

**STATE OF NORTH DAKOTA**  
**SECURITIES DEPARTMENT**

In the Matter of:	)	
	)	
UBS FINANCIAL SERVICES, INC.,	)	<b>CONSENT ORDER</b>
	)	
Respondent.	)	

.....

WHEREAS, UBS Financial Services, Inc. ("UBS") is a broker-dealer registered in the state of North Dakota, 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 N.D.C.C. §§ 10-04-12 and 10-04-16 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.

NOW THEREFORE, the Securities Commissioner, as administrator of the Securities Act, N.D.C.C. Chapter 10-04, hereby enters this Order.

I.

**FINDINGS OF FACT**

1. UBS admits the jurisdiction of the North Dakota Securities Department in this matter.

Background on Client Service Associates

2. 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.

3. 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.

4. 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.

5. 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.

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

#### Registration Required

7. Pursuant to N.D.C.C. § 10-04-10(2), a person shall not transact business in this state as an agent of a broker-dealer unless registered or exempt from registration.

8. Pursuant to the general prohibition under N.D.C.C. § 10-04-10(2), a person cannot accept unsolicited orders in North Dakota without being registered as an agent or exempt from registration.

9. Pursuant to N.D.C.C. § 10-04-16(1), the Securities Commissioner may

impose a civil penalty on a broker-dealer found to have been selling securities in North Dakota through agents other than registered agents.

#### 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.

#### Regulatory Investigation and Findings

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

14. The multi-state investigation focused on systemic issues with UBS's 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.

15. 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 North Dakota at times when the CSAs were not appropriately registered in North Dakota.

#### UBS's Remedial Measures and Cooperation

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

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

## II.

### CONCLUSIONS OF LAW

1. The North Dakota Securities Department has jurisdiction over this matter pursuant to the Securities Act, N.D.C.C. Chapter 10-04.

2. UBS's failure to establish an adequate system to monitor the registration status of persons accepting client orders constitutes a ground for discipline pursuant to N.D.C.C. § 10-04-11(1)(m), a failure to reasonably supervise its agents.

3. UBS's maintenance of order tickets which 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 and the North Dakota Securities Department in violation of N.D.C.C. § 10-04-10.3(1)(a).

4. UBS's acceptance of orders for purchases and sales of securities from clients residing in North Dakota through CSAs not registered in North Dakota constitute violations of N.D.C.C. § 10-04-10(2) for use/employment of unregistered agents.

5. Pursuant to N.D.C.C. § 10-04-16(1), UBS's acceptance of orders for purchases and sales of securities in North Dakota through agents not registered in North Dakota constitute bases to order UBS to cease and desist engaging in the sale of securities in North Dakota through unregistered agents.

6. Pursuant to N.D.C.C. § 10-04-16(1), the violations described above constitute bases for the assessment of a civil penalty against UBS.

7. The Securities Commissioner finds the following relief appropriate and in the public interest.

### III.

#### ORDER

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

#### IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the North Dakota Securities Department and any other action that the Department could commence against UBS and its officers, directors and present or former employees under applicable North Dakota law on behalf of North Dakota as it relates to unregistered activity in North Dakota 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, limit or create liability of UBS, or limit or create defenses of UBS, to any claims.

3. UBS is hereby ordered to cease and desist from engaging in the acceptance of orders for purchases and sales of securities in or from the state of North Dakota through persons not registered with the North Dakota Securities Department as agents of UBS.

4. UBS is hereby ordered to pay the sum of Fifty-seven Thousand Nine

Hundred Twenty-five and 14/100ths Dollars (\$57,925.14) to the North Dakota Securities Department within twenty days of the date of this Order, which shall be considered a civil penalty under N.D.C.C. § 10-04-16(1) and deposited into the general fund.

5. This order is not intended by the North Dakota Securities 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 U.S. Virgin Islands, or under the rules or regulations of any securities or commodities regulator or self-regulatory organization, 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).

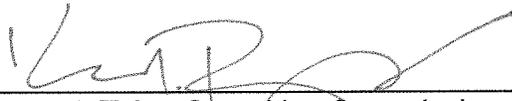
6. This Order and the order of any other State in any proceeding related to UBS's agreement to resolve the above referenced multi-state investigation (collectively, the "Orders") shall not disqualify any Covered Person from any business that they otherwise are qualified, licensed or permitted to perform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

7. 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.

8. This Order shall be effective upon signature of the Commissioner.

IN TESTIMONY WHEREOF, witness my hand and seal this 14<sup>th</sup> day of October, 2013.



  
Karen J. Tyler, Securities Commissioner  
North Dakota Securities Department  
State Capitol-5th Floor  
600 East Boulevard Ave.  
Bismarck, ND 58505-0510  
(701) 328-2910



Dated this 8 day of October, 2013.

UBS FINANCIAL SERVICES, INC.

By: [Signature]

Title: Managing Director

SUBSCRIBED AND SWORN TO before me this 8<sup>th</sup> day of October, 2013.

[Affix seal]



[Signature]  
Notary Public in and for the  
State of New Jersey

My Commission expires:

Alexandra McHenry  
Notary Public, New Jersey  
My Commission Expires 6-14-15