UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
COMPTROLLER OF THE CURRENCY
WASHINGTON, D.C.

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| In the Matter of<br><br>**JACQUELINE BROWN,**<br>Former Senior Loan Processor<br><br>GN Bank<br>Chicago, Illinois | OCC AA-EC-2021-04 |

## DECISION ON ENTRY OF DEFAULT

This matter is before the Comptroller of the Currency ("Comptroller" or "OCC") on the Recommended Decision of the Administrative Law Judge ("ALJ") for entry of default and order of prohibition against Jacqueline Brown ("Respondent"), a former senior Loan Processor at GN Bank, Chicago, Illinois ("Bank"). A Notice of Charges for Order of Prohibition ("Notice"), issued by the OCC pursuant to section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), seeks an order prohibiting Respondent from further participating in any manner in the conduct of the affairs of any federally insured depository institution, credit union, agency, or entity referred to in 12 U.S.C. § 1818(e), as amended pursuant to 12 U.S.C. § 1818(e)(1). Upon consideration of the pleadings, the ALJ's Recommended Decision, and the entire record, the Comptroller concludes that (1) Respondent is in default, and (2) the record supports the conclusion that Respondent should be prohibited from any further participation in the conduct of the affairs of any institution or entity set forth in 12 U.S.C. § 1818(e), as amended pursuant to 12 U.S.C. § 1818(e)(1).

## I. FACTUAL SUMMARY AND PROCEDURAL HISTORY

The ALJ's Recommended Decision details the uncontested findings of fact giving rise to this Decision. Because the Respondent failed to file a response to the Notice or request a hearing, the Recommended Decision submitted by the ALJ reflected the facts as alleged in the Notice. 12 C.F.R. § 109.19(c)(1). Among those uncontested findings are the following:

Respondent was employed as a Senior Loan Processor at the Bank from approximately August 1, 2016, until her termination on or about February 19, 2020. As a Senior Loan Processor, Respondent was responsible for preparing loan-closing documents, entering new loans in the Bank's core operating system, changing various system fields to dictate how the core operating system should manage each loan, and responding to customer inquiries. In her role as Senior Loan Processor, Respondent had access to the Bank's core operating system.

On or about December 7, 2018, Respondent opened a checking account for herself at the Bank. On or about February 4, 2019, the Bank approved Respondent's request for a $13,500 unsecured line of credit. On or about the same date, Respondent utilized her employee number to enter her unsecured loan into the Bank's core operating system and she failed to code the loan as an employee loan. From approximately February 8, 2019, to May 3, 2019, Respondent accessed the core operating system on multiple occasions and performed changes to the system fields on her loan. Specifically, she changed the system fields "Allow balance over credit limit" and "Do not report as line of credit" multiple times from "no" to "yes" and vice versa.

On or about May 3, 2019, the Bank's former Chief Executive Officer approved an increase in the credit limit for Respondent's unsecured line of credit to $16,000. Respondent processed and funded her own loan in the Bank's core operating system using her employee number. On or about May 3, 2019, Respondent further manipulated the loan file in the Bank's

core operating system to enable herself to draw on the line of credit above the credit limit of $16,000.

On or about July 22, 2019, Respondent began making withdrawals on her line of credit that were above the $16,000 approved credit limit. From on or about July 22, 2019, to on or about February 19, 2020, Respondent accessed her line of credit to make: (1) numerous transfers from her line of credit to her checking account, sometimes more than once per day, usually in the amount of $6,000; (2) several large cash withdrawals using ATMs, teller and/or third-party mobile payments from her checking account, totaling approximately $216,638; (3) casino withdrawals from her checking account, totaling approximately $139,013; and (4) miscellaneous purchases, as well as cell phone, insurance, and utility payments. By February 19, 2020, Respondent had overdrawn her loan to the extent that it had reached a balance of $460,943.

As an employee of the Bank, Respondent was responsible for knowing that the threshold for Currency Transaction Report (CTR) filings was $10,000. Each of Respondent's cash withdrawals from her checking account was under $10,000, and consequently the Bank filed no CTR with respect to her transactions. In February 2020, the Bank discovered Respondent's misconduct and found that Respondent had overdrawn her line of credit by approximately $444,943. On or about February 19, 2020, the Bank terminated Respondent's employment and filed a police report.

On or about February 20, 2020, Respondent sent a text message to another employee, admitting the misconduct and stating: "I over drew my line of credit and it may cost me my position, but I'm a consumer and it presented itself, the opportunity so I took it and took care of some family obligations, and some foolishness." Respondent's misconduct resulted in her financial gain and caused the Bank to suffer a loss of approximately $444,943, which takes into

account Respondent's approved line of credit for $16,000. As of March 31, 2020, the Bank charged off approximately $460,739, an amount equal to Respondent's loan balance.[1]

Service of the OCC's Notice initiating this proceeding on Respondent was effected by overnight delivery on July 21, 2021. The Notice was delivered to Respondent's current address on July 22, 2021. Respondent was required to file an answer to the Notice within twenty (20) days from service, which was August 11, 2021. *See* 12 C.F.R. §§ 19.12(c)(2), 19.19(a). Instead of filing an answer, on August 11, 2021, Respondent filed what she titled a "Notice of Appearance." In that filing Respondent acknowledged her receipt of the Notice, but she did not provide an answer to the Notice nor did she request a hearing. *See* 12 C.F.R. § 109.19(c)(1). No answer or request for hearing was ever filed.

On September 23, 2021, OCC Enforcement Counsel moved for an Order of Default pursuant to 12 C.F.R. § 19.19(c)(1). On September 28, 2021, the ALJ issued an Order to Show Cause by October 12, 2021, why a default judgment against her should not be entered. Specifically, Respondent was directed to confirm whether or not she timely had filed an answer to the Notice specifically responding to each paragraph or allegation of fact contained in the Notice and admitting, denying, or stating that she lacked sufficient information to admit or deny each allegation of fact. The Order to Show Cause was served on Respondent at the same address via UPS overnight delivery. On October 12, 2021, Respondent submitted a response to the Order to Show Cause in which she acknowledged that she had not responded to the Notice in a way that admitted or denied the allegations contained therein, and that she had not indicated that she lacked sufficient information to admit or deny those allegations.

[1] The numbers reflect the loss and charge off numbers by the Bank as pled in the Notice. They were not contested by Respondent and, as a result, it is taken as a concession that the Bank has suffered a financial loss or other damage for purposes of 12 USC 1818(e)(1).

In an Order of Default and Recommended Decision to Prohibit Further Participation, issued October 19, 2021, the ALJ granted Enforcement Counsel's motion for default, finding that Respondent had ample opportunity to file an answer and had not shown good cause for her failure to do so. Accordingly, the ALJ found that Respondent failed to file a timely answer to the Notice pursuant to 12 C.F.R. § 109.19(a). The ALJ further found that Respondent's failure to file an answer within the time provided constitutes a waiver of her right to appear and contest the allegations in the Notice. 12 C.F.R. § 19.19(c)(1). Therefore, the ALJ recommended entry of a final order of prohibition. *See* 12 U.S.C. § 1818(e), as amended, pursuant to 12 U.S.C. § 1818(e)(1).

## II. DECISION

The ALJ's finding that Respondent is in default based upon her failure to file an answer and consequent failure to appear is appropriate. Respondent was provided with adequate notice of this proceeding and an opportunity to appear and respond. Based on the record of this proceeding, the Comptroller agrees with the ALJ that Respondent was properly served, *see* 12 C.F.R. § 19.11(b), failed to timely file an answer,[2] *see* 12 C.F.R. § 19.19, and, accordingly, is in default, *see* 12 C.F.R. § 19.19(c)(1).

Moreover, the Comptroller agrees that the uncontested allegations set forth in the Notice meet the standards for prohibition set forth at 12 U.S.C. § 1818(e). Respondent's conduct of circumventing Bank controls to significantly overdraw her line of credit at the Bank and

[2] As explained in the ALJ's Recommended Decision, Respondent, in her October 12, 2021, Notice of Appearance, acknowledged that she did not respond to the specific allegations in the Notice. Moreover, she did not provide any reasons for her failure to respond to the Notice, nor did she provide any reasons for her failure to request a hearing. Instead, she simply noted that she was without representation of counsel. Choosing not to hire an attorney is not the kind of excusable neglect that would warrant setting aside a default judgment. *See, e.g., Whitney v. United States*, 251 F.R.D. 1, 2 (D.D.C. 2008) (tactical decisions do not amount to a showing of excusable neglect). Moreover, while some leniency is generally accorded to *pro se* litigants, they nevertheless are required to comply with the applicable rules of procedure. *See, e.g., Miley v. Hard Rock Hotel & Casino Punta Cana*, 537 F. Supp. 3d 1 (D.D.C. 2021) (collecting cases).

embezzle Bank funds for her own personal use plainly constituted unsafe or unsound practices and violations of law,[3] including 18 U.S.C. §§ 656, 1005, and 1344 and 31 U.S.C. § 5324. As a result of the foregoing misconduct, the Bank suffered a "financial loss or other damage" and eventually charged off approximately $460,739.[4]

Respondent also received a "financial gain or benefit"[5] as a result of this misconduct, *i.e.*, the significant overdraw of her line of credit at the Bank in the amount of approximately $444,943, taking into account her approved line of credit for $16,000, and the transferal of the funds to her personal checking account at the Bank, which she then used for her own benefit.

Finally, Respondent's misconduct involved personal dishonesty.[6] She used her position as a Senior Loan Processor to access the Bank's core operating system on multiple occasions and perform changes to the system fields on her loan. Specifically, she changed the system fields "Allow balance over credit limit" and "Do not report as line of credit" multiple times from "no" to "yes" and vice versa. She also processed and funded her own loan in the Bank's core operating system, using her employee number. The changes Respondent made in the Bank's core operating system enabled her to draw on the line of credit above the credit limit of $16,000. Other uncontested findings of fact detailed in the Recommended Decision describe specific dishonest actions by Respondent, which allowed her to circumvent the Bank's controls, to significantly overdraw her line of credit, and to embezzle Bank funds for her personal use.

Accordingly, I find that the requirements for entry of an order prohibiting Respondent from participating in any manner in the conduct of the affairs of any insured depository institution have been met.

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[3] *See* 12 U.S.C. § 1818(e)(1)(A)(i)-(ii).
[4] *See* 12 U.S.C. § 1818(e)(1)(B)(i).
[5] *See* 12 U.S.C. § 1818(e)(1)(B)(iii).
[6] *See* 12 U.S.C. § 1818(e)(1)(C).

## III. CONCLUSION

For the foregoing reasons, the ALJ's recommended finding that Respondent be found in default based upon her failure to file an answer or to request a hearing is affirmed. Upon consideration of the entire record in this proceeding, the Comptroller finds (1) that Respondent is in default and has waived her right to request a hearing or to contest the findings in the Notice, and (2) that Respondent should be prohibited from any further participation in the conduct of the affairs of any institution or entity set forth in 12 U.S.C. § 1818(e), as amended pursuant to 12 U.S.C. § 1818(e)(1).

The Comptroller will issue an Order of Prohibition contemporaneously with this Final Decision.

Date: 2/1, 2022

/s/ Michael J. Hsu

MICHAEL J. HSU
ACTING COMPTROLLER OF THE CURRENCY