

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

In the Matter of:

GERALD E. MILLIGAN II,
Former Teller

PNC Bank, N.A.
Wilmington, Delaware

Docket No.:
AA-EC-2024-12

**ORDER NO. 2: ORDER OF DEFAULT AND
RECOMMENDED DECISION**

On June 7, 2024, Enforcement Counsel for the Office of the Comptroller of the Currency (“OCC”) filed a “Motion for Entry of Order of Default and Report on Service of Notice of Charges” (“Default Motion”) pursuant to 12 C.F.R. § 19.19(c)(1). The Default Motion is based on the failure of Gerald E. Milligan II (“Respondent”) to file an answer in response to the OCC’s Notice of Charges for Prohibition (“Notice”), issued pursuant to section 8(e) of the Federal Deposit Insurance Act, 12 U.S.C. § 1818(e).

On April 17, 2024, Enforcement Counsel served the Notice on Respondent by email to an address Respondent provided to the OCC. See Default Motion at 2, citing Exhibit A ¶¶ 25-27. The Notice was also served on April 17, 2024 by a process server at the Respondent’s home address, where the Notice was left with Respondent’s father. See Default Motion at 2, Exhibit A ¶¶ 26-30. Respondent was required to file an answer to the Notice by May 15, 2024. *See* 12 C.F.R. §§ 19.19(a). To date, Respondent has failed to file an answer. In addition, Respondent has failed to file a response to the Default Motion.

The undersigned finds that Respondent was properly served with the Notice pursuant to the OCC Rules of Practice and Procedure, 12 C.F.R. §§ 19.11(b) and 19.18(a), and has failed to

file an answer to the Notice pursuant to 12 C.F.R. § 19.19(a). The undersigned further finds that, pursuant to 12 C.F.R. § 19.19(c)(1), Respondent has waived his right to appear and contest the allegations in the Notice, and that no good cause has been shown for Respondent's failure to file a timely answer. Respondent has had ample opportunity to file an answer and has not shown good cause for his failure to do so.

Accordingly, Enforcement Counsel's Default Motion is GRANTED. The undersigned recommends that the Comptroller enter an order containing the findings and the relief sought in the Notice, namely that Respondent be permanently prohibited from further industry participation pursuant to 12 U.S.C. § 1818(e).

Findings of Fact

In support of the Notice and by virtue of Respondent's failure to answer the Notice, he has waived his right to appear and contest the following – at all times relevant to the findings set forth below:

(1) PNC Bank, N.A., Wilmington, Delaware ("Bank" or "PNC") was an "insured depository institution" as defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was an employee of the Bank as a Teller and was an "institution-affiliated party" of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six (6) years from the date of the Notice (*see* 12 U.S.C. § 1818(i)(3)).

(3) The Bank is a national banking association within the meaning of 12 U.S.C. § 1813(q)(1)(A) and is chartered and examined by the OCC. (*see* 12 U.S.C. § 1 *et seq.*).

(4) Accordingly, the OCC is the "appropriate Federal banking agency" as that term is defined in 12 U.S.C. § 1813(q) and is therefore authorized to initiate and maintain this prohibition action against Respondent pursuant to 12 U.S.C. § 1818(e).

(5) On January 31, 2019, Respondent incorporated The Digital Marketing Network (“TDMN”) LLC as a Florida corporation.

(6) On December 6, 2019, Respondent opened a business account at PNC for TDMN LLC.

(7) From September 28, 2020, until at least June 22, 2021, Respondent was a Teller at PNC’s Fox Trail Road branch in Royal Palm, Florida.

(8) Respondent was obligated to comply with all applicable laws and regulations.

(9) On approximately February 24, 2021, Respondent applied for a \$141,530 Paycheck Protection Program (PPP) loan through Itria Ventures LLC for TDMN LLC.

(10) To obtain the PPP loan, Respondent signed and submitted a PPP loan application using the internet.

(11) The PPP loan application required Respondent to attest that his small business was in operation on February 15, 2020; the average monthly payroll expenses; and the number of employees.

(12) Respondent knowingly falsely attested in his PPP loan application that TDMN LLC employed 13 employees and that its average monthly payroll expenses were \$56,612.

(13) Respondent provided false supporting documentation for his PPP loan application.

(14) As supporting documentation to his PPP loan application, Respondent provided a PNC bank statement for TDMN LLC that he knew was false. The false PNC bank statement for TDMN LLC contained deposits and transactions that had not occurred.

(15) Additionally, with his PPP loan application, Respondent provided an IRS Form 940 that he knew falsely listed that TDMN LLC had \$679,354 in payroll expenses in 2020.

(16) Throughout 2020, TDMN LLC’s PNC bank account balance never exceeded \$50.

(17) Respondent falsely attested on his PPP application that any PPP loan money would be used only to retain workers and maintain payroll.

(18) Had Respondent not provided the false information referenced in paragraphs 12-17, Respondent would not have received the \$141,530.00 PPP loan.

(19) On March 1, 2021, Respondent received PPP loan proceeds in the amount of \$141,530 in TDMN LLC's business account at PNC.

(20) Between approximately March 1, 2021, and July 2, 2021, Respondent used the PPP loan proceeds for personal gain and not for payroll expenses of TDMN LLC.

(21) Among other personal transactions using PPP loan proceeds, Respondent's personal expenditures included approximately \$40,000 in checks payable to Respondent's father, \$17,000 in checks payable to cash, \$15,000 in checks payable to Respondent, \$6,500 in ATM transactions, and a \$17,000 cashier's check payable to a luxury car dealer.

Conclusions of Law

(1) By reason of Respondent's misconduct described above, Respondent violated the law, including 18 U.S.C. § 1001 and 18 U.S.C. § 1343.

(2) By reason of Respondent's misconduct, Respondent received financial gain or other benefit; and

(3) Such violation, practice, or breach involved personal dishonesty by Respondent.

Recommended Order to Prohibit Further Participation

As of this date, Respondent has not filed an answer to the OCC's Notice or Default Motion. Accordingly, Respondent failed to file a timely answer to the Notice pursuant to 12 C.F.R. § 19.19(a). A respondent's failure to file an answer within the time provided constitutes a waiver

of the respondent's right to appear and contest the allegations in the Notice. 12 C.F.R. § 19.19(c)(1).

Based on the foregoing findings of fact and conclusions of law, it is recommended that Respondent be prohibited from further participation in any manner in the conduct of the affairs of any federally insured depository institution and any other institution, credit union, agency and entity referred to in 12 U.S.C. § 1818(e), as amended, pursuant to 12 U.S.C. § 1818(e)(1).

The record in this matter is hereby filed and certified for decision. A Proposed Order and Certified Index are hereby attached pursuant to 12 C.F.R. §§ 19.38(a)-(b).

SO ORDERED.



Issued: July 17, 2024

Jennifer Whang, Administrative Law Judge
Office of Financial Institution Adjudication

CERTIFICATE OF SERVICE

On July 17, 2024, I served a copy of the foregoing **Recommended Decision** upon the following individuals via email:

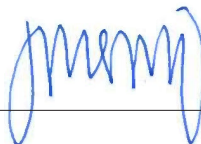
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