

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of	)	
	)	NOTICE OF INTENTION TO
Bryan E. Dalton, an institution-affiliated party of	)	PROHIBIT FROM FURTHER
	)	PARTICIPATION, NOTICE OF
RiverBank	)	ASSESSMENT OF CIVIL MONEY
Pocahontas, Arkansas	)	PENALTY, FINDINGS OF FACT
	)	AND CONCLUSIONS OF LAW,
(Insured State Nonmember Bank)	)	ORDER TO PAY, NOTICE OF
	)	HEARING, and PRAYER FOR
Respondent's NMLS UI# 1276833	)	RELIEF
	)	
	)	FDIC-21-0034e
	)	FDIC-22-0024k
	)	
	)	

The Federal Deposit Insurance Corporation (FDIC) determined that Bryan E. Dalton (Respondent) was a loan officer at RiverBank, Pocahontas, Arkansas (Bank), and an institution-affiliated party (IAP) of the Bank. Respondent, directly or indirectly, recklessly engaged in unsafe or unsound practices in connection with the Bank and breached fiduciary duties owed to the Bank from 2018 to 2019 (Relevant Times). Respondent's practices and breaches were part of a pattern of misconduct, caused the Bank to suffer more than a minimal loss, and resulted in Respondent receiving financial gain. Respondent's practices and breaches involved personal dishonesty and demonstrated Respondent's willful and continuing disregard for the safety or soundness of the Bank.

**NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION**

The FDIC issues this Notice of Intention to Prohibit from Further Participation and Findings of Fact and Conclusions of Law (collectively, Notice of Charges) under 12 U.S.C. § 1818(e) and the FDIC Rules of Practice and Procedure, 12 C.F.R. part 308, subparts A and B.

This proceeding will determine whether an order should be issued against Respondent under 12 U.S.C. § 1818(e), to prohibit Respondent from further participation in the conduct of the affairs of the Bank, and any other insured depository institution or organization listed in 12 U.S.C. §1818(e)(7)(A) without the prior written approval of the FDIC and other appropriate Federal financial institutions regulatory agency.

### **NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY**

The FDIC further issues this Notice of Assessment of Civil Money Penalty, Findings of Fact and Conclusions of Law, and Order to Pay (collectively, Notice of Assessment) under 12 U.S.C. § 1818(i)(2), and the FDIC Rules of Practice and Procedure, 12 C.F.R. part 308, subparts A and B. This proceeding assesses a \$35,000 civil money penalty against the Respondent under 12 U.S.C. § 1818(i)(2), unless the Respondent formally objects by timely requesting a hearing under 12 U.S.C. § 1818(i)(2)(H).

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The FDIC makes the following allegations against Respondent:

#### **I. Jurisdiction**

1. At all Relevant Times, the Bank was a corporation existing and doing business under the laws of the State of Arkansas with its principal place of business in Pocahontas, Arkansas.

2. At all Relevant Times, the Bank was an insured State nonmember bank, subject to 12 U.S.C. §§ 1811-1831aa, 12 C.F.R. chapter III, and the laws of the State of Arkansas.

3. At all Relevant Times, Respondent was employed as a loan officer at the Bank

and continued to serve in that capacity.

4. At all Relevant Times, Respondent was an “institution-affiliated party” of the Bank under 12 U.S.C. § 1813(u), and for purposes of 12 U.S.C. §§ 1818(e)(7), 1818(i), and 1818(j).

5. The FDIC has jurisdiction over the Bank, Respondent, and the subject matter of this proceeding.

## **II. Respondent’s Unsafe or Unsound Practices and Breaches of Fiduciary Duty**

6. At all Relevant Times, Respondent misappropriated the sum of \$87,951.50 from accounts at the Bank of four borrowers whose loans Respondent serviced. Respondent disguised his misappropriation through fraudulent documentation, pretending the misappropriated funds were loan guarantee fees to the USDA Farm Service Agency (FSA).

### **FSAEV**

7. On or about May 9, 2019, Respondent signed an Assumed Name Certificate for FSAEV, which designated FSAEV as a sole proprietorship of Respondent. On the form, Respondent stated FSAEV was a consulting entity. The Assumed Name Certificate was filed on the same date in the records of Randolph County, Arkansas.

### **Borrower 1**

8. On or about May 15, 2019, the Bank disbursed loan proceeds to Borrower 1 in connection with a loan in the sum of \$1,100,000.

9. Respondent was the loan officer responsible for the loan to Borrower 1.

10. Respondent drafted Borrower 1’s Loan Memorandum, which provided, as a

condition of approval, that the loan have a 90% FSA guarantee.

11. The Disbursement Request and Authorization on the loan to Borrower 1 reflected that Borrower 1 would pay \$26,387.50 as an FSA guarantee fee.

12. On or about May 17, 2019, Respondent, without authorization, withdrew \$10,000 from Borrower 1's checking account and had the Bank issue a check payable to FSAEV in the sum of \$10,000 on the same day.

13. Respondent approved the debit slip on the \$10,000 withdrawal from Borrower 1's checking account. The debit slip contained the notation "Partial FSA Loan Fee."

14. Respondent endorsed and deposited the \$10,000 check into his FSAEV account at Iberiabank.

15. On or about June 3, 2019, Respondent, without authorization, had the Bank issue an official check in the sum of \$14,937.50, payable to FSAEV. The money funding the official check was a draw on the loan to Borrower 1.

16. Respondent endorsed and deposited the \$14,937.50 check into his FSAEV account at Iberiabank.

17. Respondent never obtained an FSA guarantee on the loan to Borrower 1.

### **Borrower 2**

18. On or about May 17, 2019, the Bank disbursed loan proceeds to Borrower 2 in connection with a loan in the sum of \$1,150,000.

19. Respondent was the loan officer responsible for the loan to Borrower 2.

20. Respondent drafted Borrower 2's Loan Memorandum, which provided, as a

condition of approval, that the loan be guaranteed by the FSA.

21. The Disbursement Request and Authorization on the loan to Borrower 2 reflected that Borrower 2 would pay \$26,387.50 as an FSA guarantee fee.

22. On or about May 20, 2019, Respondent, without authorization, had the Bank issue an official check in the sum \$15,792, payable to the order of FSAEV. On instructions from Respondent, the money funding the check was taken from Borrower 2's account at the Bank.

23. Respondent endorsed and deposited the \$15,792 check into his FSAEV account at Iberiabank.

24. On or about June 28, 2019, Respondent, without authorization, had the Bank issue an official check in the sum of \$17,948 payable to FSAEV. The funds from this official check originated from Borrower 2's account at the Bank. Respondent deposited the check into his FSAEV account at Iberiabank.

25. Respondent never obtained an FSA guarantee on the loan to Borrower 2.

### **Borrower 3**

26. On or about May 20, 2019, the Bank disbursed loan proceeds to Borrower 3 in Connection with a loan in the sum of \$1,113,390.

27. Respondent was the loan officer responsible for the loan to Borrower 3.

28. Respondent drafted Borrower 3's Loan Memorandum, which provided, as a condition of approval, that the loan have a 90% FSA guarantee.

29. The Disbursement Request and Authorization on the loan to Borrower 3 reflected that Borrower 3 would pay \$26,158.08 as an FSA guarantee fee.

30. On or about May 24, 2019, Respondent, without authorization, had the Bank issue an official check in the sum \$16,158, payable to the order of FSAEV. On instructions from Respondent, the money funding the check was taken from Borrower 3's account at the Bank.

31. Respondent endorsed and deposited the \$16,158 check into his FSAEV account at Iberiabank.

32. Respondent never obtained an FSA guarantee on the loan to Borrower 3.

#### **Borrower 4**

33. On or about May 23, 2019, the Bank disbursed loan proceeds to Borrower 4 in connection with a loan in the sum of \$350,000.

34. Respondent was the loan officer responsible for the loan to Borrower 4.

35. The Disbursement Request and Authorization on the loan to Borrower 4 reflected that Borrower 4 would pay \$4,725 to FSA.

36. On or about May 28, 2019, Respondent, without authorization, had the Bank issue an official check in the sum \$13,116, payable to the order of FSAEV. On instructions from Respondent, the money funding the check was taken from Borrower 4's account at the Bank.

37. Respondent endorsed and deposited the \$13,116 check into his FSAEV account at Iberiabank.

38. Respondent never obtained an FSA guarantee on the loan to Borrower 4.

### **Respondent's Attempted Restitution**

39. On or about July 19, 2019, Respondent issued a check postdated for July 22, 2019, from his FSAEV account at Iberiabank in the sum of \$87,951.50, payable to River Bank, with the notation "Restitution" in the memo part of the check.

40. Respondent asked the Bank to hold the check until July 23, 2019, so that he could have sufficient funds put into his FSAEV account.

41. The Bank contacted Iberiabank on both July 23 and July 24, 2019, and was informed the FSAEV account did not have sufficient funds to cover a check for \$87,951.50.

42. The Bank submitted the \$87,951.50 check for payment, but the check was returned on July 29, 2019, with the notation that the account on which the check was written had been closed.

### **Effect of Misconduct**

43. As a result of Respondent's misconduct, Respondent was enriched by \$87,951.50, the sum misappropriated from Borrowers 1, 2, 3, and 4.

44. As a result of Respondent's misconduct, the Bank reimbursed Borrowers 1, 2, 3, and 4 the sum of \$87,951.50, which Respondent had misappropriated from them.

45. On or about December 30, 2019, the Bank reduced its loss from Respondent's misconduct through a payment from the Bank's fidelity insurer.

46. The Bank had filed earlier in 2019 a fidelity claim with its fidelity insurer for its loss of \$87,951.50 based on Respondent's misconduct.

47. The Bank's fidelity insurer paid the Bank \$62,951.50 on or about December 30, 2019, which represented the full amount of the Bank's fidelity claim, minus the \$25,000 policy deductible.

48. By virtue of Respondent's failure to obtain FSA guarantees on the four loans to Borrowers 1, 2, 3, and 4, the Bank's four loans diminished in value and resulted in the Bank suffering more than a minimal loss.

### **III. Conclusions of Law**

49. Based on the misconduct described above, Respondent recklessly engaged in unsafe or unsound practices in connection with the Bank under 12 U.S.C. § 1818(e) and (i)(2).

50. Respondent's acts and practices described above were breaches of Respondent's fiduciary duties as an officer of the Bank under 12 U.S.C. § 1818(e) and (i)(2).

51. Respondent's practices and breaches described above caused more than a minimal loss to the Bank under 12 U.S.C. § 1818(e) and (i)(2).

52. Respondent's practices and breaches described above resulted in Respondent's financial gain under 12 U.S.C. § 1818(e) and (i)(2).

53. Respondent's practices and breaches described above demonstrate Respondent's personal dishonesty under 12 U.S.C. § 1818(e).

54. Respondent's practices and breaches described above demonstrate Respondent's willful and continuing disregard for the safety and soundness of the Bank under 12 U.S.C. § 1818(e).

55. Respondent's practices and breaches described above were part of a pattern of misconduct under 12 U.S.C. § 1818(i)(2).

### **ORDER TO PAY**

Based on the above Findings of Fact and Conclusions of Law, the FDIC determined that Respondent's practices and breaches merit a civil money penalty. After taking into account the appropriateness of the penalty with respect to the following mitigating factors under 12 U.S.C. § 1818(i)(2)(G): size of the Respondent's financial resources and good faith, the gravity of the violation(s), the history of previous violation(s), and such other matters as justice may require, it is:

ORDERED that by reason of Respondent's practices and breaches listed above, a \$35,000 penalty is assessed against Bryan E. Dalton under 12 U.S.C. § 1818(i)(2).

FURTHER ORDERED that the Order to Pay is stayed until 20 days after the date of service of this Notice of Assessment to allow Respondent time to object to the Order to Pay.

If Respondent wants to object to the Order to Pay, Respondent must formally request a hearing in writing within 20 calendar days after service of this Notice of Assessment, as explained at 12 U.S.C. § 1818(i)(2)(H). Respondent may object to the Order to Pay by requesting a hearing in a formal Answer, as specified in 12 C.F.R. § 308.19. **If Respondent fails to request a hearing to object to the Order to Pay within 20 calendar days from the date of service of this Notice of Assessment, the penalty assessed against Respondent will be final and unappealable under 12 U.S.C. § 1818(i)(E)(ii) and 12 C.F.R. § 308.19(c)(2), and must be paid within 60 calendar days after the date of service of this Notice of Assessment.**

## **NOTICE OF HEARING**

Respondent must file an Answer to object to the Notice of Charges within 20 days from the date of service under 12 C.F.R. § 308.19. Respondent may file one document containing both the Answer to the Notice of Charges and a request for hearing on the Order to Pay. The hearing will be held before an Administrative Law Judge (ALJ) assigned by Office of Financial Institution Adjudication (OFIA) under 5 U.S.C. § 3105. The hearing on the Notice of Charges will begin on a date set by the ALJ in Jonesboro, Arkansas, or in another location set by the ALJ. The hearing will be public and conducted in accordance with 12 U.S.C. §§ 1811-1831aa, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and 12 C.F.R. part 308, subparts A and B.

An original and one copy of all papers filed in this proceeding must be served upon OFIA, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, VA 22226-3500, in the manner specified at 12 C.F.R. § 308.10. Also, copies of all papers filed in this proceeding must be served upon the following: FDIC Administrative Officer, 550 17th Street, N.W., Washington, D.C. 20429; Seth P. Rosebrock, Assistant General Counsel, and Sam Ozeck, Supervisory Counsel, Enforcement Section, Legal Division, FDIC, 550 17th Street, N.W., Washington, D. C. 20429; and Regional Counsel Stephen C. Zachary, FDIC, Dallas Regional Office, 600 N. Pearl St., Suite 700, Dallas, Texas, 75201. Respondent is encouraged to file any subsequent documents electronically with OFIA at [ofia@fdic.gov](mailto:ofia@fdic.gov).

## **PRAYER FOR RELIEF**

The FDIC prays that an Order of Prohibition from Further Participation under 12 U.S.C. § 1818(e) and an Order to Pay in the amount of \$35,000 and assessed under 12 U.S.C.

§ 1818(i)(2) be issued against Bryan E. Dalton.

Issued under delegated authority.

Dated: May 24, 2022.

/s/  
Doreen R. Eberley  
Director  
Division of Risk Management Supervision