

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

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In the Matter of:	)	
	)	NOTICE OF INTENTION TO
	)	PROHIBIT FROM FURTHER
ADAM M. TEAGUE, individually and as an	)	PARTICIPATION, AND
institution-affiliated	)	NOTICE OF ASSESSMENT OF
party of	)	CIVIL MONEY PENALTY,
	)	FINDINGS OF FACT AND
APPALACHIAN COMMUNITY BANK	)	CONCLUSIONS OF LAW,
ELLIJAY, GEORGIA	)	ORDER TO PAY, AND NOTICE
(IN RECEIVERSHIP)	)	OF HEARING
	)	
(INSURED STATE NONMEMBER BANK)	)	FDIC-11-255e
	)	FDIC-11-262k
	)	
	)	

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The Federal Deposit Insurance Corporation ("FDIC") has determined that:

ADAM M. TEAGUE ("Respondent"), as an institution-affiliated party of Appalachian Community Bank, Ellijay, Georgia (In Receivership) ("Bank"), has directly or indirectly participated or engaged in unsafe or unsound banking practices and/or acts, omissions or practices which constitute breaches of his fiduciary duty as an officer of the Bank; that as a result of such conduct, the interests of the Bank's depositors have been prejudiced or could be prejudiced and/or that the Respondent has received financial gain or other benefit by reason of such practices and/or breaches of fiduciary duty; such practices and/or breaches of fiduciary duty demonstrate the Respondent's personal dishonesty and/or his willful or continuing disregard for the safety or soundness of the Bank; and

Respondent's reckless, unsafe or unsound practices and/or breaches of his fiduciary duty were part of a pattern of misconduct and/or resulted in pecuniary gain or other benefit to the Respondent.

The FDIC, therefore, institutes this proceeding for the purpose of determining whether an appropriate order should be issued against the Respondent under the provisions of section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), prohibiting the Respondent from further participation in the conduct of the affairs of the Bank, and any other insured depository institution or organization listed in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written approval of the FDIC and such other appropriate federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D); and determining whether an appropriate order should be issued against Respondent under the provisions of section 8(i) of the Act, 12 U.S.C. § 1818(i)(2) requiring him to pay a civil money penalty.

The FDIC hereby issues this:

NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION ("NOTICE OF PROHIBITION") pursuant to section 8(e) of the Act, 12 U.S.C. § 1818(e), and the FDIC's Rules of Practice and Procedure ("FDIC Rules"), 12 C.F.R. Part 308; and

NOTICE OF ASSESSMENT OF CIVIL MONEY PENALTY, FINDINGS OF FACT AND CONCLUSIONS OF LAW, ORDER TO PAY, AND NOTICE OF HEARING ("NOTICE OF ASSESSMENT") pursuant to section 8(i) of the Act, 12 U.S.C. § 1818(i), and the FDIC Rules.

The FDIC alleges as follows:

As set forth herein, in accordance with a pattern and practice contrary to his fiduciary duty to the Bank and industry practice, Respondent used his position with the Bank to misappropriate more than \$10 million in Bank funds and transfer them to his related interest. His related interest used those funds to purchase properties that a Bank customer intended to purchase. His related interest immediately resold those properties to the Bank customer at a substantially higher price, resulting in personal gain to Respondent of \$1,324,220.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

#### A. Preliminary Allegations

1. At all times pertinent to this proceeding, the Bank was a corporation existing and doing business under the laws of the State of Georgia, having its principal place of business at Ellijay, Georgia.

2. The Bank has been, at all times pertinent to this proceeding, an insured State nonmember bank, subject to the Act, 12 U.S.C. §§ 1811-1831aa, the FDIC Rules, 12 C.F.R. Chapter III; and the laws of the State of Georgia.

3. At all time pertinent to the charges herein, Respondent was Vice President and/or Senior Vice President and/or Chief Credit Officer of the Bank.

4. At all times pertinent to the charges herein, Respondent was an "institution-affiliated party" as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and for purposes of sections 8(e)(7), 8(i) and 8(j) of the Act, 12 U.S.C. §§ 1818(e)(7), 1818(i) and 1818(j).

5. The FDIC has jurisdiction over the Bank, Respondent, and the subject matter of this proceeding.

B. Soak Creek Preserve Partners Transactions

6. At all time pertinent to the charges herein, Respondent was a 50% owner of a limited liability corporation called Soak Creek Preserve Partners, LLC (“SCPP”).

7. At all times pertinent to the charges herein, the remaining 50% of SCPP was owned by \_\_\_\_\_ which also managed SCPP.

8. At all times pertinent to the charges herein, \_\_\_\_\_ was managed by \_\_\_\_\_.

9. \_\_\_\_\_ was a \_\_\_\_\_ limited partnership owned by a group of investors and managed by \_\_\_\_\_. Milwaukee later changed its name to \_\_\_\_\_.

10. \_\_\_\_\_ is a real estate holding company that owned two tracts of raw land in Tennessee, (approximately 5,043 and 2,160 acres, respectively).

11. On March 7, 2007, the Bank made a \$100,000 loan to \_\_\_\_\_. Respondent was the loan officer. The purpose of the loan was recorded as “business expense.”

12. In fact, the March 7, 2007 loan was a nominee loan as these funds were wired as earnest money for SCPP’s purchase of 5,043 acres from RLF for \$7,319,600.

13. On March 28, 2007, Bank records indicate that Loan Officer \_\_\_\_\_ presented to the Bank’s Directors’ Loan Committee (“DLC”) \_\_\_\_\_’s loan request for \$8,038,500 to purchase 5,043 acres of land in Tennessee from \_\_\_\_\_.

14. The loan was unanimously approved by the DLC. Respondent was present at the DLC meeting, but failed to disclose that he had an interest in the transaction in violation of the Bank’s conflict of interest policy.

15. On April 23, 2007, Respondent caused the Bank to make a wire transfer of \$7,937,665 to the law firm of \_\_\_\_\_ from the Bank’s Loan Work in Process (“LWP”)

account, a suspense account. The funds represented the loan to \_\_\_\_\_ which was in the process of being booked in the name of \_\_\_\_\_.

16. On April 24, 2007, SCPP purchased Bank Cashier's Check No. \_\_\_\_\_ to fund a wire transfer of \$7,261,736 from SCPP account \_\_\_\_\_ to \_\_\_\_\_. At the time of the purchase, there were no funds in SCPP account \_\_\_\_\_. Accordingly, the account was overdrawn by \$7,261,736. This amount exceeded the lending authority of Respondent.

17. On April 24, 2007, Respondent caused the wire transfer of \$7,261,736 to the escrow account of \_\_\_\_\_ at \_\_\_\_\_ Bank for SCPP's purchase (with the \$100,000 earnest money) of the 5,043 acres from \_\_\_\_\_.

18. On April 24, 2007, SCPP sold the 5,043 acres to \_\_\_\_\_ for \$9,338,800, realizing a gain on the sale of \$1,953,721.

19. On April 24, 2007 \_\_\_\_\_ wired \$2,046,825 to SCPP, which was deposited to account 87278.

20. On April 24, 2007, \_\_\_\_\_ wired \$7,261,736 to SCPP. These funds represented the return of funds SCPP previously wired to \_\_\_\_\_. This wire transfer cleared the overdraft in the SCPP account \_\_\_\_\_. After the receipt of the wire transfer, the balance in SCPP account \_\_\_\_\_ was \$1,953,721, which represented SCPP's gain on the sale to \_\_\_\_\_.

21. Of the \$1,953,721 gain on SCPP's sale of the 5,043 acres to \_\_\_\_\_, Respondent received \$1,073,412 by a check, dated April 23, 2007, drawn on SCPP's account at the Bank. Respondent deposited the check into his personal account at the Bank on April 24, 2007.

22. On June 12, 2007, Respondent caused the Bank to extend a loan in the amount of \$100,000 to \_\_\_\_\_.

23. In fact, the loan was a nominee loan in that the proceeds of the loan were transferred to SCPP to make a down payment on 2,160 acres of land in Crossville, Tennessee, owned by \_\_\_\_\_.

24. On September 4, 2007, the Bank consolidated the June 12, 2007 nominee loan and advanced an additional \$100,000 to \_\_\_\_\_. The stated purpose of this loan was reported on the loan as "Commercial: consolidate/business expense." The additional \$100,000 was transferred to SCPP to fund an additional down payment on the 2,160 acres of land to extend the closing date of the purchase.

25. To conceal his involvement in the loans to \_\_\_\_\_, Loan Officer \_\_\_\_\_ was falsely identified as the Loan Officer for the September 4, 2007 loan.

26. On September 7, 2007, Respondent presented to the DLC a loan to \_\_\_\_\_ in the amount of \$3,280,000 for the purchase of the 2,160 acres of land in Tennessee from \_\_\_\_\_ . However, Respondent failed to disclose to the DLC that he had an interest in the transaction in violation of the Bank's conflict of interest policy.

27. On September 28, 2007, SCPP presented a withdrawal slip on SCPP's account at the Bank to purchase Bank Cashier's Check No. \_\_\_\_\_ for \$3,058,103. At the time of the withdrawal, SCPP's account had a balance of \$4. Accordingly, the account was overdrawn by \$3,058,099. The overdraft exceeded the lending authority of Respondent.

28. Also on September 28, 2007, SCPP used Bank Cashier's Check No. \_\_\_\_\_ to fund a wire transfer of \$3,058,103 to \_\_\_\_\_ for SCPP's purchase of the 2,160 acres of land from \_\_\_\_\_.

29. On the same day, SCPP sold the 2,160 acres of land to \_\_\_\_\_ for \$3,780,000, realizing a gain on the sale of \$502,304.

30. On the same day, \_\_\_\_\_ wired the \$3,780,000 proceeds of the sale to SCPP, which was deposited to account \_\_\_\_\_ at the Bank, clearing the overdraft balance on SCPP's account.

31. On October 2, 2007, Respondent caused \$204,444 of the 2,160 acres sales proceeds to be used to pay off a nominee loan to \_\_\_\_\_.

32. Respondent received \$250,898 of the proceeds of the sale.

33. \_\_\_\_\_ received the remaining \$250,898 of the proceeds of the sale.

C. Grounds for Section 8(e) Prohibition Order

34. As a result of the Respondent's foregoing acts, omissions and/or practices, the Respondent has engaged and/or participated in unsafe or unsound banking practices in connection with the Bank.

35. As a result of the Respondent's foregoing acts, omissions and/or practices, the Respondent breached his fiduciary duty as Vice President and/or Senior Vice President and/or Chief Credit Officer of the Bank.

36. By reason of the practices or breaches as specified in paragraphs 11 through 33, the interests of the Bank's depositors have been or could have been prejudiced.

37. By reason of the violations, practices or breaches as specified in paragraphs 11 through 33, Respondent has received financial gain or other benefit.

38. The acts, violations, omissions and/or practices of the Respondent as set forth in paragraphs 11 through 33 demonstrate a willful or continuing disregard for the safety or soundness of the Bank and/or evidence the Respondent's personal dishonesty.

D. Grounds for Section 8(i)(2) Second Tier Civil Money Penalty

39. As a result of the foregoing facts and conclusions, the FDIC concludes that Respondent recklessly engaged in unsafe or unsound practices in conducting the affairs of the Bank.

40. Further, as a result of the foregoing facts and conclusions, the FDIC concludes that Respondent breached his fiduciary duty to the Bank.

41. Further, as a result of the foregoing facts and conclusions, the FDIC concludes that Respondent's reckless, unsafe or unsound practices and/or breaches of fiduciary duty to the Bank were part of a pattern of misconduct.

42. Further, as a result of the foregoing facts and conclusions, the FDIC concludes that Respondent's reckless unsafe or unsound practices and/or breaches of fiduciary duty to the Bank resulted in pecuniary gain or other benefit to the Respondent.

ORDER TO PAY

By reason of the reckless, unsafe or unsound practices and/or breaches of fiduciary duty set forth in the NOTICE OF ASSESSMENT, the FDIC has concluded that a civil money penalty should be assessed against the Respondent pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2). After taking into account the appropriateness of the penalties with respect to the size of financial resources and the good faith of the Respondent, the gravity of the reckless, unsafe or unsound practices and/or breaches of fiduciary duty, and such other matters as justice may require, it is:

ORDERED, that by reason of the reckless, unsafe or unsound practices and/or breaches of fiduciary duty set forth in paragraphs 11 through 33 hereof, a penalty of \$1,324,220 be, and



hereby is, assessed against Respondent, Adam M. Teague, pursuant to section 8(i)(2) of the Act, 12 U.S.C. § 1818(i)(2);

FURTHER ORDERED, that the effective date of this ORDER TO PAY be, and hereby is, stayed with respect to the Respondent until 20 days after the date of receipt of the NOTICE OF ASSESSMENT by the Respondent, during which time the Respondent may file an answer and request a hearing pursuant to section 8(i)(2)(H) of the Act, 12 U.S.C. § 1818(i)(2)(H), and section 308.19 of the FDIC Rules, 12 C.F.R. § 308.19.

If the Respondent fails to file a request for a hearing within 20 days of receipt of this NOTICE OF ASSESSMENT, the penalty assessed against the Respondent, pursuant to this ORDER TO PAY, will be final and shall be paid within 60 days after the date of receipt of this NOTICE OF ASSESSMENT.

#### NOTICE OF HEARING

IT IS FURTHER ORDERED, that, if Respondent requests a hearing with respect to the charges alleged in this NOTICE OF ASSESSMENT and NOTICE OF PROHIBITION, the hearing shall commence sixty (60) days from the date of receipt of this NOTICE OF ASSESSMENT and NOTICE OF PROHIBITION at Atlanta, Georgia, or at such other date or place upon which the parties to this proceeding and the Administrative Law Judge may agree. The purpose of the hearing will be for the taking of evidence on the charges, findings and conclusions stated herein in order to determine: (1) whether a permanent order should be issued to prohibit the Respondent from further participation in the conduct of the affairs of the Bank and any insured depository institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior permission of the FDIC and the appropriate federal

financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D); and (2) whether the FDIC's ORDER TO PAY should be sustained.

The hearing will be public, and in all respects conducted in accordance with the provisions of the Act, 12 U.S.C. §§ 1811-1831aa, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and the FDIC Rules, 12 C.F.R. Part 308. The hearing will be held before an Administrative Law Judge to be appointed by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The exact time and precise location of the hearing will be determined by the Administrative Law Judge.

In the event Respondent requests a hearing, Respondent is hereby directed to file an answer to this NOTICE OF PROHIBITION and NOTICE OF ASSESSMENT within 20 days from the date of service as provided by section 308.19 of the FDIC Rules, 12 C.F.R. § 308.19.

An original and one copy of the answer, any such request for a hearing, and all other documents in this proceeding must be filed in writing with the Office of Financial Institution Adjudication, 3501 N. Fairfax Drive, Suite VS-D8116, Arlington, Virginia 22226-3500, pursuant to section 308.10 of the FDIC Rules, 12 C.F.R. § 308.10. Also, copies of all papers filed in this proceeding shall be served upon the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, A. T. Dill, III, Assistant General Counsel, Supervision Branch, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429, and upon Andrea Fulton Toliver, Regional Counsel, Atlanta Regional Office, Federal Deposit Insurance Corporation, 10 Tenth Street, Suite 800, Atlanta, Georgia 30309-3906.

Pursuant to delegated authority.

Dated at Washington, D.C., this 11<sup>th</sup> day of August, 2011.

/s/  
\_\_\_\_\_  
Serena L. Owens  
Associate Director  
Division of Risk Management Supervision