

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9605 / June 25, 2014

SECURITIES EXCHANGE ACT OF 1934
Release No. 72470 / June 25, 2014

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3559 / June 25, 2014

ADMINISTRATIVE PROCEEDING
File No. 3-15945

In the Matter of

THOMAS A. NEELY, JR.,

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDING PURSUANT TO
SECTION 8A OF THE SECURITIES ACT
OF 1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF 1934**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that a cease-and-desist proceeding be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Thomas A. Neely, Jr. (“Respondent” or “Neely”).

II.

After an investigation, the Division of Enforcement alleges that:

SUMMARY

This proceeding arises from the intentional misconduct of the Respondent while employed by Regions Bank and its parent holding corporation, Regions Financial Corporation (“Regions”). During the quarter ended March 31, 2009, in accordance with Regions’ policies and procedures, personnel within Regions Bank’s Special Asset Department (“SAD”) who reported up to the Respondent, initiated the procedures to place approximately \$168 million of certain commercial loans (the “Loans”) into non-accrual status. In March 2009, the Respondent, arbitrarily and without supporting documentation, took intentional steps to keep the Loans in accrual status. The deliberate misclassification under its policies prevented Regions from appropriately measuring impairment in accordance with Generally Accepted Accounting Principles (“GAAP”). Such

deliberate misconduct by the Respondent to evade existing policies and procedures constituted a fraudulent scheme that rendered Regions' financial statements for the quarter ended March 31, 2009 materially misstated and not in conformity GAAP, and caused a failure by Regions to maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Loans were recorded as necessary to permit the preparation of financial statements in conformity with GAAP.

A. RESPONDENT

1. Thomas A. Neely, Jr., 53, was formerly an Executive Vice President for Regions' Risk Management Credit Division, where he reported to Michael J. Willoughby. Neely also oversaw Regions' Risk Analytics Group and together with Jeffrey C. Kuehr functionally controlled Regions' SAD. Neely's employment with Regions terminated on November 30, 2010.

B. OTHER RELEVANT PERSONS AND ENTITY

2. Jeffrey C. Kuehr, 50, was formerly an Executive Vice President and the head of Regions' SAD. During the relevant period, Kuehr reported to Willoughby who at the time was Regions' Chief Credit Officer ("CCO"). Kuehr's employment with Regions terminated on December 29, 2010.

3. Michael J. Willoughby, 68, was formerly a Senior Executive Vice President and Regions' CCO. As CCO, Willoughby directly reported to Regions' Chief Risk Officer. Willoughby's employment with Regions terminated on November 30, 2010.

4. Regions Financial Corporation is a Delaware financial holding corporation headquartered in Birmingham, Alabama. Regions conducts its banking operations through its subsidiary Regions Bank, which is a member of the Federal Reserve System. Regions' common stock is registered with the Commission pursuant to Section 12(b) of the Securities Act and trades on the New York Stock Exchange under the symbol "RF." As of December 31, 2013, Regions had approximately \$117 billion in assets.

C. REGIONS' TRACKING OF NON-ACCRUAL LOANS

5. Throughout the relevant time-period, including the quarter ended March 31, 2009, Region's tracked and recorded its non-performing loans ("NPLs") as part of both internal performance metrics and its regular financial reporting. NPLs at Regions primarily consisted of loans in a non-accrual status.¹

6. Regions' policies and procedures required that loans be placed on non-accrual status when it was determined that payment of all contractual principal and interest was in doubt, or the loan was past due 90 days or more as to principal and interest, unless the loan was well-secured and in the process of collection. When a loan was placed in non-accrual status, uncollected interest that had accrued during the current year would be reversed, reducing Regions' interest income. In addition, placing a loan on non-accrual status served as a trigger for Regions to

¹ GAAP does not provide guidance regarding placing loans on a non-accrual status.

consider whether that specific loan was impaired and thus how to determine an allowance for loan and lease losses in accordance with GAAP.

7. Regions' policies and procedures provided that the decision to place a loan in non-accrual status was to be made by Relationship Managers ("RMs") within SAD. RMs were responsible for reviewing loan file details, monitoring payments and communicating with borrowers. Under Regions' policies and procedures, RMs had the greatest degree of knowledge within SAD of the relevant loan status and a borrower's ability to make payments of principal and interest.

8. Regions' policies and procedures required that when RMs initiated an action to place a loan on non-accrual status, they would submit a supporting form to their regional manager that showed their conclusion and justified how they determined a loan should be placed in non-accrual status. Regions' policies and procedures then provided for the regional manager to conduct a detailed review of the loan with the responsible RM, after which the approval was granted by the regional manager.

9. Once approval for non-accrual classification was granted by the regional manager, Regions' policies and procedures specified that any subsequent exception to classifying the loan in non-accrual status was required to be fully documented and justified on an approved "Recommendation to Continue Accrual Status" form and a signed "Risk Rating Change" form.

10. Once the RM and the regional manager concluded that a loan should be classified in non-accrual status, it was then listed by SAD managers in the Asset Quality Forecast report ("AQF"). The AQF identified which loans had been approved by the RM and regional manager for being placed on non-accrual status, and it forecasted charge-offs and nonperforming assets for the quarter.

11. The AQF was a principal forecasting tool of SAD that was prepared under the direction of the Respondent. The AQF was discussed weekly at meetings regularly conducted and attended by the Respondent. Neely and Willoughby also regularly utilized the AQF in presentations to Regions' Executive Council, which consisted of, among others, Regions' Chief Executive Officer ("CEO") and Chief Financial Officer ("CFO"), in discussing current trends in NPLs.

12. The SAD, under the control of Kuehr and Neely, had authority over the preparation, content, and dissemination of the AQF. Once a loan recommended for non-accrual status by the RMs and regional managers was included on the AQF, the responsible RMs would complete information required for a processing list and submit it to Regions' Risk Analytics Group. The processing list was designed as an electronic record documenting the specific actions for individual loans to be formally taken by Regions and reflected in Regions' accounting systems. Neely maintained final authority over the processing list. Following Neely's approval, his subordinates would submit the processing list for the identified loans to be recorded as non-accrual in Regions' accounting systems.

D. NEELY'S INTENTIONAL MISCLASSIFICATION OF THE LOANS AND EVASION OF REGIONS' POLICIES AND PROCEDURES DURING THE QUARTER ENDED MARCH 31, 2009

13. As of the beginning of March 2009, Regions' AQF identified NPLs of approximately \$1.6 billion. Neely had discussed with Kuehr and Willoughby the then current AQF and NPLs. The AQF and related NPLs tracking for the quarter were made available to Regions' CEO and CFO.

14. On or about March 13, 2009, Kuehr, Neely and Willoughby were informed by a subordinate that an error had resulted in an underreporting of NPLs by an amount approximating \$200 million, or 13% as reported in the AQF data made available to Regions' CEO and CFO.

15. In a March 17, 2009 email to Willoughby and Kuehr, Neely recommended that a \$6.8 commercial million loan be recorded as an accruing loan despite being recommended for non-accrual status by the assigned RM and regional manager. Based on Neely's recommendation, this loan was not placed on the AQF or a processing list and was improperly classified by Regions as being in accrual status as of March 31, 2009. The failure to document the justification for this action was contrary to Regions' policies and procedures.

16. On or about March 18, 2009, Neely and Willoughby instructed subordinates to take specific actions to remove from the AQF approximately \$150 million of commercial loans that had been recommended by the assigned RMs and regional managers, in accordance with Regions' policies and procedures, as being classified as non-accrual. Neely and Willoughby issued such instructions to their subordinates without any documentation or justification supporting the removal of these loans from the AQF. The failure to provide justification or documentation violated Regions' policies and procedures. As a result, Regions improperly classified \$168 million of the Loans as being in accrual status. Had Regions classified the relevant loans on non-accrual status in accordance with its policies, it would have prompted a determination that the identified loans were impaired in accordance with GAAP. That determination would have resulted in Regions recording a higher allowance for loan and lease losses.

17. On or about March 23, 2009, Willoughby and Neely attended a meeting at which they knowingly provided understated NPL data for the quarter to certain senior executives, including Regions' CFO.

18. In accordance with Regions' policies and procedures, the Loans were required to have been classified in non-accrual status at the quarter ended March 31, 2009. Had Regions classified the relevant loans on non-accrual status in accordance with its policies, it would have prompted a determination that the Loans were impaired in accordance with Statement of Financial Accounting Standard No. 114, Accounting by Creditors for Impairment of a Loan ("SFAS No. 114").²

² See SFAS No. 114, which states that "a loan is impaired when, based on current information and events, it is probable that a creditor will be unable to collect all amounts due according to the contractual terms of the loan agreement" and it requires lenders to measure impairment based on the present value of expected cash flows or an observable fair value of the collateral (i.e., an appraisal) if the loan is collateral dependent.

19. In taking the undocumented and unjustified steps above, Neely intentionally circumvented Regions' policies and procedures regarding the classification of loans into non-accrual status. Neely's intentional scheme directly resulted in the improper classification of the Loans pursuant to Regions' policies, and further prevented Regions' from appropriately determining those Loans were impaired in accordance with GAAP at the quarter ended March 31, 2009.

E. INTENTIONAL MISCLASSIFICATION OF LOANS HELD FOR SALE

20. As part of his responsibilities at Regions, Neely had final approval to accept bids for loan sales. On or about March 16, 2009, Neely contacted a third-party in an effort to sell a \$24.7 million commercial loan (the "Shopped Loan"), which was one of the Loans. A potential buyer immediately responded to Neely's solicitation, offering to buy the Shopped Loan for between 35 and 50 cents-on-the-dollar. Neely responded to the buyer that the offer was not sufficient. Neely responded to the potential buyer that Regions was looking for a price closer to 65 to 70 cents-on-the-dollar for the Shopped Loan, and asked the potential buyer to reconsider the recent offer to Regions.

21. On or about March 20, 2009, the potential buyer indicated that Neely's requested sale price for the Shopped Loan was too high.

22. On or about April 6, 2009, the potential buyer submitted an additional offer to purchase the Shopped Loan for 58.5% of the loan value.

23. On or about June 23, 2009, Regions, at Neely's direction, reclassified the Shopped Loan from loans held for investment to the "Loans Held for Sale" category with a related write-down to fair value.³

24. On or about September 2, 2009, the Shopped Loan was sold to a new buyer for 60% of its loan value.

25. In accordance with both GAAP and Regions' policies and procedures, the Shopped Loan was required to have been reclassified to "Loans Held for Sale," with a corresponding charge to earnings, prior to the close of the quarter ended March 31, 2009 because a decision to sell the loan had been made prior to the quarter end.

E. IMPACT OF NEELY'S INTENTIONAL MISCONDUCT ON REGIONS' FINANCIAL STATEMENTS

26. Regions' system of internal accounting controls was insufficient to provide reasonable assurances that the Loans were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

³ See AICPA Statement of Position 01-6, Accounting by Certain Entities (Including Entities With Trade Receivables) That Lend to or Finance the Activities of Others which states that once a decision has been made to sell loans not previously classified as "held for sale," such loans should be transferred into the "held-for-sale" account and reported at the lower of cost or fair value.

27. Neely intentionally circumvented Regions' existing internal accounting controls through his recording and reporting of the Loans in a manner that was not in accordance with Regions' policies and procedures.

28. Neely's intentional misconduct resulted in Regions' failing to make and keep books, records, and accounts, in reasonable detail, which accurately and fairly reflected the Loans. Further, Regions' accounts were falsified through the intentional misconduct of the Respondents.

29. The books, records and accounts reflecting the Loans were incorporated into Regions' consolidated financial statements for the quarter ended March 31, 2009. As a result of failing to properly account for the Loans in accordance with GAAP, for the quarter ended March 31, 2009, Regions' income before income taxes was overstated by \$16 million, its net income applicable to common shareholders was overstated by approximately \$11 million, and its earnings per common share was overstated by approximately \$.02 per share.

30. Had the Shopped Loan been properly written down to fair value in conformity with GAAP and Regions' policies and procedures, Regions' net income available to common shareholders would have been reduced an additional approximately \$2.9 million beyond the approximate \$11 million overstatement attributable to the Loans.

31. The above misstatements were included in Regions' April 21, 2009 press release included in its Form 8-K dated April 21, 2009 and filed with the Commission on April 21, 2009, in its exhibits to its Form 8-K dated May 20, 2009 and filed with the Commission on May 20, 2009, in its March 31, 2009 Form 10-Q filed May 11, 2009, and two subsequent amendments to its March 31, 2009 Form 10-Q filed on May 13, 2009 and June 9, 2009, in a Form S-4 filed on May 20, 2009 and in three subsequent amendments to this registration statement on May 22, 2009, June 4, 2009, and June 9, 2009, and in a Form S-8 filed on August 28, 2009 (collectively, the "Public Filings").

32. The Public Filings did not include other information as was necessary to ensure that the statements made in the Public Filings were not, under the circumstances, materially misleading.

33. In connection with Regions' financial reporting for the quarter ended March 31, 2009, Neely executed a sub-certification provided to Regions' Controller and Chief Accounting Officer. Neely's knowingly made false statements and/or misleading omissions in the sub-certification when he averred that he was "not aware of ... [a]ny significant deficiencies in the ... internal control over financial reporting ... [or] [a]ny fraud, whether or not material." Neely knew that the sub-certification would be relied on as part of the financial reporting process for the quarter.

F. CONDUCT FOLLOWING THE QUARTER ENDED MARCH 31, 2009

34. On or about May 14, 2009, Neely instructed a subordinate to change the name of an internal SAD document to falsely reflect that RMs, and not Neely as in fact occurred, had recommended that the Loans remain in accrual status at March 31, 2009. Neely took additional actions to conceal his prior conduct regarding the Loans from personnel at Regions as well as Regions Bank's regulators.

G. VIOLATIONS

35. As a result of Neely's intentional scheme to misclassify the Loans as in accrual status and to prevent the Shopped Loan from being classified in "Loans Held for Sale" as of the quarter ended March 31, 2009, Neely violated Section 17(a) of the Securities Act, which prohibits fraudulent conduct in the offer or sale of securities, and Exchange Act Section 10(b) and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

36. As a result of the conduct described above, Neely acted through Regions to make material misrepresentations in the Public Filings, and as a result, Neely violated Sections 20(b) and 10(b) of the Exchange Act, and Rule 10b-5 thereunder.

37. As a result of the conduct described above, Neely aided and abetted and caused Regions' violations of Section 17(a) of the Securities Act and Section 10(b) and Rule 10b-5 thereunder of the Exchange Act.

38. As a result of the conduct described above, Neely caused Regions to violate Section 13(a) of the Exchange Act and Rules 13a-11, 13a-13 and 12b-20 thereunder because its financial statements for the quarter ended March 31, 2009 included in current and quarterly reports, failed to record the Loans and the Shopped Loan in conformity with GAAP.

39. As a result of the conduct described above, Neely caused Regions to violate Section 13(b)(2)(A) of the Exchange Act because it did not keep books, records or accounts that accurately reflected the Loans and the Shopped Loan.

40. As a result of the conduct described above, Neely caused Regions to violate Section 13(b)(2)(B) of the Exchange Act because it failed to maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Loans and the Shopped Loan were recorded as necessary to permit preparation of its financial statements in accordance with GAAP.

41. As a result of the conduct described above, Neely violated Section 13(b)(5) of the Exchange Act when he knowingly circumvented and knowingly falsified Regions' books, records, and accounts related to the Loans and the Shopped Loan.

42. As a result of the conduct described above, Neely violated Rule 13b2-1 of the Exchange Act by directly or indirectly falsifying or causing to be falsified Regions' books, records and accounts relating to the Loans and the Shopped Loan which were subject to Section 13(b)(2)(A) of the Exchange Act.

43. As a result of the conduct described above, Neely violated Rule 13b2-2 of the Exchange Act when he directly or indirectly made or caused to be made materially false or misleading statements, or omitted to state material facts necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to accountants in connection with the preparation or filing of documents and reports which were required to be filed with the Commission.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it appropriate that a cease-and-desist proceeding be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act Respondent should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, including committing or causing any such violations directly or indirectly through or by means of any other person, as prohibited by Section 20(b) of the Exchange Act, Sections 13(a), 13(b)(2)(A), 13(b)(2)(B), and 13(b)(5) of the Exchange Act and Rules 12b-20, 13a-11, 13a-13, 13b2-1, and 13b2-2 thereunder, whether Respondent should be ordered to pay a civil penalty pursuant to Section 8A(g) of the Securities Act and Section 21B(a) of the Exchange Act, and whether pursuant to Section 21C(f) of the Exchange Act, Respondent should be prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Jill M. Peterson
Assistant Secretary