

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. CLT050011

TO: Department of Enforcement
NASD

RE: Irene Goldberg
(CRD 1282174)
Respondent

and

Mitchell Louis Goldberg
(CRD 1386682)
Respondent

Pursuant to Rule 9216 of NASD Code of Procedure, Irene Goldberg ("IG") and Mitchell Goldberg ("MG") (collectively "Respondents") submit 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 Respondents alleging violations based on the same factual findings.

Respondents understand 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 Respondents; and
3. If accepted:
 - a. this AWC will become part of each of Respondents' permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against either Respondent;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about Respondents disciplinary

records:

- 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. Neither Respondent may take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, 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 Respondents testimonial obligations or right to take legal or factual positions in litigation or other legal proceedings in which NASD is not a party.

Respondents also understand that their 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:

Respondent IG

IG first became registered with NASD as General Securities Representative ("GSR") through an association with an NASD member firm in June 1984. On or about January 2, 2001, IG became registered through NASD member firm Brookstreet Securities (BD No. 14667) ("Brookstreet") as a GSR. IG remained registered as a GSR through Brookstreet until on or about March 24, 2004.

IG is not currently registered or associated with any member firm, but she remains subject to NASD's jurisdiction pursuant to Article V, Section 4 of NASD By-Laws.

IG does not have any disciplinary history with NASD, SEC, any self-regulatory organization or any state securities regulator.

Respondent MG

MG first became registered with NASD as GSR through an association with an NASD member firm in June 1985. On or about January 5, 2001, MG became registered through NASD member firm Brookstreet as a GSR and a General Securities Principal ("GSP"). MG remained registered as a GSR and a GSP through Brookstreet until on or about March 24, 2004.

MG is not currently registered or associated with any member firm, but he remains subject to NASD's jurisdiction pursuant to Article V, Section 4 of NASD By-Laws.

MG has the following relevant disciplinary history:

On November 25, 2002, NASD accepted an Offer of Settlement submitted by MG to resolve an NASD disciplinary action. Without admitting or denying the allegations, MG consented to the following findings and sanctions. While at a member firm, MG made misrepresentations concerning certain investments, effected unauthorized transactions, failed to execute customer sell orders and violated NASD rules concerning books and records by failing to accurately record a customer's address to avoid blue sky laws in the state in which the customer lived. As a result MG was suspended for four-and-a-half months from associating with any NASD member firm.

MG does not have any other disciplinary history with NASD, SEC, any self-regulatory organization or any state securities regulator.

I.

WAIVER OF PROCEDURAL RIGHTS

Respondents specifically and voluntarily waive the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against each Respondent;
- 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 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, Respondents specifically and voluntarily waive 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.

Respondents further specifically and voluntarily waive 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. Respondents hereby accept and consent, without admitting or denying the allegations or 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:

During the period November 2002 through July 2003, IG and MG, while registered with NASD through Brookstreet, engaged in a pattern of trading activity in Brookstreet customer DJ's account that was excessive in light of the customer's objectives, financial situations and needs. Specifically:

1. Customer DJ opened an account at Brookstreet with IG in January 2001. From January 2001 through October 2002 only three transactions took place in her account.
2. On or around November 5, 2002, customer DJ signed documents granting IG trading authority in her account and authorizing the use of margin in her account.
3. IG was the registered representative assigned to DJ's account until May 2003 when MG became the registered representative assigned to DJ's account. IG retained trading authority on the account when MG became the registered representative.
4. During the nine-month period from November 2002 through July 2003, when IG and MG jointly handled client DJ's account, there were \$6,050,945 worth of securities purchased in DJ's account. During that same period the average monthly equity in the account was \$69,389. The turnover ratio for this period was 87.2 and the account had an annualized turnover ratio of 116.27.
5. During this same nine-month period DJ paid \$82,020 in commissions and \$1,732 in margin interest. The cost-to-equity ratio for this account during this period was 121%, or 161% annualized.

By reason of the foregoing, IG and MG violated NASD Conduct Rules 2310 and 2110.

- B. Respondents also consent to the imposition, at a maximum, of the following sanctions:

- Respondent IG barred from associating with any member firm in any and all capacities; and
- Respondent MG barred from associating with any member firm in any and all capacities.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this AWC by the NAC.

III.

OTHER MATTERS

- A. Respondents understand that if they are barred or suspended from associating with any NASD member, they become subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, Respondents may not be associated with any NASD member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

Respondents certify that they have read and understand all of the provisions of this AWC and have 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, has been made to induce them to submit it.

Date

Irene Goldberg

Date

Mitchell Goldberg

Accepted by NASD:

May 6, 2005

Date

A handwritten signature in black ink, appearing to read 'Julie K. Glynn', is written over a horizontal line.

Julie K. Glynn

Senior Regional Attorney

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