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

In the Matter of	)	
WILLIAM BRIAN MULDER, former Senior Vice President	)	OCC AA-EC-2019-43
Firstar Bank, N.A. Sallisaw, Oklahoma (Now Known as Firstar Bank)	)	

DECISION ON ENTRY OF DEFAULT AND ORDER OF PROHIBITION, CEASE-AND-DESIST ORDER REQUIRING RESTITUTION, AND ASSESSMENT OF CIVIL MONEY PENALTY

This matter is before the Comptroller of the Currency ("Comptroller" or "OCC") for a final agency decision with respect to a proposed entry of an order of prohibition, a cease-and-desist order requiring restitution, and assessment of a civil money penalty issued pursuant to section 8(b), (e), and (i) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(b), (e), and (i). On December 30, 2019, an Administrative Law Judge assigned to this matter, Christopher B. McNeil, issued an Order of Default and Recommended Decision ("Recommended Decision"). The Recommended Decision proposed that the Comptroller should find the Respondent, William Brian Mulder ("Respondent"), in default for having failed to respond to the Notice of Charges for an Order of Prohibition, Cease-and-Desist Order Requiring Restitution, and Assessment of a Civil Money Penalty ("Notice of Charges" or "Notice") or to submit a timely request for a hearing. As a result of that default, the Recommended Decision concluded that the Comptroller should enter an order of prohibition against Respondent, a former Senior Vice President of

Firstar Bank, N.A. ("Firstar" or "Bank"), impose a $250,000 civil money penalty, and issue final Cease-and-Desist order requiring restitution.

As is set forth more fully below, the Comptroller affirms the Recommended Decision and adopts its findings of fact and conclusions regarding the disposition of this case. Upon consideration of the entire record in this proceeding, including the specific findings set out below, the Recommended Decision, and the Respondent's Exception thereto, the Comptroller concludes (1) that Respondent should be found in default; (2) that 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); (3) that a Cease-and-Desist order requiring restitution of $2,358,256.36 should issue; and (4) that Respondent should be ordered to pay a $250,000 civil money penalty pursuant to 12 U.S.C. § 1818(i).[1]

I. INITIATION AND COURSE OF PROCEEDINGS

On July 11, 2019 OCC Deputy Comptroller for Special Supervision Michael R. Brickman issued a Notice of Charges to Respondent. The Notice was based upon violations that arose from Respondent's submission in 2012 and 2013 of materially inaccurate and fabricated documents to his then-employer, Firstar Bank, regarding lines of credit he obtained and modified.

The Notice charged that in approximately April 2011 and September 2011, Respondent, who was then a Bank customer and not an officer or employee, obtained two loans that totaled approximately $1,352,010. Notice of Charges July 11, 2019 at 4. In September 2011,

[1] On November 4, 2019 the Administrative Law Judge issued the Order Regarding Assessment of a Civil Money Penalty in the amount of $250,000 for Respondent's failure to timely request a hearing on a civil money penalty assessment. The Administrative Law Judge noted that the Assessment therefore constituted a final order. 12 C.F.R.§ 19.19(c)(2).

Respondent consolidated the two loans into a single line of credit of approximately $2,803,000. *Id*.

Respondent subsequently became an officer of Firstar in August 2012. *Id.* at 3. That same month, Respondent modified his line of credit, obtaining an increase to $3,651.000. To secure this increase, Respondent purported to pledge the cash value of five Merrill Lynch life insurance policies as collateral for the loan. The Respondent also provided the Bank with purported assignments of these policies. *Id* at 4.

The Notice charged that the insurance policies pledged by Respondent did not exist. Merrill Lynch had sold its life insurance division in 2007 and ceased selling life insurance policies. *Id*. In addition to providing fabricated assignments of non-existent Merrill Lynch life insurance policies, Respondent was alleged to have provided to Firstar a personal financial statement representing that he was the sole beneficiary of a trust worth approximately $152,000,000. This trust also did not exist. *Id*. at 5.

The Notice further charged that in August 2013, while still a Firstar employee, Respondent requested and the Bank approved a modification to the line of credit, increasing its limit to $3,900,000. *Id*. at 5-6. In connection with the August 2013 modification, Respondent executed a Promissory Note which identified collateral for the loan as the cash value of the non-existent life insurance policies, as well as purported Merrill Lynch life insurance statements reflecting $3,926,188 cash value. Id. at 6. In addition, Respondent's personal financial statement submitted at this time represented to the Bank that he was the sole beneficiary of a trust worth $205,000,000. This trust never existed. *Id*. at 7.

The Notice charged that in June 2014 Firstar discovered that Respondent had submitted materially inaccurate and fabricated documents to the Bank and pledged fictious assets as

collateral. In August 2014 he was fired by Firstar. *Id*. at 8. The Notice of charges alleged that Firstar and other banks that had participated in the syndications of his lines of credit sustained a loss, which were partly offset by fidelity bonds for dishonesty or theft, in the amount of $2,359,246.56. *Id*. at 15

With respect to notifying Respondent regarding his obligation to respond to the case against him, the Notice of Charges set forth that that a hearing would be held regarding the proposed Order of Prohibition and Cease-and-Desist Order, provided that Respondent filed a written Answer to the Notice of Charges within 20 days of the date of service of the Notice. *See* 12 C.F.R. §§ 19.12(c)(2), 19.19(a). The Notice also advised Respondent that if he should seek to challenge assessment of a $250,000 Civil Money Penalty, he would need to request a hearing on the Assessment along with his written Answer. The Notice stated that the deadline for making such a hearing request and filing such an answer was the same: 20 days after the date of service of the Notice of Charges. The Notice of Charges also specifically stated that a failure to file an answer or request a hearing "shall constitute a waiver of the right to appear and contest the allegations contained" in the Notice and "shall cause an assessment to constitute a final and appealable order for a civil money penalty pursuant to 12 U.S.C. 1818(i)." *Id.* at 14-15.

The record reflects that OCC Enforcement Counsel served a copy of the Notice of Charges on Respondent through his retained counsel, Gary Richardson of the law firm of Richardson Richardson Boudreaux. Service was accomplished by both email transmission to counsel on July 11, 2019 and by overnight delivery to counsel's office in Tulsa, Oklahoma. The Notice was received by counsel on July 12, 2019. Respondent was therefore required to file his Answer to the Notice and to request for hearing by August 1, 2019.

On July 31, 2019, Respondent, through his counsel, filed an Unopposed Motion to Extend Deadline to Reply to the Notice. On August 1, 2019, the Administrative Law Judge approved Respondent's proposed Order, permitting Respondent to file a written Answer to the allegations in the Notice not later than September 1, 2019 deadline. The record also reflects that Respondent's Unopposed Motion to Extend Deadline to Reply did not include a request for a hearing regarding the Civil Money Penalty Assessment nor did Respondent or his counsel seek an enlargement of time within which to make such a request.

With the deadline to respond looming, Respondent requested a second enlargement of time on August 30, 2019. Captioned as an "Unopposed Motion to Extend Deadline to Reply," the motion sought a 60-day extension of time in which to file an Answer. Despite being designated as "unopposed," counsel for Respondent noted in the body of the motion that he had not discussed the matter with Enforcement Counsel. The Administrative Law Judge struck the motion the same day for failure to meet and confer with Enforcement Counsel and for failure to include a certificate of service upon opposing counsel. Respondent did not follow up on the matter of an enlargement of time or the filing of an Answer or request for a hearing. Instead, counsel for Respondent filed subsequent motions on August 30 and September 6, 2019, seeking leave to withdraw from the case. The Administrative Law Judge granted the second of the two motions to withdraw. At no time during this period did Respondent file an Answer to the Notice or file a request for a hearing.

A. The First Order to Show Cause

On September 17, 2019, the Administrative Law Judge issued his Order to Show Cause Regarding Assessment of Civil Money Penalty. This order required Respondent to explain why the assessment of the civil money penalty should not be made final, given his failure to timely

request a hearing. A new counsel for Respondent, G. Stephen Stidham, filed a response to the Order to Show Cause on October 13, 2019, with Enforcement Counsel submitting a response nine days later.

After consideration of the parties' submissions, the Administrative Law Judge found that the Respondent had not shown good cause to excuse his failure to challenge the penalty within either the required 20-day period following service of the Notice of Charges or during the extension granted by the Administrative Law Judge. On November 4, 2019 the Administrative Law Judge issued an order assessing a civil money penalty, finding that the Respondent had not timely requested a hearing by which he could invoke the OCC's jurisdiction in order to challenge issuance of the penalty.

B. The Second Order to Show Cause

On November 18, 2019, the Administrative Law Judge issued a second Notice to Show Cause to Respondent, ordering him to show cause why a default judgment should not be issued on the proposed order of prohibition and the proposed cease-and-desist order requiring restitution. The response was due no later than December 6, 2019. Respondent did not file any response to the second show cause order.

C. The Entry of Default

Following Respondent' failure to respond to the second show cause order, Enforcement Counsel filed with the Administrative Law Judge on December 12, 2019 a Motion for Entry of Default. 12 C.F.R. § 19.19(c)(1).[2] Respondent filed a response to the Motion for Entry of Default on December 23, 2019. In his response, Respondent admitted that he had neither filed

[2] On the same day Enforcement Counsel sought their Order of Default, Respondent filed an opposed Application to File Answer Out of Time. Respondent did not include a proposed Answer with his filing and cited no authority justifying his Application. Respondent did not provide any sworn declaration or other evidence demonstrating excusable neglect for his repeated failure to file an Answer.

an Answer nor had he requested a hearing in a timely manner. He attributed this failure to "gross neglect and client abandonment" by his previous counsel. Respondent did not submit any declarations or other evidence to support these assertions. In support of his argument that he should be excused from the alleged acts and omissions of his prior counsel, Respondent principally relied upon the analysis contained in a California decision, *Daley v. Butte County*, 38 Cal. Rptr. 693, 227 Cal. App. 380 (1964). Respondent described his former retained counsel as a "PERSONAL INJURY attorney laboring under an unspecified conflict of interest…" (emphasis in original). Respondent did not identify what this alleged "unspecified conflict of interest" was.

On December 30, 2019, the Administrative Law Judge entered his Recommended Decision. The Administrative Law Judge found the Respondent to be in default and recommended issuance of a final decision by the Comptroller of the Currency prohibiting the Respondent from the banking industry and issuance of a Cease-and-Desist Order requiring restitution. Relying upon the Supreme Court's decision in *Link v. Wabash R. Co.,* 370 U.S. 626 (1962), the Administrative Law Judge rejected the argument that the Respondent's failure to timely seek a hearing or to file an Answer was excusable neglect, instead finding that "Respondent's choice of counsel in this administrative enforcement proceeding was his own to make" and that he was bound by the acts and omissions of his chosen counsel. Recommended Decision, at 4. If an attorney's conduct "falls substantially below what is reasonable under the circumstances, the client's remedy is against the attorney in a suit for malpractice." *Link,* 370 U.S. at n. 10.

D. Filing of Respondent's Exceptions

Respondent timely filed a two-page Exception to the Administrative Law Judge's Recommended Decision. The Exceptions raise two issues. First, Respondent asserts that the

amount of the civil money penalty was inappropriate, arguing that the amount of the penalty should have been mitigated based on Respondent's claimed lack of assets. 12 U.S.C. § 1818(i)(2)(G). Respondent contends that on "November 20, 2018, Respondent's former attorneys sent a letter with attachments to Enforcement Counsel" and that this letter is evidence that "as of March 23, 2016, Respondent had assets of only $0 to $50,000 and liabilities of $1,000,001.00 to $10,000,000.00." Respondent did not provide a copy of this November 20, 2018 letter to Enforcement Counsel with his Exception, nor was this correspondence otherwise made a part of the record of this proceeding. Second, Respondent adopts "by reference" his arguments previously submitted to the Administrative Law Judge attacking the competence of his previously retained attorney and claiming that his former counsel was confused by the practice of administrative law before the OCC.

II. DECISION

The Comptroller adopts the Recommended Decision, including the associated findings of fact[3], and incorporates it herein. As is discussed more fully below, Respondent's Exceptions to the Recommended Decision raise only two points for appeal, neither of which are meritorious. Respondent does not call into question any of the findings of fact cited by the Administrative Law Judge supporting the Recommended Decision, nor does he raise any issue with respect to the underlying violations set forth in the Notice that are the basis for the proposed orders. Respondent questions only the amount of the Civil Money Penalty; he does not question the appropriateness of his prohibition from the banking industry, nor does he take issue with the calculation of losses sustained by the banks which forms the basis of the proposed restitution.

[3] Recommended Decision, at 7 – 12.

A. The Entry of Default Was Appropriate.

As a threshold matter, the Comptroller concludes that the Administrative Law Judge correctly and properly entered a default based upon Respondent's failure to submit a timely Answer to the Notice of Charges or to request a hearing. Based on the facts as set forth in the Recommended Decision, *see Recommended Decision* at 6 – 7, Respondent was aware of the necessity to answer in a timely manner if he wished to contest any aspect of the Notice, and Respondent fails to offer even a modestly compelling argument to excuse the lack of a timely response.

The Notice of Charges informed Respondent that a hearing would be held regarding the proposed Order of Prohibition and the Cease-and-Desist Order if he file a written Answer to the Notice of Charges within twenty days of the date of service. The Notice also advised Respondent that, if he sought to challenge the $250,000 civil money penalty, he must include a request for a hearing along with his written Answer. The Notice clearly set forth the deadline for making such a hearing request and filing such an answer: twenty days after the date of service of the Notice of Charges. The Notice of Charges also specifically stated that a failure to file an answer or request a hearing "shall constitute a waiver of the right to appear and contest the allegations contained" in the Notice and "shall cause an assessment to constitute a final and appealable order for a civil money penalty pursuant to 12 U.S.C. 1818(i)." The record reflects that Enforcement Counsel served a copy of the Notice of Charges on Respondent, through his counsel, and that Respondent was in actual receipt of the Notice.

Respondent was aware of the deadlines and, based on subsequent motions practice before the Administrative Law Judge, he (or his counsel) apparently understood that there was an affirmative obligation to respond. This was confirmed by the fact that Respondent sought (and

was granted) an enlargement of time to respond to the Notice. Despite being granted the extension to file, Respondent subsequently failed to file an Answer, nor did he request a hearing in a timely manner.

Respondent attempts to explain his failure to respond by arguing that the counsel that he initially retained, Mr. Richardson, was incompetent and, accordingly, that any failure to timely file an Answer, request a hearing, or submit evidence should be excused. Respondent also cryptically asserts, without providing any evidence to back up his claim, that his counsel was "laboring under an unspecified conflict of interest."

Respondent's argument does not excuse the default. Again, it is undisputed that Respondent's counsel was in fact aware of the deadlines and the obligation to respond: he sought and was granted an extension of time within which to file. Respondent's contention that "a personal injury law firm should not have been representing [him] in a proceeding foreign to its civil litigation experience" does not help his cause. While it may be true that counsel with a specialty in litigating personal injury cases might be in unfamiliar territory with respect to the finer points of banking law, it does not take a specialist to recognize the basic duty to comply with filing deadlines or to submit a response to an order to show cause, especially when the Notice expressly sets forth that Respondent waives his right to a hearing if he fails to file an answer or request a hearing in a timely manner. More to the point, Respondent's counsel acknowledged and apparently understood this obligation to respond when he sought and received an extension of time to reply, and Respondent *still* did not file an answer or request a hearing. Respondent may now, in hindsight, regret his choice of counsel, but (as the Recommended Decision correctly concludes) under our system of representative litigation each party is bound by the acts of his lawyer-agent. *Long v. Board of Governors of the Federal Reserve System*, 117

F.3d 1145, 1153 (10th Cir. 1997) (citing *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 92 (1990)).

B. The Entry of an Order of Prohibition, an Order to Cease and Desist, and an Order Requiring Restitution is Appropriate.

The Comptroller finds that, based upon the uncontested allegations set forth in the Notice and upon the findings of fact set forth in the Recommended Decision, the record supports the entry of (1) an order of prohibition under 12 U.S.C. § 1818(e), (2) a cease-and-desist order requiring restitution under 12 U.S.C. § 1818(b)(6), and (3) a civil money penalty in the amount of $250,000 pursuant to 12 U.S.C. § 1818(i).

Respondent's false statements regarding the existence of life insurance policies, his claims of being a beneficiary of a non-existent trust, and his submission of a materially false personal financial statement to a federally-insured depository institution while an employee of Firstar, amongst other wrongful acts, constituted unsafe or unsound practices and violations of law, notably 18 U.S.C. §§ 1005, 1014, and 1344. As a result of the foregoing misconduct, Firstar Bank and other insured depository institutions suffered a "financial loss or other damage" of $2,358,256.36. Respondent also received a "financial gain or benefit" as a result of this misconduct*, i.e.,* cash obtained through fraudulent misrepresentations made to Firstar Bank and other insured depository institutions.

Respondent's misconduct also involved personal dishonesty. He illegally used his position at Firstar Bank to submit false and fraudulent financial instruments, including but not limited to non-existent life insurance policies, to enrich himself.

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 and for reimbursement have been met.

C. The Amount of the Penalty is Appropriate.

Respondent's Exceptions to the Recommended Decision also posits that the $250,000 civil money penalty is excessive. Respondent argues that the Recommended Decision is "silent on the mitigating factors Enforcement Counsel and the Administrative Law Judge considered in reaching the monetary penalties to assess against the Respondent." Exception at 1 (citing 12 U.S.C. § 1818(i)(2)(G)). This argument lacks merit.

As is outlined above, the fundamental reason why the Recommended Decision does not discuss mitigating factors related to the Civil Money Penalty is that Respondent failed to present evidence or argument regarding mitigating factors on the record. Moreover, even if the Comptroller were to conclude that the Respondent had not waived the right to present argument, the substance of the argument that has been presented by Respondent in support of possible mitigating factors falls woefully short. Respondent argues that his former counsel sent a letter to Enforcement Counsel allegedly stating that "as of March 23, 2016" Respondent was deeply insolvent. There is nothing on the record to establish the veracity of this representation.[4] As noted above, Respondent did not provide a copy of this letter with his Exceptions, nor was the letter or its contents otherwise made a part of the record of this proceeding.

While the agency seeking the imposition of a penalty normally bears the burden of demonstrating that the statutory factors have been satisfied, which would include the consideration of any mitigating factors, the Comptroller concludes that Respondent's unsupported statements, without more, do not suggest that the Recommended Decision improperly failed to consider a mitigation of the penalty. Nor do they cause the Comptroller to

[4] Respondent makes no argument, and does not show, that his current financial condition would merit a mitigation. Nor does he explain why his financial condition of over 4 years ago is relevant to the imposition of a civil money penalty in 2020.

conclude that it would be appropriate to remand the matter to determine whether the penalty should be reduced. Respondent was provided a full opportunity to address the size of the penalty and the existence of any mitigating factors, which he (through his counsel) failed to do. The unsupported statements contained in Respondent's Exceptions, without more, do not suggest otherwise. It is Respondent – and not Enforcement Counsel or the Administrative Law Judge - who bears sole responsibility for the fact that there is no evidence in the record to support Respondent's argument that the penalty should be mitigated.

Based on the uncontested facts that *do* appear in the record, and given the seriousness of the violations in question, the Comptroller concludes that the amount of the penalty is appropriate. Respondent's fraud caused aggregate losses of over $3,000,000[5] to multiple banks, including his own employer Firstar Bank – losses which Respondent does not challenge as having been caused as a result of his own wrongful conduct. Further, with respect to the standards articulated by 12 U.S.C. § 1818(i)(2)(G), Respondent does not attempt to make the argument that his actions were somehow carried out in good faith (§ 1818(i)(2)(G)(i)); that his violations were not grave (§1818(i)(2)(G)(ii)); that he had no history of previous violations (§ 1818(i)(2)(G)(iii)); or that there are other factors that would make imposition of a $250,000 penalty unjust (§ 1818(i)(2)(G)(iv)). Without a factual basis to support it, Respondent's argument that the penalty is excessive must be rejected. *See Long,* 117 F.3d at 1153-57 (rejecting excessive fines challenge to $717,941 civil money penalty against respondent who had enriched himself by a similar amount). A penalty of less than 10% of the loss caused by Respondent's actions is hardly excessive nor does it "shock the conscience." *Id*. at 1152.

[5] The record shows that some of the losses caused by Respondent's misconduct were covered by insurance, reducing the loss to the banks. *See* Findings of Fact, ¶¶ 47-49.

III. CONCLUSION

Given the foregoing, the Administrative Law Judge's recommended finding that Respondent be found in default based upon his failure to file an Answer is affirmed. Upon consideration of the entire record in this proceeding, the Comptroller finds that (1) Respondent is in default and has waived his right to request a hearing or contest the findings in the Notice, (2) 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); (3) that a Cease-and-Desist order requiring Respondent to pay restitution of $2,358,256.36 should issue; and (4) Respondent should be ordered to pay a $250,000 civil money penalty pursuant to 12 U.S.C. § 1818(i).

Date: September 3, 2020.

/s/
BRIAN P. BROOKS
ACTING COMPTROLLER OF THE CURRENCY

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

In the Matter of **WILLIAM BRIAN MULDER**, former Senior Vice President Firstar Bank, N.A. Sallisaw, Oklahoma (Now Known as Firstar Bank)	)	OCC AA-EC-2019-43

ORDER OF PROHIBITION

On July 11, 2019, Michael R. Brickman, Deputy Comptroller for Special Supervision for the Office of the Comptroller of the Currency ("OCC") issued a Notice of Charges to William Brian Mulder ("Respondent") which, *inter alia*, sought the issuance of an order permanently prohibiting Respondent from further participation in the affairs of other insured depository institutions pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(e).

As set forth in the Decision on Entry of Default and Order of Prohibition, Cease and Desist Order Requiring Restitution, and Assessment of Civil Money Penalty ("Decision"), the Respondent, who was at all times represented by counsel, failed to submit a timely Answer to the Notice and failed to seek a hearing on assessment of the Civil Money Penalty.

For the reasons set forth in the Decision, it is hereby ordered, pursuant to Section 8(e) of the FDIA, 12 U.S.C. § 1818(e):

1. William Brian Mulder shall not participate in any manner in the conduct of the affairs of any insured depository institution, agency, or organization enumerated in

Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the appropriate Federal financial institutions regulatory agency, as that term is defined in Section 8(e)(7)(D) of the FDIA, 12 U.S.C. § 1818(e)(7)(D); and

2. William Brian Mulder shall not solicit, procure, transfer, attempt to transfer, vote or attempt to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the appropriate Federal financial institutions regulatory agency, as that term is defined in Section 8(e)(7)(D) of the FDIA, 12 U.S.C. § 1818(e)(7)(D); and

3. William Brian Mulder shall not violate any voting agreement with respect to any insured depository institution, agency, or organization enumerated in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the appropriate Federal financial institutions regulatory agency, as that term is defined in Section 8(e)(7)(D) of the FDIA, 12 U.S.C. § 1818(e)(7)(D); and

4. William Brian Mulder shall not vote for a director, or serve or act as an institution- affiliated party, as that term is defined in Section 3(u) of the FDIA, 12 U.S.C. § 1813(u), of any insured depository institution, agency, or organization enumerated in Section 8(e)(7)(A) of the FDIA, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the appropriate Federal financial institutions regulatory agency, as that term is defined in Section 8(e)(7)(D) of the FDIA, 12 U.S.C. § 1818(e)(7)(D).

This ORDER will become effective thirty (30) days from the date of its issuance.

The provisions of this ORDER will remain effective and in force except in the event that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the Office of the Comptroller of the Currency.

IT IS SO ORDERED.

Date: September 3, 2020.

/s/

BRIAN P. BROOKS
ACTING COMPTROLLER OF THE CURRENCY

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

In the Matter of **WILLIAM BRIAN MULDER**, former Senior Vice President Firstar Bank, N.A. Sallisaw, Oklahoma (Now Known as Firstar Bank)	)	OCC AA-EC-2019-43

CEASE AND DESIST ORDER OF RESTITUTION

On July 11, 2019, Michael R. Brickman, Deputy Comptroller for Special Supervision for the Office of the Comptroller of the Currency ("OCC") issued a Notice of Charges to William Brian Mulder ("Respondent") which, *inter alia*, sought the issuance of a Cease and Desist Order requiring Respondent to make restitution for violations of law that resulted in his unjust enrichment, pursuant to Section 8(e) of the Federal Deposit Insurance Act ("FDIA"), 12 U.S.C. § 1818(b)(6).

As set forth in the Decision on Entry of Default and Order of Prohibition, Cease and Desist Order Requiring Restitution, and Assessment of Civil Money Penalty ("Decision"), the Respondent, who was at all times represented by counsel, failed to submit a timely Answer to the Notice and failed to seek a hearing on assessment of the Civil Money Penalty.

For the reasons set forth in the Decision, it is hereby ordered, pursuant to Section 8(b)(6) of the FDIA, 12 U.S.C. § 1818(b)(6): that Respondent, William Brian Mulder, pay restitution in the amount of Two Million, Three Hundred Fifty-Nine Thousand, Two Hundred Fifty-Six Dollars and Fifty-Six cents ($2,359,256.56) or such other amount as

justice may require, representing the unjust enrichment to Respondent and the losses of the insured depository institutions attributable to Respondent's violations of law and applicable regulations as set forth in the Decision.

The amounts of restitution are distributed as follows:

1. $1,507,917.95 to Firstar Bank, Sallisaw, Oklahoma;

2. $512,692.10 to First National Bank of Stigler, Stigler, Oklahoma;

3. $211,108.49 to Bank of Eufaula, Eufaula Oklahoma; and

4. $127,538.02 to BancFirst, Oklahoma City, Oklahoma.

This Order of Restitution shall continue to apply in favor of any successor in interest to the above-enumerated insured depository institutions. Remittance of the restitution owed by Respondent shall be payable to the named insured depository institution, or its successor in interest, and shall be delivered to the Director, Enforcement Group ("Director of Enforcement"), OCC, 400 7th Street, SW, Washington D.C. 20219, or to any subsequent address the OCC may occupy. The docket number in this case (OCC AA-EC-2019-43) shall be included with your correspondence.

Upon execution of this Order, Respondent shall notify the Director of Enforcement of his current residential address, by returning proof of such addresses with this Order. Until the total amount of restitution is paid in full, upon each subsequent change in residential address, if any, Respondent shall notify the Director of Enforcement of the new address within seven (7) days of such change in any residential address.

The provisions of this Order will remain effective and in force except in the event that, and until such time as, any provision of this Order shall have been modified, terminated, suspended, or set aside by the Office of the Comptroller of the Currency.

IT IS SO ORDERED.

Date: September 3, 2020.

/s/

BRIAN P. BROOKS
ACTING COMPTROLLER OF THE
CURRENCY

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

In the Matter of **WILLIAM BRIAN MULDER**, former Senior Vice President Firstar Bank, N.A. Sallisaw, Oklahoma (Now Known as Firstar Bank)	)	OCC AA-EC-2019-43

ASSESSMENT OF A CIVIL MONEY PENALTY

On July 11, 2019, Michael R. Brickman, Deputy Comptroller for Special Supervision for the Office of the Comptroller of the Currency ("OCC") issued a Notice of Charges to Respondent which, *inter alia*, sought the imposition of a Civil Money Penalty against William Brian Mulder ("Respondent"), an institution affiliated party of Firstar Bank, N.A., Sallisaw, Oklahoma, now known as Firstar Bank. The Notice of Charges sought imposition of a Two Hundred Fifty Thousand Dollar ($250,000.00) civil money penalty against the Respondent pursuant to Section 8(i)(2)(B) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i)(2)(B).

As set forth in the Decision on Entry of Default and Order of Prohibition, Cease and Desist Order Requiring Restitution, and Assessment of Civil Money Penalty ("Decision"), the Respondent, who was at all times represented by counsel, failed to submit a timely Answer to the Notice and failed to seek a hearing on assessment of the Civil Money Penalty.

Pursuant to Section 8(i) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(i):

IT IS HEREBY ORDERED that the Respondent, William Brian Mulder, be assessed a civil money penalty in the amount of Two Hundred Fifty Thousand Dollars ($250,000.00).

Remittance of the civil money penalty shall be payable to the Treasury of the United States and delivered to the Comptroller of the Currency, Washington, D.C.

IT IS FURTHER ORDERED that the Respondent is prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

This ORDER will become effective thirty (30) days from the date of its issuance.

The provisions of this ORDER will remain effective and in force except in the event that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the Office of the Comptroller of the Currency.

IT IS SO ORDERED.

Date: September 3, 2020.

/s/
BRIAN P. BROOKS
ACTING COMPTROLLER OF THE CURRENCY