

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

In the Matter of:)
)
Elden LeGaux)
Former Senior Vice President)
and Director of Wealth Management Operations)
Gibraltar Private Bank & Trust Company)
Coral Gables, Florida)

AA-EC-2018-27

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate civil money penalty proceedings against Elden LeGaux (“Respondent”) pursuant to 12 U.S.C. § 1818(i) on the basis of Respondent’s activities while serving as Senior Vice President and Director of Wealth Management Operations of Gibraltar Private Bank & Trust Company, Coral Gables, FL (“Bank”);

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, agrees to consent to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(i);

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

Initials: EL
Date: 6/21/18

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

(2) Respondent was an employee 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 was a Federal savings association within the meaning of 12 U.S.C. § 1813(q)(1)(C), and was chartered and 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 civil money penalty action against Respondent pursuant to 12 U.S.C. § 1818(i).

ARTICLE II

COMPTROLLER’S FINDINGS

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

(1) As the Senior Vice President and Wealth Management Operations Manager, Respondent was one of the people responsible for managing the department’s operations and Private Client Associates and related administrative processes. Respondent was also responsible for supervising review of new account packages, coordinating audit and regulatory reporting, and collaborating with compliance and Bank Secrecy Act (“BSA”)/Anti-Money Laundering business units to ensure regulatory compliance.

(2) In July 2012, Respondent helped author a report analyzing the opening of Wealth Management accounts for a potential high risk relationship to the Board’s BSA Committee

(“Declined Relationship”). Given the concerns that the BSA Committee expressed regarding approving the high risk relationship, the Bank declined the relationship in August 2012.

(3) In May 2013, Respondent helped author a memorandum to the BSA Committee (“2013 Report”) recommending opening accounts for a family relationship (“Accepted Relationship”) that had close ties to the Declined Relationship.

(4) In the 2013 Report, Respondent failed to include information that Respondent knew or reasonably should have known, such as reference to publicly available negative news, the Bank’s 2012 decision to decline the Declined Relationship, some of the close connections between the Accepted Relationship and the Declined Relationship, and that the source of funds would flow through a company owned and controlled by the Declined Relationship.

(5) After the BSA Committee approved the Accepted Relationship, the Bank incurred fees of approximately \$109,000 to conduct a review of its processes and the Bank’s handling of the relationship. Ultimately, the Bank exited the Accepted Relationship and closed the accounts.

(6) By reason of the foregoing conduct, Respondent engaged in reckless unsafe or unsound practices; which practices were likely to cause 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 fifteen thousand dollars (\$15,000), which shall be paid in full upon Respondent’s execution of this Order.

(2) Respondent shall make payment in full via pay.gov or wire transfer, in accordance with instructions provided by the Comptroller. The docket number of this case (AA-EC-2018-27) 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

CLOSING

- (1) By executing this Order, Respondent waives:
- (a) the right to a Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818(i);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(i) 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; 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/ Elden LeGaux

6/21/18

Elden LeGaux

Date

IT IS SO ORDERED.

s/ Troy Thornton

6/21/18

Troy Thornton

Date