

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

	)	
In the Matter of:	)	DECISION AND ORDER TO
	)	PROHIBIT FROM FURTHER
BRIGET BOYD, Individually and	)	PARTICIPATION AND
as an Institution-Affiliated Party of	)	ASSESSMENT OF CIVIL MONEY
	)	PENALTY
PREMIER BANK OF THE SOUTH,	)	
CULLMAN, ALABAMA	)	FDIC-19-0080e
(Insured State Nonmember Bank)	)	FDIC-20-0013k
	)	

I. INTRODUCTION

This matter is before the Board of Directors (“Board”) of the Federal Deposit Insurance Corporation (“FDIC”) following the issuance on March 2, 2021, of an Order of Default and Recommended Decision for Issuance of an Order of Prohibition and Order to Pay a Civil Money Penalty (“Recommended Decision” or “R.D.”) by Administrative Law Judge Jennifer Whang (“ALJ”). The ALJ recommended that the Respondent be subject to an order of prohibition pursuant to section 8(e) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. § 1818(e), and be assessed a civil money penalty (“CMP”) of \$35,000 pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i).

This is an uncontested proceeding. The charges are set forth in the FDIC’s Notice of Intention to Prohibit from Further Participation and Notice of Assessment and Order to Pay (“Notice”). The record shows that Respondent was served with the Notice at her last known residence. Respondent did not file an Answer to the charges in the Notice, nor did she request a hearing on the assessment of a CMP. FDIC Enforcement Counsel filed a motion for entry of an order of default (“Default Motion”). The ALJ issued an Order to Show Cause directing Respondent to explain her failure to respond and why a default judgment should not be entered

against her. R.D. at 1-2. When Respondent failed to respond to the Order to Show Cause, the ALJ issued the Recommended Decision concluding that the uncontested facts supported an order of prohibition. Respondent filed no exceptions to the Recommended Decision. For the reasons discussed following, the Board adopts the Recommended Decision and issues an Order to Prohibit against Respondent.

II. PROCEDURAL HISTORY AND BACKGROUND

On April 28, 2020, the FDIC issued the Notice against Respondent pursuant to sections 8(e) and 8(i) of the FDI Act.¹ At all times pertinent to the charges, Respondent was an employee of Premier Bank of the South, Cullman, Alabama (Bank). Notice ¶¶ 1-3. As such, Respondent was an institution-affiliated party pursuant to section 3(u) of the FDI Act, as that term is defined in 12 U.S.C. § 1813(u).

Respondent's Misconduct

During the relevant period, Respondent was employed as an Operations Clerk at the Bank. Among other duties, she was responsible for making electronic journal entries to transfer funds between customer deposit accounts and certain General Ledger accounts belonging to the Bank. Respondent was authorized to make such journal entries only when necessary to reconcile customer deposit accounts affected by fraudulent debit card activity. Between May 11, 2015 and July 23, 2018, Respondent knowingly and willfully made 151 unauthorized journal entries. These entries resulted in Bank funds being transferred from the General Ledger to accounts owned or otherwise controlled by Respondent or Bank checks being issued that were thereafter negotiated by Respondent. As a result of Respondent's conduct, the Bank suffered losses of at least \$33,020.28. R.D. at 3-4; Notice ¶¶ 6-10.

¹ 12 U.S.C. §§ 1818(e), (i).

FDIC Enforcement Proceeding

Service of the Notice

On April 29, 2020, the FDIC served the Notice by certified mail to Respondent at her last known residence. R.D. at 1.

Respondent's Default

The Notice directed Respondent to file an answer within 20 days from the date of service, as required by 12 C.F.R. § 308.19. Notice at 7. Respondent failed to file an answer. R.D. at 2.

On February 2, 2021, the FDIC moved for the entry of an order of default (“Default Motion”) pursuant to 12 C.F.R. § 308.19(c). On February 9, 2021, the ALJ issued an Order to Show Cause directing that Respondent show good cause why a default judgment should not be granted. Although both were properly served on Respondent, she failed to respond either to the Default Motion or the Order to Show Cause. R.D. at 2.

On March 2, 2021, the ALJ granted the FDIC’s Default Motion and issued the Recommended Decision, which was served on Respondent. R.D. at 7-8. Respondent filed no exceptions to the Recommended Decision.

III. DISCUSSION

The Board concurs in and adopts the ALJ’s Recommended Decision. The Board is satisfied that the Respondent was properly served with the Notice by certified mail at her last known residence. R.D. at 1; *see* 12 C.F.R. § 308.11(b)(3). Accordingly, under 12 C.F.R. § 308.19(c), because Respondent failed to respond, she has waived her right to contest the allegations in the Notice.

The Board agrees with the ALJ’s finding that the undisputed facts in the Notice satisfy the three standards necessary to sustain a prohibition order under section 8(e) of the FDI Act and a second tier CMP assessment under section 8(i) of the FDI Act—misconduct, effects, and

culpability.² R.D. at 5-6. Specifically, Respondent engaged in misconduct, including violations of law and unsafe and unsound practices, by exploiting her position at the Bank to execute unauthorized transactions, the proceeds of which were diverted to her own use. Respondent falsified Bank records to conceal her actions. R.D. at 4. The effects prong is met because Respondent received a direct financial benefit of at least \$33,020.28, which also caused damage or other loss to the Bank. R.D. at 5. Culpability, for purposes of section 1818(e), can be shown by “personal dishonesty” or a “willful or continuing disregard” for the safety and soundness of the financial institution. 12 U.S.C. § 1818(e)(1). “Personal dishonesty” can be established through evidence that an institution-affiliated party disguised wrongdoing from the institution’s board and regulators, or failed to disclose material information. *See Dodge v. Comptroller of Currency*, 744 F.3d 148, 160 (D.C. Cir. 2014). Respondent’s culpability is established by her personal dishonesty in falsifying bank records to conceal her defalcations. R.D. at 4; Notice ¶ 15. Furthermore, 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.

The uncontested allegations are supported by ample evidence of violations of law and unsafe and unsound banking practices warranting prohibition. *See Matter of Skabardonis*, FDIC-13-0444e, 2016 WL 8201948, at *1, *5 (May 10, 2016) (bank employee who embezzled funds from customer accounts and stole a customer’s identity engaged in dishonest behavior, unsafe and unsound banking practices, and breach of fiduciary duty); *see also Matter of Bauer*, FDIC-11-21e, 2012 WL 7152170, at *3 (Oct. 9, 2012) (bank employee who embezzled funds from bank engaged in dishonest behavior, unsafe and unsound banking practice and breach of

²12 U.S.C. §§ 1818(e)(1) and (i)(2)(B)

fiduciary duty); *Matter of Bennett*, FDIC-02-206e, 2004 WL 2185944, at *2 (Aug. 16, 2004) (prohibiting bank employee who embezzled funds).

Because Respondent failed to file an Answer to the Notice, she waived her right to appear and contest the allegations in the Notice. 12 C.F.R. § 308.19(c)(1); *see also Bauer*, 2012 WL 7152170, at *3; *Matter of Shih*, FDIC-10-335e, 2011 WL 2574393, at *4 (May 10, 2011); *Bennett*, 2004 WL 2185944, at *3. Accordingly, the final order issued by the Board, which is based upon a failure to answer, “is deemed to be an order issued upon consent.” 12 C.F.R. § 308.19(c)(1). Moreover, pursuant to 12 C.F.R. § 308.39(b), Respondent’s failure to file exceptions to the Recommended Decision is deemed to be a waiver of any objections to the Recommended Decision. *Bauer*, 2012 WL 7152170, at *3; *Shih*, 2011 WL 2574393, at *4; *Bennett*, 2004 WL 2185944, at *3.

IV. CONCLUSION

After a thorough review of the uncontested record in this proceeding, the Board, for the reasons set forth previously, adopts the Recommended Decision, and issues the following order of prohibition and order to pay civil money penalty.

ORDER TO PROHIBIT

The Board of Directors (“Board”) of the Federal Deposit Insurance Corporation (“FDIC”), having considered the entire record of this proceeding and finding that Respondent Briget Boyd, formerly employed by Premier Bank of the South, Cullman, Alabama (“Bank”), engaged in violations of law and unsafe and unsound banking practices for which she received personal financial gain and caused a loss to the Bank, and that her actions involved willful and continuing disregard for the safety and soundness of the Bank, hereby ORDERS and DECREES that:

1. Briget Boyd shall not participate in any manner in any conduct of the affairs of any insured depository institution, or any other institution, credit union, bank or agency 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. Briget Boyd 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 insured depository institution, or any other institution, credit union, bank or agency 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. Briget Boyd shall adhere to all voting agreements with respect to any insured depository institution, or any other institution, credit union, bank or agency enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), except as otherwise permitted, in

writing, by 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. Briget Boyd 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, or any other institution, credit union, bank or agency 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.

6. The provisions of this ORDER will remain effective and in force except in the event that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

SO ORDERED.

IT IS FURTHER ORDERED that copies of this Decision and Order shall be served on Respondent Briget Boyd, FDIC Enforcement Counsel, the Administrative Law Judge, and the State Banking Department of the State of Alabama.

By Order of the Board of Directors

Dated at Washington, D.C. this 15th day of June, 2021

_____/s/_____
James P. Sheesley
Assistant Executive Secretary

(Seal)
087216

ORDER TO PAY CIVIL MONEY PENALTY

The Board, having considered the entire record in this proceeding, and taking into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of Respondent, the gravity of the violations, and such other matters as justice may require, hereby ORDERS and DECREES that:

1. A civil money penalty is assessed against Briget Boyd in the amount of \$35,000 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 this ORDER will remain effective and in force except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

IT IS FURTHER ORDERED that copies of this Decision and Order shall be served on Respondent Briget Boyd, FDIC Enforcement Counsel, the Administrative Law Judge, and the State Banking Department of the State of Alabama.

By Order of the Board of Directors

Dated at Washington, D.C. this 15th day of June, 2021

_____/s/_____
James P. Sheesley
Assistant Executive Secretary

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