

Assessment of Civil Money Penalty, Notice of Charges for an Order for Restitution, and Notice of Hearing (collectively, Notice) under 12 U.S.C. §§ 1818(b), 1818(e), 1818(i)(2) and the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308, subparts A and B.

This proceeding will determine whether an order should be issued against Respondent under 12 U.S.C. § 1818(e), to prohibit him from further participation in the conduct of the affairs of the Bank, and any other insured depository institution or organization listed in 12 U.S.C. § 1818(e)(7)(A) without the prior written approval of the FDIC and other appropriate Federal financial institution regulatory agencies.

This proceeding will also assess a \$35,000 civil money penalty against the Respondent under 12 U.S.C. § 1818(i)(2), unless the Respondent formally objects by timely requesting a hearing under 12 U.S.C. § 1818(i)(2)(H).

Finally, this proceeding will determine whether an order for restitution in the amount of \$59,000 should be entered against Respondent under 12 U.S.C. § 1818(b)(6).

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The FDIC makes the following allegations against Respondent:

I. Jurisdiction

1. At all times described herein, the Bank was a corporation existing and doing business under the laws of the State of North Carolina with its principal place of business in Charlotte, North Carolina.

2. At all times described herein, the Bank was an insured State nonmember bank, subject to 12 U.S.C. §§ 1811-1831aa, 12 C.F.R. Chapter III, and the laws of the State of North

Carolina.

3. Respondent was employed at the Bank's Red Road branch located in Hialeah, Florida from December 15, 2008, until he was terminated from his position as Senior Relationship Banker on June 25, 2021.

4. As a Senior Relationship Banker, Respondent's duties included providing financial solutions to meet client needs, handling teller transactions as needed, and adhering to internal controls, operational procedures, and risk management policies.

5. At all times described herein, Respondent was an IAP of the Bank under 12 U.S.C. § 1813(u), and for purposes of 12 U.S.C. § 1818(e)(7), 1818(i) and 1818(j).

6. The FDIC has jurisdiction over the Bank, Respondent, and the subject matter of this proceeding.

II. Coronavirus Aid, Relief, and Economic Security (CARES Act)

7. On March 27, 2020, The Coronavirus Aid, Relief, and Economic Security (CARES Act) was enacted to provide emergency financial assistance to millions of Americans who were suffering the economic effects of the COVID-19 emergency. The CARES Act authorized the SBA to administer the Economic Injury Disaster Loan (EIDL) programs in connection with the COVID-19 emergency and offer two types of EIDL-based support: loans (EIDLs) and advances (EIDL advances). EIDL advances did not typically need to be repaid.

8. Pursuant to 15 U.S.C. 636(b)(2), the SBA was authorized to make loans to businesses that suffered economic injury as result of a designated disaster.

9. To obtain an EIDL or an EIDL advance, a business was required to submit an application to the SBA and provide information about its operations, including the number of

individuals that it employed, its gross revenues for the 12-month period preceding the disaster and the cost of goods sold for the same time period.

10. The amount of the EIDL or EIDL advance was determined, in part, on the information provided by the applicant regarding the business revenue, number of employees, and cost of goods sold by the businesses. The SBA directly issued any funds disbursed under an EIDL or EIDL advance to the applicant business.

11. Pursuant to 15 U.S.C. § 9009(b) of the CARES Act, “eligible entities” as defined in 15 U.S.C. § 9009(a) and (c)(2) were eligible for a loan made under the EIDL program. An “eligible entity,” included, in relevant part, businesses with fewer than 500 employees and sole proprietorships that were in operation on January 31, 2020.

12. Prior to disbursing an EIDL advance, the SBA was required to verify that an applicant was an eligible entity by accepting a self-certification from the applicant under penalty of perjury pursuant to 15 U.S.C. § 9009(e)(2). In addition, applicants were required to submit a signed and dated IRS Form 4506-T authorizing the IRS to release business tax transcripts to the SBA to verify business revenue.

13. Pursuant to 15 U.S.C. § 9009(e)(4) of the CARES Act, EIDL advances were only to be used for certain enumerated purposes (i.e., providing paid sick leave, maintaining payroll, meeting increased costs from supply change disruptions, making rent or mortgage payments and repaying obligations).

14. Under 13 C.F.R. § 123.303, EIDL loan proceeds could only be used for working capital and for expenditures necessary to alleviate the specific economic injury or make payments on any business debts.

15. Applicants seeking CARES Act funds were required to certify to the SBA that, “[b]y signing this application, you certify that all information in your application and submitted with your application is true and correct to the best of your knowledge, and that you will submit truthful information in the future.”

16. As part of the application, a notification stated that “any false statement or misrepresentation to SBA may result in criminal, civil, or administrative sanctions, including but not limited to: fines and imprisonment, or both, under 15 U.S.C. § 645, and any other applicable laws” 15 U.S.C. § 645(a) prohibits making false statements to the SBA “for the purpose of influencing in any way the action of the [SBA], or for the purpose of obtaining money, property, or anything of value...”

III. Respondent’s Applications for Economic Injury Disaster Loans and Advances

Spross Tech Services’ EIDL Application

17. On April 5, 2020, Respondent submitted a “Rapid Intake” application to the SBA seeking CARES Act relief on behalf of Spross Tech Services (Spross).

18. Respondent represented on the Rapid Intake application that Spross was an S-Corporation owned 100% by the Respondent and established on November 1, 2018. Respondent further affirmed that Spross had two employees who together provided “Miscellaneous Services.”

19. Respondent’s Rapid Intake application represented that Spross had gross revenues for the twelve months prior to January 31, 2020 (date of the disaster) of \$81,250 and a cost of goods sold of \$0.

20. The SBA’s “Rapid Finance Application Details,” which provides additional

details regarding Respondent's EIDL application and communications with the Respondent, noted that Spross' "Stated Monthly Revenue [was] \$6,770.83" for a total of \$81,250 for 2019.

21. In connection with this application, Respondent initially requested that funds be directed to a Chase Bank account; however, on April 30, 2020, the SBA declined this initial request due to an incorrect account ownership.

22. On June 4, 2020, the SBA contacted Respondent to verify the business. That day, Respondent opened a business checking account at the Bank, account #1635, for "Spross Tech Services" and deposited \$50 into the account (Spross Bank Account).

23. On June 5, 2020, Respondent submitted to the SBA an unsigned copy of Spross' purported 2019 Form 1120-S tax return showing gross sales of \$3,408 with cost of goods sold as \$9,467. The return showed Spross operating at a loss of \$6,059. The gross receipts or sales in Spross' 2019 Form 1120-S provided to the SBA was significantly less than the gross revenue for a similar time period as Respondent represented in the SBA intake application.

24. A tax transcript for 2019 for Spross, requested by the SBA and provided by the IRS, shows that Spross filed a Form 1120 in March 2020. The 2019 transcript shows gross receipts or sales of \$0. Neither the return provided to the SBA nor the transcript provided by the IRS support Spross' application showing \$81,250 in gross revenues for the twelve months prior to January 31, 2020. Moreover, the Spross 2018 tax transcript from the IRS for Spross shows "Tax return was not found."

25. Two months after submitting Spross' EIDL application, on June 11, 2020, Respondent incorporated Spross with the Florida Secretary of State. Spross' mailing address

on the incorporation documents is the same mailing address as Respondent's personal residence.

26. On June 12, 2020, Respondent executed an SBA Loan Authorization and Agreement for Spross (Spross Loan Agreement) via DocuSign for a total EIDL in the amount of \$38,700.

27. The Spross Loan Agreement required Respondent to certify that "[a]ll representations in the Borrower's Loan application (including all supplementary submissions) are true, correct and complete and are offered to induce SBA to make this Loan."

Furthermore, the Spross Loan Agreement required Spross to certify that it "will use all the proceeds of this Loan solely as working capital to alleviate economic injury caused by disaster" The agreement also reiterated that false statements or misrepresentations to the SBA could result in criminal, civil, or administrative sanctions, including fines under 15 U.S.C. § 645.

28. On June 15, 2020, a deposit for \$38,600 was credited to the Spross Bank Account, which was the EIDL approved by the SBA. There was a total of \$100 deducted from the EIDL to pay for UCC filing charges.

29. On June 26, 2020, a deposit for \$2,000 was credited to the Spross Bank Account, which was the EIDL advance approved by the SBA.

30. On February 25, 2021, Respondent was interviewed by Bank officials regarding the EIDL and EIDL advance deposited into the Spross Bank Account. Respondent stated that the EIDL funds were used to purchase equipment and to pay his cousin, an employee of Spross. Respondent had not previously advised the Bank of any outside

employment, including the Spross business.

31. On February 26, 2021, Respondent provided the Bank with a copy of Spross' 2019 Form 1120S tax return which reflected gross receipts or sales of \$3,408, cost of goods sold of \$9,467, and a total business loss of \$6,059. The return submitted to the Bank and that submitted to the SBA appear to be the same.

32. On information and belief, Respondent materially and falsely misrepresented the gross revenue for Spross in his EIDL application to induce the SBA to make the EIDL and EIDL advance funds to Respondent's business.

33. On information and belief, Respondent and/or Respondent's business, Spross, was not eligible to receive EIDL funds in the amount of \$38,700, because Spross did not generate gross revenues to support such EIDL amounts.

34. Further, on information and belief, Respondent and/or Respondent's business, Spross, were not eligible to receive EIDL funds in the amount of \$38,700, because the dates of incorporation and establishment of the corporate bank account in June 2020 demonstrate that Spross was not in fact in operation as of January 31, 2020.

35. Respondent offered a false certification after inflating or fabricating Spross' revenues for the twelve months prior to January 31, 2020. To that end, Respondent falsely certified that the information in his application was "true and correct" and further certified that he would "submit truthful information in the future." Moreover, Respondent was placed on notice and agreed that "any false statement or misrepresentation to SBA may result in criminal, civil, or administrative sanctions....."

Disbursement of Spross' EIDL Funds

36. The Spross Bank Account records reflect that after receiving the EIDL funds, Respondent used the funds to effectuate various purchases and transactions, including: \$2,000 to Nissan Pembroke Pines on August 17, 2020; \$3,500 to Weston Nissan Volvo on August 21, 2020; \$1,900 to Robinhood Investments on February 3, 2021; \$5,000 to Robinhood Investments on February 4, 2021; \$2,000 to Ameritrade on February 8, 2021; \$6,302 Pennymac on March 24, 2021. Respondent made purchases at restaurants, retail stores, and used the funds to make credit card payments. Respondent also moved the EIDL funds between the Spross Bank Account and accounts with Robinhood Investment and Ameritrade.

37. The Spross Bank Account records reflect no allowable business expenses, payroll, or any types of business activity. Moreover, there is no activity of any deposits, payments, or credits made to Spross in the Spross Bank Account, other than credits from Robinhood Investments, Ameritrade, and internal Bank adjustments.

38. On April 25, 2021, Respondent submitted a loan modification application for additional loan proceeds to the SBA for Spross, which was subsequently declined by the SBA because of “unverifiable information.” Specifically, the SBA indicated in correspondence that “one or more items [] reviewed that caused the SBA to question the validity of certain information [Hijuelo] submitted as part of [his] application” during the loan underwriting process.

39. On June 25, 2021, Respondent was terminated by the Bank.

40. Respondent closed the Spross Bank Account on June 25, 2021. The Bank issued official bank check #1635 for \$21,360.53, which was the final balance on the account,

to Spross Tech Services.

41. After his termination, Respondent continued his misuse of funds. On July 20, 2021, Respondent deposited (via ATM) check #2358 for \$21,360.53 into a newly created account at JPMorganChase (Second Spross Bank Account). At the time of the deposit, the Second Spross Bank Account had a balance of \$0. Respondent then used the SBA funds for impermissible purposes, including purchases at Expedia.com, Universal Orlando, theaters, resorts, American Airlines, Seaworld, restaurant and retail purchases, and a \$2,200 payment to El Magos Roofing Corp.

42. On September 13, 2022, Respondent transferred \$4,735 from the Second Spross Bank Account to his wife. The balance on the Second Spross Bank Account was \$0 on September 14, 2022.

43. On September 23, 2022, Spross was administratively dissolved.

44. On August 17, 2023, the SBA charged off the full balance of the Spross loan in the amount of \$38,700. Respondent failed to respond to the SBA's collection efforts.

Herbal Life & More Inc. 's EIDL Application

45. On June 16, 2020, Respondent submitted a second Rapid Intake application to the SBA seeking an EIDL on behalf of Herbal Life & More Inc. (Herbal Life).

46. Respondent's Rapid Intake application represented that Herbal Life was an S-Corporation owned 100% by Respondent and established on January 1, 2018. Respondent further averred that Herbal Life had three employees and listed its business activity as retail "internet sales."

47. Respondent's Rapid Intake application further represented that Herbal Life had gross revenues for the twelve months prior to the disaster (January 31, 2020) of \$180,456 and cost of goods sold of \$143,789.

48. The SBA's Rapid Finance Application Details noted that Herbal Life's "Stated Monthly Revenue [was] \$15,038" for a total of \$180,456.

49. On June 19, 2020, Respondent opened a business checking account at the Bank, account #1457 for "Herbal Life and More Inc" and deposited \$20 into the account (Herbal Life Bank Account).

50. On June 19, 2020, Herbal Life was incorporated with the Secretary of State in Florida. The mailing address for Herbal Life, Spross, and Respondent's personal residence are the same.

51. On June 20, 2020, Respondent executed an SBA Loan Authorization and Agreement for Herbal Life (Herbal Life Loan Agreement) via DocuSign for a total EIDL in the amount of \$15,400.

52. The Herbal Life Loan Agreement required Respondent to certify that "[a]ll representations in the Borrower's Loan application (including all supplementary submissions) are true, correct and complete and are offered to induce SBA to make this Loan."

Furthermore, the Herbal Life Loan Agreement required Respondent to certify that he "will use all the proceeds of this Loan solely as working capital to alleviate economic injury caused by disaster" The agreement also reiterated that false statements or misrepresentations to the SBA could result in criminal, civil, or administrative sanctions, including fines under 15 U.S.C. § 645.

53. On June 23, 2020, a deposit for \$15,400 was credited to the Herbal Life Bank Account, which was the EIDL approved by the SBA.

54. On June 30, 2020, a deposit for \$3,000 was credited to the Herbal Life Bank

Account, which was the EIDL advance approved by the SBA.

55. On February 25, 2021, Respondent was interviewed by Bank officials regarding the EIDL deposits to the Herbal Life Bank Account. Respondent told the Bank that Herbal Life was a business in which his wife sold dietary supplements under the Herbalife brand. Respondent told the Bank that the Herbal Life EIDL was used to purchase inventory and supplies and to pay his wife a salary. Respondent had not previously advised the Bank of any outside employment, including with the Herbal Life business. Respondent further stated that Herbal Life had slowed business down in January 2020 and eventually shut down by the end of January 2020.

56. On February 26, 2021, Respondent provided the Bank with a copy of Herbal Life's purported 2019 Form 1120-S tax return. The return reflected Herbal Life's gross receipts or sales was \$2,179, and deductions of \$6,255, for a total loss of \$4,076. There was no figure mentioned under the cost of goods sold.

57. Tax transcripts provided by the IRS and requested by the SBA are blank and do not show any Form 1120 received by the IRS for 2018 or 2019 for Herbal Life.

58. Respondent failed to provide copies of Resolutions of the Board for Herbal Life to the SBA, although such information was requested three times from Respondent via email in December 2020, January 2021, and February 2021.

59. On information and belief, Respondent materially and falsely overrepresented the gross revenue for Herbal Life in his EIDL application to obtain the EIDL and EIDL advance to Respondent's business.

60. On information and belief, Respondent and/or Respondent's business, Herbal

Life, were not eligible to receive EIDL funds in the amount of \$15,400, because Herbal Life did not generate gross revenues to support such EIDL amounts.

61. Further, on information and belief, Respondent and/or Respondent's business, Herbal Life, were not eligible to receive EIDL funds in the amount of \$15,400, because the dates of incorporation and establishment of the corporate bank in June 2020 account demonstrate that Herbal Life was not in fact in operation as of January 31, 2020.

62. Respondent offered a false certification after inflating or fabricating Herbal Life's revenues for the twelve months prior to January 31, 2020. To that end, Respondent falsely certified that the information in his application was "true and correct" and further certified that he would "submit truthful information in the future." Moreover, Respondent was placed on notice and agreed that "any false statement or misrepresentation to the SBA may result in criminal, civil or administrative sanctions....."

Disbursement of Herbal Life's EIDL Funds

63. The Herbal Life Bank Account records reflect that, after receiving the EIDL funds, Respondent used EIDL funds to make thirteen payments to Respondent's Discover Card, Capital One Card, and Store Cards between July 6, 2020 and April 9, 2021 in the amount of \$18,261. The account shows no allowable business expenses, payroll, or any type of business activity.

64. Aside from the SBA funds, the Herbal Life Bank Account shows no history of any deposits, payments, or credits made to Herbal Life in the Herbal Life Bank Account.

65. On April 25, 2021, Respondent submitted a loan modification application for additional loan proceeds to the SBA for Herbal Life, which was subsequently declined by the

SBA.

66. Respondent closed the Herbal Life Bank Account on July 2, 2021, about a week after his termination on June 25, 2021, with a final balance upon closure of \$8.90.

67. On September 23, 2022, Herbal Life was administratively dissolved.

68. On November 1, 2023, the SBA charged off the full balance of the Herbal Life loan in the amount of \$15,400. Respondent failed to respond to the SBA's collection efforts.

IV. Conclusions of Law

69. Based on the misconduct described above, Respondent violated laws and regulations under 12 U.S.C. § 1818(e) and (i)(2) by:

- a. Providing false information to the SBA in contravention of the signed certifications in the SBA applications, Spross Loan Agreement, and Herbal Life Loan Agreement that all information was truthful. Respondent's businesses were not eligible entities to receive EIDL and EIDL advance funds, and Respondent violated 15 U.S.C. § 9009(b).
- b. Misusing EIDL funds for personal use rather than for allowable enumerated purposes, in violation of 15 U.S.C. § 9009(e)(4) and/or 13 C.F.R. § 123.303.
- c. Providing a false statement for the purpose of influencing the SBA to make the EIDL and EIDL advance and obtaining money from the SBA in violation of 15 U.S.C. § 645(a).

70. Respondent's violations of laws and regulations described above resulted in Respondent's financial gain or other benefit under 12 U.S.C. § 1818(e) and (i)(2).

71. Respondent's violations of laws and regulations described above demonstrate

Respondent's personal dishonesty under 12 U.S.C. § 1818(e).

72. Respondent's violations of laws and regulations described above resulted in Respondent's pecuniary gain or other benefit under 12 U.S.C. § 1818(i)(2).

73. By virtue of Respondent's violations, the SBA lost the sum of \$59,000 as respondent was unjustly enriched in the same about \$59,000 under 12 U.S.C. § 1818(b).

ORDER TO PAY

Based on the above Findings of Fact and Conclusions of Law, the FDIC has determined that Respondent's violations merit a civil money penalty. After taking into account the appropriateness of the penalty with respect to the following mitigating factors under 12 U.S.C. § 1818(i)(2)(G): the size of the Respondent's financial resources and good faith, the gravity of the violations, the history of previous violations, and such other matters as justice may require, it is:

ORDERED that by reason of Respondent's violations listed above, a \$35,000 penalty is assessed against YOANDY HIJUELO under 12 U.S.C. § 1818(i)(2); and it is

FURTHER ORDERED that the Order to Pay is stayed until 20 days after the date of service of this Notice of Assessment to allow Respondent time to object to the Order to Pay.

If Respondent wants to object to the Order to Pay, Respondent must formally request a hearing in writing within 20 calendar days after service of this Notice of Assessment, as explained at 12 U.S.C. § 1818(i)(2)(H). Respondent may object to the Order to Pay by requesting a hearing and filing a formal Answer, as specified in 12 C.F.R. § 308.19. **If Respondent fails to request a hearing to object to the Order to Pay within 20 calendar days from the date of service of this Notice of Assessment, the penalty assessed against Respondent will be final and unappealable under 12**

U.S.C. § 1818(i)(2)(E)(ii) and 12 C.F.R. § 308.19(c)(2), and must be paid within 60 calendar days after the date of service of this Notice of Assessment.

IT IS FURTHER ORDERED that the Respondent is prohibited from seeking or accepting indemnification from the Bank or from any other insured depository institution for the restitution paid under the terms of this ORDER or any other expenses, including attorney fees and disbursements incurred by the Respondent, in connection with this matter.

NOTICE OF HEARING

Respondent must file an Answer to object to the Notice of Charges within 20 days from the date of service under 12 C.F.R. § 308.19. Respondent may file one document containing both the Answer to the Notice of Charges, and a request for hearing on the Order to Pay. The hearing will be held before an Administrative Law Judge (ALJ) assigned by the Office of Financial Institution Adjudication (OFIA) under 5 U.S.C. § 3105. The hearing on the Notice of Charges will begin on a date set by the ALJ in Miami, Florida. The hearing will be public and conducted in accordance with 12 U.S.C. §§ 1811-1831aa, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and 12 C.F.R. Part 308, subparts A and B.

An original and one copy of all papers filed in this proceeding must be served upon OFIA, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, VA 22226-3500, in the manner specified at 12 C.F.R. § 308.10. Also, copies of all papers filed in this proceeding must be served upon the following: FDIC Administrative Officer, 550 17th N.W., Washington, D.C. 20429; Seth P. Rosebrock, Assistant General Counsel, Enforcement Section, Legal Division, 550 17th Street NW, Room F St-2076, Washington, DC 20429; Shirley H. Huang, Acting Senior Counsel, Enforcement

Section, Legal Division, 25 Jessie Street, Room RO-SF-1432, San Francisco, California 94105; and Regional Counsel Patrice Walker, FDIC, Atlanta Regional Office, Ten 10th Street, Suite 900, Atlanta, Georgia 30309. Respondent is encouraged to file any subsequent documents electronically with OFIA at ofia@fdic.gov.

PRAYER FOR RELIEF

The FDIC prays that an Order of Prohibition from Further Participation under 12 U.S.C. § 1818(e) be issued against YOANDY HIJUELO. The FDIC further prays that an Order of Restitution be issued against YOANDY HIJUELO under 12 U.S.C. § 1818(b)(6), ordering him to disgorge ill-gotten gains and pay restitution to the U.S. Small Business Administration in the amount of \$59,000. The FDIC further prays that an Assessment of Civil Money Penalties be issued against YOANDY HIJUELO under 12 U.S.C. § 1818(i)(2)(B), ordering him to pay in the amount of \$35,000.

Issued under delegated authority on June 12, 2025.

/s/

Ryan Billingsley
Acting Director
Division of Risk Management Supervision