



The Update—a Newsletter of

Virginia Association of Community Banks

March 2010

The Fauquier Bank's Core Swap Saves a Million

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By Michael Sisk, *Bank Technology News*

The Fauquier Bank in Warrenton VA finished a core conversion six years ago after devoting much effort and resources. Bank executives then spent the next six years complaining about it. So when the bank chose to upgrade its core system in 2008 newly hired CIO Chip Register was determined the bank would not repeat that experience. He would be a tough negotiator, he would demand excellent execution, he would measure results post implementation, and he would deliver superior products and services at a lower cost. That's a tall order, but the \$570 million bank managed to pull it off.

The project began with a careful half-year of due diligence. After that the bank committed \$500,000 (17 percent of the IT budget) to convert from Metavante to Fiserv. To help keep the project on track and all sides communicating-and avoid the misunderstandings that inevitably delay a project and cause cost overruns-Register hired **Harper McNeil**, a consultant with core conversion expertise to work alongside the bank and Fiserv. It was this commitment to communication

that kept the project on schedule, within budget, and relatively trouble free, he says. For instance, when the bank went live in June of 2009 it maintained uninterrupted EFT/ATM services, and successfully completed night processing the first night after conversion.

Equally impressive have been the cost savings and customer acquisition since going live. The six-year contract is worth \$1.3 million per year and by switching core providers Register expected cost savings to total about \$600,000 over the life of the contract. "We were very aggressive negotiators. The current environment gives us some leverage. And if you're moving from one vendor to another that clearly gives you another arrow in your quiver."

Indeed. After only six months the savings have exceeded expectations and may top \$1 million. For instance, by reducing four image and document management systems to one Fiserv system the bank is saving \$44,000 per year. Overall, in the seven months following conversion,

Recent Developments in Creditors' Rights & Collection Law

by Spotts Fain, PC

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During periods of economic slowdown, there tends to be a general increase in contested matters related to Bankruptcy, Creditor's Rights and Collections Law, leading to new judicial rulings and interpretation. Future newsletters will include information on recent developments in Consumer Bankruptcy and Commercial Bankruptcy law. In 2009, we started to see some rulings and trends in Creditor's Rights and Collections Law related to the current economic climate. Some of the more prevalent topics in 2009 were attorney's fees, foreclosures, mechanic's liens and issues arising out of alleged Fair Debt Collection Practices Act (FDCPA) and Truth in Lending Act (TILA) violations. The following summarizes some of those opinions and trends.

Mechanic's Liens

Issues related to Mechanic's liens were before the Court in *Comstock Potomac Yard LC v. Balfour Beatty Construction, LLC* (E.D. Va. 2009) and *Smith Mountain Building Supply LLC v. Windstar Properties, LLC* (Va. 2009). In *Smith Mountain*, the Supreme Court of Virginia held that a contractor's inclusion, in its memorandum of mechanic's lien, the charges outside the 150-day limitation period set forth in Section 43-4 of the Code of Virginia was not simply an "inaccuracy," thus causing the liens to be invalid and unenforceable. In *Comstock Potomac Yard*, the Court found that a mechanic's lien waiver provision contained in an agreement entered into by a contractor and a developer operated to bar the contractor from later filing mechanic's liens. The Court held that (i) there was valid, bargained

Education Update

The importance of professional development can't be overemphasized, especially in a field as vital as banking. Only by continually arming yourself with the latest research, techniques and knowledge in the profession can you hope to stay effective in your career and ensure that your bank will prosper.

VACB offers a wealth of professional development opportunities from its numerous conferences to its webinar and telephone seminars. These training opportunities give you the chance to network with your peers and learn more about your chosen profession.

With banks today facing an array of complex issues, effective professional development is increasingly vital to your institution's success and employee satisfaction. In addition, it builds the specific knowledge and competencies your organization needs to tackle its immediate and longer-term challenges.

In this new year, make professional development and its commitment to lifelong learning one of your utmost resolutions. Log onto www.vacb.org to see what we have to offer to you, our member.

Bank Design & Equipment Announces A New Addition to the Company

VACB Associate Member **Bank Design & Equipment (BD&E)** is pleased to announce their latest addition. **Joe King** has been hired by the firm to represent the Richmond/Tidewater area for BD&E. Joe recently retired from the Virginia school system after 30 years of service as a teacher, principle and superintendent of schools. Bernie Barnhart, President of BD&E, says they are excited about Joe joining the company and feel he will be a real asset to both BD&E as well as our community bank clients.

Additions & Promotions

The First National Bank of Altavista has hired **Bianca Allison** as Vice President and Mortgage Loan Officer.
(This was attributed to *National Bank of Blacksburg* in the February issue.)

Benchmark Community Bank in Kenbridge has promoted **Esther Sanderson** to Assistant Vice President/Branch Manager.

HomeTown Bank in Roanoke has added **Lisa Kincer, Bobby Mountcastle** and **Kelly Oakes** as Retail Specialists. **Jeff McGuire** has been added as manager of the downtown Roanoke branch and **Rachel Longmire** has been added as a teller.

Franklin Community Bank in Rocky Mount has hired **Chris Gibson** as a Financial Advisor.

Fauquier Bank, *continued from page 1*

core processing costs were running eight percent less than under the previous contract. The bank is also on target to increase its EFT/ATM income by five percent this year thanks to operational efficiencies, a better product suite, and better defined contractual relationships.

What's more, customers like the new experience. The number of online retail customers has grown 29.8 percent since implementation, while the number of business customers online has jumped a remarkable 48.2 percent. New products and new functionality are part of the allure. An enhanced ACH product that allows for more self service; a more efficient wire exchange product, and the introduction of BillPay from Checkfree have all resonated with customers. Christine Barry, a research director at Aite, says: "Fiserv has always been the 800 pound gorilla in the space. Bigger is often better since you've got a broader product line and so a bank has to manage fewer relationships."

Register has this bit of parting advice for fellow community bankers: "Small banks might not think they have the ability or edge to negotiate but I don't think that's the case."

Harper McNeil, is a VACB Associate Member. You can find out more about them at www.harpermcneil.com.

VACB Associate Member PWCampbell Turns 100 Years Old

One hundred years into the family business, **PWCampbell's** third and fourth generation descendents continue to serve the needs of their clients. PWCampbell, founded in 1910, continues to serve the needs of an ever-changing design/build construction market, making it one of the few remaining family design/build businesses in the United States.

Congratulations on such a long and lasting heritage!!

Recent Developments in Creditors' Rights & Collection Law

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-for consideration for the lien waiver, (ii) the lien waiver provisions were not subject to a condition precedent that had not triggered when the liens were filed, and (iii) the developer did not breach the agreement before the contractor filed the liens. Therefore, the lien waiver provision was valid and the contractor's right to file the mechanic's lien was denied.

Real Property Foreclosure

The plaintiff in *Wood v. MorEquity, Inc.* (W.D. Va. 2009) alleged that a foreclosure sale was voidable because the newspaper advertisement notifying the public of the sale did not comply with Virginia Code Section 55-59.3 (it listed only one of the property's two addresses). The Court, in upholding the foreclosure sale, stated that Virginia law requires only substantial compliance with Section 55-59.3, so long as the rights of the parties were not affected in any material way. The Court found that the Lenders' trustee still substantially complied with the statute, as the advertisement contained the other items required by the statute. Furthermore, the plaintiff could not pro-

vide evidence to support her statement that the advertisement was prejudicial to a fair sale.

Regulation E

One final note regarding Regulation E (the Electronic Fund Transfer Act) – new rules regarding overdraft protection go into effect July 1, 2010. Under Regulation E, financial institutions are prohibited from charging consumers fees for paying overdrafts on automated teller machine (ATM) and one-time debit card transactions unless a consumer consents, or opts in, to the overdraft service for those types of transactions. Prior to opting in, the consumer must be provided a notice that explains the financial institution's overdraft services, including the fees associated with such a service, and the consumer's choices. Financial institutions are prohibited from discriminating against consumers who do not opt in, and must provide them with the same account terms, conditions and features that they provide to those consumers who do opt in. A model opt-in notice is included in Regulation E.

Upcoming VACB Events

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|-----------|--|-------------------------|-----------------------------|
| March 24 | Security Seminar | The Place at Innsbrook | <i>Richmond</i> |
| March 26 | VACB Board of Directors | The Jefferson | <i>Richmond</i> |
| April 16 | Technology Committee Meeting | VACB Office | <i>Richmond</i> |
| May 6 & 7 | VACB Spring Internal Audit Seminar | Stonewall Jackson Hotel | <i>Staunton</i> |
| June 1 | VACB 10th Annual Bankers' Cup Golf Tournament | Spring Creek Golf Club | <i>Zions Crossroads</i> |
| June 8 | 2nd Quarter Compliance Forum/Central | The Place at Innsbrook | <i>Richmond</i> |
| June 10 | 2nd Quarter Compliance Form/SW | Higher Education Center | <i>Abingdon</i> |

Register for our seminars online at www.vacb.org!!

VACB Welcomes New Associate Members

GMAC Bank
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www.gmacbankcorrespondent.com

Community Financial Institution (CFI) is a division of GMAC Bank. GMAC Bank is a national mortgage loan servicer. The CFI division offers a complete line of mortgage products including FNMA, FHLMC, FHA, VA and jumbo. Plans are to offer USDA Rural Housing in the near future.

Rusty Leitzsey
CFI Sales Director

GradCapital, LLC
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www.gradcapital.com

GradCapital is a Virginia-based company that assists financial institutions interested in entering the student loan market by developing, marketing and managing a credit-based education loan product offered to your customers and schools. They develop a product that balances both your revenue and risk management guidelines.

Clark McGhee
President & CEO

Holiday Signs
11930 Old Stage Rd.
Chester, VA 23836
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www.holidaysigns.com

Holiday Signs offers the design, permitting, fabrication and installation of complete outdoor and indoor sign packages across the state. They specialize in outdoor advertising products including digital signs used to draw attention to branch locations.

Kyle Dillaman
Account Executive

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Keiter Stephens was founded in Richmond, Virginia in 1978. They have grown into the 15th largest professional accounting and consulting firm in Virginia, with offices in Richmond and Charlottesville. The firm specializes in providing Internal Audit, IT Audits, and SOX compliance services, as well as valuations for financial reporting for financial institutions.

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Headquartered in Philadelphia, Radian is a leading provider of credit enhancement for the global financial and capital markets. Built on a foundation of evaluating credit risk, the products and services they provide in mortgage insurance, public finance, structured finance, reinsurance and other financial services help clients and investors manage risk expertly and prudently.

Kellie Steger
Account Manager