MELVIN D. CLOSE, JR.
JOSEPH W. BROWN
ALBERT F. PAGNI
JOHN P. SANDE, III
WILLIAM J. RAGGIO
GARY R. GOODHEART
MICHAEL E. BUCKLEY
RICHARD F. JOST
JANET L. CHUBB
DOUGLAS M. COHEN
KIRK B. LENHARD
KEVIN R. STOLWORTHY
JAMES L. WADHAMS
JODI R. GOODHEART
PAUL A. LEMCKE
MICHAEL G. ALONSO
ANN MORGAN

KRIS T. BALLARD
WILLIAM C. DAVIS, JR.
KARL L. NIELSON
PATRICK J. SHEEHAN
CLARK V. VELLIS
JOHN P. DESMOND
SCOTT M. SCHOENWALD
CONSTANCE L. AKRIDGE
EDWARD M. GARCIA
TAMARA BEATTY PETERSON
ELIZABETH M. FIELDER
MOLLY MALONE REZAC
DAVID A. CARROLL
RYAN W. HERRICK
BRIAN R. IRVINE
MATTHEW T. MILONE
BRETT J. SCOLARI

CLIFFORD A. JONES (1912 - 2001)
HERBERT M. JONES (1914 - 2008)
GEORGE L. VARGAS (1909 - 1985)
JOHN C. BARTLETT (1910 - 1982)
LOUIS MEAD DIXON (1919 - 1993)
GARY T. FOREMASTER (1953 - 1998)

JONES VARGAS

ATTORNEYS AT LAW
TWELFTH FLOOR
100 WEST LIBERTY STREET
PO BOX 281
RENO, NEVADA 89504-0281

TEL (775) 786-5000 FAX (775) 786-1177

WWW.JONESVARGAS.COM

WHITNEY D. BOCCHI
LOUIS M. BUBALA III
JUSTIN J. BUSTOS
ADAM K. BULT
KENNETH K. CHING
TRACY A. DIFILLIPPO
ANTHONY J. DIRAIMONDO
KATHLEEN L. FELLOWS
NICOLE M. HARVEY
MICHAEL A. KELLER
BENJAMIN W. KENNEDY
WAYNE O. KLOMP

DANA B. KRULEWITZ
CURT R. LEDFORD
BRYAN A. LINDSEY
CHRISTOPHER C. MONEY
RICHARD A. RAWSON
JOHN P. SANDE, IV
BRADLEY SCOTT SCHRAGER
STEVEN G. SHEVORSKI
DANIEL H. STEWART
JESSE A. WADHAMS
CHRISTINA H. WANG
GORDON H. WARREN

RICHARD G. BARRIER
ROBERT E. BRUCE
AMANDA J. COWLEY
ALAN B. RABKIN
STEVEN T. POLIKALAS
OF COUNSEL

BRIAN J. MATTER
EXECUTIVE DIRECTOR

E-Mail Address
arabkin@jonesvargas.com

March 27, 2009

2009 MAR 30 P 3:24
RECEIVED
OFFICE OF EXECUTIVE SECRETARY

Robert Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

RE: *Proposed FDIC Emergency Special Assessment (RIN 3064-AD35)*

Dear Mr. Feldman:

I represent the Nevada Bankers Association ("NBA") and the Arizona Bankers Association ("AzBA") and I am writing to you on their behalf.

These bank associations are both 'close to the ground' bank industry groups who are involved with banking issues on a local, state and, in this case, national basis. Amongst banking organizations they are true leaders.

I felt we could collectively provide the FDIC with insight on the proposed FDIC Special Emergency Assessment proposal (the "Special Assessment") that is now pending for comment and our member institutions, numbering well over one hundred, appreciate this opportunity to do so.

By way of background, and as I am sure you are quite aware, NBA is a bank industry group consisting of national and state chartered institutions and affiliate members in Nevada with an ongoing interest in maintaining stable and well managed banking within the State of Nevada. AzBA is similar in its orientation and represents an even larger group of institutions with regard to the State of Arizona. However, service to their member banks is only the start of their mission as they are actively involved in consumer financial issues and community financial education.

Our member banks range from small branch banks in the far North of Nevada and they run continuously south through major urban cities such as Reno, Las Vegas, Phoenix and Tucson and end at the Mexican border. Together, the various institutions in this huge swath of land represent a wide cross section of community, regional and national institutions and serve

LAS VEGAS OFFICE
3773 HOWARD HUGHES PARKWAY, THIRD FLOOR SOUTH LAS VEGAS, NEVADA 89169 TEL (702) 862-3300 FAX (702) 737-7705

hundreds of thousands of rural and urban families and regional and local businesses as well as the employees who serve them on behalf of our member banks.

We mention this as our response is on behalf of all of these banks—big and small—and all of their customers and borrowers--as all banks will be immediately, directly and negatively impacted by the Special Assessment in the manner and for the reasons discussed below.

As we understand the proposal, the Special Assessment is a further add-on to the new permanent assessment scheme set forth in FIL-12-2009 (effective April 1, 2009) that will already impose significant new deposit premiums on our institutions in the future. Both the permanent assessment and Special Assessment are obviously designed to assist in the stabilization and future funding of the FDIC Fund (sometimes referred to as the "DIF"). So there is no misimpression, we agree that a stabilized DIF is a good thing to work towards systematically.

The Special Assessment additional element to the ongoing DIF assessments is designed to impose a 20 basis point increase in DIF contributions by banks by way of deposit insurance premiums (with possible additional 10 basis point assessments in certain circumstances). The Special Assessment is not risk-weighted. Your authority to charge this Special Assessment would be preapproved without further input or discussion and would not be subject to notice and further comment as to the circumstances that existed at the time it is imposed.

We believe the Special Assessment creates new risks and problems that should be avoided. Few banks are able to handle increases in the DIF with ease. Fewer 1 and 2 rated institutions now exist and are likely to exist in the near future. Many of our institutions are already rated less favorably than 1 and 2. As a result, all of the down-rated banks will pay far more and compete far less even under the regular DIF assessments going forward. Adding the possibility of a Special Assessment places institutions rated below a 2 at even greater risk, and if Special Assessments are actually assessed, further weakens them. This could have the unwelcome outcome of pushing institutions over the edge in exchange for the transitory comfort of seeing accelerating reserves flood into the DIF.

Banks are no longer able to absorb increasing DIF assessments in an environment of increasing loss. They have reached a natural limit as loss is imposed and increases by operations, audit fees, rising accounting costs and DIF assessments. Loss, of course, equates to reduced capital and the same regulators who impose new and higher assessment costs also are imposing higher capital standards. It is inconsistent and acting at cross purpose to ask for both to occur together and contemporaneously.

Aside from the immediate and counterproductive impact on the DIF caused by further weakening banks without real reason, many of the more challenged institutions exist in our rural and suburban areas and any failures will impact those banks more. Even if larger institutions do not close as bank systems, they may close marginal locations to simply survive

higher regulatory costs, such as the Special Assessment. It is feared the result will be more underserved bank customers.

The current stress that has been placed upon banking in addressing account pricing and, at the same time, to maintain the added cost of loan servicing is well-documented by your own recent exam cycles. Also, calls for capital resound from every regulatory sector. It would appear that rather than drain profits from banks for rapid replenishment of the DIF that a focus should be placed on building capital first as capital is front line in the fight to protect and preserve the DIF.

Further, many institutions in the two states NBA and AzBA operate lost significant money in 2008 and almost assuredly will again lose equally large or greater sums in 2009. Causing an accelerated rate of loss with a Special Assessment is not the solution as banks simply are at an end of their ability to absorb loss and acquire capital in tandem.

Therefore, real impacts on all our communities served will be the real result if Special Assessments are made in advance of sustained bank profitability. The outcomes are all to be anticipated. For example, savings and time certificate account pricing will naturally decline to accommodate the increasing DIF obligation and this squeezes those reliant on fixed incomes. Support for local events and charities is quickly impacted as profits are reduced and community budgets are slashed. Full time positions are reduced to part-time positions to counter the increasing overhead. These are but a few of the real and tragic outcomes of increasing cost in troubled economies.

Our members realize and appreciate that the FDIC is attempting to spread the cost of failed institutions across the wide spectrum of general taxpayers, the current FDIC fund and the remaining healthier institutions that live on. However, rendering banks unprofitable to do so is far too heavy a weight on the backs of American bankers and those in Nevada and Arizona. It is disproportional when banks, alone, shoulder such a burden over a compressed period in one of the worst economies in our lifetimes. Regulatory action should never be disproportional.

We urge a different strategy. As we all await the far deeper regulatory overhaul proposed by Treasury, the Federal Reserve and your agency, let us all reflect, be less reactive and measure our need to accelerate the restoration of the DIF all at once. As the engine of banking increases above its current rough idle level, new DIF issues and assessment costs are easier to address as the economy increases. Doing so without banks profitable only artificially forces issues that may, in fact, have resolved themselves.

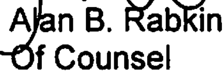
Before assuming the banks in Nevada and Arizona can easily absorb these fees, know that this is not backed by your own data and bank ratings. If weakening of banks is of a concern to you, please reconsider the use of your many other borrowing resources at the Treasury; fees related to the various capital and guaranty programs; and appropriations to bridge the current wicked economy and the gap in funding to restore the DIF to full health.

Create proportional responses to a DIF being drained of its resources—not a reactive response that will simply create the need for a cascade of additional responses.

On behalf of NBA and AzBa, I sincerely appreciate the opportunity to offer these comments on behalf of our members, their families and the employees who serve them.

Very truly yours,

JONES VARGAS



Alan B. Rabkin
Of Counsel

ABR:ar

cc: Nevada Bankers Association (Attn. William Uffelman)
Arizona Bankers Association (Attn. Tanya Wheeless)
American Bankers Association (Attn. Wayne Abernathy/Jim Chessen)