

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 78896 / September 21, 2016

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 3804 / September 21, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17561

In the Matter of

**PARK NATIONAL
CORPORATION,**

Respondent.

**ORDER INSTITUTING CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTION 21C OF THE SECURITIES
EXCHANGE ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A CEASE-
AND-DESIST ORDER AND CIVIL
PENALTIES**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Park National Corporation (“PRK,” “Respondent” or the “Company”).

II.

In anticipation of the institution of these proceedings, PRK has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over PRK and the subject matter of these proceedings, which are admitted, PRK consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making

Findings, and Imposing a Cease-and-Desist Order and Civil Penalties (“Order”), as set forth below.

III.

On the basis of this Order and PRK’s Offer, the Commission finds¹ that:

Summary

This matter involves PRK’s improper accounting for its Allowance for Loan Losses (“ALLL”) relating to certain impaired loans—the largest of which were construction real estate land and development loans—at its Vision Bank (“Vision”) subsidiary in 2010 and 2011. During 2010 and the first three quarters of 2011, PRK understated its reported ALLL by improperly incorporating into its impairment analyses of problem loans certain cash flows anticipated from guarantors. The anticipated cash flows were incorporated into the impairment calculations even though PRK was in active litigation with most of the guarantors and did not expect to collect amounts due based on the contractually scheduled terms. In addition, PRK’s ALLL was also understated as a result of PRK’s use of improper collateral valuations provided by an outside contractor. The outside contractor, who was not an appraiser, calculated values that were in most instances materially higher than those obtained from professional appraisers. PRK did not know what factors or methodology the contractor used to arrive at the valuations and there was no documentation to support the valuations. PRK’s use of the anticipated guarantor cash flows from litigation and the unsubstantiated collateral valuations was not in accordance with generally accepted accounting principles (“GAAP”). On February 28, 2012, PRK filed restatements to correct the reported ALLL for fiscal year 2010 and the first three quarters of 2011. The restatements reflected an increase of more than \$22 million to PRK’s provision for loan losses and ALLL and a 25% decrease in income before taxes for fiscal year 2010, with additional adjustments to the relevant 2011 quarters.

Accordingly, PRK violated the reporting, books and records and internal accounting controls provisions of the Exchange Act.

Respondent and Related Entity

1. Park National Corporation (NYSE Amex LLC symbol “PRK” or the “Company”) is a bank holding company. As of March 9, 2016, its market capitalization was \$1.35 billion. During the relevant period, PRK primarily operated through two wholly-owned subsidiaries. The recording of ALLL at PRK’s Vision subsidiary formed the basis of the violations cited in this Order.

2. Vision Bank was a PRK subsidiary, and a Florida state-chartered bank with its main office in Panama City, Florida. Vision was a large construction real estate land and development (“L&D”) lender that experienced unprecedented growth in its troubled loan portfolio during the recent

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

banking financial crisis. PRK completed a sale of substantially all of Vision's performing assets on February 16, 2012. Subsequently, PRK moved Vision's troubled assets to a non-bank subsidiary.

Facts

A. Accounting for the Impairment of Specifically Identified Loans

3. Banks identify certain loans to be assessed for individual loan impairment. Often, these are large loans with heightened risk profiles. 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." Accounting Standards Codification ("ASC") 310-10-35-16. When a loan is impaired, the ALLL is increased through a provision for loan losses that is charged to earnings. GAAP further provides that "a creditor shall measure impairment based on the present value of expected future cash flows discounted at the loan's effective interest rate, except that as a practical expedient, a creditor may measure impairment based on a loan's observable market price, or the fair value of the collateral if the loan is a collateral-dependent loan." ASC 310-10-35-22. "If a creditor bases its measure of loan impairment on a present value calculation, the estimates of expected future cash flows shall be the creditor's best estimate based on reasonable and supportable assumptions and projections". ASC 310-10-35-26. Pursuant to ASC 310-10-35-22, PRK used a present value approach, therefore was not availing itself of the practical expedient that allows the creditor to measure loan impairment based on the fair value of collateral.

4. In performing this calculation PRK looked to the value of the underlying collateral and to expected future cash flows from guarantors. To assess the "fair value" of the collateral, PRK was required to assess "the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date." ASC 820-10-35-2. The market approach to determining fair value uses prices and other relevant information generated by market transactions involving identical or comparable assets. ASC 820-10-55-3A. In commercial real estate, recent appraisals performed by an independent and certified real estate appraiser are widely recognized as persuasive evidence (absent actual sale) of fair value. PRK added the anticipated guarantor cash receipts to improper collateral valuations to arrive at the total expected cash flows to be utilized in the present value calculations.

B. Background to Rapid Growth in PRK's Impaired Loans

5. Prior to PRK's March 9, 2007 acquisition of Vision's Florida and Alabama branches, all of PRK's banking operations were in Ohio and surrounding regions. Historically, the Ohio banking operations had produced very low loan losses. However, PRK's 2007 acquisition of Vision introduced a large number of L&D loans to the Company's loan portfolio. These loans were riskier than the type of loans that were predominant in PRK's Ohio-based portfolio, and deteriorated significantly by 2009, partly in response to the banking and financial crisis in the U.S. For the period ended March 31, 2007—the period in which PRK acquired Vision—PRK reported an ALLL of \$79.8 million. By the end of 2007, PRK reported an ALLL of \$87.1 million, of which \$20.1 million was attributed to Vision loans. PRK's ALLL continued to climb in 2008 to \$100 million and in 2009 to \$117 million, as the problem loans at Vision continued to deteriorate.

C. PRK Use of Anticipated Guarantor Cash Flows in Impairment Calculations

6. On April 28, 2009, PRK retained the services of an outside contractor (“Outside Contractor”) to evaluate Vision’s distressed properties collateralizing past due loans and to execute a plan of action to recover value on the properties, including through litigation with guarantors. During the next several years, Outside Contractor functioned as a special assets department for Vision’s troubled loan portfolio, including assisting PRK in realizing value from the distressed properties and the guarantors. Information collected and developed by Outside Contractor regarding guarantor assets and liabilities and collateral valuations was created by Outside Contractor to support decisions related to litigation and collection efforts, but was not intended by Outside Contractor for use in impairment calculations.

7. However, by the end of 2009, PRK had begun to limit impairments on several problem Vision L&D loans by including cash flows PRK thought it could collect from the loan guarantors through litigation. PRK referred to this use of anticipated cash flows from guarantors as “guarantor support.” By year end 2010, PRK’s use of guarantor support in impairment calculations for Vision problem loans had grown significantly. Whereas PRK had relied on close to \$7 million in guarantor support to limit impairments at year end 2009, the number grew to over \$21.5 million by year end 2010.

8. PRK misapplied GAAP by including cash flows from future possible litigation settlements relating to the guarantee agreements that were subject to litigation. Any expected cash flows associated with litigation should not have been included in the impairment measurement for the loan. Regardless, PRK’s assumptions that it would prevail in litigation and that collections would be forthcoming within two years were not reasonable or supportable at the time given a variety of factors. Some of the guarantors were actively defending their claims including by filing cross-suits and drawing the litigation out with various tactics. In many cases, the lawsuits were only recently filed and the litigants were still in discovery, and in at least one instance, the planned law suit had not yet been filed. Further, PRK did not consistently have attorney letters or other reasonable basis on which to support the assumption of litigation success. Because of these uncertainties associated with the litigation, guarantor support did not warrant reduction to the provision for loan losses.

9. Furthermore, even if a positive judgment for PRK were reached, its ability to collect the funds from the guarantor was not reasonable or supportable. The dollar amount of the anticipated cash flows was set, in part, in reliance on outdated personal financial statements (“PFS”) of the guarantors that were often two or more years old. Because the PFS were outdated, and guarantors were no longer cooperating with PRK, there was no way to validate reported liquidity in the PFS. For similar reasons, it was impossible to gauge the full extent of guarantors’ liabilities. Further, attempts to cross-check or validate guarantors’ self-reported property valuations and encumbrances using available public information was not consistently reliable. At the time of its February 2012 restatement, PRK had made recoveries of less than \$10 million on six of the 22 guarantor support loans (representing less than half of the over \$22 million in guarantor support it used in impairment calculations at the end of 2010).

D. PRK begins to Use Outside Contractor Valuations in Impairment Calculations

10. In addition, during 2009, PRK also began to substitute Outside Contractor valuations of the property collateral associated with the problem loans for the valuations indicated by current and previous appraisals. PRK began this practice because it disagreed with the valuations arrived at by the professional appraisals. PRK, however, did not know how Outside Contractor determined collateral valuations or what factors or methodology it used. Outside Contractor valuations were provided to PRK orally, without supporting documentation. In fact, PRK was aware that there were not comparables to support Outside Contractor's collateral valuations. In many instances the orally provided valuations were higher than the valuations from professional appraisers on record. Not surprisingly, the collateral valuations provided orally by Outside Contractor turned out in most instances to be materially larger than the actual collateral values.

11. PRK's use of Outside Contractor's unsupported and undocumented collateral valuations was contrary to GAAP and PRK's disclosed fair value practice, and was inconsistent with PRK's existing internal policies. PRK was required to determine the fair value of the underlying collateral in its impairment analysis. Consistent with GAAP, PRK disclosed in its 2010 annual report that it followed a policy that required it "to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value." The disclosure further defined fair value as "the price that would be received to sell an asset or paid to transfer a liability between market participants at the balance sheet date," expressing a preference firstly for pricing derived from active and observable markets and secondly from observable market data for similar assets in the case of markets that are not active. Because PRK did not know how the Outside Contractor arrived at its valuations and because PRK was aware that Outside Contractor's valuations was often unsupported by available comparables, PRK had no reasonable basis to conclude that Outside Contractor's valuations reflected the pricing that would be determined by orderly transactions between market participants. In addition, while PRK's internal policies related to loan origination required that "[a]ll loans greater than \$250,000 secured by real estate in whole or in part must be appraised by an appraiser acceptable to the corporation and be appropriately certified under current federal and state approved requirements," when it came to PRK's use of Outside Contractor's unsupported and undocumented collateral valuations, PRK lacked corresponding internal policy.

12. At the 2010 year end audit of PRK, PRK's outside auditor requested documentation for Outside Contractor valuations used by PRK in impairment calculations. PRK did not have the requested documentation and Outside Contractor ultimately proved incapable of producing documentation adequate to support the orally provided collateral valuations. As a result, PRK's outside auditor proposed an uncorrected audit adjustment to the Company, and identified a significant deficiency in the Company's internal control over financial reporting related to the measurement of the impairment of loans and the establishment of the carrying amount of other real estate owned. Over the next several months, PRK underwent a process of obtaining updated professional appraisals to replace the collateral valuations provided orally by PRK's Outside Contractor. The updated appraisals ultimately were \$8.1 million less than the valuations provided by Outside Contractor, and caused PRK's outside auditor to revise the previously identified significant deficiency at 2010 year end to a material weakness. The effect of using the inflated collateral value was to reduce the amount of impairment of the problem loans and ultimately to reduce any required provision to ALLL in the relevant period and to reduce the ALLL in

prospective periods.

E. Guarantor Support Questioned

13. In May 2011, Vision's primary bank regulator questioned guarantor support. These questions prompted Vision to re-examine its reliance on guarantor support to reduce the impairment associated with certain of its loans in accordance with ASC 310. By the end of 2010, PRK's carrying value related to guarantor support was close to \$22 million and involved at least 22 L&D loans—the \$22 million represented a third of the nearly \$65 million in carrying value of the 22 Vision L&D loans.

F. PRK's Restatement

14. On February 12, 2012 PRK restated its financial statements for the year ended 2010, and the quarters ended March 31, June 30, and September 30, 2011. The restatements reflected \$22.2 million more impairment than originally reported for the fiscal year ended December 31, 2010 with corresponding decreases in net income before taxes of \$24.8 million (\$99.5 million vs. \$74.7 million) representing a 25% decrease. Restatements for the first three quarters of 2011 reflected corresponding increases in ALLL of 17%, 9 % and 7%, respectively for each period.

Violations

15. As a result of the conduct described above, PRK violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder, which require every issuer of securities registered pursuant to Section 12 of the Exchange Act to file with the Commission accurate periodic reports, including annual reports on Form 10-K and quarterly reports on Form 10-Q, and mandate that the required reports must contain any further material information necessary to make the required statements made in the reports not misleading.

16. As a result of the conduct described above, PRK violated Section 13(b)(2)(A) of the Exchange Act, which requires reporting companies to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

17. As a result of the conduct described above, PRK violated Section 13(b)(2)(B) of the Exchange Act, which requires issuers of securities registered pursuant to Section 12 of the Exchange Act to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in the Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that:

A. PRK cease and desist from committing or causing any violations and any future violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 thereunder.

B. PRK shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of \$500,000 (Five Hundred Thousand Dollars) to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment must be made in one of the following ways:

(1) PRK may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) PRK may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or

(3) PRK may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-
341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

C. Payments by check or money order must be accompanied by a cover letter identifying Park National Corporation as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Scott Friestad, Division of Enforcement, Securities and Exchange Commission, 100 F St., NE, Washington, DC 20549-5010.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, PRK agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of PRK's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, PRK agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against PRK by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Brent J. Fields
Secretary