

In Re: FineMark National Bank & Trust
Fort Myers, Lee County, Florida
Application for Federal Deposit Insurance

ORDER

The undersigned, acting on behalf of the Board of Directors of the FDIC, pursuant to delegated authority, has fully considered all available facts and information relevant to the factors of Section 6 of the Federal Deposit Insurance Act and relating to the application for Federal deposit insurance for FineMark National Bank & Trust, a proposed new National bank to be located at 12681 Creekside Lane, Fort Myers, Lee County, Florida 33919, and open in temporary quarters at 12995 South Cleveland Avenue, Suite 145, PineBrook Park Complex, Fort Myers, Lee County, Florida, and has concluded that the application should be approved.

Accordingly, it is hereby ORDERED that the application submitted by FineMark National Bank & Trust for Federal deposit insurance be and the same is hereby approved subject to the following conditions:

- (1) That beginning paid-in capital funds of not less than \$20,970,000 be provided, of which not less than \$10,485,000 shall be allocated to common capital and not less than \$10,485,000 to surplus;
- (2) That the Tier 1 capital to assets leverage ratio (as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator) will be maintained at not less than eight percent throughout the first three years of operation and that an adequate allowance for loan and lease losses will be provided;
- (3) That any changes in proposed management or proposed ownership (10% or more of stock), including new acquisitions of or subscriptions to 10% or more of the stock, shall be approved by the FDIC prior to opening of the bank;
- (4) That full disclosure has been made to all proposed directors and stockholders of the facts concerning any insider transaction, including the identity of the parties to the transaction and the terms and costs involved (an insider is one who is or is proposed to be a director, officer, or incorporator of an applicant, a shareholder who directly or indirectly controls 10 or more percent of any class of the applicant's outstanding voting stock; or the associates or interests of any such person);
- (5) That FineMark Holding, Inc., has obtained approval of the Board of Governors of the Federal Reserve System to acquire voting stock control of the proposed depository institution prior to its opening for business;

- (6) That Federal deposit insurance shall not become effective unless and until the applicant has been granted a charter as a depository institution, that it has authority to conduct a banking business, and that its establishment and operation as a bank have been fully approved by the Office of the Comptroller of the Currency;
- (7) That until the bank is established, the Corporation shall have the right to alter, suspend, or withdraw the said commitment should any interim development be deemed to warrant such action; and,
- (8) That if deposit insurance has not become effective within twelve months from the date of this ORDER, or unless, in the meantime, a request for an extension of time has been approved by the Corporation, the consent granted shall expire at the end of the said twelve-month period.

Dated at Atlanta, Georgia, this 12th day of January, 2007.

FEDERAL DEPOSIT INSURANCE CORPORATION

By: MARK S. SCHMIDT, REGIONAL DIRECTOR

Mark S. Schmidt
Regional Director
Atlanta Region