

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY

In the Matter of:)	
)	
Linda M. Pera)	AA-EC-09-107
Former Senior Vice President)	
Wachovia Bank, N.A.)	
Charlotte, North Carolina)	
)	

CONSENT ORDER

WHEREAS, the Comptroller of the Currency of the United States of America (“Comptroller”) intends to initiate enforcement proceedings against Linda M. Pera (“Respondent”) pursuant to 12 U.S.C. § 1818(b) and (i)(2) on the basis of Respondent’s activities while employed as Senior Vice President at the Plymouth Meeting, PA office of Wachovia Bank, N.A., Charlotte, NC; and

WHEREAS, in the interest of cooperation and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter, Respondent, without admitting or denying any wrongdoing, and without any adjudication on the merits, desires to enter into this Consent Order (“Order”) issued pursuant to 12 U.S.C. § 1818(b) and (i)(2);

NOW, THEREFORE, in consideration of the above premises, it is stipulated by and between the Comptroller, through his duly authorized representative, and Respondent that:

Initials: _____
Date: _____

Article I

JURISDICTION

(1) Wachovia Bank, N.A., Charlotte, NC (“Bank”) is a national banking association, chartered and examined by the Comptroller, pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.* Accordingly, the Bank is an “insured depository institution” as that term is defined in 12 U.S.C. § 1813(c)(2).

(2) Respondent was employed until her voluntary retirement on June 30, 2006 at the Bank’s Plymouth Meeting, PA business banking office as a Senior Relationship Manager and Senior Vice President, and is an “institution-affiliated party” of the Bank as that term is defined in 12 U.S.C. § 1813(u), having served in such capacity within six (6) years from the date hereof (*see* 12 U.S.C. § 1818(i)(3)).

(3) Pursuant to 12 U.S.C. § 1813(q), the Comptroller is the “appropriate Federal banking agency” to maintain enforcement proceedings against institution-affiliated parties. Therefore, Respondent is subject to the authority of the Comptroller to initiate and maintain cease and desist proceedings and civil money penalty proceedings against her pursuant to 12 U.S.C. § 1818(b) and (i)(2).

Article II

COMPTROLLER’S FINDINGS

The Comptroller hereby finds, and Respondent neither admits nor denies, the following:

(1) From on or about June 23, 2003, until on or about December 31, 2006, the Bank maintained account relationships with certain payment processors for telemarketers, including

Payment Processing Center, LLC, Netchex Corp., and Your Money Access LLC (collectively, “the payment processors”).

(2) As part of her duties at the Bank, Respondent was a relationship manager for the payment processors’ accounts.

(3) As part of their banking business activities, the payment processors regularly deposited large numbers of remotely created checks (“RCCs”) into their accounts at the Bank.

(4) A substantial number of the RCCs deposited by the payment processors were returned to the Bank, by or on behalf of consumers whose bank account information appeared on the RCCs, for a number of reasons, including that consumers had not authorized the RCCs or that consumers had not received adequate consideration in the transaction.

(5) Consumers experienced financial losses in connection with the payment processor relationships at the Bank.

(6) In connection with the payment processor relationships at the Bank, Respondent recklessly participated in unsafe or unsound practices that were part of a pattern of misconduct, including:

- (a) failure to conduct adequate due diligence on the accounts;
- (b) failure to recognize and adequately address the risks to the Bank posed by the payment processor relationships;
- (c) failure to adequately monitor the payment processors’ account activities and the rates of return on the RCCs deposited into the accounts; and

- (d) failure to adequately respond to consumer complaints about the payment processors' activities.

Article III

CEASE AND DESIST ORDER

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818, the Comptroller hereby orders that:

(1) In the event that Respondent is currently an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), she shall immediately provide a copy of this Order to the chief executive officer and board of directors of the institution or agency and, within ten (10) days of disclosure, provide written certification of compliance with this disclosure obligation to the Director of the Enforcement and Compliance Division, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

(2) Prior to accepting any new position that causes her to become an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), Respondent shall provide the chief executive officer and board of directors of the institution or agency with a copy of this Order.

(3) Within ten (10) days of her acceptance of any position described in paragraph (2) of this Article, Respondent shall provide written notice of such acceptance to the Director of the Enforcement and Compliance Division, at the address above, together with a written certification of her compliance with paragraph (2) of this Article.

Initials: _____
Date: _____

(4) At any time that Respondent is an “institution-affiliated party” (as defined in 12 U.S.C. § 1813(u)) of any insured depository institution or agency (as defined in 12 U.S.C. § 1818(e)(7)(A)), Respondent shall:

- (a) not serve as a relationship manager or any similar capacity for any payment processor or direct telemarketer account relationships;
- (b) inform her direct supervisor of any recommendations from other institution or agency employees to terminate a customer relationship or of other concerns raised by institution or agency employees about customer relationships that Respondent manages or for which she is otherwise responsible;
- (c) comply fully with all laws, rules, regulations, and outstanding enforcement action(s) pertaining to the institution or agency to which she is or may become affiliated;
- (d) not engage in any unsafe or unsound practices, as that term is used in Title 12 of the United States Code, in the conduct of the affairs of the institution or agency to which she is or may become affiliated; and
- (e) adhere to the written policies and procedures of any depository institution or agency to which she is or may become affiliated, or receive written permission from the appropriate authorized individual to do otherwise.

(5) If, at any time, issues arise concerning Respondent's ability to comply with the requirements of this Article, Respondent shall consult with counsel and obtain written advice regarding appropriate compliance with the terms of this Article.

Article IV

ORDER FOR CIVIL MONEY PENALTY

Respondent hereby consents to, and it is ordered that:

(1) Respondent shall pay a civil money penalty in the amount of four thousand dollars (\$4,000.00), which shall be paid as follows: \$1,000 upon execution of this Order; \$1,000 on November 1, 2010; \$1,000 on May 1, 2011; and \$1,000 on November 1, 2011.

(2) Respondent shall make payment by checks made payable to the Treasurer of the United States, and shall deliver the payments to: Comptroller of the Currency, P.O. Box 979012, St. Louis, Missouri 63197-9000. The docket number of this case (AA-EC-09-107) shall be entered on each check. Respondent shall send a copy of each check to the Director of the Enforcement and Compliance Division ("Enforcement Director"), Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

(3) If Respondent fails to comply with any provision of this Order, then the entire balance of the civil money penalty amount described in this Article shall become immediately due and payable.

(4) Within seven (7) days from the issuance of this Order, Respondent shall notify the Enforcement Director of the address of her current place of residence by completing the form attached hereto as Appendix A.

(5) Until the civil money penalty is paid in full, upon each and every subsequent change in place of residence, if any, Respondent shall notify the Enforcement Director of her new address within seven (7) days of such change in address.

(6) This Order shall be enforceable to the same extent and in the same manner as an effective and outstanding order that has been issued and has become final pursuant to 12 U.S.C. § 1818(h) and (i) (as amended).

Article V

WAIVERS

- (1) By executing this Order, Respondent waives:
 - (a) the right to the issuance of a Notice under 12 U.S.C. § 1818(e);
 - (b) all rights to a hearing and a final agency decision pursuant to 12 U.S.C. § 1818(e) and 12 C.F.R. Part 19;
 - (c) all rights to seek judicial review of this Order;
 - (d) all rights in any way to contest the validity of this Order; and
 - (e) any and all claims for fees, costs, or expenses against the Comptroller, or any of his agents or employees, related in any way to this enforcement matter or this Order, whether arising under common law or under the terms of any statute, including, but not limited to, the Equal Access to Justice Act, 5 U.S.C. § 504, and 28 U.S.C. § 2412.
- (2) Respondent shall not cause, participate in, or authorize the Bank (or any subsidiary or affiliate thereof) to incur, directly or indirectly, any legal (or other professional)

expense relative to the negotiation and issuance of this Order, except as permitted by 12 C.F.R. § 7.2014 and Part 359, and Respondent shall not, directly or indirectly, obtain or accept any indemnification (or other reimbursement) from the Bank (or any subsidiary or affiliate thereof) with respect to such amounts, except as permitted by 12 C.F.R. § 7.2014 and Part 359.

(3) Respondent acknowledges that she has read and understands the premises and obligations of this Order and declares that no separate promise or inducement of any kind has been made by the Comptroller, his agents, or employees to cause or induce Respondent to agree to consent to the issuance of this Order and/or to execute this Order.

(4) It is hereby agreed that the provisions of this Order constitute a settlement of the enforcement proceedings contemplated by the Comptroller. The Comptroller agrees not to institute proceedings for the specific acts, omissions, or violations referenced in the first whereas clause, hereof, unless such acts, omissions, or violations reoccur.

(5) It is further agreed that the provisions of this Order shall not be construed as an adjudication on the merits and, except as set forth above in paragraph (4), shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any action affecting Respondent if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

(6) Respondent understands that nothing herein shall preclude any proceedings brought by the Comptroller to enforce the terms of this Order, and that nothing herein constitutes, nor shall Respondent contend that it constitutes, a waiver of any right, power, or

authority of any other representatives of the United States or agencies thereof, including the Department of Justice, to bring other actions deemed appropriate.

IN TESTIMONY WHEREOF, the undersigned have hereunto set their hands.

/s/ Michael L. Brosnan

05/10/2010

Michael L. Brosnan
Deputy Comptroller
Large Bank Supervision

Date

/s/ Linda M. Pera

04/26/2010

Linda M. Pera

Date