

**STATE OF OREGON**  
**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
**DIVISION OF FINANCE AND CORPORATE SECURITIES**  
**ENFORCEMENT SECTION**  
**BEFORE THE DIRECTOR OF THE**  
**DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

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<p><b>In the Matter of:</b></p> <p>RBC Capital Markets Corporation</p> <p style="text-align: center;"><b>Respondent.</b></p> <hr style="width: 100%;"/>	<p>)</p>	<p style="text-align: right;">Case No. S-09-0035</p> <p style="text-align: center;">ORDER TO CEASE AND DESIST, ORDER ASSESSING CIVIL PENALTY, AND CONSENT TO ENTRY OF ORDER</p>
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12 WHEREAS, RBC Capital Markets Corporation (“RBC”), a subsidiary of Royal Bank of  
13 Canada, and formerly known as RBC Dain Rauscher Inc., is doing business as RBC Wealth  
14 Management. RBC is a broker-dealer licensed in Oregon, with a Central Registration  
15 Depository (“CRD”) number of 31194, and RBC’s main address is One Liberty Plaza, 165  
16 Broadway, New York, NY 10006-1404; and

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

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

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

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

24 RBC elects to waive permanently any right to a hearing and appeal under ORS 59.295,  
25 ORS 59.305, and ORS Chapter 183, with respect to this Consent Order (the “Order”);

26 NOW, THEREFORE, the Director of the Oregon Department of Consumer and Business

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 Salem, OR 97301-3881  
 Telephone: (503) 378-4387



1 Services (“the Director”) hereby enters this Order.

2 **I. FINDINGS OF FACT**

3 1. RBC admits the jurisdiction of the Director, neither admits nor denies the Findings of  
4 Fact and Conclusions of Law contained in this Order, and consents to the entry of this Order by  
5 the Director.

6 2. RBC and its subsidiaries and affiliates including Ferris, Baker Watts, LLC and J.B.  
7 Hanauer & Co. have engaged in the sale of ARS in Oregon.

8 **Auction Rate Securities**

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

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

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

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

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

3 **RBC Made Misrepresentations to Certain Investors in Connection With the Sale of**  
4 **Auction Rate Securities**

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

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

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

20 10. Because many investors could not ascertain how much of an auction was filled through  
21 RBC proprietary trades, investors could not determine whether 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  
25 inventory as a measure of the supply and demand for auction rate securities, ordinary investors  
26 had no comparable ability to assess the operation of the market. There was no way for investors

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1 to monitor supply and demand in the market or to assess when broker-dealers might decide to  
2 stop supporting the market, which could cause its collapse.

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

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

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

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

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

23 **II. CONCLUSIONS OF LAW**

24 1. The Director has jurisdiction over this matter pursuant to the Oregon Securities Law,  
25 ORS Chapter 59, and OAR Chapter 441 and specifically, ORS 59.235 and ORS 59.245.

26 2. By engaging in the above conduct, RBC engaged in dishonest or unethical practices in

1 the securities business in Oregon, in violation of ORS 59.205(2).

2 3. By engaging in the above conduct, RBC failed to supervise its employees with regard to  
3 the sale of ARS, in violation of ORS 59.205(13).

4 4. The Director finds the following relief appropriate and in the public interest.

5 **III. ORDER**

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

8 **IT IS HEREBY ORDERED:**

9 1. This Order concludes the investigation by the Oregon Department of Consumer and  
10 Business Services, Division of Finance and Corporate Securities ("DFCS") and any other action  
11 that the Director could commence under the Oregon Securities Law on behalf of Oregon as it relates  
12 to RBC's marketing and sale of ARS to RBC's "Eligible Investors," as defined below.

13 2. This Order is entered into solely for the purpose of resolving the above referenced multi-  
14 state investigation, and is not intended to be used for any other purpose.

15 3. RBC shall cease and desist from violating the Oregon Securities Law and will comply with  
16 the Oregon Securities Law.

17 4. No later than ten business days after signing this Order, RBC shall pay a total of  
18 \$24,149.32 (twenty-four thousand, one hundred forty-nine dollars and thirty-two cents) to the  
19 Oregon Department of Consumer and Business Services. That sum includes a civil penalty of  
20 \$22,941.85 (twenty-two thousand, nine hundred forty-one dollars and eighty-five cents) for the  
21 General Fund of the Oregon State Treasury, pursuant to ORS 59.995(1), and \$1,207.47 (one  
22 thousand, two hundred seven dollars and forty-seven cents) for the Oregon Department of  
23 Consumer and Business Services Investor Education Program Fund.

24 5. RBC shall have taken certain measures with respect to current and former customers that  
25 purchased "Eligible ARS" from RBC, as defined below.

26 6. Eligible ARS. For purposes of this Order, "Eligible ARS" shall mean auction rate

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1 securities purchased from or through RBC prior to February 11, 2008 into an account maintained  
2 in the custody of RBC at the time of purchase.

3 7. Eligible Investors. As used in this Consent, "Eligible Investors" shall mean:

- 4 (i) Natural persons (including their IRA accounts, testamentary trust and  
5 estate accounts, custodian UGMA and UTMA accounts, and guardianship  
6 accounts) who directly purchased Eligible ARS;
- 7 (ii) Government entities and non-profits including charities, endowments or  
8 foundations with Internal Revenue Code Section 501(c)(3) status with \$25  
9 million or less in assets in their accounts with RBC net of margin loans, as  
10 determined by the customer's aggregate household position(s) as of  
11 October 8, 2008, that directly purchased Eligible ARS;
- 12 (iii) Small Businesses that directly purchased Eligible ARS at RBC. For  
13 purposes of this provision, "Small Businesses" shall mean RBC customers  
14 not otherwise covered in paragraph 7(i) and (ii) above that had \$10 million  
15 or less in assets in their accounts with RBC net of margin loans, as  
16 determined by the customer's aggregate household position(s) as of  
17 October 8, 2008, or, if the customer was not a customer of RBC as of  
18 October 8, 2008, as of the date that the customer terminated its customer  
19 relationship with RBC. Notwithstanding any other provision, "Small  
20 Businesses" does not include broker-dealers, banks acting as conduits for  
21 their customers, investment managers or other financial intermediaries, or  
22 customers that had total assets of greater than \$50 million as of October 8,  
23 2008.

24 In no event shall RBC be required by this Order to purchase more than \$10 million of auction  
25 rate securities from any Small Business.

26 8. RBC shall have offered to buy back from Eligible Investors, at par plus accrued interest



1 or dividends, if any, Eligible ARS that have failed at auction at least once between October 3,  
2 2008 and June 30, 2009 (“Buyback Offer”). The Buyback Offer shall have remained open until  
3 June 30, 2009 (“Offer Period”). RBC may extend the Offer Period beyond this date.

4 9. RBC shall have undertaken its best efforts to identify and provide notice to Eligible  
5 Investors who invested in Eligible ARS that have failed at auction at least once between October  
6 3, 2008 and June 30, 2009 of the relevant terms of this Order, together with an explanation of  
7 what Eligible Investors must do to accept, in whole or in part, the Buyback Offer, by December  
8 5, 2008. RBC also shall have undertaken its best efforts to identify and provide notice of the  
9 relevant terms of this Order to such Eligible Investors not previously identified.

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

18 11. Eligible Investors may accept the Buyback Offer by notifying RBC at any time before  
19 5:00 p.m., Eastern Standard Time, June 30, 2009, or such later date and time as RBC may extend  
20 the Offer Period. For Eligible Investors who accept the Buyback Offer within the Offer Period,  
21 RBC shall purchase the Eligible ARS on or before the next scheduled auction date that occurs  
22 after three (3) business days following RBC’s receipt of notification.

23 12. No later than two days after execution of this Order, RBC shall have established: (a) a  
24 dedicated toll-free telephone assistance line, with appropriate staffing, to provide information  
25 and to respond to questions concerning the terms of this Order; and (b) a public Internet page on  
26 its corporate Website(s), with a prominent link to that page appearing on RBC’s relevant



1 homepage(s), to provide information concerning the terms of this Order and, via the telephone  
2 assistance line, together with an e-mail address or other reasonable means of communication, to  
3 respond to questions concerning the terms of this Order. RBC shall have maintained the  
4 telephone assistance line and Internet page through June 30, 2009.

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

6 13. By May 31, 2009, RBC shall have undertaken its best efforts to identify any Eligible  
7 Investor who sold Eligible ARS below par between February 11, 2008 and October 8, 2008 and  
8 paid such Eligible Investors the difference between par and the price at which the Eligible  
9 Investor sold the Eligible ARS. RBC will undertake its best efforts to identify and pay, as soon  
10 as reasonably possible, any Eligible Investors identified thereafter who sold Eligible ARS below  
11 par between February 11, 2008 and October 8, 2008.

12 **Reimbursement for Related Loan Expenses**

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

20 **Consequential Damages Arbitration Process**

21 15. RBC shall consent to participate in a special arbitration (“Arbitration”) for the exclusive  
22 purpose of arbitrating any Eligible Investor’s consequential damages claim arising from their  
23 inability to sell Eligible ARS. RBC shall notify Eligible Investors of the terms of the Arbitration  
24 process through the notice described in paragraph III(12), above.

25 16. The Arbitration shall be conducted by a single public arbitrator (as defined by section  
26 12100(u) of the NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16,





1 2007), under the auspices of FINRA. RBC shall pay all applicable forum and filing fees.

2 17. Any Eligible Investors who choose to pursue such claims in the Arbitration shall bear the  
3 burden of proving that they suffered consequential damages and that such damages were caused  
4 by their inability to access funds invested in Eligible ARS. In the Arbitration, RBC shall be able  
5 to defend itself against such claims; provided, however, that RBC shall not contest liability for  
6 the illiquidity of the underlying auction rate securities position or use as part of its defense any  
7 decision by an Eligible Investor not to borrow money from RBC.

8 18. Eligible Investors who elect to use the special arbitration process provided for herein  
9 shall not be eligible for punitive damages, or for any other type of damages other than  
10 consequential damages.

11 19. All customers, including but not limited to Eligible Investors who avail themselves of the  
12 relief provided pursuant to this Order, may pursue any remedies against RBC available under the  
13 law. However, Eligible Investors that elect to use the special arbitration process set forth above  
14 are limited to the remedies available in that process and may not bring or pursue a claim relating  
15 to Eligible ARS in another forum.

16 **Municipal Issuers**

17 20. By May 31, 2009, or five business days from the date of this Order, whichever is later,  
18 RBC shall refund to municipalities (which, for avoidance of doubt, do not include student loan  
19 securitization vehicles or closed-end mutual funds) underwriting fees the issuers paid to RBC for  
20 the refinancing or conversion of their auction rate securities that occurred after February 11,  
21 2008, where RBC acted as underwriter for the primary offering of the auction rate securities  
22 between August 1, 2007 and February 11, 2008.

23 **Institutional Investors**

24 21. RBC shall endeavor to work with issuers and other interested parties, including  
25 regulatory and governmental entities, to expeditiously provide liquidity solutions for institutional  
26 investors not covered by Paragraph III(7) above that purchased auction rate securities from RBC

1 (“Institutional Investors”).

2 **Reports to NASAA**

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

15 **IV. Additional Considerations**

16 23. RBC agrees that it shall not, collectively or individually, seek or accept, directly or  
17 indirectly, reimbursement or indemnification, including, but not limited to, payment made  
18 pursuant to any insurance policy, with regard to any or all of the amounts payable pursuant to  
19 paragraph 4 above.

20 24. In consideration of the settlement, the Director, has refrained from taking legal action  
21 against RBC with respect to RBC’s marketing and sale to its institutional investors.

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

25 26. This Order is not intended to indicate that RBC or any of its affiliates or current or former  
26 employees shall be subject to any disqualifications contained in the federal securities laws, the

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1 rules and regulations thereunder, the rules and regulations of self-regulatory organizations or  
2 various states' securities laws including any disqualifications from relying upon the registration  
3 exemptions or safe harbor provisions. In addition, this Order is not intended to form the basis for  
4 any such disqualifications.

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

9 28. Nothing herein shall preclude the State of Oregon, its departments, agencies, boards,  
10 commissions, authorities, political subdivisions and corporations, other than the Director and only to  
11 the extent set forth in paragraph III(1) and IV(24) above, (collectively, "State Entities") and the  
12 officers, agents or employees of State Entities from asserting any claims, causes of action, or  
13 applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or  
14 injunctive relief against RBC in connection with the marketing and sale of ARS by RBC.

15 29. This Order shall not disqualify RBC or any of its affiliates or current or former  
16 employees from any business that they otherwise are qualified or licensed to perform under State  
17 of Oregon law and this Order is not intended to form the basis for any disqualification.

18 30. This Order and any dispute related thereto shall be construed and enforced in accordance  
19 with, and governed by, the laws of the State of Oregon without regard to any choice of law  
20 principles.

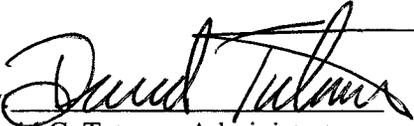
21 31. RBC, through its execution of this Consent Order, voluntarily waives its right to a hearing  
22 on this matter and to judicial review of this Consent Order under ORS 59.295, ORS 59.305 and  
23 ORS Chapter 183.

24 32. RBC enters into this Consent Order voluntarily and represents that no threats, offers,  
25 promises, or inducements of any kind have been made by the Director or any member, officer,  
26 employee, agent, or representative of DFCS to induce RBC to enter into this Consent Order.

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

5 Dated this 7<sup>th</sup> day of August, 2009.

6 CORY STREISINGER, Director  
7 Department of Consumer and Business Services

8  
9 By   
10 David C. Tatman, Administrator  
11 Division of Finance and Corporate Securities

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15 **CONSENT TO ENTRY OF ORDER BY RBC**

16 RBC hereby acknowledges that it has been served with a copy of this Consent Order, has  
17 read the foregoing Order, is aware of its right to a hearing and appeal in this matter under ORS  
18 59.295, ORS 59.305 and ORS Chapter 183, and has waived the same.

19 RBC admits the jurisdiction of the Director, neither admits nor denies the Findings of Fact  
20 and Conclusions of Law contained in this Order; and consents to entry of this Order by the Director  
21 as settlement of the issues contained in this Order.

22 RBC states that no promise of any kind or nature whatsoever was made to it to induce it to  
23 enter into this Order and that it has entered into this Order voluntarily.

24 Dorothy Heyl represents that she is Counsel to RBC and that, as such, has been authorized  
25 by RBC to enter into this Order for and on behalf of RBC.

26 RBC agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with

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1 regard to any state, federal, or local tax for any administrative monetary penalty that RBC shall  
2 pay pursuant to this Order.

3 Dated this 4<sup>th</sup> day of August, 2009.

4 RBC Capital Markets Corporation

5  
6 By: *Dorothy Heyl*  
7 Dorothy Heyl, Of Counsel  
8 Milbank, Tweed, Hadley & McCloy LLP  
9 1 Chase Manhattan Plaza  
10 New York, New York 10005-1413  
11 Telephone: (212) 530-5088  
12 Facsimile: (212) 822-5088

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SUBSCRIBED AND SWORN TO before me this 4<sup>th</sup> day of August, 2009.

*Bonnie M. Matlessich*  
(Signature of Notary)

Bonnie Matlessich  
(Printed Name of Notary Public)

Notary Public for the State of: New York

My commission expires: 11/3/2011

**BONNIE M. MATLESSICH**  
**NOTARY PUBLIC, State of New York**  
**No. 01MA6101046**  
**Qualified in New York County**  
**Commission Expires Nov. 3, 2011**

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