



IN THE COURT OF CHANCERY FOR THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

LEONARD T. GANTLER, PATRICIA A.)
CETRONE, JOHN GERNAT, PATRICIA)
GERMAT, PAUL MITCHELL and MARSHA)
MITCHELL,)

Plaintiffs,)

v.)

WILLIAM L. STEPHENS, P. JAMES KRAMER,)
WILLIAM S. EDDY, DANIEL E. CSONTOS,)
ROBERT I. SHAKER, LAWRENCE SAFAREK)
and FIRST NILES FINANCIAL, INC.,)
a Delaware corporation,)

Defendants,)

C.A. No. _____

VERIFIED COMPLAINT

Plaintiffs, Leonard T. Gantler, Patricia A. Cetrone, John Gernat, Patricia Gernat, Paul Mitchell and Marsha Mitchell, by and through their attorneys, allege for their Complaint against defendants as follows:

NATURE OF THE ACTION

1. This is an action brought by shareholders of First Niles Financial, Inc. ("First Niles" or the "Company") against officers and directors of the Company seeking (a) to enjoin a self-interested reclassification program; and (b) money damages with respect to certain defendants' self-interested termination of a process to explore sale opportunities.

2. Defendants Stephens, Kramer, Eddy, Csontos and Safarek, along with the now-deceased Ralph A. Zuzolo, refused a value-maximizing firm offer for the Company and terminated First Niles' quest for sale partners because such a sale was not in their personal

interest. They were assisted by defendants Csontos and Safarek who, along with defendant Stephens, sabotaged other bids by rebuffing due diligence requests. As a result of defendants' wrongful conduct, plaintiffs lost a deal subsequently valued at \$ 22.05 per First Niles share.

3. Continuing their self-interested actions, defendants have recently announced, through the filing of a preliminary proxy (together with the first amendment thereto, the "Proxy") with the Securities and Exchange Commission ("SEC"), a plan that allows for the reclassification of shares of common stock held by shareholders who are the record holders of 300 or fewer shares of First Niles common stock into shares of preferred stock (the "Reclassification"). If the Reclassification is effected, First Niles stock will be delisted from the NASDAQ SmallCap Market and no longer subject to SEC regulation. Defendants are pursuing the Reclassification to benefit themselves with, among other things, greater liquidity for their First Niles stock, at the expense of the unaffiliated shareholders, who will face a liquidity crisis. This constitutes a manipulation of the Company's corporate machinery for defendants' own advantage and in breach of their fiduciary duty that should be stopped.

4. The Reclassification will have severe and damaging consequences for plaintiffs, who will lose an established market for their stock. They will have virtually no ability to liquidate their First Niles investment. Defendants will, however, be affected very differently. Stephens, Csontos and Safarek all hold a significant portion of First Niles common stock through the Company's Employee Stock Purchase Plan ("ESOP"). Under the terms of that plan, and as a result of the Reclassification, they will receive the right to put their stock back to the Company at fair value. In fact, the Company also has a long history of using share buy backs to provide liquidity to retiring executives and board members looking to cash out their shares. Management

avored the Reclassification over other alternatives precisely because it afforded them increased flexibility them to continue these sorts of stock buy back programs.

5. Attempting to dupe shareholders into approving the self-interested Reclassification, defendants submitted to the SEC the Proxy, which contains false statements and omits material information, such as facts regarding the benefits that defendants will receive as a result of the Reclassification and any reference to the fair value put right that defendants Stephens, Csontos and Safarek will enjoy under the Company's ESOP. The Proxy also fails to disclose that defendants pursued the Reclassification to insure that the Company had adequate capital to allow for future stock buy back programs benefiting defendants. The Proxy further misrepresents the history of the transaction, misstates facts regarding the sale process, and wrongfully claims that the entire Board *unanimously* supported the Reclassification proposal. Plaintiff Gantler, who was a First Niles director and believed that a sale of the Company was clearly in the best interests of the non-affiliated shareholders, voted *against* the Reclassification.

THE PARTIES

6. Plaintiffs are all, and have been at all relevant times, First Niles shareholders. Plaintiff Leonard T. Gantler is a former director of the Company, having served from April 16, 2003 until April 26, 2006. He is a certified public accountant, licensed in both Ohio and South Carolina, and served as the First Niles Audit Committee financial expert until March 7, 2006. Gantler, together with his wife plaintiff Patricia A. Cetrone, beneficially owns 49,625 First Niles shares, or about 3.6% of the stock outstanding. Plaintiffs collectively own 121,715 First Niles shares.

7. First Niles, which is named as a defendant solely to permit effective injunctive relief, is a Delaware corporation headquartered in Niles, Ohio. Since July 1998, First

Niles stock has been traded on the NASDAQ SmallCap Market. The Company is a unitary holding company, which was formed as a result of the demutualization of Home Federal Savings and Loan Association of Niles (the "Bank" or "Home Federal") and which has no significant operations outside of those of Home Federal. Home Federal is a single branch, federally chartered stock savings association. Its principal business consists of attracting retail deposits from the general public and investing those funds primarily in permanent and construction loans secured by first mortgages on one- to four-family residences. To a lesser extent, the Bank originates consumer and commercial business loans. Excess funds are generally invested in investment securities and mortgage-backed and related securities. The Company from time to time borrows money from Federal Home Loan Bank and reinvests the proceeds in investment securities.

8. Defendant William L. Stephens is Chairman of Board, President and Chief Executive Officer of both First Niles and the Bank. He is 74 years old and has made the Bank his life's work. Stephens has served as a director of the Company since its demutualization and has been employed with the Bank since 1969. For his service, he receives a salary and stock options, as well as payment for attendance at meetings of the Boards of both First Niles and the Bank. He is also a participant in the Company's ESOP and will receive a distribution of about 32,000 First Niles shares when he retires. In total, Stephens controls the voting disposition of 109,652 First Niles shares, equal to about 7.9% of the stock outstanding.

9. Defendant P. James Kramer is a director of both First Niles and the Bank, positions he has held since 1994. He chairs the First Niles Audit Committee and sits on its Nominating and Compensation Committees. For his service as a director, Kramer received \$13,300 in director's fees in calendar year 2005. He has also been the recipient of both stock

awards and options to purchase Company stock. He, jointly with his wife, currently holds 4,781 shares of First Niles Common Stock. The fees and benefits that Kramer receives as a director are material to him as he is a man of modest financial means. Kramer is currently employed in a family-owned business, William Kramer & Sons, a small heating and air conditioning company, also located in Niles, Ohio. It operates out of a building in downtown Niles that was recently appraised by the Trumbull County auditor for \$88,200 but refinanced with a \$250,000 mortgage. William Kramer & Son's heating and air conditioning business also provides heating and air conditioning services to the Bank. Kramer has discussed becoming a full-time banker and employed by the Bank if the Reclassification is approved. Additionally, Kramer consented to false disclosures in the proxy statement sent to shareholders and filed in connection with the Company's April 20, 2006 annual shareholders meeting. That proxy statement indicated that Stephens was not present during compensation committee deliberations and votes involving Stephens' compensation. Not only was Stephens present during a January 4, 2006 meeting at which a vote was taken to increase Stephens' compensation, but Stephens participated in the vote.

10. Defendant William S. Eddy is a director of both the Company and the Bank, positions he has held since 2002. He is a doctor of osteopathic medicine, practicing in Niles, Ohio. He has no formal business training and voted with defendant Stephens on every issue put before the Board during plaintiff Gantler's tenure as a director. Eddy has continuously demonstrated unquestioning allegiance to defendants Stephens and Kramer. He has refused on numerous occasions to investigate the circumstances regarding stock options Kramer exercised in apparent violation of the 1999 Stock Option and Incentive Plan (the "1999 Option Plan") (see infra at ¶¶ 15-23). Additionally, Eddy consented to the same false disclosures discussed above

regarding Stephens' compensation in the proxy statement filed in connection with the Company's April 20, 2006 annual shareholders meeting. Eddy owns 1,149 First Niles shares jointly with his wife.

11. Defendant Daniel E. Csontos is a director of both the Company and the Bank, positions he has held since April 20, 2006. He has been a full-time employee and officer of both First Niles and the Bank at all relevant times; that employment provides his livelihood. Csontos has served both institutions as compliance officer since 1996 and as corporate secretary since 2003. Csontos' total beneficial ownership of First Niles stock is 12,456, as disclosed in the SEC Form 3 that he filed on April 26, 2006. All 12,456 shares are held by the Company ESOP.

12. Defendant Lawrence Safarek is Treasurer and Vice President of both the Company and the Bank, full-time employment positions that he has held at all times relevant hereto; that employment provides his livelihood. Safarek supports the Reclassification and is deemed by the Company to be a "filing person" for purposes of the Proxy. He is also a participant in the First Niles ESOP, which holds about 26,000 of his 89,962 First Niles shares.

13. Defendant Robert I. Shaker, a Niles native, has been a director of First Niles and Home Federal since January 4, 2006, when he filled a vacancy created by the death of former director, Ralph A. Zuzolo. He is a lawyer with Shaker & Shaker LLP of Niles, Ohio. Shaker specializes in defense of driving under the influence charges and other criminal matters. Shaker is a member of First Niles Audit, Compensation and Nominating Committees. According to the Company's proxy statement filed in connection with the 2006 annual shareholders meeting, he does not meet the Audit Committee financial literacy requirements. He owns 17,708 shares of First Niles common stock.

14. Non-Party Ralph A. Zuzolo served as director of and Corporate Board Secretary to the Bank from 1979 until his death on August 22, 2005. He was also a director of and Corporate Board Secretary to the Company from its inception until his death. He was the principal in the law firm of Zuzolo, Zuzolo & Zuzolo, which often provided legal services to First Niles and the Bank. Zuzolo was also the Chief Executive Officer and 100% owner of American Title Services, Inc. ("American Title"), a real estate title agency located in Niles, Ohio. American Title provided title services in almost all of Bank's residential and commercial closings. Indeed, the Office of Thrift Supervision ("OTS") believed this conflict sufficiently material to require disclosure of it to all Bank loan applicants, although this conflict was never disclosed in any of the Company's SEC filings. Subsequent to Zuzolo's death, the Company terminated its relationship with Zuzolo's law firm and ceased referring any business to American Title.

BACKGROUND

The Company's Long History Of Providing Directors And Officers Liquidity Through Stock Buy Back Programs

15. The Company has a long history of using share buy back programs to provide liquidity to retiring executives and Board members in need of cash. For example, a Company-sponsored stock buy back plan was used to purchase shares from defendant Kramer who needed to sell his shares to make some quick money. In so doing, the requirements of the Company's 1999 Option Plan were ignored.

16. Kramer purchased 30,000 First Niles common shares at the offering price of \$10 per share (15,000 shares jointly with his spouse and 15,000 shares as custodian for his children). These shares were purchased with borrowed funds.

17. In 1999, Kramer was awarded 3,509 First Niles shares under the Company's 1999 Recognition and Retention Plan, as well as options to purchase an additional 8,772 shares at an exercise price of \$12.53 under the Company's 1999 Option Plan.

18. During 2002, and on information and belief as there is no public filing on record documenting such sale, Kramer sold the 15,000 shares that he purchased as custodian for his children. The Company was the purchaser of these shares.

19. In May 2003, Kramer sold the 15,000 shares purchased jointly with his wife, to the company as part of a Company sponsored stock buy back. Through this sale, Kramer and his wife realized gross proceeds of \$241,510.00. No Form 144 for an affiliate stock sale was filed for this transaction.

20. Kramer's sell-off continued into June, 2003. Because he had no actual shares left, he converted his options and sold the shares that he purchased with those options back to the Company. Specifically, he is simultaneously exercised options for the 8,772 shares referenced above and sold 7,500 shares to the Company at prices ranging from \$17.50 to \$18.30 per share. Through these transactions, Kramer realized \$109,913.

21. When plaintiff Gantler asked Kramer why he sold these shares, Kramer replied: "I need the money."

22. Indeed, Kramer didn't even have the cash necessary to pay the option exercise price. Rather, defendants Stephens and Safarek allowed the Company to front the purchase and then offset Kramer's sale proceeds against the Company's purchase price. Such a "cash-less" exercise was done in violation of the Company's 1999 Option Plan, which requires full cash payment of the exercise price for the option shares purchased. Kramer also did not file a Form 144 with the SEC. Defendants Stephens, Safarek and Csontos, although aware of the

improprieties with respect to Kramer's cash-less option exercise, turned a blind-eye to these irregularities in an attempt to curry favor with Kramer and garner support for their management-friendly proposals.

23. The Company also used share buy back programs to repurchase 14,313 shares beneficially owned by former director Horace L. McLean, who retired January 28, 2002 and 97,283 shares beneficially owned by former director and Vice President and Secretary George J. Swift, who retired April 6, 2003. The management defendants accommodated both individuals' exercise of options in violation of provisions of the Company's 1999 Option Plan, including plan provisions requiring full payment of the exercise price and exercise of the options within three months of termination of service.

The Board Authorizes A Sales Process And Actively Solicits Bids

24. By the end of 2003, First Niles was experiencing little to no growth in its Bank assets. The depressed economy in the Bank's market area – Trumbull County, Ohio – led to low loan demand. As a result of these economic circumstances and internal business constraints, the Company anticipated low growth in the future.

25. The Company was also facing a succession crisis. Bank President and Founder Stephens was past retirement age. Other members of senior management had not demonstrated the capacity to succeed him.

26. At the same time, acquisition activity for banks similar to Home Federal was hot. Larger thrifts with excess capital and overcapacity were driving consolidation activity. Retail branch banking – such as that offered by First Niles – was back in vogue and acquirors were willing to pay for it. First Niles was a particularly attractive candidate because of its small

size. Its operations were sufficiently antiquated that an experienced management team could easily modernize it to take full advantage of its existing customer base.

27. In recognition of these factors, the First Niles Board – which at that time consisted of defendant Stephens, defendant Kramer, defendant Eddy, non-party Zuzolo and plaintiff Gantler – invited investment bankers to make proposals regarding strategic opportunities available to the Company. These bankers recommended that the Company put itself up for sale and look for potential acquisition partners.

28. In August 2004, the Company’s Board authorized the sale process to commence. It retained the same investment bank that handled the Bank’s demutualization, Keefe, Bruyette & Woods (“KBW”) to serve as the Company’s financial advisor. The Board also retained the legal services of Silver, Freedman & Taff LLP (“SFT”), a Washington, D.C.-based law firm.

29. Immediately after the sale process was authorized, defendant Stephens got cold feet. A sale would mean the end of his dominance at the Bank. It would also likely leave his foot soldiers – Csontos and Safarek – without jobs. In recognition of this fact, on September 7, 2004, the very next Board meeting following the sale authorization, defendants Stephens, Csontos and Safarek made a proposal to the Board urging the Board to abandon the sale process and embrace a proposal similar to the now-advanced Reclassification. This proposal included plans to delist First Niles stock from the NASDAQ SmallCap Market, switch Home Federal from a federally chartered savings and loan to a state-chartered savings bank, and reincorporate the Company in Maryland. No action was taken on this officer-sponsored proposal at the September 7, 2004 Board meeting.

30. The Company continued forward with the merger process. On September 10, 2005, it entered into a formal retention letter with KBW that specifically charged KBW with soliciting and negotiating bids on the Company's behalf. Thereafter, KBW compiled a list of potential acquirors. At the Company's behest, KBW contacted the six institutions approved by the Company and prepared a confidential "marketing book." In mid-November, five institutions signed confidentiality agreements and received the KBW offering materials. KBW – acting as First Niles' agent – asked all of these potential buyers to submit written letters of interest.

31. On December 10, 2005, three institutions – First Place Financial Corp. ("First Place"), Farmers National Banc Corp. ("Farmers") and Cortland Bancorp ("Cortland") responded to Stephens with written bid letters.

32. The Farmers offer specifically noted it had "no plans to retain the current First Niles board" It was not pursued.

33. Cortland, a 13-branch bank headquartered in Cortland, Ohio, offered the equivalent of \$18 per First Niles share in a mixture of 49% cash and 51% stock. This offer represented a 3.4% premium over First Niles' then-current market value. In its written indication of interest, Cortland explained that it would terminate all current First Niles Board members but give them future consideration as board openings arose. Cortland also indicated that they would honor severance obligations for defendants Stephens, Csontos and Safarek.

34. First Place, an Ohio-based bank with 27 branches, offered to purchase the Company in a stock transaction valued at \$18 to \$18.50 per First Niles share. This price represented a premium of 3.4% to 6.3% over First Niles' then-current market value. The First Place offer made no mention of whether directors would be offered board seats with the combined entity.

35. Chairman Stephens did not call a meeting or forward these bids to the rest of the Board immediately. Rather, he waited until the next regularly scheduled Board meeting – ten days later on December 20, 2004 – to address the potential sale. When the issue was finally raised, KBW opined that the consideration offered by all three bidders was well within the ranges supported by their financial models. KWB further indicted that the upside for shareholders by exchanging partial or all stock was stronger than the prospects for First Niles stock over the long term. The Board made no decision at this time with respect to either the Cortland or First Place proposal. KBW did, however, try to impress upon the Board that any delay in responding to these offers would be highly unusual.

36. Knowing that the issue of the sale would be raised at the December 20 Board meeting, management used the opportunity to refocus the Board’s attention to their self-interested scheme. Defendant Stephens passed out to each of the directors a copy of a document entitled “Board Meeting of December 20, 2004 – FNFI Potential Price in Three Years.” Stephens attributed authorship to defendant Safarek. This document included recommendations similar to those contained in the September 7, 2004 officer-sponsored proposal. It included a Company-sponsored share buy back program to allow for delisting, as well as other detailed costs savings, the majority of which were to be achieved by obtaining a state bank charter, eliminating OTC regulatory requirements and converting from a Delaware to a Maryland corporation.

37. By January 4, 2005, First Place still had not heard back from First Niles in response to its December 10 bid letter. Stephen R. Lewis, the Chief Operating Officer of First Place, wrote to defendant Stephens reminding him of the First Place offer. Lewis indicated that “First Place ‘currency’ has value and will continue to appreciate as [First Place’s] business

continues to grow and evolve.” He noted that the First Place balance sheet has diversified extensively to create more profitable business lines, as well as a more balanced approach to revenue growth in asset and funding base. Finally, Lewis relayed his belief that First Place’s multiple would continue a positive trend, a factor that analysts had relied upon in forming a positive outlook for First Place.

38. Analysts reports issued shortly thereafter and upon the release of First Place’s new earnings numbers, echoed Lewis’ positive statements about First Place. The analysts increased their one year price targets from \$22.00 to \$24.00 per First Place share.

Defendants Stephens, Csontos and Safarek Sabotage Due Diligence

39. On January 18, 2005, the Board directed both management and KBW to proceed with due diligence as to both First Place and Cortland.

40. Despite this direction, management provided no communication what-so-ever to the Board as to the implementation of the due diligence process and, as confirmed by subsequent events, management had no intention of ever initiating or cooperating with the due diligence process. In a letter documenting KBW’s continuing discussions with First Place, KBW urged management to step up its efforts – warning “[m]omentum is now important and I do not want to lose any.” The letter also noted that the First Place bid offered First Niles’ stockholders looking to sell an opportunity for liquidity. It concluded that First Place had made a proposal that KBW “strongly encouraged [the company] not to dismiss.”

41. Thereafter, KBW meet with defendants Stephens and Safarek to impress upon them the need to cooperate in due diligence. At this meeting, the participants reviewed Cortland’s due diligence requests. It was agreed that defendants Stephens and Safarek would

promptly collect and supply Cortland – through its investment banker – the requested information. Due diligence sessions were scheduled for February 6, 2005.

42. Despite the importance of the sale and knowing the need for due diligence, defendants Stephens and Safarek did not collect the requested materials. On February 3, 2006, Cortland called First Niles, through KBW, to inquire regarding the status of due diligence documents. When Cortland learned that none were immediately forthcoming they cancelled the previously scheduled February 6 due diligence review session. Cortland further demanded cooperation, urging that all materials be submitted to them by no later than February 8.

43. Company management did not comply with this deadline. Nor had they done so two days later. As a result, on February 10, 2005, Cortland called KBW and withdrew its letter of intent. The lead banker at KBW confirmed that Cortland’s withdrawal could be attributed to “the inordinate amount of delay on the part of [First Niles] management getting/ not getting information to Cortland.”

44. Assured that one proposal that would leave them unemployed was scuttled, defendants Stephens, Safarek and Csontos approached the First Place due diligence with the same lack of alacrity. First Place provided the Company with due diligence requests on February 7, 2005. Around the same time, First Place suggested due diligence review sessions on February 15 or 16.

45. KBW immediately passed this request along to defendant Stephens to confirm his availability. Stephens did not respond. KBW then called Stephens again attempting to get Stephens to commit to due diligence. Stephens begged off. Despite the obvious importance to shareholders of securing a bid that the Company’s bankers had already opined was within its valuation parameters, Stephens claimed that other bank business was more pressing.

KBW became more emphatic, explaining that First Place must be a strong priority. Still, Stephens would not commit to a due diligence meeting.

46. When Cortland withdrew from the process, KBW again attempted to communicate to Company management the importance of scheduling due diligence. Stephens still refuse to commit. He indicated that he would get back to KBW the next morning. Despite his promises, by 11:30 a.m. the next morning, Stephens had still not called KBW. KBW phoned him again trying to convince him that it was imperative to do due diligence. Finally, Stephens consented and due diligence sessions were scheduled.

47. From the time that due diligence was authorized until the time that Cortland pulled its bid, there was no communication from First Niles management to the Board of any information concerning the status of the due diligence process or any of the difficulties that KBW encountered as a result of the management's lack of cooperation.

First Place Makes A Definitive, Value-Maximizing Offer That Is Rejected In Favor Of Alternatives That Would Allow Defendants To Retain Their Jobs And Board Positions

48. On February 13, 2005, First Place – the one remaining bidder – began its due diligence review.

49. On March 4, 2005, First Place submitted a revised offer to purchase the Company with First Place stock (the "March 4 First Place Proposal"). The March 4 First Place Proposal featured a 7% increase in the exchange ratio previously indicated to 0.8439. Because of declines in First Place's stock price since the December 10 bid, this exchange ratio implied a value of \$17.25 per First Niles share. Given that the First Niles share price had also dropped and more precipitously, the \$17.25 First Place proposal still represented a sizable premium over First Niles' then-current trading price of \$15.50. Indeed, even at the lower nominal price, the revised

First Place offer provided First Niles stockholders with improved economics. Specifically, the March 4 First Place Proposal indicated pro forma effective earnings per share for First Niles that were 17.9% above its expected stand-alone performance and a pro forma effective book value for First Niles that was 8.3% higher than the Company's expected stand-alone book value, representing an increase of about \$1 per share. At \$17.25, the First Place deal value exceeded all of the average and median metrics KBW employed in its analysis based on comparable transactions involving thrifts with assets less than \$225 million. The core deposit ratio observed by KBW at that price exceeded the mean comparables multiples by 100%. These factors again led KBW to conclude that the "M&A comps groups support that the consideration is well within the ranges – in fact, even above given the high level of equity and certainly with respect to the core deposit premium."

50. KBW immediately forwarded the March 4 First Place Proposal to First Niles Board members. Chairman Stephens made no effort, however, to convene a special Board meeting.

51. On March 7, 2005, the Board met in regular session. Although there is no mention of any discussion of the First Place March 4 Proposal in the minutes of the March 7, 2006 Board meeting, there was a conference call that followed the meeting. It was attended by members of the First Niles Board, KBW and SFT. At that meeting, KBW was directed to see if the March 4 First Place Proposal had any additional upside.

52. On March 8, 2005, KBW reported back to the Board that it was successful in securing yet another increase in the exchange ratio that First Place offered. The new definitive merger proposal was for a stock transaction at 0.85 shares of First Place stock for each share of First Niles stock (the "First Place Definitive Merger Proposal"). Given First Place's then-trading

price, this adjustment implied an increase in the offer price to \$17.37 per share. KWB was very positive about the increase and the price. It noted that shareholders could expect to receive in the near term between \$25.52 and \$30.61 if the First Place Definitive Merger Proposal was adopted.

53. Defendant Stephens wanted to do nothing with respect to the First Place Definitive Merger Proposal and made sure his views were known to the Board.

54. Stephens was pressured to call a Board meeting for March 9, 2005. Without any discussion, Stephens called the vote on the Definitive Merger Proposal. Acting against the advice of the Company's financial advisor and solely for their own self-interest, the First Niles Board rejected First Place's value-maximizing bid by a vote of 3-1. Only plaintiff Gantler voted in favor of the First Place Definitive Merger Proposal.

55. Immediately after the vote on the First Place Definitive Merger Proposal was called and as if the outcome was already known, Chairman Stephens moved to a discussion of implementing his preferred alternative – deregistration. He raised the possibility of delaying the Company's annual shareholders meeting in order that a plan of deregistration be put to a shareholder vote. SFT – the Company's legal advisor – was immediately tasked with investigating this self-serving option. This investigation included consideration of a change in domicile of the Company, reincorporation outside of Delaware and transfer from a federally chartered to state-chartered bank.

56. By voting the sale down defendants secured important personal benefits. Stephens maintained his long-held positions as Chief Executive Officer and Board Chairman of a prominent community thrift. Kramer insured the continuation of a position from which he had received enormous financial benefit, having previously sold 37,500 shares of stock at prices ranging up to \$18.30 to satisfy his need for cash. The opportunity for further stock buybacks to

hold him over in a tight period was also secured. In addition, he protected Stephens, a benefactor who had accommodated these stock sales even in violation of SEC regulations and the Company's 1999 Option Plan. Finally, Kramer maintained his future director's fees and Bank heating and air conditioning work. Zuzolo secured the opportunity to continue to provide legal services for the Company. More importantly, Zuzolo knew that First Place had its own title service company that competed with his American Title. Rejection of the First Place offer insured that the Bank would continue to use the services of American Title, securing a substantial source of income for Zuzolo. Eddy once again failed to exercise any independent judgment, instead choosing to comply with whatever was requested of him by Stephens and Kramer.

57. Defendants' self-interested actions denied plaintiffs the benefit of the First Place Definitive Merger Proposal and any opportunities that may have resulted from due diligence by Cortland.

The Company Fails To Inform Its Stockholders Of The Sale Activity

58. On March 18, 2005 – not long after the Board wrongfully rejected the First Place Definitive Merger Proposal – the Company sent its definitive proxy materials to shareholders in advance of the scheduled April 20, 2005 annual meeting. These proxy materials did not disclose the sale activity. Indeed, between the initiation of the sale process and the time when the Company first filed the Proxy, First Niles filed about twenty 8-Ks, six 10-Qs and two 10-Ks. Not one makes mention of the sale process.

Defendants Continue To Pursue Their Self-Interest Through The Reclassification

59. At a Board meeting held on April 18, 2005, defendant Stephens stepped up his efforts with respect to a reclassification. He furnished to directors a preliminary report

prepared by SFT, an engagement letter dated March 23, 2005 for Powell Goldstein LLP (“Powell Goldstein”), an Atlanta-based law firm with expertise in privatizing community banks, and a document titled “First Niles Financial, Inc. Privatization Proposal.”

60. The Privatization Proposal indicated that it was management’s recommendation, as well as the recommendation of the Company’s unnamed general counsel, that a plan nearly identical to the Reclassification be adopted. Specifically, the Privatization Proposal advocated reclassifying shareholders with 300 or fewer common shares as preferred shareholders on a one-to-one share basis. The new class of preferred shareholders would surrender voting rights in exchange for a slightly higher quarterly dividend, would retain voting rights in a sale of the Company and would have the same liquidation rights as common stock. Powell Goldstein was recommended to do the necessary legal work.

61. The Privatization Proposal claimed that the reclassification method was superior to other alternatives, such as a reverse stock split or tender offer, because it best suited management’s needs. *In particular, the Privatization Proposal advocated reclassification because it allowed maximum flexibility for future capital management activities, such as open market purchase and negotiated buy backs.* Reclassification also would not require any shares to be bought back in a fair market appraisal.

62. At the April 18, 2005 Board meeting, Zuzolo suggested that issues related to the Privatization Proposal be further discussed at the next Board meeting.

63. Immediately after the April 20, 2005 annual meeting, the First Niles Board met in executive session. At that meeting, director Zuzolo was appointed to chair a committee (the so-called “Zuzolo Committee”) tasked with thoroughly researching any and all issues relating to and preparing a report for the full Board explaining the procedures and costs involved

in: (1) reincorporating the Company in a state other than Delaware; (2) changing the Bank's charter from a federal charter to a state charter; (3) deregistering from NASDAQ; and (4) delisting.

64. On August 22, 2005, Zuzolo passed away. From April 20, 2005 to the date of Zuzolo's death, no persons were ever appointed to the Zuzolo Committee and Zuzolo never submitted any oral or written findings, yet alone any formal report, to the Board.

65. Nevertheless, just days after Zuzolo's passing, defendant Kramer wrote to the Company's controller stating that a "privatization" was imminent. Obviously, he assumed that defendant Stephens's preferred course of action would come to fruition even without a report or recommendation.

66. At a Board meeting on or about October 3, 2005, and without the benefit of any report from Zuzolo's purported committee, defendant Stephens urged the Board to proceed with reclassification and deregistration. Plaintiff Gantler expressed concerns regarding the personal advantages that defendants would achieve in any such a transaction and, given the conflict of interest created by such benefits, the lack of independent representation for the unaffiliated shareholders. Gantler's efforts to pursue independent representation were resisted and ultimately rebuffed by management and the rest of the Board.

67. On December 5, 2005, the First Niles Board met in regular session. Two lawyers from Powell Goldstein, defendant Safarek and defendant Csontos were also present. The Powell Goldstein lawyers led a discussion regarding First Niles' corporate structure, deregistration and going private. A discussion of a reclassification of shareholders to insure common shareholding by less than 300 holders of record ensued. Few details and no written plan were presented. Thereafter, a vote was called to authorize Powell Goldstein to go forward

with the reclassification mechanics. Defendants Eddy, Kramer and Stephens – all of whom stood to gain from the reclassification – voted in favor. Plaintiff Gantler voted against.

68. On April 26, 2006, First Niles held its annual meeting to elect directors. Plaintiff Gantler, who had voted in favor of the value-maximizing First Place sale that threatened Stephens job and against Stephens' preferred reclassification proposal, was not nominated by the Board for re-election. Rather, the Board endorsed long-time officer and proponent of the reclassification – Csontos – to fill his seat. At all times thereafter, the Board consisted of defendants Stephens, Kramer, Eddy, Shaker and Csontos.

69. In June 2006, the Board met twice to discuss reclassification. The Board unanimously approved amendments to the Company's Charter (the "Articles of Amendment"), which provide for the reclassification of each share of First Niles common stock held by shareholders who are the record holders of 300 or fewer shares of common stock into one share of Series A Preferred Stock (the "Preferred Stock"). The Board further approved new terms for the Preferred Stock. If authorized by the Company's shareholders, the Preferred Stock will rank senior to the common stock with respect to dividend rights, as well as rights upon liquidation, dissolution or winding up of the Company. The Preferred Stock will have no voting rights except with respect to certain change-of-control proposals. The Preferred Stock will automatically convert to shares of common stock immediately prior to certain change of control transactions.

70. The proposed Reclassification will cause the total number of record holders of First Niles' common stock to fall below 300, thus permitting the Company under SEC guidelines to terminate the registration of its common stock. The Company will no longer be quoted or traded on the NASDAQ SmallCap Market. First Niles shares will not be readily

tradable on an established market. If they trade at all, it will be over-the-counter or on the pink sheets, although the Proxy does not disclose which.

71. None of plaintiffs' shares will be reclassified but they will suffer real damage as a result of defendants' scheme. The market that exists for First Niles common stock will be eliminated. Plaintiffs will have access to less information about the Company. The corporate governance safeguards resulting from the Sarbanes-Oxley Act and NASDAQ listing requirements will no longer be applicable. Additionally, Reclassification will make the Company a less desirable take-over candidate in the future. Thus, plaintiffs will be left with an illiquid security, subject to defendants' future efforts to impair their equity interests.

72. First Niles shareholders who receive Preferred Stock in the Reclassification will also have very different rights as a result of the Reclassification. They will lose their voting rights except with respect to certain change-of-control transactions. Thus, they will have no right to participate in the elections of directors.

73. Through the Reclassification, defendants (none of whose shares will be converted in the Reclassification) will achieve numerous benefits not shared equally with the unaffiliated shareholders. They will no longer be subject to the restrictions or liabilities under the Securities Act. Information about the defendants' compensation and stock ownership will no longer be publicly available. The percentage of beneficial ownership of First Niles common stock held by First Niles directors and officers as a group will likely increase. Reclassification, unlike the sale alternative defendants rejected, insures defendants' continued employment, perquisites and directorships.

74. Moreover, as specifically noted in the Privatization Proposal, the Reclassification will increase defendants' flexibility to negotiate buy backs of each others shares

and options. This flexibility insures that defendants will not be subject to the same illiquidity crisis facing the unaffiliated stockholders.

75. The Reclassification promises defendants Stephens, Csontos and Safarek even greater liquidity. Although not mentioned in the Proxy, each of these defendants holds a significant amount of their First Niles Stock through the Company's ESOP. As a result of deregistration, defendants Stephens, Csontos and Safarek will enjoy the right to put their shares held through the ESOP to the Company at fair value.

76. Specifically, the terms of the Company's ESOP provides that "[i]n the event that the Employer Securities distributed to a Participant are not readily tradable on an established market, the Participant shall be entitled to require that the Employer repurchase the Employer Securities under a fair evaluation formula, as provided by government regulations" (ESOP at § 8.7 "Put Option"). The ESOP further provides that "[a]n independent appraiser meeting the requirements of the regulations promulgated under the Code Section 170(a)(1) shall value the Employer Securities in those Plan Years when such securities are not regularly tradable under on established securities market" (ESOP at 8.9 "Independent Appraiser").

77. Despite the defendants' obvious interest in the Recapitalization, it is being pursued without any procedural protections for the stockholders unaffiliated with management and the defendant directors. The Board has not established a special committee of directors charged with representing the unaffiliated stockholders. The Board has not retained outside counsel to represent the unaffiliated stockholders. The Board has not consulted with a financial advisor. The Board has not afforded unaffiliated shareholders a majority-of-the-minority vote.

Defendants File The Misleading Proxy Urging That Shareholders
Vote In Favor Of the Articles Of Amendment And The Recapitalization

78. As the first step to insuring that the self-serving Reclassification is implemented, defendants have submitted the Proxy to the SEC. In it they urge shareholders to vote in favor of the Reclassification. The Proxy, however, contains false statements and material omissions regarding the background of the Reclassification, the effects of the Reclassification and the alternatives of the Reclassification. These misdisclosures are particularly egregious and material in light of significant changes that the Reclassification will occasion for First Niles' shareholders, defendants' admitted interest in the Reclassification and the lack of any other procedural safeguards for the unaffiliated shareholders.

79. Specifically, the Proxy:

(a) fails to disclose that plaintiff Gantler opposed the Reclassification and falsely states that, at the December 5, 2005 meeting, the "board *unanimously* approved pursuing a stock reclassification rather than a cash-out merger;"

(b) misrepresents the impetus for the Reclassification transaction, suggesting that it was initiated by a non-management affiliated director after the sale process had already ended, when in reality members of management, including defendants Stephens, Csontos and Safarek, first proposed going-private early on as an alternative to the now-abandoned sale process that would have left them unemployed;

(c) again suggesting that the Reclassification was pursued at the behest of disinterested directors, falsely claims that the Board authorized the Recapitalization in part based on the "investigation of Zuzolo Committee," which in fact was never completed;

(d) fails accurately to describe the Board's rationale for rejecting other alternatives to the Reclassification and for pursuing the Reclassification;

(e) falsely describes the never-before disclosed sale process by, among other things, claiming that the Company did not seek "any proposals from third parties for any business combination transaction such as a merger, consolidation, or sale of all or substantially all of our assets" despite the history of a Board-authorized sale process;

(f) omits any of the history with respect to sale process due diligence, which would have provided shareholders with an understanding as to why only one value-maximizing bid materialized;

(g) fails to disclose the fact that as a result of the Reclassification any future acquisition of the Company will become less likely, an omission made even more material by defendants' disclosure that "termination of our status as an SEC-registered Company will not have significant impact on any future efforts the Company to raise additional capital or to acquire other business entities;"

(h) fails to disclose whether defendants, consistent with their earlier plans, still intend to surrender the Bank's federal charter and reincorporate the Company in Maryland, an omission that is particularly misleading given defendants' claim in the Proxy that the information vacuum created by termination of the SEC's reporting obligations will be mitigated by the availability of quarterly reports that the Bank is required to file as a federally chartered thrift;

(i) fails to disclose the mechanics of how First Niles stock will trade after the Reclassification, including whether there will be any market makers, the identity of any

market makers, whether a quotation will be readily available and how often such a quotation will be reported;

(j) fails to disclose that one of defendants' motives in endorsing the Reclassification was increased flexibility to effectuate negotiated buybacks of each others' stock;

(k) misrepresents the advantages that defendants will enjoy as a result of the Reclassification by failing to disclose, among other things, that defendants face little threat of illiquidity because of the Board's increased flexibility to effectuate share buy backs; and

(l) fails to make any disclosures regarding the effect of the Reclassification on ESOP participants, including the fact that the ESOP shares allocated to defendants Stephens, Csontos and Safarek will be, as a result of delisting, subject to a fair value put right that provides these defendants liquidity that is denied other shareholders.

COUNT I

Breach Of Fiduciary Duty Against Defendants Stephens, Kramer, Eddy, Csontos and Safarek Relating To The Abandoned Sale Process

80. Plaintiffs incorporate paragraphs 1 through 79 hereof as if fully set forth herein.

81. As directors and officers of First Niles, defendants Stephens, Kramer, Eddy, Csontos and Safarek owe to First Niles and its shareholders fiduciary duties of loyalty, good faith and care. These fiduciary duties required them to place the interests of First Niles and its shareholders above their own interests and/or the interests of the Company's management and directors.

82. Defendants Stephens, Kramer, Eddy, Csontos and Safarek breached their fiduciary duties when they acted to preserve their positions as directors and officers of the

Company by sabotaging due diligence, rejecting the value-maximizing First Place Definitive Merger Proposal and terminating the Company's exploration of sale opportunities.

83. Defendants actions caused plaintiffs direct injury in that they were not able to receive a value-maximizing bid for their First Niles' stock, which based on subsequent trading prices for First Place stock would have been worth \$22.04.

84. Plaintiffs have no adequate remedy at law.

COUNT II

Breach Of Fiduciary Duty As It Relates To Disclosure Against All Of The Individual Defendants

85. Plaintiffs incorporate paragraphs 1 through 79 hereof as if fully set forth herein.

86. As First Niles directors and filing persons with respect to the Proxy, all of defendants owe to First Niles and its shareholders fiduciary duties of loyalty, good faith and care. Those duties require each of the defendants to ensure that disclosures made available to First Niles' stockholders in connection with their consideration of the Reclassification are complete, accurate, truthful and fair in all material respects. Their fiduciary duties require them to disclose to First Niles' shareholders all information to their voting decision. Defendants' fiduciary duties also mandate that they do not place any false or misleading statements in the Proxy.

87. As described herein, the Proxy contains numerous false statements and omits material information regarding the background of the Reclassification, the effects of the Reclassification, the sale process and other alternatives considered by the Company. Given the significance of the Reclassification and defendants' self-interest, these misstatements and omissions were material. Indeed, defendants' disclosure violations seem to be nothing more than

an attempt to dupe shareholders into pursuing a course of conduct that will benefit no one but defendants. Therefore, defendants have breached and continue to breach their fiduciary duties by failing to make complete, accurate, truthful and fair disclosure.

88. Plaintiffs have no adequate remedy at law.

COUNT III

Breach of Fiduciary Duty Against All Of The Individual Defendants For Their Wrongful Actions With Respect To The Reclassification

89. Plaintiffs incorporate paragraphs 1 through 79 hereof as if fully set forth herein.

90. As First Niles directors and officers, all of defendants owe to First Niles and its shareholders fiduciary duties of loyalty, good faith and care. These fiduciary duties require them to place the interests of First Niles and its shareholders above their own interests and/or the interests of the Company's management and directors.

91. Defendants breached their fiduciary duties to plaintiffs by manipulating the Company's corporate machinery for their personal advantage. Defendants are pursuing the Reclassification to afford themselves personal benefits not shared equity with and achieved at the expense of the unaffiliated shareholders. These advantages include, without limitation, increased liquidity for defendants' First Niles stock. The Reclassification allows defendants greater flexibility for share buy backs and certain defendants will be afforded a fair value put right. In contrast, the Reclassification will deprive plaintiffs of a market for their First Niles shares.

92. Unless enjoined, the Reclassification will cause plaintiffs imminent and irreparable harm, including without limitation, delisting from the NASDAQ SmallCap market, loss of corporate governance safeguards, the end of SEC oversight into the Company's

operations, loss of valuable information regarding their investment and substantial impairment of the market for their First Niles stock.

93. Plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs demand judgment against defendants as follows:

A. Declaring that the defendants have breached their fiduciary duties to plaintiffs;

B. Awarding compensatory damages against defendants Stephens, Kramer, Eddy, Csontos and Safarek, individually and severally, in an amount to be determined at trial, together with pre-judgment and post-judgment interest, arising from defendants breaches of fiduciary duties;

C. Enjoining any vote on the Articles of Amendments and implementation of the Reclassification;

D. Awarding plaintiffs their costs and expenses, including reasonable attorneys' fees and experts' fees; and

E. Granting plaintiffs such other and further relief as the Court may deem just and proper.

ROSENTHAL, MONHAIT & GODDESS, P.A.



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Attorneys for Plaintiffs

IN THE COURT OF CHANCERY FOR THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

LEONARD T. GANTLER, PATRICIA A.)
CETRONE, JOHN GERNAT, PATRICIA)
GERMAT, PAUL MITCHELL and MARSHA)
MITCHELL,)

Plaintiffs,)

v.)

WILLIAM L. STEPHENS, P. JAMES KRAMER,)
WILLIAM S. EDDY, DANIEL E. CSONTOS,)
ROBERT I. SHAKER, LAWRENCE SAFAREK)
and FIRST NILES FINANCIAL, INC.,)
a Delaware corporation,)

Defendants,)

C.A. No. _____

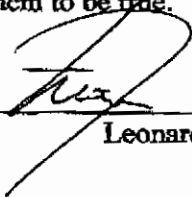
VERIFICATION

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

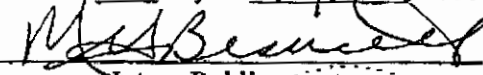
SS:

Leonard T. Gantler, being dully sworn, deposes and says:

I am a shareholder and former director of First Niles Financial, Inc., I have personally reviewed the allegations of the foregoing Complaint. To the extent they are based on events in which I participated and documents I received, the allegations are true. As to allegations based on information and belief, I believe them to be true.



Leonard T. Gantler

Sworn to and Subscribed before
me this 31 day of August, 2006


Notary Public

My Commission Expires
November 18, 2014

