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9  
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
11 OF THE STATE OF CALIFORNIA

12 In the Matter of: ) CONSENT ORDER  
)  
13 THE COMMISSIONER OF FINANCIAL )  
PROTECTION AND INNOVATION, )  
14 )  
15 Complainant, )  
)  
16 v. )  
)  
17 ANTHONY GRESSAK, )  
)  
18 Respondent. )  
19 )  
20 )

21 This Consent Order is entered into between the Commissioner of Financial Protection  
22 and Innovation (Complainant or Commissioner) and Respondent Anthony Gressak (Respondent  
23 or Gressak) and is made with respect to the following facts:

24 I.

25 RECITALS

26 A. The Commissioner is authorized to administer and enforce the provisions of the  
27 California Financial Institutions Law (FIL) (Fin. Code, § 99 *et seq.*).  
28

1 B. At all relevant times, Nano Banc, headquartered at 7755 Irvine Center, 3<sup>rd</sup> Floor,  
2 Irvine, California 92618, was a California chartered bank and member of the Federal Reserve  
3 System.

4 C. In early 2018, Anthony Gressak (Gressak), among several other investors,  
5 purchased Commerce Bank of Temecula Valley and renamed it Nano Banc as of May 1, 2018.

6 D. Nano Banc is a wholly owned subsidiary of Nano Financial Holdings, Inc. (NFH).  
7 Therefore, NFH qualifies as a “bank holding company” pursuant to section 1280. As the holding  
8 company of Nano Banc, NFH has influence over the affairs, policies and controls at Nano Banc.

9 E. At all relevant times, Gressak served on the boards of Nano Banc and Nano  
10 Banc’s holding company, NFH. Allegiant United Holdings (AUH), in turn, is a significant  
11 shareholder of NFH. Presently, Gressak owns 50 percent of AUH.

12 F. On May 21, 2018, Gressak was employed as the Chief Credit Officer (CCO) of  
13 Nano Banc. From April 2021 to late 2021, Gressak was the acting interim Chief Executive  
14 Officer (CEO) of Nano Banc.

15 G. On February 22, 2022, Gressak resigned from his employment at Nano Banc and  
16 from both boards of Nano Banc and NFH. However, through Gressak’s ownership of AUH,  
17 Gressak remains a significant shareholder of Nano Banc’s holding company, NFH.

18 H. In 2020, Gressak approved a monetary transfer to a Nano Banc employee that was  
19 characterized as a salary advance although it inaccurately contained repayment terms typical of a  
20 loan. Gressak neither admits nor denies these findings.

21 I. Financial Code section 585 states in pertinent part:

22 If, after notice and an opportunity to be heard, the commissioner finds that any of  
23 the factors set forth in subdivision (a), any of the factors set forth in subdivision  
24 (b), and any facts set forth in subdivision (c) are true with respect to a subject  
25 person of a subject institution or holding company, the commissioner may issue  
26 an order suspending or removing the subject person from the subject person’s  
27 office, if any, with the subject institution or holding company, and prohibiting the  
28 subject person from participating in any manner in the conduct of the affairs of  
the subject institution or holding company without the approval of the  
commissioner:

## II.

1 **TERMS AND CONDITIONS**

2 1. Purpose. The parties intend to resolve this matter for the purpose of judicial  
3 economy and expediency and without the uncertainty and expense of a hearing or other  
4 litigation.

5 2. Order Prohibiting Participation. The Commissioner pursuant to Financial Code  
6 section 585 hereby orders that Anthony Gressak is prohibited from participating in any manner  
7 in the conduct of the affairs of Nano Banc and/or Nano Financial Holdings, Inc. without first  
8 receiving the approval of the Commissioner (Prohibition Order).

9 3. Procedure to Seek Participation. Should Gressak seek to participate in the  
10 conduct of the affairs of Nano Banc or NFH, Gressak shall first receive such approval from the  
11 Commissioner in writing by emailing or writing to the Commissioner's representative as noted in  
12 paragraph 22. Gressak's sale, disbursement, or divestiture of shares he owns in NFH or in AUH,  
13 or his exercise of shareholder rights in compliance with applicable statutes and regulations, is not  
14 considered participating in the affairs of Nano Banc or NFH.

15 4. Consent to Prohibition Order. Gressak hereby consents to the Prohibition Order  
16 as set forth in paragraph 2.

17 5. Consent Order Coverage. The parties further acknowledge that this Consent Order  
18 is intended to constitute a full, final, and complete resolution of the matter set forth in paragraph  
19 H herein.

20 6. Waiver of Hearing Rights. Gressak acknowledges the Commissioner is ready,  
21 willing, and able to proceed with a hearing on the Prohibition Order on the charges contained in  
22 this Consent Order. Gressak hereby waives the right to any hearings, and to any reconsideration,  
23 appeal, or other right to review which may be afforded pursuant to the FIL, the California  
24 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of  
25 law. Gressak further expressly waives any requirement for the filing of an Accusation pursuant  
26 to Government section 11415.60, subdivision (b). By waiving such rights, Gressak effectively  
27 consents to this Consent Order becoming final.  
28

1           7.     Failure to Comply with Consent Order. Gressak agrees that if he fails to comply  
2 with the terms of this Consent Order, the Commissioner may, in addition to all other available  
3 remedies she may invoke under the FIL, summarily prohibit Gressak from participating in the  
4 affairs of Nano Banc and NFH until Gressak is in compliance. Gressak waives any notice and  
5 hearing rights to contest such Order which may be afforded under the FIL, the California  
6 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of  
7 law in connection therewith.

8           8.     Information Willfully Withheld or Misrepresented. This Consent Order may be  
9 revoked, and the Commissioner may pursue any and all remedies available under law against  
10 Gressak, if the Commissioner discovers that Gressak knowingly or willfully withheld or  
11 misrepresented information used for and relied upon in this Consent Order.

12           9.     Future Actions by Commissioner. If Gressak fails to comply with the terms of the  
13 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise  
14 resolved under this Consent Order. The Commissioner reserves the right to bring any future  
15 actions against Respondent for any and all unknown violations of the FIL.

16           10.    Assisting Other Agencies. Nothing in this Consent Order limits the  
17 Commissioner's ability to assist any other government agency (city, county, state or federal)  
18 with any prosecution, administrative, civil or criminal action brought by that agency against  
19 Gressak or any other person based on any of the activities alleged in this matter or otherwise.

20           11.    No Presumption Against Drafter. Each party acknowledges that it has had the  
21 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the  
22 parties intend no presumption for or against the drafting party will apply in construing any part  
23 of this Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or  
24 corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
25 language of a contract should be interpreted most strongly against the party who caused the  
26 uncertainty to exist.

1           12.    Independent Legal Advice. Each of the parties represents, warrants, and agrees  
2 that it has had the opportunity to receive independent advice from an attorney(s) and/or  
3 representatives with respect to the advisability of executing this Consent Order.

4           13.    Headings. The headings to the paragraphs of this Consent Order are inserted for  
5 convenience only and will not be deemed a part hereof or affect the construction or interpretation  
6 of the provisions hereof.

7           14.    Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
8 interest.

9           15.    Reliance. Each of the parties represents, warrants, and agrees that in executing  
10 this Consent Order, it has relied solely on the statements set forth herein and the advice of its  
11 own legal counsel, if represented. Each of the parties further represents, warrants, and agrees that  
12 in executing this Consent Order it has placed no reliance on any statement, representation, or  
13 promise of any other party, or any other person or entity not expressly set forth herein, or upon  
14 the failure of any party or any other person or entity to make any statement, representation, or  
15 disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any  
16 claim that any party was in any way fraudulently induced to execute this Consent Order; and (2)  
17 to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the  
18 terms of this Consent Order.

19           16.    Waiver, Amendments, and Modifications. No waiver, amendment, or  
20 modification of this Consent Order will be valid or binding unless it is in writing and signed by  
21 each of the parties. The waiver of any provision of this Consent Order will not be deemed a  
22 waiver of any other provision. No waiver by either party of any breach of, or of compliance  
23 with, any condition or provision of this Consent Order by the other party will be considered a  
24 waiver of any other condition or provision or of the same condition or provision at another time.

25           17.    Full Integration. This Consent Order is the final written expression and the  
26 complete and exclusive statement of all the agreements, conditions, promises, representations,  
27 and covenants between the parties with respect to the subject matter hereof, and supersedes all  
28 prior or contemporaneous agreements, negotiations, representations, understandings, and

1 discussions between and among the parties, their respective representatives, and any other person  
2 or entity, with respect to the subject matter covered hereby.

3 18. Governing Law. This Consent Order will be governed by and construed in  
4 accordance with California law. Each of the parties hereto consents to the jurisdiction of such  
5 court and thereby irrevocably waives, to the fullest extent permitted by law, the defense of an  
6 inconvenient forum to the maintenance of such action or proceeding in such court.

7 19. Counterparts. This Consent Order may be executed in one or more separate  
8 counterparts, each of which when so executed, shall be deemed an original. Such counterparts  
9 shall together constitute a single document.

10 20. Effect Upon Future Proceedings. If Gressak applies for any license, permit or  
11 qualification under the Commissioner's current jurisdiction, or are the subject of any future  
12 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall  
13 be admitted for the purpose of such application(s) or enforcement proceeding(s).

14 21. Voluntary Agreement. Gressak hereby enters into this Consent Order voluntarily  
15 and without coercion and acknowledges that no promises, threats, or assurances have been made  
16 by the Commissioner or any officer, or agent thereof, about this Consent Order. The parties each  
17 represent and acknowledge that he, she or it is executing this Consent Order completely  
18 voluntarily and without any duress or undue influence of any kind from any source.

19 22. Notice. Any notice required under this Consent Order shall be provided to each  
20 party at the following addresses:

21 To Respondent Anthony Gressak: Vicki Chou re: Anthony Gressak  
22 Hueston Hennigan LLP  
23 523 West Sixth Street, Suite 400  
24 Los Angeles, CA 90014  
vchou@hueston.com

25 To the Commissioner: Paul Yee, Senior Counsel  
26 Department of Financial Protection and Innovation  
27 One Sansome Street, Suite 600  
28 San Francisco, California 94104-4448  
Paul.Yee@dfpi.ca.gov

1           23.    Signatures. A fax or electronic mail signature shall be deemed the same as an  
2 original signature.

3           24.    Public Record. Gressak hereby acknowledges that the Consent Order is and will  
4 be a matter of public record.

5           25.    Effective Date. This Consent Order shall become final and effective when signed  
6 by all parties and delivered by the Commissioner’s agent via e-mail to Gressak at the following  
7 email address: vchou@hueston.com.

8           26.    Authority to Sign. Each signatory hereto covenants that he/she possesses all  
9 necessary capacity and authority to sign and enter into this Consent Order and undertake the  
10 obligations set forth herein.

11  
12 Dated: September 14, 2022

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



13  
14  
15 By \_\_\_\_\_  
16 MARY ANN SMITH  
17 Deputy Commissioner  
18 Enforcement Division

19 Dated: September 13, 2022

20  
21  
22 By \_\_\_\_\_  
23 ANTHONY GRESSAK