

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

CIVIL No. 15-\_\_\_\_\_ (     ) )

**JOSE G. RAMIREZ, JR.,**

**JURY TRIAL DEMANDED**

**Defendant.**

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**COMPLAINT**

Plaintiff United States Securities and Exchange Commission alleges as follows:

**INTRODUCTION**

1. The Commission brings this enforcement action to enjoin Jose G. Ramirez, Jr. from violating the antifraud provisions of the federal securities laws. From approximately 2006 through 2013, Ramirez, then a registered representative for UBS Financial Services Incorporated of Puerto Rico (“UBSPR”), made material misrepresentations and omissions to customers and engaged in a fraudulent scheme involving the offer and sale of approximately \$50 million of certain UBSPR affiliated, non exchange-traded closed-end mutual funds (“CEFs”). Ramirez effected a scheme which increased his compensation by soliciting certain customers to improperly use proceeds from non-purpose lines of credit (“LOCs”) offered by UBSPR’s banking affiliate, UBS Bank USA (“BUSA”), to purchase additional shares of UBSPR CEFs.

2. Ramirez knew that UBSPR policy and the LOC agreements with BUSA prohibited customers from using LOC proceeds to purchase securities. To circumvent these restrictions, Ramirez instructed customers to: (a) transfer money from their BUSA LOC accounts to a bank account not affiliated with UBSPR; (b) after waiting a few days, deposit the

money from the outside bank account to the customer's UBSPR brokerage account; and (c) use the funds in the brokerage account to purchase CEFs. Ramirez misrepresented to customers that transferring and re-depositing LOC proceeds in this manner did not violate UBSPR's policy and the customer LOC agreements. 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. Yet, in 2013, once the Puerto Rican bond market declined, customers received at least \$37 million in maintenance calls.

3. Ramirez personally profited from his misrepresentations and scheme. Ramirez's compensation was based, in part, on his LOC production and the amount of funds his customers drew upon their LOCs. Ramirez also earned commissions on the CEFs his customers purchased. As a result of his wrongful conduct, Ramirez received illicit profits of at least \$2.8 million.

4. As a result of the conduct alleged in this Complaint, Ramirez violated Sections 17(a)(1), (2), and (3) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §§ 77q(a)(1), (2), and (3)] and Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rules 10b-5(a), (b), and (c) thereunder [17 C.F.R. §§ 240.10b-5(a), (b), and (c)].

5. Unless restrained and enjoined, the Defendant is reasonably likely to continue to violate the federal securities laws.

6. The Commission therefore respectfully requests the Court enter an order: (i) permanently restraining and enjoining the Defendant from violating the federal securities laws; (ii) directing the Defendant to pay disgorgement with prejudgment interest; and (iii) directing the Defendant to pay civil money penalties.

**DEFENDANT**

7. Ramirez, age 56, currently residing in Fulton, Maryland, was a registered representative of UBSPR at the firm's Guaynabo, Puerto Rico, branch. In January 2014, UBSPR terminated Ramirez because of the conduct described in this Complaint. Ramirez held Series 7, 8, and 63 securities licenses. Based on Ramirez's failure to respond to the Financial Industry Regulatory Authority's ("FINRA") request for information during his on-the-record testimony, Ramirez has been permanently barred from association with any FINRA member in any capacity.

**OTHER RELEVANT ENTITIES**

8. 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. ("UBSFS"). During the relevant time period, UBSPR was Puerto Rico's largest broker-dealer, holding about 49% of the total retail brokerage assets in Puerto Rico.

9. UBSFS, a Delaware corporation with its principal places of business in New York, New York and Weehawken, New Jersey, and is also a broker-dealer registered with the Commission. UBSFS is a wholly-owned subsidiary of UBS AG, a foreign private issuer based in Switzerland.

10. 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. BUSA is UBSPR's banking affiliate.

**JURISDICTION AND VENUE**

11. This court has jurisdiction over this action under Sections 20(b), 20(d)(1), 21(e), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d)(1), 78u(e), and 77v(a)], and Sections 21(d) and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa(a)].

12. This Court has personal jurisdiction over the Defendant, and venue is proper in the District of Puerto Rico, because, among other things, some or all of the acts and transactions constituting the violations alleged in the Complaint occurred in this District. In addition, venue is proper in this District under 28 U.S.C. § 1391 because a substantial part of the events and omissions giving rise to the Commission’s claims occurred in the District of Puerto Rico.

13. In connection with the conduct alleged in this Complaint, Defendant, directly and indirectly, singly, or in concert with others, made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation or communication in interstate commerce, and of the mails.

**FACTUAL BACKGROUND**

**A. Bank Lines of Credit**

14. In approximately 2003, BUSA, UBSPR’s banking affiliate, began offering UBSPR brokerage customers a line of credit that was “non-purpose” – meaning funds drawn under the LOC could not be used to purchase, carry, or trade securities – at no initial cost to the customer and at interest rates below those charged for margin loans. UBSPR offered BUSA’s LOCs to its customers to enable them to meet more of their financial needs through UBSPR instead of outside commercial banks.

15. UBSPR promoted the use of LOCs in a number of ways:
  - a. UBSPR encouraged its registered representatives to include LOC documentation with account opening documents for new customers;
  - b. UBSPR registered representatives recommended that customers open an LOC even if they had no immediate need to access the funds, explaining that the LOC was a free service offered by the firm at a low interest rate; and
  - c. UBSPR incentivized its registered representatives to offer LOCs by compensating them based on: (a) the amount of each new LOC; and, later, (b) the amount customers drew upon their LOCs.

**B. Restriction on Use of Lines of Credit**

16. Internal UBS marketing materials stated that the purpose of the LOCs was to provide existing customers with liquidity and immediate access to cash in order to cover business expenses, acquire real estate, make certain periodic expense payments, or pay for luxury items without having to liquidate investment holdings, thus deferring capital gains.

17. UBSPR customers were prohibited from using LOC proceeds to purchase securities. UBSPR policy prohibited it, as did the customer's LOC loan agreement with BUSA, which restricted the borrower from using the proceeds of any advance to purchase, carry or trade in securities.

18. Ramirez knew that UBSPR policy did not allow customers to use LOC proceeds to purchase securities. UBSPR registered representatives received training on this very prohibition. Further, each LOC application contained a "UBS Bank USA Know Your Customer: Appropriateness and Client Verification" ("Client Verification") form. This form required the

signature of the registered representative indicating the registered representative had explained to customers they could not use the LOC proceeds to purchase or carry securities.

**C. Closed-End Funds**

19. The CEFs are closed-end investment management companies incorporated under the laws of the Commonwealth of Puerto Rico and available only to Puerto Rico residents. Since 1995, UBSPR offered its customers twenty-three CEFs, for which UBSPR served as primary underwriter and as sole or co-manager. The CEFs are not registered with the Commission, are not traded on any exchange or quoted on any quotation service, and are non-marginable securities. UBSPR has been the only secondary market dealer or liquidity provider for the sole-managed Funds and the dominant dealer for several co-managed CEFs.

20. Nearly all of the CEFs invest in similar securities. The CEFs' investment portfolios are generally concentrated in Puerto Rico municipal bonds, which produce tax-free interest income, and the dividends the CEFs pay to their shareholders are tax-exempt to residents of Puerto Rico. Indeed, for eligibility for such tax benefits, CEF portfolios have to be comprised of at least 67% in Puerto Rico issuers. The CEFs are significantly leveraged, financing approximately 50% of their total assets, and thus, as a leveraged product, bear the concomitant level of risk.

21. Although the CEFs invest a high percentage of their portfolios in Puerto Rico bonds, the CEFs are not fixed-income securities. The dividends payable to shareholders can vary based on a number of factors, including prevailing variable margin loan rates payable by the particular CEF, interest rates, the market value of the securities within the CEFs, and various fees and expenses.

**D. Ramirez's Scheme, Misrepresentations and Omissions**

22. Because customers could borrow money through their LOCs at rates as low as 1.5 percent and the CEFs were generating returns of greater than 6 percent, Ramirez saw an arbitrage opportunity for customers and an opportunity to increase his production and commissions if customers purchased additional CEF shares with the proceeds of LOCs. Ramirez presented this opportunity to customers as a way to make additional money by using the LOCs to increase their CEF holdings, notwithstanding his knowledge that UBSPR and BUSA prohibited customers from using the LOC proceeds to purchase securities.

23. In order to circumvent UBSPR's policy against using LOCs to purchase securities, and evade detection of his scheme, Ramirez instructed customers to withdraw funds from their BUSA LOC accounts, deposit those funds into an account at another bank, wait several days, and then re-deposit the funds from the outside bank account into a UBS brokerage account, where the funds would then be used to purchase CEFs. This was despite Ramirez signing the Client Verification form attesting that he had explained to customers that they could not use LOC proceeds to purchase or carry securities.

24. Ramirez misrepresented to customers that they were not violating UBSPR policy as long as they first transferred the proceeds to an outside bank account. In several meetings with customers where Ramirez presented this strategy, Ramirez would take a dollar bill out of his wallet and say, "If I give you this dollar and you bring [another dollar] back next month, it's not the same dollar." Based on Ramirez' advice, customers either wrote a check or requested a wire transfer from their BUSA LOC account for deposit into their personal bank accounts at outside banking institutions and then re-deposited the funds into their brokerage accounts and purchased CEF shares.

25. When combined with the leverage inherent in the CEFs, Ramirez, by treating the LOC accounts as de facto margin accounts, exposed customers – many of whom were listed in their account documents as being “conservative” or “moderate” with regard to risk tolerance – to a significantly greater risk than they otherwise would have been exposed to.

26. Ramirez misrepresented the true risk of the CEFs, and would instead refer to them as stable investments akin to bonds. Ramirez routinely told customers that their investments in CEF’s were so safe that “Plaza Las Americas will go bankrupt before anything happens to your money.”

27. Ramirez also did not explain to customers that if the value in the collateral account decreased below a certain level, the customer would be notified via a maintenance phone call from UBSPR. Further, Ramirez did not explain to the customer that if, after receiving the maintenance call, the customer did not deposit sufficient funds or collateral, UBSPR could liquidate the customer’s investments in order to satisfy the outstanding maintenance call. Nonetheless, Ramirez signed multiple Client Verification forms, falsely representing that he had explained these risks to the customer.

28. In 2011, when confronted with suspicions of this scheme by his branch manager, Ramirez denied any impropriety and expressed outrage that his integrity was being questioned. Ramirez gave an alternative explanation that funds transferred into the customer’s UBS brokerage account soon after the customer withdrew a similar amount from his LOC account were actually the proceeds of a real estate transaction of the customer. This was a lie. Ramirez continued to engage in his misconduct for approximately two more years after being confronted by his manager.

29. Throughout, Ramirez's LOC production, and thus LOC related compensation, far outpaced his peers. Ramirez was one of the leaders in banking products production, not only in Puerto Rico, but across UBSFS nationwide, despite the fact that, unlike stateside registered representatives, registered representatives in Puerto Rico could not offer mortgages to customers. Ramirez received recognition as a "Banking Champion" from UBSFS, which entitled him to additional compensation and also invitations to corporate events.

**E. Consequences of Ramirez's Fraudulent Conduct**

30. In 2013, the Puerto Rico bond market declined. The erosion caused a substantial decrease in the value of the CEFs, in part because the CEFs employed leverage up to 50 percent of the total CEF assets. Many of Ramirez's customers with LOCs collateralized by brokerage accounts holding CEFs began receiving maintenance calls.

31. As of late summer 2013, at least 38 Ramirez customer accounts which used LOCs to purchase CEFs received maintenance calls of at least \$37 million. Customers were thus required to increase their collateral, pay down the loan by a certain amount, or risk their collateral being liquidated.

32. In August, 2013, Ramirez took leave and was unreachable by his customers and UBSPR.

33. Ramirez was terminated by UBSPR as a result of his conduct.

34. As a result of his fraudulent conduct Ramirez illicitly profited at least \$2.8 million.

**COUNT I**

**Fraud in the Offer or Sale of Securities in Violation of Section 17(a)(1) of the Securities Act**

35. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

36. From at least as early as 2006 through 2013, the Defendant, in the offer or sale of securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly knowingly, willfully or recklessly employed devices, schemes or artifices to defraud.

37. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

**COUNT II**

**Fraud in the Offer or Sale of Securities in Violation of Section 17(a)(2) of the Securities Act**

38. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

39. From at least as early as 2006 through 2013, the Defendant, in the offer or sale of securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly obtained money or property by means of untrue statements of material fact or by omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

40. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

**COUNT III**

**Fraud in the Offer or Sale of Securities in Violation of Section 17(a)(3) of the Securities Act**

41. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

42. From at least as early as 2006 through 2013, the Defendant, in the offer or sale of securities by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly engaged in acts, transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

43. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

**COUNT IV**

**Fraud in Violation of Section 10(b) and Rule 10b-5(a) of the Exchange Act**

44. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

45. From at least as early as 2006 through 2013, the Defendant, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, knowingly, willfully or recklessly employed devices, schemes or artifices to defraud in connection with the purchase or sale of securities.

46. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(a) [17 C.F.R. § 240.10b-5(a)].

**COUNT V**

**Fraud in Violation of Section 10(b) and Rule 10b-5(b) of the Exchange Act**

47. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

48. From at least as early as 2006 through 2013, the Defendant, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, knowingly, willfully or recklessly made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in connection with the purchase or sale of securities.

49. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(b) [17 C.F.R. § 240.10b-5(b)].

**COUNT VI**

**Fraud in Violation of Section 10(b) and Rule 10b-5(c) of the Exchange Act**

50. The Commission repeats and realleges paragraphs 1 through 34 of this Complaint as if fully restated herein.

51. From at least as early as 2006 through 2013, the Defendant, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, knowingly, willfully or recklessly engaged in acts, practices and courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of securities.

52. By reason of the foregoing, the Defendant violated, and, unless enjoined, is reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(c) [17 C.F.R. § 240.10b-5(c)].

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests this Court issue a Final Judgment:

**I.**

Permanently enjoining Defendant Ramirez and his agents, servants, employees and attorneys, and all persons in active concert of participation with him who receive actual notice of the injunction by personal service or otherwise, from violating the federal securities laws alleged in this Complaint;

**II.**

Ordering Ramirez to disgorge any and all ill-gotten gains he received as a result of his violations of the federal securities laws, plus prejudgment interest thereon;

**III.**

Ordering Ramirez to pay civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

**IV.**

Granting such other and further relief as the Court may deem just and proper.

V.

Further, the Commission respectfully requests that the Court retain jurisdiction over this action and over Defendant in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

AND DEMAND FOR JURY TRIAL

Dated: September 29, 2015

Respectfully submitted,

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