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PITTSBURGH - 5th Avenue

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND
SECURITIES, BUREAU OF SECURITIES
LICENSING, COMPLIANCE AND
ENFORCEMENT

v.

UBS FINANCIAL SERVICES, INC.

DOCKET No. 13 0005 (SEC-CAO)

2013 OCT 24 AM 10:34
DEPT OF BANKING AND SECURITIES
PITTSBURGH, PA 15222

FILED

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking and Securities ("Department"), Bureau of Licensing, Compliance and Enforcement ("Bureau"), has conducted an investigation of the registration of UBS Financial Services, Inc. ("UBS") Client Service Associates ("CSAs") and UBS's supervisory system with respect to the registration of CSAs through a coordinated investigation by state securities regulators. Based on the results of the multi-state coordinated investigation, the Bureau has concluded that UBS has engaged in activity in violation of the Pennsylvania Securities Act of 1972, 70 P.S. § 1-101 et. seq. ("1972 Act"). UBS, in lieu of litigation, without admitting or denying the allegations or conclusions of law herein, solely for the purpose of terminating the multi-state working group investigation, and intending to be legally bound, hereby consents to the terms of this Consent Agreement and Order ("Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the 1972 Act.

2. The Bureau is primarily responsible for administering and enforcing the 1972 Act for the Department.

3. UBS, CRD #8174, was, at all times material herein, a registered broker-dealer pursuant to Section 301 of the 1972 Act, 70 P.S. §1-301, with offices in the Commonwealth of Pennsylvania.

4. The CSAs function as sales assistants and typically provide administrative and sales support to one or more of UBS's financial advisers ("FAs"). There are different titles within the CSA positions, including Client Service Associate, Registered Client Associate, and Senior Registered Client Service Associate.

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

- a. Extending invitation 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.

6. 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.

7. 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.

8. During the period from 2004 to 2010, UBS employed an average of approximately 2,277 CSAs per year.

Registration Required

9. Unless exempted, pursuant to Section 301(a) of the 1972 Act, 70 P.S. §1-301(a), it is unlawful for any person to transact business as a broker-dealer or agent unless he or she is registered under the 1972 Act.

10. Pursuant to Section 301(a) of the 1972 Act, 70 P.S. §1-301(a), a person cannot accept unsolicited orders in Pennsylvania without being registered.

11. Pursuant to Section 305(a)(xii) of the 1972 Act, 70 P.S. §1-305(a)(xii), a broker-dealer may have its registration suspended, revoked, conditioned or censured for violation of Section 301(a) of the 1972 Act, 70 P.S. §1-301(a).

12. Pursuant to Sections 602.1 of the 1972 Act, 70 P.S. §1-602.1, a broker-dealer also may be subject to an administrative assessment and investigative costs for violation of Section 301(a) of the 1972 Act, 70 P.S. §1-301(a).

UBS Requires Registration of Client Service Associates

13. 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.

14. 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).

15. 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.

Regulatory Investigations and Findings

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

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

- 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.

18. 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 Pennsylvania at times when the CSAs were not appropriately registered in Pennsylvania.

UBS's Remedial Measure and Cooperation

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

20. Specifically with respect to branch support staff (i.e. CSAs), employees 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.

21. 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.

22. 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.

23. 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.

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

CONCLUSIONS OF LAW

25. The Bureau has jurisdiction over UBS because it regulates the offers and sales of securities in the Commonwealth of Pennsylvania pursuant to the 1972 Act, 70 P.S. § 1-101 et. seq.

26. UBS's failure to establish an adequate system to monitor the registration status of persons accepting client orders constitutes a failure to reasonably supervise its agents in violation of Section 305(a)(vii) of the 1972 Act, 70 P.S. § 1-305(a)(vii) and Regulation § 305.011(a), 10 Pa. Code § 1-305.011(a).

27. UBS's maintenance of order tickets which do not accurately identify the person who accepted client orders constitutes violations of Regulation §304.011(a), 10 Pa. Code §1-304.011(a).

28. UBS's acceptance of orders for purchases and sales of securities from clients residing in Pennsylvania through CSAs not registered in Pennsylvania constitutes violations of Section 301(a) of the 1972 Act, 70 P.S. §1-301(a).

29. UBS's acceptance of orders for purchases and sales of securities in Pennsylvania through agents not registered in Pennsylvania constitutes a basis to order UBS to cease and desist from engaging in the sale of securities Pennsylvania through unregistered agents pursuant to Section 301(a) of the 1972 Act, 70 P.S. §1-301(a).

AUTHORITY

30. Based on the afore-referenced violations, the Department may issue an order imposing an administrative assessment against UBS pursuant to Section 602.1 of the 1972 Act, 70 P.S. §1-602.1.

31. The Department finds the following relief appropriate and in the public interest.

RELIEF

32. This Order concludes the investigation by the Bureau and any other action that the Bureau could commence against UBS and its officers, directors and present or former employees under Pennsylvania law on behalf of Pennsylvania as it relates to unregistered activity in Pennsylvania by UBS's CSAs and UBS's supervision of CSA registrations during the period from January 1, 2004 through December 31, 2010.

33. 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, limit or create liability of UBS, or limit or create defenses of UBS, to any claims.

34. UBS is hereby CENSURED pursuant to Section 305(a) of the 1972 Act, 70 P.S. §1-305(a).

35. Pursuant to Section 602.1(c)¹ of the 1972 Act, 70 P.S. §1-602.1(c), UBS is hereby ordered to pay the sum of \$143,960.00 to the Department within twenty days of the effective date of this Order. Payment shall be made by certified check or money order made payable to the "Department of Banking and Securities" and shall be mailed or delivered, in person, to the Bureau of Licensing, Compliance and Enforcement located at 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

36. This Order is not intended by the Department 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 US 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 would otherwise be disqualified as a result of the Orders (as defined below).

37. This Order and the order of any other State in any proceeding related to UBS's agreement to resolve the above referenced multi-state investigation (collectively, the "Orders") shall not disqualify any Covered Person from any business that they otherwise are qualified,

¹ No reference in this Order to Section 602.1(c) shall be construed to mean that UBS engaged in an act, conduct or practice that is dishonest or unethical.

licensed or permitted to perform under applicable securities laws of the Commonwealth of Pennsylvania and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

38. 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.

39. UBS is ORDERED to comply with the 1972 Act, and Regulations adopted by the Department, particularly Section 305(a)(vii), 70 P.S. §1-305(a)(vii); Regulation § 305.011(a), 10 Pa. Code § 305.011(a); and Section 301(a), 70 P.S. §1-301(a).

40. Should UBS fail to pay the assessment as set forth in paragraph 35, above, the sanctions set forth elsewhere in the Order shall continue in full force and effect until full payment is made. However, this provision shall not be construed as affording UBS the option of either paying the assessment or being indefinitely subjected to the sanctions.

41. Should UBS fail to comply with any and all provisions of this Order, the Department may impose additional sanctions and costs and seek other appropriate relief subject to UBS's right to a hearing pursuant to the 1972 Act.

FURTHER PROVISIONS

42. Consent. UBS hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's authority under the 1972 Act and agrees that it understands all of the terms and conditions contained herein. UBS, by voluntarily entering into

this Order, permanently waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

43. Cooperation. UBS has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations and is in agreement to resolve the investigations pursuant to the terms of this Order.

44. Tax claims. 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 assessment it is paying pursuant to this Order.

45. Entire Agreement. This Order contains the entire agreement between the Department and UBS. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Department and UBS.

46. Binding Nature. The Department, UBS, and all officers, owners, directors, employees, heirs and assigns of UBS intend to be and are legally bound by the terms of this Order.

47. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

48. Effectiveness. UBS hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

49. Other Enforcement Action.

(a) The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against UBS in the future regarding all matters not resolved by this Order.

(b) UBS acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

50. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

51. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

52. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

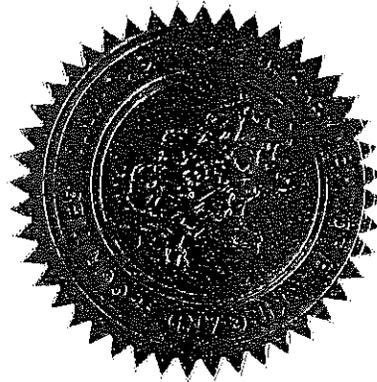
53. Finding. The Department finds that it is necessary and appropriate in the public interest and for the protection of investors, and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue this Order.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking and Securities, Bureau of Securities, Licensing, Compliance and Enforcement and UBS Financial Services, Inc., intending to be legally bound, do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING AND SECURITIES
BUREAU OF SECURITIES, LICENSING, COMPLIANCE AND ENFORCEMENT**

Victoria A. Reider
Executive Deputy Secretary
Department of Banking and Securities

Date: 10/24/13



FOR UBS FINANCIAL SERVICES, INC.

Date: 10/8/13