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X-6742

ANALYSIS OF EXTRAORDINARY CHARGES MADE AGAINST
FEDERAL RESERVE BANK OF RICHMOND IN DEFENDANT'S ANSWER
IN CASE OF FEDERAL RESERVE BANK OF RICHMOND V. ATTMORE.

(NOTE: Numbers with the letter "A" prefixed refer to numbered sections of the first portion of the Answer (pages 1-3); numbers with the letters "A.D." prefixed refer to numbered sections of that portion of the Answer (pages 3-15) containing the affirmative defenses; numbers with the letter "p" prefixed refer to pages of mimeograph No. X-6727-a.

In addition to the usual allegations appropriate to an answer filed in a suit of this kind, the Defendant makes the following extraordinary allegations:

1. That the Federal Reserve Bank is not a banking corporation but has made an effort "to pervert this Federal Reserve Bank, creation of the Democratic Administration, and to abrogate, destroy and disregard the beneficent and wise purposes and limitations of the creation", as set forth in the title of the Federal Reserve Act. (A-1,p.1.)
2. That, prior to 1920, the Peoples Bank, a State member bank, was largely indebted to Federal Reserve Bank, and, "because of the requirements applied by the plaintiff, unable properly to function;" and that the Federal Reserve Bank, "in its exercise of power arrogantly assumed, caused the National Bank of New Berne to absorb the said Peoples Bank and to assume its obligations." (A.D. 3, p.4)
3. That National Bank of New Berne became insolvent; that Federal Reserve Bank knew it to be insolvent; that, with full knowledge of Federal Reserve Bank, the National Bank of New Berne on March 19, 1929 entered into an agreement with the First National Bank of New Berne whereby

the latter assumed all liabilities of the former (except to stockholders) in consideration of the transfer of certain selected assets of the former and the execution of deficiency note for \$250,000 secured by the pledge of the remaining assets of the former; and that these facts were concealed from the public until about April 1930. (A.D. 3, pp. 4 5 and "Exhibit A")

4. That the First National Bank of New Berne was organized March 20, 1920, and took over certain assets and assumed the liabilities (except to shareholders) of the National Bank of New Berne; and that the capital and surplus of the First National Bank was provided fraudulently from the public funds of the County of Craven, with full knowledge of the Federal Reserve Bank. (A. D. 4, p. 5.)

5. That the First National Bank was insolvent at the time of its creation and continued insolvent until October 26, 1929, "when it ceased to function". (A. D. 5, p. 6.)

6. That the assets taken over by the First National Bank were the same as those shown in the last statement of the National Bank of New Berne except for those rejected by the examiners and grouped as collateral to its deficiency note of \$250,000 (A.D. 5, p. 6.); that said deficiency note was never worth more than \$20,000, has never been collected, and never can be collected; and that Federal Reserve Bank had full knowledge of all these facts. (A. D. 5, p. 6.)

7. That the Peoples Bank was a member of the Federal Reserve Bank and as such was regularly examined by Federal Reserve Bank, and that Federal Reserve Bank "required and brought about the amalgamation" of the Peoples Bank with the National Bank of New Berne. (A.D. 6, p. 6.)

8. That in 1927 or 1928 the National Bank of New Berne was required to make good \$225,000 worth of losses and that this was done by the use of the money of Craven County. (A. D. 6, p. 7.)

9. That about the same time the Federal Reserve Bank "dominating said bank" notified it that it desired it to employ Hugh R. Beal, one of the Federal Reserve Bank's examiners, and to take charge of the National Bank. (A.D. 6, p.7.)

10. That Beal accepted a position with a member bank in Elizabeth City and remained with it about five months, or until it closed; but, thereupon at the instance of the Federal Reserve Bank made an examination of the National Bank of New Berne. (A. D. 6, p. 7.)

11. That, at the time of such examination, there were among the assets of said bank a large part of the assets acquired from the Peoples Bank, which Beal had already investigated for the Federal Reserve Bank while examining the Peoples Bank and bringing about its amalgamation with the National Bank of New Berne. (A. D. 6, p. 7.)

12. That Beal became vice president of the National Bank of New Berne, "under the mandate of" the Federal Reserve Bank, and remained in this position about 6 months. (A. D. 6, p. 7.)

13. That on March 7, 1929, there was deposited in the Seventh National City Bank, under the control of Beal, to the account of the National Bank of New Berne, \$200,000 proceeds from the sale of Craven County notes, which were issued unlawfully by the Commissioners of Craven County. (A.D. 6, pp. 7, 8.)

14. That \$180,000 of such \$200,000 was placed by Beal in the Planters Bank of Richmond and on March 19 transferred by him to the Federal

Reserve Bank of Richmond. (A.D. 6, p. 8.)

15. That, on or about March 19, the Comptroller of the Currency "licensed" a new national bank (apparently the First National Bank) "to be operated by the City of New Bern"; that Beal had organized this bank, under the advice and counsel of the Federal Reserve Bank; and that Beal was its vice president and executive officer. (A.D. 6, p. 8.)

16. That on or about March 19, 1929, the said sum was placed to the credit of the First National Bank of New Berne as its paid-in capital stock and surplus. (A.D. 6, p. 8.)

17. That an additional sum of \$50,000 or \$80,000 was in some similar manner made available for the use of the First National Bank through the same agency. (A.D. 6, p. 8.)

18. That throughout all these transactions the National Bank of New Berne was insolvent, that **its** condition was fully reported to and fully known by the Federal Reserve Bank and that its assets were, from time to time appraised and the value thereof reported to the Federal Reserve Bank. (A.D. 6, p. 9.)

19. That before March 20, 1929, the Federal Reserve Bank had maintained an agent at New Berne to present items for collection in cash across the counter of the National Bank of New Berne. (A.D. 6, p. 9.)

20. That, on March 20, 1929, the assets of the National Bank of New Berne became the assets of the First National Bank of New Berne. (A.D. 7, p. 9.)

21. That the county money "obtained unlawfully and through fraud" never became the property of the First National Bank but remained the property

of the County. (A.D. 7, p. 9.)

22. That, with all these matters fully known to the Federal Reserve Bank, the First National Bank was insolvent when it opened and remained insolvent throughout its short career, i.e., from March 20, 1929, to October 26, 1929. (A.D. 7, p. 9.)

23. That "unlawfully, contrary to the power granted to the plaintiff, wholly ultra vires, and in fraud upon the depositors and creditors of the National Bank of New Berne and the First National Bank of New Berne" the Federal Reserve Bank held in its possession \$600,000 or \$700,000 face value of the assets of such national banks. (A.D. 7, p. 9.)

24. That, from its very beginning, 12 of its creditors, including the Federal Reserve Bank, held 64% of all of its assets to cover 34% of the total general liability of the First National Bank, leaving 36% of the assets, composed of the "left overs" of practically no value. (A.D. 7, p. 10.)

25. That Defendant believes that the Receiver, under advice and guidance of the Comptroller of the Currency, and with knowledge and consent of the Federal Reserve Bank, had brought actions to reduce to possession all of said 64% of the assets, except \$600,000 or \$700,000 carefully selected by the Federal Reserve Bank, which the Receiver has "conveniently selected and designated x x x for use for the purposes: first, of embarrassment to the community and, second, the destruction of the business life of the community." (A.D. 7, p. 10.)

26. That, under the Federal Reserve Act, the Federal Reserve Bank can neither hold nor own such assets but should be required to account to the Receiver of the First National Bank and the Liquidating Agent of the National

Bank of New Berne for all assets of the respective banks and to Craven County for the \$425,000 of its money "unlawfully, fraudulently had and obtained".

(A.D. 7, p. 10.)

27. That the debt, if any, of the First National Bank to the Federal Reserve Bank was \$208,000 against which the Federal Reserve Bank held \$400,000 or \$500,000 of the bills receivable as assigned collateral. (A.D. 7, p. 11.)

28. That the defendant's \$5,000 note was an accommodation note given without any consideration. (A.D. 8, p. 11.)

29. That, in view of its power of examination and supervision over member banks under the provisions of the Federal Reserve Act, the Federal Reserve Bank was chargeable with notice of these facts. (A. D. 8, p. 11.)

30. That the Federal Reserve Bank examined the National Bank of New Berne from time to time and that a proper examination was bound to disclose the fact that the \$5,000 note was given without consideration. (A.D. 8, p. 11.)

31. That the Federal Reserve Bank constituted the National Bank of New Bern its agent to collect this note. (A.D. 8, p. 12.)

32. That the National Bank of New Berne, the First National Bank and the Federal Reserve Bank, in collusion, converted this note and the Federal Reserve Bank holds it as trustee for defendant. (A.D. 9, p. 13.)