

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

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ON CERTIFICATION OF THE DEPARTMENT )  
OF THE TREASURY--OFFICE OF THE )  
COMPTROLLER OF THE CURRENCY )  
 )  
In the Matter of a Notice to )  
Prohibit Further Participation )  
Against SAMMIE R. GOLDEN, ) DOCKET NO. OCC-AA-EC-00-25  
 )  
Former Employee, )  
UNION PLANTERS NATIONAL BANK, )  
Memphis, Tennessee )  
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**FINAL DECISION**

This is an administrative proceeding pursuant to the Federal Deposit Insurance Act (AFDI Act) in which the Office of the Comptroller of the Currency of the United States of America ("OCC") seeks to prohibit the Respondent, Sammie R. Golden ("Respondent"), from further participation in the affairs of any financial institution because of her conduct as an employee of Union Planters National Bank, Memphis, Tennessee (the ABank). Under the FDI Act, the OCC may initiate a prohibition proceeding against a former employee of a national bank, but the Board must make the final determination whether to issue an order of prohibition.

Upon review of the administrative record, the Board issues this Final Decision adopting the Recommended Decision ("RD") of Administrative Law Judge Arthur L. Shipe (the AALJ), and orders the issuance of the attached Order of Prohibition.

## I. STATEMENT OF THE CASE

### A. Statutory and Regulatory Framework

Under the FDI Act and the Board's regulations, the ALJ is responsible for conducting proceedings on a notice of charges. 12 U.S.C. ' 1818(e)(4). The ALJ issues a recommended decision that is referred to the deciding agency together with any exceptions to those recommendations filed by the parties. The Board makes the final findings of fact, conclusions of law, and determination whether to issue an order of prohibition in the case of prohibition orders sought by the OCC. Id.; 12 C.F.R. ' 263.40.

The FDI Act sets forth the substantive basis upon which a federal banking agency may issue against a bank official or employee an order of prohibition from further participation in banking. In order to issue such an order, the Board must make each of three findings: 1) that the respondent engaged in identified misconduct, including a violation of law or regulation, an unsafe or unsound practice or a breach of fiduciary duty; 2) that the conduct had a specified effect, including financial loss to the institution or gain to the respondent; and 3) that the respondent's conduct involved either personal dishonesty or a willful or continuing disregard for the safety or soundness of the institution. 12 U.S.C. ' 1818(e)(1)(A)-(C).

An enforcement proceeding is initiated by the filing of a notice of charges which is served on the respondent. Under the OCC's and the Board's regulations, the respondent must file an answer within 20 days of service of the notice. 12 C.F.R. ' ' 19.19(a) and 263.19(a). The answer must "fairly meet the substance of each allegation of fact denied; general denials are not permitted." 12 C.F.R. §§ 19.19(b) and 263.19(b). Failure to file an answer constitutes a waiver

of the respondent's right to contest the allegations in the notice, and a final order may be entered unless good cause is shown for failure to file a timely answer. 12 C.F.R. §§ 19.19(c)(1) and 263.19(c)(1).

#### B. Procedural History

On April 6, 2000, the OCC issued a Notice initiating an enforcement action that sought an order of prohibition due to Respondent's actions in assisting a customer, for a gratuity, in cashing twelve stolen and forged checks totaling over \$7000. Respondent filed a timely answer, but failed to provide specific responses to the factual allegations in the Notice.

Enforcement Counsel then moved to require Respondent to provide a more specific answer to the Notice. Respondent did not oppose the motion, and the ALJ ordered that an amended answer be filed by July 25, 2000.

Respondent failed to file an amended answer, and instead, through counsel, withdrew her previous request for a hearing and indicated her consent to the entry of a prohibition order. Enforcement Counsel moved for entry of a default order on the basis of Respondent's failure to file a timely amended answer. Respondent filed no reply to the motion, and in a telephonic prehearing conference appeared through counsel and consented again to the entry of a default order. Counsel indicated, however, that Respondent would decline to enter into any stipulated settlement of the proceeding.

Following the telephonic conference, the ALJ issued a Recommended Decision finding Respondent in default and adopting as his factual findings the allegations in the Notice. On the basis of those findings, the ALJ recommended that an order of prohibition be entered against the Respondent.

## **II. DISCUSSION**

The OCC's Rules of Practice and Procedure set forth the requirements of an answer and the consequences of a failure to file an answer to a Notice. Under the Rules, an answer "must fairly meet the substance of each allegation of fact denied; general denials are not permitted." 12 C.F.R. § 19.19(b). Failure to file a timely answer "constitutes a waiver of [a respondent's] right to appear and contest the allegations in the Notice." 12 C.F.R. § 19.19(c). If the ALJ finds that no good cause has been shown for the failure to file, the judge "shall file . . . a recommended decision containing the findings and the relief sought in the notice." Id. An order based on a failure to file a timely answer is deemed to be issued by consent. Id.

In this case, Respondent's initial answer did not comply with the requirement that an answer meet the substance of each allegation of fact denied. Rather, the answer contained only a general denial. Following Enforcement Counsel's unopposed motion to require an amended answer, the ALJ required Respondent to file an amended answer that complied with the requirements of the OCC's Rules. Respondent's failure to file an amended answer constitutes a default.

Respondent's default requires the Board to consider the allegations in the Notice as uncontested. Those allegations meet all the criteria for entry of an order of prohibition under 12

U.S.C. § 1818(e). Respondent's conduct in assisting a customer to cash over \$7000 in stolen and forged checks, and in accepting a gratuity for such assistance, meets the "misconduct" prong of the prohibition statute, 12 U.S.C. § 1818(e)(1)(A), being both a violation of law and an unsafe or unsound practice. The action had the necessary "effect" of gain to the Respondent, as well as loss to the Bank, under 12 U.S.C. § 1818(e)(1)(B). Finally, the conduct involved the requisite culpability under 12 U.S.C. § 1818(e)(1)(C) in that it involved personal dishonesty. The requirements for an order of prohibition having been met, the Board has determined that such an order will issue.

### **CONCLUSION**

For these reasons, the Board orders the issuance of the attached Order of Prohibition.

By Order of the Board of Governors, this \_\_\_ day of \_\_\_\_\_, 2000.

**BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM**

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Jennifer J. Johnson  
Secretary of the Board

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**ORDER OF PROHIBITION**

**WHEREAS**, pursuant to section 8(e) of the Federal Deposit Insurance Act, as amended, (the "Act")(12 U.S.C. ' 1818(e)), the Board of Governors of the Federal Reserve System ("the Board") is of the opinion, for the reasons set forth in the accompanying Final Decision, that a final Order of Prohibition should issue against SAMMIE R. GOLDEN ("GOLDEN"),

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to section 8(e) of the Federal Deposit Insurance Act, as amended, (12 U.S.C. ' 1818(e)), that:

1. In the absence of prior written approval by the Board, and by any other Federal financial institution regulatory agency where necessary pursuant to section 8(e)(7)(B) of the Act (12 U.S.C. ' 1818(e)(7)(B)), Golden is hereby prohibited:

(a) from participating in the conduct of the affairs of any bank holding company, any insured depository institution or any other institution specified in subsection 8(e)(7)(A) of the Act (12 U.S.C. ' 1818(e)(7)(A));

(b) from 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 subsection 8(e)(7)(A) of the Act (12 U.S.C. ' 1818(e)(7)(A));

(c) from violating any voting agreement previously approved by the appropriate Federal banking agency; or

(d) from voting for a director, or from serving or acting as an institution-affiliated party as defined in section 3(u) of the Act, (12 U.S.C. ' 1813(u)), such as an officer, director, or employee.

2. This Order, and each provision hereof, is and shall remain fully effective and enforceable until expressly stayed, modified, terminated or suspended in writing by the Board.

This Order shall become effective at the expiration of thirty days after service is made.

By Order of the Board of Governors, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

BOARD OF GOVERNORS OF THE  
FEDERAL RESERVE SYSTEM

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Jennifer J. Johnson  
Secretary of the Board