

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

In the Matter of	)	Docket Nos. 06-035-E-I
	)	06-035-B-I
Michelle M. Moore,	)	
	)	Notice of Intent to Prohibit
A former Institution-Affiliated	)	and Notice of Charges and of
Party of RBC Centura Bank,	)	Hearing Issued Pursuant to
Rocky Mount, North Carolina,	)	Sections 8(b) and 8(e) of the
	)	Federal Deposit Insurance Act,
Respondent.	)	as amended

The Board of Governors of the Federal Reserve System (the “Board of Governors”) is of the opinion that:

(A) Michelle M. Moore (“Moore”), a former institution-affiliated party of RBC Centura Bank, Rocky Mount, North Carolina (“RBC”), a state member bank, caused, brought about, participated in, counseled, or aided or abetted violations of law and unsafe and unsound practices and breached her fiduciary duty to RBC by embezzling funds from the accounts of RBC customers and using the funds for her own purposes;

(B) By reason of such violations of law, unsafe and unsound practices and breaches, RBC suffered financial losses and other damage and Respondent Moore received financial gain, and was unjustly enriched;

(C) Such violations, practices and breaches involve personal dishonesty and demonstrate a willful or continuing disregard for the safety and soundness of RBC, and a reckless disregard for the law.

Accordingly, the Board of Governors hereby institutes this proceeding by issuing this combined Notice of Intent to Prohibit and Notice of Charges and of Hearing (the “Notice”):

(I) For the purpose of determining whether an appropriate order permanently barring Respondent Moore from participating in any manner in the conduct of the affairs of an institution specified in 12 U.S.C. § 1818(e)(7)(A), should be issued against her pursuant to the provisions of section 8(e) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. § 1818(e)); and

(II) for the purpose of determining whether an appropriate order to cease and desist should be issued requiring Respondent Moore to take affirmative action to correct or remedy the conditions resulting from her violations or unsafe or unsound practices, including making restitution to RBC, pursuant to section 8(b)(6) of the FDI Act (12 U.S.C. § 1818(b)(6)).

In support of this Notice, the Board of Governors alleges the following:

### **JURISDICTION**

1. RBC, a bank chartered by the state of North Carolina, is and has been at all times pertinent to the charges herein a member of the Federal Reserve System and insured by the Federal Deposit Insurance Corporation. RBC is and has been at all times pertinent to the charges herein subject to the FDI Act, the Federal Reserve Act (the “FRA”) (12 U.S.C. §§ 221 et seq.) and the rules and regulations of the Board of Governors (12 C.F.R. §§ 201 et seq.).

2. At all times pertinent to the charges herein, Respondent Moore was employed as a teller and then a Customer Service Officer (“CSO”) at an Alpharetta, Georgia branch of RBC, and was an institution-affiliated party of RBC as defined by section 3(u)(1) of the FDI Act (12 U.S.C. § 1813(u)(1)), and subject to the jurisdiction of the Board of Governors including the Board of Governors’ authority to issue cease and desist and prohibition orders pursuant to sections 8(b) and 8(e) of the FDI Act, 12 U.S.C. §§ 1818(b) and (e).

### **APPLICABLE STATUTORY PROVISIONS**

3. Title 18, section 656, of the United States Code (18 U.S.C. § 656) makes it a crime, punishable by a fine of not more than \$1 million or not more than 30 years in prison, or both, for an officer, director, agent or employee of a Federal Reserve member bank to “embezzle[], abstract[], purloin[] or willfully misappl[y] any of the moneys, funds or credits of such bank ... or any moneys, funds, assets or securities intrusted to the custody or care of such bank ...” with the intent to injure or defraud the bank.

4. Title 18, section 1005, of the United States Code (18 U.S.C. § 1005) makes it a crime, punishable by a fine of not more than \$1 million or not more than 30 years in prison, or both, for an officer, director, agent or employee of a Federal Reserve member bank to “make[] any false entry in any book, report or statement of such bank ... with intent to injure or defraud such bank ... or any individual person, or to deceive any officer of such bank ....”

5. Title 18, section 1344, of the United States Code (18 U.S.C. § 1344) makes it a crime, punishable by a fine of not more than \$1 million or not more than 30 years in prison, or both, for any person to “knowingly execute[], or attempt[] to execute, a scheme or artifice – (1) to defraud a financial institution; or (2) to obtain any of the moneys, funds, credits, assets, securities or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises.”

### **FACTUAL ALLEGATIONS**

6. In May 2001, Respondent Moore was hired as a teller at RBC’s Alpharetta, Georgia branch. Her duties included processing personal and business banking transactions and maintaining control over her cash supply. On May 19, 2003, Respondent Moore was promoted to CSO, and remained a CSO until she resigned on May 17, 2004. As a CSO, Respondent

Moore was a member of the branch's leadership team. Her duties included supervising other tellers, overseeing the balancing of their cash supply, accounting for cash at the branch, and ensuring operational compliance and soundness of the branch. At all times pertinent to this Notice, Respondent Moore was designated Teller No. 004 at the Alpharetta branch for purposes of RBC's internal control system. By virtue of her position, Respondent Moore had access to the cash drawers and cash vault at RBC's Alpharetta branch.

7. On or about July 3, 2003, an RBC customer ("Customer A") and her spouse opened a demand deposit account, ending with the number 3122 ("DDA 3122") at RBC's Alpharetta, Georgia branch. Customer A had at least two other accounts at RBC. The initial amount deposited into DDA 3122 was \$106,961. Respondent Moore was the CSO who assisted Customer A in opening DDA 3122.

8. On or about July 11, 2003, without the knowledge or permission of Customer A, Respondent Moore began withdrawing funds from DDA 3122 for her own personal use. Between July 11, 2003 and May 6, 2004, Respondent Moore made a total of nine such unauthorized withdrawals from DDA 3122, totaling approximately \$66,048.50. In the case of each such withdrawal, Respondent Moore converted the funds into cash from her teller drawer, or from RBC's vault, for her own personal use with the intent to injure or defraud RBC. Respondent Moore did not inform Customer A that she was withdrawing funds for her personal use from DDA 3122, nor did Respondent Moore have Customer A's permission on those nine occasions to withdraw funds from her account.

9. In making the unauthorized withdrawals described in paragraph 8 above, Respondent Moore used one of two methods. In three instances, Respondent Moore prepared a debit ticket using the account number for DDA 3122. Respondent Moore filled in the amount of

the withdrawal, forged Customer A's signature, and falsely indicated on the debit ticket that Customer A was transferring the funds to another account, using the funds to purchase an official check, or both. Respondent Moore then took cash from her teller drawer or RBC's vault in the amount of the debit ticket, and in some instances placed a cash out ticket with her teller number 004 in her cash drawer. Respondent Moore used the cash for her own purposes.

10. In six instances, Respondent Moore took an unnumbered RBC countercheck, added the account number for DDA 3122 to the countercheck, and wrote in the amount of her withdrawal. Respondent Moore made the counterchecks payable to "cash" and forged Customer A's signature on the counterchecks. Respondent Moore then processed the counterchecks and took cash from her teller drawer, or RBC's vault, in the amount of the counterchecks. Respondent Moore used the cash for her own purposes.

11. Respondent Moore made the following unauthorized withdrawals from DDA 3122 on the following dates:

<b>Date on countercheck/ debit ticket</b>	<b>Approx. Date funds withdrawn</b>	<b>Method of withdrawal</b>	<b>Amount Taken</b>
July 11, 2003	July 11, 2003	Debit ticket bearing forged signature of Customer A ("Debit ticket")	\$6,898.50
Sept. 26, 2003	Sept. 29, 2003	Debit ticket	\$3,500
Oct. 8, 2003	Oct. 9, 2003	Countercheck bearing forged signature of Customer A ("Countercheck")	\$5,000
Oct. 23, 2003	Oct. 23, 2003	Debit ticket	\$10,500
Jan. 7, 2004	Jan. 7, 2004	Countercheck	\$9,000
Feb. 6, 2004	Feb. 9, 2004	Countercheck	\$9,650
March 18, 2004	March 18, 2004	Countercheck	\$9,800
May 3, 2004	May 3, 2004	Countercheck	\$2,000
May 6, 2004	May 6, 2004	Countercheck	\$9,700
<b>Total Withdrawn</b>			<b>\$66,048.50</b>

12. In or around October 2003, Respondent Moore devised a scheme to conceal her unlawful actions from Customer A. On or around October 6, 2003, Respondent Moore performed "system maintenance" on DDA 3122 to change the address field from Customer A's home address, where Customer A had requested that bank statements be sent, to RBC's Alpharetta, Georgia branch. Respondent Moore made this change to Customer A's account without informing Customer A and without obtaining Customer A's consent.

13. As a result of Respondent Moore's actions, bank statements for DDA 3122 were no longer sent to Customer A's house, and Respondent Moore was able to conceal her unauthorized withdrawals from Customer A.

14. In or around April 2004, Customer A noticed that she was not receiving bank statements from RBC and became concerned. Accordingly, on or about April 20, 2004, Customer A visited Respondent Moore at RBC's Alpharetta, Georgia branch to inquire about the balances in her accounts. Respondent Moore falsely informed Customer A that she was unable to give her a balance for DDA 3122 because there had been no activity in that account. Respondent Moore informed Customer A that once she received back statements from RBC's research department, she would send Customer A an itemized breakdown of principal and interest in her accounts. Respondent Moore informed Customer A that, going forward, Customer A would receive a monthly statement for all three of her accounts. Respondent Moore did not inform Customer A that the reason she was not receiving monthly statements was because Respondent Moore placed a maintenance hold on the statements in order to conceal her embezzlement from DDA 3122.

15. In order to further conceal her unlawful activities, on or about April 22, 2004, Respondent Moore drafted and signed a letter to Customer A on Bank letterhead falsely

informing her that the balance in DDA 3122 was \$107,882.14. Contrary to the information in the letter, the actual balance in DDA 3122 on or around April 22, 2004 was \$53,798.38, as a result of the funds Respondent Moore had taken from the account.

16. Respondent Moore devised a further scheme to conceal her defalcation by transferring funds from the account of a second RBC customer ("Customer B") into the account of Customer A. On or about April 22, 2004, the same day Respondent Moore sent the false letter described in paragraph 15 above, Respondent Moore prepared a debit ticket in the amount of \$54,083.76 from the demand deposit account of Customer B ending with the number 5005 ("DDA 5005"). Respondent Moore personally signed the debit ticket from Customer B's account with her name, "M. Moore." Respondent Moore did not have Customer B's knowledge or permission to withdraw any funds from his account.

17. Respondent Moore used the \$54,083.76 that she took from Customer B's DDA 5005 to purchase an RBC official check in the amount of \$54,083.76. Respondent Moore personally signed the \$54,083.76 official check with the name "Michelle Moore." On April 22, 2004, Respondent Moore deposited the \$54,083.76 official check purchased with funds from Customer B's account into Customer A's DDA 3122 in an effort to conceal her defalcation.

18. During the week of May 10-14, 2004, Customer A continued to be concerned about the balances in her accounts and her lack of bank statements, and continued to make inquiries at RBC's Alpharetta, Georgia branch. During that week, Respondent Moore was scheduled to begin work at RBC's newly opened Lithonia, Georgia branch, and was unable to respond to Customer A's inquiries. Accordingly, another RBC employee responded to Customer A's inquiries and ordered research into the balances in Customer A's accounts. At that time, Respondent Moore's defalcation from DDA 3122 was uncovered.

19. On or around the evening of May 17, 2004, Respondent Moore abruptly resigned her position as a CSO at RBC, and shortly thereafter left the State of Georgia. Respondent Moore left a handwritten resignation letter, along with her Bank keys and combinations, in the night depository box at RBC's Lithonia, Georgia branch, stating "I am so sorry to do this to you, but at the present time I am unable to be your CSO. ... I hope you can forgive me, I know your branch will do good because you are the best." The letter was signed "Michelle Moore." Respondent Moore did not subsequently return to the Bank or provide the Bank with information regarding her unauthorized withdrawals from the accounts of Customers A and B.

20. On or around May 27, 2004, RBC restored \$54,170.29 to Customer B's account, representing the \$54,083.76 embezzled by Respondent Moore, plus interest for the intervening month. In or around June 2004, RBC restored approximately \$11,964.74 to Customer A's account, representing the \$66,048.50 embezzled by Respondent Moore, less the \$54,083.76 transferred from Customer B's account. The Bank also reimbursed Customer A for lost interest.

21. After discovery of Respondent Moore's embezzlement, the Bank froze approximately \$6,311.50 in her personal account at RBC. The Bank subsequently applied the \$6,311.50 to its losses from Respondent Moore's embezzlement, bringing the Bank's total loss to approximately \$59,823.53.

### **VIOLATIONS OF LAW**

#### **Violations of 18 U.S.C. § 656**

22. By reason of the facts alleged in paragraphs 8 through 17 above, Respondent Moore violated the provisions of 18 U.S.C. § 656 in that she embezzled, purloined, or willfully misapplied moneys, funds or assets intrusted into the custody or care of the Bank, or embezzled,



purloined or willfully misapplied moneys, funds or credits of the Bank, with the intent to injure or defraud the Bank.

#### **Violations of 18 U.S.C. § 1005**

23. By reason of the facts alleged in paragraphs 8 through 13 and 15 through 17 above, Respondent Moore violated the provisions of 18 U.S.C. § 1005 in that she made false entries in the books, reports or statements of the Bank with the intent to: (i) injure or defraud the Bank; (ii) injure or defraud an individual person; or (iii) deceive an officer of the Bank.

#### **Violations of 18 U.S.C. § 1344**

24. By reason of the facts alleged in paragraphs 8 through 17 above, Respondent Moore violated the provisions of 18 U.S.C. § 1344 in that she knowingly executed a scheme or artifice to defraud the Bank, or to obtain moneys or funds under the custody or control of the Bank by means of false or fraudulent pretenses or representations.

#### **UNSAFE AND UNSOUND PRACTICES**

25. By reason of the facts alleged in paragraphs 8 through 17 above, Respondent Moore engaged in unsafe and unsound practices in that her actions were contrary to generally accepted standards of prudent operations, the possible consequences of which, if continued, would be abnormal risk or loss or damage to the Bank, its shareholders or the federal deposit insurance fund.

#### **BREACHES OF FIDUCIARY DUTY**

26. By reason of the facts alleged in paragraphs 8 through 17 above, Respondent Moore breached her fiduciary duties of care and loyalty to the Bank in that she failed to exercise ordinary care to prevent, and in fact caused, losses to the Bank, and put her own self interest above the interests of the Bank.

## **PROHIBITION ACTION AGAINST MICHELLE MOORE**

### **Misconduct by Respondent**

27. As set forth in paragraphs 22 through 26 above, Respondent Moore violated 18 U.S.C. §§ 656, 1005 and 1344, engaged or participated in unsafe and unsound practices, and breached her fiduciary duties to the Bank through the actions described above.

### **Financial Loss to Bank and Financial Gain to Respondent**

28. As set forth in paragraphs 8 through 21 above, by reason of Respondent Moore's violations of law, unsafe and unsound practices, or breaches of fiduciary duty, the Bank suffered financial loss and Respondent Moore received financial gain through her embezzlement, misappropriation, or misapplication of funds belonging to customers of the Bank and diversion of those funds to her own use.

### **Personal Dishonesty or Willful or Continuing Disregard of Respondent**

29. The violations of law, unsafe and unsound practices and breaches of fiduciary duty committed by Respondent Moore set forth in this Notice involve personal dishonesty on the part of Respondent Moore, including: (i) embezzling, misappropriating or misapplying funds belonging to the Bank; (ii) forging Customer A's signature and placing false purpose statements on counterchecks and debit tickets drawn on DDA 3122; and (iii) taking the actions described in paragraphs 12 through 17 above to conceal her embezzlement. In addition, Respondent Moore's violations of law, unsafe and unsound practices and breaches of fiduciary duty demonstrate a willful or continuing disregard for the safety and soundness of the Bank.

### **CEASE AND DESIST ACTION AGAINST MICHELLE MOORE**

30. As set forth in paragraphs 22 through 26 above, Respondent Moore violated 18 U.S.C. §§ 656, 1005 and 1344, engaged or participated in unsafe and unsound practices, and breached her fiduciary duties to the Bank through the actions described above.

31. By means of the violations, practices or breaches described in paragraphs 22 through 26, above, Respondent Moore was unjustly enriched in that she converted to her own use and enjoyment approximately \$66,048.50 of funds belonging to the Bank. In the alternative, the violations or practices described in paragraphs 22 through 25 above involved a reckless disregard for the law.

32. By reason of Respondent Moore's unjust enrichment and reckless disregard for the law described in paragraph 31 above, RBC suffered losses of approximately \$59,823.53.

### **PROCEDURAL MATTERS**

33. Notice is hereby given that a hearing will be held on February 21, 2007 at the United States District Courthouse for the Eastern District of North Carolina, Raleigh, North Carolina, or any other place designated by the presiding officer, for the purpose of taking evidence on the charges hereinbefore specified:

- (a) in order to determine whether an appropriate order should be issued under section 8(e) of the FDI Act to prohibit, without the prior written approval of the Board of Governors and, where necessary pursuant to section 8(e)(7)(B) of the FDI Act (12 U.S.C. § 1818(e)(7)(B)), of another federal financial institutions regulatory agency, the future participation of Respondent Moore in the affairs of any insured depository institution, holding company thereof, or other institution or agency specified in section 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A)),

including serving as an officer, director, or employee, or voting the shares of any such entity;

- (b) in order to determine whether an appropriate order to cease and desist should be issued under section 8(b) of the FDI Act to require Respondent Moore to take affirmative action to correct the conditions resulting from her violations or practices by making restitution to RBC in the amount of \$59,823.53.

34. The hearing referred to in paragraph 33 above 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, 12 C.F.R. §§ 263.1-263.56 (“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.

**Answer to Charges and Request for Private Hearing**

35. Respondent Moore is hereby directed to file an answer to this Notice within 20 days of service of the Notice, as provided in section 19 of the Rules of Practice (12 C.F.R. § 263.19) with the Office of Financial Institution Adjudication (“OFIA”), 1700 G Street, N.W., Washington, D.C. 20552. Pursuant to section 263.11(a) of the Rules of Practice (12 C.F.R. § 263.11(a)), any answer filed with the OFIA shall also be served on the Secretary of the Board of Governors, 20<sup>th</sup> and C Streets N.W., Washington, D.C. 20551. As provided in section 263.19(c)(1) of the Rules of Practice (12 C.F.R. § 263.19(c)(1)), the failure by Respondent Moore to file an answer to this Notice within the time provided herein shall constitute a waiver of her right to appear and contest the allegations of the 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 of Governors based upon a failure to answer is deemed to be an order issued upon consent.

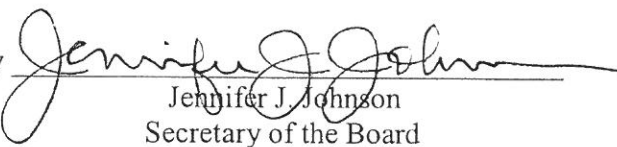
36. Respondent Moore may submit to the Secretary of the Board of Governors, within 20 days of the service of this Notice, a written statement detailing the reasons why the hearing described herein should not be public, as provided in section 33(a) of the Rules of Practice, 12 C.F.R. § 263.33(a). The failure to submit such a statement within the aforesaid period shall constitute a waiver of any objection to a public hearing.

**Delegation of Authority**

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 Rules of Practice with respect to this Notice and any hearing to be conducted thereon, until such time as a presiding officer shall be designated.

Dated at Washington, D.C., this 5<sup>th</sup> day of January 2007.

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM

By   
Jennifer J. Johnson  
Secretary of the Board