

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

IN THE MATTER OF)
WESLEY GODFREY, JR.)
FORMER OFFICER AND DIRECTOR)
SECURITY NATIONAL BANK)
SHREVEPORT, LOUISIANA)

AA-EC-91-190

DECISION OF THE COMPTROLLER OF THE CURRENCY

This matter is before the Comptroller of the Currency on a motion for entry of default in a civil money penalty proceeding. Upon consideration of the pleadings, the recommended decision of the Administrative Law Judge (ALJ), and the entire record, the Comptroller concludes that entry of a final default order is appropriate. Accordingly, the Comptroller assesses a civil money penalty against Respondent, Wesley Godfrey, Jr., in the amount of \$100,000.

I. FACTUAL SUMMARY AND PROCEDURAL HISTORY

On October 16, 1992, the Office of the Comptroller of the Currency (OCC) issued a Notice of Assessment of a Civil Money Penalty (Assessment) against Respondent, a former officer and director of Security National Bank, Shreveport, Louisiana.¹ The

¹On the same date, a Notice of Intention to Prohibit Further Participation was also issued against Respondent. AA-EC-91-189. The Prohibition action has been certified to the Board of Governors of the Federal Reserve System pursuant to 12 U.S.C. § 1818(e)(4), and this decision does not apply to that action.

Assessment alleged that Respondent had committed numerous violations of 12 U.S.C. §§ 84 (lending limit), 371c (transactions with affiliates), and 375b (insider loans). When Respondent stated that he did not receive a copy of the original Assessment, an identical copy was sent to him on November 20, 1991.

On March 28, 1992, Respondent filed an Answer requesting a hearing. The Answer in its entirety stated as follows:

Wesley Godfrey, Jr., hereby request [sic] a hearing on both the intent to prohibit further participations [sic] and an assessment of a civil money penalty.

All articles except Article I are denied and all issues were explained and corrective actions were taken to avoid violations.

On May 21, 1992, Enforcement Counsel for the OCC filed a Motion Requiring More Definitive Answers. Respondent filed no response to this Motion. On June 9, 1992, Hon. Walter J. Alprin, Administrative Law Judge, on his own motion struck Respondent's Answer as failing to provide a specific response to each paragraph of the Assessment. Judge Alprin provided 20 days for Respondent to file a more specific Answer. To date, Respondent has filed no further Answer.

On July 21, 1992, Enforcement Counsel filed a Motion for Entry of an Order of Default. Respondent filed no response to this Motion. On August 13, 1992, Judge Alprin issued a Recommended Order recommending that the Motion be granted.

II. DISCUSSION

Entry of a default judgment is appropriate in this case because Respondent has not filed an Answer. In the alternative, Respondent's failure to contest the Motion for Entry of an Order of Default is deemed consent under the Comptroller's Rules of Practice and Procedure, as codified in 12 C.F.R. Part 19.

After the ALJ struck Respondent's original Answer, Respondent had no Answer in the record.² In the same order, the ALJ allowed 20 days for Respondent to file an Answer that satisfies the Comptroller's Rules of Practice and Procedure. Respondent did not file a new Answer within the allotted time and still has filed no Answer.³ Failure to file an Answer constitutes a waiver of Respondent's right to appear and contest the allegations in the Assessment. 12 C.F.R. § 19.19(c)(1). Since Respondent has not shown good cause for his failure to file an adequate Answer, the Comptroller concludes that a final order is appropriate under 12 C.F.R. § 19.19(c)(1).

In the alternative, the Comptroller finds that Respondent has

² Respondent's general denial of the allegations was clearly insufficient to satisfy the requirements of 12 C.F.R. § 19.19(b), which expressly prohibits general denials.

³ Allowing twenty days to file a new answer was sufficient to satisfy any due process requirements. The time is identical to the twenty days permitted to answer the original Assessment. 12 C.F.R. § 19.19(a).

consented to the Assessment because he failed to oppose the Enforcement Counsel's Motion for Entry of an Order of Default. Failure to oppose a motion is deemed under the Comptroller's Rules of Practice and Procedure to be consent to the entry of an order substantially in the form of the order accompanying the motion. 12 C.F.R. § 19.23(d)(2).

III. ORDER

The Comptroller of the Currency of the United States of America, based upon the entire record of this proceeding, including the recommended decision of the Administrative Law Judge, finds that Respondent is in default pursuant to 12 C.F.R. §§ 19.19(c)(1) and 19.23(d)(2) (1992).

The Notice of Assessment of Civil Money Penalty, charging Respondent with multiple violations of 12 U.S.C. §§ 84, 371c, and 375b and issued upon Respondent on November 20, 1991, pursuant to the provisions of 12 U.S.C. §§ 93(b)(1) and 504(a), has now become final as a consequence of this default.

Consequently, for the reasons set forth above, it is hereby ORDERED that a civil money penalty be assessed against Respondent, Wesley Godfrey, Jr., in the amount of one hundred thousand dollars (\$100,000).

Remittance of the civil money penalty shall be payable to the Treasury of the United States and delivered to the Hearing Clerk, Office of the Chief Counsel, Comptroller of the Currency, Washington, DC 20219.

This Order shall become effective immediately after its service and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court, in accordance with applicable law and regulation.

So Ordered, this 14th day of December, 1992.

Stephen R. Steinbrink
Acting Comptroller of the Currency