

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

	)	
In the Matter of	)	
	)	CONSENT ORDER
WAYNE HOFFNER, individually, and as an	)	AND
institution-affiliated party of	)	ORDER TO PAY
	)	
THE UNION BANK	)	FDIC-18-0105b
BEULAH, NORTH DAKOTA	)	FDIC-17-0243k
	)	
(Insured State Nonmember Bank)	)	
	)	
RESPONDENT'S NMLS # 518245	)	
	)	

Wayne Hoffner ("Respondent") and a representative of the Legal Division of the Federal Deposit Insurance Corporation ("FDIC") executed a STIPULATION AND CONSENT TO THE ISSUANCE OF A CONSENT ORDER AND ORDER TO PAY ("CONSENT AGREEMENT") dated August 22, 2018, whereby, solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound practices or breaches of fiduciary duty, Respondent consented to the issuance of this CONSENT ORDER AND ORDER TO PAY issued pursuant to 12 U.S.C. §§ 1818(b) and 1818(i).

The FDIC has determined, and Respondent neither admits nor denies, that:

1. Respondent has engaged or participated in unsafe or unsound practices and breaches of fiduciary duty as an institution-affiliated party of The Union Bank, Beulah, North Dakota ("Bank").
2. Further, the FDIC has determined that, as the President and a loan officer of the Bank, Respondent: a) failed to disclose information regarding the purpose of certain loans to the Bank's Board of Directors and to regulators during the September 2016 examination after

becoming aware that certain loan proceeds were not used for their intended purposes; and b) in May of 2015, released collateral for a loan without receiving the proceeds of that collateral, which caused the loan to be undersecured.

The FDIC, having determined that the requirements for issuance of an order under 12 U.S.C. §§ 1818(b) and 1818(i) have been satisfied, accepts the CONSENT AGREEMENT and issues the following:

CONSENT ORDER

Respondent is hereby ORDERED TO CEASE AND DESIST from and take affirmative action, as follows:

1. In Respondent's capacity as an institution-affiliated party of the Bank or whenever Respondent is employed by any other insured depository institution or agency specified in 12 U.S.C. § 1818(e)(7)(A) or otherwise becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall:

a. Ensure that loan collateral is based upon accurate information, such as an appraisal, and reviewed by at least one other executive officer of the institution.

b. Fully disclose information about loan collateral to regulators, auditors, management, and the institution's Board of Directors.

c. Within one year of issuance of this CONSENT ORDER AND ORDER TO PAY, complete ethics training through an outside third-party provider that is deemed acceptable by the Regional Director of the FDIC's Kansas City Regional Office.

d. Familiarize himself with, and adhere to, Part 364 of the FDIC Rules and Regulations.

e. Not commit or participate in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code.

f. Become familiar with, and adhere to, the written policies and procedures of the institution with which Respondent is affiliated. In the event that Respondent is affiliated with an institution with written policies and procedures that are more stringent than the provisions of this CONSENT ORDER AND ORDER TO PAY, Respondent shall adhere to the written policies and procedures of that institution.

2. Respondent shall, within ten (10) calendar days of the effective date of this CONSENT ORDER AND ORDER TO PAY, provide a copy of this CONSENT ORDER AND ORDER TO PAY to the Bank's Chairman of the Board of Directors.

3. Before accepting any position that would cause Respondent to become an institution-affiliated party of another insured depository institution, Respondent shall provide a copy of this CONSENT ORDER AND ORDER TO PAY to: (i) the Chairman of the Board of Directors of the institution; or (ii) a senior executive manager of the institution, provided that the official has been approved in writing by the Regional Director of the FDIC's Kansas City Regional Office for this purpose.

4. Within ten (10) calendar days of satisfying the requirements of paragraphs 2 or 3, Respondent shall provide a written certification of his compliance to the Regional Director of the FDIC's Kansas City Regional Office, 1100 Walnut St., Suite 2100, Kansas City, Missouri 64106-2109.

In addition, after taking into account the appropriateness of the penalty with respect to the financial resources and good faith of Respondent, the gravity of the violation by Respondent, the

history of previous violations by Respondent, and such other matters as justice may require, the FDIC issues the following:

ORDER TO PAY

IT IS HEREBY ORDERED, that by reason of the breaches of fiduciary duty set forth above, a penalty of \$15,000 is assessed against Wayne Hoffner. Respondent shall pay the civil money penalty to the Treasury of the United States.

IT IS FURTHER ORDERED, that Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

This Order to Pay shall be effective upon issuance.

If Respondent believes that the provisions of this CONSENT ORDER AND ORDER TO PAY have been fulfilled, Respondent may request that this CONSENT ORDER AND ORDER TO PAY be terminated by submitting a letter with supporting documentary evidence to the Regional Director of the FDIC's Kansas City Regional Office. The FDIC will consider the submission and may request additional information or documentation as it, in its sole discretion, may deem necessary in order to review the submission. The decision to deny the request and retain this CONSENT ORDER AND ORDER TO PAY as is, modify it, or terminate it is at the FDIC's sole discretion.

Nothing herein shall preclude any proceedings brought by the FDIC to enforce the terms of this CONSENT ORDER AND ORDER TO PAY issued pursuant to the CONSENT AGREEMENT, and nothing herein constitutes a waiver of any right, power, or authority of the FDIC (except as stated in the CONSENT AGREEMENT) or any other Federal or state agency or

department from taking any other action against Respondent, the Bank, or any of the Bank's current or former institution-affiliated parties, as that term is defined in 12 U.S.C. §1813(u).

This CONSENT ORDER AND ORDER TO PAY shall be effective immediately. The provisions of this CONSENT ORDER AND ORDER TO PAY shall remain effective and enforceable for a period of five (5) years except to the extent that any provision is modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated this 17th day of January, 2019.

/s/

Patricia A. Colohan
Associate Director
Division of Risk Management Supervision