



Failed Bank Review

Proficio Bank | Cottonwood Heights, Utah

February 2018

FBR-18-001



Federal Deposit Insurance Corporation
Office of Inspector General
Office of Program Audits and Evaluations



Date: February 14, 2018

Memorandum To: Doreen R. Eberley
Director, Division of Risk Management Supervision

From: */Signed/*
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Assistant Inspector General for Program Audits and Evaluations

Subject | **Failed Bank Review Memorandum** | Proficio Bank |
Cottonwood Heights, Utah | FBR-18-001

Background

On March 3, 2017, the Utah Department of Financial Institutions (UDFI) closed Proficio Bank and appointed the Federal Deposit Insurance Corporation (FDIC) as receiver. According to the FDIC's Division of Finance and UDFI documentation, the estimated loss to the Deposit Insurance Fund (DIF) was \$11 million. The grounds for appointing the FDIC as receiver were that the bank was unable to meet capital and other requirements of a 2014 formal enforcement action, and operated in an unsafe and unsound manner.¹

Proficio Bank was a \$62 million commercial bank that began operations in 2007, after a series of related merger and restructuring transactions. The bank was a wholly-owned subsidiary of NHB Holdings, Inc. (NHB), a Florida-based bank holding company. The bank had one wholly-owned subsidiary, Proficio Mortgage Ventures (PMV).

Proficio Bank operated out of a single office in Cottonwood Heights, Utah. The bank primarily made business relocation loans and Small Business Administration guaranteed real estate loans. The bank offered commercial deposit accounts to customers that it identified through the Internet. PMV was headquartered in Henderson, Nevada, and originated mortgage loans through mortgage production offices located throughout the United States.

This Memorandum examines whether the subject bank failure warrants an in-depth review.²

¹ Section 8 of the FDI Act grants the FDIC authority to impose formal enforcement actions against individuals and institutions that violate banking laws and regulations.

² When the DIF incurs a loss under \$50 million, Section 38(k) of the Federal Deposit Insurance Act requires the Inspector General of the appropriate federal banking agency to determine the grounds upon which the state or federal banking agency appointed the FDIC as receiver and whether any unusual circumstances exist that might warrant an in-depth review of the loss. To conduct this review, we assessed key documents related to Proficio Bank's failure, including the Division of Risk Management Supervision's *Supervisory History* and the Division of Resolutions and Receiverships' *Failing Bank Case*. This review does not constitute an audit conducted in accordance with Generally Accepted Government Auditing Standards.

Cause of Failure

Proficio's failure resulted from the Board of Directors' inability to effectively oversee Proficio and PMV's operations, high fixed overhead expenses associated with PMV, and a liquidity shortfall due to the bank's heavy reliance on Internet deposits. Proficio Bank's Board exercised weak oversight over PMV and failed to control PMV's activities. PMV did not have sufficient internal controls, adequate supervision over its third-party vendors, or a permanent president. PMV also had high overhead expenses in connection with its branch offices, and its loan origination income did not offset those expenses.

Beginning in 2010, Proficio Bank became less than *Well Capitalized*³ and therefore subject to restrictions in Part 337 of the FDIC's Rules and Regulations (Part 337).⁴ These restrictions required Proficio to seek a waiver from the FDIC before renewing or rolling over existing brokered deposits or accepting new brokered deposits and limited the rates it could offer on all other deposits.⁵ Proficio replaced brokered deposits with Internet deposits known as list serve deposits. Historically, the bank successfully obtained list serve deposits in compliance with Part 337. However, in the fourth quarter of 2016, after the Federal Reserve raised interest rates, depositors required interest rates higher than those allowed by Part 337. Proficio was unable to pay the rates required by depositors, and was unable to otherwise attract deposits sufficient to meet its loan funding commitments in the first quarter of 2017.

FDIC Supervision

Between 2010 and 2016, Proficio Bank was subject to eight examinations, seven of which resulted in overall examination ratings of "4" (deficient) or "5" (critically deficient).⁶ The FDIC required Proficio to provide periodic liquidity monitoring reports beginning in 2010.

The FDIC imposed enforcement actions in 2010 and 2013 to address examiners' concerns regarding Proficio's earnings, capital, and liquidity; the bank's reliance on brokered deposits; and the bank's management of PMV. The FDIC imposed another enforcement action in September 2014, which reiterated concerns raised in the prior actions. Proficio did not comply with the September 2014 enforcement action.

Conclusion

We determined that proceeding with an in-depth review of the loss is not warranted because we did not identify unusual circumstances in connection with the bank's failure.

³ Part 324 of the FDIC's rules and regulations specifies five capital levels for banks ranging from *Well Capitalized* to *Critically Undercapitalized* (Title 12, Code of Federal Regulations, section 324).

⁴ Title 12, Code of Federal Regulations, section 337.6(b).

⁵ Proficio fell below *Adequately Capitalized* in March 2016, and was then prohibited from renewing or rolling over existing brokered deposits and from accepting new brokered deposits.

⁶ Financial institution regulators assign an overall examination rating to banks ranging from 1 through 5, with 1 having the least regulatory concern and 5 having the greatest concern.