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[¶11,982] **In the Matter of John C. Atwater, The Union State Bank of Everest, Everest, Kansas,**
Docket No. 01-136e (11-8-02).

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

[\[.1\]](#) **Prohibition, Removal or Suspension—Prohibition From—Participation in Conduct of Affairs**

[\[.2\]](#) **Prohibition, Removal or Suspension—Prohibition From—Voting Rights, Exercise of**

**In the Matter of
JOHN C. ATWATER,
individually and as an institution-affiliated party of
THE UNION STATE BANK OF EVEREST
EVEREST, KANSAS
(Insured State Nonmember Bank)
ORDER OF PROHIBITION FROM FURTHER PARTICIPATION**

FDIC-01-136e

John C. Atwater ("Respondent") has been advised of the right to receive a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION ("NOTICE") issued by the Federal Deposit Insurance Corporation ("FDIC"), alleging the violations of law and regulations, and/or unsafe or unsound banking practices, and/or breaches of fiduciary duty for which an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("ORDER") may issue, and has been further advised of the 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 the FDIC Rules of Practice and Procedure, 12 C.F.R. Part 308. Having waived those rights, Respondent entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION ("CONSENT AGREEMENT"), whereby solely for the purpose of this proceeding and without admitting or denying any violations of law and regulations, and/or unsafe or unsound banking practices, and/or breaches of fiduciary duty, Respondent consented to the issuance of an ORDER by the FDIC.

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Upon due consideration, the FDIC determined it had reason to believe that:

1. Respondent has engaged or participated in violations of law and regulations, and/or unsafe or unsound banking practices, and/or breaches of fiduciary duty, as an institution-affiliated party of The Union State Bank of Everest, Everest, Kansas ("Insured Institution").

2. By reason of such violations, and/or practices, and/or breaches of fiduciary duty: (a) the Insured Institution has suffered or will probably suffer financial loss or other damage; (b) the interests of the Insured Institution's depositors have been or could be prejudiced; and/or (c) Respondent has received financial gain or other benefit.

3. Such violations, and/or practices, and/or breaches of fiduciary duty involve personal dishonesty on the part of the Respondent, and/or demonstrate the Respondent's willful and/or continuing disregard for the safety or soundness of the Insured Institution.

The FDIC further determined that such violations, and/or practices and/or breaches of fiduciary duty demonstrate the Respondent's unfitness to serve as a director, officer, person participating in the conduct of the affairs, or as an institution-affiliated party of the Insured Institution, of any other insured depository institution, or of any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. §1818(e)(7)(A).

The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

ORDER OF PROHIBITION FROM FURTHER PARTICIPATION

1. Unless Respondent receives prior written approval of the FDIC and the appropriate Federal financial institutions regulatory agency, as that term is defined in section 8(e)(7)(D) of the Act, 12 U.S.C. §1818(e)(7)(D), Respondent is prohibited from:

(a) participating in any manner in the conduct of the affairs of any financial institution or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. §1818(e)(7)(A);

(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 financial institution enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. §1818(e)(7)(A);

(c) violating any voting agreement previously approved by the appropriate Federal banking agency; or

(d) voting for a director, or serving or acting as an institution-affiliated party.

2. This ORDER will become effective 10 days after its issuance. The provisions of this ORDER will 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.

Pursuant to delegated authority.

Dated at Washington, D.C., this 8th day of November, 2002.