The State of New Hampshire

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Department of State

Bureau of Securities Regulation

October 8, 2001

Denis J. Maloney
Gallagher, Callahan & Gartrell
214 North Main Street
P.O. Box 1415
Concord, NH 03302-1415

Re: Guaranty Bancorp, Inc.
Issuer-Dealer License
No-Action Request

Dear Mr. Maloney;

Reference is made to your letter dated August 8, 2001 wherein you requested relief from the requirements of Guaranty Bancorp, Inc. to be licensed as a broker-dealer in New Hampshire as it facilitates an auction market for its own securities on behalf of its existing shareholders and affiliated employees.

First, we reviewed our records in the matter of Guaranty Bancorp, Inc. which indicate that Guaranty Bancorp, Inc. does have an effective issuer-dealer registration with this Bureau that was granted on January 12, 1998. However, a search of the records of the Bureau of Securities Regulation reveals no record of any securities registration filing made on behalf of Guaranty Bancorp, Inc. The only transaction on our records is for a merger with Woodsville Guaranty Savings Bank effective October 28, 1997. That filing was made under RSA 421-B:17,II(I) which is a transactional exemption and therefore does not qualify the securities for secondary trading purposes. Therefore, we do not know the purpose for which the company applied for the license since we have no record of a distribution of securities. Were any securities issued by Guaranty Bancorp other than in the merger? The securities will need to be registered pursuant to RSA 421-B:14 in order to be tradable.

In forming an opinion on your request, the Bureau has assumed that all issues of fairness have been or will be resolved; that persons conducting the auction (and families) will not participate in any way or share information with anyone (Chinese walls should be in place). That, for instance, if two sellers tender 50

shares each, and one specifies a minimum bid of $20 p/s and one does not specify a minimum, and a buyer offers to buy 25 shares at $22, each seller would get to sell only 12 @ $22. The issue is raised because *The Stock Transfer Policy* section 3.7 Determination of Winning Bids seems to indicate that high bids will be matched with high seller minimums, which would not be fair. Without live competitive bidding with a time factor involved, the method of allocation (with a sellers limitation in mind) would be to divide the shares offered to be purchased at the highest price unless the price were lower than a seller's minimum offer. For instance if you had 1 buyer offering $25 p/s for 60 shares, and you had three sellers offering 60 shares each (one with a minimum of $25, one with a minimum of $20 and one with a minimum of $30), you could not match the $25 seller with the $25 buyer; you would have to match the $25 seller with 30 of the $25 seller's shares and 30 of the $20 seller's shares; the $30 seller would be out of the auction. Such is the nature of a competitive auction as seems to be contemplated here. Otherwise, the offer and sell prices would be fixed and matched, which does not involve the concept of a "minimum".

The fact that Guaranty Bancorp, Inc. has an effective issuer-dealer license allows the company to issue its securities directly to the public. Therefore, Guaranty Bancorp, Inc. can freely sell its securities so long as the securities are registered or exempt from the registration requirements of RSA 421-B:11. So long as Guaranty Bancorp, Inc. facilitates only purchases and sales of its own securities among its existing shareholders and affiliated employees, and accepts no remuneration of any sort for the service, the Bureau sees little substantive difference from Guaranty Bancorp, Inc. issuing its own securities directly to the public. Therefore, the Bureau will take no enforcement action against Guaranty Bancorp, Inc. as it provides the limited auction service in its own securities, as described in its August 8, 2001 letter to the Bureau, without remuneration, under its existing issuer-dealer license so long as the securities are registered or each transaction is exempt from the securities registration requirements of the New Hampshire Uniform Securities Act and the auction is fair and impartial. There is no need for exemptive relief under RSA 421-B:2,III(f).

We trust this is responsive to your inquiry. Please do not hesitate to call or write to the Bureau if you have any questions or need clarifications.

Very truly yours,

Mary L. Jurta

Mary L. Jurta, CPA
Senior Auditor, Licensing & Examinations
MLJ/cjd