



Summary of FDIC OIG Inquiry

Erroneous Notice Filed in Administrative Enforcement Action

At the request of senior leadership at the Federal Deposit Insurance Corporation (FDIC), the Office of Inspector General (OIG) conducted an inquiry into discrepancies in the filing of charges in an administrative enforcement action against a former banker. Specifically, a senior FDIC leader expressed concern that the Notice of Charges (Notice) filed with an Administrative Law Judge (ALJ) was different than the version of the Notice approved by the Case Review Committee (CRC) of the Board of Directors of the FDIC.

We found that the Notice that was actually filed with the ALJ had sought a Civil Money Penalty (Penalty) in an amount greater than the Notice approved by the CRC. Also, the Notice that was actually filed with the ALJ omitted factual allegations (12 paragraphs of material) that were in the previously approved version.

Our inquiry determined that the discrepancies occurred because an FDIC Enforcement Counsel in the Legal Division used an earlier outdated version of the Notice, rather than the version approved by the CRC, when making clerical changes after CRC approval. The errors were not identified by those in the Legal Division and Division of Risk Management Supervision (both at Headquarters and in a Regional Office) who reviewed and issued the document. These errors occurred due to several factors, including a review process that produced several draft versions of the Notice with multiple contributors, a diffusion of responsibility among several individuals, and the introduction of the error toward the end of the review and approval process. We did not identify evidence of intentional acts by the participants.

We found that the omission of 12 paragraphs of factual material from the Notice was identified shortly after it was filed with the ALJ, but the error in the Penalty amount was not identified until after the completion of the case. Upon becoming aware of the omission of factual material, several individuals in the Legal Division and Division of Risk Management Supervision conferred and decided not to correct the erroneous filing or notify the CRC of the error. Despite the review by the Legal Division and Division of Risk Management Supervision, the error in the Penalty amount was not discovered until more than two years after the filing with the ALJ. Although we did not establish that the errors had a material impact on the ultimate outcome of the case, we found that the failure to correct the errors or notify the CRC undermined the role of the CRC and was inconsistent with FDIC delegation authorities and governance.

We provided our Report of Inquiry to FDIC leadership for its review and to consider whether further action is appropriate.