

DEPARTMENT OF FINANCIAL INSTITUTIONS
MINUTES OF MEETING
May 9, 2013

The Members of the Department of Financial Institutions met at 10:00 a.m., EST, at 30 South Meridian Street, Suite 300, Indianapolis, Indiana. Present from the Department were David H. Mills, Director and Member; Constance J. Gustafson, Associate Counsel; Kirk J. Schreiber, Senior Bank Analyst, Bank Division; J. Deron Thompson, Regional Field Supervisor, Bank Division; Thomas Fite, Assistant Regional Field Supervisor; Mark B. Tarpey, Supervisor, Consumer Credit Division; Gina R. Williams, Deputy Director, Administration Division; Troy Pogue, Supervisor, Administration Division; and Sharmaine Stewart, Administrative Assistant. Present representing Indiana Members Credit Union was Mike Miller. Present representing Bullets Inc. d/b/a Fares Pawn was Bill Saalwaechter and his attorney, Jim Johnson.

I. PUBLIC SESSION: 10:00 a.m.

A. Members Present: Richard J. Rice, Chairman; Mark Schroeder, Vice Chairman; Donald E. Goetz; Michael W. Davis and David H. Mills, Director. Jean L. Wojtowicz participated via teleconference and Paul Sweeney was absent. Ms. Gustafson advised Chairman Rice that under the recently adopted policy relating to remote participation at Members' meetings, that all votes taken must be by roll call. Chairman Rice asked Ms. Gustafson to handle any votes by roll call during the meeting.

B. Date of next meeting: June 20, 2013¹ @ 10:00 a.m., at the office of the Department of Financial Institutions, 30 South Meridian Street, Suite 300, Indianapolis, Indiana.

C. Chairman Rice entertained a motion to approve the minutes of the April, 2013 meeting.

Mr. Goetz moved approval of the minutes; Ms. Wojtowicz seconded the motion and the motion passed unanimously by roll call vote of 6-0.

D. CREDIT UNION DIVISION:

1. Indiana Members Credit Union, Marion County, Indiana

This application was presented by Mark K. Powell, Supervisor, Credit Union Division. Indiana Members Credit Union (IMCU) has applied to the Members for approval of the proposed merger of Warren MSD Federal Credit Union (WMSDFCU), Indianapolis, Marion County, Indiana into Indiana Members Credit Union.

¹ Next meeting was originally set for June 13, 2013, however, was changed to June 20, 2013 to accommodate schedules of the various Members.

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This is a voluntary merger initiated by the Board of Directors of Warren MSD Federal Credit Union. This merger will provide economies of scale and an opportunity to provide the more complete services from Indiana Members Credit Union to the membership of Warren MSD Federal Credit Union.

Mr. Powell explained that as required by IC 28-7-1-33(c) the following factors should be considered by the Department in approving or disapproving the merger:

- (1) Whether the credit unions subject to this proposed merger are operated in a safe, sound, and prudent manner. In staff's opinion both credit unions are operated in a safe, sound, and prudent manner.
- (2) Whether the financial condition of either credit union involved in this merger will jeopardize the financial stability of the other credit union. In staff's opinion the financial condition of neither credit union will jeopardize the financial stability of the other credit union.
- (3) Whether the proposed merger will result in a credit union that has inadequate capital, unsatisfactory management, or poor earnings prospects. In staff's opinion the proposed merger will not result in a credit union that has inadequate capital, unsatisfactory management, or poor earnings prospects.
- (4) Whether the proposed merger, in the department's judgment, will result in a credit union that is more favorable to the stakeholders than if the credit unions were to remain separate. In staff's opinion this merger will result in a credit union that is more favorable to the stakeholders than if the credit unions were to remain separate.
- (5) Whether the management or other principals of the surviving credit union are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting credit union. In staff's opinion the management and other principals of the surviving credit union are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting credit union.
- (6) Whether the credit unions involved in this transaction have provided all the information required to enable the department to reach a decision on this merger. In staff's opinion both credit unions have provided all of the information required by the department to reach a decision on this merger.

The effect of this merger upon the capital of the surviving credit union (Indiana Members Credit Union) is negligible (from 10.82% to 10.80% of total assets).

Mr. Powell further pointed out that the merger has been approved by the National Credit Union Administration.

Mr. Rice asked a question concerning the vote of the membership of WMSDFCU approving the merger. Mike Miller, Vice President of Operations for IMCU, replied that 314 members voted in favor of the merger and 22 members voted against it.

Mr. Goetz made a motion for approval which was seconded by Mr. Mills. The motion to approve the voluntary merger of Warren MSD Federal Credit Union into Indiana Members Credit Union was unanimously approved by roll call vote of 6-0.

E. CONSUMER CREDIT DIVISION:

1. Bullets, Inc. d/b/a/ Fares Pawn Application for Proposed License No. 19587

Chairman advised the Members that the next item was consideration of the application for a pawn license filed by Bullets, Inc. d/b/a Fares Pawn. Director Mills recused himself from all discussion and voting on this matter as the Director is a named defendant in Fares Pawn, LLC, *et al* v. State of Indiana, Department of Financial Institutions, Consumer Credit Division *et al*, Case # 3:11-cv-00136-RLY-WGH. While Mr. Mills' recusal was voluntary on his part, a request for recusal was also submitted by Jim Johnson, counsel for Mr. Saalwaechter, prior to the meeting. Mr. Mills left the room prior to any discussion.

This application was presented by Mark Tarpey, Supervisor, Consumer Credit Division. The DFI received an application for a new pawnbroker license on March 15, 2013 from Bullets, Inc. d/b/a Fares Pawn ("Applicant" or "Bullets, Inc."). Bill Saalwaechter is the President of Bullets, Inc. Mr. Saalwaechter is also the sole Member of the current pawnbroker licensee at the same location in Evansville, Fares Pawn, LLC d/b/a Fares Pawn operating under pawnbroker license #11156 which was issued by DFI on June 24, 2010.

This new corporation will operate the pawnbroker locations that Mr. Saalwaechter owns in Henderson and Owensboro, Kentucky as well as the location in Evansville. Applicant has provided the required documentation for the new entity, including financial statements, bond, insurance and criminal background checks. The existing entity has been examined three times since licensing and no violations have been cited. The current licensee is operating under a Memorandum of Understanding (MOU) that was issued as part of the approval of June 24, 2010.

Members were provided a memo dated May 3, 2013, from Associate Counsel Connie Gustafson along with other information relating to the application. Information was also provided to the Members by the Applicant and his counsel for review prior to the meeting. Mr. Tarpey gave the Members a brief summary of the DFI dealings with Mr. Saalwaechter under his current license. It was noted by Mr. Tarpey that MOUs entered into with the Department do not have a specific expiration date, but that staff will review any MOU to ensure that it reflects current concerns. Mr. Tarpey advised the Members that staff made no recommendation to the Members as to the current application.

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Mr. Johnson made a presentation to the Members as to why Mr. Saalwaechter and Bullets, Inc. should be approved under the new entity and should not have to continue to operate under an MOU. Mr. Johnson emphasized that the examinations conducted in the past 34 months by the department found no regulatory violations. There was a discussion in which Mr. Johnson was asked to explain what difficulties Mr. Saalwaechter encountered in operating under an MOU over the past 34 months. The Members also wanted to know the circumstances of John Jones' employment in the Kentucky locations after he was barred from working in the Evansville location as part of the MOU issued in June of 2010.

Mr. Johnson explained that Mr. Jones is no longer employed by Mr. Saalwaechter and is repaying \$25,000 under a court ordered program of approximately \$333 a month for theft of funds by Mr. Jones while working in Kentucky at the pawnshop. Following Mr. Johnson's presentation, Mr. Tarpey pointed out to the Members that the primary purpose of the proposed MOU was to expedite the administrative process to revoke or suspend a license if the licensee violates substantive provisions of the Pawnbroker Act or the MOU.

After considerable discussion by the Members, Jean Wojtowicz made a motion for approval of the new entity subject to the draft MOU as prepared by staff. There was further discussion about the fact that Mr. Saalwaechter had been operating under an MOU for almost three years. Mark Schroeder suggested that the new MOU be limited to a term of three years pending compliance with all terms and conditions. Jean Wojtowicz agreed to the amendment to her motion to limit the MOU to a terms of three years which was seconded by Mr. Davis and unanimously approved by the Members by roll call vote of 5-0 (Mr. Mills having recused himself).

F. DIRECTOR'S COMMENTS AND ACTIONS: (Director Mills rejoined and Ms. Wojtowicz left the meeting)

1. Discussion of the Department's financial statements

Gina Williams, Deputy Director of Administration, updated the Members on the Department's financial operating results and presented updated financial projections for the fiscal year ending June 30, 2013. The update was provided to the Members for informational purposes.

2. Director Mills advised the Members of actions taken pursuant to delegated authority since the last Members' meeting.

3. To express the gratitude of the Members, staff and financial services communities to James M. Cooper, Deputy Director of Depository Institutions, as he departs for a new career in Washington, D.C., Director Mills presented to the meeting the following resolution:

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Inasmuch as Deputy Director James M. Cooper has distinguished himself by thirty years of exemplary service to the Indiana Department of Financial Institutions, the citizens of the State of Indiana, and to the banking and credit union industries in Indiana, the Members of the Department hereby wish Jim congratulations and best wishes as he begins his new role with the Conference of State Bank Supervisors in Washington, D.C. The Department looks forward to continue working with Jim in his new capacity with CSBS as he shares his expertise and leadership with bank supervisors and the banking industry throughout the United States.

The resolution was unanimously and enthusiastically approved by the Members.

OTHER BUSINESS:

Chairman Rice asked if there was other business. There being no further business, Chairman Rice entertained a motion to adjourn the meeting. Mr. Mills moved for adjournment, Mr. Rice seconded the motion, and it passed unanimously.

APPROVED:

ATTEST:

Richard J. Rice, Chairman

Constance J. Gustafson, Secretary