

SHERMAN MERRILL W
Form SC 13D/A
April 29, 2011

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

SCHEDULE 13D

**Under the Securities Exchange Act of 1934
(Amendment No. 9)**

Bancorp Rhode Island, Inc.

(Name of Issuer)

Common Stock \$0.01 par value per share

(Title of Class of Securities)

059690 10 7

(CUSIP Number)

Margaret D. Farrell, Esquire

Hinckley, Allen & Snyder LLP

50 Kennedy Plaza, Suite 1500

Providence, Rhode Island 02903

(401) 274-2000

(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

April 19, 2011

(Date of Event Which Requires Filing of this Statement)

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If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box.

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See §240.13d-7 for other parties to whom copies are to be sent.

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CUSIP No. 059690 10 7

1. Names of Reporting Persons. I.R.S. Identification Nos. of above persons (entities only).
Merrill W. Sherman
 2. Check the Appropriate Box if a Member of a Group (See Instructions)
 - (a) Not applicable.
 - (b) Not applicable.
 3. SEC Use Only
 4. Source of Funds (See Instructions)
PF
 5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e)
 6. Citizenship or Place of Organization
United States
- | | | |
|---|-----|------------------------------------|
| Number of
Shares
Beneficially
Owned by
Each
Reporting
Person With | 7. | Sole Voting Power
292,170* |
| | 8. | Shared Voting Power
0 |
| | 9. | Sole Dispositive Power
292,170* |
| | 10. | Shared Dispositive Power
0 |
11. Aggregate Amount Beneficially Owned by Each Reporting Person
292,170*
 12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions)
 13. Percent of Class Represented by Amount in Row (11)
6.1% (based upon 4,694,241 shares outstanding and assumes conversion of all exercisable options held by the reporting person.)
 14. Type of Reporting Person (See Instructions)
IN

* Includes 20,500 shares of the Issuer's Common Stock held in a custodial account, 115,125 shares subject to options to purchase the Issuer's Common Stock exercisable within 60 days of April 19, 2011 and 8,304 shares of restricted Common Stock.

Item 1. Security and Issuer

Common Stock \$0.01 par value per share (Common Stock), Bancorp Rhode Island, Inc One Turks Head Place, Providence, Rhode Island 02903.

Item 2. Identity and Background

- (a) Merrill W. Sherman;
- (b) One Turks Head Place, Providence, Rhode Island 02903;
- (c) President, Chief Executive Officer and Director of Bancorp Rhode Island, Inc., (the Issuer);
- (d) During the last five years, the Reporting Person has not been convicted in a criminal proceeding;
- (e) During the last five years, the Reporting Person has not been a party to a civil proceeding of a judicial or administrative body of competent jurisdiction with respect to, and the Reporting Person is not subject to a judgment, decree or final order enjoining violations of, or prohibiting or mandating activities subject to, federal or state securities laws; and
- (f) United States.

Item 3. Source and Amount of Funds or Other Consideration

The funds used to purchase certain securities herein described came from the personal resources of the Reporting Person. Other securities described herein were granted by the Issuer as incentive compensation.

Item 4.

Purpose of Transaction

(a)-(b) The Reporting Person, who serves as Director, President and Chief Executive Officer of the Issuer has acquired certain of the shares over time as an investment and other shares and options as incentive compensation. Other than as may be described herein, the Reporting Person has no plans, in her capacity as an individual investor, which relate to or would result in: (a) the acquisition by any person of additional securities of the Issuer, or the disposition of the securities of the Issuer; (b) an extraordinary corporate transaction, such as a merger, reorganization, or liquidation, involving the Issuer or any of its subsidiaries; (c) a sale or transfer of a material amount of assets of the Issuer or any of its subsidiaries; (d) any change in the present board of directors or management of the Issuer, including any plans or proposals to change the number or term of directors or to fill any existing vacancies on the board; (e) any material change in the present capitalization or dividend policy of the Issuer; (f) any other material change in the Issuer's business or corporate structure; (g) changes in the Issuer's charter, by-laws or instruments corresponding thereto or other actions which may impede the acquisition of control of the Issuer by any person; (h) causing a class of securities of the Issuer to be delisted from a national securities exchange or to cease to be authorized to be quoted in an inter-dealer quotation system of a registered national securities association; (i) a class of equity securities of the Issuer becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Act; or (j) any action similar to any of those enumerated above.

On April 19, 2011, the Issuer and Brookline Bancorp, Inc. (Brookline) entered into the Merger Agreement. Subject to the terms and conditions of the Merger Agreement, the Issuer will merge with and into Brookline (the Merger), with Brookline continuing as the surviving corporation (the Surviving Company). As a result of the Merger, each share of Issuer's common stock (Common Stock) issued and outstanding immediately prior to the effective time of the Merger will be converted into the right to receive, at the election of the holder, either (1) \$48.25 in cash (the Cash Consideration), without interest, or (2) 4.686 shares of Brookline common stock (the Stock Consideration), subject to allocation and proration procedures which provide that, in the aggregate, 2,347,000 shares of Common Stock will be converted into the Stock Consideration and the remaining shares of outstanding Common Stock will be converted into the Cash Consideration. The obligations of the parties to the Merger Agreement to effect the Merger are subject to certain conditions, including the approval of the Merger by the Issuer's shareholders and the receipt of applicable federal and state bank regulatory approvals.

The Reporting Person entered into a Voting Agreement with Brookline in connection with the Merger Agreement. Pursuant to the Voting Agreement, the Reporting Person agreed to vote, and has granted to Brookline an irrevocable proxy and power of attorney to vote, her shares of Common Stock owned as of April 19, 2011 or acquired thereafter: (i) in favor of adoption and approval of the Merger Agreement and the transactions contemplated thereby, including the Merger; (ii) against any action or agreement that would result in a breach in any material respect of any covenant, representation or warranty, or any other obligation or agreement of the Issuer contained in the Merger Agreement or of the Reporting Person contained in the Voting Agreement, or that would preclude fulfillment of a condition under the Merger Agreement to the Issuer's and Brookline's respective obligations to consummate the Merger; and (iii) against any Acquisition Proposal, or any agreement or transaction that is intended, or could reasonably be expected, to impede, interfere with, delay, postpone, discourage or adversely affect the

consummation of the Merger or any of the transactions contemplated by the Merger Agreement.

The term Acquisition Proposal is defined under the Merger Agreement as any inquiry, offer or proposal (other than an inquiry, offer or proposal from Brookline), whether or not in writing, contemplating, relating to, or that could reasonably be expected to lead to, (A) any transaction or series of transactions involving any merger, consolidation, recapitalization, share exchange, liquidation, dissolution or similar transaction involving the Issuer or any of its subsidiaries; (B) any transaction pursuant to which any third party or group acquires or would acquire (whether through sale, lease or other disposition), directly or indirectly, any assets of the Issuer or any of its subsidiaries representing, in the aggregate, 15% or more of the assets of the Issuer and its subsidiaries on a consolidated basis; (C) any issuance, sale or other disposition of (including by way of merger, consolidation, share exchange or any similar transaction) securities (or options, rights or warrants to purchase or securities convertible into, such securities) representing 15% or more of the votes attached to the outstanding securities of the Issuer or any of its subsidiaries; (D) any tender offer or exchange offer that, if consummated, would result in any third party or group beneficially owning 15% or more of any class of equity securities of the Issuer or any of its subsidiaries; or (E) any transaction which is similar in form, substance or purpose to any of the foregoing transactions, or any combination of the foregoing.

The Voting Agreement also provides that, except under certain limited circumstances, the Reporting Person will not sell, assign, transfer or otherwise dispose of or encumber any of the Reporting Person's shares of Common Stock owned as of April 19, 2011 or acquired thereafter. The Voting Agreement will terminate upon the earlier of the effective time of the Merger or the termination of the Merger Agreement in accordance with its terms.

The purpose of the transactions contemplated by the Voting Agreement is to support the consummation of the transactions contemplated under the Merger Agreement.

(c) Not applicable.

(d) The Merger Agreement provides for the Reporting Person, and another current director of the Issuer to be elected to the Board of Directors of the Surviving Company upon completion of the Merger and for Paul A. Perrault, Chief Executive Officer of Brookline, to replace the Reporting Person on the Board of Directors of Bank Rhode Island, the Issuer's bank subsidiary (BankRI). Also at the closing of the Merger, the Reporting Person will retire from the Issuer and BankRI and Mark Meiklejohn, currently BankRI's Executive Vice President and Chief Lending Officer, will become President and Chief Executive Officer of BankRI.

(e) Other than as a result of the Merger described in Item 4(a) above, not applicable.

(f) Other than as a result of the Merger described in Item 4(a) above, not applicable.

(g) Not applicable.

(h) - (i) If the Merger is consummated as planned, the Issuer's common stock will be deregistered under the Securities Exchange Act of 1934, as amended (the Exchange Act), and delisted from the NASDAQ Global Select Market.

(j) Other than as described above, the Reporting Person currently has no plans or proposals which relate to or would result in any of the matters listed in Items 4(a)-(j) of Schedule 13D.

The foregoing descriptions of the Merger Agreement and the Voting Agreements do not purport to be complete and are qualified in their entirety by the terms of such documents, which are attached hereto as Exhibit 1 and Exhibit 2, respectively, and are incorporated herein by reference.

Item 5. Interest in Securities of the Issuer

(a) The aggregate number of securities identified pursuant to Item 1 is 292,170 which includes 20,500 shares held in a custodial account, 115,125 shares subject to options to purchase the Issuer's Common Stock exercisable within 60 days of April 19, 2011 and 8,304 shares of restricted Common Stock, representing 6.1% of the class of securities outstanding based upon the most recently available filing of the Issuer and assuming the conversion of all options exercisable within 60 days of April 19, 2011.

(b) The number of shares as to which there is sole power to vote or to direct the vote is 292,170 which includes 20,500 shares held in a custodial account, 115,125 shares subject to options to purchase the Issuer's Common Stock exercisable within 60 days of April 19, 2011 and 8,304 shares of restricted Common Stock; the number of shares as to which there is sole power to dispose or to direct the disposition is 290,849, which includes 20,500 shares held in a custodial account 115,125 shares subject to options to purchase the Issuer's Common Stock exercisable within 60 days of April 19, 2011 and 8,304 shares of restricted Common Stock.

(c) On April 8, 2011, the Reporting Person was awarded 2,772 shares of restricted shares of the Issuer's Common Stock, 1,491 performance shares and options to purchase 5,804 shares of the Issuer's Common Stock at an exercise price of \$30.54 per share. Each performance share represents a contingent right to receive one share of the registrant's common stock. The performance shares will vest on March 31, 2014 upon the registrant achieving earnings per share for the three year period from the date of grant through the third anniversary thereof at or above the 50th percentile level in a custom commercial bank index for banks in the Northeast with assets of \$500 million to \$5 billion. The stock options awarded to the Reporting Person are exercisable in three annual equal installments commencing on April 8, 2012;

(d) No other person is known to have the right to receive or the power to direct the receipt of dividends from, or the proceeds from the sale of, such securities;

(e) Not applicable.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

The information set forth in Item 4 hereof is hereby incorporated by reference into this Item 6.

Item 7. Material to Be Filed as Exhibits

Exhibit 1: Agreement and Plan of Merger, dated as of April 19, 2011, by and between Bancorp Rhode Island, Inc. and Brookline Bancorp, Inc. (Incorporated by reference to Exhibit No. 2.1 to the Issuer's Current Report on Form 8-K filed on April 22, 2011)

Exhibit 2: Form of Voting Agreement by and between Brookline Bancorp, Inc. and Merrill W. Sherman, dated as of April 19, 2011

SIGNATURE

After reasonable inquiry and to the best of its knowledge and belief, the undersigned hereby certifies that the information set forth in this statement is true, complete and correct.

Date: April 29 2011

/s/ Merrill W. Sherman
Merrill W. Sherman