

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY
WASHINGTON, D.C.

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In the Matter of)	
)	
WALTER F. MILLS , former Personal)	
Banking Representative)	OCC AA-EC-2019-11
)	
)	
Santander Bank N.A.)	
Wilmington, Delaware)	
_____)	

DECISION ON ENTRY OF DEFAULT AND ORDER OF PROHIBITION

This matter is before the Comptroller of the Currency (“Comptroller” or “OCC”) on the Recommended Decision of the Administrative Law Judge (“ALJ”) for entry of default and order of prohibition against Walter F. Mills (“Respondent”), a former employee of Santander Bank, N.A., Wilmington, Delaware (“Bank”). A Notice of Charges for Order of Prohibition (“Notice”), issued by the OCC pursuant to section 8(e) of the Federal Deposit Insurance Act (“Act”), 12 U.S.C. § 1818(e), seeks an order prohibiting Respondent from further participating in any manner in the conduct of the affairs of any federally insured depository institution, credit union, agency, or entity referred to in section 8(e) of the Act. 12 U.S.C. § 1818(e). Upon consideration of the pleadings, the ALJ’s Recommended Decision, and the entire record, the Comptroller concludes that (1) Respondent is in default, and (2) the record supports the conclusion 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 Act. 12 U.S.C. § 1818(e).

I. FACTUAL SUMMARY AND PROCEDURAL HISTORY

The ALJ's Recommended Decision details the uncontested findings of fact giving rise to this Decision. Among those uncontested findings are the following:

Respondent was employed as a personal banking representative at Bank branches in Massachusetts from approximately March 2012 until his termination in February 2014. Between June 2013 and January 2014, Respondent conducted or directed at least 17 withdrawals totaling \$46,027 on the deposit accounts of four Bank customers ("Customers"). These withdrawals were not requested or authorized by the Customers. Respondent converted the withdrawals, or caused the withdrawals to be converted, into official Bank checks that were made payable to the Customer whose account had been drawn. The official Bank checks each bear a signature on the back but no indication of an endorsement to any other payee. On each of the 17 advice of debit forms related to the 17 withdrawals, the handwritten initials "WFM" appear in the "APPROVED BY" box. Each advice of debit form also bears a handwritten notation that the transaction was made at the Customer's request, which was untrue. Respondent wrote these notations or caused them to be written.

Respondent either deposited (or attempted to deposit) the official Bank checks to his personal deposit account at Bank of America, N.A., Charlotte, North Carolina ("Bank of America"). In total, Respondent successfully deposited \$33,483 of the Customers' funds into his Bank of America account, despite the fact that the official Bank checks were made payable to the Customers. In total, between May and November 2014, the Bank charged off \$31,483 due to Respondent's misconduct. In furtherance of this scheme, Respondent carried out multiple acts of personal dishonesty in his communications and representations to Customers, the Bank, and Bank of America as detailed in the uncontested findings of fact in the Recommended Decision.

Service of the OCC's Notice initiating this proceeding on Respondent was effected when the Notice, sent by overnight delivery on May 20, 2019, was delivered to Respondent's current address on May 21, 2019. In addition, Respondent received personal service of the Notice by process server on June 6, 2019. Respondent was required to file an Answer to the Notice within twenty (20) days from service. *See* 12 C.F.R. §§ 19.12(c)(2), 19.19(a). Respondent failed to file an answer by June 11, 2019. On June 27, 2019, OCC Enforcement Counsel moved for an Order of Default pursuant to 12 C.F.R. § 19.19(c)(1). On July 1, 2019, the ALJ issued an Order to Show Cause requiring Respondent to appear by July 25, 2019, and show good cause why he never filed an Answer and request for hearing and why default judgment should not be granted. The Order to Show Cause was served on Respondent at the same address via UPS overnight delivery. Respondent did not reply to the motion or the Order to Show Cause. In an Order of Default and Recommended Decision to Prohibit Further Participation, issued July 31, 2019, the ALJ granted Enforcement Counsel's motion, finding that, by failing to appear, the Respondent waived his right to appear and contest the allegations in the Notice and consented to the entry of a final order of prohibition. *See* 12 U.S.C. § 1818(e)(4); 12 C.F.R. § 19.19(c)(1).

II. DECISION

The ALJ's finding that Respondent is in default based upon his failure to appear is appropriate. Respondent has been provided with adequate notice of this proceeding and several opportunities to appear and respond. Based on the record of this proceeding, the Comptroller agrees with the ALJ that Respondent was properly served, *see* 12 C.F.R. § 19.11(b), has failed to file an Answer, *see* 12 C.F.R. § 19.19, and is in default, *see* 12 C.F.R. § 19.19(c)(1).

Moreover, the Comptroller agrees that the uncontested allegations set forth in the Notice meet the standards for prohibition under section 8(e) of the Act. 12 U.S.C. § 1818(e).

Respondent's conducting of unauthorized withdrawals from Customers' deposit accounts at the Bank, conversion of those withdrawals into official Bank checks payable to Customers, and deposit, or attempted deposit, of those official Bank checks into his personal deposit account at another financial institution while an employee of the Bank constituted unsafe or unsound practices and violations of law,¹ notably 18 U.S.C. §§ 656 and 1005. As a result of the foregoing misconduct, the Bank suffered a "financial loss or other damage"; the Bank eventually charged off \$31,483.² Respondent also received a "financial gain or benefit"³ as a result of this misconduct, *i.e.*, the successful deposit of official Bank checks payable to the Customers totaling \$33,483 into his own Bank of America account.

Finally, Respondent's misconduct involved personal dishonesty.⁴ He illegally used his position at the Bank to write or cause to be written untrue notations on advice of debit forms memorializing the unauthorized withdrawals and deposited official Bank checks payable to Customers, bearing signatures but no indication of an endorsement to another payee, into his personal account at another financial institution. Other uncontested findings of fact detailed in the Recommended Decision describe specific personally dishonest actions by Respondent, which allowed him to perpetrate his scheme to personally enrich himself through unauthorized withdrawals from Customers' deposit accounts at the Bank.

¹ See 12 U.S.C. § 1818(e)(1)(A)(i)-(ii).

² See 12 U.S.C. § 1818(e)(1)(B)(i).

³ See 12 U.S.C. § 1818(e)(1)(B)(iii).

⁴ See 12 U.S.C. § 1818(e)(1)(C).

Accordingly, I find that the requirements for entry of an order prohibiting Respondent from participating in any manner in the conduct of the affairs of any insured depository institution have been met.

III ORDER

1. Respondent, Walter F. Mills, is hereby prohibited from:
 - a. Participating in any manner in the conduct of the affairs of any institution or agency specified in paragraph (2) of this Order;
 - b. Soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (2) of this Order;
 - c. Violating any voting agreement previously approved by the “appropriate Federal banking agency,” as defined in 12 U.S.C. § 1813(q); or
 - d. Voting for a director, or serving or acting as an “institution-affiliated party,” as defined in 12 U.S.C. § 1813(u).
2. The prohibitions in paragraph (1) of this Order apply to the following institutions and agencies:
 - a. any insured depository institution, as defined in 12 U.S.C. § 1813(c);
 - b. any institution treated as an insured bank under 12 U.S.C. 1818(b)(3), (b)(4), or (b)(5);
 - c. any insured credit union under the Federal Credit Union Act;
 - d. any institution chartered under the Farm Credit Act of 1971;
 - e. any appropriate Federal depository institution regulatory agency; and
 - f. the Federal Housing Finance Agency and any Federal Home Loan Bank.

3. The prohibitions in paragraphs (1) and (2) of this Order shall cease to apply with respect to a particular institution if Respondent obtains the prior written consent of both the OCC and the institution's "appropriate Federal financial institutions regulatory agency," as defined in 12 U.S.C. § 1818(e)(7)(D).
4. This Order shall remain effective and enforceable except to the extent that, and until such time as, any provisions have been modified, terminated, suspended, or set aside by the OCC.

SO ORDERED.

Date: December 13, 2019

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JOSEPH M. OTTING
COMPTROLLER OF THE CURRENCY