

ARTICLE I

JURISDICTION

(1) The Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an officer of the Bank and was an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six (6) years from the date of this Order. *See* 12 U.S.C. § 1818(i)(3).

(3) The Bank is a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*

(4) The OCC is the “appropriate Federal banking agency” as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain these cease and desist and civil money penalty actions against Respondent pursuant to 12 U.S.C. § 1818(b) and (i).

ARTICLE II

COMPTROLLER’S FINDINGS

The Comptroller finds, and Respondent neither admits nor denies, the following:

(1) From 2010 to his retirement in 2018, Respondent was the Bank’s Chief Risk Officer. He reported to the Risk Committee of the Board and reported administratively to the Chief Executive Officer (“CEO”).

(2) Among other things, Respondent was responsible for providing credible challenge to business leaders on activities that may lead to elevated risk, for ensuring proactive identification of emerging risk issues and their potential effect on the company’s aggregate risk profile, and for timely escalating risk concerns to the Chair of the Risk Committee, the Risk Committee, and/or the CEO.

(3) Respondent was a member of the Bank's Operating Committee from 2007 to 2018 and was on the Bank's Board of Directors from November 2006 through December 2014.

(4) Respondent served on several management committees with oversight roles related to sales practices misconduct.¹ He was chair of the Enterprise Risk Management Committee and served on the Team Member Misconduct Executive Committee and the Incentive Compensation Steering Committee.

(5) From at least 2002 until October 2016, the Community Bank, the largest line of business within the Bank, had a systemic sales practices misconduct problem.

(6) The root cause of the systemic sales practices misconduct was the Community Bank's business model which imposed unreasonable sales goals on its employees along with unreasonable pressure to meet these goals. Additionally, the Bank's controls were ineffective and were not reasonably designed to detect or prevent the misconduct.

(7) By 2012 at the latest, Respondent should have known about the systemic sales practices misconduct problem in the Community Bank, its root cause, and the inadequate controls in place to prevent and detect such misconduct.

(8) From at least 2013, Respondent's efforts were inadequate in advising the CEO and the Board of Directors that the Community Bank's business model posed significant risks and incentivized illegal activity, that the relevant controls were deficient, and that the Community Bank was not resolving the problem.

(9) As Chief Risk Officer and Head of Corporate Risk, Respondent failed to fulfill the incentive compensation oversight responsibilities of Corporate Risk to ensure the risks of

¹ The term sales practices misconduct as used herein refers to the practice of Bank employees issuing products and services to customers without the customers' consent, or transferring customers' funds from one account to another without consent, or obtaining customers' consent by making a false or deceptive statement.

incentive compensation programs were adequately understood and managed appropriately throughout the Bank.

(10) Respondent co-authored three annual incentive compensation risk impact memoranda in 2014, 2015, and 2016 that were provided to the Human Resources Committee of the Board of Directors and to the OCC. Respondent rated the Community Bank's management of sales practices "satisfactory" in each memorandum and recommended no incentive compensation adjustments for Community Bank senior leadership related to sales practices until 2016, when he recommended minimal adjustments related to sales practices.

(11) Respondent's failures to fulfill his responsibilities by appropriately addressing or escalating sales practices risks known to him fostered the illegal and unsafe and unsound sales practices misconduct that existed within the Community Bank and allowed it to perpetuate for years.

(12) By reason of the foregoing conduct, Respondent recklessly engaged in unsafe or unsound practices and breached his fiduciary duty to the Bank; which practices and breaches were part of a pattern of misconduct and caused more than a minimal loss to the Bank.

ARTICLE III

ORDER FOR CIVIL MONEY PENALTY

Respondent consents to, and it is ORDERED that:

(1) Respondent shall pay a civil money penalty in the amount of One Million Two Hundred and Fifty Thousand Dollars (\$1,250,000.00), which shall be paid in full upon Respondent's execution of this Order.

(2) Respondent shall make payments via wire transfer, in accordance with instructions provided by the OCC. The docket number of this case (AA-EC-2019-86) shall be referenced in connection with the submitted payment.

(3) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818.

ARTICLE IV

ORDER TO CEASE AND DESIST

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by or is otherwise affiliated with any depository institution as defined in 12 U.S.C. § 1813(c)(1) or otherwise becomes an institution-affiliated party as defined in 12 U.S.C. § 1813(u), Respondent shall:

- (a) Comply fully with all laws and regulations applicable to the institution;
- (b) Not engage or participate in any unsafe or unsound practice, as that term is used in Title 12 of the United States Code;
- (c) Fulfill his fiduciary duties of loyalty and care and, at all times, avoid placing his own interests above those of the institution;
- (d) Adhere to the institution's written policies and procedures, or receive written permission from appropriate authorized individuals to do otherwise; and
- (e) With respect to any Board or management committee of which he is a member, act diligently, prudently, honestly, and carefully in carrying out his responsibilities.

(2) Respondent shall cooperate fully and promptly with the OCC in any investigation, litigation, or administrative proceeding related to the subject matter of this order, including sales practices misconduct at the Bank.

(3) If Respondent is currently an institution-affiliated party, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order within ten (10) days of execution of this Order.

(4) Prior to accepting any offer of a position that causes Respondent to become an institution-affiliated party, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order.

(5) Within ten (10) days of satisfying the requirements of paragraphs (3) and/or (4) of this Article, Respondent shall provide written certification of his compliance to the OCC by mail to Director, Enforcement, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219 or by email to the address provided by the OCC.

(6) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) of this Article, or if Respondent is uncertain about his duties arising from such paragraph, he shall obtain, at his own expense, and abide by the written advice of counsel regarding his duties and responsibilities with respect to the matter. To comply with this paragraph, Respondent shall engage counsel who is in no way affiliated with the institution; and who has never been subject to any formal sanctions by any Federal banking agency, either by agency order or consent, as disclosed on the banking agencies' websites.

(7) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818.

ARTICLE V

CLOSING

- (1) By executing this Order, Respondent waives:
- (a) the right to a Notice of Charges for Issuance of an Order to Cease and Desist and a Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818(b) and (i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (i) and 12 C.F.R. Part 19;
 - (c) all rights to seek judicial review of this Order;
 - (d) all rights in any way to contest the validity of this Order; and
 - (e) any and all claims for fees, costs, or expenses against the United States, the OCC, or any officer, employee, or agent of the OCC, related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412.
- (2) Respondent shall not cause, participate in, or authorize the Bank (or any subsidiary or affiliate of the Bank) to incur, directly or indirectly, any expense relative to the negotiation and issuance of this Order except as permitted by 12 C.F.R. § 7.2014 and Part 359. In addition, Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate of the Bank) with respect to such amounts except as permitted by 12 C.F.R. § 7.2014 and Part 359; provided, however, Respondent may not obtain or accept such indemnification with respect to payment of the civil money penalty.

(3) Respondent acknowledges that he has read and understands the premises and obligations of this Order and declares that no separate promise or inducement of any kind has been made by the OCC or any officer, employee, or agent of the OCC to cause or induce Respondent to agree to consent to the issuance of this Order and/or to execute this Order.

(4) This Order constitutes a settlement of any proceedings arising out of the facts, omissions, or violations described in the Comptroller's Findings (Article II of this Order). The OCC agrees not to institute the proceedings referenced in the first whereas clause of this Order for the specific acts, omissions, or violations described in Article II of this Order unless such acts, omissions, or violations reoccur. However, the specific acts, omissions, or violations described in Article II may be used by the OCC in future enforcement actions to establish a pattern of misconduct or the continuation of a pattern of misconduct.

(5) This Order shall not be construed as an adjudication on the merits and, except as set forth in paragraph (4) above, shall not inhibit, estop, bar, or otherwise prevent the OCC from taking any action affecting Respondent if, at any time, the OCC deems it appropriate to do so to fulfill the responsibilities placed upon the OCC by the several laws of the United States.

(6) Nothing in this Order shall preclude any proceedings brought by the OCC to enforce the terms of this Order, and nothing in this Order constitutes, nor shall Respondent contend that it constitutes, a waiver of any right, power, or authority of any other representatives of the United States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

(7) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818, and expressly does not form, and may not be construed to form, a contract binding on the United States, the OCC, or any officer, employee, or agent of the

OCC. Respondent expressly acknowledges that no officer, employee, or agent of the OCC has statutory or other authority to bind the United States, the United States Treasury Department, the OCC, or any other federal bank regulatory agency or entity, or any officer, employee, or agent of those entities, to a contract affecting the OCC's exercise of its supervisory responsibilities.

(8) This Order is "issued with the consent of . . . the institution-affiliated party concerned," pursuant to 12 U.S.C. § 1818(h)(2).

(9) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements, or prior arrangements between the parties, whether oral or written.

(10) The provisions of this Order are effective upon issuance by the OCC, through the Comptroller's duly authorized representative, whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the OCC, through the Comptroller's duly authorized representative.

IN TESTIMONY WHEREOF, the undersigned has hereunto set his hand.

/s/ Michael Loughlin

12.11.19

Michael Loughlin

Date

IT IS SO ORDERED.

/s/ Greg Coleman 1/8/20

Gregory J. Coleman
Deputy Comptroller
Large Bank Supervision