

RAÚL R. LABRADOR
Attorney General

JAMES J. SIMERI
Chief of Consumer Protection Division

AMBER K. KAUFFMAN, ISB No. 10161
Deputy Attorney General
954 W. Jefferson Street, 2nd Floor
Boise, Idaho 83702
Telephone: (208) 947-8733
Facsimile: (208) 334-4151
Email: amber.kauffman@ag.idaho.gov

Attorneys for the Department of Finance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

In the matter of:

JESSICA ANN MARSHALL,

Respondent.

Docket No. 2024-41-01

**ORDER TO CEASE AND DESIST AND
IMPOSE PENALTIES AND
NOTICE OF THE OPPORTUNITY FOR
A HEARING**

The Director of the Idaho Department of Finance (“Department”), being authorized to administer and enforce the Idaho Bank Act, Idaho Code § 26-101 *et seq.* (the “IBA”) and the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.* (the “IFFPA”), (collectively, the “Acts”) has determined based on the following Findings and Fact and Conclusions of Law, that good cause exists to Order Jessica Ann Marshall (“Respondent”) to immediately **CEASE AND DESIST** from acts, practices, or omissions that violate the Acts.

FINDINGS OF FACT

1. Respondent is a resident of the state of Washington and was previously an employee of Bank of Idaho located at 818 W. Riverside Ave., Suite 120, Spokane, Washington 99201 (the “Bank”).

2. Bank of Idaho is an Idaho state-chartered bank whose deposits are insured by the Federal Deposit Insurance Corporation (“FDIC”). Bank of Idaho is a “bank” as defined by IBA § 26-106(1) and a “financial institution” within the meaning of the IFFPA § 67-2751(4).

3. The Department supervises all Idaho state-chartered banks, including the Bank of Idaho. *See* I.C. § 26-1101. The Department enforces the IBA and IFFPA and their application to employees of Idaho state-chartered banks. *See* I.C. § 26-1115, -1116; I.C. § 67-2754, -2755.

4. During her employment with the Bank, Respondent served as a Branch Manager. As a result of her position, Respondent had significant access to customer accounts and information.

5. Between June 5, 2023, and September 19, 2023, Respondent used her position as Branch Manager to embezzle and willfully misapply funds belonging to and entrusted to the care and custody of the Bank.

6. As Branch Manager, between June 5, 2023, and September 19, 2023, Respondent had access to keys to the bank vault and the ATM for the branch, as well as access to the branch’s electronic systems and accounts.

7. Respondent took cash from the bank vault and ATM, as well as smaller amounts from her cash drawer. Respondent then falsified documentation, including count sheets to reconcile the case, in order to hide her theft and embezzlement, and directed bank employees to sign the falsified count sheet.

8. Respondent also used her position as Branch Manager to make fraudulent deposit transactions in her spouse's account. These fraudulent transactions reflected that money was being deposited into the account; however, no funds were deposited.

9. When the Bank inquired into these transactions, Respondent accessed the computer of a co-worker and sent an email with false information that appeared to be from a co-worker, in an attempt to conceal her conduct. The Respondent also accessed the computer of another co-worker to delete an email from the Bank inquiring about these transactions, in a further attempt to conceal her conduct.

10. Between June 2023 and September 2023, Respondent stole and embezzled at least \$345,664.66 in the manner described above.

11. Respondent embezzled or willfully misapplied moneys, funds, and assets belonging to or entrusted to the custody and care of the Bank with the intent to injure and defraud the Bank.

12. On September 18, 2023, Respondent's employment with the Bank was terminated.

13. On March 6, 2024, the U.S. Attorney's Office in the U.S. District Court for the Eastern District of Washington indicted/charged a one count criminal violation of 18 U.S. Code § 656 ("Theft, embezzlement, or misapplication by bank officer or employee") against Respondent, in Case No. 2:24-cr-40-TOR (the "Criminal Case").

14. On May 21, 2024, the Respondent pled guilty to one count of Theft and Embezzlement by Bank Employee, in violation of 18 U.S.C. § 656. As part of the Plea Agreement, the Respondent agreed that the Court should order her to pay restitution in the amount of \$345,664.66 to the Bank. The Plea also contains a "Factual Basis and Statement of Facts" that admits the facts contained in paragraphs 4-10 above.

15. The Respondent is currently incarcerated at the Yakima County Department of Corrections starting July 10, 2024. Respondent is sentenced to two years of imprisonment to be followed by 5 years of supervised release.

CONCLUSIONS OF LAW AND VIOLATIONS

16. Based on the foregoing, the Director finds that the Respondent violated the Idaho Bank Act, § 26-101 *et seq.*, and the Idaho Financial Fraud Prevention Act, § 67-2750 *et seq.*

Violation of the IBA and IBA Sanctions

17. Section 26-1114 of the IBA authorizes the Director to issue an order removing an employee of an Idaho state-chartered bank upon a finding that the employee:

- (a) Has been dishonest or reckless in the performance of his official duties;
- (b) Has breached his fiduciary duties to the bank...in a manner that is likely to cause substantial loss to or seriously weaken the bank....;
- (c) Has violated any provision of this title, any state or federal law or regulation pertaining to the business of the bank...or any order of the director of the department of finance;
- (d) Has been convicted of any felony or a misdemeanor involving theft or dishonesty; or
- (e) Has engaged or participated in any unsafe or unsound practice in the conduct of the affairs of the bank....

Idaho Code § 26-1114(1)(a)–(e).

18. An employee who is removed by the Director is prohibited from becoming employed by a bank, bank holding company or trust institution supervised by the Director in Idaho, except as specifically permitted by the Director. Idaho Code § 26-1114(2).

19. Section 26-1115(1) of the IBA provides that the Director may order a bank employee who is violating the IBA to cease and desist from the violation.

20. After notice and the opportunity for a hearing, the Director may also impose a civil money penalty on a bank employee who engages or participates in any unsafe or unsound practice

in connection with a bank or violates any provision of the IBA or rule promulgated thereunder. See Idaho Code § 26-1115(2)–(3).

21. By embezzling funds from the Bank, the Respondent violated numerous provisions of the IBA, including Idaho Code § 26-1208 (false statements or false entry on the books) and Idaho Code § 26-1220 (introducing fraudulent records or data into the computer systems of a bank or altering or destroying records or files in bank’s computer system). Therefore, the Director may issue an administrative order to cease and desist and impose civil money penalties against Respondent, pursuant to Idaho Code § 26-1115.

22. In the Criminal Case, the Respondent has been convicted of a felony involving theft or dishonesty. Therefore, the Director may issue an administrative order removing the Respondent from her employment at the Bank and prohibiting her from employment by any other bank, bank holding company or trust institution supervised by the Director in Idaho, pursuant to Idaho Code § 26-1114.

Violation of the IFFPA and IFFPA Sanctions

23. The Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.*, prohibits persons from engaging in certain types of fraudulent financial activity in the state of Idaho. Idaho Code § 67-2752(1) provides that it is unlawful, for any person, “[t]o employ any device, scheme or artifice to defraud a financial institution.”

24. Respondent’s conduct, as set forth above, constitutes employing a device, scheme or artifice to defraud a financial institution, in violation of Idaho Code § 67-2752(1).

25. Idaho Code § 67-2752(2) provides that it is unlawful, for any person,

To obtain or attempt to obtain money, funds, credits, assets, securities, or other property owned by, or under the custody or control of a financial institution by means of false or fraudulent pretenses, representations, or promises or through the use of any fraudulent device, scheme, artifice, or fraudulent monetary instrument.

26. Respondent's conduct as set forth above constitutes obtaining money, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by false or fraudulent pretenses, representations, or promises or by means of a fraudulent device, scheme, or artifice or through the use of a fraudulent monetary instrument, in violation of Idaho Code § 67-2752(2).

27. Idaho Code § 67-2752(6) provides that it is unlawful, for any person,

While serving as an employee, agent or representative of a financial institution, to obtain or attempt to obtain the money, funds, credits, assets, securities, or other property owned by, held by, or under the custody or control of, the financial institution by means of false or fraudulent pretenses, representations, or promises or by means of any fraudulent device, scheme or artifice, or through the use of a fraudulent monetary instrument.

28. Respondent's conduct as set forth above constitutes obtaining money, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by false or fraudulent pretenses, representations, or promises or by means of a fraudulent device, scheme or artifice, or through the use of a fraudulent monetary instrument, while Respondent served as an employee, agent or representative of a financial institution, in violation of Idaho Code § 67-2752(6).

29. Idaho Code § 67-2755(2)-(3) provides that whenever it appears to the Director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the IFFPA, the Director may Order the person to cease and desist from the violation or attempted violation and, after notice and the opportunity for a hearing, issue the following:

- (a) An order restoring to any financial institution any consideration, funds, or property acquired or transferred in violation of the IFFPA;
- (b) An order that the person violating the IFFPA pay a civil penalty to the Department in an amount not to exceed five thousand dollars (\$5,000) for each violation;

(c) An order that the person violating the IFFPA pay costs which may include an amount representing reasonable attorney's fees and reimbursement for investigative efforts;

(d) An order granting other appropriate remedies.

See also I.C. § 67-2755(4) & (5) (authorizing Director to bring civil enforcement action and obtain various sanctions).

24. Idaho Code § 67-2753 provides that a person who has been convicted of any criminal offense involving dishonesty, breach of trust or fiduciary duty, or money laundering shall not "seek employment with, accept employment by, become employed by, or continue in their employment with an Idaho state chartered or licensed financial institution," except with prior written consent of the Director.

"Financial institution," as used in Idaho Code § 67-2753, is defined in § 67-2751(4) as:

any state or federally chartered bank, savings bank, savings and loan association, thrift institution, holding company, credit union, credit union service organization, "regulated lender" as defined in section 28-41-301, Idaho Code, collection agency licensed under the Idaho collection agency act, mortgage lender, mortgage broker, or loan originator licensed under the Idaho residential mortgage practices act, licensee under the Idaho money transmitters act, escrow agency, or broker-dealer or investment advisor licensed under the Idaho securities act or federal law, or such an institution licensed under the laws of another state, and doing business in Idaho.

ORDER

Having reviewed the foregoing, and good cause being shown therefor, THE DIRECTOR HEREBY FINDS that Respondent has violated the Idaho Bank Act, Idaho Code § 26-101 *et seq.*, and the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2750 *et seq.*, and incorporates and adopts the foregoing.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

Respondent shall CEASE AND DESIST from violations of the Idaho Bank Act and the Idaho Financial Fraud Prevention Act;

Respondent is removed as an employee of the Bank, pursuant to Idaho Code § 26-1114(1) and is subject to the injunction against further employment found in Idaho Code § 26-1114(2);

Pursuant to Idaho Code § 67-2753, it is further ORDERED that Respondent shall not seek or accept employment with, or become employed by, an Idaho chartered or licensed financial institution as defined in Idaho Code § 67-2751(4) without the prior written consent of the Director.

Civil money penalties are ordered in the amount of \$5,000, pursuant to the IBA, Idaho Code § 26-1115(2)-(3), and the IFFPA, Idaho Code § 67-2755(2)-(3), which shall be subordinate to the restitution amounts ordered in the Criminal Case.

This ORDER TO CEASE AND DESIST is effective upon issuance.

IT IS SO ORDERED.

DATED this 9th day of August 2024.



STATE OF IDAHO
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director

NOTICE OF THE OPPORTUNITY FOR A HEARING

The Respondent is HEREBY NOTIFIED that she may appeal from this ORDER. Such appeal must be in writing and submitted to the Department within twenty-eight (28) days of the service date of this order. An appeal is filed when it is received by the Department or postmarked within the time limits provided in this Notice. The request for hearing shall be served via mail or email as follows:

Salvador Cruz
Financial Institutions Bureau Chief
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

Salvador.Cruz@finance.idaho.gov

A copy of the request for an appeal may also be served on the Department's counsel, Amber K. Kauffman, Deputy Attorney General at amber.kauffman@ag.idaho.gov.

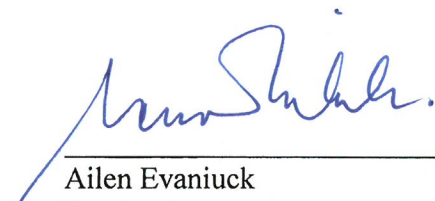
If the Respondent timely appeals in action, the Department will assign the contested case proceeding to the Office of Administrative Hearings pursuant to Idaho Code § 67-5280(2)(a). Subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure of the Attorney General (IDAPA 04.11.01).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of August 2024, I caused a true and correct fully-executed copy of the foregoing ORDER TO CEASE AND DESIST AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

Jessica Ann Marshall
c/o FDC SEATAC
Register Number: 09930-511
2425 South 200th Street
Seattle, WA 98189

- U.S. Mail, Postage Paid
- Certified mail
- Facsimile
- Email:



Ailen Evaniuck
Paralegal