

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of)) NYEMA'SHA Taylor,) Former Teller and institution-affiliated party,)) WELLS FARGO BANK, N.A.) Sioux Falls, South Dakota) Atlanta, Georgia Branch)	Docket No. AA-ENF-2021-23
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DECISION ON ENTRY OF DEFAULT

This matter is before the Comptroller of the Currency (“Comptroller” or “OCC”) on the recommended finding of the Administrative Law Judge (“ALJ”) for entry of default and order of prohibition against Nyema’sha Taylor (“Respondent”), a former Teller at Wells Fargo Bank, National Association, Sioux Falls, South Dakota (“Bank”). On June 15, 2023, the OCC issued to Respondent a *Notice of Charges for an Order of Prohibition* (“*Notice of Charges*” or “*Notice*”), pursuant to Section 8(e) of the Federal Deposit Insurance Act (“FDIA”), 12 U.S.C. § 1818(e). On or about June 15, 2023, Respondent was served the *Notice* via United Parcel Service overnight delivery. The *Notice* seeks an order prohibiting Respondent from further participation in the banking industry on the basis of the OCC’s allegations that Respondent had violated the law and engaged in unsafe or unsound practices by knowingly processing unauthorized cash withdrawals from a customer account. *See* Notice ¶¶ 8-21.

Respondent failed to respond to the *Notice* within the time limits prescribed under the Uniform Rules of Practice and Procedure set forth in 12 C.F.R. Part 19, Subpart A. *See* 12 C.F.R. § 19.19. Indeed, Respondent failed to provide any response to the *Notice*. Upon consideration of the pleadings, the ALJ’s *Order of Default and Recommended Decision to Prohibit Further*

Participation (“*Recommended Decision*”), dated September 18, 2023, and of the entire record in this case, the Comptroller concludes that: (1) by failing to respond to the *Notice*, Respondent is in default; and (2) the uncontested allegations in the *Notice* support a finding that Respondent should be prohibited from any further participation in the conduct of the affairs of any institution or entity set forth in Section 8(e) of the FDIA. The Comptroller contemporaneously issues an order of prohibition that is consistent with these conclusions.

I. INITIATION AND COURSE OF PROCEEDINGS

On June 15, 2023, OCC Deputy Comptroller Mark D. Richardson issued the *Notice of Charges* to Respondent. The *Notice* is based upon violations¹ that arose from Respondent’s conduct at the Bank during the period from October 2018 to November 2018 and alleges that Respondent violated 18 U.S.C. § 656 and/or engaged in unsafe or unsound practices,² that such violation caused the Bank to suffer a financial loss and/or Respondent to receive financial gain, and that the violation involved personal dishonesty and/or demonstrated a willful disregard for the safety and soundness of the Bank. *See* 12 U.S.C. § 1818(e)(1). Specifically, the *Notice* alleges that Respondent processed five unauthorized in-person cash withdrawals from a customer’s account (“Customer A”) totaling \$11,800. *Notice* at 3-4.

¹ The *Notice of Charges* seeks an order of prohibition under 12 U.S.C. § 1818(e) for the violations described therein.

Twelve U.S.C. § 1818(e)(1) authorizes the prohibition of an institution-affiliated party from participating in the conduct of the affairs of any insured depository institution when (1) the party violates a law, regulation, or order; engages or participates in any unsafe or unsound practice in conducting the affairs of the depository institution; or commits or engages in any act, omission, or practice which constitutes a breach of the party’s fiduciary duty; (2) the violation, practice, or breach causes the bank to suffer, or probably suffer, financial loss or other damage; prejudices the interests of depositors; or results in financial gain or other benefit to the party; and (3) the violation, practice, or breach involves personal dishonesty; or demonstrates willful or continuing disregard for the safety or soundness of the insured depository institution.

² Eighteen U.S.C. § 656 makes it a crime for an employee of a national bank to embezzle, abstract, purloin, or willfully misapply any of the money, funds, or credits of the bank, or which are entrusted to the custody of the bank.

The *Notice* alleges facts that are sufficient to support the claimed violations of law and unsafe or unsound practices and the proposed penalties. At all times relevant to the charges set forth in the *Notice*, the Bank was an “insured depository institution”³ as defined in 12 U.S.C. § 1813(c)(2). *Notice* ¶ 1. Respondent was an employee of the Bank and was therefore an “institution-affiliated party”⁴ of the Bank, as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six years of the date of the *Notice*, *see* 12 U.S.C. § 1818(i)(3). *Notice* ¶ 2. 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. *Notice* ¶ 3. The OCC is the “appropriate Federal banking agency”⁵ as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain a prohibition against Respondent pursuant to 12 U.S.C. § 1818(e). *Notice* ¶ 4.

The *Notice* alleges that Respondent was employed by the Bank between April 2018 and November 2018. *Id.* ¶ 6. On or about October 26, 2018, Respondent accessed Customer A’s account without a valid purpose. *Id.* ¶ 10. On or about October 29, 2018, Respondent processed two unauthorized cash withdrawals from Customer A’s account for \$2,400 each, totaling \$4,800. *Id.* ¶¶ 11-12. On or about October 31, 2018, Respondent processed two unauthorized cash withdrawals from Customer A’s account for \$2,400 each, totaling \$4,800. *Id.* ¶¶ 13-14. On or about November 7, 2018, Respondent processed one unauthorized cash withdrawal from Customer A’s account for \$2,200. *Id.* ¶¶ 15-16.

³ An insured depository institution includes “any bank . . . the deposits of which are insured by the [Federal Deposit Insurance] Corporation.” 12 U.S.C. § 1813(c)(2).

⁴ An institution-affiliated party includes “any director, officer, employee . . . of, or agent for, an insured depository institution.” 12 U.S.C. § 1813(u)(1).

⁵ The OCC is the appropriate Federal banking agency with respect to national banking associations, Federal branches or agencies of foreign banks, and Federal savings associations. 12 U.S.C. § 1813(q)(1).

On November 19, 2018, Respondent signed a written statement admitting to processing the withdrawals on behalf of a friend. *Id.* ¶ 17.

A. Notification of Respondent’s Obligation to Answer

The *Notice* adequately notified Respondent of her obligation to respond to the case against her. The *Notice* directed her to file an answer within 20 days of the date of service of the *Notice* with the Office of Financial Institution Adjudication, the OCC’s Hearing Clerk, and Enforcement Counsel. *Notice* at 4-5; *see also* 12 C.F.R. § 19.19(a), (b). The *Notice* lists the physical and email addresses for all parties who should receive service of an answer. *Notice* at 4-5. The *Notice* also specifically states that a failure to file an answer within the 20-day time period “shall constitute a waiver of the right to appear and contest the allegations contained in [the *Notice*.” *Id.*; *see also* 12 C.F.R. § 19.19(c). Respondent was required to file her answer to the *Notice* by July 5, 2023, which she failed to do.

B. Receipt of Service of *Notice of Charges* and Proof of Service of Process

The record reflects that OCC Enforcement Counsel served a copy of the *Notice*, dated June 15, 2023, on Respondent on or about June 15, 2023 via UPS overnight delivery. *Motion for Entry of Order of Default and Recommended Decision to Prohibit Further Participation and Report on Proof of Service of Process* (“*Default Motion*”) at 1. Respondent received service of the *Notice* at her physical address, obtained by Enforcement Counsel via Westlaw CLEAR search, and confirmed with the Housing Authority of Savannah, her landlord. *Id.* at 2-3.

C. Entry of Default and ALJ Recommendation

Following Respondent’s failure to file a timely answer to the *Notice*, Enforcement Counsel filed the *Default Motion* on August 23, 2023. It was served upon Respondent the same day. *Certificate of Service to Default Motion*. Respondent did not respond to that motion. On

September 18, 2023, ALJ Jennifer Whang entered the *Recommended Decision*. The ALJ determined that Respondent had failed to file an answer to the *Notice* within the time limits under the Uniform Rules of Practice and Procedure and, therefore, that Respondent was in default and had waived her right to appear and contest the allegations in the *Notice*. *Recommended Decision* at 2; see also 12 U.S.C. § 19.19(c)(1). Accordingly, the ALJ recommended that the Comptroller issue an order prohibiting Respondent from further participation in the banking industry. *Recommended Decision* at 2. Respondent did not file exceptions or otherwise respond to the *Recommended Decision*, and the record was submitted to the Comptroller for a final decision on October 31, 2023. *Notice of Submission of Proceeding for Final Decision*.

II. DECISION

The Comptroller affirms the ALJ's finding that Respondent is in default based upon Respondent's failure to submit a timely answer to the *Notice of Charges*. The record of this case supports this conclusion. The record reflects that the *Notice* was served upon Respondent on or about June 15, 2023. The *Notice* informed Respondent that she was required to file an answer within 20 days of being served the *Notice*, or by July 5, 2023. Respondent was also warned that failing to file a timely answer could result in a default judgment. Respondent received the *Notice*, failed to submit a timely response, and has not shown good cause for her failure to do so.

The Uniform Rules of Practice and Procedure state that it is appropriate to deliver papers to a party via "a reliable . . . overnight delivery service." 12 C.F.R. § 19.11(b)(2). If properly served, the "[f]ailure of a respondent to file an answer required by this section within the time provided constitutes a waiver of his or her right to appear and contest the allegations in the notice." *Id.* at § 19.19(c)(1). Further, if a party fails to show "good cause" for her failure to file a

timely answer, the ALJ “shall file with the Comptroller a recommended decision containing the findings and the relief sought in the notice.” *Id.* After issuance of a recommended decision, a party has 30 days to file exceptions to that decision, and failure to do so waives any “objection thereto.” *See id.* at § 19.39. Finally, “[a]ny final order issued by the Comptroller based upon a respondent’s failure to answer is deemed to be an order issued upon consent.” *See id.* at § 19.19(c)(1).

Based on the record of this proceeding, the Comptroller finds no basis to question the conclusion that Respondent had actual notice of the proceeding or of her obligation to respond. The Comptroller agrees with the ALJ’s findings: (1) that Respondent was properly served with the *Notice* in accordance with 12 C.F.R. § 19.11(b)(2); (2) that she failed to file an answer within the time limits prescribed under the Uniform Rules of Practice and Procedure; and (3) that she is in default. Further, Respondent has not filed any exception challenging the ALJ’s *Recommended Decision*, and any objection thereto is waived. *See id.* at § 19.39(b)(1). Respondent therefore has waived her right to appear and contest the allegations in the *Notice of Charges*.

The Comptroller also concludes that the uncontested facts as alleged in the *Notice of Charges* and the record herein support the conclusion that Respondent violated 18 U.S.C. § 656 and engaged in unsafe or unsound practices; that such violation caused the Bank to suffer financial loss and Respondent to receive financial gain; and that the violation involved personal dishonesty and demonstrated a willful disregard for the safety and soundness of the Bank. *See* 12 U.S.C. § 1818(e)(1).

The Comptroller finds that Respondent’s unauthorized withdrawals from a customer account violated 18 U.S.C. § 656 and constituted an unsafe or unsound practice. Further, such misconduct caused the Bank to suffer a financial loss when it charged off the unauthorized

withdrawals and caused Respondent to receive a financial gain when she took the cash from the customer account, regardless of what ultimately happened with the cash. And, finally, the taking of unauthorized withdrawals from a customer account involves personal dishonesty and a willful disregard for the safety and soundness of the Bank.

Accordingly, the Comptroller concludes that the facts as alleged in the *Notice of Charges* and the record herein support entry of the requested order that Respondent be prohibited from any further participation in the conduct of the affairs of any institution or entity enumerated in Section 8(e)(7)(A) of the FDIA.

III. CONCLUSION

The ALJ's recommended finding that Respondent be found in default based upon her failure to file an answer is affirmed. Upon consideration of the entire record in this proceeding, the Comptroller finds: (1) that Respondent is in default and has waived her right to contest the findings in the *Notice of Charges*; and (2) that Respondent should be prohibited from any further participation in the conduct of the affairs of any institution or entity set forth in Section 8(e) of the FDIA, 12 U.S.C. § 1818(e). Accordingly, the Comptroller issues an Order of Prohibition contemporaneously with this Final Decision.

Michael J.
Hsu

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Michael J. Hsu
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MICHAEL J. HSU
ACTING COMPTROLLER OF THE CURRENCY