

J94726

INTER-OFFICE
COMMUNICATION

COMPTROLLER OF FLORIDA
DIVISION OF BANKING

DATE: September 28, 2000

TO: Louise Flemming-Jackson, Department of State
Division of Corporations

FROM: Bruce Ricca, Licensing and Chartering

SUBJ: Merger of First Commercial Interim Bank with and into First Commercial
Bank of Tampa and under the title of First Commercial Bank of Tampa

4000003409764-118
-03/29/00--01068--003
*****96.25 *****96.25

Please file the attached "Merger Documents" for the above-referenced institutions,
using SEPTEMBER 29, 2000, as the effective date.

Please make the following distribution of certified copies:

- (1) One copy to: Bruce Ricca
Division of Banking
101 East Gaines Street
Fletcher Building, Suite 636
Tallahassee, Florida 32399-0350
- (2) One copy to: Mr. Steve Napier
Federal Reserve Bank of Atlanta
104 Marietta Street, N.W.
Post Office Box 1731
Atlanta, Georgia 30303-1731
- (3) One copy to: Ms. Sam Lester
Igler & Dougherty
1501 Park Avenue East
Tallahassee, Florida 32301

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS
00 SEP 28 PM 3:05

Also attached is a check which represents payment of the filing fees, charter tax
and certified copies. If you have any questions, please call 410-9528.

BR:mergeart

EFFECTIVE DATE
9-29-00

merger
LA 10-2-2000

ARTICLES OF MERGER
Merger Sheet

MERGING:

FIRST COMMERCIAL INTERIM BANK, a Florida corporation, (Document
#P00000092297)

INTO

FIRST COMMERCIAL BANK OF TAMPA, a Florida entity, J94726

File date: September 28, 2000, effective September 29, 2000

Corporate Specialist: Louise Flemming-Jackson



ROBERT F. MILLIGAN
COMPTROLLER OF FLORIDA

OFFICE OF COMPTROLLER

DEPARTMENT OF BANKING AND FINANCE

STATE OF FLORIDA

TALLAHASSEE
32399-0350

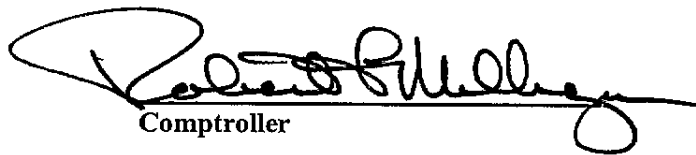
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DIVISION OF CORPORATIONS

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Having given my approval on September 14, 2000, to merge First Commercial Interim Bank, Tampa, Hillsborough County, Florida, (a Successor Institution) and First Commercial Bank of Tampa, Tampa, Hillsborough County, Florida, and being satisfied that the conditions of my approval have been met, I hereby approve for filing with the Department of State, the attached "Agreement and Plan of Reorganization", which contains the Articles of Incorporation of First Commercial Bank of Tampa (the resulting bank), so that effective on September 29TH, 2000, they shall read as stated herein.

Signed on this 27TH day of

September, 2000.


Comptroller

EFFECTIVE DATE

9-29-00

**AGREEMENT AND
PLAN OF REORGANIZATION**

FILED
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DIVISION OF CORPORATIONS

00 SEP 28 PM 3:06

THIS AGREEMENT AND PLAN OF REORGANIZATION ("Agreement"), dated this **16th day of March 2000** is being entered into by and between First Commercial Bank of Tampa, a state-chartered bank ("Bank"), FCB Financial, Inc., a Florida corporation and First Commercial Interim Bank, an interim state-chartered bank ("Interim").

The Board of Directors of the Bank has determined that it is in the best interest of the Bank and its shareholders for the Bank to be reorganized into a holding company form of ownership. The Bank has caused FCB Financial, Inc. to be organized under Florida law for the purpose of becoming the parent holding company of the Bank. It is intended that the reorganization will be accomplished by causing FCB Financial, Inc. to become the sole shareholder of the newly-formed Interim and then merging Interim into the Bank, so that as part of the merger, all of the outstanding shares of common stock of the Bank, will automatically be converted into and become the shares of common stock of FCB Financial, Inc., which will then become the sole shareholder of the Bank (hereinafter referred to as the "Reorganization").

NOW, THEREFORE, the parties hereto, intending to be legally bound by this Agreement, agree to affect the Reorganization of the Bank into the holding company form of ownership in accordance with and subject to the terms and conditions set forth below.

ARTICLE I

**Merger of First Commercial Interim Bank into
First Commercial Bank of Tampa and Related Matters**

Section 1.1 On the Effective Date (as defined in Article V herein), Interim will be merged with and into the Bank and the Bank shall then be the "Resulting Bank" (the "Merger"). At this point the separate existence of Interim shall cease. All assets and property (real, personal and mixed, tangible and intangible, choses in action, rights and credits) then owned by Interim, or which would inure to it, shall immediately and automatically, by operation of law and without any conveyance, transfer, or further action, become the property of the Bank and shall be deemed to be a continuation of Interim. The Bank shall succeed to the rights and obligations of Interim. The Bank shall operate under its Amended and Restated Articles of Incorporation, a copy of which is attached hereto as Exhibit A, under its current name "First Commercial Bank of Tampa".

Section 1.2 Following the Merger, the existence of the Bank which will be the Resulting Bank, shall continue unaffected and unimpaired by the Merger, with all rights, privileges, immunities and powers, and subject to all the duties and liabilities, of a state-chartered bank organized under Florida law, and the Amended and Restated Articles of Incorporation, a copy of which is attached hereto as Exhibit A, and Bylaws of the Bank as in effect on the Effective Date, shall continue in full force and effect.

Section 1.3 From and after the Effective Date, and subject to the actions of the Board of Directors of the Bank, the business presently conducted by the Bank will continue to be conducted by it as a wholly-owned subsidiary of FCB Financial, Inc. The then executive officers of the Bank will continue in the positions they currently hold until such time as the Board of Directors of the Bank determines otherwise.

The following is a list of the current Executive Officers:

<u>Name</u>	<u>Position with First Commercial Bank of Tampa</u>
Albert M. Salem, Jr.	Chairman of the Board
Robert F. Mackay	President/CEO
J. Alan Grandoff	Executive Vice President and Chief Financial Officer

Section 1.4 On the Effective Date, the number of directors of the Bank as stated in its Amended and Restated Articles of Incorporation, shall be not less than five (5). The directors set forth below shall serve as the interim directors of FCB Financial, Inc. until the first Annual Meeting of Shareholders. On the Effective Date, the then Board of Directors of the Bank shall continue to serve as the Board of Directors of the Bank until such time as their successors have been elected and qualified. The names, resident addresses the interim directors of the holding company on this date are as follows:

<u>Name</u>	<u>Address</u>
Albert M. Salem, Jr., Chairman/CEO	4600 West Kennedy Blvd., Suite 100 Tampa, Florida 33609
Roland H. Meyer, Vice Chairman	14275 Siesta Road Largo, Florida 33774
Jimmy C. Fischer, Treasurer/CFO	408 Briarcliff Drive Temple Terrace, Florida 33617
John J. Farris, Jr., Director	2509 N. Lumina Wrightsville Beach, North Carolina 28480
Joseph A. McClain, III, Director	10106 Hampton Place Tampa, Florida 33618
Philip G. Flood, Director	2302 S. Occident Street Tampa, Florida 33629

Section 1.5 The home office of the Bank is located at 4600 West Kennedy Boulevard, Tampa, Florida, 33609 and it shall continue to be the home office of the Bank from and after the Effective Date.

Section 1.6 The Bank currently does not have trust powers and does not anticipate having trust powers at the Effective Date of the Reorganization.

ARTICLE II

Conversion of Stock

Section 2.1 The manner and basis of converting the common stock of the parties to this Agreement shall be as follows:

A. On the Effective Date, all shares of common stock of FCB Financial, Inc. held by the Bank shall be canceled and shall no longer be deemed to be issued or outstanding for any purpose.

B. On the Effective Date, except for those shares for which "dissenters' rights" are exercised, for each share of common stock, \$5.00 par value, of the Bank ("Bank common stock") issued and outstanding immediately prior to the Effective Date shall, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become one (1) share of fully paid and non assessable common stock, par value \$.01 per share, of FCB Financial, Inc. ("FCB Financial, Inc. common stock"). From and after the Effective Date, each certificate which, prior to the Effective Date, represented shares of the Bank shall evidence ownership of FCB Financial, Inc. on the basis set forth herein.

D. Each share of common stock of Interim issued and outstanding immediately prior to the Effective Date shall, on the Effective Date, by virtue of the Merger and without any action on the part of the holder thereof, be converted into and become one share of fully paid and non assessable common stock, \$5.00 par value, of the Bank and shall not be further converted into shares of FCB Financial, Inc. so that from and after the Effective Date, all of the issued and outstanding shares of Bank common stock shall be held by FCB Financial, Inc. From and after the Effective Date, each certificate, if any, which, prior to the Effective Date, represented shares of Interim, shall evidence ownership of the Bank on the basis herein above set forth.

E. At or prior to the Effective Date, the Bank shall designate or act as its own exchange agent to receive from the holders of the Bank stock certificates which immediately prior to the Effective Date represented Bank common stock and to exchange such certificates for certificates of FCB Financial, Inc. common stock as heretofore provided. Promptly after the Effective Date, the exchange agent shall mail to each record holder, as of the Effective Date, any outstanding certificate or certificates, which prior to the Effective Date represented shares of Bank common stock, a letter of transmittal (which shall specify how delivery shall be effected, and that risk of loss and title to such certificate or certificates shall pass only upon proper delivery of such certificate or certificates, together with a properly executed letter of transmittal, to the exchange agent at its address stated therein) and instructions for use in affecting the surrender of such certificate or certificates for exchange therefore. Upon surrender to the exchange agent for such certificate or certificates, together with such properly executed letter of transmittal, the exchange agent shall exchange such certificate or certificates for stock certificates of FCB Financial, Inc. common stock as provided herein. Until so surrendered, each such outstanding certificate which, prior to the Effective Date, represented shares of Bank common stock shall be deemed for all corporate purposes to

evidence the ownership of the number of whole shares of FCB Financial, Inc. common stock into which such shares of Bank common stock shall have been converted.

F. The conversion and exchange of shares of Bank common stock into shares of FCB Financial, Inc. common stock, pursuant to this Article II, shall be in full satisfaction of all rights pertaining to the converted shares.

G. On the Effective Date, the holders of certificates formerly representing Bank common stock outstanding on the Effective Date shall cease to have any rights with respect to Bank common stock, and their sole rights shall be with respect to FCB Financial, Inc. common stock into which their shares of Bank common stock shall have been converted as a result of the Merger.

H. No share of Bank common stock as to which dissenters' appraisal rights have been validly exercised and perfected and for which cash is payable pursuant to law (Dissenting Shares) shall be converted into the right to receive FCB Financial, Inc. common stock. In lieu thereof, the holder of Dissenting Shares shall be entitled to payment in accordance with the applicable provisions of Section 658.44, *Florida Statutes*, (the Dissenter/Appraisal Statute) applicable to state-chartered banks. If any holder of Dissenting Shares shall effectively withdraw or lose his dissenter rights under the Dissenter/Appraisal Statute, such Dissenting Shares shall be converted into FCB Financial, Inc. common stock in accordance with the provisions hereof. Dissenting Shares acquired by the Bank pursuant to payment shall be held by the Bank as authorized but unissued shares. This Agreement is subject to the condition that properly exercised dissenter shares shall not exceed more than 30% of the total number of shares outstanding or approximately 133,755 shares in order for this to be a tax-free reorganization. Under the terms of this Plan, management may choose to honor up to 30% in dissenter shares in order to consummate the transaction. In order to remain a "well-capitalized bank" under the FDIC rules, the Bank intends to either borrow the funds or do a private placement offering to provide sufficient capital to the Bank to pay for dissenter shares that are tendered.

ARTICLE III

Conditions

Section 3.1 The obligations of the Bank, FCB Financial, Inc., and Interim to effect the Merger and otherwise consummate the Reorganization, which are the subject matters hereof, shall be subject to satisfaction of the following conditions:

A. The approval of this Agreement by a majority of the outstanding shares of Bank common stock at a meeting of the shareholders of the Bank duly called at which a quorum is present.

B. Receipt of any and all approvals from The Florida Department of Banking and Finance ("Florida Department"), the Federal Reserve Board ("FRB"), and the Federal Deposit Insurance Corporation ("FDIC") and any other governmental agency having

jurisdiction necessary for the lawful consummation of the Merger, and the issuance and delivery of FCB Financial, Inc. common stock as contemplated by this Agreement.

C. Receipt of a ruling from the Internal Revenue Service or an opinion from its legal counsel that the Merger will be treated as a non-taxable transaction under Section 351 or other applicable provisions of the Internal Revenue Code of 1986, as amended, and that no gain or loss will be recognized by the Bank's shareholders upon the exchange of Bank common stock held by them solely for FCB Financial, Inc. common stock.

D. Not more than 30% of the outstanding shares shall have exercised dissenters' rights as provided for in Section 2.1(H) herein.

ARTICLE IV

Termination

Section 4.1 This Agreement may be terminated and the Merger need not be consummated at the election of any of the parties hereto at any time before the Effective Date, in the event that, for any reason, consummation of the holding company formation contemplated by this Agreement is inadvisable in the opinion of the Bank, FCB Financial, Inc., or Interim. Termination of this Agreement shall be effected by written notice by the terminating party to the other parties. Upon giving of such notice, this Agreement shall be terminated and there shall be no liability hereunder or on account of such termination on the part of the Bank, FCB Financial, Inc. and/or Interim, or the directors, officers, employees, or agents of any of them.

Section 4.2 In the event of termination of this Agreement, the Bank shall pay the fees and expenses incurred in connection with this Agreement and the proposed formation of a holding company.

ARTICLE V

Effective Date of Merger

Section 5.1 Upon satisfaction or waiver (in accordance with the provisions of this Agreement) of each of the conditions set forth in Article III, the parties hereto shall execute and cause to be filed such certificates or further documents as are required under applicable law, rule or regulation with the Florida Department, the FRB and/or the FDIC and with such other federal and state regulatory agencies as may be required in order to effect the Merger provided for herein.

Section 5.2 The date and time by which all of such filings are completed and accepted by the applicable agencies is referred to in this Agreement as the "Effective Date".

ARTICLE VI

Miscellaneous

Section 6.1 Any of the terms or conditions of this Agreement, which may legally be waived, may be waived at any time by any party hereto which is entitled to the benefit thereof, or any of such

terms or conditions may be amended or modified in whole or in part at any time, to the extent authorized by applicable law, by an agreement in writing, executed in the same manner as this Agreement.

Section 6.2 This Agreement shall be governed by and construed under Florida law, and where applicable, federal law.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement and Plan of Reorganization as of the date first above written.

Attest:

J. Alan Grandoff

FIRST COMMERCIAL BANK OF TAMPA

By:

Albert M. Salem, Jr.
Chairman of the Board

Attest:

J. Alan Grandoff

FCB FINANCIAL, INC.

By:

Albert M. Salem, Jr.
Chairman of the Board

FIRST COMMERCIAL INTERIM BANK
(In Organization)

Attest:

J. Alan Grandoff

By:

Robert F. Mackay
President

State of Florida



Department of State

I certify the attached is a true and correct copy of the Amended and Restated Articles of Incorporation, filed on April 18, 2000, for FIRST COMMERCIAL BANK OF TAMPA, a Florida corporation, as shown by the records of this office.

The document number of this corporation is J94726.

Given under my hand and the
Great Seal of the State of Florida
at Tallahassee, the Capitol, this the
Eighteenth day of April, 2000



CR2EO22 (1-99)

Katherine Harris

Katherine Harris
Secretary of State

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS

00 APR 18 PM 1:23

AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

FIRST COMMERCIAL BANK OF TAMPA

ARTICLE I

The name of the corporation shall be First Commercial Bank of Tampa and its initial place of business shall be at 4600 West Kennedy Boulevard, in the City of Tampa, in the County of Hillsborough and the State of Florida.

ARTICLE II

The general nature of the business to be transacted by this corporation shall be: That of a general commercial banking business with all the rights, powers and privileges granted and conferred by the Florida Financial Institution Codes, regulating the organization, powers and management of banking corporations.

ARTICLE III

The total number of shares authorized to be issued by the corporation shall be 1,000,000. Such shares shall be of a single class and shall have a par value of \$5.00 per share. The corporation shall begin business with at least \$2,125,000 in paid-in common capital stock to be divided into at least 425,000 shares. The amount of surplus with which the corporation will begin business shall be not less than \$1,275,000 and the amount of undivided profits, not less than \$602,5000, all of which (capital stock, surplus and undivided profits) shall be paid in cash.

ARTICLE IV

The term for which said corporation shall exist shall be perpetual unless terminated pursuant to the Florida Banking Code.

ARTICLE V

The number of directors shall not be fewer than five (5) nor more than fifteen (15) directors. Election of directors is to be held at an annual meeting of shareholders or at a special meeting; however, a majority of the full board of directors may, at any time during the year following the Annual Meeting of Shareholders, increase the number of directors by not more than two (up to fifteen) and appoint persons to fill the resulting vacancies.

ARTICLE VI

The directors of the Bank will be divided into three classes, with the number of directors in each class being as nearly equal as possible; the term of office of those of the first class to expire at the next annual meeting; of the second class one year thereafter; of the third class two years thereafter. At each annual election held after such classification and election, directors shall be chosen for a full three year term, as the case may be, to succeed those whose terms expire.

ARTICLE VII

First Commercial Bank of Tampa shall indemnify its directors, officer, employees, and agents to the fullest extent permitted under Chapter 607, *Florida Statutes* (1999), as currently provided for or as it may be subsequently amended.

The foregoing Amended and Restated Articles of Incorporation were adopted by the affirmative vote of a sufficient number of the single class of shareholders of the First Commercial Bank of Tampa at a duly called Annual Meeting of the Shareholders on April 18, 2000, pursuant to Section 607.1003(2), (3) and (4) *Florida Statutes* (1999). They were proposed and approved by the Board of Directors at a duly called meeting of the Board of Directors on March 16, 2000, pursuant to Section 607.1003(1) *Florida Statutes* (1999).

Whereupon at Tampa, Florida, this 18th day of April, 2000, First Commercial Bank of Tampa hereby certifies accordingly, under the hands of its Chairman, so that, on the filing hereof, the Articles of Incorporation shall be amended and restated accordingly.

These duly adopted Amended and Restated Articles of Incorporation supersede the original Articles of Incorporation and all amendments to them.

FIRST COMMERCIAL BANK OF TAMPA
a Florida banking corporation

By: _____

Albert M. Salem, Jr., Chairman

Approved by the Department of Banking and Finance this 18 day of April, 2000.

Tallahassee, Florida

Robert F. Milligan

Comptroller of the State of Florida

**CERTIFICATE AND REPORT
OF INSPECTOR OF ELECTION
FOR
FIRST COMMERCIAL BANK OF TAMPA
SPECIAL MEETING OF SHAREHOLDERS
APRIL 18, 2000**

The undersigned duly appointed Inspector of Election of the Special Meeting of Shareholders of First Commercial Bank of Tampa ("Bank") does hereby certify that:

The Special Meeting of Shareholders ("Special Meeting") of the Bank was held at the Bank's main office, 4600 West Kennedy Boulevard, Tampa, Florida on April 18, 2000, at 4:30 p.m., Eastern Time.

There were 445,850 votes entitled to be cast at the Special Meeting, of which 222,926 represents a majority.

The undersigned inspected the signed Proxy Card used at the Special Meeting and found the same to be in proper form. The following is a record of the votes cast as to the propositions presented:

PROPOSAL I. Approval of an Agreement and Plan of Reorganization whereby: (i) First Commercial Bank of Tampa will become a wholly-owned subsidiary of FCB Financial, Inc., a Florida corporation; and (ii) all of the outstanding shares of First Commercial Bank of Tampa common stock will be converted, on a one-for-one basis, into outstanding shares of common stock, \$.01 par value per share, of FCB Financial, Inc.; and

PROPOSAL II. To approve the adjournment of the Special Meeting to solicit additional proxies in the event that there are not sufficient votes to approve Proposal I.

FOR

WITHHELD

AGAINST

266,569

4,200

40,726⁽¹⁾

Accordingly, Proposals I and II have received a favorable vote of at least a majority of the outstanding votes eligible to be cast at the Special Meeting and are hereby duly adopted by the shareholders of the Bank.

IN WITNESS WHEREOF, the undersigned executed and acknowledged this Certificate on the 18th day of April, 2000.

Inspector of Election

Signed


Jimmy C. Fischer

Print or type name

STATE OF FLORIDA)
COUNTY OF HILLSBOROUGH)

On the 18th day of April, 2000, before me personally appeared Jimmy C. Fischer
who is personally known to me and who executed the above Certificate and acknowledged to me
that the same was duly executed.

Myrtice S. Lester
Notary Public

 Myrtice Smith Lester
Name of Notary Public
Commission Number CC721069 EXPIRES
April 27, 2002
JAMES B. FAY INSURANCE, INC.

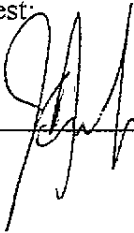
(SEAL)

(1) Shareholders holding 32,000 shares (approximately 7% of the Bank's outstanding common stock) have elected to perfect their dissenting shareholder rights and receive cash for their shares.

FCB FINANCIAL, INC.
SOLE SHAREHOLDER APPROVAL CERTIFICATE

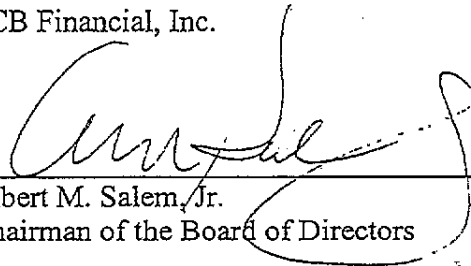
Pursuant to Section 607.0704, Florida Statutes, the undersigned, FCB Financial, Inc., being the sole shareholder of its banking subsidiary, First Commercial Interim Bank, hereby in lieu of a meeting, consents to and approves the adoption of the Agreement and Plan of Merger for First Commercial Bank of Tampa and First Commercial Interim Bank.

Attest:



Date

FCB Financial, Inc.



Albert M. Salem, Jr.
Chairman of the Board of Directors

April 18, 2000

Date