

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Removal and Prohibition of:

No. 09F-BD056-BNK

3 **MICHELLE DANETTE CHAVEZ**

CONSENT ORDER

4 5515 West Eva Street
5 Glendale, Arizona 85302

6 Respondent.

7 On February 17, 2009, the Arizona Department of Financial Institutions ("Department")
8 issued a Notice of Hearing alleging that Respondent had violated Arizona law. Wishing to resolve
9 this matter in lieu of an administrative hearing, Respondent does not contest the following Findings
10 of Fact and Conclusions of Law, and consents to entry of the following Order.

11 FINDINGS OF FACT

12 1. Respondent Michelle Danette Chavez ("Ms. Chavez") was employed by Desert Hills
13 Bank ("DHB") as an operations manager, at all times material to this proceeding.

14 2. DHB is licensed by the Department as a state-chartered bank, license number
15 0903438.

16 3. On April 27, 2006, an Information was filed against Ms. Chavez in *State of Arizona v.*
17 *Michelle Chavez*, United States District Court of Arizona: No. CR06-432-PHX-NVW, charging
18 Michelle Chavez with knowingly executing or attempting to execute "a scheme or artifice to obtain
19 money or property from Desert Hills Bank, by making materially false statements, with the intent to
20 defraud Desert Hills Bank, a federally insured financial institution."

21 4. On October 16, 2006, the Court accepted a Plea Agreement entered into by Ms.
22 Chavez, whereby Ms. Chavez plead guilty to one (1) count of Bank Fraud, in violation of Title 18,
23 United States Code, Section 1344, a Felony offense.

24 5. Ms. Chavez's Plea Agreement states the following:

25 a. On or about July of 2002, and continuing until October of 2004, Ms. Chavez
26 used her position as an operations manger at DHB, a federally insured

1 financial institution, to create nineteen (19) fictitious bank accounts. Without
2 obtaining the proper approvals, Ms. Chavez applied overdraft protection to the
3 nineteen fictitious bank accounts. Ms. Chavez established, controlled, and
4 effected online transactions for each of the fictitious accounts at DHB by
5 accessing the bank's paperless block entry program from her computer work
6 station. Ms. Chavez would transfer funds drawn from the lines of credit
7 attached to the fictitious accounts and deposit the funds in her personal bank
8 account at DHB. Ms. Chavez then withdrew the funds for her personal use;

9 b. One such account was in the name of Sharon K., which Ms. Chavez opened
10 on July 8, 2002. Ms. Chavez subsequently transferred \$1,420.00 on July 10,
11 2002, from the line of credit on this account to her personal account at DHB.
12 On August 7, 2002, Ms. Chavez used the bank's general ledger account to
13 reverse \$150.00 in check charges on this account; and

14 c. Ms. Chavez transferred a total of \$101,722.99 from the fictitious accounts to
15 her personal account. On twenty-eight (28) occasions, Ms. Chavez used funds
16 from the general ledger account of DHB to reverse charges on the fictitious
17 accounts. Ms. Chavez reversed a total of \$4,007.66 in fees applied to the
18 fictitious accounts. The scheme resulted in a total loss of \$105,929.99 to
19 DHB.

20 6. Ms. Chavez's Plea Agreement further stipulates that, "without the prior written
21 consent of the FDIC and the appropriate Federal financial institutions regulatory agency, as that term
22 is defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act (FDI Act), she is prohibited
23 from: (a) participating in any manner in the conduct of the affairs of any financial institution or
24 organization enumerated in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A)..."

25 7. On October 27, 2006, the Court issued a Judgment that adjudicated Ms. Chavez guilty
26 of violating Title 18, U.S.C. § 1344, Bank Fraud, a Class B Felony offense, as charged in the

1 Information. The Court committed Ms. Chavez to the custody of the Bureau of Prisons for a term of
2 ten (10) months, consisting of five (5) months of imprisonment and five (5) months home
3 confinement with electronic monitoring while on supervised release. Upon release from
4 imprisonment, Ms. Chavez was to be placed on supervised release for a term of five (5) years. In
5 addition, the Judgment prohibited Ms. Chavez from participating in any manner in the conduct of the
6 affairs of any financial institution, business, or organization, and ordered Ms. Chavez to sign an
7 FDIC Stipulation and Consent to the Issuance of an Order of Prohibition from Further Participation
8 in case number FDIC-05-058e, *In the Matter of Michelle D. Chavez, individually and as an*
9 *institution-affiliated party of Desert Hills Bank, Phoenix, Arizona.*

10 8. On or about November 6, 2006, Michelle D. Chavez entered into a Stipulation and
11 Consent To The Issuance Of An Order Of Prohibition From Further Participation in case number
12 FDIC-05-058e, *In the Matter of Michelle D. Chavez, individually, and as an institution-affiliated*
13 *party of Desert Hills Bank, Phoenix, Arizona.*

14 9. On or about December 14, 2006, an Order Of Prohibition From Further Participation
15 was issued in case number FDIC-05-058e, *In the Matter of Michelle D. Chavez, individually, and as*
16 *an institution-affiliated party of Desert Hills Bank, Phoenix, Arizona.*

17 **CONCLUSIONS OF LAW**

18 1. Pursuant to Title 6, Chapter 2, of the Arizona Revised Statutes, the Superintendent
19 has the authority and duty to regulate all persons engaged in the banking business and with the
20 enforcement of statutes, rules, and regulations relating to banks.

21 2. Ms. Chavez's conduct, as set forth above, constitutes acts, omissions, and practices
22 that demonstrate personal dishonesty and unfitness to continue in office or to participate in the
23 conduct of the affairs of any financial institution or enterprise and is grounds for removal and the
24 prohibition of Ms. Chavez from participating in any manner in the conduct of the affairs of any
25 financial institution or enterprise within the meaning of A.R.S. § 6-161(A)(1).

26 3. Ms. Chavez's October 17, 2006, conviction of one (1) count of Bank Fraud in

1 violation of Title 18, United States Code, Section 1344, a Class B Felony offense, constitutes
2 grounds for the removal and the prohibition of Ms. Chavez from participating in any manner in the
3 conduct of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161(A)(4).

4 4. The violations, set forth above, constitute grounds for the Superintendent to order the
5 removal and the prohibition of Ms. Chavez from further participation in any manner as a director,
6 officer, employee, agent, or other person in the conduct of the affair of any financial institution or
7 enterprise pursuant to A.R.S. § 6-161.

8 **ORDER**

9 1. Ms. Chavez shall be prohibited from further participation in any manner in the
10 conduct of the affairs of any financial institution or enterprise, pursuant to A.R.S. § 6-161.

11 2. This Order shall become effective upon service, and shall remain effective and
12 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
13 or set aside.

14 SO ORDERED this 16th day of March, 2009.

15 
16 Felecia A. Rotellini
17 Superintendent of Financial Institutions

18 **CONSENT TO ENTRY OF ORDER**

19 1. Respondent acknowledges that she has been served with a copy of the foregoing
20 Findings of Fact, Conclusions of Law and Order in the above-referenced matter, has read the same,
21 is aware of her right to an administrative hearing in this matter, and has waived the same.

22 2. Respondent admits the jurisdiction of the Superintendent and consents to the entry of
23 the Foregoing Findings of Fact, Conclusions of Law and Order.

24 3. Respondent states that no promise of any kind or nature has been made to induce her
25 to consent to the entry of this Order, and that she has done so voluntarily.

26 4. Respondent agrees to refrain from seeking any future employment with any financial

1 institution or enterprise.

2 5. Respondent acknowledges that the acceptance of this Agreement by the
3 Superintendent is solely to settle this matter and does not preclude the Department, any other agency
4 or officer of this state or subdivision thereof from instituting other proceedings as may be
5 appropriate now or in the future.

6 6. Respondent waives all rights to seek judicial review or otherwise to challenge or
7 contest the validity of this Consent Order.

8 DATED this 6 day of March, 2009.

9
10 By: Michelle Danette Chavez
11 Michelle Danette Chavez
Respondent

12 ORIGINAL of the foregoing filed this 16
13 day of March, 2009, in the office of:

14 Felecia A. Rotellini
15 Superintendent of Financial Institutions
16 Arizona Department of Financial Institutions
ATTN: Susan Longo
2910 N. 44th Street, Suite 310
Phoenix, AZ 85018

17 COPY mailed/delivered same date to:

18 Thomas Shedden, Administrative Law Judge
19 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

20 Erin O. Gallagher, Assistant Attorney General
21 Office of the Attorney General
1275 West Washington
22 Phoenix, AZ 85007

23 Robert D. Charlton, Assistant Superintendent
24 Eric Boldan, Manager, Regulatory Enforcement Unit
Arizona Department of Financial Institutions
2910 N. 44th Street, Suite 310
25 Phoenix, AZ 85018

26

1 AND COPY MAILED SAME DATE by
2 Certified Mail, Return Receipt Requested, to:

3 Michelle Chavez
4 5515 W. Eva St.
5 Glendale, AZ 85302
6 Respondent

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9 403590; PHX-AGN-2008-0356

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