

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of	)	
	)	
PROFICIO BANK	)	
COTTONWOOD HEIGHTS, UTAH	)	ORDER TO PAY
	)	CIVIL MONEY PENALTY
	)	
	)	
	)	FDIC-15-0281k
(INSURED STATE NONMEMBER BANK)	)	
	)	
_____	)	

The Federal Deposit Insurance Corporation (“FDIC”) is the appropriate Federal banking agency under section 3(q) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C.

§ 1813(q), for Proficio Bank, Cottonwood Heights, Utah (“Bank”). The FDIC determined that the Bank has engaged in: a) unsafe or unsound banking practices; b) violations of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2607, and its implementing regulation, Regulation X, 12 C.F.R. Part 1024, by agreeing to pay fees for the referral of mortgage loan business; and c) violations of the Home Mortgage Disclosure Act, 12 U.S.C. § 2801, *et seq.*, and its implementing regulation, Regulation C, 12 C.F.R. Part 203, because of the Bank’s significant home mortgage data accuracy errors in both 2012 and 2013.

The Bank, by and through its duly elected and acting Board of Directors (“Board”), has executed a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO PAY CIVIL MONEY PENALTY (“CONSENT AGREEMENT”), dated March 29, 2016, that is accepted by the FDIC. With the CONSENT AGREEMENT, the Bank has consented, without admitting or denying any charges of unsafe or unsound banking practices or violations of law or

regulation, to the issuance of this ORDER TO PAY CIVIL MONEY PENALTY by the FDIC.

Having determined that the requirements for issuance of an order under section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2), have been satisfied, the FDIC hereby issues the following:

ORDER TO PAY

IT IS FURTHER ORDERED that by reason of the violations of law and/or regulations set forth herein, and after taking into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the Bank, the gravity of the violations, the history of previous violations by the Bank, and such other matters as justice may require, including the severity of the risks to and losses by consumers, pursuant to 12 U.S.C. § 1818(i)(2), a penalty of \$250,000 is assessed against the Bank. The Bank shall pay such amount to the Treasury of the United States.

IT IS FURTHER ORDERED that the Bank is prohibited from seeking or accepting indemnification from any third party for the civil money penalty assessed and paid in this matter.

This Order to Pay shall be effective upon issuance.

The provisions of this ORDER shall not bar, estop, or otherwise prevent the FDIC or any other federal or state agency or department from taking any other action against the Bank or any

of the Bank's current or former institution-affiliated parties, as that term is defined in Section 3(u) of the Act, 12 U.S.C. § 1813(u).

Issued pursuant to delegated authority this 1st day of April, 2016.

/s/ _____
Sylvia H. Plunkett
Senior Deputy Director
Division of Depositor and Consumer Protection