonable attorneys' fees, which we may incur or suffer.

In order that we may be further advised as to the facts of the situation, we ask that you forward to us under trust receipt the above described gold certificate, or rather the portion thereof which was delivered to our Cincinnati Branch and transmitted by it to you. We shall also appreciate being advised as to the section or sections of the Revised Statutes of the United States under which such gold certificate was originally issued and paid.

Your prompt attention to this matter will be greatly appreciated as the answer day in the subject case is February 11, 1939.

Very truly yours,


Vice President.

enc.

COPY

FEDERAL RESERVE BANK OF CLEVELAND

February 2, 1939

Mr. S. R. Carpenter, Assistant Secretary
Board of Governors of the
Federal Reserve System
Washington, D.C.

My dear Mr. Carpenter:

You will probably recall our correspondence of about a year ago relative to a cancelled order gold certificate H-4395, series of 1900, issued for \$10,000.

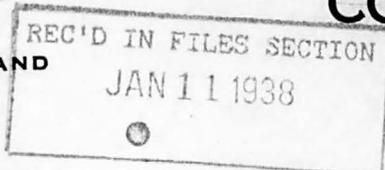
The portion of this certificate was presented at our Cincinnati branch by Harry Gross and in accordance with instructions from the Assistant Treasurer of the United States possession was taken of the portion of the certificate and it was forwarded to the treasurer's office.

Recently Harry Gross sued this bank, as indicated in an enclosed copy of the petition. We have had the case removed from the Common Pleas Court of Hamilton County, Ohio to the United States District Court for the Southern District of Ohio, Western Division and have so informed the Assistant Treasurer of the United States, as indicated by copy of a letter dated February 2, 1939, enclosed.

These facts are passed on to you in order to keep you informed of the case.

Yours very truly,

(Signed) G. H. Wagner
Vice President

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELAND

Mr. M. J. Fleming, President,
Federal Reserve Bank of Cleveland.

January 3, 1938

Mr. B. J. Lazar, Managing Director,
Cincinnati Branch.

Dear Mr. Fleming:

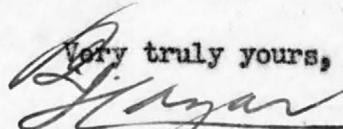
Your letter of December 31, 1937 with enclosures
has been received.

Several weeks ago a young man called at this
office, introduced himself as Mr. Sol Goodman, attorney
for Harry Gross and wanted to know all about "the \$10,000
gold certificate" Mr. Gross had surrendered some months
before.

I explained that the portion of the cancelled
order certificate surrendered by Gross had been returned
to the Treasury Department, let him read all the cor-
respondence and then learned that in spite of the fact
Gross apparently had understood that the certificate had
no redemption value he was waiting for a remittance,
possibly \$10,000 - since Goodman stated Gross claimed the
portion was considerably more than half. Goodman gave no
indication at the time that he intended to litigate about
the certificate.

There are enclosed copies of all correspondence in
connection with the subject.

Very truly yours,



Managing Director.

L:T

*Mr. Board
Council*

REC'D IN FILES SECTION
JAN 11 1938

FEDERAL RESERVE BANK
OF CLEVELAND

January 4, 1938

Dear Mr. Carpenter:

On December 31, 1937, I received from you copy of your letter to Mr. Sol Goodman, Attorney, 1011 First National Bank Building, Cincinnati, Ohio, dated December 29, together with copy of Mr. Goodman's letter of December 23, requesting a copy of the "regulations applicable to the Federal Reserve System, particularly on the question as to whether a Federal Reserve Bank may be sued in a State court."

Promptly upon receipt of this correspondence, I wrote to our Cincinnati Branch Manager. Mr. Sol Goodman, apparently, represents a Mr. Harry Gross who, some months ago, presented a portion (about one-half) of canceled order gold certificate No. H4395 for \$10,000.

Mr. Lazar, our Cincinnati Branch Manager, has given me in detail all of the information he has relative to this order gold certificate, including correspondence with the Treasury Department; I am enclosing, for the information of the Board, two copies of this correspondence.

Because of the nature of Mr. Goodman's inquiry, I assume that you may wish to send a file of the correspondence to the Treasury Department.

Should anything further develop in this matter, we shall of course advise the Treasury Department promptly, with advice to the Board if it so desires.

Very truly yours,


M. J. Fleming,
President.

Mr. S. R. Carpenter,
Assistant Secretary,
Board of Governors of the
Federal Reserve System,
Washington, D. C.

Enclosures-

RECEIVED
JAN 5 1938
10:40
NUMBER 31

*dup'd filed 011. see letter 1/27/38
see ans. 1/19/38*

C'D IN FILES SECTION
JAN 11 1938

JAN 8 1938

Mr. M. J. Fleming, President,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio.

Dear Mr. Fleming:

This will acknowledge receipt of your letter
of January 4, 1938 regarding the mutilated and can-
celled portion of an order gold certificate presented
to the Cincinnati Branch of the Federal Reserve Bank
of Cleveland by Mr. Harry Gross, 12 East 12th Street,
Cincinnati, Ohio. We are inclosing herewith a copy
of the letter which we are today sending to the Treas-
urer of the United States with reference to this
matter.

Very truly yours,

GENERAL COUNSEL'S OFFICE
Dictated by *[Signature]*
Approved *[Signature]*
Revised By.....

(Signed) L. P. Bethea
L. P. Bethea,
Assistant Secretary.

Inclosure

JTC: am

[Handwritten signature]

FILE COPY

REC'D IN FILES SECTION
JAN 11 1938
3000 0 10

JAN 8 1938

W
Ex
Carded

x Woodman, Ed
x FRB, Cin.
x FRBk (H)
x Treasury Dept

Honorable W. A. Julian,
Treasurer of the United States,
Washington, D. C.

My dear Mr. Julian:

There are inclosed herewith for your information copies of certain correspondence relating to a mutilated and cancelled portion (about one-half) of an order gold certificate in the denomination of \$10,000, No. H 4395, series of 1900, issued to the order of the Girard National Bank, Philadelphia, Pennsylvania, September 18, 1906, which was presented to the Cincinnati branch of the Federal Reserve Bank of Cleveland on July 22, 1937, by Mr. Harry Gross, 12 East 12th Street, Cincinnati, Ohio.

Very truly yours,

(Signed) L. P. Bethea

L. P. Bethea,
Assistant Secretary.

GENERAL COUNSEL'S OFFICE,

Dictated by *JTO*

Approved by *[Signature]*

Revised by

Inclosures

[Handwritten signature]

JTO:am

Copy sent to Federal Reserve Bank of Cleveland

FILE COPY

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELAND

SOL GOODMAN
1011 First National Bank Bldg.,
Cincinnati, Ohio

January 17, 1938

Federal Reserve Bank of Cleveland,
4th and Walnut Streets,
Cincinnati, Ohio.

Gentlemen:

On or about July 22, 1937 our client, Harry Gross, was the holder of gold certificate No. H4395 in series of 1900 in the denomination of \$10,000.00. On that day he presented the same to your bank at Cincinnati for payment and you accepted it and have to this day failed to make due account therefor.

We are herewith making demand upon you for immediate return of the certificate or payment thereof in accordance with law.

Yours very truly,

Sol Goodman
Attorney for Harry Gross.

Squire, Sanders & Dempsey
Counsellors at Law
The Union Trust Building
Cleveland

January 26, 1938

Sol Goodman, Esq.
1011 First National Bank Building
Cincinnati, Ohio

Dear Sirs:

Your letter of January 17, 1938, addressed to Federal Reserve Bank of Cleveland, in which you demand on behalf of your client, Harry Gross, payment of the sum of \$10,000, has been referred to us as counsel for the Federal Reserve Bank.

From an examination of the files submitted to us, it appears that in the course of a fire in the Treasury Building, Washington, D.C., some of the paid order gold certificates supporting the Treasurer's monthly currency accounts were thrown out of the building and were unlawfully carried away by members of the public; that your client, Mr. Gross, in opening a bundle of clothes which had been left in his cleaning shop, discovered a portion (approximately one-half) of one of the paid order gold certificates in the denomination of \$10,000, No. H 4395, series of 1900, issued to the order of Girard National Bank, Philadelphia, Pennsylvania, and dated September 8, 1906; that he consulted his bank, The Western Bank & Trust Company, Cincinnati, Ohio, and was referred to the Cincinnati Branch of Federal Reserve Bank of Cleveland; and that on July 22, 1937, he willingly surrendered the said mutilated certificate to B. J. Lazar, Managing Director of the Cincinnati Branch of Federal Reserve Bank of Cleveland, receiving a written acknowledgment thereof which stated that the mutilated certificate was being

Squire, Sanders & Dempsey
Sol Goodman, Esq.

January 26, 1938

forwarded to the Treasury of the United States in accordance with the Treasurer's previous request.

In view of these facts, we believe you will agree with us that your client, Mr. Gross, has no valid claim upon Federal Reserve Bank of Cleveland for the following reasons, among others:

1. The certificate was marked "paid and cancelled" and had no value, being merely a supporting accounting instrument;
2. Mr. Gross paid no value for the certificate and acquired no interest therein as the finder thereof, the certificate representing property stolen from the United States;
3. The certificate was mutilated (there being approximately only one-half thereof) and therefore not regular on the face;
4. The certificate was to the order of Girard National Bank and was not endorsed by Girard National Bank, so that Mr. Gross was not within the tenor thereof;
5. Federal Reserve Bank of Cleveland, in taking delivery of the mutilated certificate which was willingly given by Mr. Gross, and forwarding the mutilated certificate to the Treasurer of the United States, was merely acting as an agent returning stolen property to the Treasurer of the United States in accordance with the request to it contained in a letter dated May 21, 1937, from Marion Banister, Assistant Treasurer, a copy of which we understand has been previously delivered to you.

If you have any further questions in connection with this matter, we would suggest that you take them up directly with the Treasury Department, Washington, D.C.

Very truly yours,

Squire, Sanders & Dempsey

RST:VN

Sol Goodman - Cincinnati
1011 First National Bk Bldg.

January 31, 1938

Squire, Sanders & Dempsey,
The Union Trust Building,
Cleveland, Ohio.

Gentlemen:

This is in reply to your letter of January 26th, 1938, in reference to the claim of Harry Gross v. Federal Reserve Bank of Cleveland on a \$10,000 gold certificate.

In your letter you set forth certain conclusions as reason for non-liability on the part of your client. With these we differ and feel that in all fairness we should call your attention to our differences.

You state that the certificate was marked "paid and cancelled." We do not know just on what you base those facts. Our client gives us no such information and the manager of the Federal Reserve Bank of Cincinnati made no such claim in his conversation with us.

Your second conclusion sets forth that Gross paid no value for the certificate and that he had no interest therein as a finder thereof. We thought it a fundamental principal of law that the finder has the best title in the world against everyone except the true owner. We have not been shown any proof of true ownership on the part of any other one than our client.

You stated that the certificate was not regular on the face because it was mutilated. The fact as we have it was that the certificate was apparently regular on its face and that a very small part thereof was torn. Under the law and regulations of the Treasury Department, a certificate, although mutilated and torn still has a value even though it is less than one-half. In the instant case our investigations disclose that it was possibly between 3/5 and 4/5 of the original.

You contend that the certificate was to the order of the Gerard National Bank and was not endorsed. This, of course, on the face shows that the Gerard National Bank would have been the owner and not the United States Government. Then in the same letter you set forth that it was merely an accounting receipt of the Treasurer of the United States. How would the United States have the certificate if it was payable to the order of the Gerard National Bank and unendorsed?

You state in your letter that the Federal Reserve Bank of Cleveland has forwarded the certificate to the Treasurer of the United States as an agent. We should like to know on whose behalf the Bank is acting as an agent, and also whether or not an agent, who actually takes property from a third person, is not liable as well as the principal?

We wish to inform you that we are not at all satisfied that our client's claim can be just so easily disposed of, We would need additional and more convincing proof as to the non-liability of your client.

Unless this is received, we shall institute action on his behalf against your client.

Yours very truly,

Sol Goodman

YOKENA BOND

FRASER

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FRASER

FRASER

TREASURY DEPARTMENT - WASHINGTON

February 9, 1938.

Mr. G. H. Wagner, Vice President,
Federal Reserve Bank,
Cleveland, Ohio.

Dear Mr. Wagner:

Reference is made to your letter dated February 1 and to previous correspondence with the Federal Reserve Branch Bank of Cincinnati in connection with canceled order gold certificate No. H 4395, Series of 1900, in the denomination of \$10,000.

In reply please be advised that according to the records of this office this order gold certificate was issued on September 18, 1906, by the Assistant Treasurer of the United States at Philadelphia to the Girard National Bank in that city and was paid on October 30, 1906, and forwarded to the Auditor for the Treasury with the Treasurer's currency account for October 1906 as a voucher to support the payment for the certificate listed therein. A portion of this certificate was received in this office with a letter dated July 22, 1937, from the Managing Director of the Federal Reserve Branch Bank of Cincinnati, having been delivered to that bank by Harry Gross of 12 East 12th Street, Cincinnati. Inasmuch as the certificate was apparently one of those carried away by the public during a fire in the building where these vouchers were stored, the portion received was returned to the office of the Comptroller General of the United States, which office assumed the duties of the Auditor for the Treasury upon its establishment, with a letter dated October 30, 1937.

An examination of this certificate shows that slightly more than one half thereof was returned with the letter of July 22 referred to, that such portion is the left-hand part, and that the right edge is burned. Further, the condition of this certificate is such that it cannot be determined whether any endorsements were made thereon or whether it was marked paid. It does, however, show a punch cancellation.

This certificate was issued under the Act of March 14, 1900, by the Assistant Treasurer of the United States at Philadelphia to the Girard National Bank in that city in exchange for a like amount of gold. The records of this office do not disclose the purposes for which the Girard National Bank secured this certificate nor the reason for its surrender. At that

time, however, many banks obtained these certificates for use in maintaining their required legal reserve, and it is probable that this certificate was used for that purpose and was surrendered when there was no further use for it. Upon the surrender of this certificate to the issuing Assistant Treasurer, payment was made therefor in lawful money, and the certificate was canceled and forwarded to the Treasurer of the United States as a redemption item.

Very truly yours,

Marion Banister, Assistant Treas.

*Squire, Sanders & Dempsey
Counsellors at Law
The Union Trust Building
Cleveland*

February 11, 1938

Sol Goodman, Esq.
1011 First National Bank Building
Cincinnati, Ohio

Dear Sir:

In further reply to your letter of January 31, 1938 with reference to the claim of your client, Harry Gross, against Federal Reserve Bank of Cleveland with respect to a portion of order gold certificate in the denomination of \$10,000, No. H 4395 series of 1900, issued to the order of the Girard National Bank, Philadelphia, Pennsylvania, dated September 18, 1906, we are pleased to enclose herewith for your information in the premises, photostatic copy of letter dated February 9, 1938 from Marion Banister, Assistant Treasurer of the United States to G. H. Wagner, Vice President of the Federal Reserve Bank of Cleveland.

In such letter you will note the following:

1. The gold certificate was issued on September 18, 1906 to Girard National Bank and was paid on October 30, 1906, and forwarded to the Auditor for the Treasury with the Treasurer's currency account for October 1906 as a voucher to support the payment for the certificate listed therein. After Mr. Gross delivered it to the Cincinnati Branch of the Federal Reserve Bank of Cleveland it was returned to the Treasury Department under letter dated July 22, 1937. Thereupon it was delivered to the office of the Comptroller General of the United States.
2. Slightly more than half of the certificate was returned to the Treasury Department through the Cincinnati Branch of the Federal Reserve Bank of Cleveland, namely the left hand part, and of such portion the right edge was burned.
3. The condition of the portion of the certificate returned was such that it cannot be determined whether any endorsements were made thereon or whether it was marked paid but such portion does contain a perforated cancellation.

We believe that the foregoing information answers the question raised by you in the third paragraph of your letter.

Squire, Sanders & Dempsey

G. H. WAGNER
VICE PRESIDENT

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FEB 11 AM 9 52

Sol Goodman, Esq. - 2

February 11, 1938

With respect to what rights Mr. Gross has in the certificate as a finder thereof who paid no value, you state it to be a fundamental principle of law that the finder has the best title in the world against everyone but the true owner. Assuming this principle is true, we believe you will agree that whether the certificate be considered as having an intangible and representative value, as well as the intrinsic value of the physical paper itself, the United States of America is the owner thereof so that Mr. Gross can claim no interest as a finder since the certificate is neither abandoned property nor property the owner of which is unknown. In these circumstances we understand that the only claim a finder of property may make, is one which arises through the creation of an unilateral contract, by the finder returning property to the owner and thereby complying with an offer of reward made by the owner. So far as we are advised no reward has ever been offered by any one for the return of the certificate in question.

With respect to the fifth paragraph of your letter, we are not familiar with the regulations of the Treasury Department to which you refer and do not know whether such regulations are applicable to the certificate in question. It seems to us that general principles relating to negotiable instruments would govern here and that even if Mr. Gross had paid value for the certificate and was without notice as to its stolen character, he did not acquire valid title by reason of the fact that the certificate was mutilated and bore evidence of cancellation through perforation. The question of fact raised in the sixth paragraph of your letter is answered by Mrs. Banister's letter, copy of which is enclosed.

With further reference to our statement that the Federal Reserve Bank of Cleveland was acting merely as an agent, we wish to point out that it was clearly acting as an agent for the United States of America in receiving and transmitting the certificate to the Treasury Department. We believe also that it may have been acting as the agent of Mr. Gross in assisting him in delivering stolen property which had come into its possession, to the rightful owner thereof.

We trust that the foregoing will answer your questions and that it will not be necessary that Mr. Gross' alleged claim become the subject of what would prove to be fruitless litigation so far as he is concerned. We can advise you definitely at this time that the Federal Reserve Bank of Cleveland is not going to make any payment to Mr. Gross on account of his alleged claim.

BOVBO DE GOVERNORS

Very truly yours,

1938 FEB 12 AM 11 52

Squire, Sanders & Dempsey

RECEIVED

RST:MA
Enc.

REC'D IN FILES SECTION
FEB 23 1938
300 010

1875
x FRB Cincinnati
x Treas Dept

FEB 19 1938

Mr. G. H. Wagner, Vice President,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio.

Dear Mr. Wagner:

Receipt is acknowledged of your letter of February 14, 1938, inclosing copies of certain correspondence between the firm of Squire, Sanders & Dempsey and Mr. Sol Goodman, Attorney for Mr. Harry Gross, and between your bank and Mrs. Marion Banister, Assistant Treasurer of the United States, relating to the claim of Mr. Gross for payment of an order gold certificate presented by him to your Cincinnati Branch.

It is understood that copies of this correspondence have been forwarded to the Board merely to complete its file of the case. Accordingly, the Board is not forwarding copies of such correspondence to the Treasurer of the United States.

With respect to your inquiry as to the necessity of forwarding to the Board copies of additional correspondence that may pass between the interested parties, it is believed that it will be unnecessary for us to receive copies of such additional correspondence unless some point should arise which you think should be brought to the Board's attention.

Very truly yours,

(Signed) L. P. BETHEA

L. P. Bethea,
Assistant Secretary.

GENERAL COUNSEL'S OFFICE
Dictated by...
Approved by...
Reviewed by...

HHH:mmm

[Handwritten signature]

File
CHM

FILE COPY

Handwritten:
3/1/38
Council

FEDERAL RESERVE BANK
OF CLEVELAND

REC'D IN FILES SECTION
FEB 23 1938
300 • 010

February 14, 1938.

Mr. L. P. Bethea, Assistant Secretary,
Board of Governors of the
Federal Reserve System,
Washington, D. C.

Dear Mr. Bethea:

Since writing to you on January 27, re-
garding the claim of Harry Gross for payment of
a \$10,000 order gold certificate left by him at
our Cincinnati branch office, we have had addition-
al correspondence regarding the subject. There
are enclosed the following:

1. Copy of a letter dated January 31, 1938,
received from Sol Goodman, attorney for
Harry Gross.
2. Copy of a letter dated February 9, 1938,
from Marion Banister, Assistant Treasurer
of the United States, addressed to this
bank.
3. Copy of a letter written February 11,
1938, by Squire, Sanders and Dempsey to
Sol Goodman.

These copies are sent to you to complete
your file of the case.

Inasmuch as it was necessary for us to
obtain certain information from the Treasurer of
the United States, contained in the letter dated
February 9th mentioned above, may we inquire if
you wish to receive copies of additional corres-
pondence that may pass between the interested
parties.

Very truly yours,

Handwritten signature:
W. M. W. W.
Vice President.

Handwritten:
File
EAM

W.m
Encl.

Handwritten:
See ans 2/19/38

REC'D IN FILES SECTION
FEB 2 - 1938
300 • 010

FEB 1 1938

January 21st

Mr. G. H. Wagner, Vice President,
Federal Reserve Bank of Cleveland,
Cleveland, Ohio.

Dear Mr. Wagner:

Receipt is acknowledged of your letter of January 27, 1938, inclosing, in duplicate, copies of the letter received at your Cincinnati Branch from Mr. Sol Goodman and the reply addressed to him by Squire, Sanders & Dempsey, relating to a mutilated and cancelled portion of an order gold certificate presented to the Cincinnati Branch by Mr. Harry Gross. There is inclosed a copy of the letter which we are today sending to the Treasurer of the United States with reference to this matter.

Very truly yours,

L. P. Bethea,
Assistant Secretary.

Inclosure
JTO:mam

GENERAL COUNSEL'S OFFICE
Dictated by *JTO*
Approved by *[Signature]*
Revised by

FILE COPY

Handwritten: P. H. ...
Counsel

FEDERAL RESERVE BANK
OF CLEVELAND

REC'D IN FILES SECTION
FEB 2 - 1938

January 27, 1938.

Board of Governors of the
Federal Reserve System

Washington - D. C.

Gentlemen: Attention Mr. L. P. Bethea
Assistant Secretary

There are enclosed, in duplicate, copies of a letter received at our Cincinnati branch office from Mr. Sol Goodman, attorney for Mr. Harry Gross and a reply addressed to him by Squire, Sanders & Dempsey, counsel for this bank.

These letters refer to a mutilated cancelled portion of an order gold certificate presented to the branch office by Mr. Harry Gross, which was the subject of Mr. Fleming's letter dated January 4, 1938, and your reply of the 8th. The correspondence is presented to you in duplicate in order that you may retain a copy for your files and perhaps transmit a copy to the Treasurer of the United States.

Very truly yours,

Handwritten signature: J. H. Wagner
Vice President.

W.m

Encl.

RECEIVED
OFFICE OF THE COUNSEL
JAN 28 1938
3 55 P.M.
NUMBER 14

ENCLOSURES

Copies of:

Letter from Wagner

" " Goodman

" " Squire, Sanders

U. S. GOVERNMENT PRINTING OFFICE: 1744 *Dampney*

REC'D IN FILES SECTION

FEB 2 - 1938

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Honorable W. A. Julian,
Treasurer of the United States,
Washington, D. C.

My dear Mr. Julian:

Reference is made to our letter of January 8, 1938,
inclosing for your information copies of certain corres-
pondence relating to a mutilated and cancelled portion
(about one-half) of an order gold certificate in the de-
nomination of \$10,000, No. H 4395, series of 1900, issued
to the order of the Girard National Bank, Philadelphia,
Pennsylvania, September 18, 1906, which was presented to
the Cincinnati branch of the Federal Reserve Bank of Cleve-
land on July 22, 1937, by Mr. Harry Cross, 12 East 12th Street,
Cincinnati, Ohio. For your information there are inclosed
herewith copies of additional correspondence relating to this
matter.

Very truly yours,

L. P. Bethea,
Assistant Secretary.

Inclosures

JTO:mam

CC: F R Bank of Cleveland

GENERAL COUNSEL OFFICE

Dictated by *920*

Approved by

Typed by

FILE COPY

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELAND

RECORDED IN FILES SECTION

JAN 11 1938

COPY

TREASURY DEPARTMENT

WASHINGTON, D.C.

Treasurer of the United States
in replying quote initials

WJW

May 21, 1937.

Federal Reserve Bank,
Cleveland, Ohio.

Gentlemen:

During a fire in the building where certain General Accounting Office records and vouchers are filed, some of the paid order gold certificates supporting the Treasurer's monthly currency accounts were thrown out of the building and were carried away by the public. These certificates, which are in the denominations of \$5,000 and \$10,000, have no redemption value and should be returned immediately to the Treasurer of the United States for proper disposition.

If any inquiries concerning these gold certificates are received by your bank, please furnish the inquirer with the above information and notify this office by letter, giving the name and address of the person from whom the inquiry was received and any information that you may have regarding the certificate in question. If any of them are presented direct to your bank, please forward them immediately to this office.

Kindly advise your branch banks accordingly.

Very truly yours,

(signed) Marion Banister,
Assistant Treasurer.

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELANDREC'D IN FILES SECTION
JAN 11 1938

COPY

May 24, 1937

Mr. D. B. Clouser, Asst. Cashier,
Federal Reserve Bank of Cleveland.

Mr. R. G. Johnson, Asst. Cashier,
Cincinnati Branch.

Dear Mr. Clouser:

This will acknowledge receipt of your letter of May 22, 1937 enclosing copy of a letter from the Treasury Department dated May 21, 1937 with reference to certain paid order gold certificates which disappeared in the General Accounting Office of the Treasury Department, during a recent fire.

Very truly yours,

(signed) R. G. Johnson,
Assistant Cashier.

J:T

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELANDFILED IN FILES SECTION
JAN 11 1938

COPY

May 22, 1937

Mr. R. G. Johnson, Asst. Cashier,
Cincinnati Branch.

Mr. D. B. Clouser, Asst. Cashier.

Dear Mr. Johnson:

We forward herewith a copy of a letter
dated May 21 that we received today from the
United States Treasury Department.

Very truly yours,

(signed) D. B. Clouser

Assistant Cashier.

GHS:T

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELANDREC'D IN FILES SECTION
JAN 11 1938

COPY

July 22, 1937

Mrs. Marion Banister, Asst. Treasurer,
Treasury Department,
Washington, D. C.

Dear Mrs. Banister:

Today a man giving his name as Harry Gross and his address - 12 East 12th St., Cincinnati, Ohio - presented the enclosed mutilated and cancelled portion (about one-half) of order gold certificate in denomination \$10,000 No. H 4395 series of 1900 issued to the order of the Girard National Bank, Philadelphia, Pa., September 18, 1906.

Mr. Gross said that he had been referred to us by his bank - the Western Bank & Trust Co., Cincinnati, Ohio; that the bill had dropped from a bundle of clothes which had been left in his cleaning shop several weeks ago, and that he believed that it came from a package that was marked with the name of a Mr. Gord or Mr. Gordon, whose address he did not know.

Upon our request, Mr. Gross willingly surrendered this item to be transmitted to your office, in accordance with your letter of May 21, 1937 (WJW) addressed to our Main Office in Cleveland.

Please acknowledge receipt.

Very truly yours,

(signed) B. J. Lazar,
Managing Director.

L:T

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELAND

REC'D IN FILES SECTION

JAN 11 1938

COPY

July 22, 1937

Mr. Harry Gross,
12 East 12th St.,
Cincinnati, Ohio.

Dear Sir:

We have received from you today mutilated and cancelled portion (about one-half) of order gold certificate in denomination \$10,000 No. H 4395 series of 1900 issued to the order of the Girard National Bank, Philadelphia, Pa., September 18, 1906.

In accordance with request of the Treasurer of the United States we are forwarding this for proper disposition.

Very truly yours,

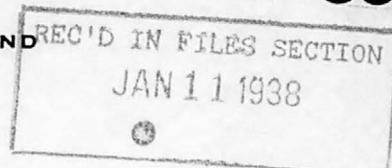
(signed) B. J. Lazar,

Managing Director.

L:T

CINCINNATI BRANCH
FEDERAL RESERVE BANK OF CLEVELAND

COPY

TREASURY DEPARTMENT
WASHINGTON, D.C.

July 26, 1937

Mr. B. J. Lazar,
Managing Director,
Federal Reserve Branch Bank,
Cincinnati, Ohio

Dear Mr. Lazar:

Receipt is acknowledged of your letter dated July 22 enclosing a portion (about one-half) of canceled order gold certificate No. H4395 for \$10,000 which you received from Harry Gross, 12 East 12th Street, Cincinnati, Ohio.

It is presumed that your bank furnished Mr. Gross with the information given in the letter of this office dated May 21 addressed to the Federal Reserve Bank of Cleveland.

Very truly yours,

(signed) Marion Banister,

Assistant Treasurer.

Gen Counsel

SOL GOODMAN
ATTORNEY AND COUNSELLOR-AT-LAW
1011 FIRST NATIONAL BANK BUILDING
CINCINNATI, OHIO
PA 7769

REC'D IN GENERAL FILES
DEC 30 1937
300-010

December 23rd, 1937.

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

Gentlemen:

Please let me have a copy of the regulations applicable to the Federal Reserve System, particularly on the question as to whether a Federal Reserve Bank may be sued in a State court.

Thanking you, I am,

Yours very truly,

Sol Goodman

SG:EH

RECEIVED
OFFICE OF GENERAL COUNSEL
DEC 27 1937
12:25 A.M.
NUMBER 17

DEC 28 1937

su am 12/29/37

1/4/38

