

Texas Department of Banking

Press Release

Banking Commissioner Announces Decision Issued in Ghiglieri V. Ludwig

Date: May 22, 1996

Texas Banking Commissioner Catherine A. Ghiglieri today announced that a decision has been issued in Ghiglieri v. Ludwig, and that the days of the Comptroller picking and choosing what law binds him are over. United States District Court Judge Barefoot Sanders ruled today that the decisions by Eugene Ludwig, the Comptroller of the Currency, to allow Commercial National Bank of Texarkana, Arkansas to relocate its main office to Texarkana, Texas while keeping its branches in Arkansas are unlawful. Commissioner Ghiglieri filed suit against the Comptroller last September to prevent Commercial National Bank from avoiding the longstanding Texas prohibition on interstate branching.

Judge Sanders disagreed with the Comptroller's reliance on a provision in the National Bank Act that permits a national bank to relocate its main office within a radius of thirty miles, and his argument that the provision (Section 30) provides authority to branch even though another provision of the Act (Section 36) allows national banks to branch only to the extent that a state bank can operate branches. Therefore, the Comptroller argued that Commercial National Bank should be able to retain its Arkansas branches under Section 30, even though any other bank located in Texas could not establish branches in Arkansas. Judge Sanders ruled that the Section 30 cannot be read in isolation, but is limited by Section 36.

The Judge noted that the Comptroller had awarded Commercial National Bank a benefit that was not available to Texas or Arkansas state banks. Judge Sanders stated that "Congress has not entrusted the Comptroller with the power to make policy on the subject of branch banking. The policy making role in this area is given to the state legislatures. ... If the Comptroller were allowed to relax state branching standards for national banks, the doctrine of competitive equality would be violated." Judge Sanders especially noted that the Comptroller was forced to rely on his previous decisions instead of case law to justify the Texarkana decision. Commissioner Ghiglieri stated "This means that just because the Comptroller says something twice doesn't make it true."

Commissioner Ghiglieri stated that "this precedent-setting decision is a victory for states' rights and the ability of state legislatures to determine branch banking policies in their states. This decision helps preserve a level playing field between state and national banks."

According to Commissioner Ghiglieri, this ruling brings into question other recent relocations of main office decisions by the Comptroller that ignore state branching laws.

"We are proud to be a part of this historic moment," said Commissioner Ghiglieri. "We acknowledge and appreciate the support we received from Independent Bankers Association of Texas, the Conference of State Bank Supervisors and the state banking commissioners of OK, MI, CT, IA, NH, ND, WV, AR, VA, DE, ME, CO, MS, and DC, and Consumers Union."