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{{10-31-91 p.C-1314}}

[¶10,305] In the Matter of John N. Maiers, Docket No. FDIC-91-170e (8-14-91).

Respondent prohibited from participating in the conduct of affairs of, or exercising voting rights in, any insured institution without the prior consent of the FDIC.

[.1] Prohibition—Participation in Conduct of Affairs

[.2] Prohibition—Exercise of Voting Rights

In the Matter of
JOHN N. MAIERS,
Individually and as an
Institution-Affiliated
Party of
NICOLLET STATE BANK
NICOLLET, MINNESOTA
(Insured State Nonmember Bank)
ORDER OF PROHIBITION (Insured
State Nonmember Bank)
FROM FURTHER PARTICIPATION

John N. Maiers ("Respondent"), having been advised of his right to a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION ("NOTICE") issued by the Federal Deposit Insurance Corporation ("FDIC") detailing the unsafe or unsound banking practices, and/or breaches of fiduciary duty, demonstrating continuing disregard for safety and soundness alleged to have been committed by Respondent individually and as an institution-affiliated party, in his capacity as director, officer and person participating in the conduct of the affairs of Nicollet State Bank, Nicollet, Minnesota ("Insured Institution"), resulting in substantial financial loss or other damage to the Insured Institution, and having been further advised of his right to a hearing on the alleged charges under section 8(e) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e), and Part 308 of the FDIC's Rules of Practice and Procedures, 12 C.F.R. Part 308, waived those rights and entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("CONSENT AGREEMENT") with a representative of the legal Division of the FDIC, dated April 30, 1991, whereby solely for the purpose of this proceeding and without admitting or denying any unsafe or unsound banking practices, and/or breaches of fiduciary duty, Respondent consented to the issuance of an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("ORDER") by the FDIC.

The FDIC considered the matter and determined it had reason to believe that:

- (a) respondent has engaged or participated in unsafe or unsound banking practices, and/or breaches of his fiduciary duty as a director and officer of the Insured Institution;
- (b) by reason of such practices, and/or breaches of fiduciary duty, the Insured Institution has suffered or will probably suffer substantial financial loss or other damage; and
- (c) such practices, and/or breaches of fiduciary duty demonstrate Respondent's continued disregard for the safety or soundness of the Bank.

The FDIC further determined that such practices, and/or breaches of fiduciary duty demonstrate Respondent's unfitness to serve as an institution-affiliated party of any insured depository institution, as defined in section 3(u) of the Act, 12 U.S.C. § 1813(u). The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER OF PROHIBITION FROM FURTHER PARTICIPATION

1. IT IS HEREBY ORDERED that, except with the prior written consent obtained in accordance with section 8(e)(7)(B) of the Act, 12 U.S.C. § 1818(e)(7)(B), Respondent is prohibited from participating in any manner in the conduct of the affairs of the Insured Institution.

[.1] 2. IT IS FURTHER ORDERED that, except with prior written consent obtained in accordance with

the said section 8(e)(7)(B) of the Act, Respondent shall not continue or commence to hold any office in, or participate in any manner in the conduct of the affairs of, any institution or agency specified in section 8(e)(7)(A) of the Act, 12 U.S.C. § 1818(e)(7)(A), including:

- (a) any insured depository institution, as defined in section 3(c) of the Act, 12 U.S.C. § 1813(c);
- (b) any institution treated as an insured bank under sections 8(b)(3) or 8(b)(4) of the Act, 12 U.S.C. §§ 1818(b)(3) and (4), including, without limitation: (i) any bank holding company; (ii) any subsidiary of a bank holding company other than a bank; (iii) any foreign bank that maintains a branch or agency in a state; (iv) any foreign bank or foreign company controlling a foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under state law; and (v) any company of which any foreign bank or company referred to in items (iii) and (iv) of this paragraph (b) is a subsidiary;
- (c) any institution treated as a savings association under section 8(b)(8) of the Act, 12 U.S.C. § 1818(b)(8), including, without limitation: (i) any holding company of a savings association; (ii) any subsidiary of such a holding company; (iii) any service corporation of a savings association; and (iv) any subsidiary of such service corporation, whether wholly or partly owned;
- (d) any insured credit union under the Federal Credit Union Act;
- (e) any institution chartered under the Farm Credit Act of 1971;
- (f) any appropriate Federal depository institution regulatory agency:
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- (g) the Federal Housing Finance Board and any Federal home loan bank; and
- (h) the Resolution Trust Corporation.

[.2] 3. IT IS FURTHER ORDERED that, except with prior written consent obtained in accordance with the said section 8(e)(7)(B) of the Act, Respondent shall not:

- (a) solicit, procure, transfer, attempt to transfer or to vote any proxy, consent, or authorization with respect to any voting rights in any institution specified in the said section 8(e)(7)(A) of the Act;
- (b) violate any voting agreement previously approved by the appropriate Federal banking agency; or
- (c) vote for a director of any institution specified in the said section 8(e)(7)(A) of the Act, or serve or act as an institution-affiliated party.

This ORDER shall become effective 10 days after the date of its issuance.

The provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provision of this ORDER shall have been modified, terminated, suspended, or set aside by the FDIC.

Dated this 14th day of August, 1991.

Pursuant to delegated authority.