

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

In the Matter of

CARMEN L. PEÑA,

A Former Institution-Affiliated Party of

FIRST HORIZON BANK,
Memphis, Tennessee,

a State Member Bank.

Docket No. 22-027-E-I

Order of Prohibition Issued
Upon Consent Pursuant to
Section 8(e) 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(i)(3) of the Federal Deposit Insurance Act, as amended (the “FDI Act”), 12 U.S.C. §§ 1818(e) and 1818(i)(3), issues this Order of Prohibition (“Order”) upon the consent of Respondent Carmen L. Peña (“Peña”), a former employee and institution-affiliated party, as defined in sections 3(u) and 8(i)(3) of the FDI Act, 12 U.S.C. §§ 1813(u) and 1818(i)(3), of First Horizon Bank (“First Horizon” or the “Bank”), a state-member bank;

WHEREAS, on March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (P.L. 116-136, the “CARES Act”) was signed into law, providing emergency financial assistance to individuals, families, and businesses negatively impacted by the COVID-19 pandemic;

WHEREAS, section 1110 of the CARES Act expanded the U.S. Small Business Administration’s (the “SBA”) economic injury disaster loan (“EIDL”) and EIDL grant program to borrowers negatively impacted by the COVID-19 pandemic;

WHEREAS, in order to obtain an EIDL or grant, borrowers were required to submit an application to the SBA and sign a loan authorization agreement under penalty of perjury certifying compliance with all EIDL requirements, providing information, such as average monthly payroll expenses and number of employees, and agreeing that loan proceeds would be used for specifically authorized purposes;

WHEREAS, Peña, during 2020, while employed as a senior relationship banker at the Bank, based in Miami, Florida, applied for and obtained an EIDL of \$91,500 and an EIDL grant of \$10,000 from the SBA based on materially false and fraudulent representations and used the proceeds of the loan and grant for personal and other expenses in violation of the terms of the EIDL and applicable laws and regulations;

WHEREAS, Peña's conduct was contrary to the Bank's internal policies and constituted violations of law or regulation, unsafe or unsound banking practices, or breaches of fiduciary duty;

WHEREAS, Peña obtained a benefit of \$101,500, representing the EIDL and grant proceeds resulting from her misconduct, and she eventually repaid \$92,611 of the EIDL to the SBA;

WHEREAS, by affixing her signature hereunder, Peña 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 she 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 the taking of any testimony or adjudication of or finding on any issue of fact or law herein, and without Peña admitting or denying any allegation made or implied by the Board of Governors in connection herewith, and solely for the purpose of settlement of this matter without a formal proceeding being filed and without the necessity for protracted litigation or extended hearings,

IT IS HEREBY ORDERED that:

1. Peña, 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 Ashton, Esq.
Deputy General Counsel
David Williams, Esq.
Associate General Counsel
Board of Governors of the Federal Reserve System
20th & C Streets, N.W.
Washington, DC 20551

(b) Carmen L. Peña

3. Any violation of this Order shall separately subject Peña 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 Peña; provided, however, that the Board of Governors shall not take any further action against Peña 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 11th day of October, 2022.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

 /s/
Carmen L. Peña

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