

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

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| _____ |) | |
| In the Matter of |) | Docket No. 09- 052-I-E |
| |) | |
| ADAM L. BENARROCH |) | Notice of Intent to Prohibit Pursuant |
| |) | to Section 8(e) of the FDI Act |
| An institution-affiliated party of |) | |
| Midwest Bank and Trust, |) | |
| Elmwood Park, Illinois |) | |
| _____ |) | |

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) Adam L. Benarroch, a former Assistant Vice-President and commercial lender of Midwest Bank and Trust (the “Bank”), a state-member bank in Elmwood Park, Illinois, engaged in unsafe and unsound practices, breaches of fiduciary duty and violations of law, including 18 U.S.C. § 1005 relating to his fabrication of bank documents and forgery of the signatures of other bank officials in connection with the origination of loans by the Bank;

(B) In connection with the misconduct described herein, the Bank suffered financial loss or other damage, and the interests of the Bank’s depositors have been prejudiced;

(C) The misconduct described herein involves personal dishonesty on Benarroch’s part, or demonstrates willful or continuing disregard for safety and soundness of the Bank.

Accordingly, the Board of Governors hereby institutes these proceedings for the purpose of determining whether an appropriate order should be issued permanently barring Benarroch from participating in any manner in the conduct or affairs of any institution or agency specified

in Section 8(e)(7)(A) of the Federal Deposit Insurance Act, as amended (the "FDI Act"), 12 U.S.C. § 1818(e)(7)(A), pursuant to Sections (e) and (i)(3) of the FDI Act, 12 U.S.C. § 1818 (e) & (i)(3).

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

JURISDICTION

1. In September 2003, Adam L. Benarroch was hired as a former Assistant Vice-President and commercial lender of Midwest Bank and Trust (the "Bank"), a state-member bank in Elmwood Park, Illinois. As a result, Bennaroch was an institution-affiliated party ("IAP") of the Bank, as defined in section 3(u) of the FDI Act, 12 U.S.C. § 1813(u). Mr. Bennaroch was formally terminated from his position on May 21, 2004.

2. Midwest Bank and Trust is a state chartered bank and member of the Federal Reserve System. Accordingly, the Board is the appropriate Federal Banking Agency to bring charges against IAPs of the Bank within the meaning of section 3(q)(2) of the FDI Act, 12 U.S.C. § 1813(q).

FACTUAL ALLEGATIONS

Background

3. From September 2003 to March 2004, the Bank's loan policy allowed Bennaroch, in his capacity as Assistant Vice-President of the Bank, to approve secured loans up to \$75,000. In March 2004, the Bank changed its loan policy, thereby increasing Bennaroch's secured lending authority to \$100,000.

4. At all relevant times, the Bank's loan policy prohibited Benarroch from approving secured loans that exceeded his lending authority without written approval from the appropriate Bank loan committee. Thus, from September 2003 to March 2004, Benarroch was required to

obtain written approval from the Bank's junior loan committee for secured loans between \$75,000 and \$600,000, and written approval from the Bank's senior loan committee for secured loans greater than \$600,000. From September 2003 to March 2004, the bank's junior and senior loan committees were referred to as the Officer's Loan Committee and the Director's Loan Committee, respectively. In March 2004, the junior committee's secured lending authority was increased to \$2.5 million.

5. For each loan the Bank approved, the appropriate loan committee generated a document memorializing the terms and conditions of the loan. As a matter of practice, any loans above \$600,000 were reviewed by the junior loan committee before being submitted to the senior loan committee for consideration and approval. These documents were relied on by the Bank's Loan Operations Department in preparing the closing documents for the loan, which included, among other things, the promissory note that is used to obligate the Bank.

6. Between at least September 2003 and when Benarroch was terminated from his position at the Bank in May 2004, the Bank maintained a policy governing commitment letters, which stated that "any letter from the Bank stating the Bank's willingness to advance funds to a named borrower" can only be issued "under the signature of the loan officer and cosigned by the President or Regional Senior Lender or their nominees." The policy acknowledged that, "[t]he Bank has a legal obligation to honor committed facilities, [as] long as the agreed upon terms are met and there is no material change in the borrower's financial or operational condition after the Commitment Letter is issued."

Loan Number 1

7. On October 8, 2003, the Bank's junior loan committee approved a secured loan of \$405,000 to Customer A. According to the written approval generated by the committee,

Customer A was to repay the Bank's loan in 5 years at a variable rate of the Bank's base rate plus 1.5 percent, with a 5.5 percent floor.

8. On December 5, 2003, Benarroch drafted a memorandum addressed to the Bank's files concerning the loan to Customer A, which stated "[t]he purpose of this memo is to lower the interest rate ... to base plus 1% with a floor of 5%" and the "maturity date will be increased from 5 years to a 7 year balloon." Benarroch then handwrote the word "okay" on the top of the document along with the forged initials of the Bank's Regional Vice-President to make it appear as if the changes to the Bank's loan had been properly authorized by the junior loan committee before forwarding the memorandum to the Bank's Loan Operations Department where it was relied on to prepare, among other things, the promissory note used to obligate the borrower to the Bank.

9. On December 11th, Customer A signed a promissory note reflecting the terms provided in Benarroch's December 5th memorandum. As a result of Benarroch's conduct, the Bank was exposed to additional risk of loss on the loan to Customer A and was deprived of more than \$2,700 in interest. This loan was outstanding until March 14, 2005, when it was repaid.

Loan Number 2

10. October 28, 2003, the Bank's senior loan committee approved a \$2.25 million secured loan to Customers B and C. On October 30, 2003, without informing the Bank, Benarroch sent a commitment letter to Customers B and C informing them that the Bank had approved the loan. In the letter, Benarroch did not preserve the Bank's right to modify or withdraw the loan offer based on an unfavorable appraisal of the commercial property that was being used to secure the Bank's interest, a condition commonly found in the Bank's commitment letters. Benarroch issued the commitment letter under his own signature and did not obtain the co-signature of the President or Regional Senior Lender as required by the Bank's lending

policy. On October 31, 2003, Customers B and C countersigned the commitment letter and returned it to Benarroch.

11. On December 17, 2003, the Bank's junior loan committee met to review and discuss, among other things, an unfavorable appraisal of the commercial property used to secure the Bank's loan to Customers B and C. Following the discussion, the junior loan committee voted to reduce the loan amount by \$46,000 because of the appraisal. The committee was unaware that Benarroch had already issued a commitment letter to Customers B and C, promising a \$2.25 million loan.

12. Sometime after the meeting, Benarroch manually changed the loan amount contained in the approval document issued by the junior loan committee to reflect the higher loan amount promised in his commitment letter of October 13th, and then forged the initials of the Bank's Regional Vice-President on the top of the document to make it appear as though the change had been properly authorized by the committee. Benarroch then forwarded the document to the Bank's Loan Operations department where it was relied on to prepare, among other things, the promissory note that was used to obligate the Bank.

13. On January 23, 2004, Customers B and C signed a promissory note reflecting the same terms provided in Benarroch's unauthorized commitment letter. The loan was funded on February 2, 2004 and, as a result of Benarroch's conduct the Bank, was exposed to the additional risk of loss of \$46,000 and denied the opportunity to use these funds for other purposes. This loan remained outstanding at least until June 2, 2008.

Loan Number 3

14. On October 8, 2003, the Bank's junior loan committee approved a secured loan of \$185,000 to Customer D.

15. On November 11, 2003, Benarroch drafted a memorandum addressed to the Bank's junior loan committee requesting "an additional \$225,000" for the Bank's loan to Customer D and "for the amortization schedule to be increased from 15 to 20 years." Benarroch forged the initials of the Bank's Regional Vice-President on the top of the document to make it appear as though the changes to the Bank's loan had been properly authorized. Benarroch then forwarded the document to the Bank's Loan Operations department where it was relied on to prepare, among other things, the promissory note that was used to obligate the borrower to the Bank.

16. On March 12, 2004, Customer D signed a promissory note reflecting the same terms that Benarroch provided in his November 11th memorandum. As a result of Benarroch's conduct the Bank was exposed to an additional \$225,000 in potential losses and denied the opportunity to use these funds for other purposes. The loan remained outstanding until at least May 12, 2008.

Loan Number 4

17. On November 26, 2003, the Bank's junior loan committee met and approved a secured loan of \$625,000 to Customer E.

18. Following the meeting, Benarroch fabricated a document purporting to be from the Bank's junior loan committee, which shows an increased loan amount of \$649,000. Benarroch forged the names of the Bank's Regional Vice-President and the Secretary of the junior loan committee on the top of the document to make it appear as if the committee had approved the \$24,000 increase. Benarroch then forwarded the document to the Bank's Loan Operations Department where it was relied on in preparing, among other things, the promissory note that was used to obligate the borrower to the Bank.

19. On December 30, Customer E signed a promissory note reflecting the same terms that

Benarroch provided in his fabricated loan approval. As a result of Benarroch's conduct the Bank was exposed to an additional risk of loss of \$24,000 and denied the opportunity to use these funds for other purposes. The loan remained outstanding until January 20, 2005, when it was repaid.

Loan Numbers 5 and 6

20. On January 14, 2004, the Bank's junior loan committee approved a \$1.65 million secured commercial loan to Customer F. According to the minutes of the meeting, the Bank's loan was to be fully repaid in 5 years at a rate of base plus 1.5 percent, with a 5.5 percent floor, and included a discount fee of \$4,125 (0.25 percent) and a documentation fee of \$250.

21. Following the meeting, Benarroch fabricated a document, purportedly from the Bank's junior loan committee, which shows that the committee approved a loan to Customer F for a higher loan amount of \$1.8 million, at a lower interest rate of 5 percent (fixed), and with no discount fee. Benarroch then forged the initials of the Bank's Regional Vice-President on the top of the document to make it appear as if the committee had approved the \$150,000 increase, lower interest rate and eliminated the loan fees on the Bank's loan.

22. Benarroch also fabricated a loan approval document, purportedly from the Bank's senior loan committee, which shows the same loan terms as those listed in the junior loan committee approval document that Benarroch fabricated. Benarroch "cut and pasted" the signatures of the Bank's directors at the end of the document to make it appear as if the committee had authorized terms provided in the document. On March 25, Benarroch issued a memorandum to the senior loan committee, citing to the January 27th loan approval document he had fabricated, to request that the Bank's \$1.8 million loan to Customer F be divided into three separate notes of: (1) \$800,000, (2) \$500,000 and (3) \$500,000, respectively. On May 10th, the

borrowers signed two promissory notes for \$800,000 and \$500,000, respectively. As explained more fully below, Benarroch was suspended from employment two days later. These loans remained outstanding until at least May 12, 2008.

Loan Numbers 7 and 8

23. On January 21, 2004, the Bank's junior loan committee approved two secured loans totaling \$809,000 to Customer G. According to the minutes of the meeting, the first loan for \$664,000 was to be repaid within 5 years at a variable rate of base plus 1.5 percent (with a 5.5 percent floor) and included a documentation fee of \$250 and a loan fee of \$1,660. The second loan of \$145,000 was to be repaid in 5 years at a variable rate of base plus 1.5 percent (with a 5.5 percent floor) and included a document fee of \$250.

24. Sometime after the meeting, Benarroch fabricated a document, purportedly from the Bank's junior loan committee, which showed that the committee had approved two loans to Customer G for an increased amount of \$665,000 and \$150,000, respectively, at a lower interest rate of base plus 1 percent (with a 5 percent floor), with a longer repayment period of 7 years, and without a loan fee for the first loan. Benarroch forged the signature of the Bank's Regional Vice-President and the Bank's Senior Vice-President for Lending on the top of the document to make it appear as if the committee had approved the terms before forwarding the document to the Loan Operations Department where it was relied on to prepare, among other things, the promissory note that was used to obligate the borrower to the Bank.

25. On March 31, 2004, Customer G signed two promissory notes reflecting the same terms that Benarroch provided in his fabricated loan approvals. As a result of Benarroch's conduct, the Bank was exposed to an additional \$6,000 in potential losses and deprived of nearly \$1,660 in fees. The loan for \$665,000 remained outstanding until at least September 27, 2005, and the loan for \$150,000 remained outstanding until at least June 3, 2008.

Loan Numbers 9

26. On January 21, 2004, the Bank's junior loan committee approved a \$600,000 secured loan to Customer H. According to the minutes of the meeting, the loan was to be repaid within 5 years at a floating interest rate of base plus 1.5 percent, and was subject to a loan fee of \$1,200. Following the meeting, Benarroch fabricated a document, purporting to be from the Bank's junior loan committee, which showed that the junior loan committee approved a loan to Customer H at a fixed interest rate of 5 percent, with a longer repayment period of 7 years and without a loan fee. Benarroch forged the signature of the Bank's Regional Vice-President and the Bank's Senior Vice-President for Lending on the top of the document to make it appear as if the committee had approved the more favorable interest rate and eliminated the loan fees and then sent the document to the Bank's Loan Operations Department where it was relied on to prepare, among other things, the promissory note that was used to obligate the borrower to the Bank.

27. On April 16, 2004, Customer H signed a promissory note reflecting the same terms provided in the loan approval document that Benarroch fabricated. As a result of Benarroch's conduct, the Bank has been deprived of \$1,500 in fees and at least \$57,000 in interest through the term of the loan. This loan remained outstanding until at least May 16, 2008.

Loan Number 10

28. On February 11, 2004, the Bank's junior loan committee approved a secured loan of \$2.2 million to Customer I. On February 24, the loan was reviewed and approved by the Bank's senior loan committee under the same terms and conditions. According to the minutes of both meetings, the \$2.2 million loan was to be repaid within 5 years at a fixed rate of 6 percent, and was subject to an \$11,000 loan fee and \$250 documentation fee.

29. Following the meeting, Benarroch fabricated a document, purportedly from the

Bank's junior loan committee, which showed that the committee had approved the loan to Customer I for an increased amount of \$2.25 million, at a lower interest rate of 5 percent, with an increased repayment period of 7 years, and without the \$11,000 loan fee. Benarroch forged the signature of the Bank's Regional Vice-President and the Bank's Senior Vice-President for Lending on the top of the document to make it appear as if the committee had approved the \$25,000 increase, lower interest rate, longer repayment period and eliminated the loan fees.

30. Benarroch also fabricated a second document, purportedly from the Bank's senior loan committee, which shows that the committee approved a loan to Customer I with the same terms listed in the junior loan committee document that Benarroch fabricated. Benarroch "cut and pasted" the signatures of the Bank's directors at the end of the document to make it appear as if the same terms had been properly authorized by the senior loan committee before forwarding the document to the Bank's Loan Operations Department where it was relied on to prepare, among other things, the promissory note that was used to obligate the borrower to the Bank.

31. On April 22, 2004, Customer I signed a promissory note reflecting the same terms listed in the loan approval documents that Benarroch fabricated. As a result of Benarroch's conduct, the Bank was exposed to an additional risk of loss of \$25,000, and was deprived of \$11,000 in fees and more than \$158,000 in interest. This loan remained outstanding until at least June 13, 2008.

Loan Number 11

32. On February 18, 2004, the Bank's junior loan committee approved a \$871,250 letter of credit to Customer J. On February 24th, the credit line was approved by the Bank's senior loan committee under the same terms and conditions. According to the minutes of both meetings, the credit line to Customer J was subject to a loan fee of \$13,068.75 and a documentation fee of \$250.

33. Following the senior loan committee meeting, Benarroch fabricated a document, purportedly from the senior loan committee, which shows that the committee approved a credit line to Customer J for a loan fee of only \$2,178.13 and documentation fee of \$75. Benarroch “cut and pasted” the signatures of the Bank’s directors at the end of the document to make it appear as if the committee had approved the terms of the loan before sending the document to the Bank’s Loan Documentation Department where it was relied on to prepare, among other things, the promissory note that was used to obligate the borrower to the Bank.

34. On February 25, 2004, Customer J signed a promissory note reflecting the same terms provided in the loan approval document that Benarroch fabricated. As a result of Benarroch’s conduct, the Bank was deprived of \$11,065.62 in fees. The credit line remained open until at least February 19, 2008.

Loan Number 12

35. On February 18, 2004, the Bank’s junior loan committee considered the refinancing of a \$1.46 million secured loan the Bank had previously made to Customer K. On February 25th, the Bank’s senior loan committee approved the refinancing proposal under the same terms and conditions considered by the junior loan committee.

36. According to the minutes of both meetings, under the refinancing, the amount of the Bank’s loan to Customer K would be reduced to \$1.38 million and the principal debtor on the loan would be changed from Customer K to an investment company wholly owned by Customer K. The interest rate on the new loan to Customer K would remain the same (6 percent fixed). Following the meeting of the senior loan committee, the terms of the refinancing were memorialized on a loan approval document, which was signed by six of the Bank’s directors.

37. Unbeknownst to the Bank’s loan committees, Benarroch had issued a commitment letter to Customer K three months earlier, on November 6, which stated that the interest rate on

the refinanced loan would be reduced and capped at 4.75 percent. Contrary to the Bank's lending policy, Benarroch issued the commitment letter over his own signature and did not obtain the co-signature of the President or Regional Senior Lender.

38. The Bank first learned that of the unauthorized cap in July 2004, when the borrowers' attorney called to complain that the rate on the loan had risen above 4.75 percent. The Bank also learned that Benarroch failed to secure the title changes on the collateral that was used to secure the loan to Customer K. As a result of Benarroch's conduct, the Bank was forced to honor the commitments made in Benarroch letter of November 6, 2003, by agreeing on or about August 30, 2004, to a new promissory note signed by the borrower at a fixed rate of 4.75 percent. Accordingly, the Bank was deprived of more than \$109,000 in interest. This loan remained outstanding until at least May 15, 2008.

Loan Number 13

39. On March 10, 2004, Benarroch fabricated a document purporting to be from the Bank's junior loan committee, which showed that the junior loan committee had approved a secured loan of \$200,000 to Customer L. The proposed loan would increase Customer L's total commitment to \$849,000, above Benarroch's lending authority, thereby requiring consideration and approval by the Bank's junior and senior loan committees. The junior loan committee minutes for March 2004 do not make any reference to this loan. In truth, Customer L's loan was not presented to the loan committee. Benarroch forged the initials of the Bank's Regional President and Regional Senior Lender on the top of the document to make it appear as though the junior loan committee had approved the loan to Customer L. Benarroch then forwarded the loan approval documents to the Bank's Loan Operations department for documentation.

40. On May 6, 2004, Customer L signed a promissory note reflecting the same terms contained in the loan approval document that Benarroch fabricated. The loan was funded on

May 10, 2004, but was partially “charged-off” as a loss on April 27, 2006. As a result of Benarroch’s conduct, the Bank suffered a loss when the borrower failed to repay more than \$109,000.

Loan Number 14

41. On March 10, 2004, the Bank’s junior loan committee met and approved a \$625,000 secured loan to Customer M. According to the minutes of the meeting, Customer M was to repay the loan within 5 years at an interest rate of 5.25 percent (fixed). Following the meeting, Benarroch fabricated a junior loan committee approval document, which increased the amount of the Bank’s loan to \$700,000, lowered the interest rate to 5 percent (fixed), and extended the repayment period to 7 years. Benarroch forged the initials of the Bank’s Regional Senior Lender on the top of the document to make it appear as if the committee had approved the \$75,000 loan amount increase, lower interest rate and longer repayment period.

42. On March 23, 2004, Benarroch fabricated a second document, purportedly from the Bank’s senior loan committee, which showed that the committee approved a loan to Customer M under the same terms reflected in the junior loan committee approval that Benarroch fabricated two weeks earlier. Benarroch “cut and pasted” the signatures of six Bank directors at the end of the document to make it appear as if the committee had approved the terms reflected in the document and then forwarded the document to the Bank’s Loan Operations Department where it was relied on to prepare, among other things, the promissory note used to obligate the Bank.

43. On May 7, 2004, Customer M signed a promissory note reflecting the same terms contained in the loan approval documents that Benarroch fabricated. As a result of Benarroch’s conduct, the Bank was exposed to an additional risk of loss of \$75,000, deprived of .25 basis points in interest, and deprived of the ability to use these funds for other purposes. This loan remained outstanding until at least January 7, 2009.

The Events Leading to Benarroch's Termination

44. On January 21, 2004 the Bank's junior loan committee met and approved a \$3.15 million commercial loan to Customer H (the same customer discussed above). The Bank's loan to Customer H was set to close in early May 2004, pending verification from the Bank's outside counsel that the Bank's interest had been adequately secured and that the loan documents had been properly prepared.

45. On May 11, 2004, at 10:37 a.m. (CST), Benarroch sent an e-mail to the Bank's Assistant Vice-President for Loan Documentation stating that he had spoken with the Bank's outside counsel and that that counsel had requested the documents pertaining to the Bank's loan to Customer H for review. In truth, no such conversation had ever taken place.

46. On May 11, 2004, at 10:47 a.m. (CST), Benarroch sent a second e-mail to the Bank's Assistant Vice-President for Loan Documentation to inform her that he had contacted the Bank's counsel and was negotiating the fee for conducting a legal review of the Bank's loan to Customer H. Benarroch also stated that he was planning to fax the loan documents to the counsel for review. In truth, no such conversation had ever taken place.

47. On May 11, 2004, at 10:55 a.m. (CST), Benarroch send a third e-mail to the Bank's Assistant Vice-President for Loan Documentation confirming that the documents pertaining to the Bank's loan to Customer H had been sent to the Bank's counsel for review and that Benarroch expected the review to be completed by 2:00 p.m. (CST) that afternoon. In truth, no such conversation had ever taken place.

48. On May 11, 2004, at 11:55 a.m. (CST), Benarroch sent a fourth e-mail to the Bank's Assistant Vice-President for Loan Documentation to inform her that the Bank's outside counsel would be faxing a memo to the Bank "indicating the changes/suggestions for the loan documents." In truth, no such conversation had ever taken place.

49. On May 11, 2004, at 12:35 p.m. (CST), Benarroch sent a fifth e-mail to the Bank's Assistant Vice-President for Loan Documentation reconfirming that the legal review of the Bank's loan to Customer H would be completed by the end of the day.

50. On May 11, 2004, at 12:59 p.m. (CST), Benarroch sent a sixth e-mail to the Bank's Assistant Vice-President for Loan Documentation to confirm that the Bank would not process the loan without a memo from Bank's outside counsel stating that the documents prepared in support of the loan provided the Bank with sufficient legal protection against loss or other risks.

51. Following this series of e-mails, Benarroch forged three (3) documents, purporting to be from the Bank's outside counsel, and forwarded them to the Bank's Assistant Vice-President for Loan Documentation.

52. The next day, on May 12, 2004, the Bank's Executive Vice-President and Senior Vice-President for lending confronted Benarroch with the memorandums written in the name of the Bank's outside counsel. Benarroch admitted that he had drafted these memos in an effort to expedite the closing of the Bank's loan to Customer H.

53. Later that day, the Bank suspended Benarroch from his employment, and, on May 21, 2004, the Bank terminated Benarroch's employment.

VIOLATIONS OF LAW AND REGULATION, UNSAFE AND UNSOUND PRACTICES AND BREACHES OF FIDUCIARY DUTY BY INDIVIDUALS

COUNT I: Violations of 18 U.S.C. § 1005

54. At all relevant times, 18 U.S.C. § 1005 provided that, "[w]hoever makes any false entry in any book, report, or statement of [a Federal Reserve member] bank ... with intent to injure or defraud such bank ... or to deceive any officer of such bank ... shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both"

55. As set forth in ¶¶ 7--38 and 41-43 above, Benarroch, without authority, changed the

terms of Loan Number 1, Loan Number 2, Loan Number 3, Loan Number 4, Loan Numbers 5-6, Loan Numbers 7-8, Loan Number 9, Loan Number 10, Loan Number 11, Loan Number 12 and Loan Number 14 from the terms that had been approved by the appropriate Bank loan committee, by fabricating documents and forging signatures of various Bank officials on the documents with the intent of causing or permitting the Bank officers to rely on these documents in issuing loans to customers of the Bank.

56. As set forth in ¶¶ 39 and 40, above, Benarroch, caused the Bank to issue Loan Number 13, which was beyond his lending authority, by fabricating a loan committee approval document, which resulted in a loss to the bank of at least \$109,000.

57. As set forth in ¶¶ 10-13 and 35-38 above, Benarroch issued 2 commitment letters without proper authorization, thereby obligating the Bank to provide its customers with more favorable loan terms than the Bank was willing to offer, and exposing the Bank to additional risk or loss or harm.

58. Through each of the actions set forth in Paragraphs 55-57, above, Benarroch caused false entries to be made into the Bank's books with the intent of deceiving the officers of the Bank.

COUNT II: Unsafe and Unsound Banking Practices

59. As set forth in ¶ 1 above, Benarroch was an Assistant Vice-President of Midwest Bank and Trust and, therefore, had an obligation to ensure that the Bank's operations were conducted in a safe and sound manner.

60. As set forth in ¶¶ 7-38 and 41-43 above, Benarroch, without authority, changed the terms of Loan Number 1, Loan Number 2, Loan Number 3, Loan Number 4, Loan Numbers 5-6, Loan Numbers 7-8, Loan Number 9, Loan Number 10, Loan Number 11, Loan Number 12 and

Loan Number 14 from the terms that had been approved by the appropriate Bank loan committee, by fabricating documents and forging signatures of various Bank officials on the documents with the intent of causing or permitting the Bank officers to rely on these documents in issuing loans to customers of the Bank.

61. As set forth in ¶¶ 39 and 40, above, Benarroch, caused the Bank to issue Loan Number 13, which was beyond his lending authority by fabricating a loan committee approval document which loan resulted in a loss to the bank of at least \$109,000.

62. As set forth in ¶¶ 10-13 and 35-38 above, Benarroch issued 2 commitment letters without proper authorization, thereby obligating the Bank to provide its customers with more favorable loan terms than the Bank was willing to offer, and exposing the Bank to additional risk or loss or harm.

63. Benarroch's conduct described in Paragraphs 60-62 was contrary to generally accepted standards of prudent bank operation the consequences of which, if continued, would be abnormal risk or loss or damage to the Bank or the deposit insurance fund.

COUNT II: Breach of Fiduciary Duties

64. As set forth in ¶ 1 above, Benarroch was an Assistant Vice-President of Midwest Bank and Trust and, therefore, owed fiduciary duties of care and loyalty to the Bank.

65. As set forth in ¶¶ 7--38 and 41-43 above, Benarroch, without authority, changed the terms of Loan Number 1, Loan Number 2, Loan Number 3, Loan Number 4, Loan Numbers 5-6, Loan Numbers 7-8, Loan Number 9, Loan Number 10, Loan Number 11, Loan Number 12 and Loan Number 14 from the terms that had been approved by the appropriate Bank loan committee, by fabricating documents and forging signatures of various Bank officials on the documents with the intent of causing or permitting the Bank officers to rely on these documents

in issuing loans to customers of the Bank.

66. As set forth in ¶¶ 39 and 40, above, Benarroch, caused the Bank to issue Loan Number 13, which was beyond his lending authority by fabricating a loan committee approval document which loan resulted in a loss to the bank of at least \$109,000.

67. As set forth in ¶¶ 10-13 and 35-38 above, Benarroch issued 2 commitment letters without proper authorization, thereby obligating the Bank to provide its customers with more favorable loan term than the Bank was willing to offer, and exposing the Bank to additional risk or loss or harm.

68. As a result of such conduct, Benarroch breached his fiduciary duties of care and loyalty to the Bank.

REQUESTED RELIEF

69. Notice is hereby given that a hearing will be held on June 12, 2009, at the Federal Reserve Bank of Chicago, 230 South LaSalle street, Chicago, Illinois, 60604, 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 Benarroch in the affairs of any insured depository institution, holding company thereof, 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 Benarroch's violations of law, unsafe and unsound practices, and breaches of fiduciary duty Midwest Bank and Trust has suffered financial loss or other harm, or the interests of its depositors have been or could be prejudiced; and the violations of law, unsafe and unsound practices, and breaches of fiduciary duty involved personal dishonesty or demonstrated willful or

continuing disregard for the safety and soundness of Midwest Bank and Trust on Benarroch's part.

PROCEDURES GENERALLY

70. The hearing referred to in ¶ 69 will be held before an administrative law judge to be appointed from the Office of Financial Institutions 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, the Federal Reserve Act and the Rules of Practice. Benarroch may submit, within 20 days of service of this Notice, to the Secretary of the Board, a written statement detailing the reasons why the hearing described above should not be public. Benarroch's failure to submit such a statement within the aforesaid period shall constitute a waiver of any objection to a public hearing.

Answer to Notice

71. **Benarroch 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. Benarroch is encouraged to file any answer to this Notice by electronic mail with the Office of Financial Institution Adjudication 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), the failure of Benarroch 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 the Notice and to file with

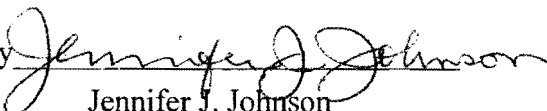
the Secretary of the Board of Governors a recommended decision containing such findings and appropriate conclusions. Any final order issued by the Board based upon a failure to answer is deemed to be an order issued by consent.

Delegation of Authority

72. 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 Governor'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.

Dated at Washington, D.C., this 14th day of April, 2009.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

By 
Jennifer J. Johnson
Secretary of the Board