

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

_____)	
In the Matter of)	NOTICE OF INTENTION
)	TO PROHIBIT FROM
)	FURTHER PARTICIPATION,
)	FINDINGS OF FACT,
Cheryl Ann High, individually,)	CONCLUSIONS OF LAW,
and as an institution-affiliated)	AND NOTICE OF HEARING
party of)	
)	
)	
Hudson United Bank)	FDIC-08-291e
Union City, New Jersey, n/k/a)	
TD Bank, N.A., Wilmington, DE)	
)	
(INSURED STATE NONMEMBER BANK))	
_____)	

The Federal Deposit Insurance Corporation ("FDIC") has determined that CHERYL ANN HIGH ("Respondent"), individually, and as an institution-affiliated party of Hudson United Bank, Union City, New Jersey, n/k/a TD Bank, N.A., Wilmington, DE ("Bank"), engaged or participated in unsafe or unsound practices and violations of law; that as a result of such practices the Bank suffered financial loss and Respondent received financial gain; and that the practices demonstrate Respondent's personal dishonesty.

The FDIC, therefore, institutes this proceeding for the purpose of determining whether an appropriate ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("ORDER OF PROHIBITION") should be issued against Respondent pursuant to the provisions of section 8(e) of the Federal Deposit Insurance Act ("Act"), 12

U.S.C. § 1818(e), prohibiting Respondent from further participation in the conduct of the affairs of the Bank and any other insured depository institution or organization listed in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the FDIC and such other appropriate Federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D).

The FDIC hereby issues this NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION pursuant to the provisions of section 8(e) of the Act, 12 U.S.C. § 1818(e), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308, and issues this FINDINGS OF FACT AND CONCLUSIONS OF LAW AND NOTICE OF HEARING pursuant to the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308.¹ In support thereof, the FDIC makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

A. Jurisdiction and Background Information

1. At all times pertinent to the charges herein, the Bank was a corporation existing and doing business under the laws of the State of New Jersey, having its principal place of business at Union City, New Jersey.

¹ The NOTICE OF INTENT TO PROHIBIT FROM FURTHER PARTICIPATION and the FINDINGS OF FACT AND CONCLUSIONS OF LAW AND NOTICE OF HEARING are collectively referred to in this document as the "NOTICE."

2. At all times pertinent to the charges herein, the Bank has been an insured State nonmember bank, as defined in section 3(e) of the Act, 12 U.S.C. § 1813(e), and, as such, is subject to the Act, 12 U.S.C. §§ 1811-1834a, the Rules and Regulations of the FDIC, 12 C.F.R. Chapter III; and the laws of the State of New Jersey

3. At all times pertinent to the charges herein, Respondent was employed by the Bank as a Teller at the Halsey Street branch of the Bank until she was terminated on May 31, 2005.

5. At all times pertinent to the charges herein, the Respondent was an "institution-affiliated party" of the Bank as that term is defined in section 3(u) of the Act, 12 U.S.C. § 1813(u), and for purposes of section 8(e) of the Act, 12 U.S.C. §§ 1818(e).

6. The FDIC is the "appropriate Federal banking agency" with respect to the Bank within the meaning of section 3(q)(3) of the Act, 12 U.S.C. § 1813(q)(3).

7. At all times pertinent to the charges herein, the FDIC maintained jurisdiction over the Bank, the Respondent, and the subject matter of this proceeding.

B. Misconduct

8. Respondent engaged in unsafe and unsound practices and

violations of laws, as described below.

9. As a teller Respondent had access to and control of a teller drawer that contained several thousand dollars in cash on a daily basis.

10. At the end of each work day Respondent was required to perform reconciliations on proof sheets between the cash in her teller drawer and the transactions she had conducted as a teller each day.

11. At various times beginning in 1999 through May 2005 Respondent would hand to another teller checks drawn on her personal account at Hudson United Bank and made payable to "Cash."

12. In exchange for the check the other teller would hand Respondent cash in the amount of the check from moneys belonging to Hudson United Bank and agree to not process Respondent's personal check until Respondent instructed her to do so.

13. Respondent would fail to instruct the other teller to process certain of those checks with Hudson United Bank, resulting in Respondent taking, without authority, cash belonging to Hudson United Bank.

14. At various times beginning in 1999 through May 2005 Respondent took cash belonging to Hudson United Bank from her teller drawer without authority for her own personal benefit.

15. The cash Respondent took from her teller drawer for her

personal benefit would average between \$200 and \$300 per day.

16. Respondent routinely falsified her daily proof sheets to conceal the amount of cash stolen from her teller drawer.

17. As a result of the cash Respondent took from Hudson United Bank, without authority, the bank vault was at times short of cash needed for the Bank's daily operations.

18. In order to conceal such vault shortages, Respondent would falsify bank records.

19. On or about May 27, 2005, the Bank discovered Respondent's wrongdoing and on May 31, 2005, Respondent gave a written statement to the Hudson United Bank wherein she admits to wrongfully taking approximately \$50,000 from her teller drawer during the period 2003 to 2005 and concealing her wrongdoing.

20. Respondent's Bank account statements beginning in 1999 through May 2005 show unexplained deposits into her main account of \$12,075.58 for year 2000; \$20,311.25 for year 2001; \$31,704.57 for year 2002; \$32,912 for year 2003; \$25,807 for year 2004; and \$13,962 through May 27, 2005 (which includes \$2,200 for March 2005, \$3,750 for April 2005 and \$2,320 for May 2005), for a total of \$136,772.40.

21. Respondent's Christmas Club Bank account statements show unexplained deposits into that account of \$60 for year 2001, \$177.04 for year 2002; \$1,745 for year 2003; \$2,000 for year 2004; and \$1,165 for 2005 (which includes \$375 for March 2005

and \$450 for April 2005), for a total of \$5,147.04.

22. On July 21, 2008, Respondent pled guilty to a one-count Information that charged her with embezzlement by a bank employee in violation of U.S.C. §§ 2 and 656 in U. S. District Court in Newark, New Jersey.

23. On July 21, 2008, Respondent admitted to knowingly taking approximately \$100,000 from Hudson United Bank, without authority, for her personal benefit during the time period 2001 through May 2005.

CONCLUSIONS OF LAW

24. Paragraphs 1 through 23 above are realleged and incorporated herein by reference.

25. By means of Respondent's acts, omissions and practices described in paragraphs 8 through 23, Respondent has violated laws within the meaning of section 8(e)(1)(A)(i)(I), 12 U.S.C. § 1818(e)(1)(A)(i)(I).

26. By means of Respondent's acts, omissions, and practices described in paragraphs 8 through 23, Respondent has engaged in unsafe or unsound banking practices in connection with the Bank within the meaning of section 8(e)(1)(A)(ii), 12 U.S.C. § 1818(e)(1)(A)(ii).

27. By means of Respondent's acts, omissions, and practices described in paragraphs 8 through 23, Respondent has received

financial gain totaling \$100,000 within the meaning of section 8(e)(1)(B)(iii), 12 U.S.C. § 1818(e)(1)(B)(iii).

27. By means of Respondent's acts, omissions, and practices described in paragraphs 8 through 23, Hudson United Bank has suffered financial loss within the meaning of section 8(e)(1)(B)(i).

28. Respondent's acts, omissions, and practices as set forth herein demonstrate Respondent's personal dishonesty within the meaning of section 8(e)(1)(C)(i), 12 U.S.C. 1818(e)(1)(C)(i).

**NOTICE OF HEARING ON NOTICE OF INTENTION TO PROHIBIT FROM
FURTHER PARTICIPATION**

29. Notice is hereby given that, if Respondent requests a hearing, the hearing on the NOTICE shall commence at Bayonne, New Jersey, sixty (60) days from the date of receipt of this NOTICE by Respondent, or on such date or at such place as the parties to this action and the Administrative Law Judge assigned to hear this matter may agree, for the purpose of taking evidence on the charges herein specified, in order to determine whether a permanent order should be issued to prohibit Respondent from further participation in the conduct of the affairs of any insured depository institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), without the prior written consent of the FDIC and the appropriate Federal

financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. § 1818(e)(7)(D).

30. The hearing will be public, and in all respects conducted in accordance with the provisions of the Act, 12 U.S.C. §§ 1811-1834a, the Administrative Procedure Act, 5 U.S.C. §§ 551-559, and the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308. The hearing will be held before an Administrative Law Judge appointed by the Office of Financial Institution Adjudication pursuant to 5 U.S.C. § 3105. The exact time and precise location of the hearing will be determined by the Administrative Law Judge.

31. Respondent is hereby directed to file an answer to the NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION within twenty (20) days from the date of service, as provided by section 308.19 of the FDIC's Rules of Practice and Procedure, 12 C.F.R. § 308.19. Failure to answer within the 20 day period shall constitute a waiver of the right to appear and contest the allegations contained in this NOTICE and shall, upon the FDIC's motion, cause the Administrative Law Judge or the FDIC to find the facts in this Notice to be as alleged and to issue an appropriate Order.

32. All documents required to be filed, excluding documents produced in response to a discovery request pursuant to sections 308.25 and 308.26, shall be filed via electronic mail with the

Consumer Protection