

UNITED STATES OF AMERICA
BEFORE THE
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
WASHINGTON, D.C.

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In the Matter of	:	Docket Nos. 2009-007-I-E
	:	2009-007-I-CMP
FRANCESCO RUSCIANO	:	
	:	Consent Order of Prohibition
	:	Pursuant to Section 8(e)
	:	of the Federal Deposit Insurance
A Former Institution-Affiliated	:	Act, as Amended, 12 U.S.C.
Party of UBS A.G.,	:	§ 1818(e), and Consent Order of
Zurich, Switzerland,	:	Assessment of a Civil Money Penalty
	:	Pursuant to FDI Act Section 8(i)(2),
A Foreign Bank.	:	12 U.S. C. § 1818(i)(2)
-----X	:	

WHEREAS, pursuant to Sections 8(e), 8(i)(2) and 8(i)(3) of the Federal Deposit Insurance Act, as amended (12 U.S.C. §§ 1818(e), (i)(2) and (i)(3) (the “FDI Act”)), the Board of Governors of the Federal Reserve System (the “Board of Governors”) issues this Combined Consent Order of Prohibition and Order of Assessment of a Civil Money Penalty (the “Order”) against Francesco Rusciano (“Rusciano”), a former institution-affiliated party, as defined in Section 3(u) of the FDI Act (12 U.S.C. §§ 1813(u)), of UBS A.G., Zurich, Switzerland, a foreign bank with branches and other operations in the United States of America.

WHEREAS, the Board of Governors, on January 26, 2009, issued a combined Notice of Intent to Prohibit and Notice of Assessment of a Civil Money Penalty against Rusciano (the “January 26, 2009 Notice”). The January 26, 2009 Notice alleged that

Rusciano had engaged in violations of law and unsafe and unsound banking practices, and breached his fiduciary duties in connection with actions to conceal substantial losses arising from his proprietary trading of Brazilian Real/United State Dollar non-deliverable forwards and Brazilian bonds on behalf of UBS A.G. Rusciano has denied the allegations of the January 26, 2009 Notice.

WHEREAS, Rusciano is a defendant in an unrelated action entitled, *Securities and Exchange Commission v. Ponta Negra Fund I, LLC, Ponta Negra Offshore Fund I, Ltd., Ponta Negra Group, LLC and Francesco Rusciano*, 09 CA 324 (SS) (W.D. Tex.) (the "SEC Action"), pursuant to which the Securities and Exchange Commission is seeking restitution and other relief for investors in the defendant hedge funds, a civil money penalty, and other relief. Rusciano's assets have been frozen pending the resolution of that matter and are within the control of the United States District Court for the Western District of Texas ("the frozen funds").

WHEREAS, by affixing his signature hereunder, Rusciano has consented to the issuance of this Order by the Board of Governors; has consented to comply with each and every provision of this Order; and has waived any and all rights he might have pursuant to 12 U.S.C. § 1818 or 12 C.F.R. Part 263, or otherwise, including (a) any right to a hearing for the purpose of taking evidence with respect to any matter set forth in the January 26, 2009 Notice; (b) any right to obtain judicial review of this Order or any provision hereof; and (c) any right to challenge or contest in any manner the basis, issuance, validity, terms, effectiveness or enforceability of this Order or any provision hereof.

NOW, THEREFORE, prior to the taking of any testimony or adjudication of or finding on any issue of fact or law implied or set forth herein, and without this Order constituting an admission by Rusciano of any allegation made or implied by the Board of Governors in connection with this proceeding, and solely for the purpose of settlement of this matter without protracted or extended hearings or testimony:

IT IS HEREBY ORDERED, pursuant to Sections 8(e) and (i)(3) of the FDI Act (12 U.S.C. §§ 1818(e) and (i)(3)), that:

1. In the absence of prior written approval by the Board, and by any other Federal financial institution regulatory agency where necessary pursuant to section 8(e)(7)(B) of the FDI Act (12 U.S.C. § 1818(e)(7)(B)), Rusciano is hereby prohibited:

(a) from participating in any manner in the conduct of the affairs of any institution or agency specified in section 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A)), including, but not limited to, any insured depository institution, any insured depository institution holding company or subsidiary thereof, or any foreign bank or company to which 12 U.S.C. § 3106(a) applies or any subsidiary thereof;

(b) from soliciting, procuring, transferring, attempting to transfer, voting or attempting to vote any proxy, consent or authorization with respect to any voting rights in any institution described in subsection 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A));

(c) from violating any voting agreement previously approved by any Federal banking agency; or

(d) from voting for a director, or from serving or acting as an institution-affiliated party as defined in section 3(u) of the FDI Act (12 U.S.C. § 1813(u)), such as an

officer, director, or employee in any institution described in section 8(e)(7)(A) of the FDI Act (12 U.S.C. § 1818(e)(7)(A)).

IT IS HEREBY FURTHER ORDERED, pursuant to sections 8(i)(2) and (i)(3) of the FDI Act (12 U.S.C. §§ 1818(i)(2) and (i)(3)), that:

2. Rusciano shall forfeit and pay a civil money penalty in the amount of \$75,000, payable as follows:

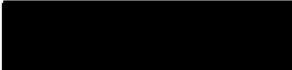
(a) If there is a balance of the frozen funds remaining after Rusciano's liability to investors in the SEC Action has been satisfied or Rusciano otherwise regains access to the funds (the "formerly frozen funds"), Rusciano shall immediately direct the financial institution or other person who holds or has control of the formerly frozen funds to remit the formerly frozen funds (up to \$75,000) in payment of the civil money penalty as set forth in Paragraph 2(d).

(b) Should the frozen or formerly frozen funds not be available to pay the civil money penalty pursuant to Paragraph 2(a), the Board of Governors, pursuant to 12 U.S.C. § 1818(i)(2)(F), remits the civil money penalty assessed to the extent that it has not previously been paid pursuant to Paragraph 2(a).

(c) Rusciano shall execute such documents as the Board of Governors shall reasonably request to ensure that payment of the civil money penalty to the Board of Governors has first priority with respect to any formerly frozen funds. Rusciano shall also submit monthly reports on the status of the SEC Action, including the balance of the frozen funds, until the earliest of (i) Rusciano regaining access to any of the frozen funds and making the payment required by this Order, (ii) there is no balance in the frozen funds, or (iii) the entire \$75,000 civil money penalty has been paid.

(d) The payments made pursuant to this Order shall be made payable to the "Board of Governors of the Federal Reserve System" and forwarded with a copy of this Order to Jennifer J. Johnson, Secretary of the Board, Board of Governors of the Federal Reserve System, 20th and C Streets N.W., Washington D.C. 20551. The Board of Governors shall remit the funds to the United States Department of the Treasury, as required by law.

3. All communications regarding this Order shall be sent to:

- (a) Richard M. Ashton, Esq.
Deputy General Counsel
Board of Governors of the Federal Reserve System
20th & C Sts. N.W.
Washington, DC 20551
- (b) Thomas C. Baxter, Jr., Esq.
General Counsel
Federal Reserve Bank of New York
33 Liberty Street
New York, NY 10045
- (c) Francesco Rusciano

Stamford, CT 06902

With a copy to:

Michael Sommer
Wilson Sonsini Goodrich & Rosati, PC
1301 Avenue of the Americas
New York, New York 10019

4. Any violations of this Order shall separately subject Rusciano to appropriate civil or criminal penalties, or both, pursuant to sections 8(i) and 8(j) of the FDI Act (12 U.S.C. §§ 1818(i) and (j)).

5. The provisions of this Order shall not bar, estop, or otherwise prevent the Board of Governors, or any Federal or state agency or department from taking any other action affecting

Rusciano, provided, however, that the Board of Governors shall not take any further action against Rusciano relating to the matters set forth in the January 26, 2009 Notice.

6. Each provision of this Order shall remain effective and enforceable until expressly stayed, modified, terminated or suspended in writing by the Board of Governors.


This Order is effective upon service on the Respondent.

By Order of the Board of Governors of the Federal Reserve System, this ^{25th} ~~3rd~~ day of NOVEMBER, 2009.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM



Francesco Rusciano

By 

Jennifer J. Johnson
Secretary