

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of)

JOSEPH A. SMITH,)
an institution-affiliated party of)

GOPPERT STATE SERVICE BANK)
GARNETT, KANSAS)
(Insured State Nonmember Bank))

RESPONDENT'S NMLS U/I#: 504677)

CONSENT ORDER
AND
ORDER TO PAY

FDIC-22-0072b
FDIC-22-0067k

Joseph A. Smith (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 Consent Order and Order to Pay (CONSENT AGREEMENT) dated September 19, 2022, whereby, solely for the purpose of this proceeding and without admitting or denying any violations of law or regulations, Respondent consented to the issuance of this Consent Order and Order to Pay (ORDER) pursuant to 12 U.S.C. §§ 1818(b) and 1818(i).

The FDIC has determined and the Respondent neither admits nor denies that:

1. Respondent has engaged or participated in violations of the law as an institution-affiliated party of Goppert State Service Bank, Garnett, Kansas (Bank).

2. Further, the FDIC has determined that the Respondent, while serving as Bank chairman of the board and chief executive officer violated Regulation O of the Board of Governors of the Federal Reserve (Regulation O), 12 C.F.R. Part 215, made applicable to state nonmember banks by 12 U.S.C. § 1828(j) by directing Bank employees to deposit proceeds from more than \$6 million in extensions of credit the Bank made to the Respondent's brother into an account owned

by the Respondent's related interest. Although the extensions of credit were fully repaid, these actions resulted in over thirty (30) violations of Regulation O's insider lending limits from March 2019 through February 2020 and seventy-seven (77) violations of Regulation O's requirement to obtain prior approval from the Bank board of directors for loans to insiders exceeding 5 percent of the Bank's unimpaired capital and unimpaired surplus from November 2017 through February 2020.

The FDIC, having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) have been satisfied, accepts the CONSENT AGREEMENT and issues the following:

CONSENT ORDER

Respondent is hereby ORDERED to cease and desist from and take affirmative action, as follows:

1. Attend a training session concerning Regulation O and regulations concerning insider transactions and review the FDIC's Statement Concerning the Responsibilities of Bank Directors and Officers, FDIC Financial Institution Letter (FIL-87-92 dated December 3, 1992).

2. Whenever Respondent is employed by, or is offered employment at, an insured depository institution or otherwise becomes an institution-affiliated party within the meaning of section 3(u) of the Act, 12 U.S.C. § 1813(u), Respondent shall:

- a. Comply fully with all laws, regulations, and policies applicable to any insured depository institution with which he is or may become affiliated including, but not limited to, laws, regulations, and policies concerning Regulation O;
- b. Not commit or participate in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code;

- c. Fulfill the fiduciary duties of loyalty and care owed to any insured depository institution with which he is or may become affiliated and shall, at all times, avoid placing his own interests above those of the institution;
- d. Familiarize himself with, and adhere to, the written policies and procedures of any insured depository institution or agency with which he is or may become affiliated. In the event that the Respondent is affiliated with an insured depository institution or agency with written policies and procedures that are more stringent than the provisions of this ORDER, the Respondent shall adhere to the written policies and procedures of such insured depository institution or agency.

3. Respondent shall, within ten (10) days of the effective date of this ORDER, provide a copy of the ORDER to the board of directors of the insured depository institution of which the Respondent is an institution-affiliated party.

4. Prior to accepting any future position that would continue his employment as or cause the Respondent to become an “institution-affiliated party,” Respondent shall provide a copy of this ORDER to: (i) the Chairman of the Board of Directors of the insured depository institution; or (ii) a senior management official of the insured depository institution, provided that such official has been approved in writing by the Regional Director of the FDIC’s Kansas City Regional Office for this purpose.

5. Within ten (10) days of satisfying the requirements of paragraphs 3, 4, and/or 5, Respondent shall provide a written certification of his compliance to the Regional Director, FDIC, Kansas City Regional Office, 1100 Walnut Street, Suite 2100, Kansas City, Missouri 64106.

ORDER TO PAY

6. As described in paragraphs 1 and 2, Respondent violated laws or regulations, from which the Respondent received a tangible economic benefit.

7. After considering the civil money penalty (CMP) factors under 12 U.S.C. § 1818(i)(2)(G), the FDIC accepts the CONSENT AGREEMENT, and it is further ordered that a THIRTY-FIVE THOUSAND DOLLAR (\$35,000) CMP is assessed against JOSEPH A. SMITH under 12 U.S.C. § 1818(i)(2) and is effective upon issuance.

8. The Respondent must immediately pay the CMP to the Treasury of the United States.

9. The ORDER TO PAY is enforceable under 12 U.S.C. § 1818(i), and the FDIC will take action to collect the amount due if the Respondent fails to make payment.

10. The Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for any civil money penalty assessed and paid in this matter.

ENFORCEMENT AND TERMINATION

11. If Respondent believes that the provisions of this ORDER have been fulfilled, Respondent may request that the ORDER be terminated by submitting a letter with supporting documentary evidence to the Regional Director of the FDIC's Kansas City Regional Office. The FDIC will consider the submission and may request such additional information or documentation as it, in its sole discretion, may deem necessary in order to review the submission. The decision to deny the request and retain this ORDER as is, modify it, or terminate it is at the FDIC's sole discretion.

12. Nothing herein shall preclude any proceedings brought by the FDIC to enforce the terms of the ORDER issued pursuant to the CONSENT AGREEMENT, and 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 shall be effective immediately. The provisions of this ORDER shall remain effective and enforceable for a period of five (5) years except to the extent that any provision is modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated: December 9, 2022.

/s/

Patricia A. Colohan
Associate Director
Division of Risk Management Supervision