

BEFORE THE IOWA COMMISSIONER OF INSURANCE
IOWA INSURANCE DIVISION
SECURITIES AND REGULATED INDUSTRIES BUREAU

In the Matter of
UBS FINANCIAL SERVICES, INC.,
Respondent.

) Insurance Division Docket No. _____

) **CONSENT ORDER AND ORDER TO CEASE
AND DESIST**

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

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

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

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

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

UBS elects to waive permanently any right to a hearing and appeal under Iowa code chapter 502 and the Iowa Administrative Procedure Act with respect to this Order; and

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

1 NOW, THEREFORE, the Iowa Securities Administrator as administrator of the Iowa
2 Uniform Securities Act hereby enters this Order:

3 **I.**

4 **FINDINGS OF FACTS**

5 1. UBS admits the jurisdiction of the Iowa Insurance Division 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 Order, some CSAs are permitted to accept orders from clients. As discussed below, UBS's written
21 policies and procedures require that any CSAs accepting client orders first obtain the necessary
22 licenses and comply with self-regulatory organization and state registration requirements.

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

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

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Registration Required

7. Iowa Code section 502.402(1) (2013) provides that “[i]t is unlawful for an individual to transact business in this state unless the individual is registered under this chapter as an agent or is exempt from registration as an agent under subsection 2.”

8. Pursuant to the general prohibition under Iowa Code section 502.402(1) (2013), a person cannot accept unsolicited orders in Iowa without being registered as an agent.

9. Pursuant to Iowa Code sections 502.412(3) and (4)(b) (2013) the administrator may impose a civil penalty on a broker-dealer due to a willful violation by selling securities through unlicensed agents of the broker-dealer.

UBS Requires Registration of Client Service Associates

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

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

12. Additionally, UBS also required CSAs to register in states in which a CSA anticipated:
- a. Maintaining an additional place of business;
 - b. Prospecting clients;
 - c. Soliciting new accounts;
 - d. Servicing existing accounts; or
 - e. Effecting any securities transactions and/or receiving compensation as a result of such transactions.

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3 Regulatory Investigation and Findings

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

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

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

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

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3 UBS's Remedial Measure and Cooperation

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

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

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

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

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

18 21. UBS provided timely responses and substantial cooperation in connection with this
19 regulatory investigation.

20 **II.**

21 **CONCLUSIONS OF LAW**

22 1. The Iowa Insurance Division has jurisdiction over this matter pursuant to the Iowa
23 Uniform Securities Act, Iowa Code chapter 502 (2013).

24 2. UBS's failure to establish an adequate system to monitor the registration status of
25 persons accepting client orders constitutes a failure to reasonably supervise an individual subject to
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1 its supervision and a violation of Iowa Code section 502.412(4)(i) (2013).

2 3. UBS's maintenance of order tickets which do not accurately identify the person
3 who accepted client orders constitutes a failure to reasonably supervise an individual subject to its
4 supervision and a violation of Iowa Code section 502.412(4)(i) (2013).

5 4. Pursuant to Iowa code chapter 502.402(1), UBS's acceptance of orders for
6 purchases and sales of securities from clients residing in Iowa through CSAs not registered in Iowa
7 constitutes a violation for the use or employment of unregistered agents/sales representatives and is
8 a basis for issuance of an Order imposing a fine against UBS.

9 5. Pursuant to Iowa code chapter 502.402.(1), UBS's acceptance of orders for
10 purchases and sales of securities in Iowa through agents or sales representatives not registered in
11 Iowa constitutes a sufficient basis to order UBS to cease and desist engaging in the sale of
12 securities in Iowa through unregistered agents or sales representatives.

13 6. Pursuant to Iowa code chapter 502.604.4 (2013), the violations described above
14 constitute a sufficient basis for the assessment of an administrative penalty against UBS.

15 7. The Commissioner of Insurance, Iowa Insurance Division finds the following relief
16 appropriate and in the public interest.
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20 **III.**

21 **ORDER**

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

24 **IT IS HEREBY ORDERED:**

25 1. This Order concludes the investigation by the Iowa Insurance Division and any other
26 action that the Iowa Insurance Division could commence against UBS and its officers, directors and

1 present or former employees under applicable Iowa law on behalf of the State of Iowa as it relates to
2 unregistered activity in Iowa by UBS's CSAs and UBS's supervision of CSA registrations during the
3 period from January 1, 2004 through December 31, 2010.

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

8 3. UBS is hereby ordered to cease and desist from engaging in the acceptance of orders
9 for purchases and sales of securities in Iowa through persons not registered with the Iowa Insurance
10 Division as agents of UBS.

11 4. UBS is hereby ordered to pay the sum of **\$68,174.98** to the Iowa Insurance Division
12 within twenty days of the date of this Order. Respondent shall pay the amount as follows:

13 a. \$34,337.49 to the Iowa Insurance Division. The Iowa Insurance Division shall
14 apply the monies received from Respondent pursuant to this paragraph as follows:
15 \$33,837.49 pursuant to Iowa Code Section 502.412(3) (2013), to be deposited in the
16 Iowa Securities Investor Education and Training Fund, pursuant to Iowa Code
17 Section 502.601(5) (2013); and \$500 to the Iowa Insurance Division for the costs of
18 investigation;

19 b. \$33,837.49 to the Investor Protection Trust for investor education, investor
20 protection, and promotion of compliance with federal and state securities and
21 commodities laws; and
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23 5. This order is not intended by the Iowa Insurance Division to subject any Covered
24 Person to any disqualifications under the laws of the United States, any state, the District of
25 Columbia, Puerto Rico, or the U.S. Virgin Islands, or under the rules or regulations of any
26 securities or commodities regulator or self-regulatory organization, including, without limitation,

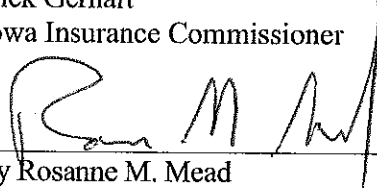
1 any disqualification from relying upon the state or federal registration exemptions or safe harbor
2 provisions. "Covered Person," means UBS or any of its affiliates and their current or former
3 officers or former officers, directors, employees, or other persons that could otherwise be
4 disqualified as a result of the Orders (as defined below).

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

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

15 Dated this 10 day of ~~September~~^{December}, 2013.

16
17 Nick Gerhart
18 Iowa Insurance Commissioner

19 
20 By Rosanne M. Mead
21 Iowa Securities Administrator

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 Iowa Insurance Division, neither admits nor denies the
6 Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of this Order
7 by the Iowa Insurance Division as settlement of the issues contained in this 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 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 Order and that it has entered into this 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 Order for and on behalf of UBS.

15 Dated this 5th day of December, 2013.

16 UBS FINANCIAL SERVICES, INC.

17 By: 

18 Title: Managing Director

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20 SUBSCRIBED AND SWORN TO before me this 5th day of December, 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 
Notary Public

My Commission expires:
