

BEFORE THE  
STATE OF WISCONSIN  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF SECURITIES

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In the Matter of

SUMMARY ORDER

PIVOTPOINT ADVISORS, LLC  
and  
JOHN M. NORQUAY,

File No. S-228781 (EX)

Respondents.

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The Administrator of the State of Wisconsin, Department of Financial Institutions, Division of Securities (“the Division”), having authority to administer and provide for enforcement of the Wisconsin Uniform Securities Law, Chapter 551, Wis. Stats. (“WUSL”), and having determined that this action is necessary and appropriate in the public interest and for the protection of investors, hereby enters this Order suspending Respondents’ registration for thirty (30) days, requiring Respondents to pay a civil penalty and restitution, and directing Respondents to immediately Cease and Desist from violating the WUSL.

The Staff of the Professional Registration & Compliance Bureau of the Division of Securities has presented evidence sufficient for the Administrator to make the following findings of fact and conclusions of law:

**RESPONDENTS**

1. PivotPoint Advisors, LLC (CRD# 137647) (“PivotPoint”) is a Wisconsin limited liability company organized in or about October 2005.
2. PivotPoint is a registered investment advisor with a last known business address of 3133 Peachtree Street, Janesville, WI 53548. PivotPoint registered as an investment adviser in Wisconsin on June 26, 2006 and was registered with the Division at all times material to this Order.
3. John M. Norquay (“Norquay”) (CRD #2200429) is a registered investment adviser representative with PivotPoint Advisors, LLC (CRD#137647) with a last known business address of 3133 Peachtree Street, Janesville, WI 53548.
4. At all material times, Norquay has been the direct owner, managing member, and Chief Compliance Officer of PivotPoint.
5. Norquay is also registered as a Wisconsin Insurance Agent (license number 2317610).

## FINDINGS OF FACT

1. In or about 1993, a client of Norquay and/or PivotPoint (“the Client”) executed a Durable General Power of Attorney naming Norquay as the Client’s personal representative and power of attorney in the event that the Client’s wife predeceased him (hereafter “1993 POA”).
2. In or about June 2006, Norquay and PivotPoint borrowed \$90,000 from a private third party, with interest accruing at 12%.
3. In or about January 2011, the Client’s wife died and Norquay became the Client’s personal representative with power of attorney pursuant to the 1993 POA.
4. In or about March 2011, the Client executed a Durable Power of Attorney for Financial Management (hereafter “2011 POA”), naming Norquay as the Client’s agent and granting Norquay, among other authority, the power to buy or sell securities on behalf of the Client.
5. The 2011 POA contains an explicit prohibition against Norquay self-dealing with the Client or exercising the Power of Attorney in favor of Norquay.
6. In or about May 2011, Norquay recommended to the Client that he invest in a promissory note issued by PivotPoint in the amount of \$85,000 plus 5% interest, with interest deferred until a maturity date of May 4, 2013 and other penalties and interest for failing to pay the note in full at maturity.
7. To consummate the promissory note transaction, Norquay filled out a personal check on behalf of the Client in the amount of \$85,000 and instructed the client to sign the check. Norquay then tendered the check and took possession of the Client’s funds and issued the promissory note to the Client in return.
8. Upon information and belief, Norquay used the funds borrowed from his Client to retire the pre-existing debt described above in paragraph 2.
9. Upon information and belief, Norquay did not disclose to the Client that he and PivotPoint would use the Client’s funds to retire the pre-existing debt with an interest rate more than double what the Client would earn on his investment with PivotPoint.
10. Upon information and belief, Norquay did not disclose to the Client material facts concerning the promissory note, including but not limited to Norquay and PivotPoint’s inability to repay its debts or any other risks associated with the promissory note investment.

11. The PivotPoint promissory note issued to the Client was never registered with the Division.
12. The promissory note transaction orchestrated by Norquay and PivotPoint and for their benefit was directly contrary to Norquay's authority as agent, fiduciary, and power of attorney for the Client and was prohibited under the 2011 POA.
13. As registrants with the Division, PivotPoint and Norquay are subject to routine examinations by Division staff to verify compliance with the securities laws.
14. Pursuant to Wis. Admin. Code DFI § 5.03, PivotPoint, as a registered investment advisor, is required to maintain records of all of its liabilities and to make such records available to Division staff.
15. In or about February 2012, the Division conducted a routine examination of PivotPoint, wherein Division staff specifically inquired about the firm's liabilities. In response, Norquay did not disclose the existence of the 2006 promissory note and instead falsely reported to the Division that PivotPoint had no liabilities.
16. As of the Division's examination in February 2012, PivotPoint did not maintain or make available to Division examiners any general ledger or other records reflecting all of the firm's liabilities, as required by Wis. Admin. Code DFI § 5.03(1)(b).
17. PivotPoint did not make payment to the Client as required by the terms of the promissory note when the note obligation matured on May 4, 2013.
18. On or about May 6, 2013, an attorney for the Client filed a complaint with Norquay and PivotPoint and demanded payment of the principal and accrued interest due to the Client under the promissory note. However, no payment was made to the Client until months later after the Client filed a complaint with the Division and the Division informed Norquay that the promissory note transaction was a violation of the securities laws and may subject Norquay to sanctions.
19. PivotPoint and Norquay did not provide a copy of the complaint to the Division as required by Wis. Admin. Code DFI § 5.04(2).
20. Upon information and belief, there was no written advisory contract between the Client and PivotPoint and/or Norquay.
21. On or about July 2, 2013, the Division received a complaint from the Client related to the PivotPoint promissory note.

22. On or about July 17, 2013, the Division conducted a for-cause examination of PivotPoint as a result of the Client's complaint. During the examination, Norquay failed to disclose PivotPoint's liability to the Client as required by Wis. Admin. Code DFI § 5.03 and affirmatively misrepresented to Division staff that he had not borrowed money from clients.
23. In or about November 2013, PivotPoint did make payment to the Client in an amount sufficient to cover the outstanding principal, interest, and penalties under the note, but refused to make payment to the Client for costs that the Client incurred in attempting to collect, as required by the terms of the promissory note.
24. The client incurred at least \$2,528.61 in costs when attempting to collect on the promissory note, which neither PivotPoint nor Norquay has ever paid.
25. Upon the death of the Client's wife in 2011, Norquay became personal representative for the wife's estate pursuant to her will and last testament. The Client was the sole beneficiary of his wife's estate.
26. While serving as the estate's personal representative, Norquay took \$20,000 from the estate and invested it in an unregistered promissory note security whereby the funds would be used for a micro-lending project in Africa.
27. The \$20,000 promissory note investment was highly risky and illiquid, and as such, was patently unsuitable for the Client, who was a risk-adverse elderly man over 70 years old with limited financial means.
28. Norquay failed to comply with his duties and obligations as personal representative of the wife's estate, including by failing to give notice to creditors of the estate, misreporting to the probate court the state's expenses and remaining assets, and failing to close the estate. As a result, the probate court removed Norquay as personal representative.

### CONCLUSIONS OF LAW

29. PivotPoint was an investment advisor, as that term is defined in Chapter 551, Wis. Stats.
30. Norquay was an investment advisor representative, as that term is defined in Chapter 551, Wis. Stats.
31. Norquay and PivotPoint violated Wis. Admin. Code DFI § 5.05(5) by engaging a client without a written contract.
32. Norquay and PivotPoint violated Wis. Admin. Code DFI § 5.06(6) by borrowing money from a client.
33. Norquay and PivotPoint violated Wis. Stat. § 551.301 by selling a promissory note security to their client that was not registered with the Division nor exempt from registration.

34. Norquay and PivotPoint violated Wis. Admin. Code DFI § 5.03(1)(b) by failing to maintain and make available to Division examiners any general ledger or other records reflecting all of the firm's liabilities.
35. Norquay and PivotPoint violated Wis. Admin. Code DFI § 5.03(h) by failing to maintain a separate file containing a copy of all complaints made or submitted by clients.
36. Norquay and PivotPoint violated Wis. Admin. Code DFI § 5.04(2) by failing to disclose to the Division the complaint filed by their Client.
37. Norquay and PivotPoint violated Wis. Stat. § 551.501(2) and Wis. Admin. Code DFI § 5.06(20) by, when soliciting a client for the sale of a security, omitting to state material facts necessary in order to make the statements made to the Client, in light of the circumstances under which they are made, not misleading.
38. Norquay violated Wis. Admin. Code DFI § 5.06(4) by recommending to his Client that he purchase the unregistered promissory note from PivotPoint and by investing \$20,000 of the Client's funds in an unregistered promissory note related to African micro-lending without reasonable grounds to believe that those recommendations were suitable for the Client on the basis of information furnished by the Client after reasonable inquiry concerning the Client's investment objectives, financial situation and needs, and any other information known by the investment advisor.
39. Norquay and PivotPoint's actions described in this Order constitute willful violations of Chapter 551, Wis. Stats. and related regulations, as that term is meant in Wis. Stat. § 551.412(4)(b).
40. Norquay acted contrary to Wis. Stat. § 551.412(4)(q) by failing to disclose the Client complaint to the Division and withholding and concealing from the Division material facts concerning the securities transactions he engaged in with his Client.
41. Norquay and PivotPoint's actions described in this Order constitute dishonest and/or unethical practices within the meaning of Wis. Stat. § 551.412(4)(m).
42. Norquay violated his fiduciary duties to his Client by self-dealing with the Client's funds contrary to Norquay's authority as agent and power of attorney for the Client.
43. Pursuant to Wis. Stat. § 551.412 and Wis. Admin. Code DFI § 5.09(1), investment advisors and investment advisor representatives registered with the Division may be subject to sanctions for the violations described in this Order, including suspension, monetary penalties not to exceed \$10,000 for a single violation or \$100,000 for more than one violation, and such other sanctions as the Division finds appropriate.

Therefore, pursuant to Wis. Stat. § 551.412 and Wis. Admin. Code DFI § 5.09(1)

**IT IS ORDERED THAT:**

- a. RESPONDENTS, their agents, servants, employees, and every entity and person directly or indirectly controlled or organized by or on any of their behalves, shall cease and desist from making or causing to be made to any person or entity in Wisconsin any further offers or sales of securities unless and until such securities qualify as covered securities or are registered under Wis. Stats. Ch. 551 or successor statute.
- b. All exemptions from registration set forth at Wis. Stats. Ch. 551 or successor statute that might otherwise apply to any offer or sale of any security of or by any RESPONDENTS, their successors, affiliates, controlling persons, and every entity and person directly or indirectly controlled or organized by or on any of their behalves, are hereby revoked.
- c. RESPONDENTS, their successors, affiliates, controlling persons, officers, agents, servants, employees, and every entity and person directly or indirectly controlled or hereafter organized by or on any of their behalves, are prohibited from violating Wis. Stats. Ch. 551 or successor statute that might otherwise apply to any offer or sale of any security of or by RESPONDENTS.
- d. The Wisconsin Investment Adviser (RA) registration of PIVOTPOINT ADVISORS, LLC is suspended for 30 calendar days to begin 30 calendar days from the date of issuance of this Order, or if a petition for a hearing is filed as provided under Wis. Stat. § 551.412(6), to begin on a date to be fixed by a final order.
- e. The Wisconsin Investment Adviser (RA) registration of JOHN M. NORQUAY is suspended for 30 calendar days to begin 30 calendar days from the date of issuance of this Order, or if a petition for a hearing is filed as provided under Wis. Stat. § 551.412(6), to begin on a date to be fixed by a final order.
- f. PIVOTPOINT ADVISORS, LLC and JOHN M. NORQUAY shall make restitution to the Client in the amount of \$2,528.61 for the costs of collection incurred by the Client, for which PIVOTPOINT ADVISORS, LLC and JOHN M. NORQUAY are jointly and severally liable.
- g. PIVOTPOINT ADVISORS, LLC and JOHN M. NORQUAY shall pay to the Division a civil penalty in the amount of \$10,000, as provided under Wis. Stat. § 551.412(3). Such payment shall be made payable to the Wisconsin Department of Financial Institutions and shall be remitted to the Division no later than 30 calendar days from the date of issuance of this Order, or if a petition for a hearing is filed as provided under Wis. Stat. § 551.412(6), by a date to be fixed by a final order.

EXECUTED at Madison, Wisconsin, this 3rd day of June 2015.

(SEAL)

  
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Patricia D. Struck  
Administrator  
Division of Securities