

1 MARY ANN SMITH
Deputy Commissioner
2 ERIK BRUNKAL (CA BAR NO. 166086)
Senior Corporations Counsel
3 DEPARTMENT OF BUSINESS OVERSIGHT
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7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of) FILE NO. 166561
12)
13 THE COMMISSIONER of BUSINESS) SETTLEMENT AGREEMENT BETWEEN
OVERSIGHT,) AZTEC PARTNERS, JOHN J. YOON, AND
14) THE CALIFORNIA DEPARTMENT OF
Complainant,) BUSINESSS OVERSIGHT RESOLVING:
15)
v.) 1. DESIST AND REFRAIN ORDER; and
16) 2. ORDER LEVYING ADMINISTRATIVE
Aztec Capital, LLC, and Bob Lang,) PENALTIES
17)
Respondents)
18)
19)
20)

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22 SETTLEMENT AGREEMENT

23 This SETTLEMENT AGREEMENT ("Agreement") is entered into as of August 29, 2013,
24 by and between the Complainant, California Department of Business Oversight ("Department"), by
25 and through the California Commissioner of Business Oversight ("Commissioner") and the
26 Respondents, Aztec Capital, LLC and Bob Lang (hereinafter collectively the "Parties").
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RECITALS

This Agreement is made with reference to the following facts:

A. Aztec Capital, LLC (“Aztec”) is a California limited liability company, formed on July 27, 2007, with its principal place of business at 2453 Royal Ave., Simi Valley, California, 93065.

B. Bob Lang (“Lang”) is, and was at all relevant times herein the majority owner and sole control person of Aztec. Lang is authorized to enter into this Agreement on behalf of both Aztec and Lang.

C. On or about March 1, 2013, Aztec filed an application for an investment adviser certificate with the Department. The application revealed that Aztec and Lang were likely engaging in investment adviser activities without a license.

D. On its application, Aztec admitted that it was currently providing investment advice. When the Department inquired about this activity, Aztec fully cooperated, providing information showing that it had four (11) clients, with a total of one million four hundred thousand dollars (\$1,400,00.00) under management. The client information provided by Aztec and Lang, themselves, show that they were engaged in unlicensed investment adviser activity in violation of CSL section 25230(a).

E. It is the intention and desire of the Parties to resolve this matter without the necessity of a hearing and/or other litigation.

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1 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
2 forth herein, the Parties agree as follows:

3 TERMS AND CONDITIONS

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5 1. **Purpose:** The purpose of this Agreement is to settle and resolve the matters
6 between the Parties hereto, for judicial economy and expediency, and to avoid the expense of a
7 hearing, and possible further court proceedings.

8 2. **Waiver of Hearing Rights:** Aztec and Lang acknowledge the right to a hearing
9 under the Corporate Securities Law of 1968 in connection with the application for an investment
10 adviser certificate and hereby waive that right to a hearing, and to any reconsideration, appeal, or
11 other right to review which may be afforded pursuant to the Corporate Securities Law of 1968, the
12 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
13 provision of law, and by waiving such rights, consent to the Penalties becoming final.

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15 3. **Acknowledgement:** Aztec and Lang acknowledge the foregoing recitals of fact.
16 The acknowledgment of Aztec and Lang is for the purpose of this and any other future proceedings
17 that may be initiated by or brought before the Department. The Parties agree that this Agreement
18 and any acknowledgements hereunder shall not be admissible or binding against Aztec or Lang in
19 any action(s) brought against Aztec and Lang by third parties that are not signatories to this
20 Agreement.
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23 4. **Certification:** Aztec and Lang stipulate to undertake all appropriate steps designed
24 to assure full compliance with the laws of California in the conduct of its business. Aztec and Lang
25 acknowledge that failure to comply under this Agreement shall be a breach of this Agreement and
26 shall be cause for the Commissioner to immediately revoke any licenses held by, and/or deny any
27 pending application(s) of Aztec, its successors and assigns, by whatever names they might be
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1 known. Aztec hereby waives any notice and hearing rights to contest such revocations and/or
2 denial(s) which may be afforded under the Corporate Securities Law of 1968, the California
3 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of
4 law in connection therewith.

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6 **5. Administrative Penalties:** Aztec and Lang agree to pay to the Commissioner
7 penalties totaling, ten-thousand one-hundred twenty-five dollars (\$10,125.00) (“Penalties”). Five-
8 thousand one-hundred and twenty-five dollars (\$5,215.00) of such Penalties shall be paid by Aztec
9 within 104 days of the execution of this Agreement. The check shall be made payable to “The
10 Department of Business Oversight,” and shall be sent by Aztec and Lang to the following address:

11
12 Erik Brunkal, Esq.
13 Senior Corporations Counsel
14 Department of Business Oversight
15 1515 K St., Suite 200
16 Sacramento, CA 95814

17 The remainder of the penalties shall be paid in four (4) equal installments of \$1,250.00 on or
18 before November 30, 2013, February 28, 2014, May 31, 2014, and August 31, 2014. In the event
19 the payment due date falls on a weekend or holiday, the payment shall be due the next business day.
20 Aztec and Lang acknowledge that failure to timely pay the Penalties in this Agreement shall be a
21 breach of this Agreement and shall be cause for the Commissioner to immediately revoke any
22 licenses held by, and/or deny any pending application(s) of Aztec, its successors and assigns, by
23 whatever names they might be known. Aztec and Lang hereby waive any notice and hearing rights
24 to contest such revocations and/or denial(s) which may be afforded under the Corporate Securities
25 Law of 1968, the California Administrative Procedure Act, the California Code of Civil Procedure,
26 or any other provision of law in connection therewith.
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1 6. **Future Actions by the Commissioner:** The Commissioner reserves the right to
2 bring any future action(s) against Aztec and/or any of the officers, directors, shareholders, or
3 employees of Aztec for any and all unknown or future violations of the Corporate Securities Act of
4 1968. This Agreement shall not serve to exculpate Aztec or any of the officers, directors,
5 shareholders, or employees of Aztec from liability for any and all unknown or future violations of
6 the Corporate Securities Act of 1968.

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8 7. **Effective Date:** This Agreement shall not become effective until signed, and
9 delivered by all parties.

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11 8. **Settlement Agreement Coverage:** The Parties hereby acknowledge and agree that
12 this Agreement is intended to constitute a full, final, and complete resolution of this matter. The
13 Parties further acknowledge and agree that nothing contained in this Agreement shall operate to
14 limit the Commissioner's ability to assist any other agency, county, state or federal, with any
15 prosecution, administrative, civil or criminal, brought by any such agency against Aztec and/or
16 Lang based upon any of the activities alleged in this matter or otherwise.

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18 9. **Independent Legal Advice:** Each of the Parties represents, warrants, and agrees
19 that it has received or been advised to seek independent legal advice from its attorneys with respect
20 to the advisability of executing this Agreement.

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22 10. **No Other Representation:** Each of the parties represents, warrants, and agrees
23 that in executing this Agreement it has relied solely on the statements set forth herein and the
24 advice of its own counsel. Each of the parties further represents, warrants, and agrees that in
25 executing this Agreement it has placed no reliance on any statement, representation, or promise of
26 any other party, or any other person or entity not expressly set forth herein, or upon the failure of
27 any party or any other person or entity to make any statement, representation or disclosure of
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1 anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party
2 was in any way fraudulently induced to execute this Agreement; and (2) to preclude the
3 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
4 Agreement.
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6 11. **Modifications and Qualified Integration:** No amendment, change or modification
7 of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of
8 the parties affected by it.

9 12. **Full Integration:** This Agreement is the final written expression and the
10 complete and exclusive statement of all the agreements, conditions, promises, representations, and
11 covenants between the parties with respect to the subject matter hereof, and supersedes all
12 discussions between and among the parties, their respective representatives, and any other person or
13 entity, with respect to the subject matter covered hereby.
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15 13. **No Presumption From Drafting:** In that the parties have had the opportunity to
16 draft, review and edit the language of this Agreement, no presumption for or against any party
17 arising out of drafting all or any part of this Agreement will be applied in any action relating to,
18 connected to, or involving this Agreement. Accordingly, the parties waive the benefit of Civil Code
19 section 1654 and any successor or amended statute, providing that in cases of uncertainty, language
20 of a contract should be interpreted most strongly against the party who caused the uncertainty to
21 exist.
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23 14. **Counterparts:** This Agreement may be executed in any number of counter-
24 parts by the Parties, and when each party has signed and delivered at least one such counterpart to
25 the other party, each counterpart shall be deemed an original and taken together shall constitute one
26 and the same Agreement.
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15. **Headings and Governing Law:** The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

16. **Authority For Settlement:** Each party warrants and represents that such party is fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without limiting the generality of the foregoing, each party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

17. **Public Record:** Aztec and Lang hereby acknowledge that this Agreement will be a matter of public record.

18. **Voluntary Agreement:** The Parties each represent and acknowledge that he, she, or it is executing this Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth opposite their respective signatures.

California Commissioner of Business Oversight

Dated: 8/29/13

By _____

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 8/27/13

Aztec Partners, LLC and Bob Lang

By _____

BOB LANG, individually and for
Aztec Partners, LLC