

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83795 / August 7, 2018

ADMINISTRATIVE PROCEEDING
File No. 3-18625

In the Matter of

AARON R. SMITH,

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**

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 Aaron R. Smith (“Smith” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent 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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent 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 (“Order”), as set forth below.

III.

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

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.

Summary

These proceedings arise out of insider trading by Aaron R. Smith in the securities of Valley Commerce Bancorp (“Valley Commerce”), a publicly-traded Northern California bank. In late April 2016, the Board of Directors of Valley Commerce began evaluating a proposal from CVB Financial Corporation (“CVBF”), a bank holding company, to acquire Valley Commerce at a price that was nearly double its adjusted book value. Soon thereafter, Smith learned about the then-secret acquisition from his father, a member of the Valley Commerce Board. Smith then misappropriated the confidential information he learned from his father by purchasing over 6,000 shares of Valley Commerce stock, worth approximately \$97,000. When Valley Commerce and CVBF publicly announced the deal after market close on September 22, 2016, Valley Commerce’s stock price increased 37% from \$16.55 per share to \$22.72 per share by the close of the next business day. Based on the stock price impact, Smith generated approximately \$41,000 in unrealized gains from his illegal trades.

Respondent

1. Aaron R. Smith, age 43, resides in San Francisco, California. Smith is a senior project manager employed at a non-profit institution in Northern California.

Other Relevant Entities

2. Valley Commerce Bancorp was the holding company and sole shareholder of Valley Business Bank, a Visalia, California-based bank. At all relevant times, Valley Commerce’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was quoted on the Over-the-Counter Market under the symbol “VCBP.”

3. CVB Financial Corporation is a bank holding company headquartered in Ontario, California. At all relevant times, CVBF’s common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was quoted on NASDAQ under the symbol “CVBF.”

Facts

4. At all relevant times, Smith enjoyed a very close personal relationship with his father. Among other things, Smith and his father communicated regularly over the telephone, shared confidential details about their lives, and saw each other in person during weekend trips in Northern California.

5. During the relevant time period, Smith and his father had a history, pattern, or practice of sharing confidences. In the context of this relationship, Smith and his father frequently exchanged intimate and confidential details about their personal and professional lives, relying on each other for support. For instance, Smith’s father confided in Smith about sensitive information about certain family dynamics. At the same time, Smith sought his father’s advice in confidence regarding a

variety of personal topics, including whether he should purchase a home, and where he would be happiest living.

6. Smith's father joined the Board of Directors for Valley Commerce in 2006 and served as a director at all relevant times. In his capacity as a director of Valley Commerce, Smith's father learned that Valley Commerce was seeking to sell itself or merge with another bank in 2015. By April 2016, Smith's father became aware that CVBF, a bank holding company, was seriously considering acquiring Valley Commerce for nearly double its book value, and had submitted a draft letter of intent to acquire the bank. By this time, CVBF and Valley Commerce had also circulated an initial draft of the non-disclosure agreement that both companies would execute in early May. Based on his review of the non-disclosure agreement, Smith's father knew that the potential deal was material nonpublic information, and that he had a duty to refrain from trading while in possession of such information, and a duty to refrain from sharing that information with others who might trade on the information.

7. Soon thereafter, Smith's father had several telephone and in-person conversations with Smith. During these calls and other conversations, Smith learned about the then-secret acquisition from his father. Among other things, Smith's father discussed with Smith the recent, large increase in his work with the Valley Commerce Board due to the pending acquisition. Smith's father expected Smith to keep this information confidential and not trade on any material nonpublic information regarding Valley Commerce

8. At the time, Smith was an inexperienced trader and had never placed a trade greater than \$5,000. However, several years earlier, Smith's grandfather had gifted him shares of a bank stock; when that bank was acquired, the stock increased in value and Smith profited from selling the stock. Thus, Smith understood that a potential acquisition meant that Valley Commerce's stock price might increase.

9. After receiving material nonpublic information about the pending acquisition in confidence, on May 3, 2016, Smith wired \$100,000 into a brokerage account that had been idle for several months and previously had purchased only limited amounts of stock. Smith's \$100,000 originated from a personal savings account he had been using to save for a down payment for a house. This withdrawal was highly unusual because it represented the majority of his entire savings, and because Smith had been actively searching to buy a house at the time. In using nearly all the \$100,000 he wired into the account, Smith misappropriated the highly confidential information he learned about the then-secret acquisition from his father and purchased 6,074 shares.

10. After the close of market on September 22, 2016, Valley Commerce announced that it would be acquired by CVBF in a mixed stock and cash transaction valued at approximately \$70 million, or \$23.43 per share, a 42% premium over Valley Commerce's closing price of \$16.55 per share on the day of the announcement. In response, Valley Commerce stock rose 37% to close at \$22.72 per share the next day. Based on the stock price impact, Smith generated approximately \$41,000 in unrealized gains from his illegal trades. Smith sold all of his Valley Commerce shares in December 2016.

11. Smith knew that his father was a board member of Valley Commerce. At all relevant times, Smith knew, or was reckless in not knowing, that his father expected him to maintain in confidence any material nonpublic information regarding Valley Commerce, including the pending acquisition.

12. Each of Smith's Valley Commerce trades was based on material, non-public information misappropriated from, and in violation of duties of trust and confidence owed to, his father. Smith violated a duty of trust and confidence owed to his father by trading in Valley Commerce securities on the basis of material nonpublic information learned from his father.

Violations

13. As a result of the conduct described above, the Commission finds that Smith violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent cease and desist from committing or causing any violations and any future violations Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent shall, within 14 days of the entry of this Order, pay disgorgement of \$40,578.28 and prejudgment interest of \$3,205.07 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 SEC Rule of Practice 600.

C. Respondent shall, within 14 days of the entry of this Order, pay a civil money penalty in the amount of \$40,578.28 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.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by

Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary