

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

In the Matter of:	)	
	)	
Gerald E. Milligan II,	)	
Former Teller	)	
	)	OCC AA-EC-2024-12
	)	
PNC Bank, N.A.	)	
Wilmington, Delaware	)	
	)	

DECISION ON ENTRY OF DEFAULT AND ORDER OF PROHIBITION

This matter is before the Comptroller of the Currency (“Comptroller” or “OCC”) on a Recommended Decision of the Administrative Law Judge (“ALJ”) for entry of default and order of prohibition against Gerald E. Milligan II (“Respondent”), a former employee of PNC Bank, N.A., Wilmington, Delaware (“Bank” or “PNC”). 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 section 8(e) of the Act. 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 section 8(e) of the Act. 12 U.S.C. § 1818(e).

I. Factual Summary and Procedural History

The ALJ's Recommended Decision details the uncontested findings of fact giving rise to this Decision. Among those uncontested findings are the following:

Respondent was employed as a teller at PNC's Fox Trail Road branch in Royal Palm, Florida, from September 28, 2020 until at least June 22, 2021. Previously, on January 31, 2019, Respondent had incorporated The Digital Marketing Network ("TDMN") LLC as a Florida Corporation and opened a business account at PNC for TDMN LLC on December 6, 2019. On approximately February 24, 2021 Respondent applied through the internet for a \$141,530 Paycheck Protection Program ("PPP")¹ loan for TDMN LLC through an entity named Itria Ventures LLC.

Respondent knowingly and falsely attested in his PPP loan application that TDMN LLC employed thirteen (13) employees and had average monthly payroll expenses of \$56,612. In support of the application, Respondent knowingly provided a false PNC bank statement for TDMN LLC that recorded fake deposits and transactions that had not occurred. He also knowingly provided a false IRS Form 390 for TDMN LLC that reported \$679,354 in fake payroll expenses for 2020 that did not exist. In fact, throughout 2020 TDMN LLC's PNC business account balance never exceeded \$50.

On March 1, 2021 Respondent received PPP loan proceeds in the amount of \$141,530 in TDMN LLC's PNC business account. Between March 1, 2021 and July 2, 2021 Respondent used the PPP loan proceeds for personal gain and not for any payroll expenses of TDMN LLC.

¹ The Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted on March 27, 2020 to provide economic relief to small businesses from the effects of the Coronavirus Pandemic. Section 1102 of the CARES Act established the Paycheck Protection Program ("PPP") to provide fully guaranteed loans under section 7(a) of the Small Business Act. *See generally* 15 U.S.C. § 636(a)(36)-(37).

Respondent's personal expenditures included approximately \$40,000 in checks payable to his 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.

Service of the OCC's Notice initiating this proceeding was effected on April 17, 2024, when Enforcement Counsel sent the Notice to Respondent by email to an email address Respondent had provided the OCC. *See* 12 C.F.R. §§ 19.11(b), 19.18(a). The Notice was also served on April 25, 2024 by a process server at Respondent's home address, where the Notice was accepted by Respondent's father. Respondent was required to file an Answer to the Notice within twenty (20) days of service. *See* 12 C.F.R. §§ 19.12, 19.19(a). Respondent failed to file a timely Answer. On June 7, 2024 OCC Enforcement Counsel 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).

In an Order of Default and Recommended Decision issued July 17, 2024, the ALJ found that Respondent had waived his right to appear and contest the allegations in the Notice and that no good cause had been shown for Respondent's failure to file a timely Answer. *See* 12 C.F.R. § 19.19(c)(1). Accordingly, the ALJ granted the Default Motion and recommended that the Comptroller enter an order permanently prohibiting Respondent from further industry participation pursuant to 12 U.S.C. § 1818(e).

II. Decision

The ALJ's finding that Respondent is in default based upon his failure to appear is appropriate. Respondent has been provided with adequate notice of this proceeding and 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), has failed to file an Answer, *see* 12 C.F.R. § 19.19, and 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 under section 8(e) of the Act. 12 U.S.C. § 1818(e).

Respondent knowingly submitted a false PNC bank statement, false tax documentation, and a false attestation to support an application for a PPP loan to cover payroll expenses that did not actually exist for an entity he had incorporated, TDMN LLC. He received PPP loan proceeds in the amount of \$141,530 in a business account that he had opened at PNC for TDMN LLC. Respondent used the PPP loan proceeds for personal gain and not for any payroll expenses of TDMN LLC.

By making false attestations and submitting false documentation to secure PPP loan proceeds, Respondent committed violations of law,² including 18 U.S.C. §§ 1001 and 1343. As a result of the foregoing misconduct, Respondent received a “financial gain or benefit”,³ *i.e.*, the receipt of \$141,530 in PPP loan proceeds that Respondent used for personal expenditures and not payroll expenses for TDMN LLC. Respondent’s misconduct also involved personal dishonesty.⁴ As the uncontested findings of fact detail, he knowingly submitted a false attestation and false documentation containing untrue information as part of his PPP application for TDMN LLC. He then knowingly used the loan proceeds for purposes other than what he had attested would be the purposes for use of the loan proceeds. 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.

² *See* 12 U.S.C. § 1818(e)(1)(A)(i).

³ *See* 12 U.S.C. § 1818(e)(1)(B)(iii).

⁴ *See* 12 U.S.C. § 1818(e)(1)(C)(i).

III ORDER

1. Respondent, Gerald E. Milligan II, is hereby prohibited from:
 - a. Participating in any manner in the conduct of the affairs of any institution or agency specified in paragraph (2) of this Order;
 - b. Soliciting, procuring, transferring, attempting to transfer, voting, or attempting to vote any proxy, consent, or authorization with respect to any voting rights in any institution described in paragraph (2) of this Order;
 - c. Violating any voting agreement previously approved by the “appropriate Federal banking agency” as defined in 12 U.S.C. § 1813(q); or
 - d. Voting for a director or serving or acting as an “institution-affiliated party” as defined in 12 U.S.C. § 1813(u).
2. The prohibitions in paragraph (1) of this Order apply to the following institutions and agencies:
 - a. any insured depository institution as defined in 12 U.S.C. § 1813(c);
 - b. any institution treated as an insured bank under 12 U.S.C. 1818(b)(3), (b)(4), or (b)(5);
 - c. any insured credit union under the Federal Credit Union Act;
 - d. any institution chartered under the Farm Credit Act of 1971;
 - e. any appropriate Federal depository institution regulatory agency; and
 - f. the Federal Housing Finance Agency and any Federal Home Loan Bank.
3. The prohibitions in paragraphs (1) and (2) of this Order shall cease to apply with respect to a particular institution if Respondent obtains the prior written consent of both the OCC

and the institution's "appropriate Federal financial institutions regulatory agency" as defined in 12 U.S.C. § 1818(e)(7)(D).

4. This Order shall remain effective and enforceable except to the extent that, and until such time as, any provisions have been modified, terminated, suspended, or set aside by the OCC.

SO ORDERED.

JONATHAN V. GOULD
COMPTROLLER OF THE CURRENCY