

FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

_____)	
In the Matter of)	DECISION AND ORDER
PATRICIA A. AMADOR)	TO PROHIBIT FROM
)	FURTHER PARTICIPATION
Individually and as an)	
Institution-affiliated party of)	
PAN AMERICAN BANK)	FDIC-13-052e
LOS ANGELES, CALIFORNIA)	FDIC-13-0235k
)	
(Insured State Nonmember Bank))	
_____)	

I. INTRODUCTION

This matter is before the Board of Directors (“Board”) of the Federal Deposit Insurance Corporation (“FDIC”) following the issuance on January 23, 2014, of a Recommended Decision on Default (“Recommended Decision” or “R.D.”) by Administrative Law Judge C. Richard Miserendino (“ALJ”). The ALJ recommended that Patricia A. Amador (“Respondent”) be subject to an order of prohibition pursuant to section 8(e) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1818(e), and found that she was subject to a final and unappealable civil money penalty (“CMP”) assessment pursuant to 12 U.S.C. § 1818(i)(2) and 12 C.F.R. § 308.19(c)(2). The ALJ’s recommendation was based on undisputed findings that Respondent engaged in misconduct while she served as a senior loan officer at Pan American Bank, Los Angeles, California (“Bank”). The Recommended Decision included an order that would permanently bar Respondent from the banking industry unless the FDIC consented to her further participation.

This is an uncontested proceeding. The record shows that Respondent was personally served with notice of the charges against her as set forth in the FDIC's Notice of Prohibition from Further Participation, Notice of Assessment of Civil Money Penalties, Findings of Fact and Conclusions of Law, Order to Pay, and Notice of Hearing ("Notice"). R.D. at 1. Respondent failed to enter an appearance, file an answer to the charges included in the Notice, request a hearing, or respond to an Order to Show Cause issued by the ALJ. R.D. at 1 - 2. She also failed to file exceptions to the Recommended Decision. For the reasons discussed below, the Board affirms the ALJ's findings and conclusions that the necessary elements are established in the record to warrant a prohibition order under section 8(e) and impose a CMP under section 8(i) of the FDI Act.

II. BACKGROUND

On October 22, 2013, the FDIC issued the Notice against Respondent pursuant to sections 8(e) and 8(i) of the FDI Act, 12 U.S.C. §§ 1818(e) and (i). The Notice sought Respondent's prohibition from the banking industry based on charges that she engaged in wrongful activity with respect to 21 loan transactions between March 2010 and June 2011 while she served as senior loan officer at the Bank. In her capacity as senior loan officer, Respondent was an institution-affiliated party pursuant to 12 U.S.C. § 1813(u). Notice at ¶¶ 3, 5. Respondent was hired by the Bank on September 20, 2007 and her employment was terminated as of June 17, 2011. Notice at ¶ 4.

The Notice charged that Respondent engaged in unsafe and unsound banking practices and acted in breach of her fiduciary duty as an officer of the Bank. The Notice further alleged that as a result of Respondent's practices and activities, the Bank suffered a financial loss.¹

¹ The Notice also alleges and the ALJ concluded that Respondent received personal financial gain as a result of her conduct. Because the Board concurs in the ALJ's determination that Respondent caused losses to the Bank in the

Finally, the Notice charged that Respondent's acts demonstrated a willful disregard for the safety or soundness of the Bank and further evidenced the Respondent's personal dishonesty. Notice at ¶¶ 15-20. The Notice included an Order to Pay directing that Respondent pay a \$25,000 CMP. Notice at ¶¶ 27-28.

In particular, the Notice charged – and Respondent has not disputed – the following facts: As the Bank's senior loan officer, Respondent was responsible for originating and underwriting pre-owned automobile loans (used car loans). Notice at ¶¶ 3, 4, 7. Respondent's position at the Bank required her to underwrite used car loans in a safe and sound matter, adhering to and complying with the Bank's loan policies. Although Respondent's duties included recommending qualified borrowers for approval of loan funds, she did not have the authority to approve loans or disburse funds without the prior written approval of the Bank's chief executive officer ("CEO"). Notice at ¶¶ 8-10. When FDIC examiners reviewed a sample of 21 used car loans that Respondent had underwritten between March 2010 and June 2011, they discovered deficiencies in every one of the loans. Notice at ¶¶ 11-12. For example, Respondent failed to underwrite the used car loans in a manner that would reasonably assure that the borrower would repay and that, in the event of default, the Bank's interests would be adequately protected by the value of the collateral taken for the loans. Notice at ¶¶ 11-12. In addition, by failing to obtain the Bank CEO's prior written approval of the loans and causing the Bank to fund the unapproved loans, Respondent disregarded the Bank's loan policies. As a result of Respondent's deficient underwriting practices, the Bank funded used car loans that it should not have. Notice at ¶ 13. In addition, Respondent breached her fiduciary duties to the Bank by accepting loan applications and documentation from used car dealers, which she knew or should have known were

amount of \$223,000, we find it unnecessary – and therefore decline – to expressly adopt the ALJ's conclusion that Respondent personally benefitted from the transactions.

inaccurate, incomplete, and/or contained false information. Notice at ¶ 15. All told, as a result of Respondent's personal dishonesty and willful misconduct, the Bank lost \$223,000 on the 21 loans at issue. Notice at ¶¶ 23 - 24; R.D. at 5.

On October 28, 2013, pursuant to Rule 308.11(b) of the FDIC's Rule of Practice and Procedure, 12 C.F.R. § 308.11(b) ("FDIC Rules"), a process server employed by First Legal Investigations of Santa Ana, California, personally served Respondent at her residence. Motion by FDIC for Entry of an Order of Default at 1, 3; R.D. at 1.² The Notice directed Respondent to file an answer and request for a hearing within 20 days from the date of service as required by section 308.19 of FDIC Rules, 12 C.F.R. § 308.19. Notice at 8. Pursuant to 12 C.F.R. § 308.19, Respondent was required to request a hearing within 20 days of service. Otherwise the Notice of Assessment would constitute a final and unappealable order. Respondent never responded in any manner to the Notice. R.D. at 1.

On December 20, 2013, Enforcement Counsel moved for an order of default pursuant to FDIC Rule 308.19(c)(1), 12 C.F.R. § 308.19(c)(1).³ On December 30, 2013, the ALJ issued an Order to Show Cause ("Show Cause Order") directing Respondent to appear and show good cause why default judgment should not be granted. R.D. at 2. Enforcement Counsel's Motion by FDIC for Entry of an Order of Default and the ALJ's Show Cause Order were served on Respondent, but she did not respond to either the motion or to the order. R.D. at 1 - 2. In the

² FDIC Enforcement Counsel ("Enforcement Counsel") served Respondent with the Notice at the residence of her father and where Respondent also was known to reside. Motion by FDIC for Entry of an Order of Default at 1, 3. The record indicates that all subsequent pleadings and orders were personally served on Respondent or delivered to Respondent at her resident address by UPS Next Day Air Delivery. R.D. 1 - 2. *See* Declaration of Scott T. Fleming in Support of Motion by FDIC for Entry of an Order of Default. The Board finds that such service was appropriate and consistent with Rule 308.11(c)(2)(v) of the FDIC's Rules of Practice which states that service shall be made by any "method reasonably calculated to give actual notice." 12 C.F.R. § 308.11(c)(2)(v).

³ Section 308.19(c)(1) of the FDIC's Rules provides that when a respondent fails to timely answer a notice, Enforcement Counsel may move for entry of default judgment, which shall be issued by the ALJ upon a finding that no good cause has been shown.

absence of any response, the ALJ, on January 23, 2014, granted Enforcement Counsel's Default Motion and issued the Recommended Decision, which was delivered to Respondent's residence via UPS Overnight Delivery. R.D. at 8.

III. DISCUSSION

The record reflects that Respondent received actual notice of the proceedings when the Notice was personally delivered to Respondent at her residence on October 28, 2013. R.D. at 1. Although she was personally served, she failed to respond. Respondent also failed to respond to both Enforcement Counsel's Motion by FDIC for Entry of an Order of Default and the Show Cause Order, despite being served with copies in accordance with FDIC Rule 308.11, 12 C.F.R. § 308.11. R.D. 1-2.

In addition, the Board agrees with the ALJ's findings that the undisputed facts in the Notice satisfy the three standards – misconduct, culpability, and effects – necessary to sustain a prohibition under section 8(e) of the FDI Act, 12 U.S.C. § 1818 (e)(1). R.D. 2-3. Specifically, the Board finds that Respondent deliberately and deceptively took advantage of the Bank's and the Borrowers' trust. By exploiting her position at the Bank, Respondent approved and caused the Bank to fund improperly underwritten used car loans that caused \$223,000 in losses to the Bank. This course of conduct evidences personal dishonesty and willful or continuing disregard for the safety and soundness of the Bank. This type of misconduct clearly warrants a permanent bar from the industry and, in this case, default judgment is appropriate. *In the Matter of Alex P. Majka*, 2007 WL 4698593 at *2 (FDIC); *In the Matter of Leann Bennett*, 2004 WL 2185944 at *2 (FDIC); *In the Matter of Susan E. Maddocks*, 2003 WL 22829735 at *3 (FDIC); *In the Matter of Raymond M. Phillips*, 1996 WL 281984 at *2 (FDIC); *In the Matter of Hiram L. Fong*, 1995 WL 810685 at *2 (FDIC).

Respondent's default constitutes consent to entry of an order of prohibition and a waiver of her right to contest the allegations in the Notice under section 308.19(c)(1). *In the Matter of Brenda J. Vikre*, 2009 WL 2477750 (FDIC) at *7; *In the Matter of Alex P. Majka*, at *3; *In the Matter of Leann Bennett*, at *3. Moreover, Respondent's failure to file exceptions to the Recommended Decision pursuant to section 308.39 of the FDIC's Rules, 12 C.F.R. § 308.39, must be deemed a waiver of any objections to the ALJ's Recommended Decision. *In the Matter of Brenda J. Vikre*, at *3; *In the Matter of Alex P. Majka*, at *3; *In the Matter of Leann Bennett*, at *3.

In addition, as the ALJ noted, Respondent's failure to request a hearing with respect to the CMP renders the Order to Pay included in the Notice of Assessment a final and unappealable order under both the FDI Act and FDIC Regulations. 12 U.S.C. § 1818(i)(2) and 12 C.F.R. § 308.19(c)(2); *In the Matter of Alex P. Majka*; R.D. at 6. Based on the serious nature of the charges in the Notice, which Respondent has not challenged, the Board agrees with the ALJ that a CMP is warranted and concludes that the \$25,000 assessment is reasonable. R.D. at 6 - 7.

V. CONCLUSION

After a thorough review of the uncontested record in this proceeding, the Board, for the reasons set forth above, affirms the ALJ's Recommended Decision, incorporates herein the Findings of Fact and Conclusions of Law set forth in the Notice, and issues the following Order implementing its decision.

ORDER TO PROHIBIT

The Board of the FDIC, having considered the entire record of this proceeding, finds that Respondent Patricia A. Amador, formerly employed as senior loan officer of Pan American Bank, Los Angeles, California, engaged in unsafe or unsound banking practices, in violation of her fiduciary duty, and caused financial loss to the Bank. The Board further finds that Respondent's actions involved personal dishonesty and willful and continuing disregard for the safety and soundness of the Bank. The Board hereby ORDERS and DECREES that:

1. Patricia A. Amador shall not participate in any manner in any conduct of the affairs of any insured depository institution, agency or organization enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the FDIC and the appropriate federal financial institutions regulatory agency as that term is defined in section 8(e)(7)(D) of the FDI Act, 12 U.S.C. § 1818(e)(7)(D).
2. Patricia A. Amador shall not solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent or authorization with respect to any voting rights in any financial institution, agency, or organization enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the FDIC and the appropriate federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the FDI Act, 12 U.S.C. § 1818(e)(7)(D).
3. Patricia A. Amador shall adhere to all voting agreements with respect to any insured depository institution, agency, or organization enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), except as otherwise permitted, in writing, by the

FDIC and the appropriate federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the FDI Act, 12 U.S.C. § 1818(e)(7)(D).

4. Patricia A. Amador shall not vote for a director, or serve or act as an institution-affiliated party, as that term is defined in section 3(u) of the FDI Act, 12 U.S.C. § 1813(u), of any insured depository institution, agency, or organization enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the FDIC and the appropriate federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the FDI Act, 12 U.S.C. § 1818(e)(7)(D).
5. This ORDER shall be effective thirty (30) days from the date of its service upon Respondent.

SO ORDERED.

IT IS FURTHER ORDERED, that copies of this DECISION AND ORDER TO PROHIBIT FROM FURTHER PARTICIPATION shall be served on Patricia A. Amador, Enforcement Counsel, the ALJ, and the Commissioner of the California Department of Business Oversight.

By direction of the Board of Directors.

Dated at Washington, D.C. this 15th day of July, 2014.

(SEAL)

082010

/s/

Robert E. Feldman
Executive Secretary