

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

In the Matter of

MAI LY-VU,

A former institution-affiliated party of

PACIFIC PREMIER BANK,
Irvine, California,
A state member bank.

Docket Nos. 19-018-E-I
19-018-B-I

Notice of Intent to Prohibit and Notice
of Intent to Issue Cease and Desist Order
Requiring Restitution or Reimbursement
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) Mai N. Ly-Vu (“Ly-Vu”), a former employee of Pacific Premier Bank, Irvine, California (the “Bank”), a state member bank, engaged in unsafe or unsound practices and breaches of fiduciary duty by failing to disclose, and making false or misleading statements to the Bank regarding, her personal financial interests in extensions of credit totaling \$250,000 by the Bank to companies owned by members of Ly-Vu’s immediate family, and to one entity for which Ly-Vu was identified as an executive officer. As a result of this conduct, Ly-Vu received a financial gain and was unjustly enriched in the amount of at least \$18,700, and the Bank suffered a financial loss in the amount of at least \$56,930, or other damage and reputational harm; and

(B) Ly-Vu’s misconduct involved her personal dishonesty and/or willful or continuing disregard for the Bank’s safety and soundness;

(C) Ly-Vu's repeated violation of Bank policy through, in part, her submission of false or misleading statements regarding the absence of any personal interest in certain extensions of credit by the Bank reflects the reckless nature of her disregard for the safety and soundness of the institution.

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

- (A) Permanently barring Ly-Vu 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); and
- (B) Requiring Ly-Vu to make restitution to the Bank in the amount of \$18,700 for the portion of its losses by which Ly-Vu was unjustly enriched pursuant to section 8(b)(6)(A) of the FDI Act, 12 U.S.C. § 1818(b)(6)(A).

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

JURISDICTION

1. The Bank is, and was at all material 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 the 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. Ly-Vu was employed by the Bank as a Vice President and held various titles during the material period of this Notice, including Branch Manager, Regional Banking Officer, Regional Banking Manager, Branch Service Manager, and Premier Deposit Officer. Ly-Vu, therefore, was an institution-affiliated party of the 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 section 8 of the FDI Act, 12 U.S.C. § 1818.

3. The material period for purposes of this Notice, unless otherwise stated, is January 1, 2015, through January 15, 2018.

FACTUAL ALLEGATIONS

4. During the material period of this Notice, the Bank's Code of Business Conduct and Ethics ("Code of Conduct") required "[f]ull disclosure by directors, officers and employees of their outside or personal involvement in any project or business activity that could pose a conflict of interest with their fiduciary duties of care and loyalty to the [Bank]."

5. During the material period of this Notice, the Code of Conduct required "[s]pecific consideration by the [Bank's] Board of Directors whenever a potential conflict of interest is present in any proposed loan or other transaction or relationship the [Bank] may enter into[.]"

6. During the material period of this Notice, the Code of Conduct required all Bank employees to notify the Bank's management or Office of Human Resources of any conflict of interest, including the appearance of any conflict of interest.

7. The Code of Conduct further advised: "It is almost always a conflict of interest for a Company employee to work simultaneously for a competitor, customer or supplier, including work as a consultant or board member."

8. During the material period of this Notice, “[c]onflicts of interest [were] prohibited as a matter of [Bank] policy.”

9. On or around December 18, 2014, November 29, 2016, and September 5, 2017, respectively, Ly-Vu signed certifications affirming that she had read, understood, and agreed to comply with the Code of Conduct then operative.

10. During the material period of this Notice, Ly-Vu failed to disclose conflicts of interest as required by the Code of Conduct.

11. On or around December 18, 2014, the Bank hired Ly-Vu as a Vice President and Branch Manager of its branch located in Tustin, California, in connection with the Bank’s acquisition of Independence Bank, her former employer.

12. Ly-Vu’s title and branch location changed regularly during the course of her employment with the Bank. Ly-Vu’s title was changed to Regional Banking Officer on or around June 15, 2015, then to Regional Banking Manager on or around October 6, 2015, and then to Branch Service Manager on or around January 4, 2016. On or around April 25, 2016, Ly-Vu was transferred to the Bank’s branch located in Orange, California. On or around January 30, 2017, Ly-Vu assumed the role of Premier Deposit Officer, and was transferred to the Bank’s branch located in Newport Beach, California.

13. As a Branch Service Manager, Ly-Vu held responsibilities for overseeing day-to-day branch operations, distributing and implementing Bank policies, and supervising and training branch staff.

Ly-Vu Assists Related Interests Obtain Extensions of Credit

14. In or around June and September 2015, roughly six months after joining the Bank, Ly-Vu facilitated the Bank's extension of \$150,000 in credit to three companies owned by her two brothers-in-law, Brother-in-Law A and Brother-in-Law B.

15. First, on or around June 29, 2015, Company 1, an entity owned by Brother-in-Law A, obtained a \$100,000 revolving line of credit from the Bank.

16. Ly-Vu acted as a business banker on the Company 1 line of credit application, and did not appropriately disclose to the Bank, pursuant to the Code of Conduct, her personal interest in Company 1.

17. Second, upon information and belief, on or around August 21, 2015, Company 2, a company owned by Brother-in-Law B, obtained a \$25,000 commercial line of credit from the Bank. On or around June 13, 2016, on the request of Brother-in-Law B, the Bank increased the credit line to \$50,000.

18. Ly-Vu acted as a business banker on the Company 2 line of credit application, and did not appropriately disclose to the Bank, pursuant to the Code of Conduct, her personal interest in Company 2 or her immediate familial relationship with its principal.

19. Third, on or around September 21, 2015, Company 3, a second company owned by Brother-in-Law B, obtained a \$25,000 commercial line of credit from the Bank. On or around June 13, 2016, on Brother-in-Law B's request, the Bank increased the loan to \$50,000.

20. Ly-Vu acted as a business banker on the Company 3 line of credit application, and did not appropriately disclose to the Bank, pursuant to the Code of Conduct, her personal interest in Company 3 or her immediate familial relationship with its principal.

21. As of July 17, 2019, the Company 2 and Company 3 loans were fully advanced, with respective principal balances of \$49,268 and \$47,118, and had each exhibited payment delinquencies. On at least three occasions, payments on the Company 3 loan have been delinquent in excess of 30 days.

22. In or around November 2016, Ly-Vu referred a company—Company 4—to the Bank as an applicant for a \$50,000 small business line of credit. Company 4 submitted an application for the line of credit on or around November 28, 2016.

23. At that time, Company 4 was wholly owned by Ly-Vu's husband.

24. Ly-Vu assumed the role of relationship manager on the Company 4 loan account and assisted with the loan application and underwriting process. As a relationship manager, Ly-Vu held responsibilities for collecting Company 4's application materials, performing a site visit of Company 4, and acting as a point of contact between her husband and the Bank.

25. On or around January 13, 2016, Company 4 filed a Statement of Information with the Secretary of State of the State of California that identified Ly-Vu as its Chief Financial Officer. Upon information and belief, Ly-Vu was Company 4's Chief Financial Officer as of November 28, 2016, the date Company 4 applied for the line of credit.

26. On December 11, 2016, upon learning that it was required to provide the Bank with proof of the identifies of its executive officers, Company 4 filed an amended Statement of Information with the state, removing Ly-Vu as its Chief Financial Officer.

27. Ly-Vu did not disclose to the Bank that Company 4 was owned by her husband or that she was its Chief Financial Officer at the time of application. Ly-Vu did not disclose that Company 4 was a related interest until December 18, 2017, approximately one year after the line of credit was funded.

28. The Bank approved the Company 4 line of credit application and, on December 14, 2016, the loan agreement became effective.

Company 4 Transfers Funds from Line of Credit to Ly-Vu

29. On or around December 20, 2016, Ly-Vu personally authorized an employee in the Bank's Treasury Department to allow Company 4 to draw funds from the line of credit.

30. Over the course of the following ten months, Company 4 relied on proceeds from the line of credit to fund at least \$18,700 in payments to Ly-Vu, as follows:

- a) On December 20, 2016, Company 4 advanced \$20,000 from the line of credit and transferred the proceeds to its demand deposit account ("DDA") at the Bank. On or around the same day, Company 4 issued a check for \$3,000 from its DDA to Ly-Vu. The memo line of the check describes the payment as for "Contract work: Nov & Dec 2016." On or around December 21, 2016, Ly-Vu deposited the check in her personal checking account.
- b) On December 28, 2016, Company 4 issued a check for \$5,000 from its DDA to Ly-Vu. The memo line of the check describes the payment as for "Repayment of Loan." On or around December 30, 2016, Ly-Vu deposited the check in her checking account. On December 29, 2016, Company 4 advanced \$9,500 from the line of credit and transferred those funds to its DDA.
- c) On February 7, 2017, Company 4 advanced \$14,000 from the line of credit and transferred the proceeds to its DDA. Within two days, on February 9, 2017, Company 4 issued a check for \$1,500 from the DDA to Ly-Vu. The memo line of the check describes the payment as for "Contract Work." On or around February 14, 2017, Ly-Vu deposited the check in her checking account.

- d) On or around February 17, 2017, Company 4 advanced \$6,000 from the line of credit and transferred those funds to its DDA. On the same day, Company 4 issued a check for \$2,000 from the DDA to Ly-Vu. The memo line of the check describes the payment as for “Contract Work.” On or around February 21, 2017, Ly-Vu deposited the check in her checking account.
- e) On three occasions in June 2017, Company 4 took advances totaling \$4,500 from the line of credit and transferred those funds to its DDA. On or around June 1, 2017, Company 4 issued a check for \$1,200 from the DDA to Ly-Vu. The memo line of the check describes the payment as for “Contract Work.” On or around June 5, 2017, Ly-Vu deposited the check in her checking account.
- f) On or around July 31, September 7, October 16, and November 6, 2017, respectively, Company 4 issued checks for \$1,500 from the DDA to Ly-Vu, totaling \$6,000 in payments to her. The memo lines of each check describe the payments as for “Contract work.” Ly-Vu deposited each check in her checking account within a few days of receipt.

31. Upon information and belief, Company 4 relied on proceeds from the line of credit to support each of the foregoing payments to Ly-Vu.

Ly-Vu Made False Statements to Bank Regarding Her Personal Interests

32. On or around November 29, 2016, the day after submitting the Company 4 line of credit application to the Bank, Ly-Vu made the following statements to the Bank on a signed Statement of Personal Interest:

- a) Ly-Vu denied having “influenced the extension of credit to . . . [a] customer where the proceeds were used to pay a debt owing to you or a member of your

immediate family[,] a customer who is your relative[,] or a firm in which you or a member of your immediate family has a financial interest or with which you are employed on a part-time or consulting basis[.]”

- b) Ly-Vu denied having “any business relationship with any present or former loan customer of the [Bank].”
- c) Ly-Vu denied the existence of any “circumstances or any other matters of a personal or family nature that could reasonably be subject to question as to their effect on the interests of the [Bank.]”
- d) Ly-Vu denied having engaged in any outside employment that had not been previously approved.

33. Ly-Vu’s responses to the Bank on this signed Statement of Personal Interest were false or misleading, and contained omissions that concealed her personal interest in Company 4.

34. On or around September 5, 2017, approximately ten months later, Ly-Vu submitted to the Bank a second Statement of Personal Interest, through which she made certifications nearly identical to those contained in the 2016 Statement of Personal interest.

35. Ly-Vu’s representations to the Bank on this second signed Statement of Personal Interest were false or misleading, and contained omissions that concealed her personal interest in, and the payments received from, Company 4.

The Bank Discovers Payments from Company 4 to Ly-Vu

36. In or around early December 2017, Bank Employee A reported to senior personnel within the Bank that Ly-Vu had received payments from Company 4. Around this time, there was concern at the Bank regarding Company 4’s low level of deposits, which had recently fallen to \$115.

37. On December 18, 2017, two senior Bank employees contacted Ly-Vu to inquire about payments she had received from Company 4. In that telephonic meeting, Ly-Vu admitted that Company 4 was owned by her husband, and that he had issued the checks to her for his “tax purposes.” Ly-Vu further stated that she had used the funds to pay for household expenses and bills, and that she had not performed any actual services for Company 4 in exchange for the payments. Upon information and belief, Ly-Vu did not state during this meeting that Company 4 was indebted to her or that the payments she had received reflected Company 4’s repayment of any loan to her.

38. On the same day, Bank Employee B, a subordinate of Ly-Vu at the Newport Beach branch, modified internal Bank records to remove Ly-Vu as a relationship manager on Company 4’s DDA. Employee B lacked authority to modify Bank records to remove Ly-Vu as a relationship manager on the Company 4 line of credit account, however. Upon information and belief, at this time, Ly-Vu was one of only a few individuals at the Newport Beach branch who had authority to require Employee B to make such a change.

39. On or around the same day, Company 4 removed “Extension 226 - Mai” from the “Call Us” page of the company website, in an apparent attempt to conceal Ly-Vu’s relationship with the company.

40. On or around December 15, 2017, the Company 4 line of credit terminated and was not renewed by the Bank. Ly-Vu’s husband, as guarantor of the loan and owner of Company 4, represented to the Bank that he was unable to pay off the loan, and refused to provide the personal financial information required for the Bank to refinance the loan.

41. On January 2, 2018, the Bank terminated Ly-Vu’s employment as a result of the events described above.

42. On March 29, 2018, the Bank charged off the full principal balance of the loan: \$49,685. As of July 23, 2018, the Bank had incurred additional losses, including \$4,091 in unpaid interest and \$3,154 in fees and expenses attendant to its attempts to obtain repayment. In total, the Bank has experienced a loss of at least \$56,930 in connection with the Company 4 loan.

**LY-VU'S UNSAFE OR UNSOUND PRACTICES
AND BREACHES OF FIDUCIARY DUTY**

COUNT I: Unsafe or Unsound Banking Practices

43. As set forth in Paragraphs 1 through 42, Ly-Vu engaged in unsafe or unsound practices by failing to disclose, and making false statements to the Bank regarding, her familial ties to Companies 1–3. Further, Ly-Vu engaged in unsafe or unsound practices by failing to disclose, and making false statements to the Bank regarding, her financial interest in an extension of credit to Company 4, an entity owned by a member of her immediate family, in violation of the Bank's Code of Conduct. These unsafe or unsound practices caused the Bank to suffer a financial loss in the amount of \$56,930 when it charged off the loan to Company 4, and posed legal and reputational risks to the Bank.

COUNT II: Breach of Fiduciary Duty

44. As set forth in Paragraphs 1 through 42, Ly-Vu engaged in breach of fiduciary duties she owed to the Bank as a Vice President and Branch Manager, Regional Banking Officer, Branch Service Manager, or Premier Deposit Officer by failing to disclose material information regarding her financial interest in Companies 1–4 and providing false and/or incomplete information to the Bank regarding her personal interests.

REQUESTED RELIEF

PROHIBITION ACTION

45. 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 Central District of California 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 Ly-Vu'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 her unsafe or unsound practices and breach of fiduciary duties, Ly-Vu received financial gain and the Bank suffered financial loss or other damage. Moreover, the unsafe or unsound practices and breach of fiduciary duties involved Ly-Vu's personal dishonesty or continuing or willful disregard for the safety and soundness of the Bank.

46. 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.

47. **Ly-Vu is hereby directed to file an answer to this Notice within 20 days of the service of this Notice, as provided by section 19 of the Rules of Practice, 12 C.F.R. § 263.19, with OFIA, 3501 N. Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Ly-Vu 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), Ly-Vu'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 based upon a failure to answer is deemed to be an order issued by consent.

48. Ly-Vu 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.

49. 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 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

50. The violations and practices set forth in Counts I and II permit the Board of Governors to impose a cease-and-desist order requiring Ly-Vu to make restitution or provide reimbursement to the Bank where she was unjustly enriched in connection with such practices, pursuant to section 8(b)(6)(A) of the FDI Act, 12 U.S.C. § 1818(b)(6)(A).

51. 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 Central District of California 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 Ly-Vu to make restitution or provide reimbursement to the Bank in the manner described above. As set forth above, Ly-Vu received payments totaling at least \$18,700 from Company 4 that were funded or supported by advances from its line of credit with the Bank and directly contributed to the Bank's loss of \$56,930. These practices unjustly enriched Ly-Vu, and resulted from her disregard for Bank policies and lending protocols. 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.

52. 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.

53. **As set forth above, Ly-Vu is hereby directed to file an answer to this Notice within 20 days of the service of this Notice, as provided by section 19 of the Rules of Practice, 12 C.F.R. § 263.19, with OFIA, 3501 N. Fairfax Drive, Suite VS-D8113, Arlington, VA 22226-3500. Ly-Vu 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), Ly-Vu'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 based upon a failure to answer is deemed to be an order issued by consent.

54. As set forth above, Ly-Vu 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.

55. As set forth above, 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 for Hearings with respect to this Notice and any hearing to be conducted hereon, until such time as a presiding officer shall be designated.

By order of the Board of Governors of the Federal Reserve System, effective this 7th day of October, 2019.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

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