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[¶16,191] Docket No. FDIC-85-232e (4-23-98)

**In the Matter of
VERNON R. HILDEBRAND,
individually and as a director and as
a participant in the conduct of
the affairs of
THE PEOPLES STATE BANK OF NEWTON
, ILLINOIS NEWTON, ILLINOIS
(Insured State Nonmember Bank)
MODIFICATION OF ORDER
OF PROHIBITION FROM
FURTHER PARTICIPATION
FDIC-85-232e**

STATEMENT OF THE CASE

A. Introduction:

The FDIC has received a request from Vernon R. Hildebrand ("Respondent") to modify the Order of Prohibition From Further Participation ("Order of Prohibition") issued against him on June 3, 1986. At the time of his original request, Respondent was seeking to become a loan originator at a specific insured depository institution. Respondent has since requested that he be allowed to serve as a loan originator at any insured depository institution. Under the terms of the modification, as requested by the Respondent, he will have no lending authority, will be supervised by a qualified senior lending officer, and his work will be subject to periodic review by the institution's loan department. The Respondent's duties would be to contact prospective loan applicants, to take applications on forms prescribed by the institution, and to collect documentation required of the loan applicants.

B. Background:

Respondent was president of the Peoples State Bank of Newton, Illinois, Newton, Illinois ("Bank") during part of 1985. As president of the Bank, Respondent was alleged to have signed a letter dated April 15, 1985, addressed to a California entity, stating that the Bank was prepared to issue a \$5,000,000 letter of credit on behalf of an Illinois entity. The purpose of the proposed letter of credit was to guarantee a \$5,000,000 loan being sought by the Illinois entity. Bank files contained virtually no information on the Illinois entity, but 1985 tax returns subsequently obtained by the FDIC showed that the Illinois entity had no apparent means to service a \$5,000,000 debt and was essentially a shell corporation with virtually no income and no assets. The California entity was to use the letter of credit to obtain a loan.

Respondent directed that correspondence regarding the letter of credit be sent to his personal post office box. The existence of the transaction was unknown to the Bank's Board of Directors ("Bank's Board") until May 1, 1985, when a letter arrived at the Bank while the Respondent was on vacation. The Bank's Board took immediate action by terminating the transaction and suspending the Respondent. On July 2, 1985, Respondent was terminated. Respondent then mounted an unsuccessful proxy fight in an attempt to regain control of the Bank.

On August 8, 1985, the FDIC issued a Notice of Intention to Remove From Office and to Prohibit from Further Participation ("Notice") and Respondent was served with that Notice on August 10, 1985. The Respondent entered into a Stipulation and Consent to the Issuance of an Order of Prohibition From Further Participation ("Consent Agreement") dated April 23, 1986. An Order of Prohibition From Further Participation was issued by the FDIC on June 3, 1986.

C. Findings of Fact

The conduct that the Respondent engaged in did not ultimately result in a loss to the Bank, since the transaction was terminated and the Letter of Credit was never issued. Respondent's previous actions did not include an overt effort to amass personal gain under the circumstances.

Respondent has not been involved with the Bank since August 1985. During the interim period, since 1985, he has worked as an insurance salesman and generally concentrated his work efforts in the real estate and insurance industries. In 1988, he formed a Realty Company and purchased an interest in an insurance agency in Newton, Illinois. He subsequently owned a one-half interest in and was a manager of each company. He is certified as a State of Illinois General Real Estate Appraiser and has established an

appraisal business in the area.

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The records of the Illinois Society of Real Estate Appraisers show no complaints having been filed against Respondent for his appraisal activities. Credit bureau records show that Respondent has acceptably handled his personal and business finances over the past several years.

DECISION AND ORDER

The FDIC has reviewed the facts and circumstances leading to the issuance of a Notice of Intention to Prohibit From Further Participation issued against the Respondent on August 10, 1985, which in turn led to the stipulation by the Respondent to the issuance of the Order of Prohibition. In addition, the FDIC has reviewed the Respondent's compliance with the Order of Prohibition and his employment history and activities since the issuance of the Order of Prohibition.

The FDIC has determined, that:

1. Respondent's previous actions did not include an overt effort to amass personal gain, despite the significant concern and potential for losses posed to the Bank.
2. He will not have lending authority.
3. He will not participate in any decisions regarding loan applications or requests.
4. He will not have an ownership interest in any insured depository institution.

In view of all the facts and circumstances in this matter, Respondent's employment as a loan originator by an insured depository institution, in the limited capacities and conditions as set forth herein, would not appear to pose a significant threat to the banking community.

Therefore, it is hereby ORDERED that the Order of Prohibition issued against the Respondent on June 3, 1986, be and hereby is modified as follows:

The Respondent may serve as a loan originator at an insured depository institution, provided:

1. The Respondent shall be covered by the institution's fidelity bond.
2. The Respondent shall have no lending authority and shall be under the direct supervision of a senior lending officer of the institution.
3. Prior to his employment, the Respondent shall disclose to the institution this Modification of Order of Prohibition From Further Participation, the outstanding Order of Prohibition, and the circumstances leading to its issuance.
4. Should the Respondent propose to be employed by an insured depository institution for which the FDIC is not the appropriate Federal banking agency as defined at 12 U.S.C. 1813(q), the Respondent shall first obtain the permission of the appropriate Federal banking agency in accordance with 12 U.S.C. 1818(e)(7)(B)(ii).
5. The Respondent shall inform the Regional Director of the FDIC's Chicago Regional Office and the appropriate state financial institution regulator for insured depository institutions in writing 30 days prior to the undertaking any of the duties or responsibilities related to his employment by an insured depository institution and certify to the Regional Director compliance with the above provisions of this Order.

Except to the extent modified herein, the Order of Prohibition remains in full force and effect until such time as otherwise modified, terminated, suspended, or set aside by the FDIC.

Pursuant to delegated authority.

Dated at Washington, D.C. this 23rd day of April, 1998.