FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of JOHN F. KILBY, as an institution-affiliated party of THE BANK OF FINCASTLE FINCASTLE, VIRGINIA (INSURED STATE NONMEMBER BANK) RESPONDENT'S NMLS UI# 665515	)	ORDER TO PAY FDIC-20-0027k

JOHN F. KILBY (Respondent) and a representative of the Legal Division of the Federal Deposit Insurance Corporation (FDIC) executed a Stipulation and Consent to the Issuance of an Order to Pay (CONSENT AGREEMENT) dated February 21, 2020, whereby Respondent, solely for the purpose of this proceeding and without admitting or denying any reckless unsafe or unsound practices or breaches of fiduciary duty for which civil money penalties may be assessed, consented and agreed to pay civil money penalties in the amount specified below to the Treasury of the United States.

The FDIC has determined, and Respondent neither admits nor denies the following: That, as an institution affiliated party of THE BANK OF FINCASTLE, Fincastle, Virginia (Bank), and specifically while employed as President and/or Chief Executive Officer of the Bank, and/or as Chairman of the Bank's Board of Directors, Respondent did, on or about July 10, 2015, misuse an interest reserve account to cure an overdraft for a borrower whose loan was classified as substandard by the FDIC. Also, on or about July 16, 2015, Respondent approved an unsecured nominee loan, the proceeds of which were used to pay off a previous loan and to pay business expenses for the adversely classified borrower described above. Further, beginning approximately September 21, 2015, Respondent directed Bank personnel to repurpose a Bank general ledger account to pay maintenance expenses for the adversely classified borrower in contravention of the Bank's Memorandum of Understanding with the FDIC, which resulted in significant loss to the Bank. Respondent's reckless unsafe or unsound practices and breaches of fiduciary resulted in more than minimal loss to the Bank.

After taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of Respondent, the gravity of the violation by Respondent, and such other matters as justice may require, the FDIC accepts the CONSENT AGREEMENT and issues the following:

ORDER TO PAY

IT IS HEREBY ORDERED, that by reason of the recklessly unsafe or unsound practices and breaches of fiduciary duty set forth above, a penalty of $15,000.00 is assessed against JOHN F. KILBY. 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.

Nothing herein shall preclude any proceedings brought by the FDIC to enforce the terms of the ORDER TO PAY issued pursuant to this CONSENT AGREEMENT, and that 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 Order to Pay shall be effective upon issuance.

Pursuant to delegated authority.

Dated this 13th day of May, 2020.

PATRICIA COLOHAN

Digitally signed by PATRICIA COLOHAN
Date: 2020.05.13 15:06:29 -04'00'

Patricia A. Colohan
Associate Director
Division of Risk Management Supervision