

FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

_____)	
In the Matter of)	
)	
CARLOS X. MONTOYA, individually,)	
and as an institution-affiliated party of)	CONSENT ORDER
)	AND ORDER TO PAY
AZTECAMERICA BANK,)	
BERWYN, ILLINOIS)	FDIC-19-0036k
)	FDIC-19-0035b
(Insured State Nonmember Bank, in)	
Receivership))	
)	
RESPONDENT'S NMLS U/I # NA)	
_____)	

Carlos X. Montoya (“Respondent”) and a representative of the Legal Division of the Federal Deposit Insurance Corporation (“FDIC”) executed a Stipulation and Consent to the Issuance of a Consent Order and Order to Pay (“CONSENT AGREEMENT”) dated May 17, 2019, whereby, solely for the purpose of this proceeding for the resolution of disputed matters and without admitting or denying any alleged violations of law, unsafe or unsound practices, and breaches of fiduciary duty, Respondent consented to the issuance of this Consent Order and Order to Pay (“ORDER”) issued pursuant to 12 U.S.C. §§ 1818(b) and 1818(i) and the FDIC’s Rules of Practice and Procedure, 12 C.F.R. Part 308.

The FDIC has determined, and Respondent neither admits nor denies, that:

1. Between June 1, 2012 and May 16, 2014, Respondent served as the President and Chief Executive Officer of AztecAmerica Bank, Berwyn, Illinois (in receivership) (“Bank”), a wholly-owned subsidiary of AztecAmerica Bancorp., Inc. (“Holding Company”).

2. Respondent, as an institution-affiliated party of the Bank, engaged in violations of law, unsafe or unsound practices, and breaches of fiduciary duty by causing the Bank to inject

funds into the Holding Company by proposing and approving payments by the Bank to two Bank employees for the primary purpose of enabling those employees to buy stock in the Holding Company in July and August, 2013. As a result of Respondent's actions, the Bank suffered more than minimal loss.

The FDIC, having determined that the requirements for issuance of an order under 12 U.S.C. § 1818(b) have been satisfied, accepts the CONSENT AGREEMENT and issues the following:

CONSENT ORDER

Respondent is hereby ORDERED to cease and desist and to take affirmative action as follows:

1. The first time, if ever, that Respondent becomes employed by any insured depository institution specified in 12 U.S.C. § 1818(e)(7)(A) or otherwise becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u) following the issuance of this Order, Respondent shall attend a total of forty (40) hours of training in the areas of corporate governance and ethics. Respondent shall attend and complete such training in the time period beginning ninety (90) days before Respondent becomes so employed or otherwise an institution-affiliated party and ending ninety (90) days after Respondent becomes so employed or otherwise an institution-affiliated party.

2. If and whenever Respondent is employed by any insured depository institution specified in 12 U.S.C. § 1818(e)(7)(A) or otherwise becomes an institution-affiliated party within the meaning of 12 U.S.C. § 1813(u), Respondent shall not exercise sole or unilateral authority over any bonus, incentive, or other extraordinary payments to any employee.

3. Prior to accepting any position that would cause Respondent to become an

institution-affiliated party of an insured depository institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide the Regional Director of the FDIC's Chicago Regional Office with fifteen (15) days prior written notice that he has been offered such a position and intends to accept the offer.

4. Prior to accepting any position that would cause Respondent to become an institution-affiliated party of an insured depository institution specified in 12 U.S.C. § 1818(e)(7)(A), Respondent shall provide a copy of this ORDER to: (i) the Chairman of the Board of Directors of the institution; or (ii) a senior management official of the institution, provided that such official has been approved by the FDIC for this purpose.

5. Within ten (10) days of satisfying the requirements of paragraphs 4, Respondent shall provide a written certification of his compliance to the Regional Director, FDIC, Chicago Regional Office, 300 South Riverside Plaza, Suite 1700, Chicago Illinois 60606.

6. If Respondent at any time believes that the provisions of this CONSENT ORDER have been fulfilled, Respondent may request that such Order be terminated by submitting a letter with supporting documentary evidence to the Regional Director of the FDIC's Chicago Regional Office. The FDIC will consider the submission and may request such additional information or documentation as it, in its sole discretion, may deem necessary in order to review the submission. The decision to deny the request and retain this CONSENT ORDER as is, modify it, or terminate it, is at the FDIC's sole discretion.

7. This CONSENT ORDER shall be effective upon its issuance. The provisions of the CONSENT ORDER shall remain effective and enforceable until for a period of five years after execution, except to the extent that any provision has been modified, terminated, suspended or set aside by the FDIC. ³

ORDER TO PAY

1. After taking into account the CONSENT AGREEMENT, the relevant statutory and regulatory factors and such other matters as justice may require, the FDIC accepts the CONSENT AGREEMENT, and it is further ordered that Respondent shall pay a civil money penalty in the amount of TWENTY FIVE THOUSAND DOLLARS (\$25,000).

2. Respondent is prohibited by law and hereby agrees to refrain from seeking or accepting indemnification from any insured depository institution for any civil money penalty assessed and paid in this matter.

3. Nothing herein shall preclude any proceedings brought by the FDIC to enforce the terms of this ORDER TO PAY issued pursuant to this CONSENT AGREEMENT or constitute a waiver of any right, power or authority of the FDIC or any other Federal or state agency or department from taking any other action against the Respondent or any of the Bank's former institution-affiliated parties, as that term is defined in 12 U.S.C. §1813(u).

4. This ORDER TO PAY shall be effective upon its issuance.

Pursuant to delegated authority.

Dated this 9th day of August, 2019.

/s/
Patricia A. Colohan
Associate Director
Division of Risk Management Supervision