

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9386 / February 25, 2013

SECURITIES EXCHANGE ACT OF 1934
Release No. 68978 / February 25, 2013

INVESTMENT COMPANY ACT OF 1940
Release No. 30404 / February 25, 2013

Admin. Proc. File No. 3-14862

In the Matter of the Application of

MIGUEL A. FERRER and
CARLOS J. ORTIZ

ORDER GRANTING
EXTENSION

I.

The Chief Administrative Law Judge, Brenda P. Murray, has moved, pursuant to Commission Rule of Practice 360(a)(3),¹ for an extension of time to file an initial decision in this proceeding. For the reasons set forth below, we have determined to grant the law judge's motion.

On May 1, 2012, we issued an Order Instituting Administrative and Cease-and-Desist Proceedings against Miguel A. Ferrer, formerly the Chairman and Chief Executive Officer of UBS Financial Services Inc. of Puerto Rico ("UBS PR"), a subsidiary of UBS Financial Services, Inc. ("UBS Financial"), a Delaware corporation, and Carlos J. Ortiz, currently the Managing Director of Capital Markets at UBS PR. The OIP alleges that Ferrer and Ortiz played

¹ 17 C.F.R. § 201.360(a)(3).

significant roles in a fraudulent "pump-and-dump" scheme² that misled thousands of UBS PR customers into buying and holding substantial amounts of shares in UBS PR-affiliated, non-exchange-traded closed-end funds ("CEFs") in 2008 and 2009. The OIP alleged that Ortiz, who was in charge of UBS PR's CEF trading desk, and Ferrer, who controlled all important aspects of UBS PR's CEF business, touted, or "pumped," the CEFs as safe, high-yield investments and promoted the liquidity of the CEF shares in a supposedly robust secondary market in which investors could sell their shares. Ferrer and Ortiz allegedly did not, however, disclose that Ortiz set the CEF share prices through the UBS PR trading desk, that UBS PR controlled the secondary market for CEF shares, and that their conduct was designed to prevent a collapse of the CEF market.

According to the OIP, in mid-2009, UBS Financial ordered UBS PR to reduce its inventory of CEFs after determining that such inventory posed a significant financial risk to the firm. The OIP alleged that in response to UBS Financial's mandate, Ferrer and Ortiz fraudulently caused UBS PR to "dump" CEF shares on unsuspecting investors in various ways. For example, they lowered the CEF share prices just enough to undercut pending customer limit—or sell—orders that, in turn, wiped the sell orders off the books and prevented the customers from executing the sale. Ferrer and Ortiz also ensured that UBS PR did not execute tens of millions of other customer sell orders and bought into inventory only dividend reinvestment shares. Ferrer and Ortiz facilitated an aggressive campaign to solicit new and existing customers to buy CEF shares by misrepresenting, among other things, that fund inventory levels were low, trading

² A "pump-and-dump" scheme typically involves artificially inflating a security's share price in return for a benefit, such as being able to sell one's holdings at a high price or maintaining the perception of market stability in that security, while victimizing unaware investors who suffer losses because they are persuaded to buy shares at the artificially high price and/or are prevented from selling shares at that high price. *See, e.g., SEC v. Cavanagh*, 445 F.3d 105, 107 (2d Cir. 2006); *United States v. Salmonese*, 352 F.3d 608, 612 (2d Cir. 2003).

volumes were at an all-time high, and prices were aligned with current market conditions. They also arranged for affiliated CEF companies to repurchase newly issued CEF shares from customers so that UBS PR could sell the customers CEF shares from its aged inventory. As a result of Ferrer's and Ortiz's conduct, UBS PR dumped approximately \$35 million in CEF shares, which was 75 percent of its inventory, on investors who lost approximately \$500 million or 10-15 percent of the value of their CEF holdings.

The OIP further alleged that Ferrer and Ortiz willfully violated and aided and abetted and caused UBS PR's violation of § 17(a) of the Securities Act of 1933 and § 10(b) of the Securities Exchange Act of 1934 and Exchange Act Rule 10b-5 and also willfully aided and abetted and caused UBS PR's violation of Exchange Act § 15(c).³

The OIP directed the presiding law judge to hold a public hearing to take evidence regarding the allegations and the appropriate sanctions, and to file an initial decision no later than 300 days from the date of service of the OIP, *i.e.*, by March 4, 2013. On January 30, 2013, Judge Murray filed a motion pursuant to Commission Rule of Practice 360(a)(3)⁴ requesting an extension of time of six months to file such decision.

II.

We adopted Rules of Practice 360(a)(2) and 360(a)(3) as part of an effort to enhance the timely and efficient adjudication and disposition of Commission administrative proceedings,⁵ setting mandatory deadlines for completion of administrative hearings. We further provided for

³ 15 U.S.C. § 77q; 15 U.S.C. § 78j; 17 C.F.R. § 240.10b-5; 15 U.S.C. § 78o(c).

⁴ 17 C.F.R. § 360(a)(3).

⁵ *See Adopting Release*, Securities Act Release No. 8240, 2003 SEC LEXIS 1404, at *5-7 (June 11, 2008).

the granting of extensions to those deadlines under certain circumstances, if supported by a motion from the Chief Administrative Law Judge.

Judge Murray supports her extension request by stating that it "will not be possible to meet the 300-day deadline because the thirteen days of hearing resulted in an extensive record, including more than 3,000 pages of transcript."⁶ She also notes that a final brief is due on March 22, 2013, almost three weeks after the 300-day due date. Under the circumstances, it appears appropriate in the public interest to grant the Chief Law Judge's request and to extend the deadline for filing a decision in this matter.

Accordingly, IT IS ORDERED that the deadline for filing the initial decision in this matter is extended until September 4, 2013.

By the Commission.

Elizabeth M. Murphy
Secretary

⁶ *Miguel A. Ferrer*, Motion for Extension, Admin. Proc. File No. 3-14862 (Jan. 30, 2103), at 1.