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BEFORE THE ARKANSAS SECURITIES COMMISSIONER ARKANSAS SECURITIES DEPT.
CASE NO. S-13-0129
ORDER NO. S-13-0129-13-OR01

1
2 IN THE MATTER OF

3 UBS FINANCIAL SERVICES, INC.

RESPONDENT

4
5 CONSENT ORDER

6 WHEREAS, UBS Financial Services, Inc. ("UBS") is a broker-dealer registered in
7 Arkansas, with a Central Registration Depository ("CRD") number of 8174; and

8 State securities regulators, as part of a North American Securities Administrators
9 Association ("NASAA") working group (the "NASAA Working Group"), have conducted an
10 investigation into the registration of UBS Client Service Associates ("CSAs") and UBS's
11 supervisory system with respect to the registrations of CSAs; and

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

15 UBS has advised the NASAA Working Group of its agreement to resolve the investigation
16 pursuant to the terms specified in this Consent Order and pursuant to the multi-state resolution
17 recommended by the NASAA Working Group; and

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

20 UBS elects to waive permanently any right to a hearing and appeal under the Arkansas
21 Securities Act, Ark. Code Ann. §§ 23-42-101 through 23-42-509 ("Act"), with respect to this
22 Consent Order; and

23 Solely for the purpose of terminating the NASAA working group investigation, and in
24 settlement of the issues contained in this Consent Order, UBS, without admitting or denying the
25 findings of fact or conclusions of law contained in this Consent Order, consents to the entry of this
26 Consent Order.

1 NOW, THEREFORE, the Arkansas Securities Commissioner ("Commissioner"), as
2 administrator of the Act, hereby enters this Consent Order:

3 I.

4 FINDINGS OF FACTS

5 1. UBS admits the jurisdiction of the Act and the Commissioner in this matter.

6 Background on Client Service Associates

7 2. The CSAs function as sales assistants and typically provide administrative and sales
8 support to one or more of UBS's Financial Advisors ("FAs"). There are different titles within the
9 CSA position, including Client Service Associate, Registered Client Associate, and Senior
10 Registered Client Service Associate.

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

- 12 a. Extending invitations to UBS-sponsored events;
- 13 b. Providing published quotations to clients, if asked;
- 14 c. Inquiring whether a current or prospective client wishes to discuss investments with
15 a registered representative of UBS; and
- 16 d. Entering an order, provided the order was accepted by an appropriately registered
17 individual in those instances where the CSA is not registered in the state in which
18 the client is located.

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

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

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

3 Registration Required

4 7. It is unlawful for a person to transact business in Arkansas as a broker-dealer or agent
5 unless they are registered under the Act. Ark. Code Ann. § 23-42-301(a).

6 8. Pursuant to the general prohibition Ark. Code Ann. § 23-42-301(a), a person cannot
7 accept unsolicited orders in Arkansas without being registered under the Act.

8 9. It is unlawful for a registered broker-dealer to employ an unregistered agent except a
9 nonresident agent who is registered by any other state securities administrator and who effects
10 transactions in Arkansas exclusively with registered broker-dealers. Ark. Code Ann. § 23-42-
11 301(b)(1).

12 UBS Requires Registration of Client Service Associates

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

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

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

- 21 a. Maintaining an additional place of business;
- 22 b. Prospecting clients;
- 23 c. Soliciting new accounts;
- 24 d. Servicing existing accounts; or
- 25 e. Effecting any securities transactions and/or receiving compensation as a result of
26 such transactions.

1 Regulatory Investigation and Findings

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

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

- 7 a. After accepting a client order, UBS CSAs accessed UBS's automated Consolidated
8 Order Entry System ("COE") to enter the order;
- 9 b. When entering an order through the COE, CSAs were asked by the system "Did
10 another person receive this order?" If the question was answered "no," the order
11 was processed. If the question was answered "yes," a free text field appeared for
12 the CSA to enter the name or employee code of the person who accepted the order;
- 13 c. In some instances, when this question was answered "yes," CSAs did not include a
14 name or code of the employee who accepted the order in the free text field. In other
15 instances, the free text field did not contain accurate identifying information about
16 the employee who accepted the trade;
- 17 d. Further, while UBS maintained a system to verify that the FA of record for a
18 particular account was registered in the state where the client resided, UBS did not
19 maintain a system to verify the registration status of the employee accepting a client
20 order when that employee was not the FA for the account.

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

1 UBS's Remedial Measure and Cooperation

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

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

8 18. If a CSA selects "self", the COE validates whether the CSA who accepted the order is
9 properly registered in the state where the client resides.

10 19. If a CSA selects "other," the CSA must provide identifying information of the person
11 who accepted the order. The COE system subsequently validates whether the identified person
12 who accepted the order is properly registered in the state where the client resides.

13 20. If the identified person is not properly registered in the client's state of residence, the
14 order is routed to branch management who must ensure that a properly registered person accepts or
15 confirms the order before execution.

16 21. UBS provided timely responses and substantial cooperation in connection with this
17 regulatory investigation.

18 **II.**

19 **CONCLUSIONS OF LAW**

20 1. The Commissioner has jurisdiction over this matter pursuant to Ark. Code Ann. § 23-
21 42-201(a).

22 2. The Commissioner may by order deny, suspend, make conditional or probationary, or
23 revoke any registration if he finds that the order is in the public interest and the registrant has failed
24 reasonably to supervise the agents or employees of the broker-dealer. Ark. Code Ann. § 23-42-
25 308(a)(1) and (a)(2)(J).

1 3. Every registered broker-dealer shall make and keep any accounts, correspondence,
2 memoranda, paper, books, and other records with the Commissioner by rule prescribes. Ark. Code
3 Ann. § 23-42-306(a). Each broker-dealer shall make, maintain, and preserve books and records as
4 required for brokers or dealers under the rules promulgated under the Securities Exchange Act of
5 1934, as amended. Rule 306.01(a) of the Rules of the Arkansas Securities Commissioner
6 (“Rules”).

7 4. UBS’s failure to establish an adequate system to monitor the registration status of
8 persons accepting client orders constitutes a violation of Ark. Code Ann. § 23-42-308(a)(2)(J).

9 5. UBS’s maintenance of order tickets which do not accurately identify the person who
10 accepted client orders constitutes a violation of Ark. Code Ann. § 23-42-306(a) and Rule
11 306.01(a).
12

13 6. UBS’s acceptance of orders for purchases and sales of securities from clients residing in
14 Arkansas through CSAs not registered in Arkansas constitutes a violation of Ark. Code Ann. § 23-
15 42-301(b)(1).

16 7. Whenever it appears to the Commissioner, upon sufficient grounds or evidence
17 satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or
18 practice constituting a violation of any provision of the Act or any rule or order under the Act, he
19 may summarily order the person to cease and desist from the act or practice. Ark. Code Ann. § 23-
20 42-209(a)(1)(A).
21

22 8. Pursuant to Ark. Code Ann. § 23-42-209(a)(1)(A), UBS’s acceptance of orders for
23 purchases and sales of securities in Arkansas through agents not registered in Arkansas constitutes
24 bases to order UBS to cease and desist engaging in the sale of securities in Arkansas through
25 unregistered agents.
26

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

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

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

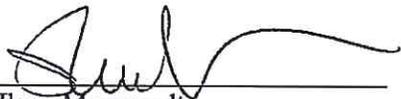
19 Dated this 14th day of November, 2013.

20
21 BY ORDER OF THE COMMISSIONER

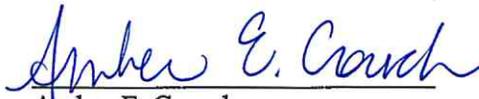
22 

23 A. Heath Abshire
24 Arkansas Securities Commissioner

1 APPROVED AS TO FORM:

2 

3 Ilene Marquardt
4 Managing Director
5 UBS Financial Services, Inc.



Amber E. Crouch
Staff Attorney
Arkansas Securities Department

6 11/14/13

7 Date

November 14, 2013

Date

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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, has read
3 the foregoing Consent Order, is aware of its right to a hearing and appeal in this matter, and has
4 waived the same.

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

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

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

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

15 Dated this 14 day of November, 2013.

16 UBS FINANCIAL SERVICES, INC.

17 By: [Signature]
18 Title: Managing Director

19
20 SUBSCRIBED AND SWORN TO before me this 14 day of November, 2013.

21 [Affix seal]

22 Ivan Sterling
23 Notary Public, State of New Jersey
24 My Commission Expires February 15, 2018
25 ID #2281122

26 My Commission expires: _____