

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

In the Matter of

DAVID HARRIS LAVINE

A former Institution-Affiliated Party of

CFG COMMUNITY BANK,
Baltimore, Maryland,
a state-member bank.

Docket No. 18-032-E-I

Order of Prohibition Issued Upon Consent
Pursuant to Sections 8(e) and 8(g) of the
Federal Deposit Insurance Act, as
amended

WHEREAS, the Board of Governors of the Federal Reserve System (the “Board of Governors”), pursuant to sections 8(e) and 8(g) of the Federal Deposit Insurance Act, as amended (the “FDI Act”), 12 U.S.C. §§ 1818(e) and (g), issues this Order of Prohibition (this “Order”) upon the consent of Respondent David Harris Lavine (“Lavine”), a former employee and institution-affiliated party, as defined in sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(b)(3), of CFG Community Bank (the “Bank”), a state member bank;

WHEREAS, on June 5, 2018, the U.S. Department of Justice filed a superseding indictment against Lavine and Charles Lee Tobias (“Tobias”) in the United States District Court for the District of Maryland. *See United States v. Lavine and Tobias*, No. 1:17-cr-00501, Doc. 30 (D. Md. June 5, 2018) (the “Indictment”);

WHEREAS, the Indictment charged Lavine with the following violations of law: (1) conspiracy, with Tobias, to commit tax evasion in violation of 18 U.S.C. § 371; (2) three counts of tax evasion in violation of 26 U.S.C. § 7201; (3) two counts of theft by a bank officer in violation of 18 U.S.C. §§ 656 and 2; and (4) four counts of bank fraud in violation of 18 U.S.C. §

1344;

WHEREAS, on September 19, 2018, Lavine pled guilty to one count of bank fraud in violation of 18 U.S.C. § 1344, and one count of tax evasion in violation of 26 U.S.C. § 7201;

WHEREAS, in his plea agreement, Lavine stipulated facts demonstrating that he diverted from the Bank for his own benefit and that of Tobias: (a) funds from the re-finance of mortgage loans owned by the Bank; (b) refunds of insurance premiums on loans owned by the Bank; (c) loan payoff proceeds owed to the Bank; and (d) engaged in tax evasion by failing to report the income attributable to his conduct;

WHEREAS, Lavine's conduct constituted violations of law or regulation, unsafe or unsound practices, or breaches of fiduciary duty;

WHEREAS, pursuant to the terms of his plea agreement, Lavine must pay restitution to: (a) the Bank in the amount of \$892,541.75, and (b) the Internal Revenue Service in the amount of \$365,228.80;

WHEREAS, Lavine has agreed to the entry of a forfeiture judgment in the amount of \$503,378.87;

WHEREAS, Lavine's plea agreement further provides that:

The Defendant agrees to enter into a Consent Order of Removal and Prohibition with the Board of Governors [] pursuant to 12 U.S.C. § 1818(e)(7) of the [FDI] Act, as amended. The Defendant understands that by virtue of his consent to such an Order, he shall agree not to become or continue serving as an officer, director, employee, or institution-affiliated party, as defined in 12 U.S.C. § 1813(u), or participate in any manner in the conduct of the affairs of any institution or agency specified in 12 U.S.C. § 1818(e)(7)(A), without the prior approval of the appropriate federal financial institution regulatory agency, as defined in 12 U.S.C. § 1818(e)(7)(D); and

WHEREAS, by affixing his signature hereunder, Lavine has consented to the issuance of this Order by the Board of Governors and has agreed to comply with each and every provision of

this Order, and has waived any and all rights he might have pursuant to 12 U.S.C. § 1818, 12 C.F.R. Part 263, or otherwise: (a) to the issuance of a notice of intent to prohibit on any other matter implied or set forth in this Order; (b) to a hearing for the purpose of taking evidence with respect to any matter implied or set forth in this Order; (c) to obtain judicial review of this Order or any provision hereof; and (d) to challenge or contest in any manner the basis, issuance, terms, validity, effectiveness, or enforceability of this Order or any provision hereof.

NOW THEREFORE, before the filing of any notices, or taking of any testimony or adjudication of or finding on any issue of fact or law implied or set forth herein, and solely for the purpose of settling this matter without a formal proceeding being filed and without the necessity for protracted or extended litigation,

IT IS HEREBY ORDERED that:

1. Lavine, without the prior written approval of the Board of Governors and, where necessary pursuant to section 8(e)(7)(B) of the FDI Act, 12 U.S.C. § 1818(e)(7)(B), another Federal financial institutions regulatory agency, is hereby and henceforth prohibited from:

- a. participating in any manner in the conduct of the affairs of any institution or agency specified in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A), including, but not limited to, any insured depository institution or any holding company of an insured depository institution, or any subsidiary of such holding company, or any foreign bank or company to which subsection (a) of 12 U.S.C. § 3106 applies and any subsidiary of such foreign bank or company;
- b. soliciting, procuring, transferring, attempting to transfer, voting or attempting to vote any proxy, consent, or authorization with respect to any

voting rights in any institution described in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A);

- c. violating any voting agreement previously approved by any Federal banking agency; or
- d. voting for a director, or serving or acting as an institution-affiliated party, as defined in sections 3(u) and 8(b)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(b)(3), such as an officer, director or employee, in any institution described in section 8(e)(7)(A) of the FDI Act, 12 U.S.C. § 1818(e)(7)(A).

2. All communications regarding this Order shall be addressed to:

- a. Richard M. Ashton, Esq.
Deputy General Counsel
Patrick M. Bryan, Esq.
Assistant General Counsel
Board of Governors of the Federal Reserve System
20th & C Streets, N.W.
Washington, DC 20551
- b. David H. Lavine

with a copy to:

Richard A. Finci, Esq.
Houlon, Berman, Finci & Levenstein LLC
7850 Walker Drive, Suite 160
Greenbelt, Maryland 20770

3. Any violation of this Order shall separately subject Lavine to appropriate civil or criminal penalties, or both, under sections 8(i) and (j) of the FDI Act, 12 U.S.C §§ 1818(i) and (j).

4. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, or any other Federal or state agency or department, from taking any other action

affecting Lavine; provided, however, that the Board of Governors shall not take any further action against Lavine on any matters concerning or arising from the matters addressed by this Order based upon facts presently known by the Board of Governors. This release and discharge shall not preclude or affect (i) any right of the Board of Governors to determine and ensure compliance with this Order, or (ii) any proceedings brought by the Board of Governors to enforce the terms of this Order.

5. Each provision of this Order shall remain fully effective and enforceable until expressly stayed, modified, terminated, or suspended in writing by the Board of Governors.

By order of the Board of Governors of the Federal Reserve System, effective this 18th day of January, 2019.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

_____/s/
David Harris Lavine

By: _____/s/
Ann E. Misback
Secretary of the Board