

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of	)	
	)	
Hector Hugo Gutierrez, Jr., an institution-affiliated party of	)	ORDER OF PROHIBITION FROM FURTHER PARTICIPATION, AND COMPROMISE AND WAIVER OF ORDER TO PAY
	)	
Branch Banking and Trust Company n.k.a. Truist Bank, Charlotte, North Carolina	)	FDIC-22-0082e
	)	FDIC-23-0019k
(Insured State Nonmember Bank)	)	
	)	
Respondent's NMLS UI# 1157955	)	
	)	

Hector Hugo Gutierrez, Jr. (Respondent) received a Notice of Intention to Prohibit from Further Participation, a Notice of Charges for an Order for Restitution, and a Notice of Assessment of Civil Money Penalty and Order to Pay (collectively, Notices) detailing Respondent's reckless unsafe or unsound banking practices and breaches of fiduciary duties for which an Order of Prohibition from Further Participation (Prohibition Order), Order to Pay a Civil Money Penalty (Order to Pay), and Order for Restitution may be issued under 12 U.S.C. § 1818(e), (i), and (b)(6).

Respondent failed to file an answer or request a hearing within 20 days of the issuance of the Notices. As a result, the Order to Pay became final and unappealable as a matter of law under 12 U.S.C. § 1818 (i)(2)(E)(ii).

Thereafter, by and through counsel, Respondent indicated that he wished to enter into a stipulated order with the FDIC. Respondent was advised of the right to a hearing on the Notices under 12 U.S.C. § 1818(b), (e), and (i) and 12 C.F.R. Part 308, subparts A & B. Respondent

waived certain rights under those provisions on September 7, 2023, and consented to the issuance of the Prohibition Order by entering into a Stipulation and Consent to the Issuance of an Order of Prohibition from Further Participation (Consent Agreement) with a representative of the Federal Deposit Insurance Corporation's (FDIC) Legal Division.

The FDIC determined and Respondent neither admits nor denies the following:

1. From June 2018 through December 2018, Respondent, while employed as a Community Banking Branch Banker III at Branch Banking and Trust Company n.k.a. Truist Bank, Charlotte, North Carolina (Bank), caused the issuance of three debit cards and linked those debit cards to the bank accounts of an elderly Bank customer without the customer's knowledge or consent. Respondent then used the debit cards to make over \$20,000 in purchases and ATM withdrawals for his own benefit without the customer's knowledge or consent.
2. As described in paragraph 1, Respondent recklessly engaged in unsafe or unsound practices in connection with the Bank and breached fiduciary duties owed to the Bank.
3. Respondent's practices and breaches were part of a pattern of misconduct, which caused the Bank to suffer financial loss and Respondent to receive financial gain or unjust enrichment.
4. Respondent's practices and breaches involved personal dishonesty and demonstrated Respondent's willful and continuing disregard for the safety or soundness of the Bank.
5. After considering the civil money penalty (CMP) mitigating factors under 12 U.S.C. § 1818(i)(2)(G), Respondent lacks the ability to pay the CMP assessed in the Order to Pay.

6. The Notice of Charges for an Order for Restitution remains pending.

The FDIC accepts the Consent Agreement, issues the following Order of Prohibition, and compromises and waives the Order to Pay:

**ORDER OF PROHIBITION FROM FURTHER PARTICIPATION**

7. Hector Hugh Gutierrez, Jr. is prohibited from:

a. participating in any manner in the conduct of the affairs of any financial institution or organization listed in 12 U.S.C. § 1818(e)(7)(A);

b. soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent, or authorization with respect to any voting rights in any financial institution enumerated in 12 U.S.C. § 1818(e)(7)(A);

c. violating any voting agreement previously approved by the appropriate Federal banking agency; and

d. voting for a director or serving or acting as an institution-affiliated party.

8. The Prohibition Order is effective upon issuance and will remain effective and enforceable until the FDIC, and any “appropriate Federal financial institutions regulatory agency,” defined at 12 U.S.C. § 1818(e)(7)(D), decide in writing to modify, terminate, suspend, or set aside the Prohibition Order under 12 U.S.C. § 1818(e)(7)(B).

9. The Prohibition Order is enforceable under 12 U.S.C. § 1818(i), and any violation of it may result in additional penalties under 12 U.S.C. § 1818(j).

10. The Prohibition Order does not waive any right, power, or authority of the United States; federal, state, or local agencies; or the FDIC as Receiver.

**COMPROMISE AND WAIVER OF ORDER TO PAY**

11. Under 12 U.S.C. § 1818(i)(2)(F), the Order to Pay is hereby compromised and waived.

Issued under delegated authority.

Dated: May 2, 2024

/s/  
Rae-Ann Miller  
Senior Deputy Director  
Division of Risk Management Supervision

Dated: April 29, 2024

/s/  
Seth P. Rosebrock  
Assistant General Counsel, Enforcement  
Legal Division