

AGREEMENT

PRUDENTIAL EQUITY GROUP, LLC (“PEG”), formerly known as Prudential Securities, Incorporated (“PSI”), a wholly owned subsidiary of Prudential Financial, Inc. (“Prudential”), by its undersigned attorneys, pursuant to authority granted by the Board of Directors of PEG and Prudential and the United States Attorney for the District of Massachusetts (the “USAO”), enter into this Agreement (the “Agreement”).

WHEREAS, since November 2003, the USAO has been conducting a criminal investigation into allegations that PEG employees were engaged in deceptive trading in mutual fund shares in violation of federal criminal law, including the following: (a) Title 15, United States Code, Sections 78j(b) and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5; (b) Title 15, United States Code, Sections 78o(c)(1)(A) and 78ff(a), Title 17 Code of Federal Regulations, Section 240.15c(1)-2; (c) Title 18, United States Code, Section 1341; (d) Title 18, United States Code, Section 1343; and (e) Title 18, United States Code, Section 2;

WHEREAS, the U.S. Securities and Exchange Commission (“SEC”), the National Association of Securities Dealers (“NASD”), the New York Stock Exchange (“NYSE”), the Secretary of the Commonwealth of Massachusetts (the “Secretary”), the State of New York Attorney General’s Office (“NYAG”), and the New Jersey Bureau of Securities (“NJBS”) (collectively the “Securities Regulators”) have also conducted investigations of PEG into matters related to the deceptive trading in mutual funds, and those investigations of PEG are now concluded in accordance with the terms of this Agreement;

WHEREAS, the USAO investigation of PEG has established, without limitation, the following:

- a. From at least 1999 through June 2003, when PSI transferred its domestic retail broker-dealer assets to Wachovia Securities, LLC (“Wachovia”), certain brokers employed by PSI (the “Timer Brokers”) engaged in deceptive and fraudulent trading in shares of mutual funds. Following the asset transfer, the Timer Brokers continued their fraudulent conduct from July 2003 until approximately September 2003, when their employment was terminated;
- b. While at PSI and at Wachovia, the Timer Brokers defrauded mutual fund companies (i.e., organizations that manage mutual funds) and mutual funds by employing various deceptive and fraudulent acts and practices to execute prohibited “market timing” trades on behalf of certain PSI clients. From January 2001 through June 2003, the Timer Brokers generated in excess of \$50 million in gross commissions and fees for PEG. From July 2003 through

September 2003, the Timer Brokers generated in excess of \$7 million in gross commissions and fees for Wachovia; and

- c. PSI had supervisory responsibility for the Timer Brokers from at least January 1999 through June 2003. During the period of time the Timer Brokers were employed at Wachovia, from July 2003 through September 2003, former PSI supervisors retained supervisory responsibility for the Timer Brokers;

WHEREAS, the USAO has filed criminal charges against a number of former employees of PSI, and PEG acknowledges and accepts responsibility for the conduct of those former employees.

WHEREAS the USAO has informed Prudential and PEG that the USAO has determined that there is a sufficient basis to seek an indictment of PEG for, without limitation, violations of Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5;

WHEREAS, the USAO has determined that an indictment of PEG may cause undue harm to innocent individuals, including current employees of PEG and employees and shareholders of affiliated entities who had no involvement in the criminal conduct under investigation; and

WHEREAS, PEG's parent company, Prudential, by and through its Board of Directors, has undertaken certain remedial actions to ensure better control and compliance over PEG and other Prudential affiliated entities and has agreed to continue those efforts by separate letter agreement with the USAO dated _____, 2006;

NOW, THEREFORE, the USAO and PEG agree as follows:

1. This Agreement shall be in effect for 60 months from the date of its execution.
2. PEG admits to and accepts responsibility for its conduct and the conduct of the Timer Brokers as described in this Agreement and the Statement of Facts incorporated herein and attached hereto as Exhibit A and agrees that certain PEG employees engaged in conduct that was unlawful and fraudulent. PEG also admits to and accepts responsibility for all conduct described in the Statement of Facts. PEG agrees that the Statement of Facts is accurate and further agrees not to contradict the facts stated therein.
3. PEG agrees that, if it violates any terms of this Agreement, the USAO may file the attached criminal Information (the "Information") in the United States District Court for the District of Massachusetts charging PEG with securities fraud, in violation of Title 15, United States Code, Sections 78j and 78ff(a), Title 17, Code of Federal Regulations, Section 240.10b-5. A copy of the Information is attached hereto as Exhibit B. As is set forth elsewhere in this agreement, PEG waives any rights it may have to proceed by way

of indictment and it waives any and all rights it may have under any applicable statutes of limitations or other legal, equitable or constitutional limitations that may limit the period of time during which the USAO may seek an indictment or other charging document (such as a complaint or information) for the offenses covered by the Information.

4. PEG does not endorse, ratify, or condone illegal conduct and, as set forth below, has taken steps to prevent such conduct from occurring in the future.
5. During the term of this Agreement, PEG agrees to cooperate fully with the USAO and with any other agency designated by the USAO regarding any matter about which PEG has knowledge. Pursuant to this paragraph, PEG agrees that cooperation includes but is not limited to the following:
 - a. Completely and truthfully disclosing all information with respect to the activities of PEG and its affiliates, and its present and former officers, agents, and employees, concerning all matters that may be inquired into by the USAO;
 - b. Assembling, organizing and providing on request by the USAO all documents, records, or other evidence in PEG's possession, custody or control;
 - c. Not asserting, in relation to any request of the USAO, a claim of privilege (such as attorney-client privilege) or immunity from disclosure (such as work product) as to any documents or information requested by the USAO related to the conduct described in the Statement of Facts that pre-date September 4, 2003 and, as to any documents, information or testimony that are dated or post-date September 4, 2003, not asserting the attorney-client privilege or other immunity from disclosure as to any documents or information that primarily contain factual information, analyses or compilations of factual information related to the investigations of the USAO and the Securities Regulators. PEG may assert the attorney client-privilege or immunity from disclosure as to documents, information and testimony that are dated or post-date October 1, 2003 for documents or information relating to legal or settlement advice provided to PEG. In making any production to the USAO of the foregoing documents or information, PEG neither expressly nor implicitly waives its right to assert any privilege or immunity from disclosure with respect to the produced documents or information (or any subject-matter covered by such documents, information, or testimony) as to anyone not a party to this Agreement;

- d. Using its best efforts to identify witnesses who, to PEG's knowledge, possess material information regarding the matters covered by this Agreement;
 - e. Using its best efforts to make available for interviews, or for testimony, present or former PEG officers, directors, and employees as requested by the USAO;
 - f. Providing testimony and other information deemed necessary by the USAO or the court to establish the original location, authenticity, or other evidentiary foundation to admit into evidence documents in any criminal or other proceeding as requested by the USAO;
 - g. Complying with any agreements between PEG and the SEC or any other governmental agency as long as such agreements remain in effect; and
 - h. Maintaining PEG as a lawfully organized and adequately capitalized corporate entity for purposes of this Agreement during the time this Agreement is in effect.
6. PEG further agrees that it will not, through present or future attorneys, board of directors, agents, affiliates, parent, officers or employees, make any public statement or filing, including, without limitation, statements or filings in litigation in which the USAO (or the U.S. Department of Justice by and through the USAO) or the Securities Regulators is a party, contradicting any statement set forth in the Information or in the Statement of Facts. Any such contradictory public statement by PEG, its present or future attorneys, board of directors, agents, affiliates, parent, officers or employees shall constitute a material breach of this Agreement, and PEG thereafter would be subject to prosecution on the Information attached to this Agreement. The decision of whether any public statement by any such person contradicting a statement contained in the Information or Statement of Facts will be imputed to PEG for the purpose of determining whether PEG has breached this Agreement shall be at the sole reasonable discretion of the USAO. Upon the USAO's reaching a determination that such a contradictory statement has been made by PEG, the USAO shall so notify PEG. PEG may avoid a breach of this Agreement by publicly repudiating such statement within forty-eight hours after notification by the USAO. This paragraph is not intended to apply to any statement made by any individual in the course of any criminal, regulatory, or civil matter initiated by the USAO or Securities Regulators against such individual, unless such individual is speaking on behalf of PEG. Consistent with PEG's obligation not to contradict any statement set forth in the Information or the Statement of Facts, PEG may take good faith positions in litigation involving any private party.

7. In light of PEG's remedial actions to date and its willingness to (a) acknowledge responsibility for its behavior, (b) cooperate with the USAO and other governmental regulatory agencies, and (c) demonstrate its future good conduct and full compliance with the securities laws, the USAO agrees that if PEG is in full compliance with all of its obligations under this Agreement, the USAO, will not prosecute PEG on the attached Information or on the matters described in the Statement of Facts.
8. Upon execution of this Agreement, PEG shall pay \$600,000,000, with the following payments to be credited against the \$600,000,000:

\$270,000,000 paid to the Fair Fund administered by the SEC pursuant to an offer of settlement reached between the Securities Regulators and PEG; and

\$5,000,000 paid to the Secretary of the Commonwealth of Massachusetts as a monetary penalty.

The balance, \$325,000,000, shall be paid as a monetary penalty allocated as follows: \$300,000,000 to the United States Treasury and \$25,000,000 to the United States Postal Inspection Service Consumer Fraud Fund.

The payments set forth above are material terms of this Agreement. Failure to make payment upon execution of this Agreement or within 48 hours of execution of this Agreement renders all remaining terms of this Agreement null and void.

9. The parties further agree that should the USAO, in its sole reasonable discretion, determine that PEG (a) has given deliberately false, incomplete, or misleading information under this Agreement, (b) has committed any federal crimes subsequent to the date of this Agreement, or (c) has otherwise committed a willful and knowing material breach of any provision of this Agreement (these three circumstances, (a), (b) and (c) are collectively referred to herein as "Breach"), PEG shall, in the USAO's sole reasonable discretion, thereafter be subject to prosecution(s) for any federal criminal violation, including, without limitation, the Information. Moreover, with respect to any prosecutions relating to deceptive mutual fund market timing transactions that are not time-barred as of the date of this Agreement by the applicable statute of limitations (or any other legal, equitable or constitutional basis upon which a prosecution may be time-barred), PEG agrees that the applicable statute of limitations period (or any other legal, equitable or constitutional basis for barring prosecution based on the passage of time), shall be tolled for a period of time equal to the term of this Agreement. PEG's agreement to toll any applicable statute of limitation (or of any legal, equitable or constitutional basis for barring prosecution based on the passage of time) for the period of time covered by this Agreement means that the time period covered by this Agreement shall not be included in the computation of any time periods for purposes of determining whether any applicable statute of limitation (or of any legal, equitable or constitutional basis for barring prosecution based on the passage of time) bars prosecution of PEG relating to

deceptive mutual fund market timing transactions, including, without limitation the charges set forth in the Information and the conduct set forth in the Statement of Facts. PEG's agreement herein tolling the statute of limitations (and any other legal, equitable or constitutional basis for barring prosecution based on the passage of time) is knowing and voluntary and in express reliance on the advice of counsel.

10. PEG agrees that in the event that the USAO, in its sole reasonable discretion, determines that PEG has committed a Breach: (a) PEG will not contest the filing of the Information nor the admissibility into evidence of the Statement of Facts as a binding admission of PEG; (b) PEG will not contradict the contents of the Information or the Statement of Facts; (c) all statements made by or on behalf of PEG and any employee (current or former), or any testimony given by PEG and any employee (current or former) before a grand jury, the United States Congress, the SEC, or elsewhere, and any leads derived from such statements and testimony, shall be admissible in evidence against PEG if proffered by the USAO in any and all criminal proceedings brought by the USAO against PEG; (d) PEG shall not assert any claim under the U.S. Constitution, the rules of evidence, common law or any other legal or equitable principle, that statements made by or on behalf of PEG prior to or subsequent to this Agreement, or any leads therefrom, should be suppressed; (e) PEG shall not assert that the conduct set forth in the Statement of Facts fails to provide a sufficient factual or legal basis to support the charge set forth in the Information; and (f) PEG will agree that the conduct set forth in this Agreement, including the conduct set forth in the Statement of Facts, violates federal criminal law, including, without limitation, Title 15, United States Code, Sections 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10b-5, and that the conduct of the Timer Brokers violates these provisions and is chargeable to PSI (and PEG as successor to PSI).
11. The decision whether conduct and statements of any individual will be imputed to PEG for the purpose of determining whether PEG has committed a Breach shall be in the sole reasonable discretion of the USAO.
12. Should the USAO determine that PEG has committed a Breach, the USAO shall provide written notice to PEG of the alleged breach and provide PEG with a two-week period in which to make a presentation to the USAO to demonstrate (a) that no Breach has occurred, (b) that the Breach is not a willful and knowing material breach, or (c) that the Breach has been cured. The parties hereto expressly understand and agree that should PEG fail to make a presentation to the USAO within a two-week period, it shall be conclusively presumed, at the USAO's option, that PEG has committed a Breach. In the event of a Breach that results in a prosecution of PEG, such prosecution may be premised upon any information provided by or on behalf of PEG to the USAO at any time, unless otherwise agreed when the information was provided.
13. PEG agrees that the consequences for a Breach as set forth in this Agreement, including, without limitation, those set forth in paragraph 10 of this Agreement, are remedies to which the USAO is entitled in the event of a Breach and shall survive in the event of a

Breach. PEG further agrees that the USAO's remedies for a Breach are not limited to those set forth in this Agreement. PEG further agrees that in the event of a Breach, PEG shall nevertheless be bound by its waivers of any legal, equitable or constitutional rights set forth in this Agreement, including, without limitation, its waivers in paragraphs 3, 9 and 15 of this Agreement, and those provisions shall survive even in the event of a Breach.

14. PEG agrees that if it sells or merges all or substantially all of its business operations as they exist as of the date of this Agreement to or into a single purchaser or group of affiliated purchasers during the term of this Agreement, it shall include in any contract for sale or merger a provision binding the purchaser/successor to the obligations described in this Agreement.
15. PEG shall expressly waive any rights it may have to a speedy trial pursuant to the Fifth or Sixth Amendments of the United States Constitution, Title 18, United States Code, Section 3161, Federal Rule of Criminal Procedure 48(b), any applicable local rule of the United States District Court for the District of Massachusetts, or any other applicable legal or equitable principle.
16. It is understood that this Agreement is binding on PEG and the USAO, but specifically does not bind any other federal agencies, or any state or local law enforcement or licensing authorities, although the USAO will bring the cooperation of PEG and its compliance with its other obligations under this Agreement to the attention of state and local law enforcement or licensing authorities, if requested by PEG or its attorneys.
17. Nothing in this Agreement restricts in any way the ability of the USAO from proceeding against any individual or entity not a party to this Agreement.
18. This Agreement expires five years from the date of its execution; provided, however, that if on such date, any investigation, prosecution or proceeding relating to the subject matters is then ongoing and is being conducted by the USAO, the SEC or any other federal or state enforcement or regulatory agency with which PEG has been directed by the USAO to cooperate pursuant this Agreement, then this Agreement shall not expire until such investigation, prosecution or proceeding is concluded. Between 30 and 60 days before the expiration of the 60 month period of this Agreement, PEG shall submit to the USAO a written certification that it is in compliance with this Agreement.
19. PEG and the USAO agree that this Agreement, including Exhibits A and B and the letter agreement with Prudential referenced herein, shall be made available to the public.
20. PEG hereby warrants and represents that the Board of Directors of PEG has duly authorized, in a specific resolution, the execution and delivery of this Agreement by PEG, and that the person signing the Agreement has authority to bind PEG.
21. This Agreement may not be modified except in writing signed by all the parties.

22. This Agreement may be executed in counterparts.
23. PEG agrees that should a dispute between PEG and the USAO arise as to the meaning of any of the provisions of this Agreement, any ambiguities as to the terms of this Agreement shall be construed in the favor of the USAO.

PRUDENTIAL EQUITY GROUP, LLC

Chairman and Chief Executive Officer
Prudential Financial, Inc.
on behalf of Prudential Equity
Group, LLC
Date:

General Counsel
Prudential Financial, Inc.
on behalf of Prudential Equity
Group, LLC
Date:

MICHAEL J. SULLIVAN

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Jack W. Pirozzolo
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Date: