

Order No. 2019-028

IN THE MATTER OF: § **BEFORE THE BANKING**
§
§
SUSANN NELSON § **COMMISSIONER OF TEXAS**
§
§
GREENVILLE, TEXAS § **AUSTIN, TRAVIS COUNTY, TEXAS**

ORDER PROHIBITING FURTHER PARTICIPATION

On this day, the matter of SUSANN NELSON, Greenville, Texas, (Nelson) was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

I. Findings of Fact

A. Jurisdiction

1. Nelson is a former employee of LegacyTexas Bank, Plano, Texas (Bank), a bank that is chartered by the State of Texas.
2. The Texas Department of Banking (Department) is authorized to bring this enforcement action pursuant to *Texas Finance Code* §35.003.
3. The Bank and Nelson are, and at all times pertinent to the allegations in this proceeding were, subject to the provisions of the Texas Banking Act, Texas Finance Code Title 3, Subtitle A.

B. General background

4. Nelson was employed at a Richardson, Texas branch of the Bank from 1999 to 2015. From 2006 until 2015, Nelson was the central vault manager.
5. In her position as central vault manager, Nelson maintained control over the amount of cash in the Bank’s vault on a daily basis, including ordering cash from the Federal Reserve

Bank and other financial institutions and documenting the receipt of cash into the Bank's books and records.

C. *Misapplication and Embezzlement of Bank Funds*

6. From at least as early as January 2010 until on or about February 10, 2015, Nelson used her position at the Bank to embezzle a sum of money exceeding \$1,000 and engaged in a lapping scheme in which successive cash shipments received by the bank were misapplied to prior cash shipments in order to hide the embezzlement.

D. *False Entries*

7. From at least as early as January 2010 until on or about February 10, 2015, in furtherance of the lapping scheme described above, Nelson recorded the receipt of cash shipments from the Federal Reserve Bank on specific dates, when in truth and fact as Nelson well knew, the cash shipments had been received by the Bank on earlier dates.

II. *Conclusions of law*

8. The Commissioner has jurisdiction over Nelson and the subject matter of this proceeding pursuant to Texas Finance Code §§35.002 and 35.003.
9. Nelson intentionally violated applicable law, in particular, 18 U.S.C. §656, through the misapplication and embezzlement of funds, and 18 U.S.C. §1005, through the recording of false entries, over a five-year period.
10. These violations of law constitute unsafe and unsound bank practices. *Texas Finance Code* §§35.002(a)(2) and 35.003(a)(1)(A).
11. Nelson made, or caused to be made, false entries in the records of a financial institution. *Texas Finance Code* §35.003(a)(1)(C).

12. Nelson's acts as described in the Findings of Fact caused the Bank to suffer financial loss. *Texas Finance Code* §35.003(a)(2)(A).
13. Due to Nelson's acts as described in the Findings of Fact, the interests of the depositors, creditors, or shareholders of the Bank were or could have been prejudiced. *Texas Finance Code* §35.003(a)(2)(B).
14. Nelson benefitted from the acts described in the Findings of Fact. *Texas Finance Code* §35.003(a)(2)(C).
15. Nelson's acts as described in the Findings of Fact were personally dishonest and taken with continuing and willful disregard for the safety and soundness of the Bank. *Texas Finance Code* §35.003(a)(3)(A) and (B).
16. The Commissioner has considered the matter and determines that, based upon bank examination or other credible evidence, Nelson's actions satisfy the statutory requirements for the issuance of a Prohibition Order as set forth in *Texas Finance Code* §35.003. In particular, the Commissioner determines that:
 - a. Nelson has intentionally committed or participated in violations of law or regulations, unsafe or unsound practices, and/or breaches of fiduciary duty with regard to the affairs of the Bank;
 - b. because of these actions by Nelson, the Bank has suffered or will probably suffer financial loss or other damage and/or Nelson received financial gain or other benefit by reason of the actions, or likely would have if the actions had not been discovered;and

c. such actions involve personal dishonesty on the part of Nelson or demonstrate Nelson's willful and/or continuing disregard for the safety and soundness of the Bank.

17. The Commissioner further determines that such violations of law or regulations, unsafe or unsound practices, and/or breaches of fiduciary duty demonstrate Nelson's unfitness to serve as a director, officer, or employee of a state bank, state bank holding company, or state trust company, among other positions to which this Prohibition Order applies, or to directly or indirectly participate in any manner in the management of such entity. Accordingly, the entry of this Prohibition Order appears to be necessary and in the best interest of the public.

III. Order of Prohibition

It is, therefore, ORDERED, ADJUDGED and DECREED that, pursuant to *Texas Finance Code* §§35.003 and 35.007, SUSANN NELSON may not:

1. serve as a director, officer, or employee of a state bank, holding company of a state bank, or state trust company, or as a director, officer, or employee with financial responsibility of any other entity chartered, registered, permitted, or licensed by the Banking Commissioner under the laws of this state;
2. directly or indirectly participate in any manner in the management of such entity or in the conduct of their affairs;
3. directly or indirectly vote for a director of such an entity; or
4. solicit, procure, transfer, attempt to transfer, vote, or attempt to vote any proxy, consent, or authorization with respect to voting rights in such an entity.

IV. Effective Date

This Order of Prohibition against SUSANN NELSON is effective twenty-one days after mailing, unless Nelson requests a hearing in writing before that date. After taking effect, the Order will be final, nonappealable, and of perpetual duration. The provisions of this Order will remain effective and in force except in the event that, and until such time as, this Order shall have been modified, terminated, suspended, or set aside in accordance with *Texas Finance Code* §35.0071.

It is so ORDERED.

Signed this 13th day of September, 2019.

/s/ Charles G. Cooper
Charles G. Cooper
Banking Commissioner of the State of Texas

CERTIFICATE OF SERVICE

This Order of Prohibition is served on SUSANN NELSON as follows: By first-class mail and by certified mail, return receipt requested, sent on September 13, 2019, to:

Susann Nelson 56150-177
FMC Carswell
Federal Medical Center
P.O. Box 27137
Fort Worth, Texas 76127
CMRRR# 91 7199 9991 7031 6327 4591

/s/ Marcus Adams _____
Marcus Adams
Assistant General Counsel
Texas Department of Banking