

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

In the Matter of

POPULAR BANK

New York, New York

Docket No. 22-034-CMP-SM

Order of Assessment of Civil Money
Penalty Issued Upon Consent
Pursuant to the Federal Deposit
Insurance Act, as Amended

WHEREAS, Popular Bank, New York, New York (the “Bank”), is a New York state-chartered bank that is a member of the Federal Reserve System;

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”) is the appropriate federal supervisor of the Bank;

WHEREAS, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136, the “CARES Act”) was signed into law, providing emergency financial assistance to individuals, families, and businesses negatively impacted by the COVID-19 pandemic;

WHEREAS, the Paycheck Protection Program (“PPP”), established by the U.S. Small Business Administration (the “SBA”) pursuant to the CARES Act, provided for SBA-guaranteed, low-interest loans to small businesses and other eligible entities that under certain circumstances could be fully or partially forgiven;

WHEREAS, from April 2020 to May 2021, the Bank was an SBA-approved lender to provide PPP loans;

WHEREAS, the Bank was required to follow SBA guidance, as well as federal rules and regulations implementing the Bank Secrecy Act (“BSA”) and the Bank’s own BSA protocols in processing PPP loans;

WHEREAS, these requirements called for the Bank to, among other things, reasonably verify the identity of its customers and to document, investigate, and report suspicious activities that it detected;

WHEREAS, in August 2020, the Bank processed and funded six PPP loans, totaling approximately \$1.1 million, despite having detected that the loan applications contained significant indicia of potential fraud;

WHEREAS, the Bank did not timely report the indicia of potential fraud to the SBA and continued to process and fund these loans despite its awareness of indicia of potential fraud;

WHEREAS, the Bank’s processing and funding of these loans despite the indicia of potential fraud, and failure to timely report the potential fraud, demonstrated ineffective controls and procedures that resulted in violations of the Bank’s internal BSA protocols, and constituted unsafe or unsound practices;

WHEREAS, the six PPP loans were fraudulent and the Bank has suffered a loss with respect to each loan;

WHEREAS, the Bank self-reported this matter, has undertaken substantial remediation related to its ineffective controls and procedures that resulted in the unsafe or unsound practices described herein, and has cooperated with the Board of Governors’ investigation;

WHEREAS, the unsafe or unsound practices described above warrant the assessment of a civil money penalty by the Board of Governors against the Bank under section 8(i)(2)(B) of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1818(i)(2)(B)) (the “FDI Act”);

WHEREAS, the Board of Governors is issuing this Consent Order of Assessment of a Civil Money Penalty (the “Order”); and

WHEREAS, the board of directors of the Bank, at a duly constituted meeting, adopted a resolution authorizing and directing the undersigned signatories for the Bank to enter into this Order on behalf of the Bank, and consent to the Bank’s compliance with each and every provision of this Order, and to waive any and all rights that the Bank may have with respect to this Order pursuant to section 8 of the FDI Act, as amended (12 U.S.C. § 1818), and 12 C.F.R. Part 263, including, but not limited to: (i) the issuance of a notice of charges on any matters set forth in this Order; (ii) a hearing for the purpose of taking evidence on any matters set forth in this Order; (iii) judicial review of this Order; and (iv) challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness or enforceability of the Order or any provision hereof.

NOW, THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issues of fact or law herein, and without the Bank admitting or denying any allegation made or implied by the Board of Governors in connection herewith, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended hearings or testimony, it is hereby ordered, pursuant to sections 8(b)(3) and 8(i)(2)(B) of the FDI Act (12 U.S.C. §§1818(b)(3) and 1818(i)(2)(B)) as follows:

Assessment of Civil Money Penalty

1. The Board of Governors hereby imposes a civil money penalty on the Bank in the amount of \$2,257,132 for the unsafe or unsound practices described above. The civil money penalty shall be remitted at the time of the execution of this Order by Fedwire transfer of immediately available funds to the Federal Reserve Bank of Richmond, ABA No. 051000033,

beneficiary, Board of Governors of the Federal Reserve System. The Federal Reserve Bank of Richmond, on behalf of the Board of Governors, shall distribute this sum to the U.S. Department of the Treasury, pursuant to section 8(i) of the FDI Act (12 U.S.C. § 1818(i)). This penalty is a penalty paid to a government agency for a violation of law for purposes of 26 U.S.C. § 162(f) and 26 C.F.R. § 1.162-21.

Notices

2. All communications regarding this Order shall be sent to:
 - (a) Richard M. Ashton, Esq.
Deputy General Counsel
David Williams, Esq.
Associate General Counsel
Board of Governors of the Federal Reserve System
20th & C Streets, N.W.
Washington, DC 20551
 - (b) José R. Coleman Tió
Executive Vice President, Chief Legal Officer and General Counsel
Popular Bank
85 Broad Street
New York, NY 10004
 - (c) Nicolas Bourtin
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004

Aisling O'Shea
Sullivan & Cromwell LLP
1700 New York Avenue, N.W.
Washington, DC 20006

Miscellaneous

3. The provisions of this Order shall be binding on the Bank and its successors and assigns.
4. Each provision of this Order shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Board of Governors.

5. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, or any other federal or state agency, from taking any other action affecting the Bank or any of its current or former institution-affiliated parties and their successors and assigns; provided, however, that the Board of Governors shall not take any further enforcement action against the Bank or any subsidiary thereof, or their successors and assigns, with respect to the conduct described in the WHEREAS clauses of this Order, to the extent known by the Board of Governors as of the effective date of this Order. This release and discharge shall not preclude or affect: (i) any right of the Board of Governors to determine and ensure compliance with this Order, (ii) any proceedings brought by the Board of Governors to enforce the terms of this Order, or (iii) any proceedings brought by the Board of Governors against individuals who are or were institution-affiliated parties of the Bank.

By Order of the Board of Governors of the Federal Reserve System effective this 20th day of January, 2023.

POPULAR BANK

BOARD OF GOVERNORS OF THE FEDERAL
RESERVE SYSTEM

By: /s/ José R. Coleman Tió
José R. Coleman Tió
Executive Vice President, Chief Legal
Officer and General Counsel

By: /s/ Ann E. Misback
Ann E. Misback
Secretary of the Board