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

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, FINANCIAL INSTITUTIONS )  
BUREAU, )

Docket No. 2007-05-1

Complainant, )

vs. )

**CONSENT ORDER**

BRIAN BALSIGER, )

Respondent. )  
\_\_\_\_\_ )

The Idaho Department of Finance (the "Department"), and Brian Balsiger (Respondent) have agreed to resolve this matter without the necessity of the filing of a formal administrative complaint. Therefore, the Director of the Department deems it appropriate and in the public interest that this Consent Order be entered. Respondent consents to the entry of this Order.

I

**RESPONDENT**

1. Respondent currently resides in Deary, Latah County, Idaho. At all times pertinent hereto, Respondent resided in Benewah County, Idaho.

II

**FINDINGS OF FACT**

2. The acts and practices enumerated herein occurred in Benewah County, Idaho.

3. On September 6, 2000, Respondent was employed by St. Joe Valley Credit Union (Credit Union) in St. Maries, Idaho. The Credit Union is a "financial institution" within the meaning of Idaho Code § 67-2751(4).

4. In January of 2001, Respondent was promoted to Assistant Manager of the Credit Union.

5. On April 16, 2001, the Credit Union gave Respondent a credit card which was issued in Respondent's name (credit card). Respondent and the Credit Union understood that the credit card would be used by Respondent to pay Credit Union expenses.

7. In August, 2001, Respondent was promoted from Assistant Manager to Manager of the Credit Union.

8. During the course of Respondent's employment as Manager of the Credit Union, he was required to submit monthly expenses incurred in the operation of the Credit Union to the Board of Directors (the Board) of the Credit Union for payment approval. One of the expenses

Respondent submitted each month was a sum which purportedly represented the charges Respondent made on the credit card for the preceding month.

9. Each month between May, 2005 and April, 2006, Respondent submitted a credit card expense amount to the Board which was substantially less than the outstanding balance actually owed on the credit card account. At no time during those months did Respondent inform the Board that the credit card expense amount he sought payment approval for did not represent the entire balance owed on the credit card account.

10. On June 29, 2004, Respondent charged \$200.00 on the credit card to St. Maries Oil Company, BP.

11. On June 29, 2004, the Credit Union did not receive any product or service from St. Maries Oil Company, BP which related to the \$200 credit card charge Respondent made to that company.

12. On January 11, 2006, Respondent advanced \$1,000.00 on the loan account of a Credit Union member, G.M.

13. On January 25, 2006, Respondent advanced \$1,000.00 on G.M.'s loan account with the Credit Union.

14. On February 14, 2006, Respondent deposited \$1,000.00 to G.M.'s AmericanWest Bank checking account at AmericanWest's branch office in St. Maries, Idaho.

15. On March 2, 2006, Respondent purportedly advanced \$3,000.00 on G.M.'s loan account with the Credit Union. G.M. denies receiving this sum from Respondent or the Credit

Union.

16. On March 8, 2006, Respondent deposited \$800.00 in G.M.'s AmericanWest-checking account at the AmericanWest Bank branch office in St. Maries, Idaho.

17. On April 3, 2006 examiners from the Department visited the Credit Union's office in St. Maries to conduct an examination of the Credit Union. During the examination, on April 4, 2006, the examiners learned that Respondent's cash drawer was short in the approximate amount of \$1,200.00. The Credit Union's records do not evidence the disposition of the \$1,200.00 shortage in Respondent's cash drawer.

18. Beginning at least in January of 2006 and prior thereto, Respondent posted expenses incurred by the Credit Union to various asset and liability accounts, as opposed to the Credit Union's expense accounts to which those expenses should have been posted.

19. Respondent improperly posted expenses to incorrect accounts for the purpose of hiding the true financial condition of the Credit Union from the Board.

20. As a result of Respondent's actions in posting expenses to incorrect accounts, the Credit Union's records reflected that the Credit Union had net income in the amount of \$18,883.00 as of March 31, 2006.

21. Following the termination of Respondent's services as manager of the Credit Union, accounting adjustments were made to correct Respondent's improper posting of expenses. After proper accounting adjustments were made, the financial condition of the Credit Union as of March 31, 2006 reflected a loss.

22. On April 11, 2006 the Board met with Respondent. At the conclusion of the meeting, the Board terminated Respondent's services as manager of the Credit Union.

23. On April 12, 2006, the Director of the Department issued a Temporary Removal Order which directed the Board to temporarily remove Respondent from his position of manager of the Credit Union.

### III

#### VIOLATIONS OF LAW

24. Based on the foregoing, the Director finds that the Respondent violated the Idaho Financial Fraud Prevention Act, Idaho Code §67-2751, *et. seq.* (the "Act"). In particular, Respondent's conduct violated the Act as follows:

A. As set forth above, Respondent made a \$200 charge on the credit card to St. Maries Oil Company, B.P. on June 29, 2004. The charge did not involve the purchase of a product or service for the Credit Union. Respondent's conduct on June 29, 2004 with respect to the St. Maries Oil Company, B.P. charge constituted employing a device, scheme, or artifice to defraud a financial institution within the meaning of Idaho Code § 67-2752(1). Further, Respondent's conduct constituted obtaining money, funds, credit, or assets owned by or held by a financial institution by means of a fraudulent device, scheme, or artifice, while serving as an employee of a financial institution, within the meaning of Idaho Code § 67-2752(6).

B. As set forth above, the Department's examiners discovered in April of 2006 that Respondent's cash drawer was short in the amount of \$1,200.00. Respondent was an

employee, agent, or representative of a financial institution, within the meaning of Idaho Code §§ 67-2751(4) and 67-2752(6) at the time. The Credit Union's records do not evidence the disposition of the \$1,200.00 cash shortage in Respondent's cash drawer at the time. Respondent's taking of money from his cash drawer constituted obtaining money or funds owned by, held by, or under the control of a financial institution by means of false or fraudulent pretenses or by means of a fraudulent device, scheme, or artifice, within the meaning of Idaho Code § 67-2752(6).

C. During the period of May of 2005 through April of 2006, when Respondent submitted requests for payment of credit card charges which, unbeknownst to the Board, represented only a portion of the outstanding balance due on the credit card, Respondent intended that the Board not discover this fact and led the Board to believe that the charges incurred on the credit card each month were being paid in full. Respondent's actions caused the credit union's records to misrepresent the credit union's true financial condition. Respondent's actions with regard to his failure to disclose the actual monthly credit card charges to the Board constituted the employment of a device, scheme or artifice to defraud a financial institution within the meaning of Idaho Code § 67-2752(1).

D. Respondent's actions in posting expenses to incorrect accounts were intentional and as with his reporting of the monthly credit card expenses to the Board, these actions constituted the employment of a device, scheme or artifice to defraud a financial institution within the meaning of Idaho Code § 67-2752(1).

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E. As a result of Respondent's actions with regard to G.M.'s loan account, the Credit Union has suffered a loss in the amount of \$1,200.00. Based on the foregoing, Respondent, who was an employee, agent, or representative of the Credit Union at the time, obtained the sum of \$1,200.00 from the Credit Union through false or fraudulent pretenses, representations, or promises, or by means of a fraudulent device, scheme, or artifice, in violation of Idaho Code §67-2752(1). Further, Respondent's actions constituted obtaining money or funds owned by, held by, or under the custody of a financial institution by means of false or fraudulent pretenses, representations, or promises or by means of a fraudulent device, scheme, or artifice, in violation of Idaho Code § 67-2752(6).

**REMEDIES**

1. Respondent admits the allegations contained in this Order.
2. As set forth above, the Director finds that the Respondent has violated the Idaho Financial Fraud Prevention Act.
3. The Respondent is hereby ORDERED that he shall not seek employment with, accept employment by, or become employed by an Idaho state chartered or licensed financial institution, based on Respondent's violations of the Act.
4. The Respondent is hereby ORDERED to make restitution to the Credit Union in the amount of \$2,600.00 which represents the consideration, funds, or property which Respondent acquired or transferred from the credit union in violation of the Act. This sum shall be paid to the Department for the benefit of the Credit Union no later than sixty (60) days from the date

this Order is signed by the Director.

5. The Respondent is hereby ORDERED to pay a civil penalty to the Department in the amount of \$5,000.00, based on Respondent's violations of the Act. This sum shall be paid to the Department ~~no later than sixty (60) days~~ <sup>\* Approved J.B.F.</sup> from the date when this Order has been signed by the Director.

6. It is hereby ORDERED that the parties shall assume and pay their respective costs and attorney fees incurred herein.

Brian Balsiger  
Brian Balsiger, Respondent

4-10-07  
Date

IT IS SO ORDERED

DATED this 16<sup>TH</sup> day of APRIL, 2007

Gavin M. Gee  
Gavin M. Gee, Director  
Idaho Department of Finance

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Agreed to by Simple  
B. Jones - 4/13/07

\* I will agree to pay \$600<sup>00</sup> a month starting May 25, 2007, until the \$7,600<sup>00</sup> is paid in full. Brian Balsiger



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 16 day of April, 2007, I served a true and correct copy of the foregoing CONSENT ORDER upon the following by the designated means:

Brian Balsiger  
5749 Hwy 8  
Deary, Idaho 83823

- U.S. Mail, Postage Prepaid
- Certified mail
- Hand delivered
- Facsimile

  
\_\_\_\_\_  
Renea Ridgeway