

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
3 DIVISION OF BANKING AND SECURITIES

4 IN THE MATTER OF:)
5 UVEST FINANCIAL SERVICES) **ORDER NO. 12-899-S**
6 GROUP, INC.) **CEASE AND DESIST ORDER**
7 Respondent.) **ASSESSING CIVIL PENALTIES**
) **and**
) **CONSENT TO ENTRY OF ORDER**

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

13 WHEREAS, the investigations revealed that Bankers has acted as a broker-dealer and
14 investment adviser in Alaska without being registered, exempt from registration, or a federal
15 covered investment adviser, and has employed or associated with agents and investment
16 adviser representatives who were not so registered on behalf of Bankers, all in violation of
17 Alaska Statutes (“AS”) 45.55.030; and

18 WHEREAS, UVEST Financial Services Group, Inc. (“UVEST”) entered into an
19 agreement with Bankers to provide brokerage and investment advisory services out of Bankers
20 Life branch office locations; and

21 WHEREAS, this Consent Order is entered into with the understanding that the conduct
22 addressed herein has resulted in no known direct consumer harm and with the understanding
23 that registered agents or representatives of UVEST participated in all securities transactions;
24 and

1 4. Effective January 1, 2005, Bankers Life entered into a Financial Services
2 Agreement with UVEST (the “UVEST Agreement”) under which Bankers Life insurance
3 agents who became licensed as registered representatives and/or investment adviser
4 representatives of UVEST (the “dual agents”) would provide brokerage and investment
5 advisory services out of Bankers Life branch office locations. The UVEST Agreement
6 specified that UVEST would “exercise exclusive control” over the broker-dealer and
7 investment advisory activities of the dual agents and assigned Bankers Life several securities-
8 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
14 distribution” 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 5. The UVEST Agreement provided for UVEST to pay Bankers Life “Revenue
23 Sharing Payments” according to a schedule that varied from 82% to 85% of the gross
24 commissions received by UVEST for the dual agents’ securities transactions. The UVEST

1 Agreement characterized these payments as representing reimbursement for the compensation
2 Bankers Life pays to the dual agents and “payment for the use of the facilities and equipment”
3 of Bankers Life. The UVEST Agreement provided that Bankers Life would not compensate
4 Series 6 licensed dual agents for the sale of individual stocks and bonds, and instead Bankers
5 Life would retain all such revenue.

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

12 7. Bankers and UVEST terminated the UVEST Agreement effective on or about
13 April 29, 2010.

14 8. Evidence uncovered during the investigation showed that Bankers screened
15 prospective securities agents, trained new securities agents, conducted periodic training
16 sessions for securities agents, monitored and attempted to increase securities production of
17 securities agents, and played a significant role in determining the compensation of securities
18 agents. Additionally, evidence showed that the involvement of Bankers in securities-related
19 roles led to confusion in the reporting and responsibility hierarchies as between Bankers and
20 the applicable broker-dealer.

21 9. At no time were the dual agents registered as agents or investment adviser
22 representatives of Bankers Life or BLCFS.

23 10. From January 1, 2005, through April 29, 2010, Bankers received, on a
24 nationwide basis, a total of approximately \$17 million from UVEST under their agreement for

1 variable annuity and securities transactions and investment advice.

2 **II. CONCLUSIONS OF LAW**

3 1. Under the Alaska Securities Act, a person may not act as a broker-dealer in
4 Alaska unless registered or exempt from registration. AS 45.55.030(a).

5 2. Similarly, a person may not act as an investment adviser in Alaska unless
6 registered, exempt from registration, or a federal covered investment adviser.
7 AS 45.55.030(c).

8 3. A broker-dealer may not employ or associate with an agent, as defined in
9 AS 45.55.990(5), unless the employee or associated person is registered as an agent of the
10 broker-dealer. AS 45.55.030(b).

11 4. An investment adviser may not employ or associate with an investment adviser
12 representative unless the employee or associated person is registered as an investment adviser
13 representative of the investment adviser. AS 45.55.030(g) and AS 45.55.030(h).

14 5. By engaging in the conduct set forth above, Bankers acted as an unregistered
15 broker-dealer and investment adviser in Alaska in violation of AS 45.55.030(a) and
16 AS 45.55.030(c).

17 6. Furthermore, by employing or associating with dual agents who were not
18 registered as agents or investment adviser representatives of Bankers, Bankers violated
19 AS 45.55.030(b), AS 45.55.030(g) and AS 45.55.030(h).

20 7. By engaging in the conduct set forth above, UVEST has materially aided an act,
21 practice or course of business constituting a violation of Alaska Securities Act or a rule adopted
22 or order issued thereunder, and such conduct is grounds for an order imposing sanctions under
23 AS 45.55.920.

24 8. As a result, this Consent Order and the following relief are appropriate and in

1 the public interest.

2 **III. ORDER**

3 1. UVEST shall cease and desist from materially aiding Bankers in violating the
4 Alaska Securities Act and AS 45.55.030.

5 2. In accordance with the terms of the multistate settlement, UVEST shall pay an
6 amount of \$750,000 among the states where dual agents were located during the period from
7 January 1, 2005, through April 29, 2010, allocated according to a schedule provided by the
8 multi-state investigation working group. UVEST shall pay fourteen thousand one hundred fifty
9 dollars and ninety-four cents (\$14,150.94) to the State of Alaska as its portion of the total
10 amount, which portion shall be considered a civil penalty. Such payment shall be made by
11 check out to and delivered to the State of Alaska within ten days from the date this Consent
12 Order is signed by the Administrator.

13 3. If any state securities regulator determines not to accept the settlement offer of
14 UVEST reflected herein, including the amount allocated to the applicable state according to the
15 schedule referenced in paragraph 2 above, the payment to Alaska set forth in paragraph 2 above
16 shall not be affected; and UVEST shall not be relieved of any of the non-monetary provisions
17 of this Consent Order.

18 4. UVEST shall not attempt to recover any part of the payments addressed in this
19 Consent Order from dual agents, Bankers, or customers of UVEST.

20 5. UVEST shall fully cooperate with any investigation or proceeding related to the
21 subject matter of this Consent Order.

22 6. This Consent Order concludes the investigation by the Division of Banking and
23 Securities and any other action that the Administrator could commence under applicable law on
24 behalf of the Alaska as it relates to the violations described above, up to and including activity

1 occurring through April 29, 2010; provided, however, that excluded from and not covered by
2 this paragraph are any claims by the Division of Banking and Securities arising from or relating
3 to the “Order” provisions contained herein.

4 7. If payments are not made by UVEST, or if UVEST defaults in any of its
5 obligations set forth in this Consent Order, the Administrator may vacate this Consent Order, at
6 her sole discretion, upon 10 days notice to UVEST and without opportunity for administrative
7 hearing or judicial review, and commence a separate action.

8 8. Nothing herein shall preclude the Alaska, its departments, agencies, boards,
9 commissions, authorities, political subdivisions and corporations, other than the Division of
10 Banking and Securities and only to the extent set forth herein, (collectively, “State Entities”)
11 and the officers, agents or employees of State Entities from asserting any claims, causes of
12 action, or applications for compensatory, nominal and/or punitive damages, administrative,
13 civil, criminal, or injunctive relief against UVEST.

14 9. This Consent Order is not intended by the Administrator to subject any person to
15 any disqualifications under the laws of the United States, any state, the District of Columbia,
16 Puerto Rico, or the Virgin Islands including, without limitation, any disqualification from
17 relying upon the state or federal registration exemptions or safe harbor provisions.

18 10. This Consent Order and the order of any other state in related proceedings
19 against UVEST (collectively, the “Orders”) shall not disqualify any person from any business
20 that they otherwise are qualified, licensed or permitted to perform under applicable securities
21 laws of the Alaska, and any disqualifications from relying upon this State’s registration
22 exemptions or safe harbor provisions that arise from the Orders are hereby waived.

23 11. This Consent Order and any dispute related thereto shall be construed and
24 enforced in accordance with, and governed by, the laws of the Alaska without regard to any

1 choice of law principles.

2 12. This Consent Order shall be binding upon UVEST, its relevant affiliates,
3 successors and assigns as well as to successors and assigns of relevant affiliates with respect to
4 all conduct subject to the provisions above and all future obligations, responsibilities,
5 undertakings, commitments, limitations, restrictions, events, and conditions.

6 13. Except as set forth above, the Division of Banking and Securities agrees to take
7 no action adverse to UVEST based solely on the same conduct addressed in this Consent Order.
8 However, nothing in this Consent Order shall preclude the Division of Banking and Securities
9 from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the
10 conduct described above into account in determining the proper resolution of action based on
11 other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking
12 any action against other entities or individuals, regardless of any affiliation or relationship
13 between UVEST and the entities or individuals.

14
15 IT IS HEREBY ORDERED on this 29th day of January, 2013.

16 SUSAN BELL, Commissioner
17 Department of Commerce, Community and
18 Economic Development

19
20 /s/ Lorie L. Hovanec
21 BY: Lorie L. Hovanec, Director
22 Division of Banking and Securities
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CONSENT TO ENTRY OF CONSENT ORDER

UVEST, by signing below, admits 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.

UVEST 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.

Kathleen D. Van Noy Pineda (name) represents that he or she has been authorized to enter into this Consent Order on behalf of UVEST Financial Services Group, Inc.

UVEST Financial Services Group, Inc.

By: /s/ Kathleen D. Van Noy Pineda

Title: EVP & Chief Compliance Officer

Date: January 7, 2013

SUBSCRIBED AND SWORN TO before me this 7th day of January, 2013, at San Diego, California.

SEAL

/s/ S. Lewis
Notary Public in and for California.

S. Lewis
Notary Printed Name
My commission expires: March 14th, 2015