

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96964 / February 22, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-16846

_____	:	ORDER AUTHORIZING THE
In the Matter of	:	DISPOSITION OF FUNDS REMAINING IN
	:	THE FAIR FUND AND ANY FUNDS
UBS FINANCIAL SERVICES	:	RETURNED TO THE FAIR FUND IN THE
INCORPORATED OF PUERTO	:	FUTURE, DISCHARGING THE FUND
RICO,	:	ADMINISTRATOR, CANCELING THE
	:	ADMINISTRATOR’S BOND, AND
Respondent.	:	TERMINATING THE FAIR FUND
_____	:	

ADMINISTRATIVE PROCEEDING
File No. 3-16847

_____	:
In the Matter of	:
	:
RAMIRO L. COLON, III,	:
	:
Respondent.	:
_____	:

On September 29, 2015, the Commission issued two separate, but related settled Orders Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (collectively, the “Orders”)¹ against the UBS Financial Services Inc. of Puerto Rico (“UBSPR”) and UBSPR Guayanabo branch office manager, Ramiro L. Colon, III (“Colon”) (collectively, the “Respondents”). Each Order found that UBSPR, through Colon, violated Section 15(b)(4)(E) of the Securities Exchange Act of 1934 (“Exchange Act”) by failing to supervise Jose Ramirez, Jr., a registered representative

¹ See Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions, Exchange Act Rel. No. 76013 (Sept. 29, 2015), Admin. Proc. File No. 3-16846 and Order Instituting Administrative Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions, Exchange Act Rel. No. 76014 (Sept. 29, 2015), Admin. Proc. File No. 3-16847.

and associated person of UBSPR and UBSPR 's Guayanabo branch, who engaged in conduct that violated the anti-fraud provisions of Section 17(a) of the Securities Act of 1933 ("Securities Act") and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

In their respective Orders, the Commission required UBSPR to pay disgorgement of \$1,188,149.41, prejudgment interest of \$174,196.97, and a \$13,637,653.62 civil penalty; Colon was ordered to pay a \$25,000 civil penalty. The UBSPR Order also created a Fair Fund, pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002, so the penalties paid by UBSPR, along with the disgorgement and interest paid by UBSPR, could be distributed to harmed investors (the "Fair Fund").

The Respondents paid a total of \$15,025,000.00 pursuant to their respective Orders.

On November 3, 2016, the Division, pursuant to delegated authority, issued an order appointing Rust Consulting, Inc. as the fund administrator of the Fair Fund and set the administrator's bond amount.²

On April 27, 2017, the Secretary, pursuant to delegated authority, published a Notice of Proposed Plan of Distribution and Opportunity for Comment ("Notice"),³ pursuant to Rule 1103 of the Commission's Rules on Fair Fund and Disgorgement Plans (the "Commission's Rules");⁴ and simultaneously posted the Proposed Plan. The Notice advised interested persons that they could obtain a copy of the Proposed Plan from the Commission's public website or by submitting a written request to Keshia W. Ellis, Esq., United States Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5876. The Notice also advised that all persons desiring to comment on the Proposed Plan could submit their comments, in writing, within 30 days of the Notice. The Commission received no comments on the Proposed Plan during the comment period. On July 7, 2017, the Secretary, pursuant to delegated authority, issued an order approving the Proposed Plan and simultaneously posted the approved Plan of Distribution (the "Plan"). In addition, by this Order, the civil penalty paid by Colon was consolidated with the Fair Fund, for purposes of distribution administration.⁵

The Plan set forth a methodology for allocating the Net Fair Fund⁶ comprised of the \$15,025,000.00 paid by UBSPR and Colon, plus accrued interest, less taxes and administrative costs. The Plan sought to compensate investors who purchased Eligible Securities from January 1, 2011 through September 13, 2013 and suffered an Eligible Loss Amount, as calculated by the methodology used in the plan of allocation in the Plan. Under the Plan, any funds remaining following completion of the distribution and the payment of taxes and administrative fees are to be transferred to the U.S. Treasury and the Fair Fund terminated, subject to the Commission's approval of the Fund Administrator's final accounting.

² Order Appointing Fund Plan Administrator and Setting Administrator's Bond Amount, Exchange Act Rel. No. 79227 (Nov. 3, 2016).

³ Exchange Act Rel. No. 80535 (Apr. 27, 2017).

⁴ 17 C.F.R. § 201.1103.

⁵ See Order Approving Plan of Distribution and Consolidating Settlement Funds for Administration, Exchange Act Rel. No. 81100 (July 7, 2017).

⁶ All capitalized terms used herein but not defined shall have the same meanings ascribed to them in the Plan.

In accordance with the Plan, the Fund Administrator distributed a total of \$15,350,082.07 from the Fair Fund to twenty-three (23) Eligible Claimants,⁷ compensating each of the Claimants for 88% of their losses.

The Fair Fund earned \$861,412.06 in interest; and paid \$259,637.57 for state and federal taxes, \$2,479.89 for investment and banking fees, \$14,000.60 for Tax Administrator fees and expenses, and \$258,784.88 for Fund Administrator fees and expenses. The Fair Fund currently holds \$1,427.05, which is comprised of funds reserved to pay taxes and administrative expenses and is expecting a delayed tax return in the amount of \$4,126.00.

The Plan provides that the Fair Fund is eligible for termination and the Fund Administrator discharged after all of the following have occurred: (a) a final accounting has been submitted by the Fund Administrator for approval, and has been approved by the Commission; (b) all taxes, fees, and expenses have been paid; and (c) all remaining funds have been transferred to the Commission for remittance to the United States Treasury.

The Tax Administrator has submitted to the Commission a final invoice for its services in the amount of \$5,472.00. The Commission staff has reviewed the invoice and cost documentation, and confirmed that the services have been provided and the expenses and fees are reasonable. The Commission staff has requested, pursuant to Paragraph 66 of the Plan and in accordance with the Commission's Rules, that the Commission authorize the Office of Financial Management ("OFM") to pay Tax Administrator fees and expenses of \$5,472.00 from the balance in the Fair Fund of \$1,427.05 and \$4,044.95 from the anticipated tax refund.

Once the outstanding invoice is paid, it is anticipated \$81.05 will remain in the Fair Fund. Therefore, the Commission staff has further requested in accordance with the Plan, that any funds returned to the Fair Fund in the future, exceeding the \$4,044.95 to be paid to the Tax Administrator, be transmitted to the U.S. Treasury.

The Commission staff has confirmed that the Fund Administrator has completed the distribution process in accordance with the Commission's orders and, except for the final Tax Administrator invoice, all taxes, fees, and expenses have been paid, and that all monies remaining in the Fair Fund have been received by the Commission.

The final accounting, which was submitted to the Commission for approval, as required by Rule 1105(f) of the Commission's Rules, 17 C.F.R. § 201.1105(f), and as set forth in the Plan, has been approved.

⁷ Exchange Act Rel. No. 92512 (July 28, 2021).

Accordingly, it is ORDERED that:

- A. OFM pay the Tax Administrator's fees and expenses of \$5,472.00 from the Fair Fund and from funds returned to the Fair Fund in the future;
- B. any future returned funds exceeding \$4,044.95 to be paid to the Tax Administrator, shall be transferred to the general fund of the United States Treasury;
- C. the Fund Administrator, Rust Consulting, Inc., is discharged;
- D. the Fund Administrator's bond is canceled; and
- E. the Fair Fund is terminated.

By the Commission.

Vanessa A. Countryman
Secretary