

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING) Order No.: S-12-0987-12-CO01
whether there has been a violation of the)
Securities Act of Washington by:) CONSENT ORDER
)
ProEquities, Inc.)
)
Respondent.)

INTRODUCTION

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

WHEREAS, the investigations revealed that Bankers has acted as a broker-dealer and investment adviser in the State of Washington without being registered, exempt from registration, or a federal covered investment adviser, and has employed or associated with agents and investment adviser representatives who were not so registered on behalf of Bankers, all in violation of RCW 21.20.040; and

WHEREAS, ProEquities, Inc. (“ProEquities”) entered into an agreement with Bankers effective April 30, 2010, to provide brokerage and investment advisory services out of Bankers Life branch office locations; and

WHEREAS, the conduct addressed herein has resulted in no known direct consumer harm, and the parties understand that registered agents or representatives of ProEquities participated in all securities transactions and at locations that were registered with the appropriate securities authorities as broker-dealer locations of ProEquities; and

1 WHEREAS, ProEquities has cooperated with state regulators conducting the investigations by
2 responding to inquiries, providing documentary evidence, and halting further payment to BLCFS of broker-
3 dealer and investment adviser related compensation while the investigations were pending; and

4 WHEREAS, ProEquities, as part of this settlement, agrees to comply with all state and federal
5 licensing, registration, and other securities laws; and

6
7 WHEREAS, ProEquities has agreed to resolve the investigations through this Consent Order in order
8 to avoid protracted and expensive proceedings in numerous states; and

9
10 WHEREAS, ProEquities, without admitting or denying the Findings of Fact and Conclusions of Law
11 set forth below and solely for the purposes of this Consent Order, admits the jurisdiction of the Securities
12 Division of the Washington State Department of Financial Institutions, voluntarily consents to the entry of
13 this Consent Order, and waives any right to a hearing or to judicial review regarding this Consent Order;

14
15 NOW THEREFORE, the Securities Administrator hereby enters this Consent Order.

16 **FINDINGS OF FACT**

- 17
- 18 1. Bankers Life is a life insurance company located in Illinois that has never been registered as a broker-
19 dealer or investment adviser.
 - 20
21 2. BLCFS is a wholly-owned subsidiary of Bankers Life that also is located in Illinois. BLCFS (CRD No.
22 126638) has been a member of NASD or FINRA since 2003 and is registered as a broker-dealer only in
23 Illinois. During its existence, BLCFS has had no business activity other than as described herein.
24 BLCFS has never been registered as a broker-dealer or investment adviser in Washington, and it has not
25 registered any agents or investment adviser representatives in Washington.

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3. At all relevant times, ProEquities (CRD No. 15708) has been a broker-dealer registered in Washington and a federal covered investment adviser.

 4. Bankers Life and BLCFS entered into an agreement with ProEquities effective April 30, 2010 (the “ProEquities Agreement”). The ProEquities Agreement specifies that ProEquities would “exercise exclusive control” over the broker-dealer and investment advisory activities of ProEquities agents who were also insurance agents for Bankers Life (the “Dual Agents”). In addition, the ProEquities Agreement assigned the following securities-related roles to BLCFS or to BLCFS and Bankers Life, which roles BLCFS and Bankers Life did perform until December 2, 2011:
 - a. consulting with ProEquities on the persons to be appointed as representatives of ProEquities;
 - b. identifying securities product training and marketing opportunities for review by ProEquities;
 - c. conferring with ProEquities concerning the securities products made available for distribution by the dual agents;
 - d. terminating the clearing broker selected by ProEquities (BLCFS only) in the event that the clearing agent did not use commercially reasonable efforts to process and service customer accounts at a level consistent with BLCFS’ standards;
 - e. paying for advertising and promotional material (BLCFS only) in the event that BLCFS ordered more than a reasonable quantity of such materials or required customization of them;
 - f. recruiting representatives for ProEquities and assisting with the licensing and registration process;
 - g. providing marketing, training and support; and

1 h. paying for:

- 2 i. pre-examination training for required FINRA examinations;
- 3 ii. sales training materials;
- 4 iii. recruitment and travel costs; and
- 5 iv. ProEquities stationary and business cards.
- 6

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

11

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

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

17

18 7. Evidence obtained during the investigation indicated that Bankers screened prospective securities agents,
19 trained new securities agents, conducted some periodic training sessions for securities agents, monitored
20 and attempted to increase securities production of securities agents, and played a significant role in
21 determining the compensation of securities agents. Additionally, evidence showed that the involvement
22 of Bankers in securities-related roles led to confusion in the reporting and responsibility hierarchies as
23 between Bankers and ProEquities.

24

25 8. At no time did the dual agents update their registrations with the Securities Division to reflect their

1 securities work outside of ProEquities as required by WAC 460-22B-060 and 460-24A-205. The agents
2 were never registered salespersons or investment adviser representatives of Bankers.

- 3 9. From April 30, 2010 through November 31, 2011, Bankers received, on a nationwide basis, a total of
4 approximately \$11 million from ProEquities under the ProEquities Agreement for variable annuity and
5 securities transactions and investment advice.

6 **CONCLUSIONS OF LAW**

- 7 1. The Securities Division of the Washington State Department of Financial Institutions has jurisdiction
8 over this matter pursuant to the Securities Act of Washington, RCW 21.20.
9
- 10 2. Under RCW 21.20.040(1), a person may not act as a broker-dealer in Washington unless registered or
11 exempt from registration.
12
- 13 3. Similarly, under RCW 21.20.040(3), a person may not act as an investment adviser in Washington unless
14 registered, exempt from registration, or a federal covered investment adviser.
15
- 16 4. Under RCW 21.20.040(2), a broker-dealer may not employ or associate with a securities salesperson, as
17 defined at RCW 21.20.005(15), unless the employee or associated person is properly registered. Such
18 proper registration requires full compliance with certain sections of WAC 460-22B.
- 19 5. Under RCW 21.20.040(5)(b), a federally covered investment adviser may not employ or associate with
20 an investment adviser representative unless the employee or associated person is properly registered.
21 Such proper registration requires full compliance with certain sections of WAC 460-24A.
22
- 23 6. By engaging in the conduct set forth above, Bankers acted as an unregistered broker-dealer and
24 investment adviser in Washington in violation of RCW 21.20.040(1) and 21.20.040(3).
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- 1 7. Furthermore, by employing or associating with dual salespersons who were not registered as salespersons
2 or investment adviser representatives of Bankers, Bankers violated RCW 21.20.040(2) and
3 21.20.040(5)(a).
- 4 8. By engaging in the conduct set forth above, ProEquities has violated RCW 21.20.040(2) and
5 21.20.040(5)(b) and such conduct is grounds for an order imposing sanctions under RCW 21.20.390.
6
- 7 9. As a result, this Consent Order and the following relief are appropriate and in the public interest.
8

9 **CONSENT ORDER**

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11 1. IT IS HEREBY AGREED AND ORDERED that ProEquities shall CEASE AND DESIST from
12 violating RCW 21.20.040.
13

14 2. IT IS FURTHER AGREED AND ORDERED that, in accordance with the terms of the multistate
15 settlement, ProEquities shall pay an amount of \$435,000 to the states where dual agents were located during
16 the period from April 30, 2010, through December 2, 2011, allocated according to a schedule provided by
17 the multi-state investigation working group. ProEquities shall pay **\$8,207.55** to the Securities Division of the
18 Washington State Department of Financial Institutions as its portion of the total amount, which portion shall
19 be considered a fine. Such payment shall be made within ten days from the date this Consent Order is
20 entered by the Securities Administrator.
21

22 3. IT IS FURTHER AGREED AND ORDERED that if any state securities regulator determines not to
23 accept the settlement offer of ProEquities reflected herein, including the amount allocated to the applicable
24 state according to the schedules referenced above, the payment to the State of Washington set forth above
25

1 above shall not be affected and ProEquities shall not be relieved of any of the non-monetary provisions of
2 this Consent Order.

3 4. IT IS FURTHER AGREED that ProEquities shall not attempt to recover any part of the payments
4 addressed in this Consent Order from dual agents, Bankers Life, or customers of ProEquities.

5 5. IT IS FURTHER AGREED that ProEquities shall fully cooperate with any investigation or
6 proceeding related to the subject matter of this Consent Order.

7 6. IT IS FURTHER AGREED that, from the date of this Consent Order through March 31, 2015, and
8 while Bankers has dual agents that are registered representatives or investment adviser representatives of
9 ProEquities, any agreement between Bankers and ProEquities shall be consistent with the provisions set forth
10 in a separate Consent Order executed by Bankers and the Securities Administrator in Consent Order S-12-
11 0985-12-CO01.

12 7. IT IS FURTHER AGREED that this Consent Order concludes the investigation by the Securities
13 Division of the Washington State Department of Financial Institutions and any other action that the
14 Securities Administrator could commence under applicable law on behalf of the State of Washington as it
15 relates to the violations described above, up to and including activity occurring through December 2, 2011;
16 provided, however, that excluded from and not covered by this paragraph are any claims by the Securities
17 Division of the Washington State Department of Financial Institutions arising from or relating to the
18 “Consent Order” provisions contained herein.

19 8. IT IS FURTHER AGREED that, except in an action by the Securities Division of the Washington
20 State Department of Financial Institutions to enforce the obligations of ProEquities in this Consent Order,
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1 this Consent Order may neither be deemed nor used as an admission of or evidence of any fault, omission or
2 liability of ProEquities in any civil, criminal, arbitration, or administrative proceeding.

3 9. IT IS FURTHER AGREED that if payments are not made by ProEquities, or if ProEquities defaults
4 in any of its obligations set forth in this Consent Order, the Securities Administrator may vacate this Consent
5 Order, at his sole discretion, upon 10 days notice to ProEquities and without opportunity for administrative
6 hearing or judicial review, and commence a separate action.

7
8 10. IT IS FURTHER AGREED that nothing herein shall preclude the State of Washington, its
9 departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than
10 the Securities Division of the Washington State Department of Financial Institutions, and only to the extent
11 set forth herein, (collectively, "State Entities") and the officers, agents or employees of State Entities from
12 asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages,
13 administrative, civil, criminal, or injunctive relief against ProEquities.

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

19
20 12. IT IS FURTHER AGREED that this Consent Order and the order of any other state in related
21 proceedings against ProEquities (collectively, the "Orders") shall not disqualify any person from any
22 business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws
23 of the State of Washington, and any disqualifications from relying upon this State's registration exemptions
24 or safe harbor provisions that arise from the Orders are hereby waived.

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13. IT IS FURTHER AGREED that this Consent Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the State of Washington without regard to any choice of law principles.

14. IT IS FURTHER AGREED that this Consent Order shall be binding upon ProEquities, its relevant affiliates, successors and assigns.

15. IT IS FURTHER AGREED that, except as set forth above, the Securities Division of the Washington State Department of Financial Institutions agrees to take no action adverse to ProEquities based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Securities Division of the Washington State Department of Financial Institutions from: (a) taking adverse action based on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of action based on other conduct; (c) taking any and all available steps to enforce this Consent Order; or (d) taking any action against other entities or individuals, regardless of any affiliation or relationship between ProEquities and the entities or individuals.

SIGNED and ENTERED this 20th day of September 2012.

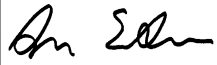


William M. Beatty
Securities Administrator

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Approved by:

Presented by:



Suzanne Sarason
Chief of Enforcement

Edward R. Thunen
Enforcement Attorney

Reviewed by:



Jack McClellan
Financial Legal Examiner Supervisor

1 **CONSENT TO ENTRY OF CONSENT ORDER**

2 ProEquities, by signing below, agrees to the entry of this Consent Order and waives any right to a hearing or
3 to judicial review.

4 ProEquities states that no promise of any kind or nature whatsoever that is not reflected in this Consent
5 Order was made to it to induce it to enter into this Consent Order and that it has entered into this Consent
6 Order freely and voluntarily and with full understanding of its significance.

7
8 Michael J. Mungenast _____ (name) represents that he or she has been authorized to enter
9 into this Consent Order on behalf of ProEquities, Inc.

10
11 ProEquities, Inc.

12
13
14 By: s/ Michael J. Mungenast

15
16 Title: CEO _____

17 Date: 9/17/12 _____