

1 ALAN S. WEINGER
Deputy Commissioner
2 MARLOU de LUNA (BAR NO. 162259)
Sr. Corporations Counsel
3 320 West 4th Street, Ste. 750
Los Angeles, California 90013-2344
4 Telephone: (213) 576-7606
Fax: (213) 576-7181
5

6 Attorneys for Complainant
7

8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of the Accusation of THE) File No.: 13787
12 CALIFORNIA CORPORATIONS)
COMMISSIONER,)
13 Complainant,) **ACCUSATION:**
14 vs.) **CONDITION TO SURRENDER**
15 UVEST Financial Services Group, Inc.,)
16 Respondent.)
17)
18)
19)
20)

21 Complainant, the California Corporations Commissioner (“Commissioner”), is informed and
22 believes, and based upon such information and belief, alleges and charges Respondent as follows:

23 **I. JURISDICTION AND VENUE**

24 1. The Commissioner brings this action pursuant to the provisions of California
25 Corporations Code section 25242. The Commissioner is authorized to administer and enforce the
26 provisions of the California Corporate Securities Law of 1968 (“CSL”) (Corporations Code section
27 25000 et seq.), and the regulations thereunder at California Code of Regulations, title 10, section
28 260.000 et seq.

II. STATEMENT OF FACTS

2. At all relevant times herein, Respondent UVEST Financial Group Services, Inc. (“Respondent” or “UVEST”) holds a valid and unrevoked broker dealer certificate issued by the Commissioner on November 16, 1993 pursuant to the CSL. UVEST’s principal place of business is located at 5 Coliseum Centre, 2810 Coliseum Centre Drive, Charlotte, NC 28217. UVEST’s California address is 9785 Towne Centre Dr., San Diego, CA 92121-1968.

3. State regulators from multiple jurisdictions, including the California Department of Corporations, conducted coordinated investigations of Bankers Life and Casualty Company (“Bankers Life”), a life insurance company, and BLC Financial Services, Inc. (“BLCFS”), a wholly-owned subsidiary of Bankers Life (collectively, “Bankers”) to determine whether Bankers should have been registered as a broker-dealer and investment adviser between January 1, 2005, and December 2, 2011.

4. The investigations revealed that Bankers acted as a broker-dealer and investment adviser in the State of California without being registered, exempt from registration, or a federal covered investment adviser, and has employed or associated with agents and investment adviser representatives who were not so registered on behalf of Bankers, all in violation of Corporations Code sections 25210 (broker-dealer) and 25230 (investment adviser and investment adviser representatives).

5. Effective January 1, 2005, Bankers Life entered into a Financial Services Agreement with UVEST (the “UVEST Agreement”) under which Bankers Life insurance agents who became licensed as registered representatives and/or investment adviser representatives of UVEST (the “dual agents”) would provide brokerage and investment advisory services out of Bankers Life branch office locations. The UVEST Agreement specified that UVEST would “exercise exclusive control” over the broker-dealer and investment advisory activities of the dual agents and assigned Bankers Life several securities-related roles, which Bankers Life did perform, including:

- a. appointing the persons to be dual agents and having sole discretion to withdraw appointments at any time;
- b. determining with UVEST the number and identity of dual agents at each office;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- c. determining with UVEST the compensation to be paid to each agent;
- d. determining with UVEST the “brokerage product offerings available for distribution” by the dual agents;
- e. approving the clearing broker selected by UVEST;
- f. approving advertising and promotional material; and
- g. paying for:
 - i. pre-examination training for required NASD/FINRA examinations;
 - ii. investment research materials used in the branch offices;
 - iii. recruitment and travel costs; and
 - iv. UVEST stationary and business cards.

6. The UVEST Agreement provided for UVEST to pay Bankers Life “Revenue Sharing Payments” according to a schedule that varied from 82% to 85% of the gross commissions received by UVEST for the dual agents’ securities transactions. The UVEST Agreement characterized these payments as representing reimbursement for the compensation Bankers Life pays to the dual agents and “payment for the use of the facilities and equipment” of Bankers Life. The UVEST Agreement provided that Bankers Life would not compensate Series 6 licensed dual agents for the sale of individual stocks and bonds, and instead Bankers Life would retain all such revenue.

7. In March of 2005, Bankers Life determined that BLCFS should have been a party to the UVEST Agreement. As a result, the three firms agreed to a new first page of the UVEST Agreement that added BLCFS as a party and a new signature page, which was executed by the three parties. The revised UVEST Agreement did not assign BLCFS any rights or duties separate from those of Bankers Life and made all of Bankers Life’s rights and duties also apply to BLCFS.

8. Bankers and UVEST terminated the UVEST Agreement effective on or about April 29, 2010.

9. Evidence uncovered during the investigation showed that Bankers screened prospective securities agents, trained new securities agents, conducted periodic training sessions for securities agents, monitored and attempted to increase securities production of securities agents, and played a significant role in determining the compensation of securities agents. Additionally, evidence showed that the involvement of Bankers in securities-related roles led to confusion in the

1 reporting and responsibility hierarchies as between Bankers and the applicable broker-dealer.

2 10. At no time were the dual agents registered as agents or investment adviser
3 representatives of Bankers Life or BLCFS.

4 11. From January 1, 2005, through April 29, 2010, Bankers received, on a nationwide
5 basis, a total of approximately \$17 million from UVEST under their agreement for variable annuity
6 and securities transactions and investment advice.

7 12. UVEST has agreed to resolve the investigations through a Consent Order in order to
8 avoid protracted and expensive proceedings in numerous states, including the State of California. A
9 true and correct copy of the Consent Order is attached hereto as Exhibit 1 and incorporated herein by
10 reference.

11 13. On or about May 17, 2012, UVEST filed its application to surrender its broker dealer
12 certificate. The Department has not accepted the surrender because of the pending Consent Order
13 between UVEST and the Department.

14 **III. CONDITION TO SURRENDER**

15 14. UVEST shall execute the Consent Order between the Department and UVEST.

16 15. Upon execution of the Consent Order, the Department will accept the surrender of
17 UVEST's broker dealer certificate.

18 Based upon the foregoing, the Commissioner finds that it is in the public interest to impose
19 the aforementioned condition upon the acceptance of UVEST's broker dealer certificate surrender
20 pursuant to Corporations Code section 25242.

21 Dated: June 13, 2012
22 Los Angeles, California

JAN LYNN OWEN
California Corporations Commissioner

23
24
25 By: _____
26 Marlou de Luna
27 Sr. Corporations Counsel
28 Enforcement Division