

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

	)	NOTICE OF ASSESSMENT OF
In the Matter of	)	CIVIL MONEY PENALTY
	)	FINDINGS OF FACT AND
PARK BANK,	)	CONCLUSIONS OF LAW,
HOLMEN, WISCONSIN	)	ORDER TO PAY, AND
	)	NOTICE OF HEARING
(INSURED STATE NONMEMBER	)	
BANK)	)	FDIC-18-0089k
	)	

**NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY**

The Federal Deposit Insurance Corporation ("FDIC") is of the opinion that Park Bank, Holmen, Wisconsin ("Respondent") has engaged in a pattern or practice of committing violations of Part 339 of the FDIC's Rules and Regulations, 12 C.F.R. Part 339, which implements the requirements of the National Flood Insurance Act of 1968 ("NFIA") and the Flood Disaster Protection Act of 1973 ("FDPA"), as amended, 42 U.S.C. §§ 4001-4129.

Wherefore, the FDIC hereby issues this 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 the provisions of 42 U.S.C. § 4012a(f)(1), and section 8(i) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(i), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308, for violations of the FDPA. In support thereof, the FDIC finds and concludes as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. The Respondent is a corporation existing and doing business under the laws of the State of Wisconsin, having its principal place of business in Holmen, Wisconsin. Respondent is

and was, at all times pertinent to this proceeding, an insured State nonmember bank subject to the Act, 12 U.S.C. §§ 1811-1831aa.

2. At all times pertinent to this proceeding Respondent is and was an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

3. At all times pertinent to this proceeding Respondent is and was a "regulated lending institution" as that term is defined in section 3(a)(10) of the FDPA, 42 U.S.C. § 4003(a)(10).

4. At all times pertinent to this proceeding the FDIC is and was the "appropriate Federal banking agency" to maintain this enforcement action pursuant to section 3(q)(2) of the Act, 12 U.S.C. § 1813(q)(2).

5. At all times pertinent to this proceeding the FDIC is and was the appropriate "Federal entity for lending regulation" for the purposes of enforcing section 102 of the FDPA, 42 U.S.C. § 4012a, against state nonmember banks.

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

7. On or about July 21, 2014, Respondent made a loan to KM and DM in the amount of \$80,000 ("KDM Loan").

8. KDM Loan was and is secured by a building that is on land in the flood plain within a community having at least a one percent chance of flooding in any given year, as designated by the Director of the Federal Emergency Management Agency ("FEMA") for which flood insurance is available under the National Flood Insurance Act of 1968 ("NFIA"), 42 U.S.C. §§ 4001-4029 (hereafter, "Designated Loan").

9. On or about November 16, 2015, Respondent was provided notice the KDM Loan

was not sufficiently insured and force-placed the necessary insurance without providing the borrower with notice of the lapse, in violation of 12 C.F.R. § 339.7.

10. On or about August 1, 2012, Respondent made a loan to NG&S in the amount of \$312,700 (“NG&S Loan”).

11. NG&S Loan was and is a Designated Loan.

12. Respondent became aware of the discontinuance of flood insurance for NG&S Loan on or about January 23, 2017, but failed to provide the borrower with notice of the lapse until on or about February 21, 2017, and failed to force place the necessary insurance until on or about April 7, 2017, in violation of the force placement requirements of 12 C.F.R. § 339.7.

13. On or about January 10, 2018, Respondent made a loan to SR in the amount of \$236,798.31 (“SR Loan”).

14. SR Loan was and is a Designated Loan.

15. Respondent failed to maintain an escrow account for the SR Loan in violation of 12 C.F.R. § 339.5(a)(1).

16. On or about January 29, 2016, Respondent made a loan to BGE in the amount of \$275,000 (“BGE Loan”).

17. BGE Loan was and is a Designated Loan.

18. Respondent failed to maintain an adequate amount of flood insurance during the term of the BGE Loan in violation of 12 C.F.R. § 339.3(a).

19. On or about October 31, 2017, Respondent made a loan to LT in the amount of \$85,000 (“LT Loan”).

20. LT Loan was and is a Designated Loan.

21. Respondent failed to obtain an adequate amount of flood insurance at origination

of the LT Loan in violation of 12 C.F.R. § 339.3(a).

22. On or about November 17, 2017, Respondent was provided notice the LT Loan was not sufficiently insured, but failed to provide the borrower notice of the insufficiency until February 6, 2018, in violation of 12 C.F.R. § 339.7.

23. On or about April 28, 2016, Respondent made a loan to AKJ in the amount of \$262,000 (“AKJ Loan One”).

24. AKJ Loan One was and is a Designated Loan.

25. Respondent failed to provide written notice to AKJ stating whether or not flood insurance was available under the NFIA for the collateral securing the AKJ Loan One in violation of 12 C.F.R. § 339.9(a).

26. Respondent failed to obtain flood insurance on AKJ Loan One at the time of origination in violation of section 339.3(a) of the FDIC’s Rules and Regulations, 12 C.F.R. § 339.3(a).

27. On or about October 20, 2016, Respondent was provided notice AKJ Loan One required insurance, but failed to failed to force place the necessary insurance until on or about December 30, 2016, in violation of 12 C.F.R. § 339.7.

28. On or about January 31, 2017, Respondent made a loan to AKJ in the amount of \$322,000 (“AKJ Loan Two”).

29. AKJ Loan Two was and is a Designated Loan.

30. Respondent failed to provide written notice to AKJ stating whether flood insurance was available under the NFIA for the collateral securing the AKJ Loan Two in violation of section 339.9(a) of the FDIC’s Rules and Regulations, 12 C.F.R. § 339.9(a).

31. The violations of Part 339 of the FDIC’s Rules and Regulations set forth above

constitute a pattern or practice of committing violations by Respondent pursuant to section 102 of the FDPA, 42 U.S.C. § 4012a(f)(2)(A)(1).

32. By virtue of the facts stated above in Paragraphs 1 through 31 inclusive, the FDIC concludes that Respondent has engaged in a pattern or practice of violating 12 C.F.R. §§ 339.3(a), 339.5(a)(1), 339.7, and 339.9(a), and a civil money penalty should be assessed against the Respondent pursuant to section 102 of the FDPA, 42 U.S.C. § 4012a, and 12 U.S.C. § 1818(i).

### **ORDER TO PAY**

By reason of the violations set forth in the NOTICE OF ASSESSMENT, the FDIC has concluded that a civil money penalty should be assessed against the Respondent pursuant to 42 U.S.C. § 4012a and 12 U.S.C. § 1818(i). After taking into account the appropriateness of the penalties with respect to the size of financial resources and the good faith of the Respondent, 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 the violations set forth in Paragraphs 1 through 32 hereof, a penalty of \$7,850 be, and hereby is, assessed against Respondent pursuant to section 102 of the FDPA, 42 U.S.C. § 4012, and section 8(i) of the Act, 12 U.S.C. § 1818(i).

**FURTHER ORDERED**, that the effective date of the ORDER TO PAY is stayed until twenty (20) calendar days after the date of service of the NOTICE OF ASSESSMENT and ORDER TO PAY.

### **ACTION REQUIRED BY THE RESPONDENT TO CONTEST THE NOTICE OF ASSESSMENT AND ORDER TO PAY**

Under 12 U.S.C. § 1818(i)(2)(H) and 12 C.F.R. § 308.19, if a Respondent wants to contest the NOTICE OF ASSESSMENT and ORDER TO PAY, within twenty (20) calendar

days of service of this NOTICE OF ASSESSMENT and ORDER TO PAY, that Respondent must file **both**:

- (1) a Request for Hearing on the NOTICE OF ASSESSMENT; **and**
- (2) an Answer to the allegations in the NOTICE OF ASSESSMENT.

**Filing an Answer to the allegations in the NOTICE OF ASSESSMENT, without filing a clear and unambiguous Request for a Hearing on the NOTICE OF ASSESSMENT, WILL NOT preserve such Respondent's right to contest the NOTICE OF ASSESSMENT and ORDER TO PAY.**

**If a Respondent fails to file a Request for Hearing on the NOTICE OF ASSESSMENT within twenty (20) calendar days of service, the penalty assessed against that Respondent pursuant to the ORDER TO PAY 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 shall be paid within sixty (60) calendar days of the date of service of the NOTICE OF ASSESSMENT.**

#### **PLACE AND MANNER OF FILING**

All documents filed in these proceedings must be filed with the Office of Financial Institution Adjudication (OFIA), ofia@fdic.gov, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, VA 22226-3500, in the manner specified under 12 C.F.R. § 308.10. Also, copies of all documents filed in these proceedings shall be served upon: the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW, Room F-1058, Washington, DC 20429; Michael Briggs, Acting Assistant General Counsel, and Marguerite Sagatelian, Senior Counsel, Consumer Section, Legal Division, Federal Deposit Insurance Corporation, 550 17<sup>th</sup> Street NW, Washington, DC 20429; and Timothy Divis, Regional Counsel, Federal Deposit Insurance Corporation, 300 S. Riverside Plaza, Suite 1700, Chicago, IL 60606.

### **OPPORTUNITY FOR HEARING**

Any hearing requested will be held before an Administrative Law Judge assigned by OFIA under 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 12 U.S.C. §§ 1811-1831aa and 12 C.F.R. Part 308. The hearing will be held in Madison, Wisconsin within sixty (60) calendar days from the date of service of this NOTICE OF ASSESSMENT, or at such time, date or place designated by the Administrative Law Judge appointed to hear this matter.

If Respondent timely files (1) a Request for Hearing on the NOTICE OF ASSESSMENT and (2) an Answer to the allegations in the NOTICE OF ASSESSMENT, evidence on the allegations shall also be taken at the hearing to determine whether the ORDER TO PAY assessed against Respondent should be sustained.

Pursuant to delegated authority.

Dated at Chicago, Illinois, this 19<sup>th</sup> day of December, 20 18.

/s/  
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Teresa M. Sabanty  
Deputy Regional Director