

**FEDERAL DEPOSIT INSURANCE CORPORATION
WASHINGTON, D.C.**

In the Matter of:

ELIAS ISRAEL ROBLERO RANGEL,
an institution-affiliated party of

Truist Bank
Charlotte, North Carolina

(Insured State Nonmember Bank)

Docket No.:
FDIC-22-0098e
FDIC-24-0032k

**ORDER NO. 2: ORDER OF DEFAULT AND RECOMMENDED DECISION FOR PROHIBITION FROM
FURTHER ACTIVITIES AND ASSESSMENT OF CIVIL MONETARY PENALTY**

On January 31, 2025, Federal Deposit Insurance Corporation (FDIC) Enforcement Counsel (EC) filed a Motion for Entry of an Order of Default (Default Motion) pursuant to 12 C.F.R. § 308.19(c)(1)-(2) (2024) following the failure of respondent, Elias Israel Roblero Rangel, to file a timely answer to the Notice of Charges (NOC).¹ Elias Rangel, a personal banker at Truist Bank² and an institution-affiliated party (IAP), confessed to bank investigators and subsequently pled guilty to criminal charges for fraudulently obtaining credit and debit cards on behalf of five elderly or deceased bank customers and proceeding to make \$44,187.18 in illicit withdrawals and point of service (POS) transactions. EC seeks a prohibition against Rangel from further participation in banking activities and a civil monetary penalty of \$35,000. For his part, Rangel did not file an answer to the NOC or a response to the Default Motion.

For the reasons set forth below, the Default Motion is **GRANTED** and the Administrative Law Judge (ALJ) recommends that the Board of Directors of the FDIC enter an order of prohibition from future activities and the assessment of a \$35,000 civil monetary penalty against the respondent, Elias Rangel.

I. Elias Rangel has not demonstrated good cause for failure to file an answer.

The Uniform Rules of Practice and Procedure provide that, by failing to file a timely answer without good cause to the allegations in the notice of charges, a respondent waives the right to appear and contest those allegations. 12 CFR § 308.19(c)(1) (2024). The record shows that on June 25, 2024, EC served Elias Rangel the Notice of Charges by certified mail.³ The record further shows that Rangel acknowledged receipt by signing the return receipt on June 29,

¹ EC filed the NOC with the Office of Financial Institution Adjudication (OFIA) on April 18, 2024. New Uniform Rules of Practice and Procedure (Uniform Rules) for OFIA proceedings went into effect on April 1, 2024. 88 FR 89820, 89820-89821 (Dec. 28, 2023). Accordingly, this proceeding is governed by the new Uniform Rules.

² Rangel's misconduct began while the branch was operated by SunTrust Bank, which merged with BB&T to form Truist Bank. NOC at 1, fn. 1.

³ Default Motion, Exhibit A. *See also* Declaration of Enforcement Counsel Sean P. Greene-Delgado at ¶ 5.

2024.⁴ To date, Elias Rangel has not filed an answer to the Notice of Charges.⁵ The ALJ finds that Elias Rangel has failed to file a timely answer to the NOC pursuant to 12 C.F.R. § 19.19(a) and has not demonstrated good cause for not doing so. Accordingly, Elias Rangel waives his right to appear and contest the allegations in the NOC.

II. The FDIC has jurisdiction over Elias Rangel.

The FDIC's jurisdiction is uncontested. Branch Banking and Trust Company n.k.a. Truist Bank, Charlotte, North Carolina (Truist Bank) is a North Carolina corporation with its principal place of business in Winston-Salem. Truist Bank is an insured state nonmember bank.⁶ Elias Rangel, as a former employee of Truist Bank in the Sarasota, Florida branch, is an IAP.⁷ Accordingly, the FDIC has jurisdiction over this matter.

III. Uncontested Factual Findings

Elias Rangel does not contest the allegations in the NOC that, from July 12, 2019 to June 13, 2020, he ordered credit and debit cards on behalf of five bank customers, two of them deceased and a third who died during this period, sent to him at his workplace, the Sarasota, Florida branch of Truist Bank.⁸ With these cards, Rangel made 52 cash withdrawals and 139 POS transactions from the customers' accounts.⁹ Rangel made 28 unauthorized cash withdrawals from the account of an 86-year-old customer.¹⁰ Surveillance footage at Truist Bank ATMs showed Rangel making unauthorized withdrawals from two of the accounts.¹¹

Upon discovery of Rangel's unauthorized withdrawals, Truist Bank fired him and reimbursed the account holders \$44,187.18 at a loss to the bank.¹² On June 15, 2020, Rangel provided bank investigators with a signed confession for one customer. Subsequently, during a telephone interview on June 17, 2020, he confessed to the entire scheme.¹³ On October 4, 2022, Rangel pled guilty to federal criminal charges related to his theft; the court then sentenced him to serve a year and a day in prison, ordered him to pay restitution, and issued an Order of Forfeiture against him for the full amount taken from the accounts.¹⁴

IV. The misconduct merits an order of prohibition.

EC alleges that Elias Rangel, an IAP, engaged in unsafe and unsound banking practices

⁴ Default Motion, Exhibit B.

⁵ As with the NOC, Rangel was served a Notice of Designation and Preliminary Order in these proceedings at his Bradenton, Florida address. *Compare* Order No. 1: Notice of Designation and Preliminary Order, dated July 16, 2024 *with* Default Motion, Exhibit B. To date, Rangel has not filed an answer, and the ALJ's Order No. 1 was returned unclaimed and unable to forward on September 9, 2024. *See* Attachment A (Unclaimed OFIA Letter).

⁶ 12 U.S.C. §§ 1811-1831aa, 12 C.F.R. Chapter III (2024), and the laws of the State of North Carolina.

⁷ 12 U.S.C. § 1813(u) and for purposes of 12 U.S.C. §§ 1818(e)(7), 1818(i) and 1818(j).

⁸ NOC at 4.

⁹ *Id.*

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 4.

¹² *Id.* at 5.

¹³ *Id.*

¹⁴ *Id.* at 5-6.

that led to a \$44,187.18 loss to the bank and a gain to himself in the same amount. An “unsafe or unsound practice” is “any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the possible consequences of which, if continued, would be abnormal risk or loss or damage to an institution, its shareholders, or the agencies administering the insurance funds.”¹⁵ Unsafe and unsound practice is a term of “general application which touches upon the entire field of the operations of a financial institution.”¹⁶ It is “not a novel term in banking . . . parlance.”¹⁷ Unsafe and unsound practice is one of many “generic terms widely used in the law, such as ‘fraud,’ ‘negligence,’ ‘probable cause,’ or ‘good faith.’”¹⁸ It “has a central meaning which can and must be applied to constantly changing factual circumstances.”¹⁹

EC must prove the IAP’s conduct satisfies the distinct elements of misconduct, effects, and culpability.²⁰ The IAP commits misconduct by having:

- “directly or indirectly violated any law or regulation [or] any cease-and-desist order which has become final,”
- “engaged or participated in any unsafe or unsound practice in connection with any insured depository institution or business institution,” *or*
- “committed or engaged in any act, omission, or practice which constitutes a breach of such party’s fiduciary duty.”²¹

The effect of the IAP’s misconduct is proven by demonstrating either (1) that the financial institution “suffered or probably will suffer financial loss or other damage,” (2) that depositors’ interests “have been or could be prejudiced,” *or* (3) that the IAP “received financial gain or other benefit.”²² Finally, culpability is demonstrated when the IAP’s misconduct either “involves personal dishonesty” *or* “demonstrates willful or continuing disregard . . . for the safety or soundness of [the] insured depository institution.”²³

In the instant case, the ALJ finds that IAP Elias Rangel recklessly engaged in unsafe and unsound practices that led to a \$44,187.18 loss to the bank and a corresponding pecuniary gain to himself. The record shows that Elias Rangel satisfies all three elements of 12 U.S.C. § 1818(e)(1). Rangel engaged in misconduct demonstrated by his guilty plea for theft or embezzlement by a

¹⁵ *Financial Institutions Supervisory Act of 1966: Hearings on S. 3158 Before the House Comm. on Banking and Currency*, 89th Cong., 2d Sess. 49 (1966) (statement of John H. Horne, Chairman of the FHLBB), 112 Cong. Rec. 26,474 (1966) (“Horne memorandum”); *see, e.g., In the Matter of Donald V. Watkins, Sr.*, Nos. 17-154e & -155k, 2019 WL 6700075, at *7 (Oct. 15, 2019) (FDIC final decision) (applying the definition provided in the Horne memorandum); *In the Matter of Patrick Adams*, No. AA-EC-11-50, 2014 WL 8735096, at **8-24 (Sept. 30, 2014) (OCC final decision) (discussing the Horne memorandum); *Gulf Federal Sav. & Loan Ass’n of Jefferson Parish v. FHLBB*, 651 F.2d 259, 264 (5th Cir. 1981) (Horne memorandum’s definition followed on appeal); *see also Patrick Adams*, 2014 WL 8735096, at **14-17 (surveying the application of the Horne memorandum’s definition of “unsafe and unsound practice” by the United States Courts of Appeal).

¹⁶ 112 Cong. Rec. 26,474 (1966).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ 12 U.S.C. § 1818(e).

²¹ *Id.* § 1818(e)(1)(A).

²² *Id.* § 1818(e)(1)(B).

²³ *Id.* § 1818(e)(1)(C).

bank employee under 18 U.S.C. § 656 and access device fraud under 18 U.S.C. § 1029(a)(2).²⁴ His underlying conduct constitutes unsafe and unsound practices by making unauthorized cash withdrawals and POS transactions from the accounts of elderly and deceased depositors. Rangel's misconduct had the effect that Truist Bank suffered a loss of \$44,187.18 when reimbursing the account holders. Finally, Elias Rangel demonstrated culpability through his admitted personal dishonesty of fraudulent transactions.²⁵

V. A civil money penalty is appropriate.

To impose a civil money penalty, EC must prove the IAP engaged in misconduct which may be satisfied by a violation of law, regulation, or a final cease-and-desist order,²⁶ a breach of fiduciary duty, or recklessly engaging “in an unsafe or unsound practice.”²⁷ EC must further prove that the IAP's misconduct was “part of a pattern of misconduct,” that it “cause[d] or is likely to cause more than a minimal loss to such depository institution,” *or* that it “results in pecuniary gain or other benefit to such party.”²⁸ EC, however, must weigh the appropriateness of the civil penalty considering mitigating circumstances like good faith on the part of the IAP, the seriousness of the misconduct, and any “other matters as justice may require.”²⁹

The record shows that Elias Rangel waived his right to appear and contest the assessment of a civil monetary penalty. Rangel failed to timely request a hearing as required by the underlying statute and regulations in the civil monetary penalty part of these proceedings.³⁰ Accordingly, Elias Rangel's failure to request a hearing on the civil money penalty assessment within the time provided under the statute and regulations means that the notice of assessment constitutes a final and unappealable order.³¹

While it is sufficient under the regulations to assess Rangel a civil monetary penalty for failing to timely request a hearing,³² the record demonstrates that the assessment of a civil monetary penalty is appropriate under the circumstances. As discussed in section III of this Recommended Decision, Elias Rangel pled guilty to federal criminal charges and engaged in recklessly unsafe and unsound practices by making fraudulent withdrawals and POS transactions

²⁴ NOC at 5-6.

²⁵ NOC at 5.

²⁶ The misconduct elements of both Sections 1818(e) and 1818(i) can also be satisfied by the violation of a condition imposed in writing by a federal banking agency or any written agreement between such an agency and the depository institution in question. See 12 U.S.C. §§ 1818(e)(1)(A)(i), (i)(2)(A). The FDIC does not allege such violations in this case.

²⁷ *Id.* § 1818(i)(2)(B)(i).

²⁸ *Id.* § 1818(i)(2)(B)(ii). See *In the Matter of John Richard Lamm*, Nos. 12-052e, 12-053k, & 15-274b, 2018 WL 2297269, at *4 (Mar. 20, 2018) (FDIC final decision) (referring to this as the statute's “effects” prong); *accord In the Matter of Douglas V. Conover*, Nos. 13-214e & -217k, 2016 WL 10822038, at *27 (Dec. 14, 2016) (FDIC final decision).

²⁹ 12 U.S.C. § 1818(i)(2)(G); see also *In re Sealed Case (Administrative Subpoena)*, 42 F.3d 1412, 1416 (D.C. Cir. 1994) (“In assessing money penalties, Congress requires [banking] agencies to consider several mitigating factors.”); *accord, e.g., In the Matter of William R. Blanton*, No. AA-EC-2015-24, 2017 WL 4510840, at *27 (July 10, 2017) (OCC final decision), *aff'd on other grounds sub nom. Blanton v. OCC*, 909 F.3d 1161 (D.C. Cir. 2018).

³⁰ 12 U.S.C. § 1818(i)(2)(E), (H); 12 C.F.R. § 308.19(c)(2) (2024).

³¹ 12 C.F.R. § 19.19(c)(2).

³² 12 C.F.R. § 308.19(c)(2) (2024).

from the accounts of elderly and deceased clients. Indeed, Rangel's established pattern of misconduct would have continued. Bank investigators found death certificates for 13 bank customers on Rangel's desk.³³ Accordingly, notwithstanding Rangel's waiver, a civil money penalty is also appropriate based on the uncontested facts.

I. Conclusion and Recommended Remedies

For the foregoing reasons, the ALJ recommends that the Board of Directors of the FDIC enter an order of prohibition from future banking activities and the assessment of a civil monetary penalty in the amount of \$35,000 against the respondent, Elias Rangel.

SO ORDERED.

Issued: March 12, 2025



C. Scott Maravilla
Administrative Law Judge
Office of Financial Institution Adjudication

³³ NOC at 5.

CERTIFICATE OF SERVICE

On March 12, 2025, I served a copy of the foregoing **Order** upon the following individuals via email:

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