

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of

RAYSOL VILLALOBOS, a/k/a RAY GALVAN,

A former institution-affiliated party of

FROST BANK,
San Antonio, Texas,
A state member bank.

Docket Nos. 18-014-E-I
18-014-CMP-I
18-014-B-I

Notice of Intent to Prohibit, Notice of Intent to Issue Cease and Desist Order Requiring Restitution or Reimbursement, and Notice of Assessment of a Civil Money Penalty Pursuant to Section 8 of the Federal Deposit Insurance Act, as Amended

The Board of Governors of the Federal Reserve System (the “Board of Governors”) is of the opinion or has reasonable cause to believe that:

(A) Raysol Villalobos, a/k/a Ray Galvan (“Villalobos”), a former employee of Frost Bank, San Antonio, Texas, a state member bank (“Frost Bank” or the “Bank”), engaged in unsafe or unsound practices and violations of law by misappropriating a Bank customer’s funds with the intent to deprive that Frost Bank customer of those funds in or around December 2015. As a result of this conduct, which amounted to criminal theft, Villalobos received a financial gain and was unjustly enriched, and Frost Bank, which reimbursed the bank customer for his loss, suffered financial loss in the amount of \$35,000 or other damage; and

(B) Villalobos’s misconduct involved his personal dishonesty and/or a willful or continuing disregard for Frost Bank’s safety and soundness, as well as his reckless disregard for the law.

Accordingly, the Board of Governors hereby institutes this combined Notice of Intent to Prohibit, Notice of Intent to Issue Cease and Desist Order Requiring Restitution or

Reimbursement, and Assessment of a Civil Money Penalty (this “Notice”) for the purpose of determining whether an appropriate order should be issued:

- (A) Permanently barring Villalobos from participating in any manner in the conduct of the affairs of any institution specified in 12 U.S.C. § 1818(e)(7)(a), pursuant to section 8(e) of the Federal Deposit Insurance Act, as amended (the “FDI Act”), 12 U.S.C. § 1818(e);
- (B) Requiring Villalobos to make restitution to the Bank in the amount of \$35,000 for its losses resulting from Villalobos’s conduct pursuant to section 8(b)(6)(A) of the FDI Act, 12 U.S.C. § 1818(b)(6)(A); and
- (C) Assessing a civil money penalty of \$9,819 against Villalobos pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i).

In support of this Notice, the Board of Governors alleges as follows:

JURISDICTION

1. Frost Bank is, and was at all material times relevant to this Notice, a state member bank subject to the Board of Governors’ supervision and regulation. Accordingly, the Board of Governors is the appropriate Federal Banking Agency to bring charges against institution-affiliated parties of Frost Bank within the meaning of sections 3(q)(3) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(q)(3) and 1818(b)(3).

2. Villalobos was employed by Frost Bank as a personal banker at all material times relevant to this Notice. He was, therefore, an institution-affiliated party of Frost Bank, as defined in sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(b)(3), and subject to the Board of Governors’ enforcement jurisdiction under sections 8 of the FDI Act, 12 U.S.C. § 1818.

3. The material period for purposes of this Notice, unless otherwise stated, is December 9, 2015, through March 15, 2016.

FACTUAL ALLEGATIONS

Safe Deposit Box Procedures

4. At all material times relevant to this Notice, personal bankers at Frost Bank's Leopard location were responsible for, among other duties, assisting customers with renting and accessing safe deposit boxes, and unlocking the safe deposit vault in the morning and securing it at night every day the bank was open for business.

5. At all material times relevant to this Notice, Frost Bank required customers opening a new safe deposit box to complete certain paperwork, including a Safe Deposit Box Agreement and a Safe Deposit Box Signature Card, indicating who was permitted to access the safe deposit box.

6. At all material times relevant to this Notice, each unrented safe deposit box had two identical customer keys, which were stored in a sealed envelope within a locked cabinet in the safe deposit vault. Bank procedures required the personal banker to remove safe deposit box keys from that locked cabinet when a safe deposit box was newly assigned to a Frost Bank customer. After accompanying the customer into the safe deposit vault, personal bankers were required to test the functionality of the two keys before giving the two keys to the customers to retain. Personal bankers were not permitted to retain possession of any bank customer's safe deposit box key (apart from a key associated with their own personal safe deposit box).

7. At all material times relevant to this Notice, access to rented safe deposit boxes required dual control. A safe deposit box would not lock or unlock unless both a customer's key and the Bank's key corresponding to that box (sometimes referred to as the "guard key") were

used at the same time. Only certain Frost Bank employees, including the personal bankers, had access to the guard keys.

Customer A Deposits \$35,000 into his Safe Deposit Box

8. Frost Bank hired Villalobos as an overdraft consideration specialist at its Parkdale Financial Center location in Corpus Christi, Texas, on July 26, 2010. Villalobos was promoted to the position of personal banker on February 3, 2014, relocating to Frost Bank's South Financial Center location in Corpus Christi. On August 1, 2014, Frost Bank transferred Villalobos to its Leopard Financial Center location in Corpus Christi.

9. On December 9, 2015, a Frost Bank account holder, Customer A, went to Frost Bank's Downtown Financial Center location in Corpus Christi with a check he had received for \$72,536.30. Employee A, a teller at that location, negotiated the check, issuing Customer A a cashier's check for \$42,536.30 and the remaining \$30,000 in cash.

10. On the following day, December 10, 2015, Customer A took the \$42,536.30 cashier's check to Frost Bank's Leopard location. Employee B, a teller at that location, negotiated the check, issuing Customer A \$35,000 in cash, bound into seven strapped bundles of fifty \$100 bills each.

11. Employee B placed those strapped bundles into a tamper-proof bag and sealed the bag before handing it to Customer A. Customer A received the remaining \$7,536.30 in cash; this amount was not included in the sealed tamper-proof bag.

12. Customer A then requested assistance in opening a safe deposit box in his name. In accordance with Frost Bank's procedures, Villalobos and Employee C, the only other permanent personal banker at Frost Bank's Leopard location at the time, assisted Customer A in completing his safe deposit box rental paperwork.

13. Customer A is—and was at that time—disabled, suffering from extreme sight impairment and largely confined to a wheelchair.

14. Villalobos selected the safe deposit box to rent to Customer A. Villalobos selected box L402, which is located in the bottom row of the vault, and which Customer A could not access without assistance.

15. Villalobos selected box L402 for Customer A despite the availability of numerous safe deposit boxes that would have been more accessible for Customer A, including several that would have been around shoulder-height for an individual in a wheelchair.

16. On December 10, 2015, after Customer A completed the necessary paperwork, Villalobos accompanied Customer A into the safe deposit vault to access Customer A's new safe deposit box. At the time, Customer A was carrying the tamperproof bag in his lap.

17. Customer A was unable to access his safe deposit box by himself. Thus, Villalobos assisted Customer A in opening box L402, using one of Customer A's safe deposit keys as well as the guard key.

18. Villalobos also assisted Customer A in removing the closed box from Customer A's safe deposit box, and Villalobos remained inside the vault with Customer A while the \$35,000 in cash, in the sealed tamper-proof bag, was placed in safe deposit box L402.

19. Customer A's tamper-proof bag, like all Frost Bank tamper proof bags at the time, was transparent enough that one could identify that the bag contained bundles of cash.

Villalobos Misappropriates Cash from Customer A's Safe Deposit Box

20. While assisting Customer A, Villalobos exchanged one of Customer A's working safe deposit keys with a non-functioning safe deposit box key. Villalobos then returned the non-functioning key to Customer A, keeping one of Customer A's working keys.

21. Later that day, Employee C left the Leopard location for approximately one hour, leaving Villalobos as the only personal banker on duty. While Employee C was absent, Villalobos entered the safe deposit vault and remained in there alone for approximately thirteen minutes.

22. During that time, Villalobos accessed Customer A's safe deposit box, using the guard key and the safe deposit box key Villalobos had taken from Customer A, and removed either the entire sealed tamper-proof bag containing \$35,000 or a portion thereof, before leaving the safe deposit vault with Customer A's cash concealed under his suit jacket.

23. On the following day, Villalobos opened a new safe deposit box in his name, with Employee C's assistance. In accordance with Frost Bank's procedures, Employee C accompanied Villalobos into the safe deposit vault to give Villalobos the two keys for his new box, test those keys, and open the box using the guard key. Villalobos did not place anything in his safe deposit box during this exchange.

24. Villalobos continued to enter and leave the safe deposit vault numerous times during the following week. At some point between December 10, 2015, and December 17, 2015, Villalobos transferred a portion of the cash he had taken from Customer A's safe deposit box into his own box.

The Bank Discovers the Theft from Customer A's Safe Deposit Box

25. On December 17, 2015, Customer A returned to the Leopard location and requested Employee C's assistance in accessing his safe deposit box. Customer A had not accessed his safe deposit box between December 10, 2015 and December 17, 2015.

26. Employee C accompanied Customer A into the vault, and, because he was physically unable to access the box himself, assisted Customer A in opening his safe deposit box

and removing the box inside. Customer A then opened the interior box, which contained the tamper-proof bag.

27. Upon opening the tamper-proof bag open, Employee C noticed that some straps contained \$1 bills instead of \$100 bills. Employee C then notified management that cash was potentially missing from Customer A's safe deposit box.

28. Soon thereafter, Villalobos remained alone in the vault with Customer A. During that period, Villalobos surreptitiously placed Customer A's second safe deposit box key—the working key Villalobos had used to access Customer A's safe deposit box—in the backpack hanging from the back of Customer A's wheelchair.

29. Bank employees took possession of Customer A's tamper-proof bag and relocked it in Customer A's safe deposit box for the remainder of the day.

30. On December 18, 2015, Customer A returned to the Leopard location and reentered the safe deposit vault with Employee D and Employee E, senior Frost Bank employees. Because Customer A could not access box L402 without assistance, Employee D used Customer A's safe deposit key and the guard key to open Customer A's safe deposit box in his presence.

31. With Customer A's consent, Employee E counted the contents of Customer A's tamper-proof bag, which now contained six straps of cash rather than seven. Those straps consisted of \$100 bills as well as \$1 bills, totaling \$3,288 instead of \$35,000.

32. After completing their review of Customer A's safe deposit box, Customer A surrendered his safe deposit box key, which Employee D had used to open his safe deposit box. Customer A took the opened tamper-proof bag with the \$3,288 when he left Frost Bank.

33. On December 23, 2015, Customer A returned to the Leopard branch and Employee D retrieved Customer A's second safe deposit box key from the backpack on the back

of his wheelchair. The key was then placed in the key repository in the safe deposit vault, in accordance with Frost Bank's practices. That key, and the key Customer A had previously surrendered on December 18, 2015, both worked to lock and unlock safe deposit box L402.

34. At some point before January 7, 2016, Customer A surrendered a third safe deposit box key, which he believed to be his second safe deposit box key, to law enforcement officers. Customer A stored this third key in a key envelope marked with "L402," in Villalobos's handwriting, on the snap tab. This third key did not work on box L402 or any other unused safe deposit box in the Leopard location's vault, and it differed in appearance from the other two keys Customer A had previously surrendered for box L402.

35. Frost Bank placed Villalobos on administrative leave on February 11, 2016.

36. Shortly thereafter, Villalobos returned to the Leopard location, seeking to access his safe deposit box. Employee D refused to allow him access.

37. On the same day, a third party retained by Frost Bank drilled the locks of Villalobos's safe deposit box to open it. Among other personal items, Villalobos's safe deposit box contained four strapped bundles of \$100 bills totaling \$18,700 and an unsealed tamper-proof plastic bag.

38. On February 13, 2016, Frost Bank terminated Villalobos's employment as a result of the events described above.

39. On the same day, Villalobos went to the Leopard location and again requested access to his safe deposit box. Employee D denied Villalobos access.

40. On March 15, 2016, Frost Bank issued Customer A a cashier's check for \$35,000 to resolve the matter to Customer A's satisfaction.

**VILLALOBOS’S VIOLATIONS OF LAW
AND UNSAFE OR UNSOUND PRACTICES**

COUNT I: Unsafe or Unsound Banking Practices

41. As set forth in Paragraphs 1 through 40, Villalobos engaged in unsafe or unsound practices by misappropriating \$31,712 from a Bank customer’s safe deposit box. These unsafe or unsound practices caused Frost Bank to suffer a financial loss in the amount of \$35,000 when it compensated Customer A for his loss, and posed legal and reputational risks to Frost Bank.

COUNT II: Violations of Law

42. At all relevant times, Texas criminal law prohibited the “unlawful[] appropriat[ion of] property with intent to deprive the owner of property.” Tex. Penal Code Ann. 31.03.

43. As set forth in Paragraphs 1 through 40, Villalobos violated this Texas law by accessing Customer A’s safe deposit box without Customer A’s consent and taking possession of \$31,712 therein, with the intent to deprive Customer A of that cash.

REQUESTED RELIEF

PROHIBITION ACTION

44. Notice is hereby given that a hearing will be held on a date determined by the presiding administrative law judge, at the United States Courthouse in the Southern District of Texas or any place designated by the presiding administrative law judge, for the purpose of taking evidence on the charges specified herein, in order to determine whether an appropriate order should be issued under section 8(e) of the FDI Act to prohibit Villalobos’s future participation in the affairs of any insured depository institution, holding company thereof, foreign bank, or any institution specified in section 8(e)(7)(A) of the FDI Act, 18 U.S.C. § 1818(e)(7)(A). As set forth above, by reason of his violations of law and unsafe or unsound

practices, Villalobos received a financial gain and Frost Bank has suffered financial loss or other damage; and, the violations of law and unsafe or unsound practices involved Villalobos's personal dishonesty or continuing or willful disregard for the safety and soundness of Frost Bank.

45. The hearing shall be held before an administrative law judge to be appointed from the Office of Financial Institution Adjudication ("OFIA"), pursuant to section 263.54 of the Rules of Practice, 12 C.F.R. § 263.54. The hearing shall be public, unless the Board of Governors determines that a public hearing would be contrary to the public interest, and in all other aspects shall be conducted in compliance with the provisions of the FDI Act and the Rules of Practice.

46. **Villalobos is hereby directed to file an answer to this Notice within 20 days of the service of this Notice, as provided by section 263.19 of the Rules of Practice, 12 C.F.R. § 263.19, with OFIA. Villalobos is encouraged to file any answer to this Notice by electronic mail with OFIA at ofia@fdic.gov.** Pursuant to section 263.11(a) of the Rules of Practice, 12 C.F.R. § 263.11(a), any answer filed with OFIA shall also be served on the Secretary of the Board of Governors. As provided in section 263.19(c)(1) of the Rules of Practice, 12 C.F.R. § 263.19(c)(1), Villalobos's failure to file an answer required by this Notice within the time provided herein shall constitute a waiver of his right to appear and contest the allegations of this Notice in which case the presiding officer is authorized, upon proper motion, to find the facts to be as alleged in this Notice and to file with the Secretary of the Board of Governors a recommended decision containing such findings and appropriate conclusions. Any final order issued by the Board based upon a failure to answer is deemed to be an order issued by consent.

47. Villalobos may submit to the Secretary of the Board of Governors, within 20 days of the service of this Notice, a written statement detailing the reasons why the hearing described herein should not be public. The failure to submit such a statement within the aforesaid period shall constitute a waiver of any objection to a public hearing.

48. Authority is hereby delegated to the Secretary of the Board of Governors to designate the time and place and presiding officer for any hearing that may be conducted on this Notice and to take any and all actions that the presiding officer would be authorized to take under the Board's Rules of Practice with respect to this Notice and any hearing to be conducted hereon, until such time as a presiding officer shall be designated.

RESTITUTION OR REIMBURSEMENT

49. The violations and practices set forth in Counts I and II permit the Board of Governors to impose a cease-and-desist order requiring that Villalobos make restitution or provide reimbursement to the Bank where he was unjustly enriched in connection with such violations or practices or where the violations or practices involved in Villalobos's reckless disregard for the law or any applicable regulations, pursuant to section 8(b)(6)(A) of the FDI Act, 12 U.S.C. § 1818(b)(6)(A).

50. Notice is hereby given that a hearing will be held on a date determined by the presiding administrative law judge, at the United States Courthouse in the Southern District of Texas or any place designated by the presiding administrative law judge, for the purpose of taking evidence on the charges specified herein, in order to determine whether an appropriate order should be issued under section 8(b) of the FDI Act to require Villalobos to make restitution or provide reimbursement to the Bank in the manner described above. As set forth above, Villalobos misappropriated \$31,712 from a bank customer's safe deposit box with the intent to

deprive the customer of that cash, which constituted criminal theft and an unsafe or unsound practice. As a direct result of this conduct, Frost Bank issued Customer A a cashier's check for \$35,000 to resolve the matter to Customer A's satisfaction. Villalobos's violations and practices unjustly enriched Villalobos, and involved Villalobos's reckless disregard for the law. This hearing may, in the discretion of the Board of Governors, be combined with any other hearing to be held on the matters set forth in this Notice.

51. The hearing shall be held before an administrative law judge to be appointed from OFIA, pursuant to section 263.54 of the Rules of Practice, 12 C.F.R. § 263.54. The hearing shall be public, unless the Board of Governors determines that a public hearing would be contrary to the public interest, and in all other aspects shall be conducted in compliance with the provisions of the FDI Act and the Rules of Practice.

52. **As set forth in Paragraph 46, Villalobos is hereby directed to file an answer to this Notice within 20 days of the service of this Notice, as provided by section 263.19 of the Rules of Practice, 12 C.F.R. § 263.19, with OFIA. Villalobos is encouraged to file any answer to this Notice by electronic mail with OFIA at ofia@fdic.gov.** Pursuant to section 263.11(a) of the Rules of Practice, 12 C.F.R. § 263.11(a), any answer filed with OFIA shall also be served on the Secretary of the Board of Governors. As provided in section 263.19(c)(1) of the Rules of Practice, 12 C.F.R. § 263.19(c)(1), Villalobos's failure to file an answer required by this Notice within the time provided herein shall constitute a waiver of his right to appear and contest the allegations of this Notice in which case the presiding officer is authorized, upon proper motion, to find the facts to be as alleged in this Notice and to file with the Secretary of the Board of Governors a recommended decision containing such findings and appropriate conclusions.

Any final order issued by the Board based upon a failure to answer is deemed to be an order issued by consent.

53. As set forth in Paragraph 47, Villalobos may submit to the Secretary of the Board of Governors, within 20 days of the service of this Notice, a written statement detailing the reasons why the hearing described herein should not be public. The failure to submit such a statement within the aforesaid period shall constitute a waiver of any objection to a public hearing.

54. As set forth in Paragraph 48, authority is hereby delegated to the Secretary of the Board of Governors to designate the time and place and presiding officer for any hearing that may be conducted on this Notice and to take any and all actions that the presiding officer would be authorized to take under the Board's Rules of Practice with respect to this Notice and any hearing to be conducted hereon, until such time as a presiding officer shall be designated.

CIVIL MONEY PENALTY ASSESMENT

55. At all material times relevant to this Notice, the violations of law set forth in Count II permit the Board of Governors to assess a civil money penalty under section 8(i)(2)(A) of the FDI Act, 12 U.S.C. § 1818(i)(2)(A), in a daily amount not to exceed \$9,819, pursuant to 12 C.F.R. § 263.65(b)(2)(i).

56. Villalobos engaged in violations of law by misappropriating \$31,712 from a Bank customer's safe deposit box.

57. After taking into account the size of Villalobos's financial resources, his good faith, the gravity of the violations, the history of previous violations, and such other matters as justice may require, the Board of Governors hereby assesses a civil money penalty of \$9,819

against Villalobos for his violations of law, as set forth in this Notice. Villalobos shall forfeit and pay the penalty as hereinafter provided.

58. The Board of Governors is assessing the penalty set forth in this Notice pursuant to section 8(i) of the FDI Act, 12 U.S.C. § 1818(i), and subparts A and B of the Board of Governors' Rules of Practice, 12 C.F.R. § 263.1 *et seq.*

59. Remittance of the penalty set forth herein shall be made within 60 days of the date of this Notice, in immediately available funds, payable to the order of the Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, who shall make remittance of the same to the Treasury of the United States.

60. Notice is hereby given, pursuant to section 8(i)(2) of the FDI Act, 12 U.S.C. § 1818(i)(2) and section 263.23 of the Rules of Practice, 12 C.F.R. § 263.23, that Villalobos is afforded an opportunity for a formal hearing before the Board of Governors concerning this assessment.

61. **Pursuant to section 8(i)(2)(E)(ii) of the FDI Act, 12 U.S.C. § 1818(i)(2)(E)(ii), if a hearing is not requested within 20 days of service, the penalty assessment becomes a final and unappealable order. Any request for such a hearing must be filed with OFIA, 3501 N. Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500, and with the Secretary of the Board of Governors, Washington, D.C. 20551, within 20 days after the issuance and service of this Notice on Villalobos, with regard to the civil money penalty proceedings against Villalobos. Villalobos is encouraged to file any request for a hearing by electronic mail with OFIA at ofia@fdic.gov. A hearing, if requested, will be public, unless the Board of Governors shall determine that a public hearing would be contrary to the public interest, and in all other aspects will be conducted in compliance within the provisions of the FDI Act and the**

Rules of Practice before an administrative law judge to be designated pursuant to applicable law as in effect at the time of such hearing. The hearing described above may, in the discretion of the Board of Governors, be combined with any other hearing to be held on the matters set forth in this Notice.

By order of the Board of Governors of the Federal Reserve System, effective this 20th day of March, 2018.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

By: /s/ Ann. E. Misback
Ann E. Misback
Secretary of the Board