

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

In the Matter of)	
)	
MAI LY-VU)	
)	
A former institution-affiliated party of)	Docket Nos. 19-018-E-I
PACIFIC PREMIER BANK)	19-018-B-I
Irvine, California, a state member bank)	
)	

FINAL DECISION

This matter is before the Board of Governors of the Federal Reserve System (the “Board”) upon the Recommended Decision (“R.D.”) of Administrative Law Judge (“ALJ”) Christopher B. McNeil. ALJ McNeil recommends entry of a prohibition and restitution order against Mai Ly-Vu (“Respondent”), a former institution-affiliated party (“IAP) of Pacific Premier Bank (“PPB”), under sections 8(e) and 8(b)(6) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. §§ 1818(e), 1818(b)(6). Upon review of the Recommended Decision and administrative record, and for the reasons set forth below, the Board adopts the ALJ’s findings and conclusions, affirms the Recommended Decision, and issues the attached Order of Prohibition and Restitution.

I. PROCEDURAL FRAMEWORK

Under the Board's regulations, the ALJ is responsible for conducting proceedings on a notice of charges. *See generally* 12 C.F.R. § 263.5. The ALJ issues a recommended decision that is referred to the Board, which issues a final decision. *Id.* §§ 263.38(a), 263.40(c)(2). The ALJ serves a copy of the recommended decision on the parties, who thereafter have 30 days to file exceptions to the ALJ’s findings, conclusions, recommended decision, and evidentiary

rulings. *Id.* §§ 263.38(a), 263.39(a). Failure to file exceptions to these matters with the Board within the prescribed time is deemed a waiver of objection thereto. *Id.* § 263.39(b)(1).

II. PROCEDURAL HISTORY

The Board initiated this proceeding on October 7, 2019. *See* Notice of Intent to Prohibit and Notice of Intent to Issue Cease and Desist Order Requiring Restitution or Reimbursement Pursuant to Section 8 of the Federal Deposit Insurance Act, as Amended (“Notice”). In the Notice, Enforcement Counsel alleged that Respondent failed to disclose relevant information and made false or misleading statements to PPB about her personal financial interests in connection with \$250,000 in loans extended to companies owned by her relatives or for which she was identified as an executive officer. Notice at 1. The Notice alleged that Respondent gained at least \$18,700 and PPB suffered a loss of at least \$56,930 or other damage and reputational harm as a result. *Id.* On August 17, 2020, Enforcement Counsel moved for summary disposition and sought a recommendation from the ALJ that the Board issue an order of prohibition and restitution against Respondent.

On October 23, 2020, the ALJ granted Enforcement Counsel partial summary disposition on all matters except four specific factual issues. Summary Disposition Order at 66. The parties presented evidence at a hearing held on December 1, 2020. *See id.* at 67; Dec. 1, 2020 Hearing Tr. On February 22, 2021, the ALJ issued and served his Recommended Decision with findings and conclusions, as well as a proposed order, recommending that the Board prohibit Respondent from “participating in any manner in the conduct of the affairs of any institution or agency . . . including, but not limited to, any insured depository institution or any holding company of an insured depository institution” R.D. at 59, 61. The ALJ also recommended entry of an order requiring Respondent to pay \$18,700 in restitution to PPB. *Id.* at 60. Neither Respondent nor Enforcement Counsel filed exceptions to the Recommended Decision. *See* 12 C.F.R.

§ 263.39(a) (requiring that any exceptions be filed within 30 days of service of the recommended decision).

III. FACTS

A failure by a party to file exceptions constitutes a waiver of objection to the ALJ's findings of fact. *Id.* § 263.39(b)(1). Accordingly, the following summary adopts and incorporates the ALJ's factual findings. Because the ALJ provided a lengthy and detailed opinion with extensive citations to the record in support of his conclusions, the Board does not reiterate in full the contents of the Recommended Decision and instead provides an overview of Respondent's misconduct.

A. Respondent's Roles and Responsibilities at PPB

Respondent was employed by PPB, a state member bank, from December 2014 to January 2018, and held the title of Vice President throughout this time. R.D. at 6, 12. She started as a Branch Manager, was promoted to Regional Banking Officer in June 2015 and Regional Banking Manager in October 2015, and became a Branch Service Manager in January 2016. *Id.* at 11. As Branch Service Manager, Respondent held the senior-most position at her branch, and was responsible for overseeing its general operations and day-to-day transactions, safeguarding its operational integrity, ensuring compliance with PPB's policies, overseeing key operational and risk controls, and conducting and attending required compliance and bank policy training. *Id.* at 12. In January 2017, she became a Premier Deposit Officer. *Id.* at 11. This role was sales-focused, but she also continued to assist with operations as needed, and in both this role and her prior Branch Service Manager role she assisted Relationship Managers, brought in sales, loans, and deposits, and helped to retain clients in the branch's portfolio. *Id.* at 12-13.

In 2016 and 2017, Respondent also acted as a Relationship Manager, despite not formally having such a job title. *Id.* at 8, 13. Specifically, she acted as a "Business Banker," *id.* at 33, a

title often used interchangeably with “Relationship Manager” because there was some overlap in duties, including serving as a point of contact between credit analysts and current or potential borrowers. *Id.* at 8, 13. Relationship Managers work directly with customers. *Id.* at 7, 13. They serve as the primary channel of communication between PPB and credit applicants, collecting application materials and documents and liaising between applicants or borrowers and PPB’s credit analysts, loan underwriters, and processors, and in this way influence PPB’s collection of information for lending decisions. *Id.* at 7, 13, 41. They are expected to know each customer and its operations, understand the purpose of a loan, and verify the legitimacy of a business, often by performing a site visit and meeting with principals and employees. *Id.* at 7, 13.

B. PPB’s QuickScore Loan Application Process

From at least 2016 to 2018, PPB offered streamlined small business loan applications through its QuickScore program, typically for loans of \$25,000 to \$50,000 with a twelve-month term. R.D. at 14. To initiate a loan, a Relationship Manager such as Respondent typically worked with applicants to prepare an application, which would then be transmitted to an underwriting specialist known as a Credit Analyst for review of the application and credit reports for the applicant and its principals guaranteeing the loan. *Id.* at 14. The Credit Analyst would make a recommendation to a Credit Administrator, who generally made a final approval determination, after which the application would progress to a loan processor for additional documentation and legal review of the applicant’s organizational and ownership structure. *Id.* at 14-15.

Under the applicable PPB Credit Policy, PPB considered several factors that included, among other things, the intended use of the loan and derogatory information such as felony convictions of a principal or guarantor. *Id.* at 14-15. Disclosure of the identity of a borrower’s principals was thus an important part of the credit application. *Id.* at 15. Because the Credit

Policy required that the “nature and level [of an applicant’s] business activity must support the loan amount,” PPB needed a good understanding of a business’ debt service obligations to confirm a reasonable likelihood of repayment, and typically relied on credit reports for the business, its principals, and guarantors to learn about a business’ outstanding debts. *Id.* PPB could request additional information beyond the credit reports if questions arose regarding the accuracy or completeness of the credit report or legitimacy of an applicant’s business or its principals; Relationship Managers typically assisted Credit Analysts in collecting such information. *Id.* at 14.

C. ezMed Cloud, Inc. and Its Loan Application

During the period January 1, 2015 through January 15, 2018 (the “relevant period”), Respondent acted as a Business Banker to four companies with which she had relationships that she did not disclose. R.D. at 33. Among other duties, she served as the Relationship Manager for ezMed Cloud, Inc. (“ezMed”), which was incorporated by Respondent’s spouse Michael D. Vu (“Vu”). *Id.* at 8, 15. Vu had served as director, President, and Chief Executive Officer of the business since January 2016, and as its Secretary since December 2016. *Id.* at 15-16, 30.¹ In February 2015, Respondent helped ezMed open a deposit account at PPB and obtain online banking access by submitting a “Business Summary” memorandum concerning ezMed’s business operations to PPB’s BSA Department, and did not disclose that her husband owned ezMed or that she had any other interest in the company. *Id.* at 30. As ezMed’s Relationship Manager, Respondent was the primary point of contact between PPB and ezMed, and was the

¹ The Recommended Decision also details other commercial lines of credit, totaling hundreds of thousands of dollars, that Respondent helped to secure for a business partner of Vu and for her brothers-in-law. R.D. at 53-54. In none of those instances did Respondent disclose her personal relationship with the lender to PPB. *Id.* at 54.

gatekeeper for loan applications, supporting documentation, and other information that ezMed provided to PPB. *Id.* at 36.

Respondent had multiple ties to ezMed beyond her marriage to Vu. A Statement of Information (“SOI”) publicly filed by ezMed in January 2016 identified her as its CFO. *Id.* at 24. Vu caused ezMed to issue Respondent Schedules K-1 showing a 54.05% ownership interest for the 2017 and 2018 tax years, which allowed her to deduct a percentage of ezMed’s losses on federal and state personal tax returns filed at her direction.² *Id.* at 18, 28-29. Between January 21, 2015, and November 20, 2017, Respondent had loaned \$12,195 to ezMed, which owed her at least \$11,420 as of December 14, 2016. *Id.* at 18, 26. In 2016 and 2017, ezMed typically made monthly payments of \$1,500 to \$3,000 to Respondent, who used the funds to pay for her and Vu’s household expenses, and Respondent received such payments throughout the time material to the charges in the Notice. *Id.* at 25.

In November 2016, Vu applied for a QuickScore loan at PPB on behalf of ezMed, indicating on the application that he sought \$25,000 for “Equipment/Purchase,” and that he had never been convicted of a felony. *Id.* at 33, 49. On or around November 28, 2016, Vu signed the application, thereby certifying that it was “true, correct, and complete” and that any loan proceeds would be used “solely for business purposes . . . and not for any personal, family or household use.” *Id.* at 34, 43, 48. As a guarantor, he initialed the loan application, which contained similar language, on December 14, 2016. *Id.* at 43.

Acting as ezMed’s Relationship Manager and its primary point of contact with PPB, Respondent influenced the resolution of certain derogatory credit findings, review of the loan application, and the credit analysis process by shaping or filtering the information Vu provided

² A deduction is allowed for net operating losses from a business. *See* 26 U.S.C. § 172(a).

to the Bank's Credit Analyst, without ever having disclosed her ties to Vu and ezMed. *Id.* at 41-43. Vu provided the application to Respondent, who submitted it to Credit Analyst Michael Yushak ("Yushak") after modifying it to state that the loan was for "Working Capital/Accounts Receivable/Inventory," and changing the amount requested to "\$25,000 - \$50,000." *Id.* at 34-35.

Much of the information provided to PPB on behalf of ezMed through Respondent was misleading and misrepresented the role of Vu, Respondent, and others at ezMed. While conducting a standard pre-funding legal review, PPB requested additional information from ezMed about the identity of its owners, officers, and directors. *Id.* at 36. In response, Vu submitted a form indicating that, as of December 11, 2016, he was ezMed's sole shareholder and its CEO, President, and Secretary, which PPB asked him to verify by providing a Statement of Information. *Id.* Vu submitted an SOI filed December 11, 2016, which, unlike the January 2016 SOI, did not list Respondent as CFO, and which Respondent forwarded to Yushak. *Id.* at 37. Vu's claim to be ezMed's sole owner was misleading because between 2016 and 2018 ezMed issued Schedule K-1s indicating partial ownership by Respondent and others. *Id.* at 17-18. Moreover, witness testimony indicated that others were considered to have an ownership claim in ezMed. *Id.* at 16-17. Respondent did not require Vu to make any corrections to his submissions, however. *Id.* at 36. And despite altering the loan application, Respondent did not correct Vu's representation on the form that he had not been convicted of any felonies, although he had been convicted of two felonies—including aiding and abetting wire fraud—in December 2000, while married to Respondent. *Id.* at 16, 33, 35, 48-49. Respondent did not disclose to anyone at PPB that Vu was her husband or that she had any financial interests in ezMed, nor did she disclose to PPB management or underwriting staff that she had been identified as ezMed's CFO. *Id.* at 36.

On November 30, 2016, Yushak reviewed the application and submitted a Loan Approval Memorandum to Credit Administrator Richard Bushman (“Bushman”), who could approve QuickScore loans up to the Credit Policy limits if there were no policy exceptions and the loan was rated at a risk grade of P5 or better. *Id.* Bushman approved the application on the same day. *Id.* On December 14, 2016, the Loan Agreement became effective, and shortly afterwards PPB funded the \$50,000 line of credit. *Id.* at 37. On December 20, 2016, Respondent authorized a PPB employee’s request to allow Vu to make transfers from the line of credit. *Id.*

Respondent was subsequently paid with funds from ezMed’s line of credit. Between December 20, 2016, and November 6, 2017, ezMed made at least nine payments from its PPB account to Respondent, totaling approximately \$18,700, which ezMed lacked the cash to pay absent the line of credit. *Id.* at 37-39, 41. Some of these payments were for repayment of loans made by Respondent to ezMed, while others listed “Contract work” in the memo field despite testimony from Respondent that she had not performed such work and that the checks were meant to cover her and Vu’s joint household expenses. *Id.* at 37-38, 40. ezMed made additional payments during this time to Vu and Respondent’s daughter; their daughter deposited roughly half of the \$15,463 that she received in this manner into an account shared with Respondent. *Id.* at 40, 41. On February 13, 2017, when ezMed had almost fully exhausted the line of credit, Respondent placed a waiver on the minimum balance requirements applicable to its deposit account, which allowed it to hover below \$750 on average in March and April without incurring a penalty, despite the fact that she lacked permission to grant such a waiver on an account of an immediate family member or a business owned by an immediate family member. *Id.* at 39-40.

D. Respondent's Actions Did Not Comport with PPB's Code of Conduct or Prudent Banking Practices and Involved Dishonesty

Respondent's actions did not comport with PPB's policies or prudent banking practices. PPB's Code of Business Conduct and Ethics ("Code"), which applied to all of PPB's officers, employees, and Directors (collectively "affiliates"), prohibited "involvement in outside interests, which might either conflict with [affiliates'] fiduciary duty to [PPB] or adversely affect [their] judgment in the performance of [their] responsibilities." R.D. at 9-11. The Code required "[f]ull disclosure . . . of [affiliates'] outside or personal involvement in any project or business activity that could pose a conflict of interest with their fiduciary duties of care and loyalty to [PPB]," including notification to PPB's management or Human Resources office and Board review prior to entry into a transaction or relationship involving a potential conflict. *Id.* at 10. The Code also indicated that affiliates should "avoid situations" raising actual or apparent conflicts with the interests of PPB or its customers. *Id.* In addition, the Code advised that PPB "expects [affiliates] to refrain from any form of illegal, dishonest, or unethical conduct," and provided that "the tangible and intangible assets of PPB, may not be used for personal benefit" *Id.* at 10-11. Respondent signed annual certifications affirming that she had read, understood, and agreed to comply with the Code. *Id.* at 11.

Credit Administrator Bushman would have expected Respondent to disclose her familial, personal, and financial interests in ezMed to him or his staff at the time she submitted its loan application, and such interests would have been highly relevant to PPB's oversight and controls in the underwriting and origination process. *Id.* at 43-44. Such disclosure was expected under the Code and consistent with prudent banking practices. *Id.* at 44. The existence of an undisclosed financial arrangement, and the anticipated use of loan proceeds to pay non-business household expenses and loans, reflect a conflict of interest and an intention to violate the terms

of the loan agreement. *Id.* at 44. But Respondent did not disclose to PPB’s management, human resources, or underwriting staff that she knew ezMed’s funds would be used for non-business purposes, that Vu made payments to her for household expenses with ezMed’s funds from ezMed—at times funded with money borrowed from PPB—or that she expected to continue receiving such payments. *Id.* at 43-46, 49. She failed to do so despite knowing, based on her position as a Branch Service Manager, 30 years’ experience, and her role as a Relationship Manager with respect to ezMed, that QuickScore loans could not be used for personal expenses such as her household expenses. *Id.* at 48-49.

Had Respondent disclosed that the loan would be used to pay her, she would have been recused from the application and underwriting process in order to maintain the objectivity and legitimacy of the process and lending decision. *Id.* at 44, 46. By facilitating PPB’s extension of credit to ezMed with the expectation that some of the loan proceeds would be used to repay her loans, and by accepting such repayments, Respondent accepted PPB’s assets for her personal benefit and in so doing failed to safeguard PPB’s assets as required by the Code.

Respondent also made false statements related to the ezMed loan on certifications required by the Code. Each year, PPB employees had to submit a signed Statement of Personal Interest form addressing questions about their personal interests in any PPB customers, which also served to put them on notice that conflicts of interests are to be interpreted broadly and disclosed fully and are prohibited. *Id.* at 50. On November 29, 2016, and September 5, 2017, Respondent signed such statements with misrepresentations or omissions that led to her falsely denying having any interest in a business or customer of PPB. *Id.* Thus, she indicated that she had not “accepted anything of value directly or indirectly from anyone in connection with the business of [PPB],” although PPB’s line of credit funded ezMed’s payments to her. *Id.* She also

falsely represented that she had not “influenced the extension of credit to . . . [a] customer where the proceeds were used to pay a debt owed to you . . . [,] a customer who is your relative . . . or a firm in which you or a member of your immediate family has a financial interest or with which you are employed on a part-time or consulting basis” *Id.* And she falsely checked “no” when asked if there were any “circumstances or other matters of a personal or family nature that could reasonably be subject to question as to their effect on the interests of [PPB].” *Id.* at 51.

E. PPB’s Discovery of Respondent’s Actions and Termination of Respondent

PPB discovered Respondent’s ties to ezMed as a result of a review of the ezMed account. Approximately a month before a loan’s maturity, PPB would undertake a review and decide whether to call the loan, modify the loan, or renew the loan for another twelve months. R.D. at 14. On October 30, 2017, a credit manager conducted such a review, and expressed concern that the low account balance suggested ezMed was not using PPB as its primary bank, as required. *Id.* at 54-55. The credit manager decided to give the account “a closer look” to determine whether to adjust the credit line downwards, *id.* at 55, and on or around December 11, 2017, reported that she had noticed that each month there were checks made to Respondent, who was the Relationship Manager, and who had the same last name as the guarantor. *Id.* On or around December 18, 2017, PPB’s General Counsel and Human Resources Business Partner Manager asked Respondent about these payments, and reported that Respondent admitted that the account was owned by her husband, that she did not do any work for ezMed, and that although the checks were nominally for “contract work” or “repayment of loan,” she used the funds “for household expenses, bills, etc.” *Id.* On the same day, Respondent’s subordinate changed internal records to remove her as the listed relationship manager on ezMed’s deposit account, and replaced them with another employee’s initials, which was an action that Respondent could order him to do and which no other employee was found to have requested. *Id.* at 55-56. Also on that day, PPB

discovered through an internet search that the “Contact Us” page on ezMed’s website listed a telephone extension for Respondent. *Id.* at 56. On January 2, 2018, Respondent was informed that she was being terminated effective January 3, 2018 for breaching the Code of Conduct by engaging in and failing to disclose conflicts of interests related to the ezMed loan. *Id.*

F. The Effects of Respondent’s Actions and Resulting Loss to PPB

Respondent’s actions caused PPB to subject ezMed’s application to less scrutiny than it otherwise would have, and PPB ultimately suffered a loss from the loan. Respondent improperly withheld information during and after the loan application process, which influenced PPB’s decision to extend credit to ezMed. R.D. at 51. Had PPB’s senior loan officers known of her marriage to Vu or her officer title at ezMed during the application process, they would have conducted additional due diligence to ensure the business was legitimate, better understand Respondent’s relationship with and role in ezMed, and verify how loan proceeds would be utilized. *Id.* at 43.

Bushman would have expected Respondent, who anticipated that at least some of the proceeds would be used to pay for household expenses, to disclose the true purpose of the loan or require Vu to correct the loan application, rather than submit an application with false information. *Id.* at 49. Use of loan proceeds to pay household expenses rather than business expenses is a material fact that would have led Bushman to deny the loan, since QuickScore loans were not consumer products. *Id.* at 44. Had he learned after approval that loan proceeds were being used in this manner, he would have alerted his management and recommended freezing the line of credit pending an investigation. *Id.* at 46.

Respondent similarly impacted PPB’s actions by helping ezMed obtain a loan without disclosing that proceeds would be used to repay its debts to her. Unreported personal debts owed by ezMed would not have appeared on its credit report from credit reporting agencies, and

borrowers were obligated to disclose use of loan proceeds for “debt consolidation” if they intended to use them to repay existing loans. *Id.* at 45. Bushman would have expected Vu to do so and for Respondent to ensure that the intended purpose was accurately reflected on the application before submitting it for consideration. *Id.* Had he been alerted to the existence of private debt not visible to credit reporting agencies, he would have inquired further about its terms, and would have asked for evidence of the existence of and intended and actual use of the debt. *Id.* The undisclosed use of the loan proceeds would have influenced the review of the loan application and credit determination, as it was necessary to ensure that the loan was a valid corporate debt used to pay corporate expenses, and Bushman would have been highly skeptical of the legitimacy of a debt held between a husband (or his company) and his wife. *Id.* at 45-46.

Respondent also impacted PPB’s consideration of the loan by not disclosing Vu’s felony conviction. Bushman would have expected Respondent, as ezMed’s Relationship Manager, to disclose this fact or require Vu to correct his application, rather than forwarding a loan application with false information. *Id.* at 49. Had she disclosed Vu’s conviction, Bushman would have applied more scrutiny to ezMed’s application and requested additional financial reporting to verify information in the credit report and loan application. *Id.*

Lastly, had Respondent truthfully responded to questions on PPB’s Statement of Personal Interest in 2017, PPB would have been alerted to her conflicts of interests, and may have sought to place restrictions on disbursements from the line of credit. *Id.* at 51.

When ezMed’s line of credit matured on December 10, 2017, PPB decided not to renew it due to the conflict of interest resulting from Respondent’s relationship to Vu. *Id.* at 56. PPB attempted to arrange a repayment plan with Vu, but failed after Vu reported that Respondent would not allow him to disclose their joint personal tax returns, which PPB had requested in

order to consider such a plan. *Id.* On March 29, 2018, PPB charged off the \$49,685 principal balance of the loan, and on April 30, 2018, notified Vu that it was closing ezMed’s deposit account effective June 1, 2018. *Id.* at 57. Although PPB subsequently obtained a judgment for \$56,930 in damages against Vu and ezMed for principal, \$4,091 in unpaid interest, and \$3,154 in fees and costs, Vu testified that as of January 2020 neither he nor ezMed intended to pay any part of the judgment. *Id.* at 57. And, as of February 22, 2021, they had made no payments. *Id.*

IV. ANALYSIS

A failure by a party to file exceptions constitutes a waiver of objection to the ALJ’s conclusions of law. 12 U.S.C. § 263.39(b)(1). Accordingly, the following discussion includes a general adoption of the ALJ’s legal conclusions.

A. Jurisdiction

Because PPB was a state member bank during the relevant period, the Board is the appropriate Federal banking agency to bring charges against its institution-affiliated parties under the FDI Act. 12 U.S.C. §§ 1813(q)(3)(A), 1818(b)(3). As an employee of PPB during the relevant period, Respondent was an institution-affiliated party of PPB, as defined in sections 3(u)(1) and 8(b)(3) of the Act, and is thus subject to the Board’s enforcement jurisdiction under sections 8(e) and 8(b)(3) of the Act. 12 U.S.C. §§ 1813(u), 1818(b)(3), 1818(e)(3), 1818(i)(3).

B. Prohibition

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. 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).

Respondent's actions constituted a breach of her fiduciary duties to PPB and unsafe or unsound practices. By virtue of holding senior operational and managerial positions at PPB, Respondent owed fiduciary duties to PPB. *E.g., In re Haynes*, No. 11-370e, 2014 WL 3739303, at *31-32 (FDIC Feb. 18, 2014). Her self-serving and risky conduct constituted a breach of these duties. *E.g., Michael v. FDIC*, 687 F.3d 337, 351 (7th Cir. 2012) (self-serving conduct violates fiduciary duties). Any extension of credit to, or involvement in the business activities of, a bank customer by an employee of the bank poses a conflict of interest with the employee's duties and loyalties to the Bank. Respondent's failure to disclose her interests in ezMed to bank management or the Human Resources office was inconsistent with prudent banking practices. Her actions thus constituted unsafe or unsound practices. *E.g., First Nat'l Bank of Lamarque v. Smith*, 610 F.2d 1258, 1265 (5th Cir. 1980) (acting under a conflict of interest is an unsafe or unsound practice).

As a result of Respondent's misconduct, Respondent received a financial benefit and PPB suffered a financial loss. She received a financial benefit in the form of \$18,700 in payments from ezMed. *See, e.g., In re Salmon*, 84 Fed. Res. Bull. 807, 808 (Sept. 1, 1998) (personal use of loan proceeds is a financial benefit supporting prohibition order). And PPB suffered a financial loss as a result of ezMed's default on the line of credit in the amount of \$56,930—the amount of the charged-off loan, plus interest, fees, and costs incurred in attempting to collect payment from ezMed. *Id.* at 809 (charge-off of loan was a loss supporting a prohibition order).

Respondent's misconduct involved personal dishonesty. *See, e.g., de La Fuente v. FDIC*, 332 F.3d 1208, 1223 (9th Cir. 2003) (improper failure to disclose material information constituted dishonesty). It also demonstrated willful or continuing disregard for PPB's safety and soundness. *Grubb v. FDIC*, 34 F.3d 956, 962 (10th Cir. 1994) (conduct exposing a bank to "abnormal risk of loss or harm contrary to prudent banking practices" shows willful disregard, and conduct engaged in "over a period of time with heedless indifference to the prospective consequences" shows continuing disregard) (citations omitted).

For the foregoing reasons, Respondent's actions meet the requirements for entry of an order of prohibition.

C. Restitution

The Board may order payment of restitution if the respondent was unjustly enriched in connection with an unsafe or unsound practice. 12 U.S.C. § 1818(b)(6)(A). Here, Respondent was unjustly enriched in the amount of \$18,700 in connection with her misconduct, which, as described above, constituted unsafe and unsound practices. *See Rapaport v. OTS*, 59 F.3d 212, 216-17 (D.C. Cir. 1995). Accordingly, her actions meet the requirements for the entry of an order of restitution to PPB in the amount of \$18,700.

V. CONCLUSION

After a thorough review of the record in this proceeding, and for the reasons set forth above, the Board concludes that an Order of Prohibition and Restitution is warranted against Respondent. The Board therefore adopts the ALJ's findings and conclusions, affirms the Recommended Decision, and issues the attached Order of Prohibition and Restitution implementing its Decision.

By Order of the Board of Governors, this 29 day of September, 2021.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

Ann E. Misback
Secretary of the Board