

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

In the Matter of:

David M. Walter
Former Vice President and Branch Manager

Midstates Bank, N.A.
Council Bluffs, Iowa

AA-ENF-2023-63

CONSENT ORDER

WHEREAS, the Office of the Comptroller of the Currency (“OCC”) intends to initiate personal cease and desist (“PC&D”) and civil money penalty (“CMP”) proceedings against David M. Walter (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i) on the basis of Respondent’s activities while serving as Vice President, branch manager, and loan officer of Midstates Bank, N.A. (“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, desires to consent to the issuance of this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (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

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

(2) Respondent was an officer and employee of the Bank and was an “institution-affiliated party” (“IAP”) 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 national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A), and is chartered and examined by the OCC. *See* 12 U.S.C. § 1 *et seq.*

(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 these PC&D and CMP actions 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) From September 2019 through June 2020, Respondent was a Vice President and Branch Manager at the Bank. Respondent also served as a loan officer, and his duties included preparing loan recommendations and updating the Bank’s loan committee on repayment status of loans.

(2) Respondent served as the Bank’s loan officer on a series of loans the Bank extended to a borrower (“Borrower”) in December 2019 and January 2020. Respondent failed to

follow the Bank's conflict of interest policies and generally accepted standards of prudent operation.

(3) Respondent engaged in conflicts of interest arising from his personal dealings with the Borrower. Respondent received an interest-free personal loan from the Borrower; received a personal computer as a gift from the Borrower; owed an outstanding debt to the Borrower; and pursued investment opportunities with the Borrower.

(4) Despite having several opportunities to do so, Respondent failed to disclose his personal dealings with the Borrower to the Bank until June 2020, after the Borrower defaulted on certain loans.

(5) By reason of the foregoing conduct, Respondent engaged in unsafe or unsound practices and breached his fiduciary duty to the Bank. Respondent's acts or omissions constituted a pattern of misconduct and resulted in financial gain or other benefit to Respondent.

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 thirty thousand dollars (\$30,000), 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 OCC. The docket number of this case (AA-ENF-2023-63) 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

ORDER TO CEASE AND DESIST

Respondent consents to, and it is ORDERED that:

(1) Whenever Respondent is employed by or is otherwise affiliated with any depository institution as defined in 12 U.S.C. § 1813(c)(1) or otherwise becomes an IAP as defined in 12 U.S.C. § 1813(u), Respondent shall:

- (a) comply fully with all laws and regulations applicable to the institution;
- (b) not engage or participate in any unsafe or unsound practice, as that term is used in Title 12 of the United States Code;
- (c) fulfill his fiduciary duties of loyalty and care and, at all times, avoid placing his own interests above those of the institution;
- (d) review, familiarize himself with, and adhere to all applicable policies and procedures of the institution, including any applicable conflicts of interest policy;
- (e) not participate in any due diligence, nor serve as the loan officer, for loans to customers that may give rise to an actual or potential conflict of interest;
- (f) recuse himself from participating in any review capacity for loans to customers that may give rise to an actual or potential conflict of interest;
and
- (g) disclose all relevant information concerning any actual or potential conflict of interest to the President, Chief Executive Officer, or the board of the institution.

(2) If Respondent is currently an IAP, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order within ten (10) days of execution of this Order.

(3) Prior to accepting any offer of a position that causes Respondent to become an IAP, he shall provide the President or Chief Executive Officer of the institution with a copy of this Order.

(4) Within ten (10) days of satisfying the requirements of paragraphs (2) or (3) of this Article, Respondent shall provide written certification of his compliance to the OCC by email to the address provided by the OCC.

(5) If, at any time, Respondent is uncertain whether a situation implicates paragraph (1) of this Article, or if Respondent is uncertain about his duties arising from such paragraph, he shall obtain, at his own expense, and abide by the written advice of counsel regarding his 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 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' websites.

(6) 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 V

CLOSING

(1) By executing this Order, Respondent waives:

Initials: DW
Date: 12/20/23

- (a) the right to a Notice of Charges for Issuance of an Order to Cease and Desist and Notice of Civil Money Penalty Assessment under 12 U.S.C. § 1818(b) and (i);
- (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(b) and (i) and 12 C.F.R. Part 19;
- (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. § 7.2014 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. § 7.2014 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/

David M. Walter

12/20/23

Date

IT IS SO ORDERED.

//s// Digital Signature, Dated: 2023.12.20

Michael R. Brickman
Deputy Comptroller for Specialty Supervision