

F98000003669

Rod Jones

(Requestor's Name)

Shurtz & Bowen

(Address)

300 S. Orange Ave. Suite 1000

(Address)

Orlando, Fla. 32801

(City/State/Zip/Phone #)

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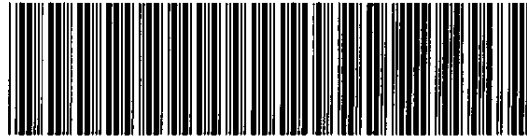
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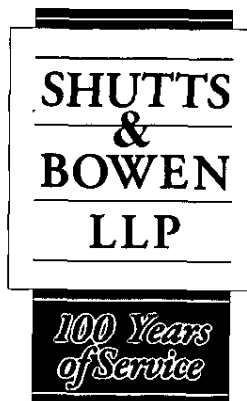


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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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ROD JONES
(407) 835-6906 Direct Telephone
(407) 849-7206 Direct Facsimile

E-MAIL ADDRESS:
rjones@shutts-law.com

January 6, 2011

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ms. Karon Beyer
Division of Corporations
Department of State
Clifton Building
2661 Executive Center Circle
Tallahassee, Florida 32301

**Re: IronStone Bank, Fort Myers, Florida, a Florida banking corporation;
Articles of Merger with First-Citizens Bank & Trust Company,
a North Carolina banking corporation**

Dear Ms. Beyer:

As indicated in my electronic mail message of earlier today, please find enclosed a copy of the Articles of Merger of IronStone Bank, Fort Myers, Lee County, Florida, a Florida banking corporation ("ISB"), and First-Citizens Bank & Trust Company, Raleigh, North Carolina, a North Carolina banking corporation ("FCB") providing for the merger of ISB with and into FCB (the "Merger").

As indicated in the Articles of Merger, the Merger is to be effective as of 8:01 p.m., on Friday, January 7, 2011, immediately following the Florida incorporation of ISB by conversion from a federal savings association pursuant to the provisions of Section 655.411, Florida Statutes. In this connection, as you know, the Articles of Incorporation of ISB, which specify an effective time and date of 8:00 p.m. on Friday, January 7, 2011, immediately prior to the effective time and date of the Merger, as approved by the Florida Office of Financial Regulation (the "OFR"), have been forwarded to you directly by the OFR. The original of the Articles of Merger, as signed on behalf of ISB and FCB, are to be delivered to you by overnight courier from FCB tomorrow.

Shutts & Bowen's check payable to the Department of State in the amount of \$105.00, to cover the cost of filing the enclosed Articles of Merger and the return of four certified copies is enclosed.

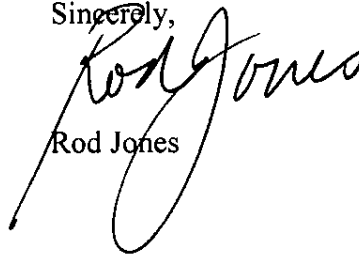
SHUTTS & BOWEN LLP

Ms. Karon Beyer
January 6, 2011
Page 2

In order to ensure that the parties to the Merger have adequate documentation prior to consummation of the Merger that ISB has been incorporated as a Florida banking corporation prior to the prescribed effective time of the Merger, it would be helpful and much appreciated if your office could provide to me an electronic copy of the Articles of Incorporation of ISB bearing the stamped confirmation of the filing of the Articles of Incorporation as soon as possible after that has occurred.

Thank you for your assistance in this regard. Please do not hesitate to contact me should you have questions or comments concerning the foregoing or the enclosures.

Sincerely,

A handwritten signature in black ink, appearing to read "Rod Jones", written over the printed name.

Rod Jones

Enclosures

cc: Mr. Bruce Ricca
Barry P. Harris, Esq.
Matthew A. Cordell, Esq.
Bowman Brown, Esq.

ARTICLES OF MERGER
OF

IRONSTONE BANK

INTO

FIRST-CITIZENS BANK & TRUST COMPANY

FILED

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Pursuant to N.C.G.S. Section 55-11-05(a), the undersigned entity does hereby submit the following Articles of Merger as the surviving business entity in a merger between two business entities.

1. The name of the surviving entity is **First-Citizens Bank & Trust Company** ("FCB"), a North Carolina banking corporation with its main office at 4300 Six Forks Road, Raleigh, Wake County, North Carolina.

2. The name of the merging entity is **IronStone Bank** ("ISB"), a Florida banking corporation with its main office in Fort Myers, Lee County, Florida.

3. The merger will be effected in accordance with the Agreement and Plan of Reorganization and Merger attached as Exhibit A hereto.

4. The Agreement and Plan of Reorganization and Merger was duly approved by the sole shareholder of FCB in the manner prescribed by law on September 20, 2010.

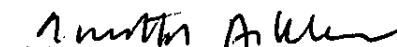
5. The Agreement and Plan of Reorganization and Merger was duly approved by the sole shareholder of ISB in the manner prescribed by law on September 20, 2010.

6. The merger shall become effective at 8:01 p.m. Eastern Standard Time on January 7, 2011.

This the 5th day of JANUARY, 2011.

FIRST-CITIZENS BANK & TRUST COMPANY

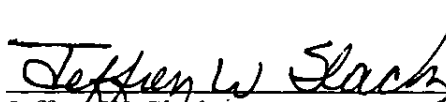
By:



Kenneth A. Black
Executive Vice President
and Chief Financial Officer

IRONSTONE BANK

By:



Jeffrey W. Slack
Chief Financial Officer

AGREEMENT AND PLAN OF REORGANIZATION AND MERGER

**By and Between
FIRST-CITIZENS BANK & TRUST COMPANY
and
IRONSTONE BANK**

THIS AGREEMENT AND PLAN OF REORGANIZATION AND MERGER (hereinafter called "Agreement," except in Article I, in which it is referred to as the "Plan") is entered into as of the 20th day of September, 2010, by and between **FIRST-CITIZENS BANK & TRUST COMPANY ("FCB")** and **IRONSTONE BANK ("ISB")**.

WHEREAS, FCB is a North Carolina banking corporation with its principal office and place of business located in Raleigh, North Carolina; and

WHEREAS, ISB is a federal savings association which plans, prior to the merger which is the subject of this Agreement, to convert to a state or national bank; and

WHEREAS, FCB and ISB wish to merge, with FCB as the surviving entity, in accordance with the Plan of Merger set forth in Article I of this Agreement.

NOW, THEREFORE, FCB and ISB, for and in consideration of the premises and their mutual promises, and subject to the terms and conditions contained in this Agreement, hereby adopt and make this Agreement and mutually agree as follows:

ARTICLE I. PLAN OF MERGER

1.1 Names of Merging Corporations. The names of the corporations proposed to be merged are **First-Citizens Bank & Trust Company ("FCB")** and **Ironstone Bank ("ISB")**.

1.2. Nature of Transactions. Subject to the provisions of this Plan, at the "Effective Time" (as defined in Paragraph 1.8 below), ISB will be merged into FCB (the "Merger").

1.3. Effect of Merger; Surviving Corporation. Upon consummation of the Merger, the separate corporate existence of ISB shall cease while the corporate existence of FCB, with all of its purposes, objects, rights, privileges, powers, and franchises, shall continue unaffected and unimpaired by the Merger. The duration of the corporate existence of FCB, as the surviving corporation, shall be perpetual and unlimited. The name of the surviving corporation shall be that of **First-Citizens Bank & Trust Company**.

1.4. Assets and Liabilities of ISB. At the Effective Time, and by reason of the Merger, and in accordance with applicable law, FCB shall acquire all of the assets of every kind and character of ISB (including, but not limited to, all real, personal, or mixed property, all debts due in whatever account, and all other choses in action and all and every other interest of or belonging to or due to ISB), and shall succeed to all the rights, privileges, immunities, powers, purposes, and franchises of a public or private nature (including all trust and fiduciary properties, powers, and rights) of ISB, all of which shall pass or be transferred to and vest in FCB without conveyance, assignment, or further act or deed; and FCB shall

become responsible for all of the liabilities, duties and obligations of every kind, nature, and description (including duties as trustee or fiduciary) of ISB as of the Effective Time.

1.5. **Cancellation of ISB Stock.** At the Effective Time, ISB shall cease to exist and all outstanding shares of ISB shall be cancelled. No cash or securities or other obligations will be issued upon cancellation of the shares.

1.6. **Articles of Incorporation, Bylaws and Management.** The Articles of Incorporation and Bylaws of FCB in effect at the Effective Time shall be the Articles of Incorporation and Bylaws of FCB as the surviving corporation. The officers and directors of FCB in office at the Effective Time shall continue to hold such offices until removed as provided by law or until the election or appointment of their respective successors.

1.7. **Offices of FCB.** Subject to the approval of appropriate regulatory authorities and following the Effective Time, FCB shall continue the operation of the present offices of FCB and ISB.

1.8. **Effective Time.** The Merger shall be effective on the date and at the time (the "Effective Time") so specified in the Articles of Merger which shall include this Plan of Merger and which shall be duly executed by FCB as the surviving entity and, with the approval of the North Carolina Commissioner of Banks, shall be presented to and filed with the North Carolina Secretary of State and any other appropriate authority in accordance with applicable laws.

ARTICLE II. ADDITIONAL AGREEMENTS

2.1. **Regulatory Approvals.** Promptly following the date of this Agreement, FCB and ISB shall each prepare, submit, and file, or cause to be prepared, submitted, and filed, all applications for regulatory approvals and notices or other actions required of them by applicable law and regulations with respect to the transactions contemplated by this Agreement (including applications and notices to the North Carolina Commissioner of Banks, ISB's post-conversion primary regulator(s), and the Federal Deposit Insurance Corporation). Each party shall cooperate with the other in preparing these applications and notices, and shall promptly furnish upon request all documents, information, financial statements, or other material that may be required to complete these applications and notices. Should the appearance of any of the officers, directors, employees, or counsel of either of the parties be requested by the other party or by any governmental agency at any hearing in connection with any of these applications, that party shall promptly use its best efforts to arrange for an appearance.

2.2. **Closing.** A closing and consummation of the Merger (the "Closing") shall be held on the date (the "Closing Date") and time following satisfaction or effective waiver of all conditions to the Merger, and at such location, as FCB shall reasonably specify.

2.3. **Further Action.** FCB and ISB each represents and warrants to, and covenants with, the other that it will use its best efforts in good faith to take or cause to be taken all action required of it under this Agreement as promptly as practicable to permit the consummation of the transactions contemplated in it, and shall cooperate fully with the other in delivering all instruments or other documents reasonably necessary or useful to the other party in carrying out those transactions.

ARTICLE III. CONDITIONS PRECEDENT TO MERGER

The parties' obligations to consummate the transactions contemplated in this Agreement shall be conditioned on satisfaction or effective waiver of the following conditions precedent on or prior to the Closing:

3.1. **Material Adverse Change.** There shall not have occurred any material adverse change in the financial condition, business, properties, assets, or operation of FCB or ISB, nor shall any event have occurred which, with the lapse of time or otherwise, may or could cause, create, or result in any such material adverse change.

3.2. **Adverse Proceedings, Injunction, etc.** There shall not be any order, decree or injunction of any court or governmental, administrative, or regulatory agency which enjoins or prohibits any of the transactions described in this Agreement, nor any pending or threatened suit, action, or proceeding instituted by or with any court or governmental, administrative, or regulatory agency seeking to restrain or prohibit these transactions, nor any pending or threatened investigation or prohibition of such transactions by or with any court or governmental, administrative, or regulatory agency.

3.3. **Approval by Governmental or Regulatory Authorities; No Disadvantageous Conditions.**

(i) The transactions contemplated under this Agreement shall have been approved, to the extent required by law, by the Federal Deposit Insurance Corporation, the North Carolina Commissioner of Banks, and by all other governmental or regulatory agencies or authorities having jurisdiction over those transactions;

(ii) no governmental or regulatory agency or authority shall have withdrawn its approval of those transactions or imposed any condition on those transactions or imposed a condition on its approval that either party reasonably deems to be unduly disadvantageous or burdensome;

(iii) any waiting period required following necessary approvals by the Federal Deposit Insurance Corporation for review of the transactions contemplated herein by the United States Department of Justice shall have expired; and

(iv) all other consents, approvals, and permissions, and the satisfaction of the requirements prescribed by law necessary to carrying out the transactions contemplated in this Agreement, shall have been procured.

3.4. **Approval by Boards of Directors.** The Boards of Directors and the sole shareholder of FCB and ISB shall have approved this Agreement and the Plan of Merger described in it and shall not have rescinded or materially modified their approvals.

3.5. **Compliance with Agreements.** Unless waived by the other party in accordance with Paragraph 5.1 below, FCB and ISB each shall have performed in all material respects their respective obligations, covenants, and agreements under this Agreement. Each party, by and through their appropriate officers, shall have executed and delivered to the other party those certifications and other documents as the other party reasonably may request.

3.6. **No Termination or Abandonment.** This Agreement shall not have been terminated or abandoned by either party.

3.7. **Articles of Merger; Other Actions.** The Articles of Merger described in Paragraph 1.8 of this Agreement shall have been duly executed and filed by FCB as provided in Paragraph 1.8.

ARTICLE IV. TERMINATION

At any time prior to the Effective Time, this Agreement may be terminated by the mutual consent of FCB and ISB, or by either FCB or ISB in the event that:

(i) There shall have been any materially adverse change in the business, operations, properties, assets, or financial condition of the other party since the date hereof; or if the other party shall have violated any of its obligations, covenants, or agreements contained in this Agreement;

(ii) Any condition precedent set forth in Article III hereof shall not have been satisfied or effectively waived; or

(iii) The Merger shall not have become effective on or before August 1, 2012, unless such date is extended by the mutual agreement of FCB and ISB.

ARTICLE V. MISCELLANEOUS PROVISIONS

5.1. **Waiver.** Any term or condition of this Agreement may be waived (except as to matters of regulatory approvals and approvals required by law), either in whole or in part, at any time by the party entitled to its benefits; provided, however, that any such waiver shall not be construed as a waiver of any succeeding breach of the same term or condition. No failure or delay of either party to exercise any power, or to insist upon a strict compliance by the other party of any obligation, and no custom or practice at variance with any terms in this Agreement, shall constitute a waiver of the right of either party to demand full and complete compliance with such terms.

5.2. **Amendment.** This Agreement may be amended, modified or supplemented at any time or from time to time prior to the Effective Time, but only in writing executed in the same manner as this Agreement.

5.3. **Further Assurance.** FCB and ISB each agree to furnish to the other such further assurances with respect to the matters contemplated by this Agreement, and their respective agreements, covenants, representations, and warranties contained in it, as the other party reasonably may request.

5.4. **Headings and Captions.** Headings and captions of the sections and paragraphs of this Agreement have been inserted for convenience of reference only and do not constitute a part of this Agreement.

5.5. **Entire Agreement.** This Agreement contains the entire agreement of FCB and ISB with respect to the transactions contemplated by it and supersedes any and all previous oral or written agreements, representations or inducements by or to either party about those transactions.

5.6. **Severability of Provisions.** The invalidity or unenforceability of any term, phrase, clause, paragraph, restriction, covenant, agreement, or other provision of this Agreement shall not affect the validity or enforceability of any other provision or part of this Agreement.

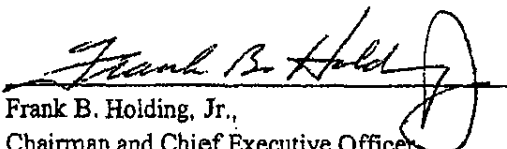
5.7. **Counterparts.** Any number of counterparts of this Agreement may be signed and delivered, each of which shall be considered an original and which together shall constitute one agreement.

5.8. **Governing Law.** This Agreement is made in and shall be construed and enforced in accordance with the laws of North Carolina and any applicable laws of the United States of America.

IN WITNESS WHEREOF, FCB and ISB have each caused this Agreement to be executed in its name by a duly authorized officer as of the date first above written.

FIRST-CITIZENS BANK & TRUST COMPANY

By:


Frank B. Holding, Jr.,
Chairman and Chief Executive Officer

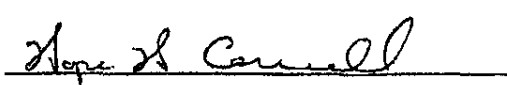
Attest:


James E. Creekman, Secretary

[SEAL]

IRONSTONE BANK

By:


Hope H. Connell, President

Attest:


James E. Creekman, Secretary

[SEAL]