

**UNITED STATES OF AMERICA
BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.**

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In the Matter of)	
)	
Carl V. Thomas, Eva June Thomas,)	
Stephen P. Thomas, Mary Beth Thomas,)	
Marguerite Thomas, Charles Tomlinson,)	
Herbert Phillips, Lloyd Phillips, R.L. Phillips,)	Docket Nos.
Stanley Phillips, Rhonda Phillips, Scott Ward,)	99-027-B-I (20)-(41)
Angela Ward, Forrest Buckley, James C. Crowe,)	99-027-CMP-I (20)-(41)
Johnny V. Jones, Harper Guinn, and Jeff Guinn)	99-027-E-I (20)
)	
Current and Former Institution Affiliated Parties)	
First Western Bank, Cooper City, Florida)	
(State Member Bank))	
_____)	

FINAL DECISION

This is an administrative proceeding brought pursuant to the Federal Deposit Insurance Act (“FDI Act”) in which of the Board of Governors of the Federal Reserve System (the “Board”) seeks to prohibit Respondent Carl Thomas from further participation in the affairs of any financial institution, and to issue civil monetary penalties as well as cease and desist orders against all Respondents based on their conduct as institution affiliated parties of First Western Bank, Cooper City, Florida (the “Bank”).

Upon review of the administrative record, the Board issues this Final Decision adopting the Recommended Decision (“Recommended Decision” or “RD”) of Administrative Law Judge Arthur L. Shipe (the “ALJ”), except as specifically supplemented or modified herein. The Board therefore orders that the attached Order of Prohibition issue against Respondent Carl Thomas, and that the attached Cease and Desist Order be issued against all Respondents. For the reasons

set forth in this Final Decision, the Board has determined to withdraw its assessment of civil monetary penalties in this case.

I. PROCEDURAL HISTORY

On November 22, 2002, the Board issued a combined Notice of Charges and of Hearing, Notice of the Assessment of Civil Monetary Penalties and Notice of Intent to Prohibit (the “Notice”). The Notice alleged that Respondents willfully and knowingly violated the Change in Bank Control Act (“CIBC”), 12 U.S.C. § 1817(j), its implementing regulation, and an order of the Board when they acquired control of the Bank through a series of coordinated purchases without obtaining the Board’s prior approval. The Notice further alleged that such actions resulted in financial gains and other benefits to Respondents; involved personal dishonesty on the part of Respondent Carl Thomas; and were part of a pattern of misconduct with respect to Respondents Carl Thomas and Stephen Thomas.

The Notice initially was issued against twenty-two individual Respondents. Shortly after receiving the Notice, four of the named Respondents settled with the Board by agreeing to enter into consent orders. The remaining eighteen Respondents, who appeared and have participated pro se, filed answers to the Notice but did not challenge the allegations set forth in the Notice.

On September 25, 2003, Enforcement Counsel for the Board filed a Motion for Summary Disposition, supplemented by evidence submitted on March 5, 2004. On July 30, 2004, the ALJ issued a Recommended Decision, advising that Enforcement Counsel’s Motion for Summary Disposition be granted and recommending the imposition of an order of prohibition against Respondent Carl Thomas, as well as civil monetary penalties and a cease and desist order against all Respondents. Following the filing of a so-called “Affidavit of Proof” by Respondents and a

response by Board Enforcement Counsel, the matter was referred to the Board for final decision. 12 U.S.C. § 1818(h)(1).

On March 29, 2005, Enforcement Counsel filed a motion with the Board requesting that the Board withdraw its civil monetary penalty assessment and authorize Enforcement Counsel to arrange for the proceeds of the sale of Respondents' First Western shares, currently held in the registry of the United States District Court for the Northern District of Georgia, to be transferred to the registry of the United States Bankruptcy Court for the Middle District of Florida for ultimate distribution to the victims of fraud by Greater Ministries International, Inc. ("Greater Ministries").

II. STATUTORY FRAMEWORK

1. Statutory and Regulatory Requirements For Obtaining Control of a State Member Bank

The CIBC and its implementing regulation, Regulation Y, provide that no person acting directly or indirectly or through or in concert with one or more persons, may acquire control of any state member bank unless the Board has been given at least sixty days prior written notice and has not disapproved the acquisition. 12 U.S.C. § 1817(j)(1); 12 C.F.R. § 225.41. These requirements allow the Board to conduct an investigation of the competence, experience, integrity, and financial ability of each controlling person by and for whom shares of a state member bank are acquired. 12 U.S.C. § 1817(j)(2)(B)(i); 12 C.F.R. § 225.43(f).

Regulation Y defines "acting in concert" to include knowing participation in a joint activity or parallel action toward a common goal of acquiring control of a state member bank, whether or not pursuant to an express agreement. 12 C.F.R. § 225.41(b)(2). Regulation Y creates a rebuttable presumption that an individual and the individual's immediate family members act in concert. 12 C.F.R. § 225.41(d)(2).

The CIBC Act defines “control” as the power, indirectly or directly, to direct the management or policies of a state member bank or to vote twenty-five percent or more of any class of voting securities of a state member bank. 12 U.S.C. § 1817(j)(8)(B). Regulation Y presumes that an acquisition of voting securities of a state member bank constitutes an acquisition of control if, immediately following the transaction, the acquiring person or persons will own, control, or hold with power to vote 10 percent or more of any class of voting securities and no other person will own, control, or hold power to vote a greater percentage of that class of voting securities. 12 C.F.R. § 225.41(c)(2).

The CIBC Act sets forth the specific information that must be provided in the notice to the Board. Among other things, the notice must contain the identity, personal history, business background and financial condition of each person by whom or on whose behalf the acquisition is to be made; the terms and conditions of each acquisition; and the identity, source and amount of funds or other consideration used or to be used in making the acquisition. 12 U.S.C. §1817(j)(6)(A)-(H). The CIBC Act also sets forth circumstances under which the Board may disapprove a proposed acquisition, including situations in which an acquiring person “neglects, fails or refuses to furnish [the Board] all the information required by the Board.” 12 U.S.C. §1817(j)(7)(E); 12 C.F.R. § 225.43(h).

2. 18 U.S.C. § 1001

Pursuant to 18 U.S.C. § 1001, it is a violation of law to knowingly and willfully make any materially false, fictitious, or fraudulent statement or representation in a matter within the jurisdiction of a federal agency.

III. FACTS

Beginning in 1997, Respondent Carl Thomas, with the primary assistance of his son, Respondent Stephen Thomas, initiated an effort to persuade a group of approximately 40 individuals and business entities to join them in acquiring shares in First Western Bank. (FF ¶¶9-10; 21-22).¹ All named Respondents in this matter, including Carl and Stephen Thomas, were members of a group that coordinated to buy shares in First Western Bank (hereinafter referred to collectively as “Purchasing Group” members). (FF ¶10). The acquisition of shares was undertaken on behalf of the Greater Ministries organization, a purported religious and charitable organization with which the Purchasing Group members were affiliated. (FF ¶12; Wall dep. at 30). Greater Ministries desired to obtain control of a financial institution and secure favorable account relationships for itself and its members, a task it had been unable to accomplish in the previous two years. (FF ¶¶2, 5, 9). Greater Ministries appointed Respondent Carl Thomas as one of its Elders and paid him approximately \$535,000 between June 1997 and June 1998 as part of its “Gifting Program,” a program that has been found to be essentially a Ponzi scheme. (FF ¶9; Hoch. Exh. Z-37).²

Respondents Carl and Stephen Thomas solicited members of the Purchasing Group to buy First Western shares on various occasions, including at the conclusion of Carl Thomas’s Bible study meetings. (Skrobot Decl. ¶9). They advocated the opportunity to purchase shares in a

¹ “FF” denotes the ALJ’s findings of fact in the Recommended Decision.

² The ALJ described the “Gifting Program” as one in which Greater Ministries followers were persuaded to make “gifts” to the organization with the expectation of receiving returns as high as tenfold. The program was promoted by Greater Ministries with the biblical passage “Give and it shall be given unto you.” (Luke 6:38) Elders such as Carl Thomas were awarded a portion of the “gifts” associated with the members they brought in to the organization or who were otherwise assigned to them.

“Christian-tied bank” that would protect Greater Ministries’ privacy against the government. (Skrobot Decl. ¶9). Before solicitation by Carl and Stephen Thomas, members of the Purchasing Group had never heard of First Western Bank, or thought to invest in it. (Sellers depo p. 57; Skrobot Decl. ¶12). At least some of the Purchasing Group members were specifically told of Greater Ministries’ ultimate goal to take control of the Bank’s board of directors, while others were simply told it was necessary that multiple individuals purchase the stock so that it was not all in one name. (FF ¶13; Sellers dep. at 58, 60). The members of the Purchasing Group were assured that either Greater Ministries, Carl Thomas, or Stephen Thomas would provide the funds for the purchases of the shares or reimburse the members for such purchases. (FF ¶11). The evidence establishes that it was widely apparent to all Purchasing Group members that they were involved in a group effort to acquire shares in the Bank. (FF ¶12).

Members of the Purchasing Group generally did not communicate with the individuals from whom they purchased First Western shares. (FF ¶22). Instead, Carl and Stephen Thomas contacted individuals who were willing to sell their shares to negotiate and establish the amount of shares that would be purchased as well as the price. (FF ¶22). Subsequently, Carl or Stephen Thomas instructed the Purchasing Group members to write checks for the determined amount. (FF ¶22). Carl or Stephen Thomas provided the Purchasing Group members with funds derived from Greater Ministries to pay for the acquired shares. (FF ¶22). In some cases, such payments were made to members of the Purchasing Group in cash. (Agee Decl; Nieminen Decl. ¶6; Salhgreen Aff. ¶4; Skrobot Decl. ¶10). Carl or Stephen Thomas instructed the Purchasing Group

members to deposit the cash in amounts under \$10,000 each, so as not to raise any “red flags.”³ (Nieminen Decl. ¶9; Skrobot Decl. ¶10).

The Purchasing Group acquired their First Western shares between August 1997 and the end of February 1998, with the largest concentration of shares purchased in October 1997. (FF ¶¶16-21; 23; 27-28; 33-34). At various points, the Purchasing Group’s accumulation of shares triggered notification requirements pursuant to the CIBC Act and its implementing regulation. Each time, however, Respondents and the other members of the Purchasing Group failed to provide proper notification and other necessary information.

The first of these required notification points came by October 16, 1997, when members of the Purchasing Group had acquired in excess of ten percent of outstanding First Western shares. (FF ¶23). Even after a series of correspondence from Federal Reserve staff advising of the requirements of the CIBC Act and the Board’s regulations, the Purchasing Group members refused to supply the required information. (FF ¶¶24-25). Instead, in a group response organized by Carl and Stephen Thomas, the Purchasing Group members insisted that the CIBC Act and other regulations did not apply to them. (FF ¶26). The evidence reveals that the Purchasing Group members habitually deferred to Respondents Carl and Stephen Thomas to organize responses on behalf of the group. (Agee Aff. at p. 2; Sahlgren Aff. ¶11, 12; Skrobot Decl. ¶16).

The second point came on or about December 2, 1997, when Respondent Carl Thomas and his wife, Respondent Eva Thomas, made a purchase of shares through a nominee which brought their joint ownership from about 18,814 to approximately 20,539 shares and elevated the

³ Cash deposits of \$10,000 or more require a financial institution to file a Currency Transaction Report (“CTR”) with the Department of Treasury, thus alerting government officials to large cash deposits. See 31 C.F.R. § 103.22(b).

Purchasing Group's ownership to over twenty-five percent. (FF ¶¶ 28-29).⁴ The Purchasing Group members failed to file prior written notification with the Board before acquiring these shares and continued to conceal the source of funds used to acquire their shares. (FF ¶¶28, 32). Further, in an apparent attempt to conceal that the Purchasing Group owned more than twenty-five percent, Carl Thomas maintained in a December 9, 1997 "Draft" CIBC notice, as well as in another document he submitted to the Board on December 22, 1997, that he and his wife only owned 18,814 shares. (FF ¶29).

The third failure to adhere to the notification requirements took place around February 2, 1998, after additional purchases resulted in the "immediate" Thomas family⁵ owning over ten percent of First Western shares. (FF ¶33). The Thomas family failed to file prior written notice of the acquisition and failed to submit evidence rebutting the presumption that they were acting in concert and acquired control of First Western. (FF ¶33). Finally, prior notification also was not sought before the Purchasing Group made its last known purchase on February 26, 1998, which brought the group's ownership to over twenty-nine percent. (FF ¶34; Bd. Rec. 1-39). Instead, in documents submitted on April 10, 1998 and August 17, 1998, Carl Thomas continued to conceal the true ownership of his family and of the group. In both documents, he continued to claim that he and his immediate family only owned 18,814 shares, when they actually owned at least 33,039 by that time.⁶ (FF ¶¶35, 37). In the April 10, 1998 document, he failed to disclose

⁴ Other members of the Purchasing Group also acquired additional shares between October 16 and December 2, 1997. (Hoch. Add. 2).

⁵ Pursuant to 12 C.F.R. § 225.41(c)(3), the "immediate" Thomas family includes Carl Thomas; his wife, Eva Thomas; his son and daughter-in-law, Stephen and Mary Beth Thomas; his mother, Marguerite Thomas; and his brother-in-law, William Barber.

⁶ Contrary to representations he consistently made to Federal Reserve staff, Carl Thomas asserted

(footnote continues on next page)

that the Purchasing Group's acquisition of shares exceeded twenty-five percent. In the August 17, 1998 submission, he admitted that the Purchasing Group had acquired an additional 14,212 shares, but claimed these shares were held in "open title." (FF ¶¶35, 37). Neither the April nor August 1998 submission revealed that Greater Ministries provided the funds used by Purchasing Group members to acquire First Western shares. (FF ¶¶35-38).

From August 24 to December 22, 1998, Federal Reserve staff persisted in its attempt to obtain information from the Respondents and other Purchasing Group members in order to achieve compliance with the CIBC and other regulations. (FF ¶38). Despite numerous letters requesting additional information, including the source of funds used to acquire the First Western shares, the Purchasing Group failed to correct its deficiencies. (FF ¶38). Ultimately, on February 10, 1999, the Board issued an order mandating that each Respondent divest his or her shares within ninety days of the date of the order. (FF ¶ 39). None of the Respondents divested their respective shares within that time. (FF ¶ 40).

In March 1999, eight Greater Ministries officials pled guilty or were convicted on fraud, money laundering and conspiracy charges in connection with a "Gifting Program" operated by Greater Ministries, which was found to be a Ponzi scheme through which Greater Ministries defrauded thousands of United States residents. FF ¶ 8. In August 1999, a United States District Court placed Greater Ministries into receivership after multiple states filed lawsuits against the organization for fraudulent violation of federal and state securities laws. FF ¶ 6.

in a February 20, 2004 letter to the First Western Board of Directors that he held 33,039 shares of First Western stock. (Enforcement Counsel's March 5, 2004 Motion to File Supplemental Evidence.) Mr. Thomas sent the letter to First Western in response to proxy solicitations the Bank had mailed to Mr. Thomas and his family in connection with a proposed merger between First Western and 1st United Bank. Mr. Thomas presumably claimed ownership of 33,039 shares in his February 20, 2004 letter because he stood to benefit from the sale of the shares in the proposed merger.

By letter dated May 18, 1999, Federal Reserve staff advised Respondents that they would be subject to an enforcement action for their continued violations of the CIBC and its accompanying regulation. (FF ¶ 40; Hoch. Dec. Ex. Z42). The letter also informed Respondents that prompt action to terminate their voting control of First Western shares could mitigate and possibly eliminate the need to impose remedies, but Respondents failed to take such action. (Hoch. Dec. Ex. Z42 and Z43; FF ¶ 40).

In November 2002, Board Enforcement Counsel initiated this action against Respondents, seeking an order of prohibition against Carl Thomas, a cease-and-desist order against all Respondents, and civil money penalties ranging from \$10,000 to \$250,000 against each Respondent.

On February 27, 2004, the Board approved an application submitted by 1st United Bank, Boca Raton, Florida, to merge with First Western by purchasing First Western shares for \$17 per share. In March 2004, Board Enforcement Counsel filed an asset freeze action in United States District Court for the Northern District of Georgia pursuant to 12 U.S.C. § 1818(i)(4) in order to require the payment into the court of the sales proceeds necessary to pay the civil money penalty amounts assessed in the Notice in the event the Board's final decision assessed penalties against the Respondents. Board of Governors v. Thomas, et al., No. 1:04-CV-0777. The district court issued a temporary restraining order on April 2, 2004, and a preliminary injunction on April 28, 2004, ordering each Respondent to direct 1st United to deposit in the court registry the proceeds of the sale of Respondents' First Western shares to the extent of the civil money penalty assessed in the Notice, pending final resolution of this enforcement action. Also on April 28, 2004, the United States Bankruptcy Court for the Middle District of Florida ordered 1st United to transfer into the registry of the bankruptcy court all amounts due to any Respondent in excess of the civil

money penalties already ordered to be deposited in the District Court in Georgia.⁷ Thus, pursuant to these orders, the Respondents have been divested of the proceeds of the sale of First Western shares they acquired in the course of the Greater Ministries scheme.

IV. LEGAL CONCLUSIONS

The Board has reviewed the record in this matter and finds that the ALJ properly granted Enforcement Counsel's Motion for Summary Disposition. The Board agrees that a prohibition order, civil monetary penalties and cease and desist order should be issued, as described in detail below.

A. Respondents' Affidavit of Truth

As noted earlier, Respondents filed a so-called "Affidavit of Truth" at the point at which exceptions to the ALJ's recommended decision were permitted by the Board's regulations. 12 C.F.R. § 263.39(a). The regulation provides that that exceptions must "set forth page or paragraph references to the specific parts of the administrative law judge's recommendations to which exception is taken, the page or paragraph references to those portions of the record relied upon to support each exception, and the legal authority relied upon to support each exception." 12 C.F.R. § 263.39(c)(2). Failure of a party to file exceptions to a finding, conclusion, or proposed order "is deemed a waiver of objection." 12 C.F.R. § 263.39(b)(1).

Respondents' "Affidavit of Truth" fails to conform to any of the requirements of a valid exception. It does not identify the portions of the ALJ's recommendation to which an exception was taken or cite the portions of the record or legal authority in support of its position. Accordingly, the Respondents are deemed to have waived their right to object to any portion of the Recommended Decision.

⁷ See Case No. 99-13967-8B1, United States Bankruptcy Court, Middle District of Florida.

Even if Respondents' filing could be considered a valid exception, the Board finds that it raises no meritorious claim. At best, it raises only three claims related to the present case. The document claims that the Board "does not have jurisdiction of state member bank stockholder" (Aff. Truth at 16). To the contrary, such individuals qualify as "institution-affiliated parties" under the statute if they are controlling shareholders or are required to file a change in control notice, and the Board is specifically granted jurisdiction over them. 12 U.S.C. §§ 1813(q), (u)(1) and (2). Second, the "Affidavit of Truth" asserts that because Greater Ministries International was a dissolved corporation as of 1996, the present case should not have been brought against Respondents. (Aff. Truth at 18). Greater Ministries' corporate existence is irrelevant to the matter, as this action is against these individual Respondents for their role in acquiring control of First Western. Third, the Affidavit insists that an August 24, 1998 letter from the Federal Reserve Bank of Atlanta evidenced that Respondents complied with all of the CIBC Act requirements. (Aff. Truth at 19). This simply misstates the content of the letter, which in fact informed Respondents that they needed to provide additional information concerning, among other things, the source of funds for their purchases of shares. Accordingly, even if Respondents' "Affidavit of Truth" qualified as an exception, it would be entirely unpersuasive.

B. Prohibition Order

Pursuant to the FDI Act, IAPs may be prohibited from the banking industry if the appropriate Federal banking agency – here, the Board -- makes three separate findings: 1) that the IAP engaged in identified misconduct, including a violation of law or regulation, an unsafe or unsound practice, or a breach of fiduciary duty; 2) that the conduct had a specified effect, including financial loss to the institution or gain to the respondent; and 3) that the IAP's conduct

involved culpability of a certain degree -- either personal dishonesty or a willful or continuing disregard for the safety or soundness of the institution. 12 U.S.C. § 1818(e)(1)(A) - (C).

Respondent Carl Thomas is the only individual Respondent against whom an order of prohibition was sought. Based on the evidence in the administrative record, his actions satisfy the misconduct, effect and culpability element required for an order of prohibition. As mentioned previously, Carl Thomas – either as part of his immediate family, part of the Purchasing Group, or both – became subject to and failed to meet the notification requirements of the CIBC Act and its implementing Regulation Y at various points between October 1997 and February 1998. He also violated 18 U.S.C. § 1001 by falsely understating the amount of shares owned by both his immediate family and the group in submissions he made to Federal Reserve staff in December 1997, April 1998, and August 1998. Finally, he violated the Board’s February 10, 1999 Order by refusing to divest his First Western shares. Thus, the misconduct element is more than sufficiently established.

Through his maintenance of the shares he was ordered to divest, Carl Thomas received financial gain and other benefits, satisfying the effect element. Finally, Carl Thomas’s actions also exhibited personal dishonesty. As with all members of the Purchasing Group, Respondent Carl Thomas had a legal duty to provide Federal Reserve staff with the specific information required by the CIBC Act. *See* 12 U.S.C. § 1817(j)(6)(A)-(H). He not only failed to do so on numerous occasions, even after prompting and several requests by Federal Reserve staff, the facts here demonstrate that he purposefully and willfully represented information he knew to be false. The Board agrees with the ALJ’s finding that such actions were evasive and deceptive, and evidenced personal dishonesty. In sum, all elements necessary for the issuance of a prohibition order against Respondent Carl Thomas are present in this case.

C. Cease and Desist Order

An IAP also may be subject to a cease and desist order if the Board finds that the IAP is engaging or has engaged in an unsafe or unsound practice, or is violating or has violated a law, rule, regulation or any condition imposed in writing by the appropriate banking agency in connection with the granting of an application or other request by the depository institution or any written agreement entered into with the agency. 12 U.S.C. § 1818(b)(1). Such an order may require the IAP to “cease and desist” from the practice or violation and “to take affirmative action to correct the conditions resulting from any such violation or practice.” *Id.*

Here, Enforcement Counsel sought a cease and desist order against all Respondents based on their collaborative actions to acquire shares in First Western. The evidence in this matter confirms that none of the Respondents ever complied with the CIBC Act or its implementing regulation in acquiring their First Western shares. In lieu of providing the required information, Respondents insisted that the CIBC Act did not apply to them, concealed that the Greater Ministries organization funded their purchases of First Western shares, and permitted Carl Thomas to make false representations to Federal Reserve staff on behalf of the group. Following the leadership of Carl Thomas, they also failed to divest their shares when ordered to do so.

Based on these violations, the Board finds that entry of a cease and desist order against each of the Respondents is appropriate in this case. However, the Board is not adopting all terms outlined in the proposed cease and desist order originally sought by Enforcement Counsel in its Motion for Summary Disposition and adopted by the ALJ in his Recommended Decision because the acquisition of First Western by 1st United in 2004 has rendered many of those terms inapplicable. As discussed above, the Respondents’ shares have been acquired by 1st United, and the proceeds from these sales have been transferred to the United States District Court for the

Northern District of Georgia and/or the United States Bankruptcy Court for the Middle District of Florida, as required by the orders issued by both of those courts. As such, the terms Board Enforcement Counsel initially sought for a cease and desist order relating to the transfer, sale and voting of Respondents' First Western shares are no longer applicable.⁸ For these reasons, the Board finds that the following terms for a cease and desist order are appropriate at this time:

(1) Respondents shall not serve as an officer, director, agent or employee of the Bank or its successor institution without prior written approval of the Board of Governors;

(2) Respondents shall not knowingly acquire any additional legal, beneficial or other interests in the Bank or its successor institution; and

(3) Respondents shall not directly or indirectly engage or participate in any violation of the CIBC Act.

D. Civil Monetary Penalties

As noted above, the Notice in this matter assessed a civil monetary penalty against each Respondent in an amount roughly reflecting the particular respondent's level of involvement in the illegal scheme.⁹ Although the Board is convinced that penalties could be assessed against

⁸ Also, on November 8, 2004, the United States Bankruptcy Court for the Middle District of Florida issued an order that pertained to three Respondents in this case who apparently refused to turn over their First Western stock certificates to the bankruptcy trustee. The Order provided that any interest these three Respondents claimed in First Western stock or proceeds is void. Accordingly, even if these Respondents continue to maintain their First Western share certificates, the documents are of no value.

⁹ The amounts assessed ranged from \$250,000 jointly and severally against Carl Thomas and his wife Eva and \$100,000 against their son Stephen Thomas, to \$10,000 against most other respondents.

each Respondent on the basis of this record, it has determined to withdraw its penalty assessment for the reasons set forth below.¹⁰

The Respondents' scheme to acquire First Western was undertaken as part of a broader fraudulent scheme by Greater Ministries. As the ALJ found, Greater Ministries had attempted to acquire a financial institution to assist with the influx of cash from the Gifting Program from early 1996 on. The Purchasing Group was motivated to take part in the acquisition scheme by their religious conviction and their desire to promote Greater Ministries' mission. Moreover, virtually all of the funds used by Purchasing Group members to acquire First Western shares were provided by Greater Ministries, and were presumably derived from the victims of the Gifting Program.

Greater Ministries is now in bankruptcy proceedings, and the court-appointed trustee has been working to marshal assets of the estate to pay the claims of those victims. He has obtained the cooperation of several state agencies that have pursued their own civil or criminal claims against Greater Ministries and have agreed to subordinate their claims to those of the estate for the benefit of the victims. In addition, he has obtained a Final Judgment against all of the Respondents declaring, among other things, that all First Western stock and proceeds of such stock owned by those individuals are "property of the estate" of Greater Ministries.¹¹ Under the bankruptcy court's orders, all First Western stock or proceeds held in the registry of the Atlanta

¹⁰ The Board has the legal authority to "compromise, modify, or remit" any penalty it has previously assessed. 12 U.S.C. § 1818(i)(2)(F); 12 U.S.C. § 1817(j)(16)(E); see 12 C.F.R. § 263.63(a).

¹¹ See Final Default Judgment dated September 17, 2004; Final Default Judgment dated November 4, 2004; Final Summary Judgment dated April 8, 2005, in O'Halloran v. 1st United Bank, et al., Adv. Pro. No. 04-223 (Bkr. M.D. Fl.)

court is “available for distribution by the Trustee in accordance with the terms of the confirmed plan of liquidation or order of this Court,” subject only to the claims of the Board.

The Trustee has requested that the Board withdraw its civil monetary penalty against the Respondents in order to permit the entire proceeds of the sale of their First Western shares to be distributed to the victims of Greater Ministries’ fraud. The Board has determined that the public interest favors this outcome. The trustee has assured the Board that none of the Respondents will receive any payment from the bankruptcy estate. It is the Board’s intention that the proceeds currently held in the registry of the United States District Court for the Northern District of Georgia be transferred to the registry of the United States Bankruptcy Court for the Middle District of Florida in accordance with that court’s orders, and Board Enforcement Counsel is directed to take any appropriate measures to ensure that result.

CONCLUSION

For these reasons, the Board orders the issuance of the attached Order of Prohibition against Respondent Carl Thomas, as well as the Cease and Desist Order against all Respondents.

By Order of the Board of Governors, this 7th day of June, 2005.

**BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM**

(signed)

Jennifer J. Johnson
Secretary of the Board

**UNITED STATES OF AMERICA
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Current and Former Institution Affiliated Parties)	
First Western Bank, Cooper City, Florida)	
(State Member Bank))	
_____)	

ORDER TO CEASE AND DESIST

It is hereby ordered, pursuant to 12 U.S.C. § 1818(b), that Carl Thomas, Stephen Thomas, Eva Thomas, Mary Beth Thomas, Marguerite Thomas, Charles Tomlinson, Herbert Phillips, Lloyd Phillips, R. L. Phillips, Stanley Phillips, Rhonda Phillips, Scott Ward, Angela Ward, Forrest Buckley, James Crowe, Johnny V. Jones, Harper Guinn, and Jeff Guinn (collectively “Respondents”):

(1) shall not serve as an officer, director, agent or employee of First Western Bank, Cooper City, Florida (“the Bank”) or its successor institution without prior written approval of the Board of Governors;

(2) shall not knowingly acquire any additional legal, beneficial or other interests in the Bank or its successor institution; and

(3) shall not directly or indirectly engage or participate in any violation of the Change in Bank Control Act.

Any violation of this Order shall separately subject the Respondents to appropriate civil or criminal penalties or both under 12 U.S.C. § 1818(i).

The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, or any other Federal or state agency or department from taking any other action affecting each of the Respondents named above.

By Order of the Board of Governors, this 7th day of June, 2005.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

(signed)

Jennifer J. Johnson
Secretary of the Board

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ORDER OF PROHIBITION OF CARL V. THOMAS

WHEREAS, pursuant to section 8(e) of the Federal Deposit Insurance Act, as amended, (the "FDI Act") (12 U.S.C. § 1818(e)), the Board of Governors of the Federal Reserve System ("the Board") is of the opinion, for the reasons set forth in the accompanying Final Decision, that a final Order of Prohibition should issue against CARL V. THOMAS, an institution-affiliated party, as defined in Section 3(u) of the FDI Act (12 U.S.C § 1813(u)), of First Western Bank, Cooper City, Florida.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to section 8(e) of the FDI Act, 12 U.S.C. § 1818(e), that:

1. In the absence of prior written approval by the Board, and by any other Federal financial institution regulatory agency where necessary pursuant to section 8(e)(7)(B) of the Act (12 U.S.C. § 1818(e)(7)(B)), Thomas is hereby prohibited:

(a) from participating in any manner in the conduct of the affairs of any institution or agency specified in section 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A)), including, but not limited to, any insured depository institution, any insured depository institution holding company or any U.S. branch or agency of a foreign banking organization;

(b) from soliciting, procuring, transferring, attempting to transfer, voting or attempting to vote any proxy, consent or authorization with respect to any voting rights in any institution described in subsection 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A));

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

(d) from voting for a director, or from serving or acting as an institution-affiliated party as defined in section 3(u) of the FDI Act (12 U.S.C. § 1813(u)), such as an officer, director, or employee in any institution described in section 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A)).

2. Any violation of this Order shall separately subject Thomas to appropriate civil or criminal penalties or both under section 8 of the FDI Act (12 U.S.C. § 1818).

3. This Order, and each and every provision hereof, is and shall remain fully effective and enforceable until expressly stayed, modified, terminated or suspended in writing by the Board.

This Order shall become effective at the expiration of thirty days after service is made.

By Order of the Board of Governors, this 7th day of June 2005.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM

(signed)

Jennifer J. Johnson
Secretary of the Board

