



State of Missouri
Office of Secretary of State

IN THE MATTER OF:
UBS FINANCIAL SERVICES, INC.,
CRD NO. 8174
Respondent.
Case No. AP-13-23
Serve: UBS Financial Services, Inc. at:
1000 Harbor Boulevard
8th Floor
Weekhawken, New Jersey 07086

CONSENT ORDER

- 1. UBS Financial Services, Inc. ("UBS") is a broker-dealer registered in the state of Missouri, with a Central Registration Depository ("CRD") number of 8174.
2. State securities regulators, including the Enforcement Section of the Missouri Securities Division of the Office of the Secretary of State ("Enforcement Section"), 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.
3. UBS has cooperated with regulators conducting the investigation by responding to inquiries, providing documentary evidence and other materials, and providing access to facts relating to the investigations.
4. UBS has advised regulators of its agreement to resolve the investigation pursuant to the terms specified in this Consent Order (the "Order").
5. 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.
6. UBS elects to waive permanently any right to a hearing and appeal under Sections 409.4-412, RSMo. (Cum. Supp. 2012), or 409.6-604, RSMo. (Cum. Supp. 2012), with respect to this Order.

7. Solely for the purpose of terminating the multi-state investigations, including the investigation by the Enforcement Section, 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.
8. NOW, THEREFORE, the Commissioner, as administrator of the Missouri Securities Act of 2003 ( the “Act”), hereby enters this Consent Order:

### **I. FINDINGS OF FACT**

9. UBS admits the jurisdiction of the Commissioner in this matter.

#### **A. Background on Client Service Associates**

10. The CSAs function as sales assistants and typically provide administrative and sales support to one or more of UBS’s Financial Advisors (“FAs”). There are different titles within the CSA position, including Client Service Associate, Registered Client Associate, and Senior Registered Client Service Associate.
11. The responsibilities of CSAs specifically include, among other things:
  - a. Extending invitations to UBS-sponsored events;
  - b. Providing published quotations to clients, if asked;
  - c. Inquiring whether a current or prospective client wishes to discuss investments with a registered representative of UBS; and
  - d. Entering an order, provided the order was accepted by an appropriately registered individual in those instances where the CSA is not registered in the state in which the client is located.
12. In addition to the responsibilities described above, and of particular significance to this Order, some CSAs are permitted to accept orders from clients. As discussed below, UBS’s written policies and procedures require that any CSAs accepting client orders first obtain the necessary licenses and comply with self-regulatory organization and state registration requirements.
13. UBS issued a revised policy on registration requirements on March 28, 2007, which stated, inter alia, that managers are responsible for ensuring that all employees under their supervision are appropriately registered and licensed to perform the functions of their position.
14. During the period of 2004 to 2010, UBS employed, on average, approximately two thousand two hundred seventy-seven (2,277) CSAs per year.

## **B. Registration Required**

15. Under Sections 409.4-401(a), RSMo. (Cum. Supp. 2012), and 409.4-402(a), RSMo. (Cum. Supp. 2012), it is unlawful for a person to transact business in this state as a broker-dealer or an agent, respectively, unless that person is registered under the Act or exempt from registration.
16. Pursuant to the general prohibition under Sections 409.4-401(a), RSMo. (Cum. Supp. 2012), and 409.4-402(a), RSMo. (Cum. Supp. 2012), a person cannot accept unsolicited orders in Missouri without being registered as a broker-dealer or agent.
17. Pursuant to Section 409.6-604, RSMo. (Cum. Supp. 2012), violating Sections 409.4-401(a), RSMo. (Cum. Supp. 2012), and 409.4-402(a), RSMo. (Cum. Supp. 2012), constitutes an act, practice, or course of business in violation of the Act.

## **C. UBS Requires Registration of Client Service Associates**

18. 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.
19. At all times relevant to this Order, 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).
20. At all times relevant to this Order, UBS 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.

## **D. Regulatory Investigation and Findings**

21. In March 2010, UBS received regulatory inquiries regarding CSA registrations.

22. The multi-state investigation focused on systemic issues with UBS's CSA registrations and related supervisory structure. Specifically:
  - a. After accepting a client order, UBS CSAs accessed UBS's automated Consolidated Order Entry System ("COE") to enter the order;
  - b. When entering an order through the COE, CSAs were asked by the system "Did another person receive this order?" If the question was answered "no," the order was processed. If the question was answered "yes," a free text field appeared for the CSA to enter the name or employee code of the person who accepted the order;
  - c. In some instances, when this question was answered "yes," CSAs did not include a name or code of the employee who accepted the order in the free text field. In other instances, the free text field did not contain accurate identifying information about the employee who accepted the trade;
  - d. Further, while UBS maintained a system to verify that the FA of record for a particular account was registered in the state where the client resided, UBS did not maintain a system to verify the registration status of the employee accepting a client order when that employee was not the FA for the account.
23. The multi-state investigation found that on certain occasions some UBS CSAs, while Series 7 registered and registered in one or more other states, accepted unsolicited orders to buy or sell securities from clients residing in Missouri at times when the CSAs were not appropriately registered in Missouri.

#### **E. UBS's Remedial Measure and Cooperation**

24. In November 2010, UBS enhanced the COE System to automatically validate the registration of employees during the order entry process.
25. CSAs are now required to indicate the person who directly accepted the order from a client by selecting "self" or "other" within the electronic ticket on the COE.
26. If a CSA selects "self," the COE validates whether the CSA who accepted the order is properly registered in the state where the client resides.
27. If a CSA selects "other," the CSA must provide identifying information of the person who accepted the order. The COE system subsequently validates whether the identified person who accepted the order is properly registered in the state where the client resides.
28. If the identified person is not properly registered in the client's state of residence, the order is routed to branch management who must ensure that a properly registered person accepts or confirms the order before execution.

29. UBS provided timely responses and substantial cooperation in connection with this regulatory investigation.

## **II. CONCLUSIONS OF LAW**

30. The Commissioner has jurisdiction over this matter pursuant to Sections 409.6-601 and 409.6-610, RSMo. (Cum. Supp. 2012).
31. UBS's failure to establish an adequate system to monitor the registration status of persons accepting client orders constitutes a failure to reasonably supervise under Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2012).
32. UBS's maintenance of order tickets that do not accurately identify the person who accepted client orders constitutes a failure to maintain all books and records required to be kept by the Securities and Exchange Commission under Section 409.4-411 (c) (1), RSMo. (Cum. Supp. 2012).
33. UBS's acceptance of orders in Missouri through CSAs who were not properly registered constitutes a violation of Section 409.4-402(d), RSMo. (Cum. Supp. 2012), in that UBS employed or associated with agents who transacted business in this state on behalf of UBS while that agent was not registered pursuant to Section 409.4-402(a).
34. Pursuant to Sections 409.4-412(c), RSMo. (Cum. Supp. 2012), and 409.6-604, RSMo. (Cum. Supp. 2012), the violations described above constitute bases for the assessment of an administrative penalty against UBS.
35. The Commissioner finds and concludes the following Order appropriate, in the public interest, and consistent with the purposes intended by Chapter 409 RSMo. (Cum. Supp. 2012).

## **III. ORDER**

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

1. This Order concludes the investigation by the Enforcement Section and any other action that the Enforcement Section could commence against UBS under applicable Missouri law as it relates to unregistered activity by UBS's CSAs and UBS's supervision of CSA registrations during the period from January 1, 2004 through December 31, 2010.
2. This Order is entered into solely for the purpose of resolving the referenced multi-state investigation, and is not intended to be used for any other purpose. For any person or entity not a party to the Order, this Order does not limit or create any private rights or remedies against UBS including, limit or create liability of UBS, or limit or create defenses of UBS, to any claims.
3. UBS is hereby CENSURED.

4. UBS, its agents, employees and servants, and all other persons participating in the above-described violations with knowledge of this order shall cease and desist from engaging in the acceptance of orders for purchases and sales of securities in Missouri through persons not registered in Missouri as agents of UBS.
5. UBS is hereby ordered to pay the sum of seventy-four thousand thirty-nine dollars and fifty-nine cents (\$74,039.59) to the Missouri Secretary of State's Investor Education and Protection Fund. This payment shall be sent within twenty (20) days of the effective date of this Consent Order to the Securities Division at 600 W. Main Street, Jefferson City, Missouri 65101, and shall be payable to the Missouri Secretary of State's Investor Education and Protection Fund.
6. This Order is not intended to subject any Covered Person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands, including, without limitation, any disqualification from relying upon the state or federal registration exemptions or safe harbor provisions. "Covered Person," means UBS or any of its affiliates and their current or former officers or former officers, directors, employees, or other persons that could otherwise be disqualified as a result of the Orders (as defined below).
7. This Order and the order of any other State in related proceedings against UBS (collectively, the "Orders") shall not disqualify any Covered Person from any business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws or regulations of the Missouri and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.
8. This Order shall be binding upon UBS and its successors and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

**SO ORDERED:**

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 4<sup>TH</sup> DAY OF DECEMBER, 2013.



JASON KANDER  
SECRETARY OF STATE

*Andrew M. Hartnett*

ANDREW M. HARTNETT  
COMMISSIONER OF SECURITIES

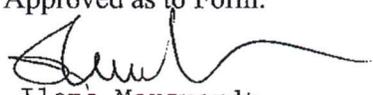
Consented to by:  
THE ENFORCEMENT SECTION OF THE  
MISSOURI SECURITIES DIVISION



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Mary S. Hosmer  
Assistant Commissioner of Securities

Approved as to Form:



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Ilene Marquardt  
Attorney for UBS Financial Services, Inc.

**CONSENT TO ENTRY OF CONSENT ORDER BY  
UBS FINANCIAL SERVICES, INC.**

UBS hereby acknowledges that it has been served with a copy of this Consent Order ("Order"), has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

UBS admits the jurisdiction of the Commissioner of Securities ("Commissioner"), neither admits nor denies the Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.

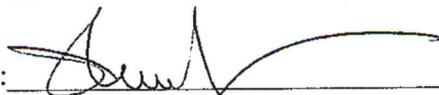
UBS agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any administrative monetary penalty that UBS shall pay pursuant to this Order.

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

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

Dated this 3rd day of December, 2013.

UBS FINANCIAL SERVICES, INC.

By:  \_\_\_\_\_

Title: Managing Director

SUBSCRIBED AND SWORN TO before me this 3<sup>rd</sup> day of December, 2013.

**Ivan Sterling**  
**Notary Public, State of New Jersey**  
**My Commission Expires February 15, 2018**  
**ID #2281122**

 \_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_

My Commission expires:

\_\_\_\_\_