

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of	)	
JAMES R. BUNN, individually and as an	)	NOTICE OF CHARGES,
institution-affiliated party of	)	FINDINGS OF FACT AND
	)	CONCLUSIONS OF LAW,
	)	ORDER TO PAY, AND NOTICE
	)	OF HEARING
VALLEY BANK	)	
MOLINE, ILLINOIS	)	FDIC-15-0072b
	)	FDIC-13-0481k
(INSURED STATE NONMEMBER	)	
BANK)	)	
_____	)	

The Federal Deposit Insurance Corporation (“FDIC”) has determined that JAMES R. BUNN (“Respondent”), individually, and as an institution-affiliated party of VALLEY BANK, MOLINE, ILLINOIS (“Bank”), has knowingly or recklessly engaged in unsafe or unsound practices and violations of law, rule, or regulation and has breached his fiduciary duty to the Bank. The FDIC further determined that the unsafe or unsound practices and breaches of fiduciary duty were part of a pattern of misconduct. The FDIC therefore institutes this proceeding for the purpose of determining whether an appropriate order should be issued against Respondent, pursuant to 12 U.S.C. §§ 1818(b)(1) and 1818(i).

The FDIC, therefore, issues this NOTICE OF CHARGES, NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, AND NOTICE OF HEARING (“NOTICE OF ASSESSMENT”), pursuant to 12 U.S.C. §§ 1818(b)(1) and 1818(i)(2), and the FDIC Rules of Practice and Procedure (“FDIC Rules”), 12 C.F.R. Part 308. In support thereof, the FDIC finds and concludes as follows:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Definitions and Jurisdiction

1. At all times pertinent to this proceeding, the Bank was a corporation existing and doing business under the laws of the State of Illinois, having its principal place of business in Moline, Illinois.

2. At all times pertinent to this proceeding, the Bank was an insured State nonmember bank subject to the Act, 12 U.S.C. §§ 1811-1831aa, the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III, and the laws of the State of Illinois.

3. Respondent was, at all times pertinent to this proceeding, an executive vice president, the chief lending officer, and a director of the Bank and, accordingly, an "institution-affiliated party" of the Bank, as that term is defined in 12 U.S.C. § 1813(u), and for purposes of 12 U.S.C. §§ 1818(b)(1) and 1818(i).

4. At all times pertinent to these proceedings, the FDIC was the "appropriate federal banking agency," as that term is defined in 12 U.S.C. § 1813(q), and has jurisdiction over the Bank, the Respondent, and the subject matter of this proceeding.

### Respondent's Misconduct

5. In his role as executive vice president and the Bank's chief lending officer, Respondent's responsibilities included overseeing the Bank's appraisal program and assessing the adequacy of the Bank's ALLL.

6. Despite management being criticized at previous examinations for the Bank's poor appraisal program and deficiencies in calculating its Allowance for Loan and Lease Losses (ALLL), and despite the Bank being cited for numerous appraisal violations over the course of several years, Respondent repeatedly failed to correct such deficiencies.

7. Respondent was aware of the efforts by the Bank's former chief executive officer (CEO) to hide losses by not utilizing new or updated appraisals where the values identified in such appraisals demonstrated that the Bank's collateral was impaired.

8. Respondent and the Bank's former CEO instructed employees not to place appraisals in files when the values would require the Bank to recognize loan losses or impairment.

9. In June 2009, the Bank obtained two appraisals which valued certain ORE properties held by the Bank at \$675,000 and \$376,000, respectively. At the time, the Bank's book balance for the properties was \$1,190,360 and \$767,158, respectively. In order to avoid recognizing the loss, Respondent and the former CEO directed the Bank employee who had oversight responsibilities for the two properties not to rely on the two new appraisals and not to place the appraisals in the Bank's credit files.

10. Respondent and the former CEO instructed that the two appraisals not be placed in the Bank's credit files for the purpose of concealing the true value of the Bank's ORE properties from the FDIC and from state bank examiners.

11. Respondent was aware that the former CEO's policy and practice of instructing loan officers to get rid of appraisals if the Bank were to take a loss had been occurring for several years and continued at least from 2009 through early 2013.

12. As the officer responsible for calculating the Bank's ALLL, Respondent knew or should have known that the Bank's ALLL was underfunded based on the Bank's practice of not correctly recognizing collateral impairment and failing to use appraisals that indicated the Bank would have had to recognize loan losses.

13. Respondent also knew that the Bank's failure to identify impaired loans or to recognize losses resulted in inaccurate reports being submitted to the board of directors and in the filing of inaccurate Reports of Condition and Income ("Call Reports").

Grounds for Order to Cease and Desist  
And Assessment of Civil Money Penalties

14. By reason of Respondent's foregoing acts, omissions, and practices, Respondent knowingly or recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank.

15. As a result of the foregoing acts, omissions, and practices, Respondent breached his fiduciary duty to the Bank.

16. Respondent's unsafe and unsound practices and breaches of fiduciary duty were part of a pattern or practice of misconduct.

ORDER TO PAY

By reason of Respondent's knowing or reckless engagement in unsafe and unsound practices and his breaches of fiduciary duty, set forth in the NOTICE OF ASSESSMENT, the FDIC has concluded that a civil money penalty should be assessed against Respondent pursuant to section 8(i)(2)(B) of the Act, 12 U.S.C. § 1818(i)(2)(B). After taking into account the appropriateness of the penalty with respect to the size of Respondent's financial resources; the gravity of Respondent's breaches of fiduciary duty; Respondent's history of previous breaches of fiduciary duty, if any; and such other matters as justice may require, it is ORDERED that a penalty of \$10,000 be, and hereby is, assessed against James R. Bunn.

IT IS FURTHER ORDERED that the effective date of this ORDER TO PAY be, and hereby is, stayed until 20 days after the date of service of this NOTICE OF ASSESSMENT, during which time Respondent may file an answer and request a hearing pursuant to 12 U.S.C. §

1818(i)(2)(H) and 12 C.F.R. § 308.19. **If Respondent fails to file a request for a hearing within 20 days of service of this NOTICE OF ASSESSMENT, the penalty assessed against Respondent pursuant to this ORDER TO PAY will be final and unappealable and shall be paid within 60 days after the date of service of this NOTICE OF ASSESSMENT.**

OPPORTUNITY FOR HEARING

Notice is hereby given that a hearing will be held in Rock Island, Illinois, within 60 days from the date of service of this NOTICE on the Bank, or on such date as may be set by the Administrative Law Judge appointed to hear this matter, for the purpose of taking evidence on the above-mentioned charges in order to determine whether an Order should be issued under the Act requiring Respondent to:

- (a) cease and desist from the unsafe or unsound banking practices herein specified;
- (b) take affirmative action to correct the conditions resulting from such practices;

and

- (c) refrain from certain banking activities, including restrictions on involvement with an institution's appraisal and Call Report functions.

If Respondent requests a hearing with respect to the NOTICE OF ASSESSMENT, evidence shall also be taken on the charges specified therein at the same time and place for the purpose of determining whether Respondent shall be ordered to pay a civil money penalty in accordance with 12 U.S.C. § 1818(i)(2).

The hearing is to be held before an Administrative Law Judge to be appointed by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The hearing will be open to the public, unless the FDIC shall determine that an open hearing would be contrary to the

public interest, and in all respects will be conducted in compliance with the provisions of the Act and the FDIC Rules of Practice and Procedures, 12 C.F.R. Part 308.

Respondent Bank is directed to file an answer to this NOTICE with the Office of Financial Institution Adjudication ("OFIA"), 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, VA 22226-3500; the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Room F-1058, Washington, D.C. 20429; A. T. Dill, Assistant General Counsel, Enforcement Section, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429; and Timothy E. Divis, Regional Counsel, Federal Deposit Insurance Corporation, Chicago Regional Office, 300 South Riverside Plaza, Suite 1700, Chicago, Illinois 60606, within 20 days from the date of service of this NOTICE, in accordance with 12 C.F.R. § 308.19. Pursuant to 12 C.F.R. 308.10(b)(4), all documents required to be filed, excluding documents produced in response to a discovery request, pursuant to 308.25 and 308.26, shall be filed electronically with the OFIA. Respondent is hereby directed to file any answer electronically with OFIA at [ofia@fdic.gov](mailto:ofia@fdic.gov). Failure to answer within the 20 day time period shall constitute a waiver of the right to appear and contest the allegations contained in this NOTICE and shall, upon the FDIC's motion, cause the Administrative Law Judge or the FDIC to find the facts in this NOTICE to be as alleged and to issue an appropriate ORDER.

WHEREFORE, the FDIC prays that an order be issued against Respondent in substantially the form attached hereto as Attachment A requiring the Bank to cease and desist from the unsafe or unsound banking practices described above, to take affirmative action to avoid the recurrence of such unsafe and unsound practices in the future, and to refrain from certain banking activities, including restrictions on involvement with an institution's appraisal and Call Report functions.

Pursuant to delegated authority.

Dated at Washington, D.C., this 20<sup>th</sup> day of July, 2015.

/s/  
\_\_\_\_\_  
Christopher J. Newbury  
Associate Director  
Division of Risk Management  
Supervision

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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JAMES R. BUNN, individually and as an )  
institution-affiliated party of )  
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VALLEY BANK )  
MOLINE, ILLINOIS )  
)

(INSURED STATE NONMEMBER BANK) )  
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ORDER TO CEASE AND DESIST

FDIC-15-0072b

James R. Bunn ("Respondent"), having been advised of his right to a NOTICE OF CHARGES AND OF HEARING detailing the unsafe or unsound banking practices alleged to have been committed by him and of his right to a hearing on the charges under 12 U.S.C. § 1818(b), the FDIC having filed a Notice of Charges on \_\_\_\_\_, 2015, and an evidentiary administrative hearing having occurred on \_\_\_\_\_, the Board of the FDIC, having considered the entire record of these proceedings and the Report and Recommendation of the Administrative Law Judge ("ALJ") and the Board having adopted the Report and Recommendation of the ALJ, IT IS HEREBY ORDERED THAT Respondent shall cease and desist from engaging in unsafe and unsound practices and shall take affirmative action, as follows:

1. Whenever Respondent is employed by, or is offered employment at, any institution or agency specified in 12 U.S.C. § 1818(e)(7)(A) (hereinafter "insured depository institution"), or otherwise becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

- a. Not commit or participate in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;
- b. Comply fully with all laws, regulations, and policies applicable to any insured depository institution with which he is or may become affiliated;
- c. Familiarize himself with, and adhere to, the written policies and procedures of any insured depository institution with which he is or may become affiliated.

In the event that the Respondent is affiliated with an insured depository institution with written policies and procedures that are more stringent than the provisions of this ORDER, the Respondent shall adhere to the written policies and procedures of such insured depository institution.

2. In the event Respondent's duties as an employee of an insured depository institution involve calculating the institutions ALLL, Respondent shall:

- a. Ensure the calculation is based upon accurate information and such calculations must be reviewed by at least one executive officer of the insured depository institution.
- b. Familiarize himself with, and adhere to, FDIC's Policy Statement on Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions, and the Interagency Policy Statement on the Allowance for Loan and Lease Losses;

3. In the event Respondent's duties as an employee of an insured depository institution

involve the preparation of any aspect of the institution's Reports of Condition and Income "Call Reports," Respondent shall ensure the information used to file the Reports is accurate.

4. In the event Respondent's duties as an employee of an insured depository institution involve the administration of the institution's appraisal program or the review or processing of appraisals, Respondent shall:

- a. Refrain from hiding appraisals or instructing others to hide appraisals, particularly from regulators, auditors, management or the bank's Board of Directors.
- b. Complete appraisal training through The Appraisal Foundation's Equivalent Uniform Standards of Professional Appraisal Practice Distance Education Program or a comparable program prior to employment by an insured depository institution;
- c. Familiarize himself with, and adhere to, Part 323 of the FDIC Rules and Regulations, and the Interagency Appraisal and Evaluation Guidelines;

5. Respondent shall, within ten (10) days of the effective date of this ORDER, provide a copy of this ORDER to the Chairman of the Board of Directors of any insured depository institution of which the Respondent is an institution-affiliated party.

6. Prior to accepting any position that would cause Respondent to become an institution-affiliated party, Respondent shall provide a copy of this ORDER to: (i) the Chairman of the Board of Directors of the insured depository institution; and (ii) a senior executive manager of the insured depository institution who has hiring authority in regard to Respondent's employment or who is expected to have supervisory authority over Respondent.

7. Within ten (10) days of satisfying the requirements of paragraphs 5 and 6, Respondent shall provide a written certification of his compliance to the Regional Director, FDIC,

Chicago Regional Office, 300 S. Riverside Plaza, Suite 1700, Chicago, Illinois 60606.

This Order shall be effective upon its issuance. The provisions of this ORDER shall remain effective and enforceable for a period of five (5) years from the effective date of this ORDER, except to the extent that, and until such time as, any provision has been modified, terminated, suspended or set aside by the FDIC.

IT IS FURTHER ORDERED that copies of this Order to Cease and Desist shall be served on FDIC Enforcement Counsel, the ALJ, and the Director, Division of Banking, Illinois Department of Financial and Professional Regulation.

By direction of the FDIC Board of Directors.

Dated at Washington, D.C. this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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Valerie J. Best  
Assistant Executive Secretary