

109000000593

(Requestor's Name)

(Address)

(Address)

(City/State/Zip/Phone #)

PICK-UP  WAIT  MAIL

(Business Entity Name)

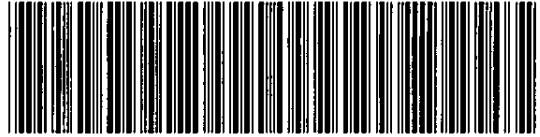
(Document Number)

Certified Copies \_\_\_\_\_ Certificates of Status \_\_\_\_\_

Special Instructions to Filing Officer:

789/757/6260

Office Use Only



800143852748

109-593  
No  
Riverside Bank  
270 8183  
W09-9514

FILED  
09 JUN 19 AM 8:56  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

02/23/09--01027--009 \*\*87.50

KB/alt

N. CAUSSEAU

JUN 12 2009

EXAMINER

GRAY | ROBINSON  
ATTORNEYS AT LAW

SUITE 1850  
401 EAST LAS OLAS BOULEVARD  
FORT LAUDERDALE, FL 33301  
TEL 954-761-8111  
FAX 954-761-8112  
gray-robinson.com

FORT LAUDERDALE  
JACKSONVILLE  
KEY WEST  
LAKELAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA

Donald S. Showalter  
Attorney At Law  
954-761-7473

DSHOWALTER@GRAY-ROBINSON.COM

February 16, 2009

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Re: New Service Mark Application for the mark RIVERSIDE BANK & Design  
Our File No. 515492.66

Dear Sir/Madam:

Please find enclosed the following in connection with the above-referenced new service mark:

1. Application for Registration of a Trademark or Service Mark;
2. Three samples showing use of the mark;
3. Check in the amount of \$87.50; and
4. Return receipt postcard.

Please contact the undersigned at the above-identified direct dial telephone number with any questions or comments.

Very truly yours,

GRAYROBINSON

By:   
Donald S. Showalter, Attorney at Law

Enclosures

# 377070 v1



FLORIDA DEPARTMENT OF STATE  
Division of Corporations

February 27, 2009

DONALD S. SHOWALTER, ESQUIRE  
GRAY/ROBINSON  
SUITE 1850, 401 EAST LAS OLAS BLVD.  
FT. LAUDERDALE, FL 33301

SUBJECT: RIVERSIDE BANK & DESIGN OF "RIVERSIDE BANK" WITH AN "S"  
WHOSE LOWER PORTION EXTENDS LOWER THAN THE OTHER LETTERS  
AND WITH A HEART ABOVE THE FIRST "I"  
Ref. Number: W09000009514

We have received your document for RIVERSIDE BANK & DESIGN OF "RIVERSIDE BANK" WITH AN "S" WHOSE LOWER PORTION EXTENDS LOWER THAN THE OTHER LETTERS AND WITH A HEART ABOVE THE FIRST "I" and your check(s) totaling \$87.50. However, the enclosed document has not been filed and is being returned for the following correction(s):

We must deny registration pursuant to sections 495.021(1)(f) and 495.181, Florida Statutes. There is a federal registration on file with the U.S. Patent and Trademark Office for "RIVERSIDE BANK", Registration Number "2708183", for the same or similar name and class(es).

Pursuant to s. 495.035(5), F.S., this application will be considered abandoned if the applicant fails to reply or resubmit the corrected/amended application within three months from date of this letter.

If you have any questions concerning the filing of your document, please call (850) 245-6918.

Nanette Causseaux  
Document Specialist Supervisor

Letter Number: 609A00006951

GRAY ROBINSON  
ATTORNEYS AT LAW

SUITE 1850  
401 EAST LAS OLAS BOULEVARD  
FORT LAUDERDALE, FL 33301  
TEL 954-761-8111  
FAX 954-761-8112  
gray-robinson.com

FORT LAUDERDALE  
JACKSONVILLE  
KEY WEST  
LAKELAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA

Lillian Pillitteri

954-761-7487

LPILLITTERI@GRAY-ROBINSON.COM

April 14, 2009

Registration Section  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Re: New Service Mark Application for the mark RIVERSIDE BANK & DESIGN  
Our File No. 515492.67

Dear Sir/Madam:

Please find enclosed the following in connection with the above-referenced new service mark:

1. Application for Registration of a Trademark or Service Mark; and
2. Three samples showing use of the mark.

The \$87.50 requisite filing fee has been received by your office as is noted in your cover letter dated February 27, 2009.

Very truly yours,

GRAYROBINSON

By: Lillian Pillitteri  
Lillian Pillitteri, Assistant to  
Donald S. Showalter

Enclosures

# 414329 v1

GRAY | ROBINSON  
ATTORNEYS AT LAW

Donald S. Showalter  
Attorney At Law  
954-761-7473

DSHOWALTER@GRAY-ROBINSON.COM

April 14, 2009

SUITE 1850  
401 EAST LAS OLAS BOULEVARD  
FORT LAUDERDALE, FL 33301  
TEL 954-761-8111  
FAX 954-761-8112  
gray-robinson.com

FORT LAUDERDALE  
JACKSONVILLE  
KEY WEST  
LAKELAND  
MELBOURNE  
MIAMI  
NAPLES  
ORLANDO  
TALLAHASSEE  
TAMPA

**Via Certified Mail**  
**Return Receipt Requested**

Florida Department of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Attention: Ms. Nanette Causseaux, Document Specialist Supervisor

Re: New Service Mark Application for the mark RIVERSIDE BANK & Design  
Our File No. 515492.67  
Ref. Number W09000009514

Dear Ms. Casseaux:

By letter February 27, 2009, the Florida Department of State Division of Corporations (the "Department") has refused registration of this mark under Sections 495.021(1)(f) and 495.181 Florida Statutes. The sole basis of the refusal stated in the letter is that "[t]here is a federal registration on file on with the U.S. Patent and Trademark Office for RIVERSIDE BANK, Registration Number 2708183, for the same or similar name and class(es)." The Letter does not mention that the cited registration appears on the **Supplemental Register**. The Department does not allege that the refusal is based on the portion of Section 495.021(1)(f) which relates to a mark that was "previously used in this state by another." The refusal rests solely on the conclusion that if a mark appears on the **Supplemental Register** of the U.S. Patent and Trademark Office ("USPTO"), it is "registered in this state" within the meaning of Section 495.021(1)(f) as construed per Section 495.081 of the Florida Registration and Protection of Trademarks Act (the "Florida Act").

Applicant respectfully submits the denial of registration was improper and requests reconsideration and withdrawal of the denial for the reasons set forth below.

**BRIEF SUMMARY**

The refusal presents the following question: Is a mark which is on the Supplemental Register of the USPTO not registered on either the Principal Register of the USPTO or registered in the State of Florida under Chapter 495 Florida Statutes, "registered in this state" within the meaning of Section 495.021(1)(f)?

Applicant respectfully submits that the proper answer to both questions is "no" and that the manner in which the Department construed and applied Chapter 495 Florida Statutes, the Florida

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA  
09 JUN 12 AM 8:56  
FILED

Florida Department of State  
April 14, 2009  
Page 2

Registration And Protections of Trademarks Act (hereinafter the "Florida Act") to construct the refusal is erroneous for at least two independent and distinct reasons:

1. The Department has incorrectly construed "registered in this state" under Section 495.021(1)(f) to encompass a federal **Supplemental Registration** which, quite unlike a federal registration on the **Principal Register**, neither confers nor even evidences the *existence* of any substantive federal, state or common law trademark rights, much less ones granting any form of exclusive rights in the State of Florida. Therefore, the construction of "registered in this state" in Section 495.021(1)(f) cannot and should not, be stretched so far beyond its plain meaning as to encompass a mere **Supplemental Registration** on the **Supplemental Register** of the USPTO.

2. Section 495.081 does not support the Department's position. To the contrary, by failing to take into account under the Federal Act itself and construction of the Federal Act by federal courts, Trademark Trial and Appeal Board of the USPTO, and legal scholars, clearly pointing out the lack of substantive trademark rights associated with a registration on the **Supplemental Register**, the Department has erred by failing to construe Section 495.021(1)(f) in the manner mandated by Section 495.081.

### Argument

#### A Mark on the Supplemental Register is Not "Registered in this State"

The federal Trademark Act, of 1946, as amended (hereinafter "Federal Act") requires the USPTO to maintain two separate and distinct registers for trademarks. They are referred to in the Federal Act as the "**Principal Register**" and the "**Supplemental Register.**" As reflected on the face of the TESS database printout that was attached to the Department's February 26, 2006 letter, Applicant's application was denied solely based on the existence of a registration on the **Supplemental Register**<sup>1</sup>. The Florida Act has no counterpart to the **Supplemental Register**.

There is a system in place under Florida Statutes whereby Applicants who use a mark in this state can obtain a registration issued by the State of Florida, namely the system for registering marks in this state under the Florida Act. It is beyond dispute that a mark registered under a registration issued by the State of Florida under Chapter 495 Florida Statutes is "registered in this state" within the plain meaning of Section 495.021(1)(f). No such registration has been cited against the Applicant here however. Without any explicit or reasonably implied statutory authority to do so, and without citing a single court decision, or rationale any kind in support, the Department has reached beyond the plain meaning of "registered in this state" under Section 495.021(1)(f) of the **Florida Act** by construing it to encompass a mere **Supplemental Registration** under the **Federal Act**.

Registration of a mark upon the **Principal Register** under the Federal Act constitutes prima facie evidence that:

- (i) the registered mark, and the Principal Register registration itself, are valid,

---

<sup>1</sup> See arrow marked on copy of TESS printout attached as Exhibit A, designating it as being on the "Supplemental Register."

Florida Department of State  
April 14, 2009  
Page 3

- (ii) that the registrant owns the mark, and
- (iii) the registrant has exclusive right to use the mark in commerce for the goods/services listed in the registration.

See 15 U.S.C. §§1115(a) and 1057(b).

Since the above are substantive rights which are enforceable nationwide, including without limitation within the geographic boundaries<sup>2</sup> of the State of Florida, it is at least arguable whether or not a federal registration on the **Principal Register** could constitute a registration “in this state” within the meaning of Section 495.021(1)(f).<sup>3</sup> However, a plausible argument to the same effect cannot be made regarding a federal registration on the **Supplemental Register**. A Supplemental Registration is not just a creature of the Federal Act rather than Florida law, it is one of a vastly different, and inferior nature. Unlike one on the Principal Register, or a Florida registration under Chapter 495, a Supplemental Registration neither confers any substantive trademark rights nor gives rise to even an inference, much less a presumption, that any such rights exist anywhere; certainly not in Florida in particular.

The rights listed above which adhere to federal registration on the **Principal Register** are explicitly denied by the Federal Act to any registration on the **Supplemental Register** (see 15 U.S.C. §1094). The cited **Supplemental Registration** alleges use “in commerce” as of January 24, 2002, but such allegation does not mean the cited mark has ever been used, much less registered, in the State of Florida. Use in any commerce which can be regulated by Congress is a use in commerce under the Federal Act even if that use is geographically remote from Florida and never impacts Florida (See 15 U.S.C. §1127). Therefore, an allegation of use “in commerce” is not an allegation that use has taken place in Florida or any state(s) in particular. Holding common law rights is not a prerequisite to obtaining a **Supplemental Registration** and a **Supplemental Registration** does not confer any common law trademark rights. Common law trademark rights in Florida are created only by actual use of a mark in Florida.

Under 15 U.S.C. §1057(c), the mere filing of a federal application does not constitute even a *constructive* use of a mark “in commerce” unless and until it issues on the **Principal Register**. A Supplemental Registration does not suffice to create even a *contingent* constructive use before or after it issues.

The federal Trademark Trial and Appeal Board (“TTAB”) has pointed out the stark difference between the legal significance of registrations on the Principal Register and those on the **Supplemental Register**.

**“It is overwhelmingly agreed that a Supplemental Register registration is evidence of nothing more than the fact that the**

<sup>2</sup> Federal Registrations cannot be enforced in Florida State courts however. Under 28 U.S.C. § 1338(a), Federal Courts have original jurisdiction of “any civil action arising under any Act of Congress relating to...trademarks.”

<sup>3</sup> Since the sole basis for the denial is a third party registration on the Supplemental Register. It is unnecessary for the Department to decide what impact, if any, a federal registration on the Principal Register might have under §§495.021(1)(f) and/or 495.081 on registrability under the Florida Act. That issue is not presented by this case and Applicant neither makes any admission nor takes any position regarding same.

Florida Department of State  
April 14, 2009  
Page 4

**registration issued on the date printed thereon...It is entitled to no presumptions of validity, ownership or priority."**

*In re Federated Department Stores*, 3 U.S.P.Q. 2d 1541 (TTAB 1987).

Citing *Clairol, Inc. v. Gillette Co.*, 389 F.2d 264, 156 U.S.P.Q. 593 (2<sup>nd</sup> Cir. 1968) and *American Personnel, Inc. v. Management Recruiters*, 165 U.S.P.Q. 173 (Va. 1970), noted trademark law authority Professor McCarthy reminds us that it "has been held that a **Supplemental** Registration confers no substantive trademark rights beyond those under common law." McCarthy on Trademarks §19:36. In that same section of his respected treatise, Professor McCarthy notes that:

"In litigation where plaintiff has a **Supplemental Registration**, the mark will not, prima facie, receive protection as a valid trademark, for **its very presence on the Supplemental Register indicates a preliminary determination that the mark is not distinctive of the applicant's goods.**" (Emphasis added).

Indeed, in 15 U.S.C. §1091(a) the Federal Act explicitly precludes registration on the Supplemental Register unless the mark is "not registrable on the Principal Register."

Pursuant to 15 U.S.C. §1094, a **Supplemental Registration**, among the plethora of benefits and protections denied to a **Supplemental** Registration does not, show or entitle the registrant to any presumption that:

- (a) the mark is valid;
- (b) the registration is valid;
- (c) the registrant owns the mark;
- (d) the registrant holds any exclusive rights to use the mark (*anywhere*, much less in the State of Florida);
- (e) the registrant has ever used the mark (*anywhere* much less in Florida); or
- (f) the registrant holds any common law rights to the mark (in Florida or anywhere else).

Thus, a term can be "registered" on the federal **Supplemental Register** even if the term is not a trademark and may in fact never become a "mark" as defined in 15 U.S.C. §1127. If and when a registrant can make a suitable showing under 15 U.S.C. §1052(f) that through use, a mark listed on the Supplemental Register "**has become** distinctive of the applicant's goods in commerce," the mark can become eligible to be placed on the Principal Register. This is commonly referred to as a showing of acquired "secondary meaning." Of course, acquisition of secondary meaning is by no means inevitable or guaranteed. In many cases, the Supplemental registrant may never be able to make such a showing and



Florida Department of State  
April 14, 2009  
Page 5

therefore never establish any substantive trademark rights even though the “mark” appears on the Supplemental Register.

The federal system also allows for another possibility which is relevant here. It can be the case that while the holder of a federal Supplemental Registration is using its mark in commerce in some particular geographic area(s) of the country, a third party may adopt a similar or identical mark in good faith and begin using it in some different geographic region of the U.S. If the third party user establishes secondary meaning, and thereby acquires enforceable trademark rights in that different geographic region before the Supplemental Registrant establishes secondary meaning, the Supplemental Registrant could never divest the third party of those rights in that region by acquiring secondary meaning later. Even a Principal Registration does not give a federal registrant trademark rights superior to those of a third party in the geographic area where a third party established its own common law rights there sooner. If a third party establishes its common law rights before the effective date of a Principal Registration owned by a federal Registrant, the Registrant could never come to hold any substantive trademark rights superior to those of the third party in that geographic area unless the Registrant had acquired superior common law rights in that area by virtue of being the senior user. Otherwise, the third party would continue to hold exclusive rights in the mark in its own geographic territory notwithstanding even a **Principal Registration**. Those rights would be fully enforceable against all others, including even the federal Registrant holding a Principal Registration.

If on the other hand the third party acquired common law rights in its own respective territory only after the effective date of the **Principal Registration**, the federal Registrant might, or might not, be able to divest the third party of its exclusive rights at some point in time. However, that could only come about if, when, and to the limited geographic extent, that the federal Registrant geographically expanded its actual use of its mark into the geographic territory of the third party or could show such geographic expansion was imminent.

It should be clear from the foregoing that even if there is a federal registration on the **Principal Register**, the federal system recognizes the possibility of superior rights being established by a third party under state law and that the federal system is structured to accommodate those state law rights of others in a way that is not at all in conflict with the Federal Act.

By refusing to register Applicant’s mark under the Florida Act based solely on the citation of a federal **Supplemental Registration**, the Department has denied Applicant its rights under Florida law based on a document:

- which confers no substantive trademark rights in Florida or anywhere else;
- which is legally insufficient to show, and does not even allege or purport to show that the mark was ever used anywhere in Florida;
- which neither confers nor demonstrates the existence of any common law rights in Florida, or anywhere else;
- which is not a registration granted under the Florida Act;

FILED

09 JUN 12 AM 8:57

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

- which, under federal law, can be granted even if the term covered in the Supplemental Registration is not a trademark and might not even become a trademark of the registrant, irrespective of the date the Supplemental Registration issued or when it was filed; and
- of a type available only for marks which are not even eligible for registration on the Principal Register.

The Florida Act nowhere states that a federal registration on the **Supplemental Register** endows the mark with the status of being “registered in this state” under Section 495.021(1)(f) Florida Statutes and the Department cites no case law or other legal authority holding otherwise. The Department has clearly erred by construing “registered in this state” to encompass a mere **Supplemental Registration** and has therefore denied Applicant substantive trademark rights under the Florida Act based on an inferior form of federal registration which, by its very nature, does not reflect that its owner holds any conflicting substantive trademark rights.

By construing a federal Supplemental Registration as being “registered in this state” under Section 495.021(1)(f), the Department places a federal **Supplemental Registration** on an equal footing with a certificate of registration issued by the Florida Department of State pursuant to the Florida Act. With this recognition, another signpost of the Department’s error comes into clear view.

A State of Florida registration affords all of the rights and remedies available under the Florida Act under Section 495.061(2). Those include being prima facie evidence of the validity of the registration, ownership of the mark and the registrant’s exclusive right to use the mark “in this state.” As noted above in detail, a Supplemental Registration not only fails to confer any such rights in the State of Florida but is explicitly barren of any federal counterparts of such rights under the Federal Act. Registration under the Florida Act also gives rise to the state rights and remedies provided for example under Sections 495.131, 495.141 and 495.151. Neither those rights under the Florida Act nor any even remotely analogous federal rights attach to a federal Supplemental Registration. Such comparison shows that a federal Supplemental Registration is not even a rough equivalent or analog of a Florida Registration issued under the Florida Act. Yet, by its construction of Section 495.021(1)(f), the Department has equated them. The fact that it equates such vastly different things as a federal Supplemental Registration and a State of Florida registration under Chapter 495 Florida Statutes is a strong indication that the Department’s construction of the statute is wrong.

## 2. The Department has Failed to Properly Apply Section 495.181 Florida Statutes

The Department argues that its anomalous construction of Section 495.021(1)(f), which expands the term “registered in this state” far beyond its plain meaning, is mandated by Section 495.181. That too is incorrect. In actuality, the manner in which the Department itself has construed and applied Section 495.021(1)(f) in contravention of Section 495.181 in at least two respects.

First, while purporting to merely consider the construction of the Federal Act, the Department’s action in this case grafts the Federal Act’s **Supplemental Register** into the Florida Act, thereby transforming a federal **Supplemental Registration** into a registration “in this state.” By doing so, the Department has usurped powers reserved to the Florida Legislature which never saw fit to create a **Supplemental Register** in this state or recognize the federal **Supplemental Register** as a basis to deny a

Florida Department of State  
April 14, 2009  
Page 7

Florida registration. There is no analog to the **Supplemental Register** in the Florida Act or elsewhere in Florida trademark law. Had the Florida Legislature intended to so limit the substantive right of an applicant for a Florida registration as to subjugate that right to the **Supplemental Register**, a substantively inferior creature unique to federal law, the Legislature would have made its intent explicit.

As its heading states, Section 495.181 deals solely with the "**Construction**" of Chapter 495. It does not impliedly import the Federal Act into the Florida Act. Section 495.081 requires that construction of the Federal Act be examined as "persuasive authority" to effect the intent of the Florida Legislature to provide a system of state trademark protection that is "substantially consistent" with the federal system. No conflict or inconsistency between the Florida Act and the federal system is engendered by the straightforward recognition that a federal Supplemental Registration does not make a mark "registered in this state." Since no substantive trademark rights attach to a Supplemental Registration, it cannot possibly conflict in any way with rights arising from a registration under the Florida Act and should not impair the right of any Florida citizen to obtain a Florida registration.

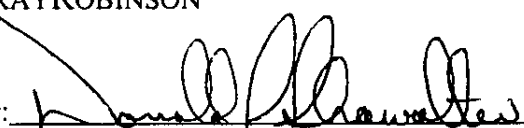
Even more fundamentally wrong is that the Department affirmatively violates Section 495.181 by failing to interpret and construe Section 495.021(1)(f) with due regard to the lack of substantive trademark rights associated with **Supplemental Registrations** under the Federal Act and its construction by courts, the TTAB, and scholarly authorities on federal trademark law alike. Applicant has cited provisions of the Federal Act itself as well as federal case law and analysis of no less a respected authority than Professor McCarthy to demonstrate the vacuous nature of a **Supplemental Registration** under the Federal Act. There is no evidence of record indicating that the Department examined the Federal Act or its construction by courts, the TTAB and scholarly commentators alike, much less regarded them as "persuasive authority" in construing "registered in this state" within the meaning of Section 495.021(1)(f) as encompassing a federal **Supplemental Registration** to appropriately account for the stunted legal nature of a **Supplemental Registration** before construing it as "registered in this state."

#### CONCLUSION

For the reasons set forth above, reconsideration and withdrawal of the denial of registration, and the prompt issuance of a Certificate of Registration under Chapter 495 in the name of Applicant is respectfully requested.

Very truly yours,

GRAYROBINSON

By:   
Donald S. Showalter, Attorney at Law

Enclosures

cc: Mr. Alan S. Polackwich  
Patrick Healy, Esq.

APPLICATION FOR THE REGISTRATION OF A TRADEMARK OR SERVICE MARK  
PURSUANT TO CHAPTER 495, FLORIDA STATUTES

TO: Division of Corporations  
Post Office Box 6327  
Tallahassee, FL 32314

09 JUN 12 AM 8:57  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

PART I

1. OWNER/APPLICANT: Enter the name and address of the individual or the business entity to be listed as the owner of the Trademark and/or Service Mark on the records of the Florida Department of State.

(a) Owner's/Applicant's name: Riverside National Bank of Florida

(b) Owner's/Applicant's business address: 1600 South U.S. Highway 1  
Ft. Pierce, Florida 34950  
City/State/Zip

If different, Owner's/Applicant's mailing address: \_\_\_\_\_  
\_\_\_\_\_  
City/State/Zip

(c) Owner's/Applicant's telephone number: ( \_\_\_\_\_ ) \_\_\_\_\_

Check the appropriate box to indicate the Owner/Applicant is a(n):

- Individual     Corporation     Joint Venture     Limited Liability Company  
 General Partnership     Limited Partnership     Union     Other: a National Bank legally organized under the laws of the United States

If the Owner/Applicant is a business entity, the business entity must have an active filing or registration on file with the Florida Department of State. If the Owner/Applicant is not an individual, enter the business entity's Florida registration/document number in #1, the state or country under the laws of which the business entity is currently formed, organized or incorporated under in #2, and the entity's federal employer identification number (EIN) in #3.

(1) Florida registration/document number: Q07000000049

(2) Domicile State or Country: Florida

(3) Federal Employer Identification Number: none

2. (a) SERVICE MARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with a type of service, the mark is a service mark. If the mark is a service mark, the applicant/owner must list the specific service(s) the mark is being used in connection with. For example: furniture moving services, diaper services, house painting services, wholesale and retail sales of tractor equipment, etc. If the owner/applicant is using the mark to identify services available in the market place, enter the specific service(s) being rendered here:

(Note: List only those services currently being rendered by the owner/applicant. Do not include future services.)

banking services

2. (b) TRADEMARK: If the owner/applicant is using the name, logo, design and/or slogan being registered in connection with an actual product manufactured by the owner/applicant or on the owner/applicant's behalf, the mark is a trademark. If the mark is a trademark, the applicant/owner must list the specific product(s) the name, logo, design and/or slogan is being used to identify. For example: ladies sportswear, cat food, barbecue grills, shoe laces, etc. If the owner/applicant is using the name, logo, design and/or slogan to identify goods available in the market place, enter the specific product(s) the name, logo, design and/or slogan is being used to identify:

(Note: List only those product(s) currently available. Do not include future products.)

---

---

---

2. (c) HOW IS THE NAME, LOGO, DESIGN AND/OR SLOGAN CURRENTLY USED:

SERVICE MARKS: If the name, logo, design and/or slogan are/is being used in connection with a type of service, you must specify the form(s)/mean(s) of advertisement the applicant/owner is using to advertise the services to the general public. For example: newspaper advertisements, business cards, brochures, flyers, pamphlets, menus, etc. If the mark is being used in connection with a type of service, state how the name, logo, design and/or slogan are/is being used in advertising here:

flyers, signs located at facilities where the services are rendered and in Internet advertising

---

---

TRADEMARKS: If the name, logo, design and/or slogan are/is being used to identify a product manufactured by or for the applicant/owner, you must specify how the mark is applied or affixed to the actual product or its packaging. For example: a tag, label, imprinted or engraved on the actual product, etc. If the mark is being used in connection with a specific product, state how the name, logo, design and/or slogan is applied or affixed to the actual product(s) or the packaging:

---

---

---

2. (d) FEE(S) AND CLASS(ES): There are a total of 45 classes or categories in which all products or services must be categorized. The fee to register a mark is \$87.50 per class. Make check payable to Florida Department of State.

List the class(es) which apply to the product(s) and/or service(s) listed in 2(a) and/or 2(b) above:

Class 036

---

---

**PART II**

1. You must state the date the name, logo, design and/or slogan was first used in the state of Florida, and, if it was used in another state or country, the date you first used the name, logo, design and/or slogan in the other state or country. Enter the month, day, and year the name, logo, design and/or slogan was first used by the applicant/owner, the predecessor, or a related company in Florida. If the name, logo, design and/or slogan has been used in another state or country, then you must also enter the month, day, and year the name, logo, design and/or slogan was/were used in another state or country, when applicable.

**Note: The Florida Statutes require a mark to be in use prior to registration.**

(a) Date first used in other state or country, if applicable: \_\_\_\_\_

(b) Date first used in Florida: September 30, 2003

**PART III**

**ENTER NAME, LOGO, DESIGN AND/OR SLOGAN BEING REGISTERED:**

1. Enter the name, a brief description of the logo or design, and/or the slogan you are registering. The description of the logo and/or design must be 25 words or less. List the exact name, slogan, and/or description of the logo/design here: (NOTE: The name, logo, design and/or slogan listed in this section must match the exact name, logo, design and/or slogan listed on your specimens or examples.)

RIVERSIDE BANK

"RIVERSIDE BANK" with an "S" whose lower portion extends lower than the other

letters and with a heart above the first "I"

Provide the English translation of any and all terms listed #1 above, when applicable: \_\_\_\_\_

2. **DISCLAIMER STATEMENT** (if applicable):

Your mark may include a word or design that is commonly used by others. Commonly used terms or designs must be disclaimed. When you disclaim a specific term or design, you are acknowledging this term is commonly used by others and that you do not claim the exclusive right to use the disclaimed term or design. All geographical terms and representations of cities, states or countries must be disclaimed (i.e., Miami, Orlando, Florida, the design of the state of Florida, the design of the United States of America, etc.). Corporate suffixes and terms readily associated with the specific product(s) and/or(s) service being provided must also be disclaimed.

Enter all terms listed in #1 above which require a disclaimer in the space provided below:

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE THE TERM(S) "BANK"  
" APART FROM THE MARK AS SHOWN.

3. ATTACH OR INCLUDE THREE SPECIMENS OR EXAMPLES OF THE TRADEMARK OR SERVICE MARK BEING REGISTERED

Chapter 495, F.S., requires you to submit three specimens (samples or examples) of the mark in use. You must submit three specimens FOR EACH CLASS listed in Part I #2(d). The name, logo, design and/or slogan on the specimens must be identical to the name, logo, design and/or slogan being registered. You may provide three identical specimens or three different specimens. For each service mark class (classes 35-45), you may provide three newspaper advertisements, business cards, brochures, flyers, or any combination thereof. For each trademark class (classes 1-34), you may provide three tags, labels, boxes, etc. or any combination thereof. Photographs of bulky specimens are acceptable if the mark being registered and the good(s) or product(s) are clearly legible.

SIGNATURE OF APPLICANT/OWNER AND NOTARIZATION:

I, Alan S. Polackwich, being sworn, depose and say that I am the owner and the applicant herein, or that I am authorized to sign on behalf of the owner and applicant herein, and to the best of my knowledge no other person except a related company has registered this mark in this state or has the right to use such mark in Florida either in the identical form thereof or in such near resemblance as to be likely, when applied to the goods or services of such other person to cause confusion, to cause mistake or to deceive. I make this affidavit and verification on my/the applicant's behalf. I further acknowledge that I have read the application and know the contents thereof and that the facts stated herein are true and correct.

Riverside National Bank of Florida  
Typed or printed name of applicant

By: Alan S. Polackwich  
Applicant's signature  
(List name and title)  
Alan S. Polackwich, Executive Vice President - General Counsel

STATE OF Florida

COUNTY OF INDIAN RIVER

On this 27<sup>th</sup> day of JANUARY, 2009, ALAN S. POLACKWICH, SR. personally appeared before me,

who is personally known to me     whose identity I proved on the basis of \_\_\_\_\_

Linda A. Cicewicz  
Notary Public Signature  
LINDA A. CICEWICZ  
Notary's Printed Name

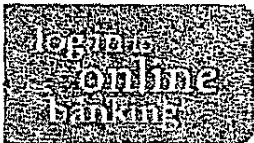
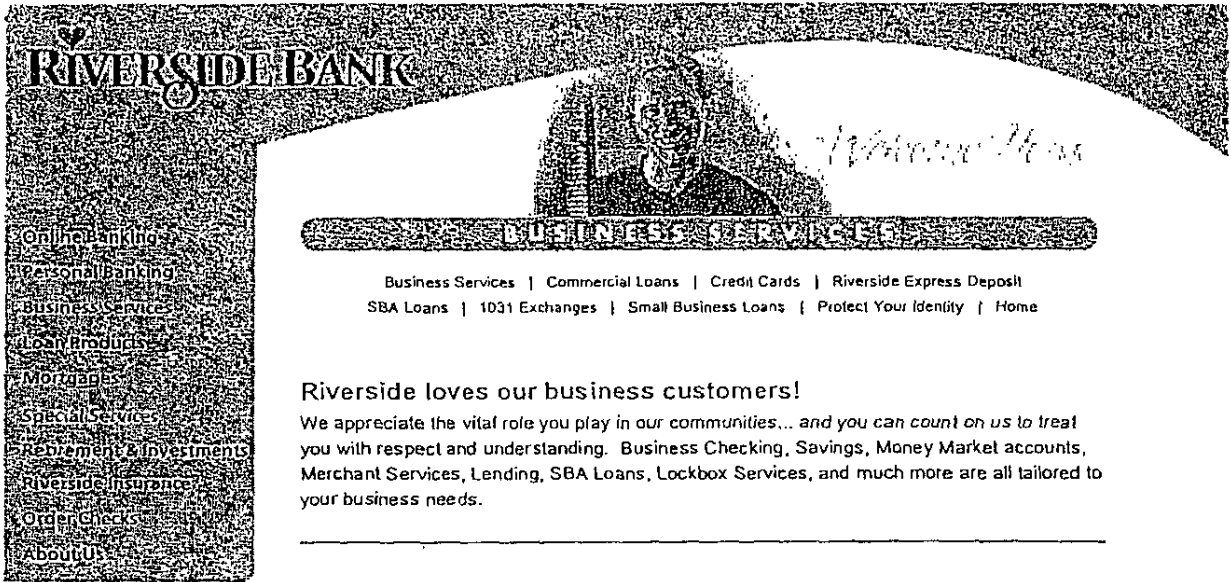
(Seal)



My Commission Expires: 11/11/10

FILING FEE: \$87.50 per class

FILED  
JUN 12 AM 8:57  
CLERK OF STATE  
TALLAHASSEE, FLORIDA



**Free Business Checking**

A business checking account adapted for the small business owner:

- Up to 500 transactions per month at no charge (25¢ per item over 500)  
(Transactions are defined as Checks Written, Items Deposited, and Transfers)
- No monthly service charge
- No minimum balance
- ATM / Debit Card
- Night Drop Service at no charge (Locking Bags may be purchased)
- Drive-in Commercial Lanes
- Check Safekeeping
- Free Online Banking and Bill Pay
- Cash Vault Services Available
- Cash Management Service (Sweep Account) Available
- Overdraft Protection Available
- 24 hour 7 days a week automated inquiry line
- FDIC insured

**Qualifications**

\$100.00 Minimum Deposit to Open

**Business Analysis Checking Account**

A checking account for the business with growing business needs:

- No minimum or maximum transaction limits
- Detailed end of month transaction report
- Earnings credit to reduce or eliminate monthly service fees  
(Transactions are defined as Checks Written, Items Deposited, and Transfers)
- ATM / Debit Card
- Night Drop Service at no charge (Locking Bags may be purchased)
- Drive-in Commercial Lanes
- Check Safekeeping
- Free Online Banking and Bill Pay
- Cash Vault Services Available
- Cash Management Service (Sweep Account) Available
- Overdraft Protection Available
- 24 hour 7 days a week automated inquiry line
- FDIC insured

**Qualifications**

\$100.00 Minimum Deposit to Open

Official  
Specimen

We offer several additional checking accounts depending on your business needs.