FEDERAL DEPOSIT INSURANCE CORPORATION

WASHINGTON, D.C.

In the Matter of **SCOTT B. ROSENTHAL, individually and as an institution-affiliated party of** **MID-MISSOURI BANK** **SPRINGFIELD, MISSOURI** **(INSURED STATE NONMEMBER BANK)**	**DECISION AND ORDER CONDITIONALLY MODIFYING ORDER OF PROHIBITION FROM FURTHER PARTICIPATION** **FDIC-12-358e&j** **FDIC-10-084e**

STATEMENT OF THE CASE

INTRODUCTION

On May 7, 2012, Scott B. Rosenthal ("Respondent"), through a letter addressed to the Regional Director of the Kansas City Regional Office of the Federal Deposit Insurance Corporation ("FDIC"), applied to the FDIC for modification of the Order of Prohibition from Further Participation issued against him, FDIC-10-084e ("Order of Prohibition"). Respondent seeks permission to sell certain shares of stock of Southwest Missouri Bancorporation, Carthage, Missouri, a bank holding company ("Southwest"). Respondent's application arises under section 8(e)(7)(B) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(e)(7)(B), and section 8(j) of the Act, 12 U.S.C. § 1818(j).

BACKGROUND

Respondent was the former president and a director of the Joplin, Missouri branch of Mid-Missouri Bank, Springfield, Missouri, until April 2007. The FDIC issued the Order of Prohibition on October 20, 2011, based upon its reasoned belief that Respondent had engaged in certain misconduct at Mid-Missouri Bank. Respondent did not admit or deny any misconduct, but agreed to the issuance of the FDIC's Order of Prohibition.

Respondent's ownership of Southwest shares is unrelated to his conduct at Mid-Missouri Bank. Respondent was employed by Southwest Missouri Bank, Carthage, Missouri (a Southwest subsidiary) prior to his employment at Mid-Missouri Bank.

FINDINGS OF FACT

Respondent does not seek a return to banking. Rather, he requests the FDIC's consent to sell certain shares of Southwest stock he owns, or controls on behalf of family members. Such shares represent less than one percent of the total Southwest shares outstanding. Respondent states in his request that the proceeds of the sale will be used for his children's college expenses, among other things.

As a bank holding company, Southwest is treated as an insured bank for purposes of section 8(e)(7)(A)(ii) of the Act. Respondent's proposed sale of Southwest shares involves his participation in the conduct of the affairs of an institution specified in section 8(e)(7)(A) of the Act and a transfer of voting rights, neither of which is permitted without the FDIC's written consent and modification of the Order of Prohibition.

DECISION AND ORDER

Section 8(e)(6) of the Act, 12 U.S.C. § 1818(e)(6), states that a person who is subject to an order of prohibition may not engage in certain specific activities. Section 8(e)(7)(B) of the Act, 12 U.S.C. § 1818(e)(7)(B), sets out certain exceptions, including:

> (B) EXCEPTIONS IF AGENCY PROVIDES WRITTEN CONSENT—If, on or after the date an order is issued under this subsection which removes or suspends from office any institution-affiliated party or prohibits such party from participating in the conduct of the affairs of an insured depository institution, such party receives the written consent of--
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> (i) the agency that issued such order; and,
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> (ii) the appropriate Federal financial

> institutions regulatory agency of the institution described in any clause of subparagraph (A) with respect to which such party proposes to become an institution-affiliated party,
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> subparagraph (A) shall, to the extent of such consent, cease to apply to such party with respect to the institution described in each written consent.

The FDIC issued the Order of Prohibition and is therefore an "appropriate Federal financial institutions regulatory agency" to consider Respondent's request within the meaning of section 8(e)(7) of the Act. In addition, the Board of Governors of the Federal Reserve System is an "appropriate Federal financial institutions regulatory agency" to consider Respondent's request because his proposed transaction involves a bank holding company, over which it has supervisory authority.

To obtain the FDIC's consent, Respondent must demonstrate: (1) his fitness to participate directly or indirectly in the conduct of the affairs of an insured depository institution; (2) that his participation would not pose a risk to the institution's safety and soundness; and, (3) that his participation would not erode public confidence in the institution. *See* In the Matter of Charles E. Floyd, FDIC

Enforcement Decisions and Orders, ¶ 5177, A-1976 (1992); In the Matter of Frederick M. Pfeiffer, FDIC Enforcement Decisions and Orders, ¶ 5163A, A-1656 (1991); and, Docket No. FDIC-83-153e, FDIC Enforcement Decisions and Orders, ¶ 5117, A-1303 (1988).

Upon review of the record as a whole, the FDIC finds that Respondent has presented sufficient evidence to be granted consent under section 8(e)(7)(B) of the Act to sell the Southwest shares. Based on the foregoing, the FDIC consents in writing to Respondent's request.

It is hereby ORDERED that the Order of Prohibition is conditionally modified to permit Respondent to sell Southwest shares as requested. This limited consent does not constitute the FDIC's consent for the Respondent to engage in any other conduct not specifically authorized by this Decision and Order that may violate the Order of Prohibition or section 8(e)(7)(A) of the Act.

Notwithstanding the foregoing, it is further ORDERED that this ORDER CONDITIONALLY MODIFYING ORDER OF PROHIBITION FROM

FURTHER PARTCIPATION is effective only upon Respondent receiving the prior written approval of the Board of Governors of the Federal Reserve System to sell the Southwest shares as requested.

It is further ORDERED, that all other provisions of the Order of Prohibition shall remain in full force and effect.

Pursuant to delegated authority.

Dated at Washington, D. C., this 22nd day of August, 2012.

/s/
Serena L. Owens
Associate Director
Division of Risk Management Supervision