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3 **STATE OF OREGON**
4 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
5 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

6 In the Matter of

S-12-0053

7 Bankers Life and Casualty Company
8 and BLC Financial Services, Inc.,

ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL PENALTY
AND CONSENT TO ENTRY OF ORDER

9 Respondents

10 WHEREAS, state regulators from multiple jurisdictions conducted coordinated
11 investigations of Bankers Life and Casualty Company (“Bankers Life”) and BLC Financial
12 Services, Inc. (“BLCFS”) (collectively, “Bankers”) to determine whether Bankers should have
13 been licensed as a broker-dealer and investment adviser between January 1, 2005, and
14 December 2, 2011; and

15 WHEREAS, the investigators determined that Bankers has acted as a broker-dealer and
16 investment adviser in those jurisdictions without being licensed, exempt from licensing, or a
17 federal covered investment adviser, and has employed or associated with salespersons and
18 investment adviser representatives who were not so licensed on behalf of Bankers; and

19 WHEREAS, Bankers has engaged in similar conduct in Oregon, in violation of
20 ORS 59.165; and

21 WHEREAS, the conduct addressed herein has resulted in no known direct consumer
22 harm, and the parties understand that licensed salespersons or representatives of licensed broker-
23 dealers or investment advisers other than Bankers participated in all securities transactions and at
24 locations that were licensed with the appropriate securities authorities as broker-dealer locations
25 of broker-dealers other than Bankers; and

26 WHEREAS, Bankers has cooperated with state regulators conducting the investigations

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1 by responding to inquiries, providing documentary evidence, and halting further receipt of
2 broker-dealer and investment adviser related compensation while the investigations were
3 pending; and

4 WHEREAS, Bankers, in order to avoid protracted and expensive proceedings in
5 numerous states, has agreed to resolve the investigations through a multistate settlement which
6 includes this Order to Cease and Desist, Order Assessing Civil Penalty and Consent to Entry of
7 Order (“Consent Order”); and

8 WHEREAS, Bankers, as part of this settlement, agrees to comply with all state and
9 federal licensing, registration, and other securities laws; and

10 WHEREAS, Bankers, without admitting or denying the Conclusions of Law set forth
11 below and solely for the purposes of this Consent Order, admits the jurisdiction of the Director
12 of the Oregon Department of Consumer and Business Services (“Director”), admits the Findings
13 of Fact set forth in paragraphs 1-11 below, voluntarily consents to the entry of this Consent
14 Order, and waives any right to a hearing or to judicial review regarding this Consent Order;

15 NOW THEREFORE, the Director hereby enters this Consent Order.

17 FINDINGS OF FACT

- 18 1. Bankers Life is a life insurance company located in Illinois that has never been
19 licensed as a broker-dealer or investment adviser.
- 20 2. BLCFS is a wholly-owned subsidiary of Bankers Life that also is located in Illinois.
21 BLCFS (CRD No. 126638) has been a member of NASD or FINRA since 2003 and is registered
22 as a broker-dealer only in Illinois. During its existence, BLCFS has had no business activity
23 other than as described herein. BLCFS has never been licensed as a broker-dealer or investment
24 adviser in Oregon, and it has not licensed any salespersons or investment adviser representatives
25 in Oregon.
- 26 3. Effective January 1, 2005, Bankers Life and UVEST Financial Services Group, Inc.



1 (“UVEST”) entered into a Financial Services Agreement (the “UVEST Agreement”), under
2 which insurance agents of Bankers Life who became licensed as salespersons and/or investment
3 adviser representatives of UVEST would provide brokerage and investment advisory services
4 out of Bankers Life branch office locations. At all relevant times, UVEST has been a broker-
5 dealer licensed in Oregon and (through an affiliate) a federal covered investment adviser. The
6 UVEST Agreement specified that UVEST would “exercise exclusive control” over the broker-
7 dealer and investment advisory activities of the dual agents and assigned Bankers Life several
8 securities-related roles, which Bankers Life did perform, including:

- 9 a. appointing the persons to be dual agents and having sole discretion to withdraw
10 appointments at any time;
- 11 b. determining with UVEST the number and identity of dual agents at each office;
- 12 c. determining with UVEST the compensation to be paid to each agent;
- 13 d. determining with UVEST the “brokerage product offerings available for distribution”
14 by the dual agents;
- 15 e. approving the clearing broker selected by UVEST;
- 16 f. approving advertising and promotional material; and
- 17 g. paying for:
 - 18 i. pre-examination training for required NASD/FINRA examinations;
 - 19 ii. investment research materials used in the branch offices;
 - 20 iii. recruitment and travel costs; and
 - 21 iv. UVEST stationary and business cards.

22 4. The UVEST Agreement provided for UVEST to pay Bankers Life “Revenue Sharing
23 Payments” according to a schedule that varied from 82% to 85% of the gross commissions
24 received by UVEST for the dual agents’ securities transactions. The UVEST Agreement
25 characterized these payments as representing reimbursement for the compensation Bankers Life
26 pays to the dual agents and “payment for the use of the facilities and equipment” of



1 Bankers Life.

2 5. In March of 2005, Bankers Life determined that BLCFS should have been a party to
3 the UVEST Agreement. As a result, the three firms agreed to a new first page of the UVEST
4 Agreement that added BLCFS as a party and a new signature page, which was executed by the
5 three parties. The revised UVEST Agreement did not assign BLCFS any rights or duties
6 separate from those of Bankers Life and made all of Bankers Life’s rights and duties also apply
7 to BLCFS.

8 6. Coincident with Bankers and UVEST terminating the UVEST Agreement, Bankers
9 Life and BLCFS entered into a similar agreement with ProEquities, Inc. (“ProEquities) effective
10 April 30, 2010 (the “ProEquities Agreement”). At all relevant times, ProEquities has been a
11 broker-dealer licensed in Oregon and (through an affiliate) a federal covered investment adviser.
12 The ProEquities Agreement specifies that ProEquities will “exercise exclusive control” over the
13 broker-dealer and investment advisory activities of the dual agents and assigns the following
14 securities-related roles to BLCFS or to BLCFS and Bankers Life, which BLCFS and Bankers
15 Life subsequently engaged in:

- 16 a. consulting with ProEquities on the persons to be appointed as representatives of
- 17 ProEquities;
- 18 b. identifying securities product training and marketing opportunities;
- 19 c. determining with ProEquities the securities products made available for distribution
- 20 by the dual agents;
- 21 d. approving the clearing broker selected by ProEquities (BLCFS only);
- 22 e. approving advertising and promotional material (BLCFS only);
- 23 f. recruiting representatives for ProEquities and assisting with the licensing and
- 24 registration process;
- 25 g. providing marketing, training, and support; and
- 26 h. paying for:



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- i. pre-examination training for required FINRA examinations;
- ii. sales training materials;
- iii. recruitment and travel costs; and
- iv. ProEquities stationary and business cards.

7. Under the ProEquities Agreement, ProEquities is required to pay BLCFS between 87% and 91% of revenue received by ProEquities for the securities business conducted by the dual agents. ProEquities also is required to provide reports to BLCFS of the amount of compensation to be paid to each dual agent for securities work, and BLCFS is to retain the difference.

8. BLCFS, in its current Form BD filing, lists the following as other business:

BLC Financial Services, Inc. (BLCF) provides sales support & a marketing program to Bankers Life & Casualty agents who are securities licensed with ProEquities. BLCFS will receive compensation from ProEquities based on these securities sales. BLCFS will not have any representatives that sell to the public.

9. The involvement of Bankers in securities-related roles led to confusion in the reporting and responsibility hierarchies as between Bankers and the applicable broker-dealer.

10. At no time were the dual agents licensed as salespersons or investment adviser representatives of Bankers Life or BLCFS. The dual agents were salespersons and investment adviser representatives of UVEST or ProEquities.

11. From January 1, 2005, through November 31, 2011, Bankers received, on a nationwide basis, a total of approximately \$21 million from UVEST and ProEquities under their respective agreements for variable annuity and securities transactions and investment advice. Approximately \$15 million of this amount was passed on by Bankers to the dual agents as compensation, leaving approximately \$6 million retained by Bankers or used by Bankers for expenses.



CONCLUSIONS OF LAW

12. Under the Oregon Securities Law, Oregon Revised Statutes Chapter 59 and Oregon Administrative Rules Chapter 441, a person may not act as a broker-dealer in Oregon unless licensed or exempt from licensing. ORS 59.165(1).

13. Similarly, a person may not act as an investment adviser in Oregon unless licensed, exempt from licensing, or a federal covered investment adviser. ORS 59.165(6).

14. A broker-dealer may not employ or associate with a salesperson, as defined in ORS 59.015(18)(a), unless the employee or associated person is licensed as a salesperson of the broker-dealer. ORS 59.165(3).

15. An investment adviser may not employ or associate with an investment adviser representative unless the employee or associated person is licensed as an investment adviser representative of the investment adviser. ORS 59.165(4).

16. By engaging in the conduct set forth above, Bankers acted as an unlicensed broker-dealer and investment adviser in Oregon in violation of ORS 59.165(1) and ORS 59.165(6).

17. Furthermore, by employing or associating with dual agents who were not licensed as salespersons or investment adviser representatives of Bankers, Bankers violated ORS 59.165(3) and 59.165(4).

18. As a result, this Consent Order and the following relief are appropriate and in the public interest.

ORDER

On the basis of the Findings of Fact, Conclusions of Law, and the consent of the Respondents to the entry of this Consent Order, the Director ORDERS:

19. Bankers shall CEASE AND DESIST from: (1) acting as a broker-dealer or investment adviser in Oregon unless and until licensed to do so; (2) employing or associating with salespersons or investment adviser representatives in Oregon who are not licensed on behalf



1 of Bankers; or (3) otherwise violating the Oregon Securities Law; provided, however, that
2 nothing in this Consent Order shall prevent Bankers from employing or associating with
3 insurance producers who are also salespersons or investment adviser representatives of a licensed
4 broker-dealer so long as all securities-related functions are carried out consistent with the
5 conditions set forth below.

6 20. In accordance with the terms of the multistate settlement, Bankers Life and/or BLCFS
7 shall pay \$9.9 million to be distributed among the states where dual agents were located during
8 the period from January 1, 2005, through December 2, 2011, allocated according to a schedule
9 provided by the multi-state investigation working group. Bankers shall pay the sum of
10 \$73,694.68 (seventy-three thousand, six hundred ninety-four dollars and sixty-eight cents) to the
11 Oregon Department of Consumer and Business Services as its portion of the total amount. The
12 sum includes a civil penalty of \$70,009.95 (seventy thousand, nine dollars and ninety-five cents)
13 for the General Fund of the State Treasury, pursuant to ORS 59.995(1), and \$3,684.73
14 (three thousand, six hundred eighty-four dollars and seventy-three cents) to be allocated for the
15 Consumer Financial Education Account. Such payment shall be made within ten days from the
16 date this Consent Order is signed on behalf of the Director.

17 21. Bankers Life and/or BLCFS shall pay past licensing and registration fees totaling
18 \$260,000 to the states where dual agents were located during the period from January 1, 2005,
19 through December 2, 2011, allocated according to a schedule provided by the multi-state
20 investigation working group. Bankers shall pay \$5,000 (five thousand dollars) to the Oregon
21 Department of Consumer and Business Services for its portion of the total past fees within ten
22 days from the date this Consent Order is signed on behalf of the Director.

23 22. Bankers Life and/or BLCFS shall pay \$106,000 to fund state audits to ensure
24 compliance with this Consent Order and similar orders, decrees, and agreements in other states,
25 allocated in accordance with a schedule provided by the multi-state investigation working group.
26 Bankers Life and/or BLCFS shall pay \$2,000 (two thousand dollars) to the Oregon Department



1 of Consumer and Business Services for its portion of the state audit funds within ten days from
2 the date this Consent Order is signed on behalf of the Director.

3 23. Bankers shall contract with an independent third party, with disclosure of any prior
4 relationship to Bankers and with a scope of work not unacceptable to the Securities
5 Administrator for the State of Maine, for the purpose of reviewing Bankers' compliance with the
6 terms of this Consent Order. The independent third party shall submit annual reports of the
7 same, including findings and recommendations, to the Maine Securities Administrator, which
8 report shall be delivered on or before September 30 of each year commencing with the
9 September 30, 2012, report and ending with the September 30, 2014, report. Bankers shall make
10 no claim of privilege or other protection from disclosure to the Maine Securities Administrator of
11 the reports or any information received or considered by the independent third party, and
12 Bankers shall not take any action to prevent or impede the Maine Securities Administrator from
13 sharing the reports or information with other state securities regulators.

14 24. If any state securities regulator determines not to accept the settlement offer of
15 Bankers reflected herein, including the amount allocated to the applicable state according to the
16 schedules referenced in paragraphs 20 through 22 above, the payments to Oregon shall not be
17 affected and Bankers shall not be relieved of any of the non-monetary provisions of this Consent
18 Order.

19 25. Bankers shall not attempt to recover any part of the payments addressed in this
20 Consent Order from dual agents, UVEST, ProEquities, or customers of Bankers (including
21 through premium increases); provided, however, that nothing in this Consent Order prohibits
22 Bankers from modifying its premiums or expenses for reason(s) unrelated to the payments
23 referenced herein.

24 26. Bankers shall fully cooperate with any investigation or proceeding related to the
25 subject matter of this Consent Order.

26 27. Bankers has an existing relationship with ProEquities, a third party licensed broker-



1 dealer. From the date of this Consent Order through March 31, 2015 and while Bankers has dual
2 agents that are salespersons or investment adviser representatives of a third party broker-dealer,
3 any agreement between Bankers and the third party broker-dealer shall be consistent with the
4 provisions set forth below, provided, however, Bankers may seek leave with the applicable
5 securities administrators for relief from this provision:

6 a. The third party broker-dealer (“TPBD”) must be solely responsible for the hiring,
7 training, supervision and conduct of each of its salespersons and investment adviser
8 representatives as that conduct relates to securities or other TPBD products and the provision of
9 investment advisory services.

10 b. Bankers Life and its affiliates, including without limitation BLCFS, (“Bankers
11 affiliates”) shall have no responsibility for the hiring, training, supervision and conduct of any
12 salesperson or investment advisor representative as that conduct relates to securities or other
13 TPBD products and the provision of investment advisory services.

14 c. Bankers affiliates shall not:

15 i. Exercise any control over who the TPBD appoints as salespersons or
16 investment adviser representatives;

17 ii. Identify securities product training and marketing opportunities;

18 iii. Determine with the TPBD the securities products made available for
19 distribution;

20 iv. Approve the clearing broker selected by the TPBD;

21 v. Approve advertising and promotional material, provided, however, that
22 Bankers shall maintain the right to object to advertising or promotional material that is either in
23 violation of the law or in any way refers to Bankers;

24 vi. Pay for pre-examination training, sales training materials, travel costs, or
25 TPBD stationary and business cards for salespersons or investment adviser representatives.

26 d. The TPBD must be solely responsible for commission payments to salespersons and



1 investment adviser representatives, including the commission grid applicable to each
2 salesperson and investment adviser representative, as that grid may be modified from time to
3 time at the sole discretion of the TPBD.

4 e. Bankers affiliates shall provide no compensation to salespersons and investment
5 adviser representatives based on securities production including, without limitation payment of
6 expenses associated with the annual convention, provided, however, Bankers may continue to
7 reimburse convention-related expenses to the extent they are based on insurance production.

8 f. Bankers may be compensated for its costs associated with the salespersons and
9 investment adviser representatives and the office space and equipment by the TPBD in the form
10 of an administrative fee. The administrative fee must be reasonable and may not be based in
11 any way on securities production, securities gross dealer compensation, or the number of
12 securities transactions.

13 g. Bankers shall not conduct or permit its branches, employees, or insurance agents to
14 conduct securities statement or referral contests on an individual or group basis or otherwise
15 create incentives for obtaining securities statements from customers or prospective customers,
16 regardless of whether the contest or incentive is based partly on chance.

17 h. Bankers Life shall promptly provide:

18 i. any information or visitation requested at any time by the Director or any
19 other state securities regulator regarding the relationship, including, but not limited to,
20 documents; written statements; testimony of salespersons, investment adviser representatives,
21 agents, employees, or other representatives; and unannounced examinations of dual offices; and

22 ii. written notification of any complaint from a broker-dealer client or
23 investment adviser client to the state securities regulators in the states where the complainant and
24 all involved salespersons, investment adviser representatives, agents or representatives are
25 located so that the notification is received within 15 days of the complaint.

26 i. Within 60 days of Bankers entering into an agreement with a TPBD other than



1 ProEquities, the independent third party reviewer referenced in paragraph 23 above shall review
2 the agreement with the TPBD to confirm its compliance with this paragraph and shall submit a
3 report of the same, with any relevant findings and recommendations, to the Securities
4 Administrator for the State of Maine.

5 28. Bankers Life shall comply with the following practices:

6 a. An insurance producer who is not licensed to give advice concerning securities
7 products (an “Insurance Producer”) may gather all financial information necessary to complete a
8 Bankers Factfinder or similar document or tool required to determine insurance product
9 suitability and may provide the consumer with a business card of, and pre-addressed stamped
10 envelope to, a person properly licensed to provide advice concerning securities products. The
11 Insurance Producer shall not obtain a copy of the consumer’s statement(s) for securities
12 products or discuss any other aspect of the securities products, and the Insurance Producer
13 cannot arrange for the consumer to meet with a person properly licensed to provide advice
14 concerning securities products. The Insurance Producer may explain that the Insurance
15 Producer is not licensed to discuss securities products.

16 b. While gathering information for the Bankers’ Factfinder or similar document or tool,
17 an Insurance Producer shall not inquire into a consumer’s satisfaction with the consumer’s
18 current investments in securities or with the consumer’s current broker-dealer, investment
19 adviser, salesperson, or investment adviser representative or make comparisons between
20 securities and non-securities products. As used in this subparagraph, “securities” refers both to
21 specific securities products and to securities in general.

22 c. No commissions or other compensation derived from a securities transaction shall be
23 paid to or split with an Insurance Producer.

24 29. Pursuant to a consent order entered with the Maine Securities Administrator, on April
25 27, 2012, BLCFS made the filings necessary to withdraw its registration as a broker-dealer with
26 the Securities and Exchange Commission and the State of Illinois and terminate its membership



1 with FINRA. BLCFS shall not reapply for registration or membership.

2 30. This Consent Order concludes the investigation by the Director and any other action
3 that the Director could commence under applicable law on behalf of the State of Oregon as it
4 relates to the violations described above, up to and including activity occurring through
5 December 2, 2011; provided, however, that excluded from and not covered by this paragraph are
6 any claims by the Director arising from or relating to the “Order” provisions contained herein.

7 31. If payments are not made by Bankers Life or BLCFS, or if Bankers defaults in any of
8 its obligations set forth in this Consent Order, the Director may vacate this Consent Order, at his
9 sole discretion, upon 10 days notice to Bankers and without opportunity for administrative
10 hearing or judicial review, and commence a separate action.

11 32. Nothing herein shall preclude the State of Oregon, its departments, agencies, boards,
12 commissions, authorities, political subdivisions and corporations, other than the Director and
13 only to the extent set forth herein, (collectively, “State Entities”) and the officers, agents or
14 employees of State Entities from asserting any claims, causes of action, or applications for
15 compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive
16 relief against Bankers, provided, however, that this Consent Order shall not be deemed to
17 constrain, estop or preclude Bankers in asserting any legal or factual position, response or
18 defense, provided, however, Bankers admits the facts set forth in Findings of Fact in paragraphs
19 1-11 herein.

20 33. This Consent Order is not intended by the Director to subject any person to any
21 disqualifications under the laws of the United States, any state, the District of Columbia, Puerto
22 Rico, or the Virgin Islands including, without limitation, any disqualification from relying upon
23 the state or federal registration exemptions or safe harbor provisions.

24 34. This Consent Order and the order of any other state in related proceedings against
25 Bankers (collectively, the “Orders”) shall not disqualify any person from any business that they
26 otherwise are qualified, licensed or permitted to perform under applicable securities laws of the



1 State of Oregon, and any disqualifications from relying upon this state’s registration exemptions
2 or safe harbor provisions that arise from the Orders are hereby waived.

3 35. This Consent Order and any dispute related thereto shall be construed and enforced in
4 accordance with, and governed by, the laws of the State of Oregon without regard to any choice
5 of law principles.

6 36. This Consent Order shall be binding upon Bankers, its relevant affiliates, successors
7 and assigns.

8 37. This Consent Order is entered into solely for the purposes of resolving the referenced
9 multistate investigation, and is not intended to be used for any other purpose. For any person or
10 entity not a party to the Consent Order, this Consent Order does not create any private rights or
11 remedies against Bankers, create liability of Bankers, or limit or preclude any legal or factual
12 positions or defenses of Bankers in response to any claims.

13 38. Except as set forth above, the Director agrees to take no action adverse to Bankers or
14 its agents based solely on the same conduct addressed in this Consent Order. However, nothing
15 in this Consent Order shall preclude the Director from: (a) taking adverse action based on other
16 conduct; (b) taking this Consent Order and the conduct described above into account in
17 determining the proper resolution of action based on other conduct; (c) taking any and all
18 available steps to enforce this Consent Order; or (d) taking any action against other entities or
19 individuals, regardless of any affiliation or relationship between Bankers and the entities or
20 individuals.

21 IT IS HEREBY ORDERED on this 17th day of September, 2012.

22
23 PATRICK M. ALLEN, Director
Department of Consumer and Business Services

24
25 /s/ Brian Light, for
David C. Tatman, Administrator
26 Division of Finance and Corporate Securities

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CONSENT TO ENTRY OF CONSENT ORDER

Bankers Life and Casualty Company and BLC Financial Services, Inc. (collectively, “Bankers”), by signing below, admits paragraphs 1-11 of the Findings of Fact set forth above, agrees to the entry of this Consent Order, and waives any right to a hearing or to judicial review.

Bankers states that no promise of any kind or nature whatsoever that is not reflected in this Consent Order was made to it to induce it to enter into this Consent Order and that it has entered into this Consent Order voluntarily.

William D. Fritts, Jr. (name) represents that he or she has been authorized to enter into this Consent Order on behalf of Bankers Life and Casualty Company.

Thomas Kaehr (name) represents that he or she has been authorized to enter into this Consent Order on behalf of BLC Financial Services, Inc.

Bankers Life and Casualty Company

By: /s/ William D. Fritts Jr.

Title: SVP Regulatory and Government Affairs

Date: August 29, 2012

BLC Financial Services, Inc.

By: /s/ Thomas Kaehr

Title: President

Date: August 29, 2012

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