

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

In the Matter of:

Lisa Ellis

former Branch Manager

Gibraltar Private Bank and Trust

Coral Gables, Florida

AA-EC-2015-93

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate cease and desist proceedings against Lisa Ellis (“Respondent”) pursuant to 12 U.S.C. § 1818(b) on the basis of Respondent’s activities while serving as a Branch Manager of Gibraltar Private Bank and Trust, Coral Gables, Florida (“Bank”) and;

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter, Respondent, without admitting or denying any wrongdoing, desires to consent to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b);

NOW, THEREFORE, it is stipulated by and between the OCC, through the duly authorized representative of the Comptroller of the Currency (“Comptroller”), and Respondent that:

ARTICLE I

JURISDICTION

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

(2) Respondent is a former Branch Manager 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 Federal savings association within the meaning of 12 U.S.C. § 1813(q)(1)(C), and is examined by the OCC. *See* 12 U.S.C. §§ 1461 *et seq.*, 5412(b)(2)(B).

(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 this cease and desist action 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) During the period from 2006 to 2009, Respondent in her capacity as Branch Manager, failed to properly maintain a set of accounts for a customer who was later found to be operating an illegal Ponzi scheme (“Relevant Accounts”).

(2) Respondent coordinated transfers between the customer’s Relevant Accounts without sufficiently determining the purpose of the accounts and transfers, contrary to Bank policies and procedures.

(3) Respondent also failed to report suspicious activity occurring in the Relevant Accounts to the Bank’s Bank Secrecy Act (BSA) Department.

(4) Since 2012, the Bank has paid at least \$15 million in litigation settlement payments to third parties who claimed that the Bank and its officers aided and abetted the illegal Ponzi scheme that defrauded the third parties, by failing to notify them regarding the nature of the overdraft activity on the Relevant Accounts.

(5) By reason of the foregoing conduct, Respondent engaged in unsafe or unsound practices.

ARTICLE III

ORDER TO CEASE AND DESIST

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by, is offered employment at, or is otherwise affiliated with an insured depository institution (as defined in 12 U.S.C. § 1813(c)(1) or otherwise becomes an institution-affiliated party (“IAP”) within the meaning of 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 she is or may become affiliated, including, but not limited to 31 U.S.C. § 5318, 12 C.F.R. §§ 21.11, 21.21, and 163.180;
- (b) Avoid engaging in any unsafe or unsound practices (including and related to account transfers, customer transactions and overdrafts), 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 she is or may become affiliated and shall, at all times, avoid placing her own interests above those of the institution;
- (d) Promptly report suspicious activity in accordance with applicable bank policies and procedures and applicable laws and regulations;

- (e) Obtain a manager or supervisor's written approval before processing customer overdraft transactions;
- (f) Provide the Board of Directors of the insured depository institution of which Respondent is currently an IAP with a copy of this Order.

Respondent shall provide written certification of compliance with this paragraph (3)(e) to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 400 7th St., SW, Washington, D.C. 20219, within ten (10) days of execution of this Order; and
- (g) With respect to any future employment, prior to accepting any offer of a position that causes Respondent to become an IAP of an insured depository institution, provide the Board of Directors of the insured depository institution with a copy of this Order. Respondent shall provide written notice of such acceptance to the Director, Enforcement and Compliance Division, Office of the Comptroller of the Currency, 400 7th St., SW, Washington, D.C. 20219, along with a written certification of his compliance with this paragraph (3)(f) within ten (10) days after acceptance of such position.

(2) If, at any time, Respondent is uncertain whether a situation implicates Article III of this Order, or if Respondent is uncertain about her duties arising from these or any other requirements of this Order, she shall obtain, at her own expense, and abide by the written advice of counsel regarding her 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 insured depository 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' web sites.

(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

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 under 12 U.S.C. § 1818(b);
- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b), and 12 C.F.R. Part 109;
- (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. § 145.121 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. § 145.121 and Part 359.

(3) Respondent acknowledges that she 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 her hand.

s/Lisa Ellis

4-14-2016

Lisa Ellis

Date

IT IS SO ORDERED.

s/Michael R. Brickman

5/3/2016

Michael R. Brickman
Deputy Comptroller for Special Supervision

Date