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SECRETARY OF STATE
TALLAHASSEE FLORIDA

No
108769
Banco AT/ant

COVER LETTER

TO: Registration Section
Division of Corporations

SUBJECT: BANKATLANTIC

(Mark to be registered)

The enclosed Trademark/Service Mark Application, specimens and fee(s) are submitted for filing.

Please return all correspondence concerning this matter to the following:

Robert M. Schwartz, Esq.

(Name of Person)

ROBERT M. SCHWARTZ, P.A.

(Firm/Company)

P.O. Box 221470

(Address)

Hollywood, Florida 33022

(City/State and Zip Code)

For further information concerning this matter, please call:

Robert M. Schwartz

(Name of Person)

at (954) 924 0707

(Area Code & Daytime Telephone Number)

MAILING ADDRESS:

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

STREET/COURIER ADDRESS:

Registration Section
Division of Corporations
Clifton Building
2661 Executive Center Circle
Tallahassee, FL 32301

(NOTE: The information contained in this cover letter will be included in the permanent record and will be available to the general public.)



FLORIDA DEPARTMENT OF STATE
Division of Corporations

October 5, 2007

ROBERT M. SCHWARTZ, ESQUIRE
ROBERT M. SCHWARTZ, P.A.
P.O. BOX 221470
HOLLYWOOD, FL 33022

SUBJECT: BANKATLANTIC & DESIGN OF WORDS "BANK" AND "ATLANTIC"
ON TWO LEVELS IN CLOSE PROXIMITY WITH THREE HORIZONTAL LINES
PRECEDING THE LETTER "B" APPEARING IN THE COLOR RED
Ref. Number: W07000049428

We have received your document for BANKATLANTIC & DESIGN OF WORDS "BANK" AND "ATLANTIC" ON TWO LEVELS IN CLOSE PROXIMITY WITH THREE HORIZONTAL LINES PRECEDING THE LETTER "B" APPEARING IN THE COLOR RED 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 section 495.021(1)(f), Florida Statutes. There is a Florida registration on file with our office for "BANCO ATLANTIC", Registration Number "T08769", 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: 307A00058337

In Re : BankAtlantic, a Federal Savings Bank
Ref. No. : W07000049428
Letter No. : 307A00058337
Mark : **BANKATLANTIC & Design**
Document
Specialist : Nanette Causseaux
Date : November 6, 2007

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

RESPONSE TO REFUSAL TO REGISTER

Dear Ms. Causseaux:

We respond to your Letter Number 307A00058337 dated October 5, 2007 for the above-captioned application (copy enclosed). In said letter you denied the application in view of a prior registration for "the same or similar name and class(es)".

We respectfully bring to your attention the fact that Registrant has previously executed a Consent To Register agreement (copy enclosed), consenting to Applicant's use and registration of Applicant's mark BANKATLANTIC. Enclosed please find a copy of the executed Consent To Register from Banco De Sabadell, S.A. (the Assignee of rights from Registrant, Banco Atlantico, S.A.) dated September 15, 2006 consenting to BankAtlantic's use and registration of the mark BANKATLANTIC, and acknowledging the coexistence of their Federal service marks and registrations.

In Re : BankAtlantic, a Federal Savings Bank
Ref. No. : W07000049428
Letter No. : 307A00058337
Mark : **BANKATLANTIC & Design**
Document
Specialist : Nanette Causseaux
November 6, 2007
Page 2 of 3

Page one of the Consent To Register states:

"Sabadell [Banco De Sabadell, S.A. - Assignee from Banco Atlantico, S.A.] hereby consents to BankAtlantic's registration of the BANKATLANTIC Marks for banking services".

* * *

"In addition, the parties' marks have coexisted for more than 20 years in the marketplace, and neither Atlantico, Sabadell or BankAtlantic are aware of any instances of actual confusion between the marks of the parties".

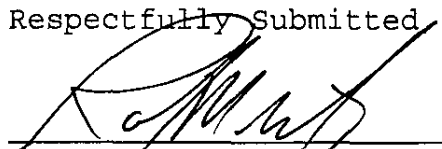
Based on all of the statements made in the Consent To Register, and because Federal registrations cover all of the United States, consent extends to BankAtlantic's Florida State applications and registrations.

In view of the Consent To Register, we request that the mark BANKATLANTIC and Design be granted registration by the Florida Department of State.

In Re : BankAtlantic, a Federal Savings Bank
Ref. No. : W07000049428
Letter No. : 307A00058337
Mark : **BANKATLANTIC & Design**
Document
Specialist : Nanette Causseaux
November 6, 2007
Page 3 of 3

Should you have any questions or comments, the undersigned would appreciate a telephone call to possibly expedite the matter.

Respectfully Submitted



Robert M. Schwartz, Esq.
ROBERT M. SCHWARTZ, P.A.
P.O. Box 221470
Hollywood, Florida 33022
(954) 924-0707 Telephone
(954) 924-0717 Facsimile
trademark@patentmiami.com

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TALLAHASSEE FLORIDA

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

CONSENT TO REGISTER

BankAtlantic Bancorp, Inc. ("BankAtlantic") applied for registration of the marks BANKATLANTIC and BANK ATLANTIC and Design (the "BANKATLANTIC Marks") in connection with banking services on January 7, 1999; these applications were assigned Serial Nos. 75/618,643 and 75/618,644 respectively. The U.S. Patent and Trademark Office issued refusals to register the BANKATLANTIC Marks, citing as a bar Registration No. 1,341,446 for the mark BANCO ATLANTICO (stylized) ("Sabadell's Mark") for "banking services" originally owned by Banco Atlantico, S.A. ("Atlantico") and now owned by Banco De Sabadell, S.A., by assignment ("Sabadell").

Sabadell hereby consents to BankAtlantic's registration of the BANKATLANTIC Marks for banking services.

The parties are not aware of any instances of actual confusion, and believe that there is no likelihood of confusion between the parties' marks. BankAtlantic owned Registration Nos. 1,557,206 and 1,554,045 for the identical BANKATLANTIC mark and a slightly different BANK ATLANTIC and Design mark for banking services that peacefully coexisted with Atlantico's Mark on the Principal Register for a period of nearly 10 years from 1987 until 1996, when BankAtlantic's registrations were inadvertently cancelled for failure to file a declaration of use. In addition, the parties' marks have coexisted for more than 20 years in the marketplace, and neither Atlantico, Sabadell, or BankAtlantic are aware of any instances of actual confusion between the marks or the parties.

Sabadell's Mark and the BANKATLANTIC Marks differ in appearance, pronunciation, and in meaning. Sabadell's Mark appears in large bold stylized letters. The BANKATLANTIC Marks, on the other hand, appear either inside of a rectangle or

two lines with stripes emanating from the capital letter B or as a one-word typed mark. Sabadell's Mark has six syllables when pronounced, whereas the BANKATLANTIC Marks have four syllables when pronounced. Finally, the English translation of Sabadell's Mark is "Bank of the Atlantic," which is different from the meaning of the BANKATLANTIC Marks, which is simply "BankAtlantic." The sophistication employed by customers of banking services further guards against any likelihood of confusion.

Lastly, although the parties believe that confusion is unlikely between the services covered by their respective marks, they will nevertheless cooperate to take the steps necessary to prevent a likelihood of customer confusion arising in the future should the need arise.

In view of the differences noted above, coupled with the parties agreement to take appropriate steps to avoid confusion, Sabadell believes that confusion is unlikely between its mark BANCO ATLANTICO, Registration No. 1,341,446, for "banking services" and the BANKATLANTIC Marks for "banking services" and accordingly consents to BankAtlantic's registration of the BANKATLANTIC Marks.

BANCO DE SABADELL, S.A. (by assignment
from Banco Atlantico, S.A.)

By: 

Name: Ramon Domenech Ibanez

Title: Head of Corporate Marketing

Date: September 15, 2006

FILED
07 NOV 21 PM 1:30
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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

PART I

1. (a) Applicant's name: BankAtlantic, a Federal Savings Bank
(b) Applicant's business address: 2100 West Cypress Creek Road
Fort Lauderdale, Florida 33309
City/State/Zip

If different, Applicant's mailing address: _____
City/State/Zip

- (c) Applicant's telephone number: (954) 940-5000
☐ Individual ☐ Corporation ☐ Joint Venture ☐ Limited Liability Company
☐ General Partnership ☐ Limited Partnership ☐ Union ☒ Other: Federal Savings Bank

If other than an individual,

- (1) Florida registration/document number: N/A (2) Domicile State: _____
(3) Federal Employer Identification Number: N/A

2. (a) If the mark to be registered is a service mark, the services in connection with which the mark is used:
(i.e., furniture moving services, diaper services, house painting services, etc.)

Banking and financial services.

- (b) If the mark to be registered is a trademark, the goods in connection with which the mark is used:
(i.e., ladies sportswear, cat food, barbecue grills, shoe laces, etc.)

- (c) The specific way the mark is applied to the good(s) or used in advertising:(i.e., labels, decals, newspaper advertisements, brochures, etc.)

Signs, printed advertisements, newspaper advertisements, brochures.

- d) The class(es) in which goods or services fall:

36

(Continued)

PART II

1. Date first used by the applicant, predecessor, or a related company (must include month, day and year):
(a) Date first used anywhere: October 31, 2003 (b) Date first used in Florida: October 31, 2003

PART III

1. The mark to be registered is: (If logo/design is included, please give brief written description which must be 25 words or less.)

BANKATLANTIC

The words BANK and ATLANTIC on two levels in close proximity with
three horizontal lines preceding the letter B appearing in the color red.

English Translation

2. DISCLAIMER (if applicable)

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

I, _____, 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.

BankAtlantic, a Federal Savings Bank

Typed or printed name of applicant

Leonard Whan
Applicant's signature
(List name and title)

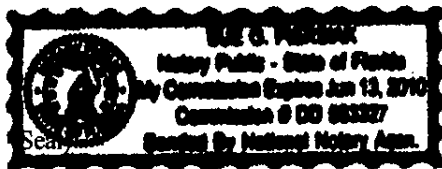
Associate General Counsel

STATE OF Florida

COUNTY OF Broward

On this 27th day of September, 2007, Leonard Whan personally appeared before me,

☒ who is personally known to me ☐ whose identity I proved on the basis of _____



Sue G. Piersiak
Notary Public Signature

Sue G. Piersiak
Notary's Printed Name

My Commission Expires: JUNE 13, 2010

FILING FEE: \$87.50 per class

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TALLAHASSEE FLORIDA

BankAtlantic

