

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

In the Matter of

CAROL ALLEN,

A former institution-affiliated party of

FARMERS & MERCHANTS BANK,
Baldwyn, Mississippi,
A state member bank.

Docket Nos. 18-028-E-I
18-028-CMP-I
18-028-B-I

Notice of Intent to Prohibit, Notice of Intent to Issue a 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) Carol Allen (“Allen”), a former institution-affiliated party of Farmers & Merchants Bank (“FMB”), violated the law and engaged in unsafe or unsound banking practices by embezzling approximately \$441,321 during her employment as a teller and vault custodian in FMB’s Marietta branch. Allen took cash from FMB’s Marietta branch vault, made unauthorized withdrawals from several customers’ certificates of deposit (“CDs”), and used the money for personal expenses. In addition, Allen forged bank records and lied to FMB personnel about her misconduct. Allen’s misconduct caused financial loss and other damage to FMB.

(B) The misconduct described herein involved personal dishonesty and/or a continuing or willful disregard for the safety and soundness of FMB on the part of Allen. Further, Allen was unjustly enriched by her misconduct, and demonstrated reckless disregard of applicable law and regulation.

Accordingly, the Board of Governors hereby institutes this Combined Notice of Intent to Prohibit, Notice of Intent to Issue a Cease and Desist Order Requiring Restitution or Reimbursement, and Notice of Assessment of a Civil Money Penalty (this “Notice”) for the purpose of determining whether an appropriate order should be issued:

- (A) Permanently barring Allen 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 Allen to make restitution to FMB in the amount of \$20,264.27 for its losses resulting from Allen’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 \$10,067 against Allen 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. FMB is, and was at all times relevant to this Notice, a state member bank subject to the supervision and regulation of the Board of Governors. Accordingly, the Board of Governors is the appropriate Federal Banking Agency to bring charges against institution-affiliated parties of FMB pursuant to section 3(q)(3) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(q)(3) and 1818(b)(3).

2. Allen was employed at FMB’s Marietta branch from May 19, 1986, to April 6, 2018. Therefore, at all material times relevant to this Notice, she was an institution-affiliated party of FMB, as defined in sections 3(u) and 8(b)(3) of the FDI Act, 12 §§ 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 February 2, 2006, through April 6, 2018.

FACTUAL ALLEGATIONS

Allen Admitted Embezzling Money from FMB

4. Allen was head teller and vault custodian at FMB's branch located in Marietta, Mississippi. She was responsible for controlling the cash in the vault, monitoring the work of the other tellers, and had a duty to safeguard the bank's funds. Allen interacted with customers daily.

5. On April 5, 2018, a customer at the Marietta branch requested that his \$9,500 loan proceeds be paid in large denominations of cash. Allen told the manager of the branch that there were not enough large denomination bills in the vault to fund the customer's request because, over the years, she had been taking money from the vault for her personal use.

6. On April 6, 2018, Allen was instructed to report to FMB's main office in Baldwin, Mississippi. Allen met with FMB's management. She again admitted that she had taken money from the branch's vault over the years because she was living beyond her means. Allen said that she was not sure how much money she had taken, but she thought it was around \$200,000. At the time, Allen denied taking money from customer accounts. FMB terminated Allen that day.

7. FMB personnel found several withdrawal slips from customer CDs in Allen's workplace. On April 13 and 18, 2018, FMB management interviewed Allen again. FMB management asked Allen about the CD withdrawal slips found in her workstation. Allen then

admitted to FMB management that she had taken money from seven customer CDs without their authorization for her personal use. She also admitted that she forged some customer signatures on the CD withdrawal slips.

Allen Embezzled Money from FMB's Marietta Branch Vault

8. As head teller and vault custodian, Allen was responsible for controlling and managing the cash in the Marietta branch vault. Cash in the vault was stored in straps of different denominations, such as \$5, \$10, \$20, and \$100. The vault also contained cash coming from the main office, which was stored in sealed, tamper-resistant, and transparent Federal Reserve bags.

9. On April 6, 2018, after Allen admitted that she had taken money from the vault for her personal use, FMB internal auditors audited the Marietta branch vault. According to the bank's general ledger, there should have been \$285,485 in cash in the vault. However, the auditors only found \$37,509 in cash, which represented a \$247,976 shortfall. Given this shortfall, the Marietta branch did not have sufficient funds to operate that day and additional funds were sent to the branch from the main office.

10. FMB's internal auditors also found that many of the straps had been manipulated. For example, \$1 and \$5 bills were in the middle of straps that should have only contained \$20 bills and there were some straps with missing bills. In addition, some cash had been removed from the Federal Reserve bags and the bags had been re-sealed to make it appear as if they had not been opened. Allen admitted to FMB management that she would take \$100 and \$20 bills from the center of the straps and replace them with \$1 bills, take money from the Federal Reserve bags, and then re-sealed these bags to make it appear they had not been opened.

Allen Embezzled Money from Customers' CDs

11. FMB reviewed all customer CD transactions processed by Allen. FMB determined that, from February 2, 2006, to April 4, 2018, Allen withdrew \$193,345 from twenty five customer CDs without authorization. Over that time, Allen repaid \$94,300 to these customers. Thus, Allen's net cash unauthorized withdrawals during this period were \$99,045. FMB returned this money to the affected customers.

12. As a result of Allen's unauthorized withdrawals, FMB customers lost at least \$5,264.27 in interest. FMB returned this interest to the affected customers.

13. Some of the CDs from which Allen embezzled money had limited activity and were from elderly customers. Some of the withdrawal forms did not have customer signatures or contained customer signatures forged by Allen. Allen also altered some customer CD statements and withheld some account notices from customers to conceal her unauthorized withdrawals. Allen made several system inquiries into the customer accounts on the days in which she made the unauthorized withdrawals.

Allen Deposited Some of the Cash She Embezzled in Her and Her Relatives' Accounts

14. Allen, her husband, and their daughter had several accounts at FMB. Allen deposited her paycheck, her husband's paycheck, and her husband's draw from his business in her accounts by check. It was common for these accounts to be near zero and in some instances overdrawn.

15. To alleviate overdraft occurrences, Allen routinely deposited cash into these accounts. In violation of FMB's policy, Allen processed some of the cash deposits herself, listing on the face of the deposit slips that the cash came from gifts, loan proceeds, and revenues from her husband's trucking business. However, Allen admitted to FMB management that some

of the cash she deposited in these accounts was cash she embezzled from FMB. From 2006 through 2018, Allen deposited approximately \$464,000 in cash in four of these accounts.

FMB lost at least \$352,285.27 as a result of Allen's embezzlement

16. FMB lost at least \$352,285.09 as a result of Allen's embezzlement. This amount includes: (1) \$247,976 missing from FMB's vault on April 6, 2018; (2) \$99,045 net cash withdrawals by Allen from customer CDs; and (3) \$5,264.27 in interest lost by customers given Allen's unauthorized withdrawals from their CDs.

17. On May 4, 2018, Allen authorized FMB to apply \$120,895.41 of her Employees Profit Sharing Plan as partial restitution. FMB deposited this amount in its general ledger account. After subtracting this amount, the total stolen and not paid back by Allen was \$231,389.68.

18. In March 2019, a substantial portion of the losses FMB suffered as a result of Allen's embezzlement were reimbursed by FMB's insurance carrier pursuant to an insurance policy issued to FMB.

**ALLEN'S VIOLATION OF LAW
AND UNSAFE OR UNSOUND PRACTICES**

COUNT I: Violation of Law

19. At all relevant times, federal law prohibited employees of Federal Reserve member banks from embezzling or misapplying the moneys of such banks. *See, e.g.*, 18 U.S.C. § 656.

20. At all relevant times, Mississippi law prohibited any person from embezzling the property of others. Miss. Code Ann. §§ 97-23-19; 97-23-25.

21. As set forth in paragraphs 1 through 13 above, Allen violated the law by taking money from the vault at FMB's Marietta branch and making unauthorized withdrawals from

customer CDs and using this money for personal purposes.

COUNT II: Violation of Law

22. At all relevant times, federal law prohibited individuals from making false entries in any book, report, or statement of Federal Reserve member banks. 18 U.S.C. § 1005.

23. At all relevant times, Mississippi law prohibited any person from making false entries or falsely altering the books of accounts of any moneyed corporation with intent to defraud. Miss. Code Ann. §§ 97-21-3.

24. As set forth in paragraphs 7 and 13 above, Allen violated the law by forging and altering FMB's records in order to conceal her misconduct.

Count III: Unsafe or Unsound Banking Practices

25. As set forth in paragraphs 1 through 15 above, Allen engaged in unsafe or unsound banking practices by embezzling money from FMB, forging and altering FMB's records, and lying to FMB management about her conduct. These unsafe and unsound practices caused FMB to suffer a financial loss.

REQUESTED RELIEF

PROHIBITION ACTION

26. 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 Northern District of Mississippi 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 the future participation of Allen 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 Allen's violations of law and unsafe or unsound practices, Allen received a financial gain and FMB has suffered financial loss or other damage; and the violations of law and unsafe or unsound practices involved Allen's personal dishonesty or continuing or willful disregard for the safety and soundness of FMB.

27. 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 Board of Governors' Rules of Practice for Hearings ("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.

28. **Allen 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. Allen is encouraged to file any answer to this Notice by electronic mail with the Office of Financial Institution Adjudication at ofia@fdic.gov.** Any answer filed with OFIA shall also be served on the Secretary of the Board of Governors (email address: OSEC-Litigation@frb.gov). As provided in section 263.19(c)(1) of the Rules of Practice, 12 C.F.R. § 263.19(c)(1), Allen's failure to file an answer required by this Notice within the time provided herein shall constitute a waiver of her 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 the 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 of Governors based upon a failure to answer is deemed to be an order issued by consent.

29. Allen 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 hearings 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.

30. 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 of Governors' Rules of Practice for Hearings 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

31. The violations and practices set forth in Counts I, II, and III permit the Board of Governors to impose a cease-and-desist order requiring that Allen make restitution or provide reimbursement to FMB where she was unjustly enriched in connection with such violations or practices or where the violations or practices involved Allen'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).

32. 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 Northern District of Mississippi 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 Allen to make restitution or provide reimbursement to the FMB in the manner described above. As set forth above, FMB lost at least \$352,285.27 as a result of Allen's embezzlement. Allen returned \$120,895.41 to FMB as

partial restitution. Allen's violations and practices unjustly enriched Allen, and involved Allen'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.

33. The hearing shall be held before an administrative law judge to be appointed from OFIA, pursuant to section 263.54 of the Board of Governors' Rules of Practice for Hearings ("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.

34. **As set forth in Paragraph 28, Allen 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. Allen is encouraged to file any answer to this Notice by electronic mail with OFIA at ofia@fdic.gov.** 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), Allen's failure to file an answer required by this Notice within the time provided herein shall constitute a waiver of her 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 the 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 of Governors based upon a failure to answer is deemed to be an order issued by consent.

35. As set forth in paragraph 29, Allen 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 hearings 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.

36. As set forth in paragraph 30, 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 of Governors' Rules of Practice for Hearings 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

37. At all material times relevant to the Notice, the violations of law and unsafe or unsound practices set forth in Counts I, II, and III 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 \$10,067 pursuant to 12 C.F.R. § 263.65.

38. Allen engaged in violations of law by embezzling \$441,321 from FMB and by forging FMB records in an attempt to conceal her conduct.

39. After taking into account the size of Allen's financial resources, 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 \$10,067 against Allen for her violations of law, as set forth in this Notice. Allen shall forfeit and pay the penalty as hereinafter provided.

40. 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 Rules of Practice, 12 C.F.R. § 263.1 *et seq.*

41. 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.

42. 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 Allen is afforded an opportunity for a formal hearing before the Board of Governors concerning this assessment.

43. **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 Allen, with regard to the civil money penalty proceedings against Allen. Allen is encouraged to file any request for a hearing by electronic mail with OFIA at ofia@fdic.gov.** Any request for hearing filed with OFIA shall also be served on the Secretary of the Board of Governors. 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.

