

Texas Department of Banking

Press Release

Banking Commissioner Announces Judge David Briones Ruled Sun World, N. A. is Not Authorized to Operate from New Mexico While Retaining Branches in Texas, and the Decision Allowing Such Activity by the Comptroller of the Currency is Unlawful

Date: October 29, 1996

Texas Banking Commissioner Catherine A. Ghiglieri today announced that Judge David Briones, United States District Judge in El Paso, Texas, ruled that Sun World, National Association, a wholly-owned subsidiary of NationsBank Texas Bancorporation, Inc., is not authorized to operate from a headquarters in New Mexico while retaining bank branches in Texas, and the decision allowing such activity by the Comptroller of the Currency is unlawful.

This is the second time in recent months that the Commissioner has prevailed against the Comptroller. In May, United States District Judge Barefoot Sanders also ruled that the Comptroller did not have the power to change federal or state branching laws for national banks, see Ghiglieri v. Ludwig. The Comptroller has appealed that ruling to the Fifth Circuit Court of Appeals.

Commissioner Ghiglieri stated, "The Comptroller again has attempted to obtain through an administrative decision what he could not obtain from Congress in the Riegle-Neal interstate branching legislation. The will of the Texas Legislature to prohibit interstate branching should not be thwarted by a federal agency that is not accountable to the people of this state."

According to Commissioner Ghiglieri, Texas is the only state that has prohibited interstate branching. The Court's ruling assures that national banks operate under the same locational restrictions as state banks. The ruling also protects the state coffers because Sun World, as a New Mexico bank, is currently operating in Texas without paying franchise taxes.

Commissioner Ghiglieri filed a lawsuit against Sun World to prevent the bank from relocating its main office from El Paso, Texas to Santa Teresa, New Mexico, while retaining its offices in Texas as branches on July 19, 1996 in the United States District Court for the Western District of Texas, El Paso Division.

The bank filed two applications with the Comptroller to relocate its main office from Texas to New Mexico, and to retain its former main office, together with its two existing branches, in Texas as branches. Both Commissioner Ghiglieri and William J. Verant, the Banking Commissioner of New Mexico, filed objections to the applications on the basis that they violated both state and federal law. The Comptroller approved the applications and the bank moved its headquarters to New Mexico on August 2, 1996.

The Court ordered Sun World to immediately cease conducting banking operations in both New Mexico and Texas and gave customers ten days to move or close their accounts. The Court also enjoined the Comptroller from approving any further applications that would allow any bank to relocate its main office into or out of Texas, while retaining its branches in the former home state in violation of State law. Commissioner Ghiglieri stated, "This injunction relieves the State from

the burden of further litigation with the Comptroller involving other states that border Texas."

"We acknowledge and appreciate the support of the New Mexico Banking Commissioner, other amici, Arkansas, West Virginia, and New Hampshire Commissioners, and the Independent Bankers Association of Texas. The Court's ruling shows that Texas is more than a state of mind. Geographic limits and local control of banking have always been important to Texans. Texas is the only state that, in its Constitution, prohibited branch banking. We are pleased that Judge Briones has upheld Texas law and protected local banks from the competitive advantages that the Comptroller tried to give NationsBank through its Sun World subsidiary."