

**State of Missouri  
Office of Secretary of State**

Case No. AP-12-21

IN THE MATTER OF:

PROEQUITIES, INC., CRD No. 15708,

Respondent.

Serve: ProEquities, Inc. at:

85 Exchange Street, Suite 300  
Portland, Maine 04101-5045

**CONSENT ORDER**

1. State regulators from multiple jurisdictions, including the Enforcement Section of the Missouri Securities Division of the Office of the Secretary of State ("Enforcement Section"), conducted coordinated investigations of Bankers Life and Casualty Company ("Bankers Life") and BLC Financial Services, Inc. ("BLCFS") (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.
2. The state regulators, including the Enforcement Section, determined that Bankers has acted as a broker-dealer and investment adviser in those jurisdictions 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.
3. Bankers has engaged in similar conduct in Missouri, in violation of Sections 409.4-401, 409.4-402, and 409.4-403, RSMo. (Cum. Supp. 2011).
4. ProEquities, Inc. ("ProEquities") entered into an agreement with Bankers effective April 30, 2010, to provide brokerage and investment advisory services out of branch office locations of Bankers Life.
5. The conduct addressed herein has resulted in no known direct consumer harm, and the parties understand that registered agents or representatives of ProEquities participated in all securities transactions at locations that were registered with the appropriate securities authorities as broker-dealer locations of ProEquities.
6. ProEquities has cooperated with state regulators conducting the investigations by responding to inquiries, providing documentary evidence, and halting further payment to BLCFS of broker-dealer and investment adviser related compensation while the investigations were pending.
7. ProEquities, in order to avoid protracted and expensive proceedings in numerous states, has agreed to resolve the investigations through a multistate settlement that includes this Consent Order.
8. ProEquities, as part of this settlement, agrees to comply with all state and federal licensing, registration, and other securities laws.
9. ProEquities, without admitting or denying the Findings of Fact and Conclusions of Law set forth below, and solely for the purposes of this Consent Order, admits the jurisdiction of the Missouri Commissioner of Securities ("Commissioner"), voluntarily consents to the entry of this Consent Order, and waives any right to a hearing or to judicial review regarding this Consent Order.
10. ProEquities states that no promise of any kind or nature whatsoever that is not reflected in this Consent Order was made to ProEquities to induce ProEquities to enter into this Consent Order and that ProEquities has entered into this Consent Order voluntarily.
11. NOW THEREFORE, the Commissioner hereby enters this Consent Order.

**I. FINDINGS OF FACT**

12. Bankers Life is a life insurance company located in Illinois that has never been registered as a broker-dealer or investment adviser.
13. BLCFS is a wholly-owned subsidiary of Bankers Life that also is located in Illinois. BLCFS has been a member of the

National Association of Securities Dealers (â€œNASDâ€) or its successor, the Financial Industry Regulatory Authority (â€œFINRAâ€), since 2003 and is registered as a broker-dealer only in Illinois through the Central Registration Depository (â€œCRDâ€) with CRD number 126638. During its existence, BLCFS has had no business activity other than as described herein. BLCFS has never been registered as a broker-dealer or investment adviser in Missouri and it has not registered any agents or investment adviser representatives in Missouri.

14. At all relevant times, ProEquities has been a broker-dealer registered in Missouri with CRD number 15708 and a federal covered investment adviser.
15. Bankers Life and BLCFS entered into an agreement with ProEquities effective April 30, 2010 (the â€œProEquities Agreementâ€). The ProEquities Agreement specifies that ProEquities would â€œexercise exclusive controlâ€ over the broker-dealer and investment advisory activities of ProEquities agents who were also insurance agents for Bankers Life (the â€œDual Agentsâ€). In addition, the ProEquities Agreement assigned the following securities-related roles to BLCFS or to BLCFS and Bankers Life, which roles BLCFS and Bankers Life did perform until December 2, 2011:
  - a. consulting with ProEquities on the persons to be appointed as representatives of ProEquities;
  - b. identifying securities product training and marketing opportunities for review by ProEquities;
  - c. conferring with ProEquities concerning the securities products made available for distribution by the dual agents;
  - d. terminating the clearing broker selected by ProEquities (BLCFS only) in the event that the clearing agent did not use commercially reasonable efforts to process and service customer accounts at a level consistent with BLCFSâ€™ standards;
  - e. paying for advertising and promotional material (BLCFS only) in the event that BLCFS ordered more than a reasonable quantity of such materials or required customization of them;
  - f. recruiting representatives for ProEquities and assisting with the licensing and registration process;
  - g. providing marketing, training and support; and
  - h. paying for:
    - i. pre-examination training for required FINRA examinations;
    - ii. sales training materials;
    - iii. recruitment and travel costs; and
    - iv. ProEquities stationery and business cards.
16. Under the ProEquities Agreement, ProEquities was required to pay BLCFS between eighty-seven percent (87%) and ninety-one percent (91%) of revenue received by ProEquities for the securities business conducted by the dual agents. ProEquities also was required to provide reports to BLCFS of the amount of compensation to be paid to each dual agent for securities work, and BLCFS was to retain the difference.
17. BLCFS, in its current Uniform Application for Broker-Dealer Registration (â€œForm BDâ€) filing, lists the following as other business:

BLC Financial Services, Inc. (BLCF) provides sales support & a marketing program to Bankers Life & Casualty agents who are securities licensed with ProEquities. BLCFS will receive compensation from ProEquities based on these securities sales. BLCFS will not have any representatives that sell to the public.
18. Evidence obtained during the investigation indicated that Bankers screened prospective securities agents, trained new securities agents, conducted some 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 reporting and responsibility hierarchies between Bankers and ProEquities.
19. At no time were the dual agents registered as agents or investment adviser representatives of Bankers Life or BLCFS. The agents were registered agents and investment adviser representatives of ProEquities.
20. From April 30, 2010 through November 31, 2011, Bankers received, on a nationwide basis, a total of approximately eleven million dollars (\$11,000,000) from ProEquities under the ProEquities Agreement for variable annuity and securities transactions and investment advice.

## **II. CONCLUSIONS OF LAW**

21. Under the Missouri Securities Act of 2003, Chapter 409, et. seq., a person may not act as a broker-dealer in Missouri unless registered or exempt from registration, under Section 409.4-401(a), RSMo. (Cum. Supp. 2011).
22. Similarly, a person may not act as an investment adviser in Missouri unless registered, exempt from registration, or a federal covered investment adviser, under Section 409.4-403(a), RSMo. (Cum. Supp. 2011).
23. A broker-dealer may not employ or associate with an agent, unless the employee or associated person is registered as an agent of the broker-dealer, under Section 409.4-402(d), RSMo. (Cum. Supp. 2011).
24. An investment adviser may not employ or associate with an investment adviser representative unless the employee or associated person is registered as an investment adviser representative of the investment adviser, under Section 409.4-403(d), RSMo. (Cum. Supp. 2011).
25. By engaging in the conduct set forth above, Bankers acted as an unregistered broker-dealer and investment adviser in Missouri in violation of Sections 409.4-401(a) and 409.4-403(a), RSMo. (Cum. Supp. 2011).
26. Furthermore, by employing or associating with dual agents who were not registered as agents or investment adviser representatives of Bankers, Bankers violated Sections 409.4-402(d) and 409.4-403(d), RSMo. (Cum. Supp. 2011).
27. By engaging in the conduct set forth above, ProEquities engaged in conduct giving rise to liability under Section 409.6-604, RSMo. (Cum. Supp. 2011).
28. The Commissioner, after consideration of the facts set forth above and on the consent of ProEquities and the Enforcement Section, finds and concludes that the Commissioner has jurisdiction over ProEquities and this matter and that the following Order is in the public interest, necessary for the protection of public investors and consistent with the purposes intended by Chapter 409, RSMo. (Cum. Supp. 2011).

### **III. ORDER**

**NOW, THEREFORE**, it is hereby Ordered that:

1. ProEquities shall cease and desist from engaging in conduct giving rise to liability under Section 409.6-604, RSMo. (Cum. Supp. 2011).
2. In accordance with the terms of the multistate settlement, ProEquities shall pay an amount of four hundred thirty-five thousand dollars (\$435,000) among the states where dual agents were located during the period from April 30, 2010, through December 2, 2011, allocated according to a schedule provided by the multistate investigation working group. ProEquities shall pay to the Missouri Secretary of Stateâ€™s Investor Education and Protection Fund the sum of eight thousand two hundred seven dollars and fifty-five cents (\$8,207.55). This payment shall be sent within ten (10) days of the effective date of this Consent Order to the Missouri Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of Stateâ€™s Investor Education and Protection Fund. The Missouri Securities Division will send the money to the Missouri Secretary of Stateâ€™s Investor Education and Protection Fund.
3. If any state securities regulator determines not to accept the settlement offer of ProEquities reflected herein, including the amount allocated to the applicable state according to the schedule referenced in paragraph 2 above, the payment to the Missouri Securities Division set forth in paragraph 2 above shall not be affected; and ProEquities shall not be relieved of any of the non-monetary provisions of this Consent Order.
4. ProEquities shall not attempt to recover any part of the payments addressed in this Consent Order from dual agents, Bankers, or customers of ProEquities.
5. ProEquities shall fully cooperate with any investigation or proceeding related to the subject matter of this Consent Order.
6. From the date of this Consent Order through March 31, 2015, and while Bankers has dual agents that are registered agents or investment adviser representatives of ProEquities, any agreement between Bankers and ProEquities shall be consistent with the provisions set forth in a separate Consent Order executed by Bankers and the Commissioner in Case No. AP-12-20.
7. This Consent Order concludes the investigation by the Missouri Securities Division and any other action that the Commissioner could commence under applicable law on behalf of the state of Missouri as it relates to the violations described above, up to and including activity occurring through December 2, 2011; provided, however, that excluded from and not covered by this paragraph are any claims by the Missouri Securities Division arising from or relating to the â€œOrderâ€ provisions contained herein.
8. If payments are not made by ProEquities, or if ProEquities defaults in any of its obligations set forth in this Consent Order, the Commissioner may vacate this Consent Order, at his sole discretion, upon ten (10) daysâ€™ notice to ProEquities and without opportunity for administrative hearing or judicial review, and commence a separate action.
9. Nothing herein shall preclude the State of Missouri, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than Missouri Securities Division and only to the extent set forth herein, (collectively,

â€œState Entitiesâ€) and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against ProEquities.

10. This Consent Order is not intended by the Commissioner to subject any person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the Virgin Islands including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions.
11. This Consent Order and the order of any other state in related proceedings against ProEquities (collectively, the â€œOrdersâ€) shall not disqualify any person from any business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws of the State of Missouri, and any disqualifications from relying upon this Stateâ€™s registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.
12. This Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the state of Missouri without regard to any choice of law principles.
13. This Consent Order shall be binding upon ProEquities, its relevant affiliates, successors and assigns.
14. Except as set forth above, the Missouri Securities Division agrees to take no action adverse to ProEquities based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Missouri Securities Division from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking any action against other entities or individuals, regardless of any affiliation or relationship between ProEquities and the entities or individuals.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 24<sup>TH</sup> DAY OF SEPTEMBER, 2012.

ROBIN CARNAHAN  
SECRETARY OF STATE

(Signed/Sealed)  
MATTHEW D. KITZI  
COMMISSIONER OF SECURITIES

Consented to by:  
THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION

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Mary S. Hosmer  
Assistant Commissioner of Securities

Approved as to Form

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Jeff Goldman  
Bingham McCutchen LLP  
85 Exchange Street, Suite 300  
Portland, Maine 04101-5045

Attorney for Respondent

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PROEQUITIES, INC.  
Respondent

By \_\_\_\_\_

By my signature above, I represent that  
I have been authorized to enter into this  
Consent Order on behalf of ProEquities, Inc.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title