

[¶12,224] In the Matter of Charles W. Rogers, Western Bank, Alamogordo, New Mexico, Docket Nos. 04-020e, 04-021k (6-7-04).

Respondent is 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. Respondent also agrees to pay civil money penalty assessed by the FDIC in the amount of \$1,000.

[.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
CHARLES W. ROGERS
individually, and as an institution-affiliated party of
WESTERN BANK
ALAMOGORDO, NEW MEXICO
(Insured State Nonmember Bank)
ORDER OF PROHIBITION FROM FURTHER PARTICIPATION AND CIVIL MONEY PENALTY**

FDIC-04-020e
FDIC-04-021k

Charles W. Rogers ("Respondent"), has been advised of the right to receive a NOTICE OF INTENTION TO PROHIBIT FROM FURTHER PARTICIPATION AND ASSESSMENT OF CIVIL MONEY PENALTY ("NOTICE") issued by the Federal Deposit Insurance Corporation ("FDIC") detailing the violations, unsafe or unsound banking practices, and/or breaches of fiduciary duty for which an ORDER OF PROHIBITION FROM FURTHER PARTICIPATION AND CIVIL MONEY PENALTY ("ORDER") may issue, and has been further advised of the right to a hearing on the alleged charges under section 8(e) and 8(i)(2) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. §§ 1818(e) and (i)(2), and the FDIC's Rules of Practice and Procedure, 12 C.F.R. Part 308. Having waived those rights, the Respondent entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER OF PROHIBITION FROM FURTHER PARTICIPATION AND CIVIL MONEY PENALTY ("CONSENT AGREEMENT") with a representative of the Legal Division of the FDIC, whereby, solely for the purpose of this proceeding, and without admitting or denying any violations, unsafe or unsound banking practices, and/or any breaches of fiduciary duty, Respondent consented to the issuance of an ORDER by the FDIC.

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

- (a) The Respondent has engaged or participated in violations, unsafe or unsound banking practices, and/or breaches of fiduciary duty as an institution-affiliated party of Western Bank, Alamogordo, New Mexico ("Bank");
- (b) By reason of such violations, practices and/or breaches of fiduciary duty, the Bank has suffered more than a minimal financial loss or other damage, the interests of the Bank's depositors have been prejudiced and/or Respondent received financial gain or other benefit; and
- (c) Such violations, practices and/or breaches of fiduciary duty involves personal dishonesty on the part of the Respondent and/or demonstrates the Respondent's willful and/or continuing disregard for the safety or soundness of the Bank.

The FDIC further determined that such violations, 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 Bank, any other insured depository institution, or any other agency or organization enumerated in section 8(e)(7)(A) of the Act, 12 U.S.C. §1818(e)(7)(A). Furthermore, the FDIC, after taking into account the CONSENT AGREEMENT, the appropriateness of the penalty with respect to the financial resources and good faith of the Respondent, the gravity of the alleged violations by Respondent, the history of previous violations by Respondent, and such other matters as justice may require, the FDIC accepted the CONSENT AGREEMENT and issued the following:

ORDER OF PROHIBITION FROM FURTHER PARTICIPATION

1. Charles W. Rogers is hereby, without the 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), prohibited from:

[.1] (a) participating in any matter 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);

[.2] (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; and

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

2. (a) Charles W. Rogers is hereby assessed a penalty of one-thousand dollars (\$1,000.) payable in certified funds, to the order of the Treasurer of the United States; and

(b) Respondent is further prohibited from seeking or accepting indemnification from any insured depository institution for the civil money penalty assessed and paid in this matter.

3. This ORDER will become effective upon 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 this 7th day of June, 2004.