

**MEMORANDUM**

**TO:** B.F. Saul, Chief Executive Officer, Chevy Chase Bank

**CC:** The Honorable Representative Maxine Waters  
The Honorable Representative Jim Moran  
Federal Reserve, Docket No. R-1343  
Michelle Singletary, The Washington Post

**FROM:** Katherine C. Tackett

**DATE:** March 30, 2009

**SUBJECT:** Abuse of non sufficient funds fees on point of sale transactions by Chevy Chase Bank; the failure of Chevy Chase Bank to self regulate and act in good faith to protect consumers

---

**I. Purpose of this Memorandum**

The purpose of this memorandum is to: 1. Bring to policy makers and executive leadership's attention the abusive and misleading assessment of non sufficient funds fees by Chevy Chase Bank by sharing our personal experience with Chevy Chase Bank; 2. Express our concern that Chevy Chase Bank is unwilling or unable to self regulate itself, or act in good faith with its customers, as evident by its abusive pursuit of non sufficient fund fees; 3. Request that Chevy Chase Bank return all of the \$420 taken from our bank account in a single week due to its unfair application of non sufficient fund fees; and, 4. Query how Chevy Chase Bank reports information about its customers relating to non sufficient fund fees to other financial services firms and the three credit bureaus.

Please note that this memorandum is unsolicited. The individuals cc'd on it were selected based on the congressional district in which we live, an article we read in the Washington Post, and our best efforts to "google" individuals who might have an interest in this matter.

**II. A Summary of what happened during the week of March 13, 2009, through March 20, 2009, when we were assessed over four hundred dollars in non sufficient fund fees when we used our Chevy Chase Bank debit card and what we are seeking from Chevy Chase Bank.**

My husband and I live in McLean, Virginia. I am a second year law student. My husband works full time to support our family. We are careful with our finances and we stay within our monthly budget. From March 13, 2009, through March 20, 2009, we experienced an incident involving Chevy Chase Bank that has frustrated us immensely, thrown off our budget, and taken over 14 hours of our time in attempts to understand what had occurred with our account.

During the aforementioned week, Chevy Chase Bank assessed four hundred and twenty dollars in non sufficient fund (“NSF”) fees to one of our three Chevy Chase Bank accounts. Apparently, the Chevy Chase Bank debit card we were using was allowing point of sale (“POS”) transactions to clear despite the fact that the account did not have the sufficient funds to cover the charges. With each point of sale transaction, we accrued a thirty-five dollar NSF fee. During this time of accruing fees, we had two other accounts with Chevy Chase Bank containing over five thousand dollars in them. We believed these accounts to be linked to the one account that was assessed the NSF fees. At no point in time did Chevy Chase Bank alert us that we were being assessed these NSF fees.

My husband and I believe the application of these NSF fees is wrong for the following four reasons:

1. We were not informed of, and we did not agree to, a thirty-five dollar NSF fee for attempting to use our debit card when there are not sufficient funds in the

corresponding account. Our understanding would be that one of the following would occur: 1. The transaction would be denied or 2. Money would be drawn from one of our other linked accounts to cover the transaction. When debit cards were first promoted by the banking industry, they were marketed as being “just like cash.” The benefit of using a Chevy Chase Bank debit card was that if there were no cash, the card would be declined.

2. The account that had insufficient funds is linked, at least online, to our other accounts. This led us to believe that the accounts were linked and that money could be drawn from another account to cover any insufficient funds.

3. We did not receive any type of notice when Chevy Chase Bank applied the first thirty-five dollar NSF fee. If we had been notified, we would not have proceeded to swipe our card nine more times to purchase things like a six dollar burrito and a cup of coffee. Chevy Chase Bank should alert the consumer immediately when the debit card, at a POS transaction, accrues a NSF fee because of unavailable funds, especially when several NSF fees begin to accrue within a short period of time.

4. On a separate but related issue, we received a letter from American Express just ten days after this incident indicating that they were reducing our line of credit with them from \$45,700 to \$3,600. We have seven years of near-flawless payments to American Express, a credit score of 782 according to Equifax, and \$3,400 balance on the card (only 5% of our credit line). Although we are not certain, it appears that Chevy Chase Bank may have alerted the credit bureaus of the NSF fees. The actions by American Express do not make sense to us considering our credit and payment history. We expect this will negatively impact our credit score. We are now very concerned that our credit rating will

fall lower than 700, thus reducing our chances of obtaining access to money at optimal rates. If we had been alerted to what was occurring, we obviously would have stopped using the card and taken steps to mitigate and then remedy the situation.

**III. We are a two person family with very good credit.**

I am a second year law school student attending a public interest law school, the University of the District of Columbia David A. Clarke Law School. I have received a full scholarship for my second year of law school. My husband works full time and is diligent about our budget and monthly bills. His credit score is excellent and his most recent credit report showed a perfect payment history.

We are the average young family. We work hard and we are focused on improving our future. We regularly have family budget discussions. We recognize and fully appreciate the importance of paying our bills on time and how that impacts our credit. We are two people who feel as if Chevy Chase completely failed us in alerting us of the problem that was causing the non sufficient fund fees to be charged.

My husband opened his first bank account in 1993 and first credit card in 1995. We cannot remember ever being charged an NSF fee for swiping a debit card. We believed that a debit card would simply decline a POS transaction if the funds were not available in the account. It is ludicrous to allow a person to purchase a six dollar burrito and then be charged thirty-five dollars in addition when Chevy Chase Bank had the ability to make the account holder aware of the account's status. Moreover, the account holders, like ourselves, who have multiple accounts with thousands of dollars in them, should never be assessed fees when we incontrovertibly have funds to cover the charges in other Chevy Chase accounts.

**III. Chevy Chase Bank assessed four hundred and twenty dollars in non sufficient fund fees in one week when we had over five thousand dollars in two other Chevy Chase accounts linked to the account accruing non sufficient funds.**

All of our hard work keeping track of our credit history, making payments on time, sacrificing things needed, seems to have been eroded deleteriously with each swipe of our Chevy Chase debit card two weeks ago. In one week, my husband and I were charged over four hundred dollars of non sufficient fund fees (“NSF”), despite the fact that our other Chevy Chase accounts, linked to the one being charged NSF fees, had a total of over five thousand dollars in them. It is difficult to explain the ramifications of these NSF charges to our daily lives and, even worse, our credit history and credit worthiness.

Currently, we are attempting to find a one-bedroom condominium to purchase. However, with the recent Chevy Chase NSF fees, we have already received a negative letter limiting our once forty thousand dollar credit limit to only three thousand six hundred dollars on one credit card. This particular card, today, has only three thousand and four hundred dollars for a balance, nowhere close to the forty thousand dollar credit limit available for years.

Our immediate concern is that this will negatively affect our credit in such a way as to prevent us from being able to purchase a home. The accrual of NSF fees on POS transactions has far reaching, and perhaps unintended, consequences. It also has an immediate and severe impact on real people struggling to make the right decisions and sacrifices during a time when our economy is doing so poorly.

Lastly, one would think that with two other accounts, there would be a mechanism to allow the low account to withdraw from the other two accounts. One account is a student checking account; the second account is an interest bearing account. The third account receives a bi-monthly direct deposit. It is unfathomable to me that all of the NSF charges continued to accrue on one account despite the five thousand dollars available in two other linked Chevy Chase Bank accounts.

**IV. The process we encountered in contacting Chevy Chase to determine what had happened was confusing, time-consuming, and ultimately, left us frustrated. We do not believe that Chevy Chase Bank has acted in good faith to review our issue and explain when we were told that these NSF fees would accrue on POS transactions.**

After my morning Constitutional Law class, I was supposed to be on my way to my internship. However, I spent an hour and a half contacting three different Chevy Chase Bank representatives to determine how to remedy the immediate situation and also to understand what had happened. First I called the 1-800 Chevy Chase Bank telephone number. The first representative I spoke with said she had limited ability to help me, so I asked for a supervisor. The supervisor was somewhat helpful, but, ultimately, said that I would have to visit a Chevy Chase Bank branch location and speak to the manager who may or may not be able to help. I explained that I could not go to a Chevy Chase Bank branch location and asked if I should attempt making a telephone call instead. The supervisor said that that would be another option if I could not walk into a branch location.

I asked the supervisor to transfer me to the branch that I go into regularly in

Virginia. Unfortunately, she connected me to a completely different location. With the hour becoming later and later, now I had to find the telephone number to the branch with which I was seeking to talk. Eventually, I got the number and called the Chevy Chase Bank branch location I originally wanted to contact.

What proceeded was one of the most bizarre episodes of supposed “customer service” I have ever encountered. The woman I spoke with on March 15, 2009, was rude, difficult to understand, completely unhelpful, condescending, and completely unwilling to help me understand what happened. I attempted, unsuccessfully, to have a conversation with her. I called to request that the numerous NSF fees be refunded. Most importantly, though, I called to understand how our Chevy Chase Bank debit card could be used at POS transactions if there was nothing in the account to cover the charges.

When I called the Chevy Chase Bank branch location, a woman answered the telephone. I asked her if I could please speak to the manager. She asked for my name and I told her. She asked me to hold, and a few moments later, the same woman came back on the telephone. The same person who answered the phone said, “She is not available right now, I am a manager also.” I was not quite sure what to say or think. So, I asked for clarification. I asked, “So are you a manager there?” The woman replied, “yes.” I did not have the time to question her as to why she did not say that she was the manager when I first asked to speak to the manger. I attempted to explain the purpose of my call and how we were charged over four hundred dollars in NSF fees when we use our Chevy Chase Bank debit card. She hardly allowed me to finish my sentence before she interrupted me, telling me there was not much she could do to help me since the fees had already accrued.

Next, the same woman proceeded to tell me that her screens were different than the 1-800 customer service telephone number so that she could not give me accurate information on my account. This was absolutely unbelievable to me. I asked her, “So, you’re saying that you do not have the same access to my accounts as customer service?” She replied with the same line as before, customer service has different screens than she did at the Chevy Chase Bank branch location. Then, her suggestion to me was to call the Chevy Chase 1-800 Customer Service number.

How could the Chevy Chase Bank branch manager, if that is who she really was, not have the access needed to give bank customers current account information? If she was lying then she should not be an employee of Chevy Chase Bank, in my opinion, because she definitely was hurting my attempt to understand what had happened. If that statement is accurate, then Chevy Chase Bank is misleading customers into believing that by going into any Chevy Chase Bank branch location they can have their questions and concerns addressed efficiently and thoroughly. This is no way to help, or to protect, the consumer.

During the conversation with the “manager,” the woman talked over me several times. On at least three occasions, I had to plead with her to allow me to finish my sentence and my thoughts. She flatly said, “we can talk about the same thing for an hour, but we will be in the same place. I cannot help you.” She even lectured me on not being more vigilant about my account status. I could not believe the way she was speaking to me and the indifference in her attitude towards a customer who, at the time of the call, had at least five thousand dollars in accounts there. I ended the call since it was clear that I was getting nowhere. I headed to my internship frustrated, late, and anxious

of the prospect of what more I would have to do just to understand how this had happened.

On March 22, 2009, my husband went into a Chevy Chase Bank branch location. He had an equally, arguably more, frustrating experience with a Chevy Chase Bank branch manager at a different location than the branch I had called. The woman did not speak clearly and she just kept repeating herself. She handed my husband a thirty-five page pamphlet titled, "Rules and Regulations." The pamphlet is thirty-five pages, in ten point font, of Chevy Chase Bank rules. The branch manager told my husband that we had agreed to these terms and conditions when we originally signed up for the Chevy Chase Bank accounts.

After looking through the pamphlet, I found a section titled "Personal Line of Credit Overdraft Protection, Terms and Conditions" on page twenty-nine. After reading the six pages in this section, not once is there mentioned the thirty five dollar NSF fee for POS sales made with a debit card when there are no funds to cover the transaction. Obviously, the branch manager was another person who was completely unhelpful and made the whole process of seeking to understand what happened with our account difficult and frustrating for us. At the end of all our discussions with customer service representatives and managers, we managed to have four of the twelve charges taken off of our account. There were eight remaining NSF fees that have wreaked havoc on our already tight monthly budget.

**V. What can be done to remedy this problem for future consumers?**

There were no emails sent, no text messages, no telephone calls, no letters,

nothing, when we were accruing NSF fees. Chevy Chase Bank should do whatever it takes to inform the account holders immediately if an account does not have the available funds to cover POS transactions. We did receive small slips of paper in the mail, several days *after* the NSF fees had accrued. However, this notice is not adequate to alert the consumer and allow him or her to mitigate or remedy the situation. It is totally unacceptable, in my opinion, for Chevy Chase Bank to believe that mailing a NSF fee notice is sufficient notice for an account holder to do anything in time to mitigate the problem.

I believe this is an affirmative obligation that Chevy Chase Bank can do without adding any undue burdens on the bank. For us, the four hundred plus dollars that are gone from our account equals a car payment or four utility bills. All consumers deserve a fair process whereby one can opt-in to allow our debit card to continue to be used despite the unavailability of funds

**VI. We request urgent action on this issue to protect future consumers from being deluged with damaging fees with far reaching negative consequences on credit reports and, subsequently, credit worthiness.**

On March 20, 2009, the U.S. House of Representatives Committee on Financial Services, chaired by Representative Barney Frank, had a hearing to discuss Federal and State Enforcement of Financial Consumer and Investor Protection Laws. At that hearing, Representative Maxine Waters raised the question of how a person can end up paying over thirty dollars for a latte when the person uses their debit card at a POS when the funds are not available. There needs to be better consumer protection, which begins by informing the debit card user that it is a debit card and is not “like cash.”

It feels like Chevy Chase Bank is intentionally employing price gauging tactics through NSF fees, knowing that its customers have little recourse to dispute these fees. Also, as evidenced by my personal interactions with Chevy Chase Bank staff, there is a lot of work to be done retraining some Chevy Chase Bank employees. These employees should be a part of the solution, not a part of the problem.

In closing, given that Capital One received \$3.56 billion dollars from the federal government and then subsequently purchased an ailing Chevy Chase Bank, our tax dollars are directly supporting this failing institution, it seems wise and critical to self-regulate and act in good faith with your customers. We would appreciate a thorough review of our account to determine what happened. Obviously, we want our money back, but, more importantly, we want to see our tax dollars invested in responsible, reasonable firms. Today, Chevy Chase Bank does not fall into one of the responsible firms worthy of the benefit of millions of federal government aid funded by the tax payers.

Sincerely,

Katherine C. Tackett

[KCTackett@gmail.com](mailto:KCTackett@gmail.com)