

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 76014 / September 29, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16847

In the Matter of

RAMIRO L. COLON, III

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS, PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING REMEDIAL SANCTIONS**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”), against Ramiro L. Colon, III (“Colon” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Administrative Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

SUMMARY

1. Respondent, a former branch office manager of the Guaynabo Complex of offices of UBS Financial Services Incorporated of Puerto Rico ("UBSPR"), failed reasonably to supervise Jose G. Ramirez Jr. ("Ramirez") with a view to preventing and detecting Ramirez's violations of the federal securities laws from 2011 through 2013. Ramirez, a UBSPR registered representative, made misrepresentations and engaged in a fraudulent scheme involving the use of proceeds of non-purpose lines of credit ("LOC") to purchase securities. UBSPR offered its customers LOCs from a Utah-based affiliate, UBS Bank USA ("BUSA"). UBSPR's internal policy and the customers' loan agreement with BUSA prohibited the use of LOC proceeds to purchase, carry, or trade in securities; rather, LOCs were to be used to provide existing customers with liquidity and immediate access to cash to cover other purchases or expenses.

2. However, Ramirez effected a scheme that resulted in an increase to his compensation by soliciting certain customers to use proceeds from LOCs to purchase additional shares in UBSPR closed-end funds ("CEFs"). So that holders can qualify for certain tax benefits, the CEFs predominantly hold Puerto Rico municipal bonds and are only available to Puerto Rico residents. Ramirez misrepresented to certain customers UBSPR's policy prohibiting the use of LOC proceeds to purchase securities by advising them to transfer money from their UBSPR LOC account to an outside bank account, wait a few days, and then deposit money from the outside bank account into the customer's UBSPR brokerage account and purchase CEFs. Ramirez also made material misrepresentations to these customers regarding the safety of this strategy and did not disclose the risks of maintenance calls BUSA could make in the event the value of the customer's account (including its CEF holdings) decreased below specified levels of collateralization. Ramirez offered and sold approximately \$50 million in CEFs to certain customers and made over \$1 million in additional compensation.

3. In 2011, Respondent was alerted to the possibility that Ramirez was engaged in a scheme to use proceeds from LOCs to purchase CEFs. Instead of reasonably responding to and investigating this red flag, after reviewing the customer's profile, Respondent accepted Ramirez's explanation and did not follow up with the customer. Respondent failed to follow up on the red flag despite his awareness that Ramirez's performance and the performance of the Guaynabo branch with respect to LOC originations exceeded Ramirez's fellow registered representatives and that of the other Puerto Rico branches.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

RESPONDENT

4. Ramiro L. Colon, III, 49, was a registered representative and associated person of UBSPR, and was the branch office manager (“BOM”) in UBSPR’s Guaynabo office from 2007 through 2014 where he served as Ramirez’s supervisor. From early 2011 through 2014 Colon was also the BOM of the Ponce and Mayaguez branches in addition to the Guaynabo branch (collectively, the Guaynabo Complex). Since January 2015, Colon is employed as a registered representative and associated person of UBS Financial Services Inc. and no longer serves in a supervisory capacity.

OTHER RELEVANT ENTITIES AND INDIVIDUAL

5. UBSPR, a Puerto Rico corporation with its principal place of business in Hato Rey, Puerto Rico, is a broker-dealer registered with the Commission since 1982. UBSPR is a subsidiary of UBS Financial Services, Inc. (“UBSFSI”), a New York, NY broker-dealer registered with the Commission.

6. Jose G. Ramirez Jr., 56, was a registered representative and associated person of UBSPR in UBSPR’s Guaynabo branch and was also a sales manager in that branch for a brief period of time. Ramirez was terminated by UBSPR in January 2014. Ramirez has been permanently barred from association with any FINRA member in any capacity.

7. BUSA is a Salt Lake City, Utah-based FDIC-insured industrial bank organized and licensed since 2003. BUSA is regulated by the Utah Department of Financial Institutions, the FDIC and the Consumer Financial Protection Bureau.

8. The CEFs are closed-end investment management companies incorporated and organized under the laws of the Commonwealth of Puerto Rico. Since 1995, UBSPR has offered its customers twenty-three CEFs, nine of which are co-managed CEFs and fourteen of which are sole managed CEFs. UBSPR has served as primary underwriter for the twenty-three CEFs. The CEFs are not eligible margin securities or traded on any exchange or quoted on any quotation service, with UBSPR serving as the main secondary market dealer or liquidity provider. The CEFs are not registered with the Commission.

UBSPR’S LINE OF CREDIT PROGRAM

9. In approximately 2003, BUSA began offering UBSPR brokerage customers a non-purpose line of credit through UBSPR at no initial cost to the customer and at interest rates below interest rates charged for margin loans. UBSPR Management encouraged registered representatives to open LOCs for new brokerage customers. Registered representatives were incentivized to offer LOCs, in part, because they received compensation based on an additional production credit and credit for net new assets when an LOC was drawn upon.

RAMIREZ'S VIOLATIVE CONDUCT

10. From 2011 through 2013, Ramirez offered and sold millions of dollars of CEFs to certain customers while soliciting them to use LOCs to purchase such securities and fraudulently misrepresenting the risks of this strategy to them. Ramirez knew that UBSPR policy and the customers' agreements with BUSA did not allow customers to use proceeds from the LOCs for the purpose of purchasing securities. Moreover, Ramirez signed LOC application forms misrepresenting that he had explained to customers that: (1) BUSA can demand repayment of the loan at any time and (2) if the value of the pledged collateral falls below BUSA's maintenance requirements BUSA may require the customer to deposit additional collateral and/or sell the pledged collateral to repay the loan.

11. Despite the prohibitions on doing so, Ramirez presented to certain customers a way to make additional money by using the LOCs to increase their holdings of the CEFs. Because customers could borrow money through LOCs at rates as low as 1.5 percent and the CEFs were generating tax advantaged returns of greater than 6 percent, there was an arbitrage opportunity for customers and Ramirez also saw an opportunity to increase his production and commissions if customers purchased additional CEF shares with the proceeds of LOCs. To accomplish his scheme, Ramirez encouraged these customers to withdraw funds from their LOC accounts, deposit those funds into an account at another bank, wait several days, and then redeposit the funds from the outside bank account into a UBSPR brokerage account and purchase CEFs.

12. Ramirez misrepresented the strategy to numerous customers. When asked about the purpose of the deposit and redeposit, Ramirez explained to certain customers that one could not transfer money from an LOC internally to another UBSPR account. However, Ramirez stated that there was no violation as long as the proceeds were first transferred to an outside bank account. In meetings with these customers, to reassure them of the propriety of his strategy, Ramirez would take a dollar bill out of his wallet and say "if I give you this dollar and you bring [a different dollar] back next month, it's not the same dollar." Many of Ramirez's customers had been with Ramirez for many years and made money by going along with Ramirez's recommendations and strategies and knew of his standing within UBSPR as a top broker. Therefore, they either wrote a check or requested a wire transfer from their LOC account for deposit into their personal bank accounts at outside banking institutions. Customers then redeposited money into their UBSPR brokerage accounts and Ramirez purchased CEF shares on behalf of his customers contrary to UBSPR policy and their agreement with BUSA.

13. By advising certain customers to use LOC proceeds to purchase CEF shares, Ramirez exposed customers – some of whom were listed in their account documents as being "conservative" with regard to risk tolerance – to a greater risk than they otherwise would have been exposed. From January 2011 through September 2013, Ramirez executed more than 200 trades on behalf of customers in connection with this scheme. By September 2013, these Ramirez customers had received tens of millions of dollars in maintenance calls from BUSA after the value of their CEF shares declined.

COLON'S FAILURE REASONABLY TO SUPERVISE

14. In August 2011, an operations manager in the Guaynabo branch questioned a series of transactions in the accounts of a Ramirez customer which she believed could have been the result of improper use of LOC proceeds to purchase securities. The operations manager raised her concerns to her supervisor, the Complex Administrative Manager ("CAM"), who took the information to Colon, who then met with Ramirez and discussed the transaction. Although Ramirez strenuously denied any impropriety, Colon reviewed the customer profile and discussed the activity with the CAM but conducted no additional investigation or monitoring and never discussed with the customer his usage of LOC proceeds or these specific transactions.

15. Despite having twenty percent fewer registered representatives than UBSPR's headquarters in Hato Rey, Colon was aware that Guaynabo branch customers had \$475 million in total LOCs as of July 2013, nearly double Hato Rey's portfolio. Also, Ramirez was UBSPR's leading credit line producer among registered representatives in Puerto Rico during this period. Colon did not find this activity suspicious, however given this disparity, Colon should have looked further into Ramirez's performance.

16. In 2013, the Puerto Rico bond market collapsed. The significant erosion in Puerto Rico bond prices beginning in August 2013 hit Puerto Rico investors hard, and particularly CEF holders, because the CEFs employed leverage up to 50 percent of the total CEF assets.

17. Many of Ramirez's customers with LOCs collateralized by brokerage accounts holding CEFs began receiving maintenance calls starting in August of 2013 and met with UBSPR representatives to discuss outstanding maintenance calls. During these meetings certain customers informed UBSPR representatives, including Colon, that Ramirez solicited them to use proceeds from LOCs to reinvest in additional CEF shares. Ramirez did not inform many of these customers of the risk associated with doing so.

18. As a result of these meetings with customers and related complaints, UBSPR conducted an internal investigation into the conduct alleged in the complaints. This review uncovered further incidences of using LOC proceeds to purchase CEF shares by certain customers of Ramirez. As a result, UBSPR terminated Ramirez and issued to Colon a letter of education related to his supervision of Ramirez.

VIOLATIONS AND FAILURE REASONABLY TO SUPERVISE

19. Section 15(b)(4)(E) of the Exchange Act, authorizes the Commission to impose sanctions against an associated person of a registered broker-dealer for failing reasonably to supervise another person subject to the broker-dealer's supervision who committed a securities law violation. Exchange Act Section 15(b)(6) incorporates by reference Section 15(b)(4)(E) and authorizes the Commission to impose sanctions against an associated person of a broker-dealer for failing reasonably to supervise another associated person whom he or she supervised.

20. Ramirez engaged in conduct that violated Section 17(a) of the Securities Act of

1933, which prohibits fraudulent conduct in the offer and sale of securities, and Sections 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities. Based on the above, Respondent failed reasonably to supervise Ramirez for the purposes of Section 15(b)(4)(E) of the Exchange Act.

AGREEMENT TO COOPERATE

21. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Respondent (i) agrees to use all best efforts to be available to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (ii) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission staff; (iii) appoints Respondent's counsel as agent to receive service of such notices and subpoenas; (iv) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Respondent's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (v) consents to personal jurisdiction over Respondent in any United States District Court for purposes of enforcing any such subpoena.

In determining whether to accept the Offer, the Commission has considered this agreement to cooperate.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

V.

Accordingly, pursuant to Section 15(b) of the Exchange Act, it is hereby ORDERED that:

A. Respondent be, and hereby is, suspended from association with, in a supervisory capacity, any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock for a period of 12 months, effective on the second Monday following the entry of this Order.

B. Respondent shall pay a civil money penalty in the amount of \$25,000.00 to the Securities and Exchange Commission. The Commission may distribute civil money penalties collected in this proceeding if, in its discretion, the Commission orders the establishment of a Fair Fund pursuant to 15 U.S.C. § 7246, Section 308(a) of the Sarbanes-Oxley Act of 2002, as amended. The Commission will hold funds paid pursuant to this paragraph in an account at the United States Treasury pending a decision whether the Commission, in its discretion, will seek to

distribute funds or, subject to Exchange Act Section 21F(g)(3), transfer them to the general fund of the United States Treasury. Respondent shall make this payment in two installments of \$12,500.00. Respondent shall make the first installment of \$12,500.00 within 14 days of the entry of this Order and the second and final installment of \$12,500.00 within 180 days of the entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of the civil penalty, plus any additional interest accrued pursuant to 31 U.S.C. §3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Colon as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Glenn S. Gordon, Division of Enforcement, Securities and Exchange Commission, Miami Regional Office, 801 Brickell Avenue, Suite 1800, Miami, Florida 33131.

C. Regardless of whether the Commission in its discretion orders the creation of a Fair Fund for the penalties ordered in this proceeding, amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on

behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

VI.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary