FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.

In the Matter of	)	DECISION AND ORDER TO PROHIBIT FROM FURTHER PARTICIPATION AND ASSESSMENT OF CIVIL MONEY PENALTY
DIANA YATES, Individually and as a former Institution-Affiliated Party of	)	
THE BANK OF OSWEGO LAKE OSWEGO, OREGON (Insured State Nonmember Bank)	)	FDIC-14-0213e FDIC-14-0217k

I. INTRODUCTION

This matter is before the Board of Directors ("Board") of the Federal Deposit Insurance Corporation ("FDIC") following the issuance on January 30, 2019, of a Recommended Decision Upon Respondent's Default ("Recommended Decision" or "R.D.") by Administrative Law Judge Christopher B. McNeil ("ALJ"). The Recommended Decision includes a proposed order that would permanently bar Diana Yates ("Respondent") from the banking industry pursuant to section 8(e) of the Federal Deposit Insurance Act ("FDI Act"), 12 U.S.C. § 1818(e), unless the FDIC consents to her further participation. The ALJ also determined that a civil money penalty ("CMP") of $175,000 pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i), is appropriate. R.D. 2.

The charges are set forth in the FDIC's Notice of Intention to Prohibit 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"), which was issued on June 8, 2015. Before Respondent filed an Answer to the Notice, the case was stayed pending parallel criminal proceedings. On November 6, 2018, the ALJ issued an Order lifting the stay ("Order Vacating

Stays"), which required Respondent to file an Answer to the Notice by November 27, 2018. When Respondent failed to comply, the ALJ issued an Order to Show Cause Upon Default. Respondent filed a Response and Opposition to the Order to Show Cause Upon Default on January 10, 2019, attaching an Answer to the Notice. Finding that Respondent failed to demonstrate good cause for her untimely Answer, the ALJ issued an Order Upon Respondent's Default on January 29, 2019, followed by the Recommended Decision on January 30. For the reasons discussed below, the Board adopts the Recommended Decision and issues against Respondent an Order of Prohibition and Order to Pay a CMP in the amount of $175,000.

II. BACKGROUND

On June 8, 2015, the FDIC issued the Notice against Respondent pursuant to sections 8(e) and 8(i) of the FDI Act.[1] Respondent, an institution-affiliated party ("IAP") pursuant to section 3(u) of the FDI Act,[2] was an employee of The Bank of Oswego ("Bank"), Lake Oswego, Oregon during the period charged in the Notice, serving as the Chief Financial Officer ("CFO"). Notice ¶ 4.

The Notice alleged that from July 2010 through her resignation in March 2012, Respondent:

1) approved the use of $675,000 in Bank funds to imprudently pay for a customer's wire transfer and then facilitated a $1.7 million loan to cover the transfer;
2) aided and abetted an improper straw buyer transaction involving a buyer's purchase of property held in the Bank's Other Real Estate Owned ("OREO") account;
3) failed to protect the Bank's collateral position and failed to disclose material changes in loan terms to Bank Management; and

[1] 12 U.S.C. § 1818(e), (i).
[2] *Id.* § 1813(u).

4) mishandled the sale of OREO Property.

Id. ¶¶ 9-20, 21-52, 53-79, 80-121. To conceal all of this misconduct, the Notice alleges that Respondent made misrepresentations to FDIC examiners, manipulated bank records, and caused the Bank to file false call reports. *Id.* Respondent resigned in March 2012. *Id.* ¶ 4. After her departure, the Bank retained the services of independent auditors and attorneys to investigate the alleged misconduct. *Id.* ¶ 122. The Bank paid $272,870 in costs related to this investigation. *Id.* ¶¶ 123-124.

The Notice was served on Respondent and her attorneys on or about June 10, 2015. On June 24, 2015, Respondent was indicted in the United States District Court for the District of Oregon on charges of conspiring to commit bank fraud and making false bank entries, reports, and transactions. *See* Indictment, *United States v. Yates*, No. 3:15-cr-00238-SI (D. Or. June 24, 2015), ECF No. 1 ("*Yates* (D. Or.)").

On June 26, 2015, Respondent requested an extension of time to answer the Notice. The ALJ granted Respondent's extension request, but noted that "[t]his extension applies only to Respondent's Answer to the Notice of Charges. It does not extend the time for filing a request for hearing." Order Granting Respondent's Motion for Extension of Time to File An Answer 1. On July 27, 2015, the date the Answer was due, Respondent moved to stay the proceeding in light of her indictment and arrest. On August 12, 2015, the ALJ granted the stay with respect to the prohibition proceeding, but denied a stay as to the CMP assessment because Respondent had not made a timely request for a hearing. Respondent sought interlocutory review of the August 12 Order from the FDIC Board, which was granted on March 17, 2016. Pursuant to delegated authority, the Executive Secretary reversed the ALJ and found that Respondent timely requested a hearing when making her June 26 request for an extension of time to answer the Notice, but

cautioned Respondent and her counsel that they "are expected to timely read and comply with all orders issued in these proceedings and that their failure to do so could result in adverse consequences." Decision and Order on Interlocutory Review 8. The ALJ accordingly issued a revised stay order on March 17, 2016 to include both the prohibition and CMP proceedings.

In November 2017, Respondent was found guilty on thirteen of the nineteen counts charged. *Yates* (D. Or.), ECF No. 1010 (Nov. 29, 2017). The following summer, Respondent was sentenced to eighteen months' imprisonment. *Id.*, ECF No. 1068 at 21 (June 14, 2018). Respondent has appealed the judgment against her, and that appeal is still pending. *See United States v. Yates*, No. 18-30183 (9th Cir. filed Aug. 21, 2018).

While the stay remained in place, this matter was reassigned to ALJ Christopher B. McNeil pursuant to a July 2018 Resolution of the FDIC Board of Directors. On October 9, 2018, ALJ McNeil issued an Order to Show Cause Regarding Stayed Proceedings, directing the parties to show cause for a continuation of the stay. Both parties responded. On November 6, 2018, the ALJ issued an Order lifting the stay ("Order Vacating Stays"), noting that Respondent's Answer would be considered timely if filed by November 27, 2018.[3] Respondent failed to file an Answer by that date. Order Upon Respondent's Default ("Default Order" or "D.O.") 1.

On December 10, 2018, the ALJ issued an Order to Show Cause Upon Default ("Order to Show Cause"), directing the parties to respond by January 10, 2019, and show cause why the enforcement action should not proceed with a finding that the Respondent had defaulted. Order to Show Cause 1.

Respondent first filed a Motion seeking Reconsideration of the Order Vacating Stays on December 21, 2018, and when that Motion was denied, filed a Response and Opposition to the

[3] Reassignment Review, Decisions Upon Reconsideration, and Order Vacating Stays ("Order Vacating Stays") 10, Nov. 6, 2018.

Order to Show Cause on January 10, 2019, attaching an Answer. Also on January 10, 2019, the FDIC filed a request that a default entry be issued pursuant to 12 C.F.R. § 308.19(c)(1). D.O. 1. The ALJ issued the Default Order on January 29, 2019, finding that Respondent had failed to demonstrate good cause for her failure to file a timely Answer. *Id.* at 9-10, 11.

III. DISCUSSION

After a careful review of the record, including the arguments presented below and Respondent's Exceptions, the Board concurs in and adopts the ALJ's recommendation to enter a prohibition order and CMP of $175,000 against Respondent on default.

Good Cause

The FDIC's Rules provide that the failure to file a timely answer constitutes a waiver of a Respondent's right to appear and contest the allegations in the notice and provides grounds for entry of an order of default, absent a showing of good cause. 12 C.F.R. § 308.19(c); *see, e.g.*, *In the Matter of Lance E. Bauer*, No. FDIC-11-21e, 2012 WL 7152170, at *3 (Oct. 9, 2012); *In the Matter of Arlene Shih*, No. FDIC-10-335e, 2011 WL 2574393, at *4 (May 10, 2011); *In the Matter of Leann Bennett*, No. FDIC-02-206e, 2004 WL 2185944, at *3 (Aug. 16, 2004). To determine whether good cause is present, the Board looks to the same factors that generally govern setting aside a default judgment under Federal Rule of Civil Procedure 60(b), including "1) prejudice to the plaintiff, 2) merits of the defendant's asserted defense and 3) the culpability of the defendant's conduct." *See Amberg v. FDIC*, 934 F.2d 681, 686 (5th Cir. 1991) (citation omitted); *Franchise Holding II, LLC v. Huntington Rest. Grp., Inc.*, 375 F.3d 922, 925-26 (9th Cir. 2004). While the FDIC did not argue below that granting Respondent relief from default would prejudice the FDIC's interests, the Board finds that the other factors support denying such relief.

With respect to culpability, Respondent argues that her failure to file a timely Answer should be excused because her failure to file was not willful and her attorneys did not have actual notice of the Order Vacating Stays in time to file a timely Answer. Exceptions 18-19. She argues that her attorneys did not consent to service by solely electronic means and that her attorneys did not see the email containing the Order Vacating Stays until the deadline for answering had passed. Exceptions 15-16.

The Board finds no merit in Respondent's challenge to the method of service. Respondent's attorney, Janet Hoffman, asserted that she had no record or memory of consenting to service from the ALJ exclusively by electronic means. D.O. 5, 7. A June 10, 2015 Order, however, informed the parties that, pursuant to 12 C.F.R. § 308.10(b)(4), electronic filings were required unless a party certified that it was incapable of electronic filing. Notice of Designation and Order Requiring Electronic Filing 1. Neither Respondent nor her attorneys ever made such a certification, and all parties actively engaged in a multi-year practice entirely using electronic communication to and from the Office of Financial Institution Adjudication ("OFIA"). D.O. 5. Respondent's argument that she did not consent to electronic service is not supported by the record.

Respondent's attorneys' excuses for failing to see the email containing the Order Vacating Stays similarly beg credulity. Hoffman asserted that the Order was found in her deleted email folder unopened only after she received the Show Cause Order. *Id.* at 5 n.33. Hoffman further asserted that she relied on her associates to notify her of filings, but because they were not copied on the email containing the Order Vacating Stays, she was unaware of it. D.O. 5, 7.

Respondent also asserted that the other two attorneys copied on the email containing the Order Vacating Stays no longer represented her at that time, and that the attorneys who replaced them did not receive the Order because they had not yet submitted their Notices of Appearance. *Id.* at 5-6. As with Hoffman's deletion of the email containing the Order Vacating Stays, Respondent describes the failure of her attorneys to file their Notices of Appearance promptly as inadvertent. *Id.* at 6.

We agree with the ALJ's conclusion that these errors on the part of Respondent's counsel, even if not willful, do not support a finding of good cause to relieve Respondent from her default. As the ALJ found, Respondent's counsel failed to take "even modest measures to be aware of transmissions from the tribunal," and, when considered in context, appear to indicate that Respondent's primary purpose was to delay the proceedings. *Id.* at 8. The public interest would not be served by excusing such a blatant disregard for deadlines.

In addition, even after December 10, 2018, when Respondent claims she first became aware of the November 27 deadline to file her Answer, she did not act expeditiously to cure her default. Instead, she moved for reconsideration of the Order Vacating Stays, arguing that the ALJ lacked authority to lift the stay. *Id.* at 10. Only when the Motion for Reconsideration was denied did she file an Answer—one month after she discovered that it was already two weeks late.

In her Exceptions, Respondent argues that the circumstances here constitute mere negligent mistakes, rather than willfulness, and that the balance of equities favors her given the severe professional and financial consequences of default. While the Board acknowledges the gravity of the consequences for Respondent, her and her counsel's conduct illustrates a troubling pattern that cannot be condoned. Indeed, on interlocutory review, Respondent was specifically

admonished to "timely read and comply with all orders issued in these proceedings" and was warned that "failure to do so could result in adverse consequences." Decision and Order on Interlocutory Review 8. In this context, Respondent's failure to ensure that all correspondence from the ALJ was read and complied with should not be excused.

The Board also finds that Respondent's claim that she has a meritorious defense does not support granting her relief from default. Respondent's proffered Answer asserts that it is "based solely upon evidence adduced or arguments made on the record, by Yates's counsel at her criminal trial," *see* Answer 1—evidence and arguments that resulted in her conviction. Although the Board acknowledges that Respondent's conviction is currently subject to appeal, the Answer contains no specific facts that would indicate that she has a meritorious defense in this civil enforcement action. "A 'mere general denial without facts to support it' is not enough to justify vacating a default or default judgment." *Franchise Holding II*, 375 F.3d at 926 (quoting *Madsen v. Bumb*, 419 F.2d 4, 6 (9th Cir. 1969)).

Respondent relies on two cases in which Board default judgments were overturned on appeal. The Board finds both to be distinguishable. In both *Amberg v. FDIC*, 934 F.2d 681 (5th Cir. 1991) and *Oberstar v. FDIC*, 987 F.2d 494 (8th Cir. 1993), hearings were timely requested, but the answers were late. *Amberg*, 934 F.2d at 686; *Oberstar*, 987 F.2d at 504. Here, the Board already gave Respondent the benefit of the doubt once before by deeming an implicit request for a hearing sufficient to satisfy the statutory requirement. She was specifically warned, however, to read and comply with all future orders in a timely fashion or be subject to the consequences. Decision and Order on Interlocutory Review 8. Evidence of a prompt effort to comply, which the courts in *Amberg* and *Oberstar* found significant, also is not present here. In those cases, the delay was deemed minimal, and the answers were filed before the FDIC moved for entry of a

default judgment. *See Amberg*, 934 F.2d at 682, 686; *Oberstar*, 987 F.2d at 499. In contrast, here Respondent failed to file any answer for weeks after she learned that it was late. Instead of acting promptly after the Order to Show Cause Upon Default was issued, Respondent chose to challenge the lifting of the stay. This choice, when viewed against the historical background of this proceeding, shows a degree of strategic gamesmanship and disregard for the FDIC's rules that distinguishes this case from *Amberg* and *Oberstar*.

In light of Respondent's culpability and failure to identify sufficient facts to establish a meritorious defense, the Board finds that entry of a default judgment is appropriate.

Prohibition Order

The Board agrees with the ALJ's conclusion that the undisputed facts in the Notice establish the required elements for prohibition under section 8(e) of the FDI Act—misconduct, effects, and culpability. 12 U.S.C. § 1818(e)(1). Specifically, the Notice alleges that Respondent, as an IAP of the Bank, engaged in misconduct by approving the use of $675,000 in Bank funds to imprudently pay for a customer's wire transfer; facilitating a $1.7 million loan to cover the imprudent transfer; aiding and abetting an improper straw buyer transaction involving the buyer's purchase of the property held in the Bank's OREO account; failing to protect the Bank's collateral position and failing to disclose material changes in loan terms to Bank management; and mishandling the sale of OREO property. These acts constituted multiple violations of law and/or regulations, unsafe or unsound banking practices, and breaches of fiduciary duty to the Bank. R.D. 11. This misconduct also caused damage or other loss to the Bank, and the interests of the Bank's depositors have or could have been prejudiced. *Id.* Respondent's conduct involved multiple instances of deliberate deception and personal dishonesty, thus exhibiting a willful and continuing disregard for the Bank's safety and

soundness and establishing culpability. *Id.* at 2, 11. Accordingly, the Board finds that the uncontested allegations in the Notice support entry of a prohibition order against Respondent.

CMP Assessment

CMPs are imposed to "serve as deterrents to violations of laws, rules, regulations and orders of the agencies." *Long v. Bd. of Governors of Fed. Reserve Sys.*, 117 F.3d 1145, 1154 (10th Cir. 1997) (citation omitted). The Notice seeks a CMP of $175,000, and the Board agrees that such a penalty is appropriate.

The Board finds that a second tier CMP is warranted in this case. A second tier CMP may be imposed against a party who (1) commits any violation of law, regulation, or certain orders or written conditions imposed by regulators; (2) recklessly engages in an unsafe or unsound practice in conducting the affairs of the institution; or (3) breaches any fiduciary duty, and whose "violation, practice, or breach . . . is part of a pattern of misconduct;" "causes or is likely to cause more than a minimal loss" to the institution; or "results in pecuniary gain or other benefit" to the party. 12 U.S.C. § 1818(i)(2)(B).

Based on the allegations in the Notice, the Board finds that Respondent engaged in violations of law, reckless unsafe or unsound practices, and breaches of fiduciary duty that constituted a pattern of misconduct and caused more than a minimal loss to the Bank. The circumstances support assessment of a $175,000 CMP.

Respondent's Exceptions

The Board has addressed many of Respondent's exceptions in the relevant sections above, and finds that they lack merit or have no impact on the Board's decision. We also are unpersuaded by Respondent's challenge to the ALJ's decision to lift the stay of proceedings. Any exceptions not addressed here or previously are denied.

Respondent argues that the ALJ inappropriately reexamined the basis for the original stay, and abused his discretion in lifting the stay in light of her pending criminal appeal. Exceptions 24-28. We need not reach the first argument because we find that the ALJ's decision to lift the stay was appropriate.

"The Constitution does not ordinarily require a stay of civil proceedings pending the outcome of criminal proceedings." *Keating v. OTS*, 45 F.3d 322, 324 (9th Cir. 1995) (citations omitted). "In the absence of substantial prejudice to the rights of the parties involved, [simultaneous] parallel [civil and criminal] proceedings are unobjectionable . . . ." *Id.* (alterations in original) (quoting *SEC v. Dresser Indus.*, 628 F.2d 1368, 1374 (D.C. Cir. 1980)). "[A] court may decide in its discretion to stay civil proceedings . . . when the interests of justice seem to require such action." *Dresser*, 628 F.2d at 1375 (citations omitted).

The decision whether to stay civil proceedings pending criminal cases generally involves the consideration of six factors: (1) the extent to which a defendant's Fifth Amendment rights are implicated; (2) the plaintiff's interest in proceeding expeditiously with the litigation and whether a delay causes any potential prejudice to the plaintiff; (3) whether the proceedings impose any burden on the defendant; (4) judicial efficiency; (5) nonparty interests; and (6) the public's interest in the pending civil and criminal litigation. *Keating*, 45 F.3d at 324 (citing *FSLIC v. Molinaro*, 889 F.2d 899, 902-03 (9th Cir. 1989)).

This matter was stayed in August 2015 after a grand jury returned a 19-count federal indictment against the Respondent and others. The stay remained in place for over three years and was only lifted in November 2018 following Respondent's criminal conviction. Respondent has appealed that conviction and the Ninth Circuit has issued an order permitting her to remain

free on bond pending appeal. Thus, the case is no longer in the procedural posture it was when the stay was imposed.

With respect to the first *Keating* factor, the extent to which a defendant's Fifth Amendment rights are implicated, the criminal trial is already over and the defendant has already decided whether to testify. The appeal itself will be confined to the already existing record and can span a number of years (and additional levels of appellate review). For these reasons, it is extraordinarily rare for a civil case to remain stayed while the appeal of a criminal conviction takes place. *See, e.g.*, *Gen. Dynamics Corp. v. Selb Mfg. Co.*, 481 F.2d 1204, 1215 (8th Cir. 1973) (upholding denial of stay of civil proceedings during appeal of criminal conviction when civil case had already been stayed for two years); *SEC v. Braslau*, No. 14-CV-1290-ODW, 2015 WL 9591482, at *2 (C.D. Cal. Dec. 29, 2015) (denying motion to stay while criminal appeal pending; "Where the trial in the parallel criminal proceeding has concluded, and a conviction is challenged on appeal, courts are generally more reluctant to stay parallel civil proceedings."); *Sparkman v. Thompson*, No. 08-01-KKC, 2009 WL 1941907, at *2 (E.D. Ky. July 6, 2009) ("[T]he status of [d]efendant's criminal case weighs strongly against granting a stay [when the d]efendant has already been tried, convicted, and sentenced."); *Doe v. City of San Diego*, No. 12-cv-689-MMA, 2012 WL 6115663, at *2 (S.D. Cal. Dec. 10, 2012) (denying an indefinite stay of civil proceedings during criminal appeal); *CFTC v. Lamarco*, No. 2:17-cv-4087 (ADS), 2018 WL 2103208, at *4 (E.D.N.Y. May 7, 2018) ("[C]ivil cases should not be stayed while a criminal appeal is pending."); *United States v. Davis*, No. 15-24485-CIV, 2016 WL 8809717, at *1 n.1 (S.D. Fla. May 4, 2016) ("In addition, Davis has already been tried, convicted, and sentenced, and courts generally disfavor imposing a stay in parallel proceedings based on a pending criminal appeal."); Milton Pollack, *Parallel Civil and Criminal Proceedings*, 129 F.RD.

201, 204 (1989) ("[T]he appeal process is an uncertain, potentially long-ranging process. Only unusual circumstances would justify an order staying a post-conviction civil proceeding.").

Moreover, "[a] defendant has no absolute right not to be forced to choose between testifying in a civil matter and asserting his Fifth Amendment privilege." *Keating*, 45 F.3d at 326. Here, the only potential scenario that would implicate Respondent's Fifth Amendment rights would be if (a) the Ninth Circuit ordered a retrial; and (b) the Respondent gave incriminating testimony during the civil case that the prosecution attempted to use against her at that retrial. These hypothetical possibilities do not warrant a stay when considered along with the other *Keating* factors. This case was put on hold for over three years following Respondent's indictment and both the Plaintiff and the public have an interest in its resolution without further delay. *Accord Gen. Dynamics*, 481 F.2d at 1215 ("The litigation had already been pending over 2 years. Many employees of the companies involved had departed. With the passage of time the testimony of witnesses would be lost."). Defending this action (if the Respondent had not defaulted) would have imposed no more of a burden than defending any other civil action. The criminal trial is over and Respondent is free on bond, meaning she does not need to coordinate with her counsel from behind bars. *See Jenkins v. Miller*, No. 2:12-cv-184, 2017 WL 1052582, at *4 (D. Vt. Mar. 20, 2017) (denying motion for stay pending appeal; "[C]ourts evaluating a case after a defendant has been convicted have typically given less weight to the burden to a defendant of proceeding with a civil case than they would before the trial."). If, however, this matter remains stayed, and if Respondent's appeal is unsuccessful, she will have to coordinate her defense of this action from behind bars.

Finally, continuing the stay would not promote the interests of judicial efficiency, as suggested by Respondent. While it is certainly possible that the Ninth Circuit's decision could

impact this case, that is by no means a certainty. Briefing has not even commenced in the appeal and the eventual decision could (a) be issued years from now and (b) be decided on any number of grounds that may or may not have a bearing on this action. It was entirely appropriate for the ALJ to lift the stay under these circumstances.

IV. CONCLUSION

For the reasons set forth above, the Board adopts the Recommended Decision, incorporates herein the Findings of Fact and Conclusions of Law set forth in the Notice, and issues the following orders implementing its decision.

ORDER TO PROHIBIT

The Federal Deposit Insurance Corporation ("FDIC") Board of Directors ("Board"), having considered the entire record of this proceeding, finds that Respondent Diana Yates, formerly employed by The Bank of Oswego, Lake of Oswego, Oregon, engaged in violations of law and unsafe and unsound banking practices for which the Bank suffered financial loss. The Board further finds that Respondent's actions involved personal dishonesty and willful and continuing disregard for the Bank's safety and soundness. The Board hereby ORDERS and DECREES that:

1. Diana Yates 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 Federal Deposit Insurance Act ("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. Diana Yates 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. Diana Yates shall not violate any voting agreement previously approved by the appropriate Federal banking agency 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), 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).

4. Diana Yates 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 immediately.

ORDER TO PAY CIVIL MONEY PENALTY

The Board, having considered the entire record in this proceeding, hereby ORDERS and DECREES that:

1. A civil money penalty is assessed against Diana Yates in the amount of $175,000 pursuant to 12 U.S.C. § 1818(i).

2. This ORDER shall be effective and the penalty shall be final and payable thirty (30) days from the date of its issuance.

The provisions of these ORDERS will remain effective and in force except to the extent that, and until such time as, any provision of these ORDERS shall have been modified, terminated, suspended, or set aside by the Federal Deposit Insurance Corporation ("FDIC").

IT IS FURTHER ORDERED that copies of this Decision and Orders shall be served on Counsel for Respondent Diana Yates, FDIC Enforcement Counsel, the Administrative Law Judge, and Administrator of the Oregon Division of Financial Regulation.

By direction of the Board of Directors.

Dated at Washington, D.C. this 16th day of July, 2019.

/s/
Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporaton

(SEAL)

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