July 3, 2002

Mr. Philip Jackson
Director, Applications Division
Federal Reserve Bank of Chicago
230 South LaSalle Street
Chicago, IL 60604-1413

VIA FACSIMILE: 312-322-5894

Dear Mr. Jackson:

The Woodstock Institute is writing to recommend that the Federal Reserve Bank deny the application of Cincinnati BancGroup, Inc. to acquire the Bank of Kenney, IL. Further, in response to this application we request a public hearing to discuss the negative repercussions of allowing a payday lender to become a bank holding company in a clear attempt to avoid state laws regulating payday loans. CNG Financial, the parent company of Cincinnati BancGroup, is the sole investor of Check'n Go, a payday lender with operations nationwide. If the application is approved, it will weaken the soundness of the banking regulatory framework, facilitate the preemption of state consumer laws, and violate Community Reinvestment Act regulations. This proposed acquisition also has profound legal and policy consequences.

Payday lending is a significant risk to the Bank's safety and soundness. The business model for Check'n Go and the proposed Bank is based on high fees, short terms, and repeat transactions that capture borrowers in a cycle of debt. Borrowers are enticed to write checks without money in the bank to cover them in order to borrow up to $500 at triple-digit interest rates. The interest rates and subsequent fees accrued are so high that consumers are often trapped just trying to pay off the interest. The Federal Reserve Bank and the Federal Deposit Insurance Company are both on record against predatory lending; as a result, the Federal Reserve Bank should deny the applicant's request.

The acquisition of Bank of Kenney and consequent merger of CNG Financial assets will enable Check'n Go to make high cost consumer loans as a bank, thus allowing them to pre-empt state payday lending and other consumer regulations. States have sought to regulate the small loan market through the enforcement of small loan acts and usury laws or through state laws that authorize payday lending with some restrictions. The industry responded to state consumer protection laws by lobbying for permissive state laws where possible, and by trying to evade state laws by partnering with banks and claiming the banks' right to export home-state interest rates. This "rent-a-bank" practice has drawn fire from the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation. Check'n Go has a history of utilizing federal bank laws to avoid state consumer protection laws as demonstrated through its affiliation with Brickyard Bank of Illinois. This has enabled them to continue payday loans in North Carolina despite the state's prohibition against such activity. The purpose of this merger is clear, to enable the new bank to make high cost payday loans through the 57 Illinois Check'n Go stores and elsewhere without regard to state consumer protections.

We are fundamentally concerned with payday lending as an abusive predatory lending practice that violates the Community Reinvestment Act (CRA). Payday lending, euphemistically referred to in the application as Small Consumer Loans, is the primary line of business proposed by the Bank. In addition, payday lenders target lower-income and minority consumers. A 2000 Woodstock Institute study shows that the typical borrower in Illinois is a low- to moderate-income person with a median annual income of $23,690. Nineteen percent of the borrowers earn less than $15,000 and only 12 percent of the borrowers earn $40,000 or more annually.

In addition to these concerns, Cincinnati BancGroup's intended services under the Community Reinvestment Act are completely inadequate. If the bank makes small consumer loans through current Check'n Go stores, its assessment area will change substantively, growing from Kenney, Illinois (a rural community population of 347) to 57 branches primarily in urban low and moderate income census tracts. Despite this change in service area, the Bank's application does not describe how it will access community credit needs. In addition, it does not demonstrate how it will provide a range of credit services including mortgages, small business loans, small farm loans, community development loans, investments, and deposit services for the assessment areas. The Bank states it hopes to count high cost payday loans as part of its community reinvestment performance. However, the Office of Thrift Supervision, in its CRA evaluation of Crusader Bank, criticized payday lending activities as detrimental to the community and counted it against the bank's CRA performance. The Bank does not intend to be a full service bank with a CRA program, but a regulatory haven for payday lending.

There are also significant legal and policy consequences of this proposed acquisition. It will in effect legitimize fringe banking by permitting predatory practices to be assumed by a federally regulated financial institution. We strongly advise the Federal Reserve reject the acquisition and merger. Furthermore, we recommend a public hearing be convened as a result of the policy implications this type of merger will have on the banking system in Illinois and throughout the country.

Sincerely,
Marva Williams
Senior Vice President