



## U.S. Department of Justice

### *United States Attorney Eastern District of Arkansas*

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### **FORMER CHIEF FINANCIAL OFFICER OF AFFILIATED FOODS SOUTHWEST, INC. INDICTED FOR CONSPIRACY AND BANK FRAUD**

**LITTLE ROCK** – Jane W. Duke, United States Attorney for the Eastern District of Arkansas, and Thomas J. Browne, Special Agent in Charge of the Little Rock Field Office of the Federal Bureau of Investigation, announced today the indictment of the former Chief Financial Officer of Affiliated Foods Southwest, Inc. (AFS), Alexander “Lex” Martinez, age 46, of Benton, Arkansas. The three count Indictment, which was returned today by the Grand Jury, charges Martinez with one count of conspiring to commit bank fraud in violation of Title 18, United States Code, Section 1349, one count of aiding and abetting bank fraud by participating in a check kiting scheme, in violation of Title 18, United States Code, Sections 1344 and 2, and one count of aiding and abetting a false statement to a financial institution in violation of Title 18, United States Code, Sections 1014 and 2. This Indictment follows the waiver of indictment and plea of guilty to an Information by John Mills the former President of AFS. On February 18, 2010, Mills pled guilty to aiding and abetting bank fraud by participating in a check kiting scheme, in violation of Title 18, United States Code, Sections 1344 and 2.

In February 2004, Martinez was hired to manage the accounting department at AFS, a privately-held wholesale food distribution company. He was later promoted to Chief Financial Officer, a position he held until AFS ceased operations in July 2009. Prior to ceasing operations, AFS was headquartered in Little Rock and provided products to hundreds of independently-owned grocery stores in Arkansas, Louisiana, Mississippi, Oklahoma, Tennessee, and Texas. AFS was the parent company over various entities, including Consolidated Warehousing, Convenience Store Supply Inc. (CSSI) and Supermarket Investors, Inc (SII). During the relevant time period, AFS had a \$70 million participatory loan with U.S. Bank as the lead lender.

The Indictment alleges that Martinez conspired with Mills to commit bank fraud. The Indictment states that as part of the conspiracy, Martinez and Mills would cause Comparative Sales and Income reports which did not accurately reflect AFS’ trial balance numbers to be created and presented to AFS’ Board of Directors; would cause quarterly consolidated financial statements to be presented to U.S. Bank which did not accurately reflect AFS’ trial balance numbers; would cause false information to be supplied the Board of Directors and ultimately to

U.S. Bank concerning a 2008 transaction purportedly involving the sale of some AFS-owned grocery stores; and would cause non-sufficient checks to be issued from SII and CSSI to AFS on a daily basis. This systematic deposit of non-sufficient checks was a check kiting scheme which formed the basis of the bank fraud charge. The Indictment shows that on an almost daily basis from September 29, 2008 until February 27, 2009, checks were kited from CSSI and SII and deposited into AFS' account. The total amount of checks kited during the scheme exceeded \$11.5 million. Martinez is also charged with providing a false consolidated financial statement to U.S. Bank for determination of whether AFS was meeting its loan covenants.

“When one holds the position of Chief Financial Officer, he is entrusted with the duty of make sound financial decisions for the company,” stated Duke. “The allegations set forth in this Indictment show that the defendant breached that responsibility. His actions had far-reaching implications not only for U.S. Bank, but also for AFS.”

Browne added, “Fraud perpetrated by corporate officials will not be tolerated. The Federal Bureau of Investigation is dedicated to investigating those who use their positions to engage in fraud against financial institutions and other entities and individuals.”

The statutory penalty for each offense is not more than thirty (30) years imprisonment and a fine of up to \$1,000,000.

The investigation was conducted by the Federal Bureau of Investigation. It is being prosecuted by Assistant United States Attorney Karen Whatley.

An indictment contains only allegations. The defendant is presumed innocent unless and until proven guilty.

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