(717) 787-1471

March 23, 1998

Re: Stock-for-Stock Acquisitions by Mid-Tier Stock Holding Company Subsidiary of Pennsylvania Mutual Holding Company

Dear *****:

This responds to your letter written on behalf of your client,*********(the "Company") to Secretary of Banking Richard C. Rishel.

Company is the majority-owned subsidiary of *********** ("MHC"), a Pennsylvania mutual holding company. MHC owns a majority of Company which owns 100% of ("Savings Bank"), a Pennsylvania state-chartered stock savings bank.

Your letter requests confirmation that Company, a mid-tier stock holding company subsidiary of MHC, may issue (i) authorized but previously unissued shares of its common stock or (ii) treasury shares, to stockholders of a financial institution or to the financial institution's parent as part of an acquisition of such entity by MHC, Company, or Savings Bank.

The Department recognizes that a mutual holding company may acquire one or more financial institution subsidiaries[1] through the merger of such financial institution subsidiaries into a subsidiary of the [mutual] holding company. 7 P.S. § 115.1(d)(ii). In addition, section 115.1(d)(ii) provides that a mutual holding company may merge with or acquire "another holding company, one of whose subsidiary is a financial institution subsidiary." 7 P.S. § 115.1(d)(iii).

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[1] A financial institution subsidiary is defined in 7 P.S. § 115.1(g)(ii) as "a savings association, a Federal savings and loan association or savings bank which is located in Pennsylvania, a bank, a bank and trust company, a trust company, a savings bank, a regional thrift institution or, after March 4, 1990, a foreign thrift institution."

Please be advised that the Department of Banking ("Department") concludes that (i) authorized but unissued shares or (ii) treasury shares of a mid-tier holding company such as Company may be issued in a stock-for-stock acquisition of a target financial institution subsidiary as that latter term is defined in 7 P.S. § 115.1(g)(ii). The specific authority in section 115.1(d)(ii) and (iii) of the Banking Code of 1965 ("Banking Code") for a mutual holding company to acquire a financial institution subsidiary or to merge with or acquire another holding company, one of whose subsidiaries is a financial institution subsidiary, coupled with the impracticality of a cash transaction and the practical safety and soundness benefits of a stock purchase, have caused the Department to determine that section 115.1(d)(ii) and (iii) prevails over the general instructions set forth in section 115.1(f) of the Banking Code.[2] The reason that sections 115.1(d)(ii) and (iii) of the Banking Code prevails over the general instructions set forth in subsection 115.1(f) is that to conclude otherwise would invalidate the specific statutory language allowing for acquisitions by a mutual holding company structure if the Office of Thrift Supervision would issue a regulation restricting or prohibiting the use of authorized but unissued shares of a mutual holding company's subsidiary stock holding company or subsidiary stock savings bank for the purpose of paying for the acquisition of a target financial institution subsidiary or holding company. In other words, the specific merger authority at 7 P.S. § 115.1(d)(ii) and (iii) overrules the general instructions at 7 P.S. § 115.1(f), pursuant to the Pennsylvania's Rules of Statutory Construction.[3]

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[2] Section 115.1(f) of the Banking Code provides in relevant part, "[t]he regulations adopted under this section shall be no less restrictive than those promulgated by the Office of Thrift Supervision for federally chartered savings banks." 7 P.S. § 115.1(f).

[3] The Pennsylvania Rules of Statutory Construction provide that "[w]henever a general provision and a statute shall be in conflict with a special provision in the same or another statute, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the special provision shall prevail and be construed as an exception to the general provision, unless the general provision shall be enacted later and it

Please be advised that the analysis and conclusion stated in this letter do not constitute prior or present approval of any transaction proposed at present or in the future by MHC, Company, or Savings Bank. In addition, the Department reserves the right to impose such conditions as it may deem appropriate under the circumstances presented to the Department regarding any proposed acquisition or merger of a "financial institution subsidiary" as defined in section 115.1(g)(ii) of the Banking Code, including but not limited to a requirement that preemptive rights to subscribe to (i) authorized but unissued shares or (ii) treasury shares of Company be awarded to persons deemed appropriate by the Department consistent with Pennsylvania law and Department policy in the sole reasonable determination of the Department at that time. For example, if the target is a Pennsylvania state-chartered mutual savings bank, preemptive rights would be required to be provided to the target's depositors as part of a merger conversion. Finally, the Department would require that in an acquisition funded by the sale of (i) authorized but unissued shares or (ii) treasury shares, that the proposed transaction is adequately structured to protect the interests of depositors, other creditors and shareholders of the institutions involved in the transaction.

The Department's analysis is based upon the facts and conditions as stated in this letter. Any change in the facts could result in a reversal of the Department's position. Future changes in Pennsylvania or Federal law may cause the contents of this letter and conclusions stated by the Department to be amended. This letter states the Department's position regarding the issues discussed herein and may not be relied upon or construed as constituting legal advice.

Sincerely,

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shall be the manifest intention of the General Assembly that such general provision shall prevail. 1 Pa. C.S.A. § 1933. The Department's interpretation of subsections 115.1(d)(ii) and (iii) and 115.1(f) gives meaning to both provisions, consistent with the Rules of Statutory Construction.