

Kanas, Bohlsen settle with Capital One

By: Claude Solnik June 19, 2012

John Kanas and John Bohlsen, the former heads of North Fork Bank and two of the region's best known business people, have agreed to a \$20 million settlement to end a lawsuit charging they violated a non-compete clause with Capital One.

Kanas and Bohlsen – North Fork's former CEO and vice chairman – didn't admit any wrongdoing to resolve the breach of contract related to their activities at Florida-based [BankUnited](#).

Kanas is CEO and Bohlsen is chief lending officer of BankUnited, which also approved the terms of the settlement. Bohlsen and Kanas are paying the settlement, BankUnited said. The agreement also extends Kanas' and Bohlsen's non-competition agreement until Jan. 31, 2013, and prevents BankUnited from opening branches or otherwise expanding in this region until that date.

"Capital One was pleased with the decision of the federal court, which affirmed the validity of the [non-competition agreements](#) that were negotiated in good faith," Capital One said in a written statement. "We are also pleased with the terms of the settlement." The settlement resolves a lawsuit that grew out of the biggest acquisition of a Long Island-based bank in recent memory and turned into a legal battle in which executives soon found themselves returning to New York banking before their non-competition clauses expired.

Gibson, Dunn & Crutcher and Murphy & McGonigle represented Capital One, while [Boies Schiller & Flexner](#) and James H. Rodio represented Kanas and Bohlsen. The two executives signed non-compete clauses as part of an agreement reached in 2007 after the sale of North Fork to Capital One in 2006, in effect until August 7, 2012. Kanas received \$24 million in Capital One restricted stock and Bohlsen received about \$18 million as part of their non-compete agreements that followed a \$13.2 billion deal for the more than 350-branch bank.

The two left Capital One earlier than their initial three-year agreement and went back into the banking business as the leaders of Miami Lakes, Fla.- based BankUnited. But after BankUnited last July reached a deal to acquire Manhattan-based Herald National Bank, Capital One went to court in Virginia to enforce the non-compete. BankUnited in February closed on the Herald takeover, while the suit wended its way through the courts.

"It's a personal non-compete, which means I can't personally compete with Capital One," Kanas told LIBN last June. "We bought this bank as a separate subsidiary. While non-competition clauses are notoriously difficult to enforce, Capital One in its suit said the two engaged in a "scheme" to compete with Capital One and detailed numerous actions.

Capital One argued that BankUnited retained people to "scout potential locations" for branches in New York, secured a lease for branch space at 960 Sixth Ave. in Manhattan and sought to lease property owned by the New York Metropolitan Transit Authority on Madison Avenue, less than 1,700 feet from a Capital One branch.

Capital One in the suit said BankUnited last June even sought to bid on the Bank of Ireland's New York commercial banking portfolio.

The suit argued the bank's efforts to "win a competitive bidding process for a commercial banking portfolio put him in direct competition" with Capital One. In addition, BankUnited was assigned mortgages in New York and New Jersey.

Capital One said BankUnited even posted job listings on Monster.com for branch managers in the New York metropolitan area and a New York "market president," all efforts to begin competing before the clause expired.

Liam O'Grady, the U.S. District Court Judge for the Eastern District of Virginia, who heard the case between Capital One and the executives prior to the settlement said the bank had good reason to worry that Kanas and Bohlsen could compete with them, in part because they had remained with Capital One after the acquisition.

"The defendants' past success and sizeable goodwill were not the only basis that made them a formidable competitive threat," O'Grady wrote in a May 17 decision denying Kanas and Bohlsen's motion to dismiss the lawsuit against them. "As Capital One employees and advisers, the defendants obtained confidential information about Capital One's consumer and commercial banking business."

As part of the settlement, BankUnited is barred from opening branches in New York, New Jersey, or Connecticut until Jan. 31, 2013. It also must operate Manhattan-based Herald National Bank as a wholly owned national subsidiary until that time. **Kanas**

and Bohlsen aren't allowed to play a role in the management or be on Herald's board until that date.

The agreement also contains certain arrangements with respect to soliciting Capital One customers and hiring Capital One employees, including many who once worked for Kanas and Bohlsen at North Fork.

Mr. John Bohlsen has served as Senior Advisor of BankUnited, Inc., since July 1, 2013. Mr. Bohlsen served as Senior Advisor To The Chairman of The Board at BankUnited, National Association since July 1, 2013. He served as Chief Lending Officer of BankUnited, Inc. from May 2009 to July 1, 2013. Mr. Bohlsen served as the Chief Lending Officer of BankUnited Financial Corporation. He served as Chief Lending Officer of BankUnited, FSB since May 2009. He is active in various outside businesses involving real estate and construction and is President of a restaurant operating company doing business in the New York metropolitan area. He serves as the President of the Helm Development Corp. He has more than 25 years of experience in banking. From December 2006 to August 2007, Mr. Bohlsen led the Commercial Banking division for Capital One's banking subsidiary, which included North Fork, the former Hibernia Bank in Louisiana and Texas and Capital One Direct Bank in Richmond, Virginia. He was a part of North Fork's management team when they were acquired by Capital One in December 2006. He served as Vice Chairman of

BankUnited, Inc., from May 2009 to July 1, 2013. He served as Vice Chairman of BankUnited, FSB. He served as Vice Chairman of Capital One Bank. He served as Vice Chairman of North Fork from 1989 to December 2006. He served as Vice Chairman of North Fork Bancorp., Inc. and its subsidiary North Fork Bank since 1992. He served as a Director of BankUnited, Inc. from May 2009 to July 1, 2013. Mr. Bohlsen served as a Director of BankUnited, FSB since May 2009. He served as a Director of Capital One Bank. He served as a Director of North Fork Bancorp., Inc. from January 1986 to December 2006. In addition, he is a veteran of the U.S. Navy, having served as an officer during the Vietnam War. He has served on many professional, academic and community boards and organizations, and he and his family are well known for their philanthropic endeavors. Mr. Bohlsen has a B.S. and a M.B.A. from Michigan State University.

BOHLSSEN, JOHN 135 THE HELM EAST ISLIP, NY 11730	1,000.00	20-AUG-14	FRIENDS OF TOM CROCI
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BOHLSSEN, LINDA G 135 THE HELM E ISLIP, NY 11730	1,000.00	20-AUG-14	FRIENDS OF TOM CROCI

Contributions to Friends of Angie Carpenter

3/12/08	200	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2008 State/L Authorized S County	Suffolk	Islip
10/30/09	500	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2009 State/L Authorized S County	Suffolk	Islip
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7/1/11	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2011 State/L Authorized S County	Suffolk	Islip
8/1/15	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2015 State/L Authorized S County	Suffolk	Islip
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2/16/15	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2015 State/L Authorized S County	Suffolk	Islip
10/6/16	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2017 State/L Authorized S County	Suffolk	Islip
2/13/18	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2018 State/L Authorized S County	Suffolk	Islip
7/17/19	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2019 State/L Authorized S County	Suffolk	Islip
11/14/18	2500	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2019 State/L Authorized S County	Suffolk	Islip
2/15/19	1000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2019 State/L Authorized S County	Suffolk	Islip
3/17/20	300	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2020 State/L Authorized S County	Suffolk	Islip
11/13/20	5000	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2021 State/L Authorized S County	Suffolk	Islip
3/2/22	2500	John Bohlsen	135 The Helr East Islip	NY	11730	United State A - Monetary Individual	Friends Of A 2022 State/L Authorized S County	Suffolk	Islip

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Kanas makes NY BankUnited hires as noncompete ends

By: [Claude Solnik](#) February 13, 2013

[John Kanas](#) has officially begun his comeback to New York.

Less than two weeks after his noncompete agreement with Capital One ended, Kanas and his Miami Lakes-Fla.-based [BankUnited](#) announced key New York hires.

Kanas, the **BankUnited president and CEO**, said the bank hired top real estate lending executives who had held high ranking positions at Buffalo-based [M&T Bank](#).

BankUnited named Saverio “Sam” Giarusso, a former president of the New York City/Long Island region for M&T Bank, to lead its New York City commercial real estate lending department.

The firm also named Scott Lublin and Jill Marie Ho Tai, Giarusso’s former colleagues at M&T, as senior vice presidents, while Joseph Sforzo was named vice president.

Sforzo worked for M&T Bank’s New York City/Long Island commercial real estate division before joining Largo Capital, a mortgage banking firm, as a managing director.

Kanas said the hires will be part of a “concentrated effort to recapture significant market share in New York” and he vowed to create “a powerful, competitive force in the market.”

In addition to the hires, BankUnited announced it was rolling out branches in New York City and Long Island, converting [Herald National Bank](#) branches in Melville and Manhattan to BankUnited over the next few weeks.

“We have three new branches coming online in Manhattan and one in Melville. Those are organically grown BankUnited branches,” spokeswoman Mary Harris said. “We’re very excited about the branches we have waiting to open, but it’s more of a people strategy. We’re trying to get the right hires on board.”

After leading the North Fork sale to Capital One for \$13.2 billion in 2006, Kanas got back into banking with the 2009 acquisition of BankUnited after it was seized by the [Federal Deposit Insurance Corp.](#)

When the opportunity to get back into the mix in Manhattan and Long Island arose, he took it, [announcing plans in 2011 to acquire](#) Melville-based Herald National Bank for \$72 million.

Capital One promptly sued Kanas, BankUnited Vice Chairman John Bohlsen and BankUnited, saying the former North Fork executives were violating their noncompete agreements.

Kanas and Bohlsen initially argued they had personal noncompetes which wouldn't be violated, since they would have no role in leading the New York operations until the agreements expired.

Capital One said the former North Fork executives were clearly violating the spirit and substance of the noncompetes that paid Kanas \$24 million in restricted stock and gave Bohlsen \$18 million.

Kanas, Bohlsen and BankUnited settled last year in a deal that required the bank to hold off on expanding in New York until this month.

As part of the settlement, Bank United agreed to operate the Melville and Manhattan-based Herald National Bank separately until then.

After acquiring BankUnited, Kanas, Bohlsen and other executives took the bank public, a step designed to convert the regional bank into a bigger player.

BankUnited in 2011 began trading on the New York Stock Exchange under the symbol BKU in what the bank described as the largest initial public offering ever for a U.S. bank.

BankUnited, which has more than \$12 billion in assets and more than 95 branches, focuses on companies, executives, consumers, and commercial and middle-market businesses.

Edward Walsh's brother helped bank get millions in Suffolk deposits, records show

February 2, 2015 By DAVID M. SCHWARTZ david.schwartz@newsday.com



Patrick Walsh, 40, leaves Federal Court in Central Islip after his brother, Edward Walsh, not pictured, was arraigned on charges of theft of government services on Jan. 7, 2015. (Credit: James Carbone)

Suffolk County government agencies deposited tens of millions of dollars with a New York City bank after it hired the brother of Suffolk Conservative Party chairman Edward Walsh as a consultant, county and bank records show.

Signature Bank held no county deposits as of the end of 2007, county records show. In February 2008, the bank hired Patrick Walsh, a former candidate for Suffolk County Legislature. In May, after a request by **(NOW ISLIP SUPERVISOR)** County Treasurer Angie Carpenter, the county legislature added the bank to a list of banks county agencies could use.

By December 2010 -- the month Patrick Walsh left Signature -- the Suffolk County treasurer had \$72 million on deposit with the bank, according to bank statements Newsday obtained from Suffolk County under the Freedom of Information Law.

The county clerk's office opened an account with Signature in March 2009, and by April 30 had \$10.17 million on deposit. The clerk had average monthly balances with Signature of between \$9.2 million and \$15 million between June 2009 and the end of 2010.

Some former Suffolk officials say the process of selecting banks can involve political favoritism of the sort that goes into filling some county jobs -- and that political connections can trump the best deal for taxpayers in terms of fees and interest rates.

State Comptroller Thomas DiNapoli has recommended that local governments go out to bid for bank services every three to five years to identify the best deals.

Jim Morgo, who handled fiscal issues as a deputy to former Suffolk County Executive Steve Levy, said political favoritism can affect the choice of banks.

"It's all patronage. There's little difference among them," said Morgo, also a former Democratic Suffolk County legislator.

Carpenter said she did not know that Patrick Walsh was connected to Signature and that he played no role in securing deposits from her office.

County Clerk Judith Pascale, who has been in office since 2006, said she was unaware of any connection between Signature and Patrick Walsh and that her office made decisions about where to deposit money based on the best deal for the county. However, Steven Krauser, a former Signature Bank vice president who was Patrick Walsh's supervisor, said Walsh helped establish contact with Pascale's office. He said Patrick Walsh called James Malone -- then the Southampton Town Conservative chairman, whom Pascale had hired as her deputy in February 2008 -- and Malone set up a meeting between bank representatives and the office.

"From my perspective, the deal was fine," said Krauser, who left the bank in 2012 and works for a Queens credit union. Walsh "said he would be able to open up this door, that door, and he did." Krauser said Walsh was paid according to a formula based on the size of the deposits he secured. Walsh declined to say how he was paid.

'I made contacts on my own'

Patrick Walsh, 40, of Colchester, Connecticut, said in an interview that he helped bring in deposits for Signature Bank. His LinkedIn profile lists him as a senior consultant to the bank from February 2008 to December 2010 and says he "secured over 15 million in additional monthly deposits" for Signature.

Asked whether his brother's connections had helped him, Patrick Walsh said: "No. I don't believe so. I had connections -- I grew up on Long Island. I had connections of my own."

Walsh said he has been in sales for 20 years. "I made contacts on my own," he said. "It's me being the salesman. My brother had nothing to do with it."

Asked about the deposits by specific Suffolk agencies, Patrick Walsh said, "I'm going to say no comment to everything else because I don't know what else I can say."

Edward Walsh, the Conservative Party chairman, was arrested Jan. 7 by federal agents and charged with collecting more than \$80,000 for working at the Suffolk County jail when he was golfing, gambling and engaged in political activities, according to the complaint. He has pleaded not guilty.

County Sheriff Vincent DeMarco, a Conservative Party member, is seeking to fire Edward Walsh from his job as a sheriff's lieutenant after investigating him for allegedly charging the county for time he didn't work. Walsh is fighting his termination.

DeMarco recalled speaking by phone with Patrick Walsh in 2009 after Walsh had reached out to him in a bid to get jail accounts for the bank.

DeMarco said he previously had ignored numerous phone calls from Patrick Walsh because they came from a number he didn't recognize. When he didn't return the calls,

Edward Walsh asked DeMarco to call back his younger brother, DeMarco said. DeMarco said he ultimately chose not to open accounts with Signature based on his staff's recommendations. The bank had no local branches where the sheriff's office could conveniently make deposits. Also, "politically, the optics would've been horrible," DeMarco said. "The Conservative Party chair works for the sheriff's office, and the Conservative chair's brother works at the bank."

William Wexler, Edward Walsh's attorney, said his client had nothing to do with his brother's activities with Signature Bank. "His brother did what he did for the bank, and that was his job," Wexler said. He said he was unaware that Edward Walsh made calls to DeMarco about calling back his brother.

County selection process

Newsday requested bank account records from the four countywide elected officials who control significant deposits through their offices: the treasurer, clerk, sheriff and district attorney. According to the records, the sheriff's office has not made deposits with Signature Bank. The district attorney's office said it did not have records for past years but that none of its accounts are with Signature.

Under the current system in Suffolk, banks appeal to the treasurer's office to get on a list of financial institutions approved to accept county deposits. Every January, the treasurer submits a revised list to the county legislature, which typically approves it without debate.

It is up to officials in the individual county agencies to determine where they will get the best deal on interest rates and fees. The county treasurer approves those requests.

Carpenter said she insists at the least that the accounts don't charge fees to the county. She added, "I want to make sure there's at least some modicum of interest" paid to Suffolk.

Nassau County also uses a list of banks approved for deposits by its county legislature. Nassau Treasurer Beaumont Jefferson said his office must approve all accounts.

The Suffolk treasurer, the largest holder of county money, has more than 114 bank accounts with 11 banks. The money comes from sales tax, property tax, various county fees and bonds the county sells to raise money for construction projects.

Additionally, other county agencies and elected officials, such as the district attorney, sheriff, clerk and parks department, can choose banks from the approved list. There are 19 bank depositories on the list. By law, no bank can hold more than \$750 million in county money at any time.

The largest county accounts are with national banks. At the end of December, for instance, the Suffolk treasurer's office, which controls the bulk of the county's cash, had \$440 million with Capital One and \$243 million with JPMorgan Chase, according to the most recent figures available.

Smaller institutions such as Signature also hold tens of millions of dollars. Some of them have ties to political figures or former elected officials from Suffolk.

Former Republican Sen. Alfonse D'Amato has been a member of Signature's board of

directors since July 2005. D'Amato did not respond to a request for comment. Former Democratic Lt. Gov. Alfred B. DelBello has been a bank director since January 2003.

Gold Coast Bank, of Islandia, added to the list of approved banks on the same day as Signature in May 2008, is privately held. Its chairman is John Tsunis, of Poquott, an attorney, real estate developer and hotel manager. His cousin George Tsunis, of Cold Spring Harbor, was nominated by President Barack Obama as ambassador to Norway, but the nomination was dropped after his performance in his confirmation hearing last February.

Empire National Bank, of Islandia, was added to the approved list in August 2008 at Carpenter's request. Paul Tonna, a former Republican presiding officer of the Suffolk County Legislature, is on Empire's board of directors, though the treasurer's office had no deposits with the bank at the end of 2014.

Carpenter's office had \$33.4 million on deposit with Signature at the end of December, including money for capital projects and from the mortgage tax and the water protection fund.

Sealing the Signature deal

The treasurer began using Signature after the county legislature in May 2008 approved Carpenter's request to add the bank and Gold Coast to the approved county list. The legislative resolution, which said Signature and Gold Coast had approached Carpenter, said that by using the banks, "Suffolk may take advantage of competitive interest rates in order to achieve the maximum interest earning for our public funds."

Carpenter, an Islip Republican who has run with Conservative Party support, said she had no idea the Walsh family had a connection with Signature Bank. "It's a shock, I had no clue," said Carpenter, who was appointed Thursday as Islip supervisor.

She said a Signature bank representative, Michael Doti, with whom she served on a Salvation Army committee for a golf fundraiser, asked her about getting the bank on the approved county list. A bank team followed up with a formal pitch, although Patrick Walsh was not involved in the effort, Krauser said.

Doti said he also didn't know Edward Walsh or Patrick Walsh and declined to comment further. Doti contributed \$835 to Carpenter's campaign account between July 2009 and July 2011, according to state Board of Election records.

Deputy Suffolk Clerk Chris Como said Malone, the deputy clerk, was part of a small team in the clerk's office that decided to approve the Signature account.

"It was a management decision," Como said.

Krauser said Patrick Walsh had set up a meeting between representatives of Signature Bank and the county clerk's office in early 2009. "He basically made an introduction," Krauser said of Walsh. "He called a friend of his, and we met."

The friend was Malone, Krauser said. At the time, Malone was a senior deputy county clerk overseeing the accounting department, which had day-to-day interactions with the bank.

Malone, who did not return calls for comment, left the clerk's office in January 2014, the same month his term on the Southampton Town Council ended. Malone served as town Conservative chairman from 2008 to 2014. He works as a law clerk to State

Supreme Court Justice William Condon, a Conservative Party member.

Signature spokeswoman Susan Lewis confirmed that Walsh was a consultant to the bank. She said Signature could not comment on specific client relationships or employees.

Signature, which was established in May 2001 and headquartered in Manhattan, held \$22.6 billion in deposits in the fourth quarter of 2014, according to the bank. Lewis said that unlike other institutions, Signature does not advertise for depositors and relies on "teams" of employees and consultants to secure deposits.

"It's just relationship-based banking," Lewis said. "Serving municipalities . . . [is] a standard component of the bank's business and client mix."

Debate on bank choices

Paul Sabatino, a former chief deputy county executive and legislative legal counsel, said that after the financial crisis of 2008, the county should stick with larger banks. "If anything, there's more reason to be sticking with larger banks, not looking for no-name banks," he said. "The designation of banks to hold taxpayer dollars shouldn't revolve around personalities."

Besides DiNapoli, former Suffolk Comptroller Joseph Sawicki last year recommended that the county go out to bid for its largest bank accounts to try to secure the best interest rates.

Carpenter and Como defended not issuing formal requests for proposals for its bank accounts, saying it allows them to move money around more nimbly.

"We shop for banking on an almost continuous basis," Como said. "But we're not that attractive a customer" he said, "because the level of the account fluctuates so much and often involves multiple transactions."

Como defended Signature's service to the county clerk's office. "Since we came on with Signature, we've had an excellent working relationship with them. They have one of our better interest rates," Como said. Signature paid 0.6 percent interest in 2014, while Bridgehampton National Bank paid 0.08 percent, according to bank records. Other accounts controlled by the clerk's office paid no interest.

Carpenter said, "I like the flexibility of being able to make sure at every point in time we're able to get the best bang for the buck for taxpayers."

Krauser said Signature turned down some deals Walsh brought in but said he couldn't recall specifics. "We determined whether we could do business -- some we said no to, some we said yes to," said Krauser, who left the bank in 2012 and now works at Melrose Credit Union, based in Briarwood, Queens.

Krauser said that at the time Walsh left Signature in 2010, he wasn't bringing in many deals that interested the bank. "We severed the relationship when the pipeline sort of dried up," Krauser said.

Walsh called it a mutual parting of the ways. "It was time to move on, for other opportunities," he said.

He added: "Whatever deal was done with Signature Bank, it was the best rate for the county. That's why the county picked them."

TIMELINE

- * **February 2008:** Signature Bank hires Patrick Walsh as a consultant. He is paid based on deposits he can secure.
- * **May 2008:** Suffolk County Legislature adds Signature Bank to a list of banks approved to accept deposits from county agencies and officers.
- * **December 2008:** Suffolk County treasurer's office has \$3.47 million on deposit with Signature.
- * **March 2009:** County clerk's office opens an account with Signature.
- * **June 2009:** Clerk's office has an average of \$9.2 million with Signature during the month.
- * **December 2009:** Treasurer's office has \$63 million with Signature.
- * **December 2010:** Walsh leaves Signature. Treasurer has \$72 million on deposit with the bank.

**The treasurer was now Supervisor
Angie Carpenter**

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Former Suffolk Conservative Party chief Edward Walsh ...

Jul 12, 2019 — **Walsh**, 53, of **East Islip**, was convicted in 2016 of illegally pocketing more than \$200,000 in pay he collected in the sheriff's department ...

Missing: married | Must include: married

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LOVETT: Long Island Sen. Phil Boyle getting heat for giving ...

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Personnel and disciplinary record, subject: Lt. Edward M ...

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Ex-Suffolk County Conservative Party Chairman Edward Walsh ...

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