

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

In the Matter of	)	
	)	
<b>NEIL BASSI,</b>	)	AA-ENF-2020-85
Former President, Chief Executive Officer, and Chairman	)	
of the Board	)	
	)	
cfsbank	)	
Charleroi, Pennsylvania	)	
	)	

**NOTICE OF CHARGES FOR PERSONAL CEASE AND DESIST ORDER AND  
NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY**

Take notice that on a date to be determined by the Administrative Law Judge, a hearing will commence in the Western District of Pennsylvania, unless the parties agree to another place, pursuant to 12 U.S.C. § 1818(b) and (i), concerning the charges set forth herein to determine whether Orders should be issued against Neil Bassi (“Respondent”), a former President, Chief Executive Officer, and Chairman of the Board at cfsbank, Charleroi, Pennsylvania (“Bank”), by the Office of the Comptroller of the Currency (“OCC”), requiring Respondent to cease and desist from certain activities and to pay a civil money penalty.

After taking into account the financial resources and any good faith of Respondent, the gravity of the violations, the history of previous violations, and such other matters as justice may require, as required by 12 U.S.C. § 1818(i)(2)(G), and after soliciting and giving full consideration to Respondent’s views, the Comptroller of the Currency (“Comptroller”) hereby assesses a civil money penalty in the amount of thirty thousand dollars (\$30,000) against Respondent, pursuant to the provisions of 12 U.S.C. § 1818(i). This penalty is payable to the Treasurer of the United States.

The hearing afforded Respondent shall be open to the public unless the Comptroller, in his discretion, determines that holding an open hearing would be contrary to the public interest.

In support of this Notice of Charges for Personal Cease and Desist Order and Notice of Assessment of Civil Money Penalty (“Notice”), the OCC charges the following:

## **ARTICLE I**

### **JURISDICTION**

At all times relevant to the charges set forth below:

- (1) The Bank was an “insured depository institution” as defined in 12 U.S.C. § 1813(c)(2).
- (2) Respondent was the former President, Chief Executive Officer, and Chairman of the Board for 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 hereof. *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(b)(2) and 12 U.S.C. § 1462(3).
- (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 the personal cease and desist order and civil money penalty actions against Respondent pursuant to 12 U.S.C. § 1818(b) and (i).

## **ARTICLE II**

### **BACKGROUND**

- (5) This Article repeats and realleges all previous Articles in this Notice.

(6) Respondent became President and Chief Executive Officer (“CEO”) of the Bank in 1999.

(7) Respondent became Chairman of the Board in 2007.

(8) Respondent remained President, CEO, and Chairman of the Board until his resignation from the Bank and board in January 2020.

(9) As an Officer and Chairman of the Board of the Bank, Respondent owed fiduciary duties to the Bank and was obligated to carry out his duties and responsibilities in a manner consistent with safe and sound banking practices.

### **ARTICLE III**

#### **RESPONDENT ENGAGED IN AN UNSAFE OR UNSOUND PRACTICE AND BREACHED HIS FIDUCIARY DUTY BY FAILING TO SUPERVISE EMPLOYEE-1**

(10) This Article repeats and realleges all previous Articles in this Notice.

(11) As described in Paragraphs (12)-(34) of this Article, Respondent engaged in an unsafe or unsound practice and breached his fiduciary duty by failing to supervise the execution of Respondent’s overdraft approval authority after Respondent delegated it to Employee-1.<sup>1</sup> Respondent’s breach of his fiduciary duty to the Bank was part of a pattern of misconduct that was likely to cause more than a minimal loss to the Bank.

#### **Unsafe or Unsound Overdraft Activity at the Bank**

(12) Customer-1 was a group of related individuals and corporate entities that had numerous deposit accounts and loans with the Bank.

(13) Between 2016 through 2019, Customer-1 was the Bank’s largest credit relationship.

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<sup>1</sup> The names of individuals and entities described by aliases herein will be separately disclosed to Respondent.

(14) In October 2018, the OCC identified unsafe or unsound practices at the Bank relating to overdraft activity in Customer-1's accounts.

(15) To address this and other unsafe or unsound practices, the Bank signed a formal agreement with the OCC on March 12, 2019 ("Formal Agreement").

(16) As part of the Formal Agreement, the Bank was required to conduct a forensic audit covering a three-year period (calendar years 2016, 2017, and 2018) of overdraft activity in excess of \$1,000 and other suspicious activity in all accounts associated with Customer-1 at the Bank.

(17) The Bank hired Firm-1 to conduct the forensic audit covering the period from January 1, 2016 through March 31, 2019 ("Analysis Period").

(18) The forensic audit identified 2,416 overdraft occurrences in excess of \$1,000, totaling about \$17 million, that occurred during the Analysis Period.

(19) The forensic audit determined that the overdraft activity in Customer-1's Bank accounts constituted approximately 64 percent of these overdraft occurrences.

(20) The forensic audit determined that Customer-1's overdrafts totaled approximately \$13.1 million, or 77 percent, of the total \$17 million in overdrafts during the Analysis Period.

(21) The eighteen Customer-1 accounts at issue incurred anywhere from 26 to 510 overdrafts each during the Analysis Period.

(22) The Bank's Board of Directors, including Respondent, adopted the forensic audit report on June 27, 2019.

### **Respondent Had Knowledge of Customer-1's Overdraft Activity**

(23) From at least 2010 through the Analysis Period, Employee-2 generated a monthly overdraft report that summarized the amount of overdraft fees that were reversed or waived.

(24) Respondent was one of two individuals who received these overdraft reports each month from at least 2010 and continuing through the Analysis Period.

(25) From 2010 through 2015, the average waived fees each month were \$2,540 and the annual total remained generally stable at about \$30,000.

(26) In 2016 and 2017, the average waived fees each month doubled to \$5,182 and the annual total in waived fees doubled to roughly \$62,000 in each year.

(27) The monthly overdraft reports showed a side-by-side comparison of the waived overdraft fees in each month between the current calendar year against the previous calendar year.

(28) Accordingly, the doubling of waived overdraft fees in 2016 and its continuation in 2017 was clearly visible on the monthly overdraft reports provided to Respondent.

(29) During the Analysis Period, Respondent participated in multiple conversations with Employee-1 and Employee-2 about Customer-1's large number of overdrafts and Customer-1's role in increasing the amount of waived overdraft fees.

**Respondent Failed to Supervise Employee-1 After Delegating His Overdraft Approval Authority to Employee-1**

(30) During the entire Analysis Period, Respondent delegated account management authority, including overdraft approvals, of all Customer-1 accounts to Employee-1.

(31) Employee-1 reported directly to Respondent.

(32) During the Analysis Period, Employee-1 approved nearly all of the \$13.1 million in overdrafts in Customer-1's accounts.

(33) Despite having knowledge of the overdraft activity within Customer-1's accounts, Respondent never directed Employee-1 to cease approving the overdraft activity in Customer-1's accounts or to cease waiving the associated fees.

(34) Respondent did not otherwise ensure that Employee-1 was executing the account management authority delegated to Employee-1 in a safe and sound manner.

#### ARTICLE IV

#### **RESPONDENT ENGAGED IN AN UNSAFE OR UNSOUND PRACTICE AND BREACHED HIS FIDUCIARY DUTY BY FAILING TO IMPLEMENT SUFFICIENT OVERDRAFT CONTROLS**

(35) This Article repeats and realleges all previous Articles in this Notice.

(36) As described in Paragraphs (37)-(44) of this Article, Respondent engaged in an unsafe or unsound practice and breached his fiduciary duty by failing to ensure appropriate overdraft controls at the Bank. Respondent's breach of his fiduciary duty to the Bank was part of a pattern of misconduct that was likely to cause more than a minimal loss to the Bank.

(37) As President and CEO of the Bank, Respondent was responsible for the development and implementation of appropriate overdraft policies and procedures.

(38) The Bank had the same overdraft policy (the "Overdraft Policy") in place from at least January 1, 2016 through November 2018.

(39) Each December, from December 2015 through December 2017, the Board reviewed and renewed its adoption of the Overdraft Policy "after an in-depth review and explanation by President Bassi."

(40) Respondent also voted to approve the Overdraft Policy every year during that same time period.

(41) The Overdraft Policy lacked sufficient controls over the extension of overdrafts at the Bank as it lacked processes and controls for approving, monitoring, managing, and reporting overdrafts.

(42) The Overdraft Policy further failed to include the conditions and circumstances under which overdrafts would be permitted or accounts with excessive overdrafts would be closed, and it failed to provide for an internal audit review to monitor overdraft activity.

(43) Respondent's failure to address these weak overdraft controls permitted Customer-1's overdraft activity to continue unabated during most of the Analysis Period, which posed risk of more than a minimal loss to the Bank.

(44) Respondent's persistent failure to correct these weaknesses allowed the waiver of overdraft fees that resulted in losses to the Bank.

#### ARTICLE V

#### **RESPONDENT ENGAGED IN AN UNSAFE OR UNSOUND PRACTICE AND BREACHED HIS FIDUCIARY DUTY BY FAILING TO ENSURE COMPLIANCE WITH THE BANK'S OVERDRAFT POLICY**

(45) This Article repeats and realleges all previous Articles in this Notice.

(46) As described in Paragraphs (47)-(57) of this Article, Respondent engaged in an unsafe or unsound practice and breached his fiduciary duty by failing to ensure compliance with the Bank's Overdraft Policy. Respondent's breach of his fiduciary duty to the Bank was part of a pattern of misconduct that was likely to cause more than a minimal loss to the Bank.

(47) Notwithstanding the insufficient Overdraft Policy at the Bank, Respondent failed to ensure that he and other Bank employees, including Employee-1, followed the Overdraft Policy that was in place during the Analysis Period.

(48) During the Analysis Period, the stated objective of the Bank's Overdraft Policy was "to monitor overdraft activity, guard against possible loss to excessive overdraft activity and recognize fee income."

(49) The Overdraft Policy further stated that it was “the responsibility of management to implement board policy and thereby control the risks of the [] procedures.”

(50) The Overdraft Policy stated: “When customer reaches eighteen (18) overdraft occurrences within a calendar year, the account will be closed by the office of account.”

(51) The forensic audit revealed that nine of the eighteen Customer-1 accounts at issue incurred anywhere from 19 to 354 overdrafts each year during the Analysis Period.

(52) Respondent did not ensure that Customer-1’s accounts were closed following eighteen overdraft occurrences within a calendar year as directed by the Overdraft Policy.

(53) During the Analysis Period, the Bank waived more than two-thirds of Customer-1’s overdraft fees, totaling at least \$51,995 in lost overdraft fees.

(54) The Bank approved \$13.1 million in overdrafts in Customer-1’s accounts during the Analysis Period.

(55) Respondent did not ensure that the Overdraft Policy’s stated objective to “guard against possible loss to excessive overdraft activity” or “recognize fee income” was satisfied.

(56) Respondent’s persistent failure during the Analysis Period to ensure compliance with the Bank’s Overdraft Policy constituted a pattern of misconduct that caused more than a minimal loss to the Bank in overdraft fees.

(57) Moreover, Respondent’s failure to ensure compliance with the Bank’s Overdraft Policy permitted the overdraft activity in Customer-1’s accounts to continue throughout the Analysis Period, which posed risk of more than a minimal loss to the Bank.

## ARTICLE VI

### **RESPONDENT BREACHED HIS FIDUCIARY DUTY BY FAILING TO DISCLOSE CUSTOMER-1’S OVERDRAFT ACTIVITY TO THE BOARD**

(58) This Article repeats and realleges all previous Articles in this Notice.



(59) As described in Paragraphs (60)-(69) of this Article, Respondent breached his fiduciary duty by failing to disclose Customer-1's overdraft activity during relevant loan decisions. Respondent's breach of his fiduciary duty to the Bank was part of a pattern of misconduct that was likely to cause more than a minimal loss to the Bank.

(60) Respondent became a member of the Executive Loan Committee ("ELC") in 2007.

(61) Respondent remained a member of the ELC until November 2019.

(62) The ELC was responsible for approving loan requests under \$50,000 and recommending loan approvals for requests that exceeded \$50,000 to the Board.

(63) During the Analysis Period, Customer-1 applied for twelve loans at the Bank. All twelve loans were approved/recommended by the ELC, and eleven of the twelve were approved by the Board.

(64) Customer-1's overdraft activity was relevant to the Bank's lending decisions because it indicated financial distress and/or mismanagement and contributed to the assessment of Customer-1's ability to repay.

(65) Respondent, having knowledge of the overdraft activity within Customer-1's accounts, did not raise this overdraft activity before the ELC or the Board when either body was voting to approve the twelve loans made to Customer-1 during the Analysis Period.

(66) To date, the OCC has directed the Bank to write off \$1,492,275 on Customer-1's loans that were approved during the Analysis Period.

(67) Although the Bank later made recoveries, the Bank experienced these losses at the time of the charge-offs.

(68) Respondent's failure to make the ELC and the Board aware of Customer-1's overdraft activity in connection with the twelve loan decisions deprived the other Board members of the opportunity to make an informed decision on these loans.

(69) Respondent's failure to disclose was likely to cause more than a minimal loss to the Bank.

## **ARTICLE VII**

### **LEGAL BASES FOR REQUESTED RELIEF**

(70) This Article repeats and realleges all previous Articles in this Notice.

(71) By reason of Respondent's misconduct as described in Articles III-V, the Comptroller seeks a personal cease and desist order against Respondent pursuant to 12 U.S.C. § 1818(b) because Respondent engaged or participated in unsafe or unsound practices.

(72) By reason of Respondent's misconduct as described in Articles III-VI, the Comptroller seeks imposition of a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i)(2)(B) on the following grounds:

- (a) Respondent breached his fiduciary duty; and
- (b) Such breach was part of a pattern of misconduct and the breach caused or was likely to cause more than a minimal loss to the Bank.

### **ANSWER AND OPPORTUNITY FOR HEARING**

Respondent is directed to file a written Answer to this Notice within twenty (20) days from the date of service of this Notice in accordance with 12 C.F.R. § 109.19(a) and (b). The original and one copy of any Answer shall be filed with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any Answer electronically with the Office of Financial

Institution Adjudication at ofia@fdic.gov. A copy of any Answer shall also be filed with the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, HearingClerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to Answer within this time period shall constitute a waiver of the right to appear and contest the allegations contained in this Notice, and shall, upon the Comptroller's motion, cause the administrative law judge or the Comptroller to find the facts in this Notice to be as alleged, upon which an appropriate order may be issued.**

Respondent is also directed to file a written request for a hearing before the Comptroller, along with the written Answer, concerning the Civil Money Penalty assessment contained in this Notice within twenty (20) days after date of service of this Notice, in accordance with 12 U.S.C. § 1818(i) and 12 C.F.R. § 109.19(a) and (b). The original and one copy of any request shall be filed, along with the written Answer, with the Office of Financial Institution Adjudication, 3501 North Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Respondent is encouraged to file any request electronically with the Office of Financial Institution Adjudication at ofia@fdic.gov. A copy of any request, along with the written Answer, shall also be served on the Hearing Clerk, Office of the Chief Counsel, Office of the Comptroller of the Currency, Washington, D.C. 20219, HearingClerk@occ.treas.gov, and with the attorney whose name appears on the accompanying certificate of service. **Failure to request a hearing within this time period shall cause this assessment to constitute a final and unappealable order for a civil money penalty against Respondent pursuant to 12 U.S.C. § 1818(i).**

**PRAYER FOR RELIEF**

The Comptroller prays for relief in the form of the issuance of a Personal Cease and Desist Order against Respondent pursuant to 12 U.S.C. § 1818(b) and an Order of Civil Money Penalty Assessment in the amount of thirty thousand dollars (\$30,000) against Respondent pursuant to 12 U.S.C. § 1818(i), as set forth in the attached proposed order.

Witness, my hand on behalf of the Office of the Comptroller of the Currency, this 17th day of December, 2020.

//s// Digitally Signed, Dated: 2020.12.17

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Michael R. Brickman  
Deputy Comptroller for Special Supervision