

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 9317 / May 1, 2012

SECURITIES EXCHANGE ACT OF 1934
Release No. 66892 / May 1, 2012

INVESTMENT COMPANY ACT OF 1940
Release No. 30058 / May 1, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14862

In the Matter of

MIGUEL A. FERRER, and
CARLOS J. ORTIZ,

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT
TO SECTION 8A OF THE SECURITIES
ACT OF 1933, SECTIONS 15(b) AND
21C OF THE SECURITIES EXCHANGE
ACT OF 1934, AND SECTION 9(b) OF
THE INVESTMENT COMPANY ACT
OF 1940**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), and Section 9(b) of the Investment Company Act of 1940 (“Investment Company Act”), against Miguel A. Ferrer (“Ferrer”) and Carlos J. Ortiz (“Ortiz”) (collectively “Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

A. SUMMARY

1. This case concerns the significant roles Ferrer and Ortiz played in misleading thousands of customers of UBS Financial Services Inc. of Puerto Rico (“UBS PR”) into buying and holding hundreds of millions of dollars in UBS PR-affiliated, non-exchange-traded closed-end funds (“CEFs”) in 2008 and 2009.

2. Ferrer, UBS PR’s senior officer in Puerto Rico, and Ortiz, in charge of UBS PR’s CEF trading desk, touted the CEFs as safe investments with high, stable prices and which yielded consistently higher returns than similar funds. They also promoted the liquidity of the CEFs in a supposedly robust secondary market in which investors could sell their shares for income if necessary.

3. However, Ferrer, Ortiz, and UBS PR misrepresented and did not disclose numerous material facts about the CEFs. For example, the Respondents falsely claimed CEF prices were based on market forces such as supply and demand. In reality, however, as Ferrer and Ortiz knew, prices were set under Ortiz’s direction solely at the discretion of UBS PR’s trading desk, which used them as a means of keeping the investment attractive. Furthermore, Ferrer and Ortiz did not disclose that UBS PR, as the dominant CEF broker-dealer, controlled the secondary market. In truth, any secondary market sales investors wanted to make depended largely on UBS PR’s ability to solicit additional customers or its willingness to purchase shares into its inventory.

4. To prevent a collapse of the CEF market, UBS PR (under the direction of Ferrer and Ortiz) for much of 2008 purchased millions of dollars of CEF shares into its own inventory to create the appearance of liquidity, prop up prices, and maintain stable dividend yields – thus promoting the façade of a safe, secure market.

5. Ferrer and Ortiz were well aware throughout 2008 that investor demand was dropping and UBS PR was propping up the market. But Ferrer nonetheless repeatedly pumped CEF sales and misrepresented the nature and liquidity of the CEF market, both directly to investors and to UBS PR’s financial advisors, who repeated those misstatements to customers.

6. By the spring of 2009, UBS PR’s parent company determined that UBS PR’s growing inventory represented a significant financial risk to the firm. The parent’s senior executives ordered UBS PR to quickly and substantially reduce its inventory of CEF shares. With Ferrer’s knowledge and under Ortiz’s supervision, UBS PR orchestrated a scheme in which it dumped about \$35 million, or 75 percent, of UBS PR’s inventory of CEF shares on unsuspecting investors.

7. To accomplish the scheme, Ortiz executed a plan, dubbed “Objective: Soft Landing” in one memo, in which UBS PR routinely offered and sold its CEF shares by undercutting pending customer sell orders. This effectively wiped those orders off the books, prevented customers from selling, and enriched UBS PR at its customers’ expense.

Ferrer knew full well this scheme would cause investors huge losses, a fact he communicated to UBS PR's parent company executives.

8. Despite this knowledge, Ferrer stepped up his campaign to tout CEF sales. He pushed financial advisors to solicit sales of CEFs and helped arrange for certain Funds to repurchase millions of dollars of newer CEF shares from customers so UBS PR could sell them shares from its aged inventory.

9. By September 2009, UBS PR's customers had lost approximately \$500 million, or 10-15 percent, off the value of their CEF holdings.

B. RESPONDENTS

10. Ferrer, 73, was UBS PR's Chairman and CEO from 2003 until October 2009, when UBS PR temporarily terminated him. The firm then re-hired him three months later as its Vice Chairman. Ferrer holds Series 1, 4, 5, 40 and 65 securities licenses and has no disciplinary history. The same group of UBS PR executives, headed by Ferrer during the relevant time period, controlled the CEFs' regular broker-dealer and principal underwriter (UBS PR), the CEFs' investment adviser and asset manager (UBS Trust Company of Puerto Rico) and all 23 CEF companies.

11. Ortiz, 51, has been UBS PR's Managing Director of Capital Markets since 2005. Among other things, he supervises the firm's CEF trading desk. Ortiz holds Series 7, 24, 53, and 55 securities licenses and has no disciplinary history.

C. RELEVANT ENTITIES

12. UBS PR, 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. UBS PR is the largest broker-dealer in Puerto Rico, with about 49 percent of total retail brokerage assets. The firm employs about 230 registered representatives ("financial advisors") and has 26 branch offices throughout Puerto Rico.

13. UBS Trust Company of Puerto Rico is an unregistered entity that shares offices and personnel with UBS PR, and serves as the investment adviser, administrator, transfer agent and custodian for the CEFs. The CEFs are exempt from Commission registration under the U.S. Territories exemption from § 6(a)(1) of the Investment Company Act of 1940. The same group of UBS PR executives, headed by Ferrer during the relevant time period, controlled the CEFs' regular broker-dealer and principal underwriter (UBS PR), the CEFs' investment adviser and asset manager (UBS Trust Company) and all 23 CEF companies.

14. UBS Financial Services, Inc. ("UBSFS") is the parent company of UBS PR. UBSFS is a Delaware corporation with its principal places of business in New York, New York and Weehawken, New Jersey. UBSFS is a wholly-owned subsidiary of UBS AG, a foreign private issuer based in Switzerland. UBSFS is registered with the Commission.

D. UBS PR's MARKETING AND SALES OF CEFs

15. Since 1995, UBS PR has been the primary underwriter and sole manager of fourteen separately organized closed-end fund companies' CEFs with a total market capitalization of \$4 billion, and co-manager of nine closed-end fund companies' CEFs with more than \$1 billion in total market capitalization. The CEFs are not traded on an exchange or quoted on any quotation service, and are available only to Puerto Rico residents. The majority of the CEFs' holdings are Puerto Rico municipal bonds, a substantial amount of which UBS PR underwrote. UBS PR has been the only secondary market dealer or liquidity provider for the sole-managed Funds and the dominant dealer for several co-managed CEFs, and has effectively controlled the secondary market for all CEFs.

16. The CEF business was UBS PR's largest single source of revenue. For example, between 2004 and 2008, the CEF business generated 50 percent of annual total revenues for UBS PR and UBS Trust Company combined, which included Fund advisory and administration fees, and primary and secondary market sales commissions. During 2008 alone, UBS PR's CEF business produced \$94.5 million in revenue for the firm.

17. Ferrer had a direct financial interest in the CEFs performing well. Ferrer's compensation was based on UBS PR's revenue, which were closely tied to the CEFs success or failure. Although Ortiz did not directly receive any proceeds from CEF sales, his compensation was based in part on the performance of UBS PR, which derived much of its revenue from the CEFs.

18. Furthermore, Ferrer controlled all important aspects of UBS PR's CEF business during 2008 and 2009. As UBS PR's CEO and Chairman, Ferrer controlled the CEFs broker-dealer and principal underwriter. He also controlled each of the twenty-three CEF companies. In addition, as CEO of UBS Trust Company, Ferrer controlled the CEFs' investment adviser, administrator, transfer agent and custodian for the CEFs.

19. UBS PR marketed CEFs primarily to retail customers. Many CEF investors were seniors and retirees, and a number of them depended on monthly dividend income from the CEFs to supplement their payments from Social Security. UBS PR's network of financial advisors aggressively solicited customers to buy CEF shares, particularly as demand for the shares dropped during 2008 and 2009 and Ferrer pushed the financial advisors to solicit buyers. During UBS PR's inventory dump, the firm solicited as much as 95% of CEF sales.

20. Financial advisors also promoted UBS PR's undocumented dividend reinvestment program. According to Ferrer and other UBS PR principals, this was the CEFs' primary selling point. Under this word-of-mouth monthly program, investors could elect to receive dividend reinvestment shares – issued by the CEFs at the Net Asset Value of the Funds (“NAV”) – and immediately sell them back to UBS PR at the then-existing market price, earning premiums of up to 45 percent. This program was highly attractive to

many of UBS PR's senior and retiree customers, who depended on the income from their CEF shares. Ferrer referred to the additional returns investors could get as the "reinvestment kicker."

E. FERRER AND ORTIZ MISREPRESENTED AND OMITTED DISCLOSING MATERIAL FACTS ABOUT THE CEFs' PRICES AND LIQUIDITY

i) Misrepresentations About CEF Prices

21. Consistent and stable share prices above the Funds' respective NAVs were crucial to the success of CEF sales for several reasons. Elderly investors in the Funds were looking for stable, consistently-priced investments to protect their retirement savings and income. In addition, the success of the undocumented dividend reinvestment program was dependent on UBS PR maintaining high share prices relative to the Funds' NAVs so when investors received additional shares each month at NAV prices, they could immediately sell the shares at the higher market prices to UBS and earn an instant profit.

22. As a result, Ferrer and Ortiz ensured that throughout 2008 and early 2009, CEF prices remained high and changed little. UBS PR had no substantive written or formal CEF pricing procedures or guidelines during this time. The process was left to the discretion of Ortiz, as the head of the CEF trading desk, and the CEF Head Trader. At the direction of Ortiz, and with Ferrer's knowledge, UBS PR priced CEFs to achieve stability and reduce volatility. For example, from May to October 2008, the Head Trader, at Ortiz's direction, re-priced the CEFs only one or two times a month. Their predominant goal was not to find an objective market price, but to achieve high and stable CEF prices and what they termed "appropriate" yields for each Fund class. UBS PR also used its CEF inventory account to purchase shares for which it could not find customers to keep prices at consistently high premiums to the Funds' NAVs.

23. At the same time, however, Ferrer, and Ortiz consistently misled customers and UBS PR financial advisors by representing that market forces such as supply and demand determined CEF prices.

24. For example, UBS PR paid the Puerto Rico daily newspaper *El Vocero* to publish CEF prices in the paper's business section. Each week, beginning in October 2008 and continuing through September 2009, the trading desk transmitted the share prices Ortiz had set to the newspaper for publication. The newspaper simply listed CEF share "prices." This was misleading because UBS PR omitted to disclose in the listings that the prices represented only what UBS PR and Ortiz termed "indicative" prices. Indicative prices were simply what UBS PR and Ortiz thought the prices should be, but did not represent any commitment by UBS PR to buy or sell at that price.

25. The CEF share prices contained in UBS PR customers' monthly account statements were similarly misleading. Ortiz was aware that each month, a trader he supervised transmitted the CEF share prices he set to UBSFS to be included as "market

values” in customers’ account statements each month. As with the newspaper prices, these were simply prices Ortiz thought they should be, not true market prices.

ii) Misrepresentations About CEF Liquidity

26. Ortiz also misrepresented the liquidity of the CEFs in the secondary market in 2008 and 2009. As 2008 progressed, Ortiz became increasingly aware that the supply of CEF shares far outstripped demand, leading to an illiquid market. Nonetheless, as Ferrer knew, Ortiz repeatedly petitioned UBSFS to increase the firm’s inventory limits so UBS PR could purchase additional CEF shares into inventory and maintain the illusion of a liquid market.

27. At the same time, Ferrer repeatedly pushed financial advisors to solicit new customers while touting the purported strong market for the Funds. During this period, Ferrer failed to disclose to financial advisors or investors the increasing imbalance in the secondary market for CEF shares, or that the secondary market liquidity he repeatedly promoted was due to UBS PR’s inventory purchases, and not to an active, independent market for the shares.

iii) The 2008-09 Price And Liquidity Crisis

28. As early as May 2008, Ortiz noted a serious “supply and demand imbalance” in the CEF secondary market because customers were placing sell orders in increasing numbers.

29. By May 16, 2008, Ortiz, Ferrer and other UBS PR executives knew UBS PR had \$37 million of CEF shares in its inventory, \$7 million above its limit. In addition, there were \$16 million in unexecuted customer orders to sell shares at prices lower than UBS PR’s bid. Ortiz acknowledged in an email to senior executives the trading desk either had to execute these customer orders or lower the bid price of the Funds.

30. However, Ortiz would not agree to price the CEF shares in line with actual supply and demand. He told UBSFS’ Chief Risk Officer UBS PR did not want to decrease Fund prices. Instead, UBS PR for the next several months continued to ask UBSFS for increased inventory limits. UBSFS granted these requests and allowed UBS PR to increase its inventory of CEFs by millions of dollars.

31. Furthermore, Ortiz made only small changes to CEF share prices during this period, approximately once or twice a month. As UBS PR’s CEF inventory grew from May through August 2008, Ortiz did not change prices for nine CEFs on any trading day. For other CEFs, he changed the price at most on five trading days over four months. For example, UBS PR’s trading desk quoted the same \$9.65 per-share price for the \$460 million PR Fixed Income Fund I from May to August, even with \$5.7 million shares of that Fund in inventory, a declining NAV, and changing dividend rates. From May to December 2008, Ortiz changed the price of that Fund only once.

32. Ortiz ensured other CEFs saw similarly unchanging prices during 2008. On every trading day from May to August 2008, UBS PR's desk quoted the same \$9.90 per-share price for the PR Investors Tax-Free Fund I (a fund with a purported \$120 million market value) and only changed the price of that fund on three trading days through December 2008, even with UBS PR's share inventory rising to \$3 million. For another \$460 million fund – the PR Fixed Income Fund IV – Ortiz kept the share prices between \$9.60 and \$9.70 every day from May through December.

33. Ferrer knew UBS PR set CEF share prices to maintain a consistent yield. He also knew prices were both at a premium to NAV and atypically high compared with comparable closed-end funds. These unchanging and consistently high prices in the face of declining NAVs, reduced customer demand, and other unfavorable market conditions were in marked contrast to the representations by Ferrer and others at UBS PR that market forces determined CEF share prices.

34. UBS PR attempted to generate customer demand by promoting the CEFs at a UBS PR Investor Conference in June 2008. Ferrer hosted the conference, at which a UBS PR managing director touted the CEFs' extraordinary market returns and low risk and volatility, but failed to disclose the share prices and liquidity depended largely on UBS PR's willingness to purchase CEF shares into inventory.

35. After the Investor Conference, Ortiz directed the CEF Head Trader to develop sales stories for brokers, focusing on promoting and selling CEFs with the greatest inventory levels. Ortiz told the trader to inform the sales force the CEF desk was willing to help push sales of Funds with the highest inventory levels by reducing the typical five-cent-per-share markup the desk received on sales. But he cautioned the trader not to put this information in an email so as not to unduly alarm the entire sales force. The trader, in fact, held a meeting with the financial advisors to explain why they should promote certain funds to customers – not telling them the funds he was pushing were those with the highest inventory levels.

36. By August 2008, Ferrer and Ortiz knew customer demand for CEF shares was further ebbing. On August 12, UBS PR's Group Management Board, including Ferrer and Ortiz, met. Among other things, the board discussed the "market drag," "product fatigue," and "weak secondary market" for CEF shares. Ferrer expressed his uneasiness to the board that financial advisors were concerned about the concentration of customers' investments in CEFs and about not being able to sell new CEF offerings.

37. After the board meeting, Ferrer directed his subordinates to boost investor demand for CEF shares. On August 29, he told UBS PR executives "[i]t is clear to me that we have to 'fix' this." He ordered them to "generate a story for each Fund" that the financial advisors could use to: increase sales; facilitate large cross trades between customers; and work with the traders to coordinate bids and offers.

38. Ferrer also directed Ortiz's Capital Markets group to create a CEF "Wholesaler" and "Facilitator" to move excess CEF inventory. Ferrer emphasized the need

to immediately solve the liquidity issues in the CEF markets because he feared “apathy in the Funds.” He also made a thinly veiled threat to Ortiz: if there were not sufficient sales of CEFs, there would not be any need for a CEF desk.

39. Notwithstanding his knowledge of the weak demand for CEF shares in the secondary market and UBS PR’s increasing use of inventory to support and stabilize the CEF market, Ferrer repeatedly misled UBS PR’s financial advisors throughout the fall of 2008 into continuing to promote CEF sales. In email after email, he repeatedly misstated the strength, stability and liquidity of the CEF market. Ferrer also directed Ortiz to create investor demand for the CEFs.

40. For example, on September 18, 2008, Ferrer told financial advisors “[i]n the midst of all the turmoil [of the then-ongoing financial crisis], I note the superior performance of our local funds. . . . [Y]ou should look at these for clients searching for low volatility and respectable returns.” (emphasis in original). On September 30, Ferrer sent another email to “note our Funds did not budge in the midst of all the bad news yesterday? Their low volatility . . . [is] a “great reason to consider them as a timely investment. Plus their returns are superior!” (emphasis in original). On October 9, 2008, Ferrer emailed financial advisors to “keep in mind that local investors have side stepped the wrath of the marketplace and have been enjoying superior returns from our Funds.”

41. Ferrer did not disclose to the financial advisors the liquidity problems the CEFs were having because of weakening demand, or that the high, stable CEF prices were being maintained only because UBS PR was buying millions worth of CEF shares into its inventory.

42. During this period, UBS PR’s financial advisors, at Ferrer’s insistence, also heavily promoted two new primary CEF offerings totaling \$66 million. The two funds were Puerto Rico Fixed Income Fund VI, Inc. and Puerto Rico AAA Portfolio Bond Fund II, Inc. UBS PR underwrote both offerings. New offerings meant additional broker-dealer commissions and asset management fees. Primary offerings of new CEFs benefited Ferrer personally because his compensation was based on revenue performance of UBS PR, UBS Trust Company, and the CEF companies.

43. For example, even though he knew about the CEF market’s illiquidity, Ferrer sent an e-mail to UBS PR’s financial advisors on September 10, 2008 in an effort to dispel their concerns about the potential impact of the two planned CEF issues on share prices and the liquidity of the secondary market:

“Not to worry!!! No one should feel discomfort for our opening new Fund opportunities; because the local marketplace [is] in a very rapid consolidation... We have put in place a growth strategy in a consolidating market! It is bold, but it is right. This move should have little direct effect on secondary market activity, and if any, a positive one.” (emphasis in original).

44. Just a few days earlier, Ferrer privately told other UBS PR executives he was directing UBS PR's Investment Banking department to move forward with the primary offerings regardless of UBS PR's high CEF inventory holdings, stating: "I want these [two primary offerings] to happen right away. I do not want to keep postponing new availability for reasons of inventory, no way!" (emphasis in original)

45. At Ferrer's direction, UBS PR's Investment Banking department made a presentation to financial advisors in connection with the new CEF offerings. At this presentation, senior investment bankers told financial advisors that customers should invest in the new funds because, among other things, "[f]und inventory levels are low, trading volumes are at all-time high (annualized), and prices/yields are aligned with current market conditions." These statements were patently false given the record high inventory levels, waning customer demand, and artificially high prices of the CEF shares.

46. In the two weeks before the primary offerings, which began on September 30, Ferrer sent several e-mails to UBS PR's sales force urging financial advisors to recommend the new issues for their customers' accounts, including the following:

- Financial Advisors: There is a certain comfort in owning our Funds; low volatility, attractive returns (in fact very attractive). Conclusion: Worth Considering!!! Look at Fund VI...; it will presently provide good yields.
- Financial Advisors: It is our expectation that due to particular and favorable circumstances, Fund VI will promptly show attractive returns. I urge you to focus your efforts in what we expect will have stellar performance.

47. Ferrer failed to disclose to financial advisors that: (1) secondary markets for CEFs were illiquid; and (2) UBS PR routinely acquired CEFs for its inventory and supported CEF market prices and liquidity to prevent price declines and maintain yields.

48. Ortiz misrepresented material information to the financial advisors during this same time. For the entire month leading up to the new offerings, Ortiz concealed UBS PR's ballooning inventory from the financial advisors. He directed the Head Trader to alter the daily CEF inventory sheets sent to financial advisors to reflect a maximum of 50,000 shares per Fund, rather than the actual number of shares the firm owned. By understating UBS PR's inventory of CEFs by approximately \$30 million during the primary offerings, Ortiz and UBS PR misled the financial advisors and investors about the health of the secondary market for CEFs and the availability of CEF shares trading at lower prices with higher yields.

49. Ultimately more than 600 investors purchased shares in the primary offerings. But their purchases did not fix UBS PR's secondary market illiquidity problem. UBS PR continued to purchase shares into inventory throughout the fall of 2008 and early 2009, often to buttress the undocumented dividend reinvestment program. Ferrer and Ortiz worried that if UBS PR denied CEF investors their monthly dividend reinvestment check,

they would complain and hurt demand for the shares. Therefore, the CEF trading desk gave preference to executing reinvestment share orders over the backlog of other customers' sell orders, even when executing the reinvestment share sales put UBS PR over its inventory limit.

50. To accommodate these reinvestment share purchases, UBS PR asked for and received permission from UBSFS to increase its inventory to as high as \$50 million.

51. In December 2008, UBS PR had exceeded its \$50 million CEF inventory limit. The Head Trader assured UBSFS' risk officer the trading desk "will revise prices tomorrow to bring the inventory down to the 50MM limit." Ortiz then directed his traders to "price to sell" all aged inventory holdings by pricing each class of CEF to achieve certain yields. After financial advisors complained about the desk manipulating CEF prices, Ferrer instructed Ortiz to meet with the sales force to reassure them and promote additional CEF sales by providing "appropriate justifications" for the price changes and make them "believe" in the Funds.

F. UBS PR DUMPED ITS CEF INVENTORY BY LOWERING SHARE PRICES TO UNDERCUT ITS CUSTOMERS' SELL ORDERS

i) UBSFS Orders UBS To Reduce Inventory

52. In February and March 2009, UBS PR's persistently high CEF inventory levels and the CEF shares' significant price premiums over NAV began to raise concerns at the highest levels of UBSFS.

53. In March, Ortiz emailed a number of UBSFS executives seeking a temporary increase of inventory levels from \$50 to \$55 million to buy customers' reinvestment shares. Ferrer was copied on the email. The email explained the reason for the request was because of the supply and demand imbalance in the CEF market.

54. On March 19, UBSFS' Chief Risk Officer rejected the request and told Ortiz to begin reducing inventory levels from about \$50 million to the historical limit of \$30 million. UBS PR executives told UBSFS' Head, Wealth Management Advisor Group ("Head of WMAG") that UBS PR would correct the market imbalance by increasing demand using its sales force. UBS PR's president added if that strategy failed, UBS PR would use "the ultimate weapon [of] aggressive use of pricing to bring balance back to the market. . . ."

55. Over the next several weeks, UBSFS senior executives continued to discuss their concerns about the supply and demand imbalance in the CEF secondary market and UBS PR's large CEF inventory. A review by UBSFS' Risk Control Group and Compliance Department of UBS PR's CEF pricing methods for both NAV and market value concluded:

- UBS PR was the sole CEF liquidity provider;
- UBS PR had to reduce its CEF inventory to limit its risk exposure and “promote more rational pricing and more clarity to clients . . . [so] prices transparently develop based on supply and demand;” and
- UBS PR ran a significant concentration risk that was inherent to the CEF business, which could not “effectively be reduced.”

56. UBSFS’ Risk Control Committee mandated further reductions to inventory limits as a result of this review. On May 29, 2009, UBSFS’ Chief Risk Officer sent Ortiz an email ordering UBS PR to further reduce its CEF inventory to \$12 million. The risk officer’s email was forwarded to Ferrer that same day.

57. In response, Ortiz made a presentation to UBSFS’ Executive Committee in June 2009 in which he described UBS PR’s strategy to reduce its inventory and bring prices in-line with NAVs as “Objective: Soft Landing.” In a subsequent email to members of UBSFS’ Executive Committee and Ferrer, Ortiz described the firm’s strategy as: “1. [p]urchasing from clients the minimum amount of shares possible,” and “2. [l]owering our price to keep ahead of any client open orders in terms of lowest offer price in the market,” effectively undercutting UBS PR customer orders.

58. Over the course of the next few months, Ortiz and UBS PR, with Ferrer’s assistance, pursued this strategy to execute UBSFS’ directive and dramatically reduce its inventory by:

- Lowering CEF prices just enough to undercut the pending customer sell orders in UBS PR’s Good-Til Canceled (“GTC”) order book;
- Not executing tens of millions of customer sell orders, and buying into inventory only dividend reinvestment shares;
- Aggressively soliciting new and existing customers to buy CEF shares without disclosing UBS PR’s decision to drastically reduce its inventory by lowering CEF share prices to undercut customer orders; and
- Arranging for the affiliated CEF companies to repurchase newly issued CEF shares from customers so UBS PR could sell them CEF shares from the firm’s aged inventory.

59. By the end of the inventory reduction in September 2009, UBS PR had lowered CEF share prices by up to 15 percent. Many investors who tried to sell incurred additional losses as they waited days, weeks, and even months before UBS PR executed their sell orders. Many orders were never executed.

ii) Ortiz And UBS PR Schemed To Dump The Firm's Inventory By Undercutting Pending Customer Sell Orders

60. UBS PR and Ortiz capitalized on the firm's control of the secondary market and inside access to order information to execute a scheme to dump UBS PR's CEF inventory ahead of a growing wave of customers attempting to exit the CEF market. UBS PR's trading desk reduced its inventory by selling CEF shares at prices slightly below pending customer limit orders. Ortiz and the Head Trader discouraged financial advisors from placing market orders by telling them customers might not receive the best execution price. In reality, UBS PR and Ortiz were strongly discouraging market orders because UBS PR had to execute those orders before it could reduce its own positions.

61. Customers (the majority of whom were unsophisticated retail investors) did not know the difference between market and limit orders. To comply with the trading desk's directives, the financial advisors placed the vast majority of sell orders as limit orders, except in the case of dividend reinvestment shares.

62. UBS PR's trading policy directed the firm to treat "marketable" limit orders, i.e., orders at or better than UBS PR's bid prices, like market orders. However, commencing in March 2009, Ortiz directed the Head Trader to regularly wipe pending marketable limit orders off the GTC book by reducing CEF prices to pennies below the customers' pending sales orders. This allowed UBS PR to sell its inventory first.

63. For example, on March 3, 2009, UBS PR sent its GTC book to the sales force showing \$16 million in marketable, unexecuted customer sell orders. That day, Ortiz instructed the Head Trader to "prepare a pricing where we eliminate the marketable GTC [customer] orders . . . This is top priority."

64. A few hours later, the Head Trader lowered market prices of 15 of the funds to a penny below the best customer orders, rendering \$14 million of customer orders "non-marketable." The GTC book the CEF trading desk sent to financial advisors on March 4 reflected a much smaller number, only \$2 million, of pending marketable sales orders.

iii) Ferrer and Ortiz Failed To Disclose UBS PR's Conflicts Of Interest Associated With the Inventory Dump to New Or Existing CEF Investors

65. Ferrer and Ortiz did not disclose to UBS PR's customers or financial advisors that UBS PR was no longer supporting the CEF market, or the firm's new CEF pricing strategy to undercut customers' limit orders and sell UBS PR's shares first.

66. Ferrer and Ortiz also failed to disclose the conflict of interest created by recommending CEFs to investors while dumping the firm's own shares. UBS PR continued to accept sell limit orders from customers without disclosing the direct conflict of interest created by UBS PR's new practice of purchasing few, if any, CEF shares, or undercutting customer orders to liquidate UBS PR's own inventory position. Once UBS PR chose to accept limit orders on behalf of their customers, UBS PR acted as agent for

those customers, and had a fiduciary duty to disclose conflicts of interest relevant to handling those orders.

67. UBS PR's conflicts of interest with its customers were exacerbated because the firm controlled the market for the CEFs, and investors could not go to another broker-dealer to sell their CEF shares. Customers had to compete with UBS PR to sell shares in a market UBS PR dominated and controlled. Many of UBS PR's customers attempting to sell CEF shares during this time were senior, unsophisticated retail investors who had substantial amounts of their net worth concentrated in the CEFs.

68. Ferrer and Ortiz, knew their and UBS PR's actions would have a negative impact on customers and the CEF market. However, they nonetheless took actions they knew would harm investors to reduce the risk to UBS PR and UBSFS of holding too many CEF shares. Ferrer and Ortiz put UBS PR's interests ahead of customers', dumped UBS PR's CEF shares, and let the customers take the losses they knew would follow.

iv) While UBS PR Was Dumping Its Inventory, Ferrer And Ortiz Pushed Financial Advisors To Boost Demand For CEF Shares

69. On March 31, 2009, UBS PR and Ortiz made misrepresentations and omissions to thousands of customers at a UBS PR Investor Conference about the CEFs' superior returns and consistent liquidity levels.

70. Before the conference, Ferrer urged UBS PR's sales force to "call your clients, [because] the information presented will offer comfort to holders of Puerto Rico bonds and Funds" (emphasis in original). UBS PR also purchased full-page newspaper advertisements in the Puerto Rican daily newspaper *El Vocero* as well as television spots promoting the conference. On the morning of the conference, Ortiz told Ferrer and other executives his view that UBS PR should present the message to investors the secondary market had "shown resiliency (high liquidity, stable price) during these times." This directly contradicted Ortiz's statements just two weeks earlier to UBS PR executives that the market was illiquid because sellers far outnumbered buyers.

71. At the conference, which Ferrer hosted, Ortiz made a presentation about the CEFs' secondary trading market. He misrepresented that CEF liquidity was increasing, and CEF prices were the result of supply and demand in an open market. These statements were false because the CEFs were experiencing a severe supply and demand imbalance and UBS PR had been using its own inventory to support CEF prices and disguise the lack of liquidity in the market. Furthermore, Ortiz omitted disclosing UBSFS had recently ordered UBS PR to reduce inventory, and that to comply with this directive UBS PR had begun lowering share prices and buying fewer customer shares.

72. The day after the investor conference, Ferrer sent an e-mail to UBS PR's sales force stating:

"Wow! What a show. Our clients received a huge dose of comfort on their investments, the right consideration in view of what we believe the local

market for bonds (and funds) is headed. This will offer you another opportunity to do right for your own client base by showing each client how he or she can benefit from the opportunities at hand. The ball is now in your court.”

73. During the ensuing months, Ferrer stepped up his campaign to create CEF demand while also concealing the liquidity crisis and inventory dump. Ferrer directed UBS PR’s sales force to push their customers to buy CEFs while dismissing UBS PR customers and financial advisors’ concerns about CEF prices and liquidity.

74. Ferrer further misled investors about the state of the CEF market in a newspaper interview published in *El Vocero* on April 24, 2009. Specifically addressing the CEF market, Ferrer stated in the newspaper article:

“‘The local mutual funds have had an excellent return during all this process,’ explained Ferrer. But through all of this, many investors call [UBS PR] scared about the news of the drop in financial markets, ‘when the reality is that news doesn’t have any relevance for the investor.’ In general, ‘the Puerto Rican investor that has their money invested in bonds and mutual funds has obtained fantastic results . . . The result of an investor in local mutual funds, that has been able to reinvest dividends, has been superior and in some cases comparable with the stock market Indices,’ said Ferrer, and he assured that this type of investment offers much less volatility and relative positive results.”

75. That day, Ferrer sent an email entitled “Creation of Value” in which he misrepresented to financial advisors the CEFs would continue to trade at significant premiums to NAV and provide the “reinvestment kickers” of the dividend reinvestment program.

76. From April to August 2009, Ortiz and other UBS PR executives conducted multiple sales meetings with financial advisors focusing exclusively on promoting CEF solicitations. They did not disclose UBS PR’s inventory dump and misleadingly blamed falling CEF prices on global economic conditions. As a result of this sales push, the percentage of investors’ CEF purchases that financial advisors solicited grew from approximately 65 percent to 95 percent by mid-2009.

77. In August 2009, despite having recently expressed concerns to UBSFS executives that UBS PR’s inventory reduction had caused “huge losses” to investors, Ferrer sent an e-mail to UBS PR’s sales force urging them to “consider the present prices of our Funds” and increasing dividends as a buying opportunity for UBS PR customers. Ferrer omitted any mention of UBS PR’s inventory or share price reductions, or his belief the ongoing inventory dump had drastically reduced market prices.

78. Because Ferrer and Ortiz misled financial advisors, the advisors did not disclose to the customers they aggressively solicited the main reason UBS PR was

recommending these particular CEF investments was to find buyers for the shares UBS PR was selling from its inventory. Ferrer and Ortiz also failed to disclose UBS PR was undercutting other customers' orders.

79. Ferrer, in his role as the Fund companies' Chairman, assisted UBS PR in dumping its inventory by authorizing the Funds to repurchase CEF shares. At the May 19, 2009 UBSFS Executive Committee meeting, UBSFS' Head of WMAG and Chief Risk Officer proposed petitioning the board of directors for UBS PR's 14 sole-managed proprietary CEF funds to approve a share repurchase program to absorb some of UBS PR's inventory. Eight days later, Ferrer and the Funds' board of directors approved the repurchase of a higher percentage of the Funds' outstanding shares than the board had previously approved.

80. After the board approved the repurchase, Ortiz arranged for customers who had purchased shares of the two new CEFs only seven months earlier to sell \$7 million of those shares back to the Fund companies and immediately purchase \$7 million of the CEF issues in which UBS PR held the most inventory.

81. For example, on June 22, 2009, UBS PR purchased \$4.5 million of the newly issued Puerto Rico AAA Portfolio Bond Fund II from 23 customers that the Fund companies in turn repurchased. Immediately after UBS PR purchased these shares, the 23 customers' accounts purchased \$4.5 million of an older CEF from UBS PR's inventory account, reducing UBS PR's inventory for that fund by 80 percent. Days later, Ortiz arranged for customers to sell newly issued shares of PR Fixed Income Fund VI back to UBS PR (and from UBS PR to the Fund company) and use the proceeds from that sale to purchase shares of an older CEF from UBS PR's inventory.

82. By September 30, UBS PR had reduced its CEF inventory to about \$12 million, the level UBSFS mandated. However, UBS PR's GTC order book on the same day detailed \$72 million in pending, unexecuted customer sell orders.

G. THE FRAUDULENT CONDUCT HARMED CEF INVESTORS

83. When UBS PR stopped supporting the CEF secondary market by buying customers' shares and dumped 80 percent of its own shares, prices dropped. From March to September 2009, 21 of 23 CEFs experienced significant price declines. The prices of the seven CEFs with the largest UBS PR inventory positions declined 10 to 15 percent.

84. In July 2009, Ferrer warned UBSFS' CEO and Head of WMAG that the forced inventory reduction was causing "huge losses to our clients," which he estimated at \$250 million, and losses to "our P&L . . . a dislocation in the market place." He also wrote in an email "the present lack of demand for our Funds in the secondary market carries forth to our inability to launch new Funds." However, Ferrer grossly underestimated the harm to CEF shareholders; the difference in value of the funds from the height of their respective prices on March 1, 2009 to the prices at the end of September 2009 was more than \$500 million.

85. UBS PR's inventory dump also harmed investors who sold or attempted to sell shares during the dump. UBS PR's GTC book of unexecuted customer sell orders grew from \$19 million in March 2009 to more than \$60 million by June 2009, and \$72 million by September 30. Customers waited weeks or months for UBS PR to execute their orders, at significant losses and lower prices, while some customers' orders to sell were never executed. Many investors lost value in their CEF accounts while their pending sales orders went unexecuted. These investors included:

- A retired dentist with no investment experience who invested her entire \$400,000 inheritance in two UBS PR CEFs. In June 2009, after her CEF investments had already lost significant value, she directed her financial advisor in writing to liquidate her CEF shares. She told her broker she could not afford to lose any more money and needed immediate access to her funds to pay substantial family healthcare expenses. Her financial advisor placed limit orders that UBS PR regularly undercut. She was finally able to liquidate her position near the end of 2009, after UBS PR had liquidated its inventory. The customer lost \$20,000 because UBS PR delayed the execution of, or undercut, her sell orders. Parroting Ferrer, Ortiz, and UBS PR, the customer's financial advisor told her the economy was the reason for the decline in value.
- A 62-year old retiree with no investment experience, living on a fixed income and dependant on Social Security, invested his entire savings - \$50,000 - in one CEF. A UBS PR financial advisor promised six to seven percent returns and principal protection, and enrolled him in the dividend reinvestment program. After the retiree stopped receiving monthly checks, he repeatedly directed his broker beginning in late 2008 to sell his CEF shares. However, UBS PR did not execute his order until March 2010, after their value had declined by more than \$15,000.

H. VIOLATIONS

86. As a result of the conduct described above, Ortiz and Ferrer willfully violated Section 17(a)(1), (2), and (3) of the Securities Act, which prohibits fraudulent conduct in the offer and sale of securities, and Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5(a), (b), and (c) which prohibit fraudulent conduct in connection with the purchase or sale of securities.

87. Also, as a result of the conduct described above, Ferrer and Ortiz each had knowledge his role was part of an improper activity and substantially assisted UBS PR's principal violations of Securities Section Act 17(a), Exchange Act Sections 10(b) and 15(c), and Exchange Act Rule 10b-5, as articulated above. Based on these facts, Ferrer and Ortiz willfully aided and abetted and caused UBS' violations of Securities Act Section 17(a), Exchange Act Sections 10(b) and 15(c), and Exchange Act Rule 10b-5.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford the Respondents an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against the Respondents pursuant to Section 15(b) of the Exchange Act including, but not limited to, disgorgement and civil penalties pursuant to Section 21B of the Exchange Act;

C. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 9(b) of the Investment Company Act including, but not limited to, disgorgement and civil penalties pursuant to Section 9 of the Investment Company Act; and

D. Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, the Respondents should be ordered to cease and desist from committing or causing violations of and any future violations of Section 17(a) of the Securities Act, Sections 10(b) and 15(c) of the Exchange Act, and Exchange Act Rule 10b-5, whether the Respondents should be ordered to pay civil penalties pursuant to Section 8A(g) of the Securities Act, Section 21B(a) of the Exchange Act, and Section 9(d) of the Investment Company Act, and whether Ferrer should be ordered to pay disgorgement pursuant to Section 8A(e) of the Securities Act, Sections 21B(e) and 21C(e) of the Exchange Act, and Section 9 of the Investment Company Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that the Respondents shall each file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If the Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon each Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary