

# FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, DC 20549

## FORM 8-K

### CURRENT REPORT

Pursuant to Section 12 or 15(d) of the  
Securities Exchange Act of 1934

Date of report (Date of earliest event reported): August 17, 2023

# Summit State Bank

(Exact Name of Registrant as Specified in Charter)

California  
(State of Other Jurisdiction  
Of Incorporation)

32203  
(FDIC  
Certificate Number)

94-2878925  
(I.R. S. Employer  
Identification No.)

500 Bicentennial Way  
Santa Rosa, CA  
(Address of Principal Executive Offices)

95403  
(Zip Code)

Registrant's Telephone Number, Including Area Code 707-568-6000

(Former Name or Former Address, if Changes Since Last Report)

Check the Appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communication pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communication pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13d-4 (c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging Growth Company

If an emerging growth company, indicate my check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	SSBI	NASDAQ Global Market

**Item 7.01. Regulation FD Disclosure**

On August 17, 2023, Summit State Bank (the “Bank”) submitted a public comment letter with the Federal Reserve Bank of San Francisco concerning Big Poppy Holdings, Inc.’s application to acquire up to 24.99% of the Bank’s common stock. A copy of the letter is attached to this report as Exhibit 99.1.

The information furnished under Item 7.01 and Item 9.01 of this report, including Exhibit 99.1, shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, nor shall it be deemed incorporated by reference in any other filings of the Bank except as shall be set forth by specific reference in such filing.

**Item 9.01. Financial Statements and Exhibits**

**(d) Exhibits:**

The exhibit list called for by this item is incorporated by reference to the Exhibit Index filed as part of this report.

<u>Exhibit Number</u>	<u>Description</u>
99.1	Public Comment Letter submitted to the Federal Reserve Bank of San Francisco dated August 17, 2023.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

Dated: August 22, 2023

**SUMMIT STATE BANK**

By: /s/ Camille Kazarian  
Camille Kazarian  
*Executive Vice President  
and Chief Financial Officer  
(Duly Authorized Officer)*



August 17, 2023

*By email to [sf.fisc.comments.applications@sfrb.org](mailto:sf.fisc.comments.applications@sfrb.org)*

Joseph Cuenco  
Assistant Vice President  
Formations, Transactions and Enforcement  
Federal Reserve Bank of San Francisco  
101 Market Street  
San Francisco, California 94105

**Re: Notice of Big Poppy Holdings, Inc to Acquire up to 24.99% of the Common  
Stock of Summit State Bank**

Dear Mr. Cuenco,

Summit State Bank is pleased to have the opportunity to comment on the notice application of Big Poppy Holdings, Inc. (“Big Poppy”), filed with the Federal Reserve Bank of San Francisco (“Federal Reserve”) pursuant to the Bank Holding Company Act of 1956, as amended, to acquire up to 24.99% of Summit State Bank.

We have grave concerns about Big Poppy’s proposal. We believe that Big Poppy’s proposed potentially controlling investment in Summit State Bank would materially and adversely affect competition in our market, which is already moderately concentrated, and it is inconsistent with the convenience and needs of the communities we serve. We also believe the manner in which Big Poppy proposes to make the investment raises managerial concerns.

Big Poppy is the bank holding company for Poppy Bank. Like us, Poppy Bank is headquartered in Santa Rosa, California. It is, of course, unusual for a depository organization to make a potentially controlling investment in a depository institution within its market.

Given the unusual and complex issues raised by Big Poppy’s proposed investment, we request that the Federal Reserve conduct one or more public meetings with respect to Big Poppy’s application. We further request that the comment period be extended. We believe that public hearings and an extended comment period would better ensure that all interested members of the public, including those living in or serving moderate- and low-income communities, are heard before the Federal Reserve makes a decision. Our market includes a relatively high level of persons living in low-income communities and non-

English speakers. These community members are unlikely to be aware of the opportunity to offer written comments based on an English-only notice appearing in the classified ad section of a local paper or, for that matter, the Federal Register. Further, we believe it is unrealistic to require that these community members file written comments.

Accordingly, we believe that a well-publicized public hearing is necessary to ensure that the Federal Reserve receives and considers the views of affected community members before making a decision on the application.

In addition, if the Federal Reserve approves the application, we believe it should impose substantial conditions to preserve competition in the community and to ensure that the convenience and needs of the communities we serve are met, as described below.

## **Background**

### *Summit State Bank*

Summit State Bank is a California-chartered commercial bank. We were first organized in 1982 as a state thrift and converted to our current bank charter in 1999. As of June 30, 2023, we had \$1.2 billion in assets and \$1.0 billion of deposits. We serve approximately 8,000 customers, primarily individuals, non-profits, and small businesses, through our headquarters and three other branch offices within the Santa Rosa, CA Banking Market<sup>1</sup>. Four of our branches are located in moderate-income tracts.

In July 2023, the San Francisco Business Times ranked us 52<sup>nd</sup> in the 2023 Bay Area Corporate Philanthropist List. American Banker Magazine recently ranked us as number 18 on its list of the nation's top 200 publicly traded banks in June 2023. In May 2023, the Independent Community Bankers Association ranked us as one of its Top Performing Banks and the only California bank to be recognized in its More Than a Billion category, based on our financial performance. We have been consistently recognized for our achievements and have also been awarded Best Places to Work in the North Bay for 14 consecutive years, Top Community Bank Loan Producer, the Raymond James Bankers Cup, Super Premier Performing Bank, and the Piper Sandler SM-All Star Award.

For these reasons, Summit State Bank is a fierce competitor of Poppy Bank for both clients and talent within the Santa Rosa, CA Banking Market.

Aside from our financial performance, we are particularly proud of our community ties. As a community bank, we take servicing our community very seriously and are

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<sup>1</sup> In this letter, "Santa Rosa, CA Banking Market" refers to the Federal Reserve Board's definition of that market. Market and historical data are based on data available on the Federal Reserve Bank of St. Louis' CASSIDI website, <https://cassidi.stlouisfed.org/markets/6220/hhi>. Market data is as of June 30, 2022, the most recent date for which data is available.

committed to making a difference. The following highlights some examples of our 2022 support:

- Invested \$9.2MM in two local affordable housing projects located in Santa Rosa, California - Dutton Flats and Stony Point Family Flats. The properties have created a total of 89 affordable units, with 70 units being low income and 19 units very low income. Of the very low income units, 8 will be subsidized by Section 8.
- Donated \$100,000 to the Creser Capital Fund to fund micro-loans to fill the gap in financial and educational opportunities for small business owners in the Santa Rosa market area. Creser provides accelerated access to capital and unlocks the Latino economic growth engine's force to promote the development and advancement of Latino businesses to power the next generation's future.
- Provided \$17,600,000 in community development loans that support our community through affordable housing and community services.
- Contributed \$675,000 to over 250 local nonprofits supporting vital community services.
- Hosted the second annual North Bay Nonprofit Event to provide education, resources, support, and fellowship to our local nonprofits.
- Over 1,100 community service hours were donated by Summit State Bank's employees.
- 15 Summit State Bank officers and staff serve on nonprofit boards and committees.
- Participated in the Mike Hauser Academy, an educational academy for English as a second language learners, empowering our future workforce to become leaders in science, technology, engineering, and mathematics.

### *Big Poppy*

Big Poppy is the bank holding company for Poppy Bank. Like us, Poppy Bank is headquartered in Santa Rosa, California. Poppy Bank has 20 branch offices, five of which are in the Santa Rosa, CA Banking Market.

We understand that Big Poppy is controlled by Poppy Bank's Chairman, William Gallaher, and members of his family owning an aggregate of approximately 62% of Big Poppy, based on Big Poppy's December 31, 2021 FR Y-6.

## *The Proposal*

Big Poppy did not discuss its investment plans or proposal with us prior to filing its application. We learned of Big Poppy's application from a newspaper notice.

Big Poppy's public notice states "We [Big Poppy] intend to acquire control of Summit State Bank, Santa Rosa, California." This conflicts with Big Poppy's application, which states "there would be no change in control of any insured depository institution." Summit State Bank is an insured depository institution.

Regardless of Big Poppy's actual plans with respect to control, it is somewhat unusual for a depository organization to make a potentially controlling investment in a depository institution within its market. It is also unusual for a depository institution to acquire a potentially controlling interest in another depository institution without conducting due diligence. Big Poppy's application therefore raises a number of unusual issues.

### **Convenience and Needs of the Community**

Given our close ties to our community, we are concerned about the impact of Big Poppy's proposed investment on the convenience and needs of our community. In its March 28, 2022 Community Reinvestment Act Performance Evaluation concerning Poppy Bank, the FDIC determined that Poppy Bank had a "Low Satisfactory" rating under the Investment Test and a "Low Satisfactory" rating under the Service Test. With regard to the Investment Test, the FDIC determined that Poppy's performance in its Sacramento and San Diego Assessment Areas is below its adequate level of investments in the Bay Area and Los Angeles Assessment Areas. In fact, the FDIC determined that Poppy Bank's responsiveness to credit and community development needs in its Sacramento and San Diego Assessment Areas was poor. The FDIC noted that Poppy Bank's total Community Development ("CD") service hours decreased compared to its previous exam, despite the bank's growth. According to the FDIC, Poppy Bank managers struggled for bank staff to participate in CD activities.

The FDIC determined that Poppy Bank provided no CD investments or CD services that benefited its Sacramento Assessment Area during the evaluation period. Further, Poppy Bank provided no CD loans, no CD investments and not CD services that benefited its San Diego Assessment Area.

Even in its Bay Area Assessment Area, the FDIC concluded that Poppy Bank's lending in low-income census tracts is "below aggregate and D&B data."

The FDIC's findings suggest that Poppy Bank is not fully satisfying its Community Reinvestment Act obligations as it expands. This raises significant concerns about the impact of Big Poppy's proposed 24.99% investment in Summit State Bank on our community.

Big Poppy's proposed investment offers no apparent benefits to the community.

## Effects on Competition

Big Poppy's proposed investment in Summit State Bank may materially and adversely affect the competition for banking services in our market.

### *The Santa Rosa, CA Banking Market is Already Moderately Concentrated*

Summit State Bank's branches are located within the Federal Reserve's Santa Rosa, CA Banking Market. Poppy Bank is also headquartered in the Santa Rosa, CA Banking Market and has five branches in the market.

The Santa Rosa, CA Banking Market is already moderately concentrated with a Herfindahl-Hirschman Index of 1,263 and there are only 16 banking organizations in the market. Yet the banking market is functionally more concentrated than these the numbers indicate. Of the 16 organizations, only three institutions, Poppy Bank, Summit State Bank and Exchange Bank are headquartered in the market, assuming the pending acquisition of Luther Burbank Savings is completed. And of the 16 banking organizations, four are large, national banking organizations without meaningful ties to the community<sup>2</sup> and six are not particularly competitive, each with less than 2% market share.

Earlier in 2023, the market lost a competitor when First Republic Bank was placed into receivership and acquired by in-market competitor, JPMorgan Chase Bank, increasing market concentration. In addition, during 2020 – 2023, the Santa Rosa, CA Banking Market has lost nine branch offices closed by eight different banks, or roughly 10% of the branch offices in the market.<sup>3</sup> With fewer competitors, these developments indicate that the current market is already increasingly less competitive than the Herfindahl-Hirschman Index of 1,263 (which is based on historical data) indicates.

### *Big Poppy's Proposal May Substantially Lessen Competition in the Santa Rosa Market*

Big Poppy's application asserts that "no banking Market would be affected by the proposed share purchase." However, it offers no reasoning for this conclusion. Rather, Big Poppy dismisses the impact on competition by stating that "there will be no change in market index in any banking market." Big Poppy ignores the obvious question: How would its 24.99% stake in its fiercest local competitor affect competition in the market?

Big Poppy's proposed investment in Summit State Bank raises competitive concerns. As the holder of 24.99% of Summit State Bank, Big Poppy would have the voting power to elect several directors of Summit State Bank.

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<sup>2</sup> These include JPMorgan Chase Bank, BMO Harris Bank, Bank of America, and Wells Fargo Bank.

<sup>3</sup> In 2023, JP Morgan Chase closed one branch; In 2022, Bank of America closed one branch; in 2021, U.S. Bank closed two branches and each of Exchange Bank, Umpqua Bank, Beneficial State Bank and Citibank closed one branch, leaving Beneficial State Bank and Citibank without branches in the market; and in 2020 Wells Fargo Bank closed one branch.



Big Poppy's proposed investment could, therefore, give one of our most significant in-market competitors the ability to influence our operations.

We are also concerned that any directors representing Big Poppy may share our competitive information with Big Poppy, regardless of whether it is appropriate to do so. Therefore, Big Poppy's proposed investment would allow a market competitor unlimited insight into our operations, potentially adversely affecting competition in the market.

Allowing a competitor to control us may also adversely affect our business, potentially raising safety and soundness concerns.

Given the decreasing number of competitors in the already moderately concentrated market and the unusual circumstances of Big Poppy's proposed investment, the proposal raises significant competitive concerns.

### **Managerial Concerns**

The manner in which Big Poppy is conducting its proposed acquisition of up to 24.99% of Summit State Bank raises concerns about Big Poppy's management.

Big Poppy did not conduct internal due diligence of Summit State Bank prior to filing its application with the Federal Reserve.

Hostile takeovers and unsolicited control transactions are somewhat unusual among depository institutions. Typically, an uninvited acquiror does not have an opportunity to conduct due diligence in the case of a "hostile" or non-negotiated transaction. Among depository institutions, acquiring control of another depository without appropriate due diligence should raise safety and soundness concerns. For example, the Federal Reserve's Application to Become a Bank Holding Company and/or Acquire an Additional Bank or Bank Holding Company (FR Y-3) calls for an applicant to describe their due diligence review.

We believe a bank holding company's willingness to acquire up to 24.99% of another depository institution without conducting traditional due diligence should raise significant managerial concerns – as well as safety and soundness concerns.

### **Big Poppy's Application Should Not Be Approved Without Imposing Conditions**

For the reasons described above, we believe the application should be disapproved.

If, however, the Federal Reserve approves the Big Poppy's application, we believe that any approval should be subject to conditions that are intended to prevent any anti-competitive effects. We believe that any approval should impose conditions providing

that, among other things, Big Poppy, and members of its several control groups and their affiliates:

- Shall not have or seek to have a representative serve on the board of directors of Summit State Bank.
- Shall not become or seek to become a management official, director, or other senior executive of the Summit State Bank.
- Shall not take any action to control, influence or direct the operations of Summit State Bank.
- Shall agree that with respect to any matter presented for action by the shareholders of Summit State Bank, they shall vote their shares of Summit State Bank in the same manner as the holders of a majority of the outstanding shares.
- Shall not enter into any banking or nonbanking transactions with Summit State Bank, other than transactions or business relationships already in existence.

\* \* \*

Thank you for considering our comments. If you have any questions about these comments, please contact Brian Reed at (707) 568-4908 or [breed@summitstatebank.com](mailto:breed@summitstatebank.com).

Sincerely,

SUMMIT STATE BANK



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Brian Reed

President and Chief Executive Officer

cc: Matthew Newman, Assistant Deputy Commissioner, DFPI  
Frank Bushnell, Regional Deputy Commissioner, Banking, DFPI  
Aaron Prospero, Deputy Commissioner, Banking, DFPI  
Kathy L. Moe, Regional Director, FDIC  
Francesca Finnigan, Case Manager, FDIC