

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2006003892001

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REGISTRATION & DISCLOSURE

TO: Department of Enforcement
NASD

RE: Ellen Lozinski
General Securities Principal
[CRD No. 2372418]

Pursuant to Rule 9216 of NASD Code of Procedure, Ellen Lozinski ("Respondent") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against Respondent alleging violations based on the same factual findings.

Respondent understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Enforcement and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against Respondent; and
3. If accepted:
 - a. this AWC will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against Respondent;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Respondent's disciplinary record;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. Respondent may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise,

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denying, directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects Respondent's testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

Respondent also understands that her experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

On or about July 19, 1993, Respondent first became registered with NASD as a General Securities Representative ("GSR") through an NASD member firm and later became registered as a General Securities Principal ("GSP") with another member firm, on or about July 14, 2000. From February 28, 2002 through December 5, 2006, Respondent was the President of PGP Financial Inc. ("PGP") and was registered with NASD as a GSR and GSP through PGP. On December 5, 2006, PGP filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) on behalf of Respondent.¹ Respondent currently is not registered in any capacity but since June 6, 2007, has been associated as a Non-Registered Fingerprint Person (NRF) with a member firm.

On June 19, 2006, Respondent entered into an AWC with NASD in which she was suspended in a principal capacity for ten business days and fined \$25,000, joint and several with PGP, for acting in contravention of Article V, Section 3(a) of NASD's By-Laws and violations of NASD Membership and Registration Rule 1022(b) and NASD Conduct Rule 2110.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondent specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against her;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written

¹ PGP filed a Uniform Request for Broker-Dealer Withdrawal (BDW) on December 5, 2006.

decision issued; and

- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, Respondent specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

Respondent further specifically and voluntarily waives any right to claim that a person violated the *ex parte* prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

- A. Respondent hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:
1. On multiple occasions, PGP, acting through Respondent, conducted a securities business while under net capital. Specifically, PGP failed to maintain required minimum net capital on the following dates: June 16, 2006; June 23, 2006; June 30, 2006; July 7, 2006; September 8, 2006; September 15, 2006; September 22, 2006. The discrepancies in the net capital calculations were attributable to errors in the reporting of allowable assets and accrued liabilities:
 - a. On June 16, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$3,223) and had a net capital deficiency of \$8,223.
 - b. On June 23, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$10,005) and had a net capital deficiency of \$15,005.

- c. On June 30, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$7,930) and had a net capital deficiency of \$12,930.
- d. On July 7, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$10,362) and had a net capital deficiency of \$15,362.
- e. On September 8, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$457) and had a net capital deficiency of \$5,457.
- f. On September 15, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of (\$4,776) and had a net capital deficiency of \$9,776.
- g. On September 22, 2006, PGP's minimum net capital requirement was \$5,000. On that date, while conducting a securities business, PGP, acting through Respondent, maintained net capital of \$2,925 and had a net capital deficiency of \$2,075.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

- 2. During the period, from January 1, 2005 through December 5, 2006, Respondent failed to:
 - a. establish, maintain and enforce written supervisory control policies and procedures pursuant to NASD Conduct Rule 3012; and,
 - b. ensure an annual certification was completed by PGP pursuant to NASD Conduct Rule 3013(b), certifying that PGP had in place processes to establish, maintain, review, test and modify written compliance policies and written supervisory procedures to comply with applicable securities rules and regulations.

By reason of the foregoing, Respondent violated NASD Conduct Rules 3012, 3013 and 2110.

- B. Respondent also consents to the imposition, at a maximum, of the following sanctions:

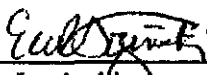
- A fine of \$7,500.00;
 - A thirty (30) day suspension, in a principal capacity.
- C. The sanctions imposed herein shall be effective on a date set by NASD Staff.

III.

OTHER MATTERS

- A. Respondent understands that she may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that they may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. Respondent agrees to pay any monetary sanctions imposed on her upon notice that this AWC has been accepted and that such payments are due and payable and have attached Election of Payment forms showing the method by which Respondent proposes to pay any fine imposed.
- C. Respondent specifically and voluntarily waives any right to claim that she is unable to pay, now or at any time hereafter, any monetary sanction imposed in this matter.

Respondent certifies that she has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, have been made to induce Respondent to submit it.


Ellen Lozinski

Reviewed by:

Stephen B. Weiler,
Counsel for Respondents

Accepted by NASD:

9/6/07
Date

Signed on behalf of the Director of
ODA, by delegated authority

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