

The State of New Hampshire
Bureau of Securities Regulation

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OCT 22 2013

In the Matter of

UBS FINANCIAL SERVICES, INC.,

Respondent.

INV2013-00030

NEW HAMPSHIRE BUREAU
OF SECURITIES REGULATION

CONSENT ORDER

WHEREAS, UBS Financial Services, Inc. ("UBS") is a broker-dealer registered in the state of New Hampshire, 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")(The New Hampshire Bureau of Securities Regulation ("Bureau") is a member of the 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 Revised Statutes Annotated 421-B:26-a 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 Director, as administrator of the Securities Act, hereby enters this
2 Order:

3 I.

4 FINDINGS OF FACTS

5 1. UBS admits the jurisdiction of the Bureau 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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3 Registration Required
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5 7. RSA 421-B:6 states that it is unlawful for any person to transact business in this state as
6 a sales agent of a broker-dealer unless such person is licensed under RSA 421-B.

7 8. Pursuant to the general prohibition under 421-B:6, a person cannot accept unsolicited
8 orders in New Hampshire without being licensed as a sales agent.

9 9. Pursuant to RSA 421-B:26, a broker-dealer may be fined for selling securities in New
10 Hampshire through agents other than licensed agents. A broker-dealer is also obligated to pay
11 licensing fees for said agents under RSA 421-B:31.

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

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

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

- 22 a. Maintaining an additional place of business;
- 23 b. Prospecting clients;
- 24 c. Soliciting new accounts;
- 25 d. Servicing existing accounts; or
- 26 e. Effecting any securities transactions and/or receiving compensation as a result of
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 New Hampshire at times when the CSAs were not
24 appropriately licensed in New Hampshire.
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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 licensed in the state where the client resides.

13 20. If the identified person is not properly licensed in the client's state of residence, the
14 order is routed to branch management who must ensure that a properly licensed 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 Bureau has jurisdiction over this matter pursuant to RSA 421-B et seq.

21 2. UBS's failure to establish an adequate system to monitor the license status of
22 persons accepting client orders constitutes a violation of RSA 421-B:10 (a) and (b)(10).

23 3. UBS's maintenance of order tickets which do not accurately identify the person who
24 accepted client orders constitutes a violation of RSA 421-B:8 XII.

25 4. Pursuant to RSA 421-B:6, UBS's acceptance of orders for purchases and sales of
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1 securities from clients residing in New Hampshire through CSAs not licensed in New Hampshire
2 constitute violations of that section and such person is subject to a fine and back licensing fees.

3 5. Pursuant to RSA 421-B:23, UBS's acceptance of orders for purchases and sales of
4 securities in New Hampshire through agents not licensed in New Hampshire constitute bases to
5 order UBS to cease and desist engaging in the sale of securities in New Hampshire through
6 unlicensed sales agents.

7 6. Pursuant to RSA 421-B:26,II, the violations described above constitute bases for the
8 assessment of an administrative fine against UBS.

9 7. The Bureau finds the following relief appropriate and in the public interest.
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13 III.

14 ORDER

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

17 IT IS HEREBY ORDERED:

18 1. This Order concludes the investigation by the Bureau and any other action that the
19 Bureau could commence against UBS and its officers, directors and present or former employees
20 under applicable New Hampshire law on behalf of New Hampshire as it relates to unlicensed activity
21 in New Hampshire by UBS's CSAs and UBS's supervision of CSA licenses during the period from
22 January 1, 2004 through December 31, 2010.

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

3. UBS is hereby censured pursuant to RSA 421-B:21.

1 4. UBS is hereby ordered to cease and desist [and/or "refrain"] from engaging in the
2 acceptance of orders for purchases and sales of securities in New Hampshire through persons not
3 registered with the Bureau sales as agents of UBS.

4 5. UBS is hereby ordered to pay the sum Fifty Thousand Dollars (\$50,000.00) as a fine
5 and Thirty-Four Thousand Three Hundred Forty-Two Dollars and Twenty-Six Cents (34,342.26),
6 as back owed licensing fees, for a total of Eighty-Four Thousand Three Hundred and Forty-Two
7 Dollars and Twenty-Six cents, (\$84,342.26) to the State and New Hampshire within twenty days of
8 the date of this Order. The payment shall be made by check or money order made out to the State
9 of New Hampshire.

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

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

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

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2 Dated this 22nd day of October, 2013.

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4 **BY ORDER OF THE BUREAU**

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6 _____
7 Barry Glennon, Director

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 Bureau, neither admits nor denies the Findings of Facts and
6 Conclusions of Law contained in this Order, and consents to entry of this Order by the Bureau as
7 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 17th day of October, 2013.

16 UBS FINANCIAL SERVICES, INC.

17 By: [Signature]

18 Title: Managing Director

19
20 SUBSCRIBED AND SWORN TO before me this 17 day of October, 2013.

21 [Affix seal]

22 [Signature]
23 Notary Public

24 My Commission expires:

25
26 **JAMES SANTIAGO**
NOTARY PUBLIC, STATE OF NEW JERSEY
MY COMMISSION EXPIRES MAY 4, 2017
NO 2189613