

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING
Assistant Chief Counsel
3 JOANNE ROSS (SBN 202338)
Senior Corporations Counsel
4 DEPARTMENT OF BUSINESS OVERSIGHT
1515 K Street, Suite 200
5 Sacramento, California 95814
(916) 324-9687 telephone
6 (916) 445-6985 facsimile
Joanne.Ross@dbo.ca.gov

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8 Attorneys for Complainant

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

11 In the Matter of)
12 UBS FINANCIAL SERVICES, INC.,) Case No. 12402
13 Respondent.) **CONSENT ORDER**
14)
15)

16 WHEREAS, UBS Financial Services, Inc. (“UBS”) is a broker-dealer registered in the state
17 of California, with a Central Registration Depository (“CRD”) number of 8174; and

18 State securities regulators, as part of a North American Securities Administrators
19 Association (“NASAA”) working group (the “NASAA Working Group”), have conducted an
20 investigation into the registration of UBS Client Service Associates (“CSAs”) and UBS’s
21 supervisory system with respect to the registrations of CSAs; and

22 UBS has cooperated with state securities regulators and the NASAA Working Group
23 conducting the investigation by responding to inquiries, providing documentary evidence and other
24 materials, and providing access to facts relating to the investigations; and

25 UBS has advised the NASAA Working Group of its agreement to resolve the investigation
26 pursuant to the terms specified in this Consent Order (the "Order") and pursuant to the multi-state

1 resolution recommended by the NASAA Working Group; and

2 UBS has made certain changes in its supervisory system with respect to the
3 registration of CSAs, and will make certain payments in accordance with the terms of this Order;
4 and

5 UBS elects to waive permanently any right to a hearing and appeal under the Corporate
6 Securities Law of 1968 (“CSL”) with respect to this Order; and

7 Solely for the purpose of terminating the NASAA working group investigation, and in
8 settlement of the issues contained in this Order, UBS, without admitting or denying the findings of
9 fact or conclusions of law contained in this Order, consents to the entry of this Order.

10 NOW, THEREFORE, the Commissioner of Business Oversight (“Commissioner”) as
11 administrator of the CSL, hereby enters this Order:

12 **I.**

13 **FINDINGS OF FACTS**

14 1. UBS admits the jurisdiction of the Department of Business Oversight in this matter.

15 Background on Client Service Associates

16 2. The CSAs function as sales assistants and typically provide administrative and sales
17 support to one or more of UBS’s Financial Advisors (“FAs”). There are different titles within the
18 CSA position, including Client Service Associate, Registered Client Associate, and Senior
19 Registered Client Service Associate.

20 3. The responsibilities of CSAs specifically include, among other things:

- 21 a. Extending invitations to UBS-sponsored events;
- 22 b. Providing published quotations to clients, if asked;
- 23 c. Inquiring whether a current or prospective client wishes to discuss investments with
24 a registered representative of UBS; and

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1 d. Entering an order, provided the order was accepted by an appropriately registered
2 individual in those instances where the CSA is not registered in the state in which
3 the client is located.

4 4. In addition to the responsibilities described above, and of particular significance to this
5 Order, some CSAs are permitted to accept orders from clients. As discussed below, UBS's written
6 policies and procedures require that any CSAs accepting client orders first obtain the necessary
7 licenses and comply with self-regulatory organization and state registration requirements.

8 5. UBS issued a revised policy on registration requirements on March 28, 2007, which
9 stated, inter alia, that managers are responsible for ensuring that all employees under their
10 supervision are appropriately registered and licensed to perform the functions of their position.

11 6. During the period of 2004 to 2010, UBS employed, on average, approximately 2,277
12 CSAs per year.

13 Registration Required

14 7. CSL section 25210(b) states that: "No person shall, on behalf of a broker-dealer
15 licensed . . . , effect any transaction in, or induce or attempt to induce the purchase or sale of, any
16 security in this state unless that broker-dealer and agent have complied with any rules as the
17 commissioner may adopt for the qualification and employment of those agents."

18 8. Pursuant to the general prohibition under CSL section 25210(b), a person cannot accept
19 unsolicited orders in California without being registered as an agent according to the requirements
20 in Title 10, California Code of Regulations, section 260.210.

21 9. Pursuant to CSL section 25252(b), a broker-dealer is liable for administrative penalties
22 of up to five thousand dollars (\$5,000) for the first violation of the CSL, ten thousand dollars
23 (\$10,000) for the second violation, and fifteen thousand dollars (\$15,000) for each subsequent
24 violation.

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1 UBS Requires Registration of Client Service Associates

2 10. UBS requires CSAs to become properly registered, licensed, and appointed with the
3 necessary self-regulatory organizations, state regulators, and business entities before taking
4 solicited or unsolicited transaction orders from clients in securities or other financial products,
5 receiving transaction-related compensation, or otherwise engaging in the offer or sale of securities
6 or other financial products.

7 11. UBS’s policies and procedures state that CSAs engaging in securities activities must
8 register in, at a minimum, the state from which they conduct business (i.e. home state).

9 12. Additionally, UBS also required CSAs to register in states in which a CSA anticipated:

- 10 a. Maintaining an additional place of business;
- 11 b. Prospecting clients;
- 12 c. Soliciting new accounts;
- 13 d. Servicing existing accounts; or
- 14 e. Effecting any securities transactions and/or receiving compensation as a result of
15 such transactions.

16 Regulatory Investigation and Findings

17 13. In March 2010, state securities regulators initiated an investigation into the practices of
18 UBS in connection with its CSA registrations.

19 14. The multi-state investigation focused on systemic issues with UBS’s CSA registrations
20 and related supervisory structure instead of attempting to identify each incidence of unregistered
21 activity. Specifically, with respect to the order entry process, the investigation found:

- 22 a. After accepting a client order, UBS CSAs accessed UBS’s automated Consolidated
23 Order Entry System (“COE”) to enter the order;
- 24 b. When entering an order through the COE, CSAs were asked by the system “Did
25 another person receive this order?” If the question was answered “no,” the order
26

1 was processed. If the question was answered “yes,” a free text field appeared for
2 the CSA to enter the name or employee code of the person who accepted the order;

3 c. In some instances, when this question was answered “yes,” CSAs did not include a
4 name or code of the employee who accepted the order in the free text field. In other
5 instances, the free text field did not contain accurate identifying information about
6 the employee who accepted the trade;

7 d. Further, while UBS maintained a system to verify that the FA of record for a
8 particular account was registered in the state where the client resided, UBS did not
9 maintain a system to verify the registration status of the employee accepting a client
10 order when that employee was not the FA for the account.

11 15. The multi-state investigation found that on certain occasions some UBS CSAs, while
12 Series 7 registered and registered in one or more other states, accepted unsolicited orders to buy or
13 sell securities from clients residing in California at times when the CSAs were not appropriately
14 registered in California.

15 UBS’s Remedial Measure and Cooperation

16 16. In November 2010, after the initial inquiry by state securities regulators, UBS enhanced
17 the COE System to automatically validate the registration of employees during the order entry
18 process.

19 17. Specifically with respect to branch support staff (i.e. CSAs), employees are now
20 required to indicate the person who directly accepted the order from a client by selecting “self” or
21 “other” within the electronic ticket on the COE.

22 18. If a CSA selects “self”, the COE validates whether the CSA who accepted the order is
23 properly registered in the state where the client resides.

24 19. If a CSA selects “other,” the CSA must provide identifying information of the person
25 who accepted the order. The COE system subsequently validates whether the identified person
26 who accepted the order is properly registered in the state where the client resides.

1 the public interest.

2 **III.**

3 **ORDER**

4 On the basis of the Findings of Facts, Conclusions of Law, and UBS's consent to the entry of
5 this Order,

6 **IT IS HEREBY ORDERED:**

7 1. This Order concludes the investigation by the Department of Business Oversight and
8 any other action that the Department of Business Oversight could commence against UBS and its
9 officers, directors and present or former employees under applicable California law on behalf of
10 California as it relates to unregistered activity in California by UBS's CSAs and UBS's supervision of
11 CSA registrations during the period from January 1, 2004 through December 31, 2010.

12 2. This Order is entered into solely for the purpose of resolving the referenced multi-
13 state investigation, and is not intended to be used for any other purpose. For any person or entity
14 not a party to the Order, this Order does not limit or create any private rights or remedies against
15 UBS including, limiting or creating liability of UBS, or limiting or creating defenses of UBS, to
16 any claims.

17 3. UBS is hereby reprimanded.

18 4. UBS is hereby ordered to discontinue engaging in the acceptance of orders for
19 purchases and sales of securities in the California through persons not registered with the Department
20 of Business Oversight as agents of UBS.

21 5. UBS is hereby ordered to pay the sum of seventy-two thousand four hundred and
22 fifty-four dollars and fifty-six cents (\$72,454.56) to the Department of Business Oversight within
23 twenty days of the date of this Order. The monies received by the Department of Business
24 Oversight pursuant to this paragraph may be used, in accordance with California law, to reimburse
25 the Department of Business Oversight for costs incurred during the investigation of this matter, for
26 securities and investor education, and/or for other securities and investor protection purposes, at the

1 sole discretion of the Commissioner.

2 6. This order is not intended by the Department of Business Oversight to subject any
3 Covered Person to any disqualifications under the laws of the United States, any state, the District
4 of Columbia, Puerto Rico, or the U.S. Virgin Islands, or under the rules or regulations of any
5 securities or commodities regulator or self-regulatory organization, including, without limitation,
6 any disqualification from relying upon the state or federal registration exemptions or safe harbor
7 provisions. "Covered Person," means UBS or any of its affiliates and their current or former
8 officers or former officers, directors, employees, or other persons that could otherwise be
9 disqualified as a result of the Orders (as defined below).

10 7. This Order and the order of any other State in any proceeding related to UBS's
11 agreement to resolve the above referenced multi-state investigation (collectively, the "Orders")
12 shall not disqualify any Covered Person from any business that they otherwise are qualified,
13 licensed or permitted to perform under applicable securities laws or regulations of the California
14 and any disqualifications from relying upon this state's registration exemptions or safe harbor
15 provisions that arise from the Orders are hereby waived.

16 8. This Order shall be binding upon UBS and its successors and assigns as well as to
17 successors and assigns of relevant affiliates with respect to all conduct subject to the provisions
18 above and all future obligations, responsibilities, undertakings, commitments, limitations,
19 restrictions, events, and conditions.

20
21 Dated this 4 day of October, 2013.

22 JAN LYNN OWEN
23 Commissioner of Business Oversight

24
25 By _____
26 MARY ANN SMITH
Deputy Commissioner

1 **CONSENT TO ENTRY OF CONSENT ORDER BY UBS FINANCIAL SERVICES, INC.**

2 UBS hereby acknowledges that it has been served with a copy of this Consent Order
3 (“Order”), has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and
4 has waived the same.

5 UBS admits the jurisdiction of the Department of Business Oversight, neither admits nor
6 denies the Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of
7 this Order by the Department of Business Oversight as settlement of the issues contained in this
8 Order.

9 UBS agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with
10 regard to any state, federal or local tax for any administrative monetary penalty that UBS shall pay
11 pursuant to this Order.

12 UBS states that no promise of any kind or nature whatsoever was made to it to induce it to
13 enter into this Order and that it has entered into this Order voluntarily.

14 Ilene Marquardt represents that he/she is _____ of UBS and that, as such,
15 has been authorized by UBS to enter into this Order for and on behalf of UBS.

16 Dated this 3 day of October, 2013.

17
18 UBS FINANCIAL SERVICES, INC.
19 By: _____
20 Title: _____

21
22 SUBSCRIBED AND SWORN TO before me this 3 day of October, 2013.

23 [Affix seal]

24 _____
25 Notary Public

26 My Commission expires:
