

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No.
	:	
UBS SECURITIES LLC AND UBS FINANCIAL	:	
SERVICES INC.,	:	
Defendant.	:	

**CONSENT OF DEFENDANTS UBS SECURITIES LLC
AND UBS FINANCIAL SERVICES INC.**

1. Defendants UBS Securities LLC and UBS Financial Services Inc. (each a “Defendant” or collectively “UBS”) waive service of a summons and the complaint in this action, enter a general appearance, and admit the Court’s jurisdiction over each Defendant and over the subject matter of this action.

2. Without admitting or denying the allegations of the complaint (except as to personal and subject matter jurisdiction, which each Defendant admits), each Defendant hereby consents to the entry of the Judgment in the form attached hereto (the “Judgment”) and incorporated by reference herein, which, among other things:

- a) permanently restrains and enjoins each Defendant from violation of Section 15(c) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78o(c)]; and

- b) upon motion by the Commission and order of the Court orders each Defendant to pay a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

3. Each Defendant agrees that it shall comply with the following undertakings:

- a) Key Definitions.

- (1) Eligible Auction Rate Securities.

- (a) As used in this document, “Eligible ARS” means auction rate securities (“ARS”) that have failed at least once in auctions between August 8, 2008 and October 7, 2008.

- (b) An Eligible Customer that opts in to the relief provided pursuant to this Consent may, at any time, elect to sell or otherwise transfer some or all of his Eligible ARS to a party other than UBS. In the event of such a sale or transfer, such customer will be deemed to have opted out of the relief provided pursuant to this Consent with respect to the Eligible ARS so sold or transferred, and such sold or transferred auction rate securities shall cease to be Eligible ARS for purposes of this Consent.

- (2) Eligible Customers. As used in this document, an “Eligible Customer” is any current or former UBS customer (not including (i) broker-dealers or (ii) banks acting as conduits for their customers) who meets the following three criteria: (a) held the ARS at UBS as of February 13, 2008 or in DVP accounts as of February 13, 2008 for which UBS had bidding rights, or purchased ARS at UBS between October 1, 2007 and February 12, 2008, and transferred those ARS out of UBS prior to February 13, 2008; (b) opts in to the relief provided pursuant to this Consent pursuant to Paragraph 3(b); and (c) is one who (i) continues to custody the ARS at UBS until disposition or (ii) if the ARS were transferred out of UBS prior to the entry of this Consent (e.g., DVP accounts, ACAT transfers), returns the ARS to UBS custody within 60 days after the mailing of the ARS Settlement Notice in Paragraph 3(b)(1). UBS shall use its best efforts to identify, contact and assist any Eligible Customer who has transferred the ARS out of UBS custody in returning such ARS to UBS custody and shall not charge such Eligible Customer any fees relating to or in connection with the return to UBS or custodianship by UBS of such ARS.

b) Customer Notification and Opt In Procedures.

(1) Initial Notice. No later than seven (7) days after the entry of this Consent, UBS shall send notice (“ARS Settlement Notice”) to customers who held the ARS at UBS as of February 13, 2008 or in DVP accounts as of February 13, 2008 for which UBS had bidding rights, or purchased ARS at UBS between October 1, 2007 and February 12, 2008, and transferred those ARS out of UBS prior to February 13, 2008, informing them of the relevant terms of this Consent. UBS shall use its best efforts to identify any such customers that no longer custody their ARS at UBS.

(a) Initial Notice Opt In Procedures. Customers shall have until thirty days after the mailing date of the ARS Settlement Notice to notify UBS that they opt in to the relief provided pursuant to this Consent. UBS shall not be required by this Consent to purchase the ARS of any customer who does not opt in to the relief provided pursuant to this Consent. Any customer who does not opt in to the relief provided pursuant to this Consent may pursue any other remedies against UBS available under the law.

(2) Second Notice. To the extent that any customer who held the ARS at UBS as of February 13, 2008 or in DVP accounts as of February 13, 2008 for which UBS had bidding rights, or purchased ARS at UBS between October 1, 2007 and February 12, 2008, and transferred those ARS out of UBS prior to February 13, 2008 has not opted in prior to the expiration of the opt-in period described in Paragraph 3(b)(1)(a), UBS shall provide any such customer a second written notice within seven (7) business days of the expiration of the opt-in period informing them of the relevant terms of this Consent.

(a) Second Notice Opt In Procedures. Customers shall have until thirty days after the mailing date of the second written notice to notify UBS that they opt in to the relief provided pursuant to this Consent. UBS shall not be required by this Consent to purchase the ARS of any customer who does not opt in to the relief provided pursuant to this Consent. Any customer who does not opt in to the relief provided pursuant to this Consent may pursue any other remedies against UBS available under the law.

(3) Customer Assistance Line and Internet Page. Within two (2) business days of entry of the Judgment, UBS shall establish: 1) a dedicated toll-free telephone assistance line, with appropriate staffing, to provide information and to respond to questions concerning the terms of this Consent; and 2) a public Internet page on UBS's corporate Web site(s), with a prominent link to that page appearing on UBS's relevant homepage(s), to provide information concerning the terms of this Consent and, via an e-mail address or other reasonable means, to respond to questions concerning the terms of this Consent. UBS shall maintain the telephone assistance line and Internet page through December 31, 2009.

c) Individual Customers and Certain Entities.

(1) First UBS Offer Period. No later than October 31, 2008, UBS shall offer to purchase at par Eligible ARS from Eligible Customers (including those who become Eligible Customers on or after October 31, 2008) who are (a) individual customers, or (b) charities, endowments or foundations with Internal Revenue Code Section 501(c)(3) status, and who have less than \$1 million in assets at UBS as determined by the investor's aggregate household asset position at UBS on August 8, 2008. In cases in

which investor classification under this subsection is ambiguous, such classification will be determined by UBS in the exercise of its reasonable good faith judgment. This First UBS Offer Period will remain open until January 4, 2011.

- (2) Second UBS Offer Period. No later than January 2, 2009, UBS shall offer to purchase at par Eligible ARS from all other Eligible Customers (including those who become Eligible Customers on or after January 2, 2009) who are:
- (a) individual customers; (b) charities, endowments or foundations with Internal Revenue Code Section 501(c)(3) status; and (c) small businesses (entities with less than \$10 million in assets with UBS as of August 8, 2008). All (a) individual customers, and (b) charities, endowments or foundations with Internal Revenue Code Section 501(c)(3) status that are Eligible Customers and were not included in the offer in Paragraph 3(c)(1) shall be included in this Paragraph 3(c)(2). In cases in which classification under this subsection is ambiguous, such classification will be determined by UBS in the exercise of its reasonable good faith judgment. This Second UBS Offer Period will remain open until January 4, 2011.

- (a) Certain Customers Ineligible for the Second UBS Offer Period. Notwithstanding any other provision, institutional customers who have represented they have total assets of greater than \$50 million, or otherwise are determined to have assets greater than \$50 million, as of August 8, 2008, are covered by the Third UBS Offer Period (described in Paragraph 3(g)) and not by the Second UBS Offer Period.
- d) ARS Market Solution Efforts – Best Efforts. UBS will use its best efforts to, by December 31, 2009, provide liquidity solutions at par for UBS institutional customers (not including (i) broker-dealers or (ii) or banks acting as conduits for their customers) by, among other things, facilitating issuer redemptions, and/or restructurings.
- e) Customer Priority. UBS agrees that it will not take advantage of liquidity solutions for ARS in its own inventory without making them available, as soon as practicable, to its customers that opt in to the relief provided pursuant to this Consent who hold the same CUSIP(s) of ARS in their accounts. This obligation shall continue until June 30, 2010.
- f) Reports and Meetings.
- (1) Within 45 days of the end of each month, beginning with a report covering the month ended November 30, 2008 (due

on January 14, 2008) and continuing through and including a report covering the month ended December 31, 2009 (due on February 14, 2010), UBS shall submit a monthly written report to SEC Enforcement Staff detailing UBS's progress with respect to all obligations under this Consent.

(2) Beginning with a meeting in March 2009, UBS shall confer with SEC Enforcement Staff no less frequently than quarterly to discuss UBS's progress to date, and UBS's compliance with Paragraph 3(d). Such quarterly meetings shall continue until December 2009.

(3) SEC Enforcement Staff may extend or modify any of the reporting or meeting due dates set forth above.

g) Institutional Customers – Third UBS Offer Period. No later than June 30, 2010, UBS will offer to purchase at par Eligible ARS from all remaining Eligible Customers. This Third UBS Offer Period will remain open until July 2, 2012.

h) Purchase Procedures.

(1) For all customers covered by Paragraphs 3(c) and 3(g) who opt in to the relief provided pursuant to this Consent:

(a) UBS Offer. UBS shall offer to purchase their Eligible ARS at par plus any accrued and unpaid

dividends/interest during the relevant timeframe specified in Paragraph 3(c) or 3(g). Customers may enter a sell order to sell their Eligible ARS at par to UBS at any time during the relevant timeframe.

(b) Discretionary Sales on Behalf of Customers.

Starting on the business day following the date on which a customer opts in to this settlement, UBS shall be authorized to exercise discretion on such customer's behalf to effect sales or other dispositions of Eligible ARS, including but not limited to secondary sales. UBS shall make customers whole at par (plus any accrued and unpaid dividends/interest) if any such disposition occurs below par. Any such discretion shall be exercised by UBS solely for the purpose of facilitating restructurings, dispositions, or other par solutions for customers. UBS represents that the purpose of this aforementioned discretion is to permit UBS to mitigate potential damages while still returning par to customers. In addition, starting the business day following the date on which a customer opts in to the relief provided pursuant to this Consent, UBS shall be authorized to exercise

reasonable discretion to purchase at par Eligible ARS that are tax-exempt Auction Preferred Stock issued by closed-end funds (as defined under the Investment Company Act of 1940) and UBS shall disclose to such customers that it will exercise this right, and will, in fact, exercise this right, to acquire from customers their tax-exempt auction preferred stock, on or about October 31, 2008, or, if later, within a short period of time after the effectiveness of the holder's election to opt in to the settlement. This disclosure shall be made by UBS in its Registration Statement on Form F-3 pursuant to which it is registering with the SEC Auction Rate Securities Rights.

- (c) Settlement. During the relevant timeframe, the customer may, at any time, sell Eligible ARS to UBS at par plus any accrued and unpaid dividends/interest, and UBS may at any time from the expiration of the opt in period purchase Eligible ARS from the customer at par plus any accrued and unpaid dividends/interest pursuant to its discretionary authority as set forth in Paragraph 3(h)(1)(b). Any such sales and purchases will settle

a day after the sales or purchase order is executed.

In cases of issuer restructurings or redemptions, UBS shall not be responsible for the timing of settlement.

- (d) Written Notice of Expiration. Thirty days before the expiration of the relevant timeframe set forth in Paragraph 3(c) and 3(g), UBS shall provide written notice to those Eligible Customers who have not sold their Eligible ARS to UBS notifying them of the impending expiration of the relevant timeframe, describing the state of the ARS market at that time, and explaining the consequences of failing to sell their ARS to UBS prior to the expiration of the relevant timeframe.
- (2) Tax-Exempt Auction Preferred Shares Owned by Certain Non-Eligible Customers. In addition to the undertakings for Eligible ARS set forth in this document, no later than October 31, 2008, UBS shall offer to customers of UBS (not including (i) broker-dealers or (ii) banks acting as conduits for their customers) who (a) as of July 15, 2008, held tax-exempt Auction Preferred Stock issued by closed-end funds (as defined under the Investment Company Act of 1940), at UBS or in DVP accounts for which UBS had

bidding rights, (b) did not hold those securities at UBS or in DVP accounts for which UBS had bidding rights on February 13, 2008, and (c) continue, as of the date of commencement of the offer, to hold these securities or bidding rights at UBS, to purchase any or all of these securities at par plus any accrued and unpaid dividends.

This offer shall be held open for not less than 20 business days and shall be subject to such other terms as are set forth in a notice sent by UBS to such customers within 30 days after the entry of the Judgment. This offer shall not be subject to a financing condition or to any other condition within the control of UBS. Purchases pursuant to this offer shall settle promptly after the expiration of the offer period.

- i) Relief for Customers Who Sold Below Par. UBS shall make best efforts to identify any Eligible Customers (except that such customers need not satisfy the provisions of Paragraph 3(a)(2)(c)) who sold auction rate securities below par between February 13, 2008 and September 15, 2008. By October 31, 2008, UBS shall pay any customers so identified the difference between par and the price at which the customer sold the auction rate securities, plus reasonable interest thereon.

j) Consequential Damages Claims.

- (1) Customers Covered by Paragraph 3(c) With Consequential Damages Claims. Customers covered by Paragraph 3(c) of this Consent (or customers covered by Paragraph 3(i) who would be covered by Paragraph 3(c) if they had continued to hold their ARS) and who opt in to the relief provided pursuant to this Consent may pursue claims against UBS for consequential damages as a result of the illiquidity of Eligible ARS by participating in certain special arbitration procedures as outlined below. Any such customers who do not participate in the Special Arbitration Procedures described below may pursue any other remedies against UBS available to them under the law.
- (2) Special Arbitration Procedures. Under these procedures, an arbitrator as defined below, under the auspices of FINRA, and subject to procedures to be adopted by FINRA, will be available for the exclusive purpose of arbitrating any consequential damages claim against UBS. Customers may participate in an arbitration process as described briefly below:
 - (a) Arbitrator. Arbitration shall be conducted by a single public arbitrator.

- (b) Forum Fees. UBS will pay all forum fees for all customers eligible under Paragraph 3(j)(1).
- (c) Proof. Customers shall bear the burden of proving by a preponderance of the evidence the existence and amount of consequential damages suffered as a result of the illiquidity of the Eligible ARS. UBS shall be able to defend itself against such claims; provided, however, that UBS shall not argue against liability for the illiquidity of the underlying auction rate securities position; and UBS shall not be able to use as part of its defense the customer's decision not to borrow money using loan programs available prior to the effective date of the Registration Statement on Form F-3 pursuant to which it is registering with the SEC Auction Rate Securities Rights.
- (d) Other Damages. Customers shall not be eligible for punitive damages or any other type of damages other than consequential damages.
- (3) Customers Covered by Paragraph 3(g) With Consequential Damages Claims. Customers covered by Paragraph 3(g) of this Consent (or customers covered by Paragraph 3(i) who

would be covered by Paragraph 3(g) if they had continued to hold their ARS) and who opt in to the relief provided pursuant to this Consent may pursue claims against UBS for consequential damages as a result of the illiquidity of Eligible ARS. However, such customers shall not be eligible for the procedures outlined in Paragraph 3(j)(2). By opting in to the relief provided pursuant to this Consent, such customers also will waive any other claims against UBS, including punitive damages or any other type of damages other than consequential damages. In addition, to be eligible to participate in the relief provided pursuant to Paragraph 3(g):

- (a) any customers who currently have claims for damages other than consequential damages pending against UBS, its affiliates, directors and/or officers concerning their Eligible ARS holdings must withdraw those claims with prejudice (if brought through arbitration) or otherwise submit documents to the appropriate court requesting dismissal of such claims; provided that UBS shall not seek to recover costs or fees in connection with the discontinuance or withdrawal of such claims; and

- (b) customers must agree not to serve as named plaintiffs, become parties to or opt in as class members, or otherwise obtain compensation or benefits as a member of the class in any class action or derivative action against UBS arising from UBS's sale and marketing of auction rate securities to customers.
- k) Negative Carry on Prior ARS Loan Programs. For all customers who took out loans from UBS (directly or indirectly) using the firm's prior ARS loan programs since February 13, 2008, UBS will reimburse the customer for any excess interest costs associated with such loan when compared to interest paid on average on the Eligible ARS that are the subject of the loan, plus reasonable interest thereon, by 30 days following the date of the offer periods applicable to that customer, as defined in Paragraphs 3(c) and 3(g).
- l) UBS AG. In consideration of the SEC entering into this settlement as reflected in this Consent, UBS AG will satisfy the financial obligations to customers herein on behalf of UBS Financial Services, Inc. and UBS Securities LLC.

4. Each Defendant agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, with regard to any civil penalty

