

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

In the matter of)
RBC CAPITAL MARKETS) ORDER NO: 10-16-S
CORPORATION,)
Respondent.) ADMINISTRATIVE CONSENT ORDER

WHEREAS, RBC Capital Markets Corporation (“RBC”), a subsidiary of Royal Bank of Canada, and formerly known as RBC Dain Rauscher Inc., is doing business as RBC Wealth Management. RBC is a broker-dealer registered with the State of Alaska; and

Coordinated investigations into RBC’s activities in connection with RBC’s marketing and sale of auction rate securities (“ARS”) have been conducted by a multi-state task force; and

RBC has provided documentary evidence and other materials, and provided regulators with access to information relevant to their investigations; and

RBC has advised regulators of its agreement to resolve the investigations relating to its marketing and sale of ARS to certain investors; and

RBC agrees, among other things, to reimburse certain purchasers of ARS; and

RBC elects to waive permanently any right to a hearing and appeal under the Alaska Securities Act, Alaska Statutes (“AS”) 45.55, and the Administrative Procedures Act, AS 44.62, with respect to this Consent Order (the “Order”);

NOW, THEREFORE, the State of Alaska, Department of Commerce, Community, and Economic Development, Division of Banking and Securities (the “Division”) hereby enters this Order.

I. FINDINGS OF FACT

1. RBC admits the jurisdiction of the Division, neither admits nor denies the Findings

1 of Fact and Conclusions of Law contained in this Order, and consents to the entry of this Order by
2 the Division.

3 2. RBC and its subsidiaries and affiliates including Ferris, Baker Watts, LLC and J.B.
4 Hanauer & Co. have engaged in the sale of ARS in the state of Alaska.

5 **Auction Rate Securities**

6 3. Auction rate securities are long-term bonds issued by municipalities, corporations and
7 student loan companies, or perpetual equity instruments issued by closed end mutual funds, with
8 variable interest rates that reset through a bidding process known as a Dutch auction.

9 4. At a Dutch auction, bidders generally state the number of auction rate securities they
10 wish to purchase and the minimum interest rate they are willing to accept. Bids are ranked, from
11 lowest to highest, according to the minimum interest rate each bidder is willing to accept. The
12 lowest interest rate required to sell all of the auction rate securities available at auction, known as the
13 “clearing rate,” becomes the rate paid to all holders of that particular security until the next auction.
14 The process is then repeated, typically every 7, 28 or 35 days.

15 5. When there are not enough orders to purchase all of the auction rate securities being
16 sold, a “failed” auction occurs. In the event of a failed auction, investors cannot sell their auction
17 rate securities.

18 6. As an underwriter of auction rate securities, RBC also acted as the managing broker-
19 dealer for certain issues of auction rate securities. When acting as sole manager, RBC was the only
20 firm that could submit bids into the auction on behalf of its clients and/or other broker-dealers who
21 wanted to buy and/or sell any auction rate securities. When acting as lead manager, RBC was the
22 primary firm that could submit bids into the auction, while other broker-dealers were able to submit
23 orders on behalf of their clients as well. RBC received revenue in connection with auction rate
24

1 securities, including an underwriting fee representing a percentage of total issuance and a fee for
2 managing the auctions.

3 **RBC Made Misrepresentations To Certain Investors In Connection With the Sale of Auction**

4 **Rate Securities**

5 7. RBC represented to many of its customers that auction rate securities were highly
6 liquid, safe, cash alternative investments.

7 8. These representations were misleading as to certain investors. Auction rate securities
8 were in fact different from cash and money market funds. As discussed above, the liquidity of an
9 auction rate security relied on the successful operation of the Dutch auction process. In the event of
10 a failed auction, investors cannot sell their auction rate securities and are stuck holding long-term
11 investments, not cash-equivalent securities. As discussed below, starting in the fall of 2007, the
12 auction rate securities market faced dislocation and an increased risk of failure.

13 9. Since the inception of the auction market, RBC submitted support bids, purchase
14 orders for the entirety of an auction rate security issue for which it acted as the sole or lead broker.
15 Support bids were RBC proprietary orders that would be filled, in whole or in part, if there was
16 otherwise insufficient demand in an auction. When RBC purchased auction rate securities through
17 support bids, those auction rate securities were then owned by RBC and the holdings were recorded
18 on RBC's balance sheet. For risk management purposes, RBC imposed limits on the amounts of
19 auction rate securities it could hold in inventory.

20 10. Because many investors could not ascertain how much of an auction was filled
21 through RBC proprietary trades, investors could not determine if auctions were clearing because of
22 normal marketplace demand, or because RBC was making up for the lack of demand through
23 support bids. Generally, investors were also not aware that the auction rate securities market was
24 dependent upon RBC's use of support bids for its operation. While RBC could track its own

1 inventory as a measure of the supply and demand for auction rate securities, ordinary investors had
2 no comparable ability to assess the operation of the market. There was no way for investors to
3 monitor supply and demand in the market or to assess when broker-dealers might decide to stop
4 supporting the market, which could cause its collapse.

5 **By the Fall of 2007, the Auction Rate Securities Market Faced Dislocation**

6 11. In August 2007, the credit crisis and other deteriorating market conditions strained
7 the auction rate securities market. Some institutional investors withdrew from the market,
8 decreasing demand for auction rate securities.

9 12. The resulting market dislocation should have been evident to RBC. RBC support
10 bids filled the increasing gap in the demand for auction rate securities, sustaining the impression that
11 the market was functioning. As a result, RBC's auction rate securities inventory grew significantly,
12 requiring RBC to raise its risk management limits on its auction rate securities inventory several
13 times.

14 13. From the fall of 2007 through February of 2008, demand for auction rate securities
15 continued to erode and RBC's auction rate securities inventory reached unprecedented levels. RBC
16 was aware of the increasing strains on the auction rate securities market, increasingly questioned the
17 viability of the auction rate securities market and planned for potential widespread market failure.
18 RBC did not disclose these increasing risks of owning or purchasing auction rate securities to all of
19 its customers.

20 14. In February 2008, RBC and other firms stopped supporting most auctions. Without
21 the benefit of support bids, much of the auction rate securities market collapsed, leaving investors
22 who had been led to believe that these securities were cash alternative and liquid investments,
23 appropriate for managing short-term cash needs, holding long-term or perpetual securities that could
24 not be sold at par value.

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II. CONCLUSIONS OF LAW

1. The Division has jurisdiction over this matter pursuant to the Alaska Securities Act.
2. The above conduct is in violation of AS 45.55.060(a)(7) and AS 45.55.060(b)(1).
3. The Division finds the following relief appropriate and in the public interest.

III. ORDER

On the basis of the Findings of Fact, Conclusions of Law, and RBC's consent to the entry of this Order,

IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the Division and any other action that the Division could commence under applicable Alaska law on behalf of Alaska as it relates to RBC's marketing and sale of ARS to RBC's "Eligible Investors," as defined below.
2. This Order is entered into solely for the purpose of resolving the above referenced multi-state investigation, and is not intended to be used for any other purpose.
3. RBC shall cease and desist from violating the Alaska Securities Act and will comply with the Alaska Securities Act.
4. No later than ten business days after signing this Order, RBC shall pay a total civil settlement of NINE MILLION EIGHT HUNDRED THOUSAND dollars (\$9,800,000) to the State of Alaska and to those states and territories that enter administrative or civil consent orders approving the terms of the NASAA settlement, of which Nineteen Thousand Six Hundred Forty-Six Dollars and Fifty-Eight Cents (\$19,646.58) shall be paid to the Division, such amount to be restricted to the following specific use by the Division: promoting investor education, investor protection, and compliance with the securities laws. The payment to the State of Alaska shall be in the form of a certified or bank check made out to the State of Alaska.
5. RBC shall have taken certain measures with respect to current and former customers

1 that purchased “Eligible ARS” from RBC, as defined below.

2 6. Eligible ARS. For purposes of this Order, “Eligible ARS” shall mean auction rate
3 securities purchased from or through RBC prior to February 11, 2008 into an account maintained in
4 the custody of RBC at the time of purchase.

5 7. Eligible Investors. As used in this Consent, “Eligible Investors” shall mean:

6 (i) Natural persons (including their IRA accounts, testamentary trust and estate
7 accounts, custodian UGMA and UTMA accounts, and guardianship accounts) who directly
8 purchased Eligible Auction Rate Securities;

9 (ii) Government entities and non-profits including charities, endowments or
10 foundations with Internal Revenue Code Section 501(c)(3) status with \$25 million or less in
11 assets in their accounts with RBC net of margin loans, as determined by the customer’s
12 aggregate household position(s) as of October 8, 2008, that directly purchased Eligible
13 Auction Rate Securities;

14 (iii) Small Businesses that directly purchased Eligible Auction Rate Securities at
15 RBC. For purposes of this provision, “Small Businesses” shall mean RBC customers not
16 otherwise covered in paragraph 7(i) and (ii) above that had \$10 million or less in assets in
17 their accounts with RBC net of margin loans, as determined by the customer’s aggregate
18 household position(s) as of October 8, 2008, or, if the customer was not a customer of RBC
19 as of October 8, 2008, as of the date that the customer terminated its customer relationship
20 with RBC. Notwithstanding any other provision, “Small Businesses” does not include
21 broker-dealers, banks acting as conduits for their customers, investment managers or other
22 financial intermediaries, or customers that had total assets of greater than \$50 million as of
23 October 8, 2008.

24 In no event shall RBC be required by this Order to purchase more than \$10 million of auction rate

1 securities from any Small Business.

2 8. RBC shall have offered to buy back from Eligible Investors, at par plus accrued
3 interest or dividends, if any, Eligible Auction Rate Securities that have failed at auction at least once
4 between October 3, 2008 and June 30, 2009 ("Buyback Offer"). The Buyback Offer shall have
5 remained open until June 30, 2009 ("Offer Period"). RBC may extend the Offer Period beyond this
6 date.

7 9. RBC shall have undertaken its best efforts to identify and provide notice to Eligible
8 Investors who invested in Eligible Auction Rate Securities that have failed at auction at least once
9 between October 3, 2008 and June 30, 2009 of the relevant terms of this Order, together with an
10 explanation of what Eligible Investors must do to accept, in whole or in part, the Buyback Offer, by
11 December 5, 2008. RBC also shall have undertaken its best efforts to identify and provide notice of
12 the relevant terms of this Order to such Eligible Investors not previously identified.

13 10. To the extent that any Eligible Investor who invested in Eligible Auction Rate
14 Securities that have failed at auction at least once between October 3, 2008 and June 30, 2009 had
15 not responded to the Buyback Offer, RBC shall have undertaken best efforts to provide any such
16 Eligible Investor a second written notice on or before 45 days before the end of the Offer Period
17 informing them of the relevant terms of this Order, notifying such Eligible Investor of the impending
18 expiration of the Offer Period, describing the state of the auction rate securities market at that time,
19 and explaining the consequences of failing to sell their auction rate securities to RBC prior to the
20 expiration of the Offer Period.

21 11. Eligible Investors may accept the Buyback Offer by notifying RBC at any time before
22 5:00 p.m., Eastern Standard Time, June 30, 2009, or such later date and time as RBC may extend the
23 Offer Period. For Eligible Investors who accept the Buyback Offer within the Offer Period, RBC
24 shall purchase the Eligible Auction Rate Securities on or before the next scheduled auction date that

1 occurs after three (3) business days following RBC's receipt of notification.

2 12. No later than two days after execution of this Order, RBC shall have established: (a) a
3 dedicated toll-free telephone assistance line, with appropriate staffing, to provide information and to
4 respond to questions concerning the terms of this Order; and (b) a public Internet page on its
5 corporate Website(s), with a prominent link to that page appearing on RBC's relevant homepage(s),
6 to provide information concerning the terms of this Order and, via the telephone assistance line,
7 together with an e-mail address or other reasonable means of communication, to respond to
8 questions concerning the terms of this Order. RBC shall have maintained the telephone assistance
9 line and Internet page through June 30, 2009.

10 **Relief for Eligible Investors Who Sold Below Par**

11 13. By May 31, 2009, RBC shall have undertaken its best efforts to identify any Eligible
12 Investor who sold Eligible Auction Rate Securities below par between February 11, 2008 and
13 October 8, 2008 and paid such Eligible Investors the difference between par and the price at which
14 the Eligible Investor sold the Eligible Auction Rate Securities. RBC will undertake its best efforts to
15 identify and pay, as soon as reasonably possible, any Eligible Investors identified thereafter who sold
16 Eligible Auction Rate Securities below par between February 11, 2008 and October 8, 2008.

17 **Reimbursement for Related Loan Expenses**

18 14. RBC shall have undertaken its best efforts to identify Eligible Investors who took out
19 loans from RBC, between February 11, 2008 and May 31, 2009, that were secured by Eligible
20 Auction Rate Securities that were not successfully auctioning at the time the loan was taken out from
21 RBC, and paid interest associated with the auction rate securities based portion of those loans in
22 excess of the total interest and dividends received on the auction rate securities during the duration
23 of the loan. RBC shall reimburse such customers for such excess expense, plus reasonable interest
24 thereon. Such reimbursement shall have occurred no later than May 31, 2009.

1 later, RBC shall refund to municipalities (which, for avoidance of doubt, do not include student loan
2 securitization vehicles or closed-end mutual funds) underwriting fees the issuers paid to RBC for the
3 refinancing or conversion of their auction rate securities that occurred after February 11, 2008,
4 where RBC acted as underwriter for the primary offering of the auction rate securities between
5 August 1, 2007 and February 11, 2008.

6 Institutional Investors

7 21. RBC shall endeavor to work with issuers and other interested parties, including
8 regulatory and governmental entities, to expeditiously provide liquidity solutions for institutional
9 investors not covered by paragraphs III(7)(ii) and (iii) above that purchased auction rate securities
10 from RBC ("Institutional Investors").

11 Reports to NASAA

12 22. Within 45 days of the end of each month, beginning with a report covering the period
13 beginning October 8, 2008 and ending April 30, 2009 (due on June 15, 2009) and continuing
14 monthly through and including a report covering the month ended December 31, 2009 (due on
15 February 16, 2010), RBC shall submit a monthly written report detailing the efforts in which RBC
16 has engaged and the results of those efforts with respect to RBC's institutional investors' holdings in
17 ARS. The report shall be submitted to a representative specified by the North American Securities
18 Administrators Association ("NASAA"). Beginning in June 2009, upon the request of NASAA,
19 RBC shall meet quarterly with a designated NASAA representative to discuss its progress with
20 respect to its obligations pursuant to this Order. Such quarterly meetings shall continue until no later
21 than December 2009. The reporting or meeting deadlines set forth above may be amended with
22 written permission from a designated NASAA representative.

23 **IV. ADDITIONAL CONSIDERATIONS**

24 23. RBC agrees that it shall not, collectively or individually, seek or accept, directly or

1 indirectly, reimbursement or indemnification, including, but not limited to, payment made pursuant
2 to any insurance policy, with regard to any or all of the amounts payable pursuant to paragraph III
3 (4) above.

4 24. In consideration of the settlement, the Division, has refrained from taking legal action
5 against RBC with respect to RBC's marketing and sale to its institutional investors. The Division
6 shall issue continuances as it deems appropriate.

7 25. If payment is not made by RBC, or if RBC defaults in any of its obligations set forth
8 in this Order, the Division may vacate this Order, at its sole discretion, upon 10 days notice to RBC
9 and without opportunity for administrative hearing.

10 26. This Order is not intended to indicate that RBC or any of its affiliates or current or
11 former employees shall be subject to any disqualifications contained in the federal securities laws,
12 the rules and regulations thereunder, the rules and regulations of self-regulatory organizations or
13 various states' securities laws including any disqualifications from relying upon the registration
14 exemptions or safe harbor provisions. In addition, this Order is not intended to form the basis for
15 any such disqualifications.

16 27. For any person or entity not a party to this Order, this Order does not limit or create any
17 private rights or remedies against RBC including, without limitation, the use of any e-mails or other
18 documents of RBC or of others for the marketing and sale of ARS to investors, limit or create liability
19 of RBC, or limit or create defenses of RBC to any claims.

20 28. Nothing herein shall preclude Alaska, its departments, agencies, boards, commissions,
21 authorities, political subdivisions and corporations, other than the Division and only to the extent set
22 forth in paragraphs III(1) and IV(24) above, (collectively, "State Entities") and the officers, agents or
23 employees of State Entities from asserting any claims, causes of action, or applications for
24 compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief

1 against RBC in connection with the marketing and sale of ARS by RBC.

2 29. This Order shall not disqualify RBC or any of its affiliates or current or former
3 employees from any business that they otherwise are qualified or licensed to perform under
4 applicable state law and this Order is not intended to form the basis for any disqualification.

5 30. This Order and any dispute related thereto shall be construed and enforced in
6 accordance with, and governed by, the laws of Alaska without regard to any choice of law
7 principles.

8 31. RBC, through its execution of this Consent Order, voluntarily waives its right to a
9 hearing on this matter and to judicial review of this Consent Order under the Alaska Securities Act.

10 32. RBC enters into this Consent Order voluntarily and represents that no threats, offers,
11 promises, or inducements of any kind have been made by the Division or any member, officer,
12 employee, agent, or representative of the Division to induce RBC to enter into this Consent Order.

13 33. This Order shall be binding upon RBC and its successors and assigns as well as to
14 successors and assigns of relevant affiliates with respect to all conduct subject to the provisions
15 above and all future obligations, responsibilities, undertakings, commitments, limitations,
16 restrictions, events, and conditions.

17 34. Nothing in this Consent Order shall be considered an admission of fraud.

18 SO ORDERED this 23 day of November, 2010.

19 State of Alaska
20 Department of Commerce, Community, and
21 Economic Development
22 Division of Banking and Securities

23 /s/ Lorie L. Hovanec

24 By: Lorie L. Hovanec, Director