

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of)	NOTICE OF CHARGES
)	AND OF HEARING
)	
BANK OF LOUISIANA)	
NEW ORLEANS, LOUISIANA)	
)	
)	FDIC-20-0086b
(Insured State Nonmember Bank))	
_____)	

The Federal Deposit Insurance Corporation (“FDIC”), has reasonable cause to believe that BANK OF LOUISIANA, NEW ORLEANS, LOUISIANA (“Bank”), has engaged in unsafe or unsound banking practices and violations of law and regulations, and, unless restrained, will continue to engage in such practices and violations in conducting the business of the Bank. The FDIC institutes this proceeding for the purpose of determining whether an appropriate order should be issued against the Bank under the provisions of 12 U.S.C. § 1818(b)(1). The FDIC hereby issues this NOTICE OF CHARGES AND OF HEARING (“NOTICE”) pursuant to the provisions of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. §§ 1811-1831aa, and the FDIC’s Rules of Practice and Procedure, 12 C.F.R. Part 308, and alleges as follows:

JURISDICTION

1. The Bank is a corporation existing and doing business under the laws of the State of Louisiana and has its principal place of business in New Orleans, Louisiana. At all times pertinent to the charges herein, the Bank is and has been a “State nonmember bank” within the

meaning of 12 U.S.C. § 1813(e)(2), an “insured depository institution” within the meaning of 12 U.S.C. 1813(c)(2), and subject to the Act the Rules and Regulations of the FDIC, 12 C.F.R. Part 353 (“FDIC Rules”), and the laws of the State of Louisiana.

2. The FDIC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q)(2), with respect to the Bank, and the FDIC has jurisdiction over the Bank and the subject matter of this proceeding.

3. If, in the opinion of the FDIC, an insured depository institution is engaging or has engaged in an unsafe or unsound practice in conducting the business of such depository institution or is violating or has violated any law, rule, or regulation, the FDIC may issue and serve upon the depository institution a NOTICE for the purposes of determining whether a CEASE AND DESIST ORDER (“ORDER”) should be entered against the insured depository institution pursuant to 12 U.S.C. § 1818(b).

UNSAFE AND UNSOUND PRACTICES

4. The Bank’s risk management examination reflects that the Bank’s financial condition is critically deficient as recorded by the FDIC and the Louisiana Office of Financial Institutions in a joint report of examination based on Bank financial information as of September 30, 2019 (“2019 ROE”).

5. The Bank’s risk management examination reflects that the Bank has been operating in a less than satisfactory manner with respect to its asset quality, management, and earnings, and as such has been engaged in unsafe or unsound practices, pursuant to 18 U.S.C. 1818(b)(8).

MANAGEMENT

6. Bank management is critically deficient as set forth in the 2019 ROE for the following non-exclusive reasons:

- (a) The Bank's overall financial condition remains critically deficient.
- (b) The Bank failed to develop and implement specific and realistic strategies to improve the condition of the Bank.
- (c) Risk management processes are not adequate in relation to credit quality and the excessive level of Other Real Estate ("ORE") owned by the Bank.
- (d) Significant deficiencies relating to the Bank's ORE portfolio continue to negatively impact the Bank's asset quality, earnings, and capital despite repeated criticism of the Bank's ORE management during past examinations.
- (e) The Bank has not implemented measures designed to reduce the Bank's ORE portfolio, such as lowering asking prices and accepting reasonable offers to purchase the Bank's ORE properties.
- (f) As of the most recent examination, only 23 percent of the Bank's ORE was listed for sale with a realtor, down from 45 percent as of the previous examination.
- (g) For a majority of those properties that were listed, the Bank set asking prices that were notably above the appraised values for such properties, which, in combination with the Bank's limited marketing strategy, resulted in the Bank receiving offers on only 10 of the 53 ORE properties in over a year's time.
- (h) The Bank has violated 12 C.F.R. § 362.3(b)(1) by holding ORE properties in a Bank subsidiary limited liability company beyond the 10-year divestiture

period without approval from the FDIC.

- (i) The Bank has failed to implement its own Strategic Plan, which identifies strategies to reduce ORE levels and associated carrying costs.
- (j) From February 2016 through March 2020, the Bank operated with only four directors and is in violation of LSA-RS 6:281(A)(1), which requires Louisiana State banks to be managed by no less than five directors. Since April 2020, the Bank has operated with only three directors, and thus remains in violation of LSA-RS 6:281(A)(1).
- (k) Credit administration is not adequate in relation to the Bank's risk profile. The Bank has failed to properly identify nonaccrual loans, including numerous loans that have been past due for a year or more. The Bank's loan policy does not outline governance criteria for troubled debt restructurings (TDR) recognition and allowance for loan and lease losses (ALLL) impairment testing. The Bank has failed to perform impairment testing utilizing Present Value of Expected Future Cash Flows (PVFCF) to assess impairment for loans that are not collateral dependent.
- (l) The Bank has failed to establish adequate risk management processes in relation to economic conditions and asset concentrations.
- (m) As a result of the Bank's critically deficient management practices, the Bank's earnings are deficient and insufficient to adequately support Bank operations and maintain capital.

7. For the reasons set forth in paragraph 6, the Bank has engaged in unsafe or unsound practices by operating with Bank management whose policies and practices are detrimental to the Bank and jeopardize the safety of its deposits.

8. For the reasons set forth in paragraph 6, the Bank has been engaging in an unsafe or unsound practice by operating without adequate supervision and direction by the Board.

ASSET QUALITY

9. The Bank's asset quality is critically deficient and presents a significant threat to the Bank's viability, as evidenced by the following non-exclusive reasons set forth in the 2019 ROE:

- (a) Adversely classified assets total \$11,936,000, with \$11,115,000 classified Substandard and \$821,000 classified as Loss. The adversely classified items consist of the following:
 - (i) Loans totaling \$4,556,000; and
 - (ii) ORE totaling \$7,258,000;
- (b) Total adversely classified assets represent 126% of Tier 1 Capital plus ALLL;
- (c) Total loan delinquencies were 5.2% of gross loans;
- (d) The Bank has 53 ORE properties, totaling \$7,258,000;
- (e) All ORE properties are classified Substandard;
- (f) ORE represented 84 % of Tier 1 Capital plus ALLL;
- (g) ORE represents 10% of the Bank's average assets compared to 0.24% for peer banks nationwide, as evidenced by the September 30, 2019 Uniform Bank Performance Report ("UBPR").

10. For the reasons set forth in paragraph 9, the Bank has engaged in unsafe or unsound practices by operating with an excessive level of adversely classified assets.

EARNINGS

11. The Bank's earnings are critically deficient, as set forth in the 2019 ROE.
12. Earnings are insufficient to adequately support operations, augment capital, and fund an appropriate ALLL, for the following non-exclusive reasons:
 - (a) Excluding a one-time adjustment relating to a change in accounting treatment for certain securities owned by the Bank, the Bank experienced a net operating loss in 2019 of \$2,114,000, or a negative 2.69 return on average assets (ROAA), with non-interest expenses exceeding revenues by more than \$661,000;
 - (b) Core profitability (as measured, in part, by the ratio of net-interest income to average earning assets) is trending downward from 6.60% at year-end 2014 to 4.87% as of September 30, 2019; thus, the Bank's earnings from its loan and investment activities are becoming increasingly incapable of offsetting the non-interest expense to average assets ratio of 7.63%, as of September 30, 2019 that has averaged 8.04% over the previous five calendar years;
 - (c) The Bank has suffered operational losses for seven consecutive years;
 - (d) As of September 30, 2019, the Bank's non-interest expenses are in the 95th percentile of peer banks nationwide at 7.63% of average assets as compared to 3.38% for peer banks, as evidenced by the UBPR; and
 - (e) High non-interest expense ratios are, in part, the result of excessive ORE-related expenses.

13. For the reasons set forth in paragraphs 11-12, the Bank has engaged in unsafe or unsound practices by operating with inadequate earnings to support Bank operations and maintain capital.

CAPITAL

14. Capital maintenance is deficient in relation to the Bank's high risk profile, as set forth in the 2019 ROE.

15. Seven consecutive years of operational losses have caused a continuing depletion of the Bank's capital levels from 2012 through 2018.

16. The Bank's Tier 1 leverage capital had fallen to 6.83% as of September 30, 2018, a significant decline from the previous examination level of 9.67%.

17. In the first quarter of 2019, the Bank experienced an unexpected capital increase when accounting guidance allowed the Bank to record the value of a significant amount of stock certificates for MasterCard and VISA stock at fair value. The Bank marked its MasterCard stock to market as of the first quarter 2019, which added several million dollars to the Bank's capital levels and increased the Bank's Tier 1 leverage capital to 10.04%, as of March 31, 2019.

18. Notwithstanding this capital windfall, the Bank's history has demonstrated a continuing depletion of its capital levels as a result of its year-after-year operational losses.

19. The continuing downward trend was again reflected in the Bank's capital levels, as, after the one-time increase from the stock value adjustment, the Tier 1 leverage capital ratio continued to drop, to 8.89% after losses identified during the 2019 examination.

20. The Bank's capital levels are expected to continue to erode as a result of required write-downs under a state-law 10-year divestiture requirement, with significant potential

additional write downs in future years if the Bank continues to hold excessive levels of ORE property.

21. For the reasons set forth in paragraphs 14-20, the Bank has engaged in unsafe or unsound practices by operating in a manner that has resulted in continuing, excessive depletion of the Bank's capital.

SENSITIVITY TO MARKET RISK

22. The Bank has an excessive sensitivity to market risk, as the Bank's critically deficient earnings and insufficient capital do not support the Bank's current level of interest rate risk, equity price, and market risk.

23. The Bank's interest rate risk (IRR) model simulations reflect significant risk to capital in a declining interest rate environment.

24. As of September 30, 2019, the Bank's IRR model demonstrated that, in a -200 basis point interest rate shift over a 12-month time horizon, the Bank's Economic Value of Equity (EVE) would decline 26 percent. Such a change in EVE is outside of the Bank's IRR Policy limit of 20 percent in a -200 bp shock scenario and demonstrates excessive interest rate risk.

25. In addition, the Bank's MasterCard stock comprises 50 percent of Tier 1 Capital and is subject to equity price risk. A sharp decline in the market value of MasterCard shares could have a crippling effect on the Bank's capital position.

26. The Bank also maintains a single loan relationship concentration that represents 31 percent of the Bank's total capital, as of September 30, 2019. This loan relationship is adversely classified as substandard.

27. The Bank's sensitivity to the foregoing risks are exacerbated by the Bank's negative earnings, which provide no buffer against adverse market impacts on the Bank's equity holdings or large loan concentrations.

28. As a result, the Bank is substantially more vulnerable to declines in the stock market than other banks of similar size.

29. For the reasons set forth in paragraphs 22-28 above, the Bank has engaged in unsafe or unsound practices by operating with excessive interest rate risk and equity price risk.

VIOLATIONS OF LAWS AND REGULATIONS

30. The Bank violated the following laws and regulations, as noted in the 2019 ROE:

- (a) A violation of Section 362.3(b)(1) of the FDIC Rules and Regulations, 12 C.F.R. § 362.3(b)(1), which prohibits an insured state bank from engaging in any activity that is not of a type that is permissible for a national bank. The Bank violated Section 362.3(b)(1) by holding ORE properties in a subsidiary limited liability company beyond the applicable 10-year divestiture period without obtaining approval from the FDIC;
- (b) A violation of Title 6 of the Louisiana Revised Statutes, LSA: RS 6:281, which governs the number of members of a board of directors required for a Louisiana chartered state bank. The Bank has been in violation of this statute, operating with only three, or sometimes four, directors instead of the minimum of five directors required by LSA: RS 6:281; and
- (c) A violation of FDIC Rules and Regulations, 12 C.F.R. Part 304.3, which requires every insured state non-member bank to file Call Reports in accordance with the instructions for filing such reports. The Bank violated

Part 304.3 by failing to report several loans that should have been designated as nonaccrual loans. The amount of unreported nonaccrual loans totaled \$1,279,000.

PRAYER FOR RELIEF

31. By virtue of each of the paragraphs set forth above, the FDIC has determined that the Bank has engaged in unsafe or unsound banking practices and violations of laws and regulations, and prays that an appropriate ORDER be issued against the Bank pursuant to the provisions of 12 U.S.C. §§ 1818(b)(1) in the form attached hereto and incorporated by reference as EXHIBIT A..

PROCEEDING

Notice is hereby given that the hearing on the NOTICE will be held in New Orleans, Louisiana, commencing 60 days from the date of service of this NOTICE on the Bank, or on such date or at such place as may be set by the parties to this action and 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 appropriate Order should be issued under the Act requiring the Bank to cease and desist from unsafe or unsound banking practices and violations of law herein specified.

The hearing will be held before an Administrative Law Judge to be assigned by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The hearing will be public and, in all respects, will be conducted in compliance with the provisions of the Act and the FDIC Rules of Practice and Procedure. The Bank is hereby directed to file an Answer to this NOTICE within 20 days from the date of service of this NOTICE on the Bank, as provided by 12 C.F.R. § 308.19. The original and one copy of all papers to be filed or served in this proceeding

shall be filed with the Office of Financial Institution Adjudication, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, Virginia, 22226-3500, pursuant to section 308.10 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.10. Respondent is encouraged to file any answer electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov.

Copies of all papers filed or served in this proceeding shall be served upon the Executive Secretary Section, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429-9990; Seth P. Rosebrock, Assistant General Counsel, and Sam Ozeck, Supervisory Counsel, Enforcement Section, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429-9990; and Stephen C. Zachary, Regional Counsel, Federal Deposit Insurance Corporation, Dallas Regional Office, 1601 Bryan Street, 37th Floor, Dallas, Texas 75201.

Pursuant to delegated authority.

Dated at Dallas, Texas, this 6th day of October 2020.

Serena L. Owens
Deputy Regional Director
Dallas Regional Office
Division of Risk Management Supervision
Federal Deposit Insurance Corporation