

STATE OF ILLINOIS

OFFICE OF BANKS AND REAL ESTATE

BUREAU OF BANKS AND TRUST COMPANIES

IN THE MATTER OF:)
)
Eric Alden Rothner)
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)
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_____)

No. 2004-BBTC-30

ORDER ASSESSING CIVIL MONETARY PENALTY

The COMMISSIONER OF BANKS AND REAL ESTATE, (the “Commissioner”), having conducted an examination of facts related to Brickyard Bancorp. Inc., Brickyard Bank and Eric Alden Rothner and having found that Eric Alden Rothner has committed a violation of Section 18 of the Illinois Banking Act [205 ILCS 5/1 et. seq.] (the “Act”) hereby issues this ORDER pursuant to the authority provided under Section 48 (8) of the Act. Specifically, the Commissioner finds the following:

1. That at all times relevant hereto, Brickyard Bank was an Illinois state-chartered bank and was subject to the provisions of the Illinois Banking Act, [205 ILCS 5/1 et seq.](the “Act”) and all regulations promulgated by the Commissioner in connection with the administration of the Act;
2. That at all times relevant hereto, Brickyard Bank was a wholly owned banking subsidiary of Brickyard Bancorp. Inc, an Illinois Bank Holding Company;
3. That on or about March 18, 1997, Eric Alden Rothner, (“Rothner”) obtained control over at least 24.9% of the issued and outstanding shares of Brickyard Bancorp. Inc. thereby acquiring the power to direct the voting of such stock as to give power to directly or indirectly, direct or cause the direction of the management and policies of Brickyard Bank; (the March 1997 Transaction”)
4. That Section 18 of the Act then in effect provided that persons desiring to obtain control of an existing state bank, prior to exercising control or voting stock must submit information to the Commissioner, obtain the Commissioner’s approval for a change in control and otherwise satisfy all the requirements of Section 18 of the Act;
5. That Rothner failed to comply with or satisfy the requirements of Section 18 of the Act then in effect, prior to exercising control or voting the shares of Brickyard Bancorp. that he obtained as a result of the March 1997 Transaction;

6. That by virtue of his failure to comply with all provisions of Section 18 of the Act then in effect, Rothner violated Section 18 of the Act; and
7. That Section 48(8) of the Act provides the Commissioner the authority to assess a civil monetary penalty against any person for each violation of any provision of the Act, any rule promulgated in accordance with the Act or any order of the Commissioner.

Based upon the above findings and pursuant to the authority provided under Section 48(8) of the Act, the Commissioner hereby concludes it to be appropriate to enter the following Order.

NOW THEREFORE IT IS HEREBY ORDERED:

1. Eric Alden Rothner, shall be and hereby is assessed a civil monetary penalty in the amount of \$2,000.00;
2. The civil monetary penalty in the amount of \$2,000.00 shall be paid no later than sixty (60) days after service of this Order upon Eric Alden Rothner; and
3. The civil monetary penalty in the amount of \$2,000.00 shall be paid by means of a certified check or money order made payable to the Office of Banks and Real Estate.

ORDERED THIS THIRTIETH DAY OF MARCH 2004

SCOTT D. CLARKE
ASSISTANT COMMISSIONER
OFFICE OF BANKS AND REAL ESTATE

You are hereby notified that this Order is an administrative decision. Pursuant to 38 Ill. Adm. Code, Section 392, any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. A hearing shall be held within thirty (30) days after the receipt by the Commissioner of Banks and Real Estate of a request for a hearing.