

Section 5-3A-6

Examination of witnesses and production of documents; penalties for false entry or statement; proceedings against former employees.

(a) The superintendent and every examiner acting under the superintendent may administer oaths and may examine under oath any person whose testimony may be required on the examination of any bank, [or any bank holding company](#), on the examination of any affiliate of a bank, or on the examination of any agency of any foreign bank and shall have authority and power to compel the appearance and attendance of any such person or the production of any records and documents of any bank, [any bank holding company](#), any affiliate of a bank, or any agency of a foreign bank for the purpose of any examination and attendance or production may be enforced by order of a circuit court. Production of records and documents or testimony, whether or not made under oath, required by the superintendent on the examination of any bank [or bank holding company](#) shall not constitute a waiver by the bank, [banking holding company](#) or ~~by~~ any director, officer, employee, advisor, consultant, attorney, or accountant of or for the bank, [or bank holding company](#) of any attorney-client privilege or other privilege to which they may be entitled under law.

(b) Any officer, director, agent, or employee of any bank, [any banking holding company](#), any affiliate of any bank, or any agency of any foreign bank, or any affected person, whether one or more, who (1) makes any false entry or omission with intent to mislead in any book, report, or statement of such bank, [bank holding company](#), affiliate of such bank, or agency of such foreign bank or (2) makes a false statement, whether or not made under oath, to the superintendent, an examiner acting under the superintendent, or to any officer of such bank, [bank holding company](#), affiliate of any bank, or agency of any foreign bank with intent to injure or defraud such bank, [bank holding company](#), affiliate, or agency or with the intent to influence in any way the action of the superintendent or an examiner acting under the superintendent, shall be subject to removal and the imposition of civil money penalties by the superintendent when so directed by the Banking Board as provided in this title. An order of removal may prohibit the affected person from participating in the affairs of any Alabama state bank or any holding company that controls an Alabama state bank. Any action of the superintendent or examiner acting under the superintendent taken in reliance upon such false entry, omission, or statement may be rescinded and withdrawn.

(c) In taking an action to prohibit participation by, remove, or impose civil money penalties upon, any officer, director, or employee of any bank, [any bank holding company](#), any affiliate of any bank, or any agency of any foreign bank under this section, the superintendent and Banking Board shall not be required to establish that the bank, [bank holding company](#), affiliate of the bank, or agency of a foreign bank suffered or probably will suffer financial loss and shall not be required to establish that the superintendent or examiner acting under the superintendent was influenced by such false entry, omission, or statement.

(d) The resignation, termination of employment or participation, or separation of any director, officer, or employee of a bank [or bank holding company](#) for any reason whatsoever shall not affect the jurisdiction and authority of the superintendent or the Banking Board to issue any notice or order and proceed under this title against any such person, including, without

limitation, Sections 5-2A-12 and 5-3A-6, if such notice or order is served before the end of the six-year period beginning on the last date that such person ceased to be a director, officer, or employee of any bank or any bank holding company.

(e) For purposes of this section 5-3A-6, a “bank holding company” is a holding company organized under the laws of Alabama or another state in the United States that directly owns a majority of the voting securities of an Alabama state bank.

This act shall become effective immediately following its passage and approval by the Governor, or its otherwise becoming law.

(Acts 1980, No. 80-658, §5-3-6; Act 2007-224, p. 284, §1; Act 2010-548, p. 966, §1.)