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

9 In the Matter of:

DFCS File No. S-11-0060

10 RAYMOND JAMES & ASSOCIATES, INC.,
11 AND RAYMOND JAMES FINANCIAL
12 SERVICES, INC.,

ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL PENALTY,
AND CONSENT TO ENTRY OF ORDER

13 Respondents.

14 WHEREAS, Raymond James & Associates, Inc. and Raymond James Financial Services,
15 Inc. (collectively, "Respondents") are broker-dealers licensed in Oregon; and

16 WHEREAS, Respondents' activities regarding the sale of auction rate securities have
17 been the subject of coordinated investigations conducted by a multi-state task force; and

18 WHEREAS, Respondents have cooperated fully with regulators conducting the
19 investigations by providing documentary evidence and other materials and by providing
20 regulators with access to information relevant to their investigations; and

21 WHEREAS, on June 29, 2011 Respondents and the multi-state task force reached an
22 agreement to resolve the investigations relating to Respondents' sale of auction rate securities to
23 certain customers; and

24 WHEREAS, Respondents agree, among other terms, to purchase certain auction rate
25 securities from customers and to make certain payments; and

26 WHEREAS, Respondents elect to waive permanently any right to a hearing and appeal
under ORS 59.295, ORS 59.305, and ORS chapter 183, with respect to this Order to Cease and
Desist, Order Assessing Civil Penalty, and Consent to Entry of Order (the "Order"); and

WHEREAS, Respondents admit the jurisdiction of the Director of the Department of
Consumer and Business Services ("the Director") and consent to the entry of this Order by the
Director; and





1 WHEREAS, Respondents have voluntarily agreed to purchase auction rate securities
2 from certain customers, as described in Section IV below, and to use best efforts to provide
3 liquidity solutions for certain other customers; and

4 WHEREAS, Respondents neither admit nor deny the Findings of Fact and Conclusions
5 of Law contained in this Order.

6 NOW, THEREFORE, the Director, as administrator of the Oregon Securities Law,
7 Oregon Revised Statutes Chapter 59 and Oregon Administrative Rules Chapter 441, hereby
8 enters this Order:

9 **I.**

10 **RESPONDENTS**

11 1. Respondent Raymond James & Associates, Inc. (“RJA”) (CRD #705) was, at all
12 times material herein, a Florida corporation with its principal place of business at 880 Carillon
13 Parkway, St. Petersburg, Florida 33716.

14 2. Respondent Raymond James Financial Services, Inc. (“RJFS”) (CRD #6694) was,
15 at all times material herein, a Florida corporation with its principal place of business at 880
16 Carillon Parkway, St. Petersburg, Florida 33716.

17 **II.**

18 **FINDINGS OF FACT**

19 3. Respondents are each in the business of effecting transactions in securities in
20 Oregon as a “broker-dealer” within the meaning of ORS 59.015(1).

21 4. Respondents have customers located across the United States of America,
22 including Oregon.

23 5. Prior to February 13, 2008, Respondents sold financial instruments known as
24 auction rate securities (“ARS”) to Oregon residents.

25 **ARS**

26 6. ARS are bonds or preferred stocks that have interest rates or dividend yields that



1 are periodically reset through an auction process, typically every seven (7), twenty-eight (28), or
2 thirty-five (35) days.

3 7. ARS are usually issued with thirty (30) year maturities, but ARS maturities can
4 range from five years to perpetuity.

5 8. ARS can be attractive investments to investors because ARS may offer slightly
6 higher yields than various alternative products, including forms of cash alternative products.

7 9. An ARS yield is determined by the periodic auctions (commonly referred to as
8 “Dutch” auctions) during which ARS are auctioned at par.

9 10. ARS can be bought or sold at par at one of these periodic Dutch auctions.

10 11. Under the typical procedures for an ARS auction in effect prior to February 13,
11 2008, an investor, including a customer of either Respondent, who wished to purchase ARS at
12 auction, submitted a bid that included the minimum interest or dividend rate that the investor
13 would accept.

14 12. ARS holders could either choose to keep their securities until the next auction or
15 submit offers to sell their ARS.

16 13. An auction agent collected all of the bids and offers for a particular auction.

17 14. The final yield rate at which the ARS were sold was the “clearing rate” and the
18 clearing rate applied to that particular ARS until the next auction.

19 15. Bids with the lowest rate and then successively higher rates were accepted until
20 all ARS sell orders were filled.

21 16. The clearing rate was the lowest rate bid sufficient to cover all ARS offered for
22 sale in the auction.

23 17. If there were not enough bids to cover the ARS offered for sale in an auction, then
24 an auction would fail.

25 18. In a failed auction, investors who want to sell are not able to do so and such
26 investors must hold their ARS until at least the next auction.



1 underwritten by other broker-dealers. Additionally, RJA submitted bids in the auctions it
2 managed to prevent them from failing, to maintain an orderly market, or to set a clearing rate.

3 29. Respondent RJFS did not underwrite or act as an auction manager for ARS, and
4 did not at any time submit bids in auctions.

5 30. Respondents also acted as agents for their customers, on a solicited and
6 unsolicited basis, by submitting customers' orders to purchase and sell two other ARS products:
7 auction rate preferred securities backed by a pool of municipal bonds ("ARPS") and taxable
8 auction rate securities, which were variable rate perpetual preferred stock issued by closed-end
9 funds ("TARS"). As distributing or "downstream" broker-dealers for the ARPS and TARS,
10 Respondents did not submit bids in these auctions.

11 **Respondents' ARS Sales to Customers**

12 31. In selling ARS to its customers prior to the middle of February 2008, some of
13 Respondents' securities salespersons made inaccurate comparisons between ARS and other
14 investments, such as money market funds, telling customers that ARS were "cash equivalents,"
15 "the same as cash," and "highly liquid," but with a slightly higher yield. Respondents' securities
16 salespersons also did not accurately characterize the investment nature of ARS since ARS are
17 highly complex securities that are very different from money market funds, as evidenced by,
18 among other things, the dependence of ARS on successful auctions for liquidity.

19 32. Respondents' ARS trade confirmations, sent after customers purchased ARS,
20 disclosed the risks that these auctions could fail and that Respondents were not obligated to
21 ensure their success. Nevertheless, Respondents did not provide customers with adequate and
22 complete disclosures regarding the complexity of the auction process, including failing to
23 adequately disclose to customers that Respondent RJA managed the auctions of the MARS and
24 that RJA routinely bid in MARS auctions to prevent a failed auction, maintain an orderly market,
25 or set a particular clearing rate. For example, some of Respondents' securities salespersons did
26 not adequately disclose to customers that their ARS could become illiquid for an indeterminate



1 period of time in the event of an auction failure.

2 33. The information described in Paragraphs 31 through 32 was material to
3 Respondents' customers.

4 34. Respondents should have known that their securities salespersons marketed ARS
5 to customers as highly liquid and as an alternative to cash or money market funds without
6 adequately disclosing that ARS are complex securities that may become illiquid.

7 35. In connection with the marketing of ARS, Respondents failed to adopt policies
8 and procedures reasonably designed to ensure that their securities salespersons recommended
9 ARS only to customers who had stated investment objectives that were consistent with their
10 purchase of ARS. Some of Respondents' securities salespersons recommended ARS to
11 customers as a liquid, short-term investment. As a result, some of Respondents' customers who
12 needed short-term access to funds invested in ARS even though ARS had long-term maturity
13 dates, or in the case of ARPS and TARS, no maturity dates.

14 **III.**

15 **CONCLUSIONS OF LAW**

16 36. The Director has jurisdiction over this matter pursuant to ORS 59.235 and ORS
17 59.245.

18 37. By engaging in the acts and conduct set forth in paragraphs II.3 through II.35,
19 Respondents engaged in dishonest or unethical practices in connection with the purchase or sale
20 of securities, in violation of ORS 59.205(2).

21 38. By engaging in the acts and conduct set forth in paragraphs II.3 through II.35,
22 Respondents failed to reasonably supervise their securities salespersons, in violation of ORS
23 59.205(13).

24 **IV.**

25 **ORDER**

26 On the basis of the Findings of Fact, Conclusions of Law, and Respondents' consent to



1 the entry of this Order, without admitting or denying the facts or conclusions herein,

2 IT IS HEREBY ORDERED:

3 1. This Order concludes the investigation by the Director and precludes any other
4 action that the Director could commence against the Respondents under applicable Oregon law
5 on behalf of Oregon as it relates to Respondents' sale of ARS to Eligible Investors, as defined
6 below.

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

9 3. Respondents shall cease and desist from violating the Oregon Securities Law and
10 will comply with the Oregon Securities Law.

11 4. Within ten days from the date of entry of this Order, Respondents shall pay a civil
12 penalty of \$5,577.58 (five thousand, five hundred seventy-seven dollars and fifty-eight cents) to
13 "Dept. of Consumer and Business Services" for the General Fund of the State Treasury, pursuant
14 to ORS 59.995(1), which amount constitutes Oregon's proportionate share of the total state
15 settlement amount of \$1,750,000.00. In the event another state securities regulator determines
16 not to accept Respondents' settlement offer, the total amount of the payment to the state of
17 Oregon shall not be affected.

18 5. Respondents shall take certain measures with respect to current and former
19 customers with respect to "Eligible ARS", as defined below in Paragraph IV.6.

20 6. "Eligible ARS". For purposes of this Order, "Eligible ARS" means ARS
21 purchased at Respondents on or before February 13, 2008, and that have failed at auction at least
22 once since February 13, 2008. Notwithstanding the foregoing definition, the term "Eligible
23 ARS" shall not include ARS that were purchased at Respondents in accounts owned, managed or
24 advised by or through correspondent broker-dealers or unaffiliated registered investment
25 advisers.

26 7. "Eligible Investors". For purposes of this Order, "Eligible Investors," shall mean



1 the following:

2 (1) Any investor that purchased Eligible ARS at Respondents on or before February
3 13, 2008, did not transfer such Eligible ARS away from Respondents prior to January 1, 2006,
4 and held those securities on February 13, 2008.

5 (2) “Eligible Investors,” for the purposes of this Order, shall not include institutional
6 money managers.

7 (3) “Eligible Investors,” for the purposes of this Order, shall not include customers
8 who resolved their ARS claims through arbitration proceedings or negotiated settlements with
9 Respondents.

10 8. Purchase Offer. Respondents shall offer to purchase, at par plus accrued and
11 unpaid dividends/interest, from Eligible Investors their Eligible ARS that have failed at auction
12 at least once since February 13, 2008 (the “Purchase Offer”).

13 9. Notification and Buyback Procedures.

14 a. Respondents shall create a written notice related to the Purchase Offer (the
15 “Notice”). The Notice shall explain the relevant terms of this Order and describe what Eligible
16 Investors must do to accept, in whole or in part, the Purchase Offer, including how Eligible
17 Investors may accept the Purchase Offer.

18 b. Initial Notice

19 i. Respondents shall have provided the Notice to Eligible Investors who purchased
20 Eligible ARS at Respondents by no later than July 29, 2011.

21 ii. Furthermore, Respondents shall have undertaken their best efforts to identify and
22 locate customers who purchased Eligible ARS at Respondents but who transferred such Eligible
23 ARS away from Respondents prior to January 1, 2006 by no later than July 29, 2011.
24 Respondents will provide any such customers the Purchase Offer described in Section IV.8, the
25 Notification and Buyback Procedures described in Section IV.9, and the other terms described in
26 Sections IV.11, IV.12, and IV. 13.



1 c. Second Notice

2 With respect to each Eligible Investor that Respondents sent the Notice required by
3 Paragraph IV.9.b above and who did not respond, Respondents shall provide a second copy of
4 the Notice on or before 45 days before the end of Offer Period, as defined below.

5 d. Offer Period

6 i. Respondents shall keep the Purchase Offer open for seventy five (75) days after
7 mailing the Initial Notice as required by Paragraph IV.9.b, above (“Offer Period”).

8 ii. Eligible Investors may accept the Purchase Offer by notifying Respondents as
9 described in the Purchase Offer, at any time before 11:59 P.M. Eastern Time, on or before the
10 last day of the Offer Period. For those Eligible Investors who accept the Purchase Offer within
11 the Offer Period, Respondents shall purchase their Eligible ARS by no later than five (5)
12 business days following the expiration of the Offer Period.

13 e. An Eligible Investor may revoke their acceptance of Respondents’ Purchase Offer
14 at any time up until Respondents’ purchase of such Eligible Investor’s Eligible ARS or provide
15 notice of their intent to purchase such Eligible ARS.

16 f. Respondents’ obligation to those Eligible Investors who custodied their Eligible
17 ARS away from Respondents as of the date of entry of this Order shall be contingent on: (1)
18 Respondents receiving reasonably satisfactory assurances from the financial institution currently
19 holding the Eligible Investor’s Eligible ARS that the bidding rights associated with such Eligible
20 ARS will be transferred to Respondents; (2) the Eligible Investor reactivating their former
21 account with Respondents; and (3) the transfer of the Eligible ARS to the Eligible Investor’s
22 former account with Respondents.

23 g. Respondents shall use their best efforts to identify, contact and assist any Eligible
24 Investor who has transferred the Eligible ARS out of Respondents’ custody in returning such
25 ARS to Respondents’ custody, and shall not charge such Eligible Investor any fees relating to or
26 in connection with the return to Respondents or custodianship by Respondents of such Eligible



1 ARS.

2 10. Customer Assistance. No later than July 1, 2011, Respondents shall have
3 established a dedicated toll-free telephone assistance line and website to provide information and
4 to respond to questions concerning the terms of this Order, and to provide information
5 concerning the terms of this Order and, via an e-mail address or other reasonable means, to
6 respond to questions concerning the terms of this Order. Respondents shall maintain the
7 telephone assistance line for at least nine months from the date of entry of this Order.

8 11. Relief for Eligible Investors Who Sold Below Par. Respondents shall use their
9 best efforts to identify each Eligible Investor who: (i) purchased Eligible ARS at Respondents on
10 or before February 13, 2008; and (ii) who sold those Eligible ARS below par between February
11 13, 2008 and the date of entry of this Order (“Below Par Sellers”). No later than September 12,
12 2011, Respondents shall pay each Below Par Seller the difference between par and the price at
13 which the Below Par Seller sold the Eligible ARS, plus reasonable interest thereon.
14 Furthermore, Respondents will pay promptly the difference between par and the price at which
15 the Below Par Seller sold the Eligible ARS, plus reasonable interest thereon to any Below Par
16 Sellers identified more than 75 days after entry of this Order.

17 12. Consequential Damages Arbitration Process.

18 a. Respondents shall consent to participate in a special arbitration process
19 (“Arbitration”) for the exclusive purpose of arbitrating any Eligible Investor’s consequential
20 damages claim arising from their inability to sell Eligible ARS. In the Arbitration, the Special
21 Arbitration Process applicable to firms that have entered into settlements with state regulators
22 (the “State SAP”) will be available for the exclusive purpose of arbitrating any Eligible
23 Investor’s consequential damages claim. Respondents shall notify Eligible Investors of the terms
24 of the Arbitration process through the Notice.

25 b. The Arbitration shall be conducted under the auspices of FINRA, pursuant to the
26 NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007. Respondents



1 will pay all applicable forum and filing fees.

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

9 d. Eligible Investors who elect to use the Arbitration provided for herein shall not be
10 eligible for punitive damages, or for any other type of damages other than consequential
11 damages. However, the State SAP will govern the availability of attorney's fees.

12 13. Loan Interest Expense.

13 Respondents shall use their best efforts to identify Eligible Investors that obtained a loan
14 through Respondents (or their affiliates) secured by Eligible ARS that were not successfully
15 auctioning at the time the loan was taken and who paid more in interest on the loan than the
16 Eligible Investor received in interest or dividends from the Eligible ARS during the time the loan
17 was outstanding ("Negative Carry"). If the Eligible Investor can provide Respondents
18 documentation evidencing the amount of Negative Carry, Respondents, on or before 75 days
19 from the date of entry of this Order, will reimburse the Eligible Investor the amount of Negative
20 Carry actually paid.

21 14. Best Efforts

22 Respondents will use their best efforts to provide the institutional money managers, no
23 later than March 29, 2012, opportunities to liquidate their Eligible ARS including, but not
24 limited to, facilitating issuer redemptions, restructurings, and through other reasonable means.
25 Although Respondents are required to use their best efforts to liquidate Eligible ARS owned by
26 the institutional money managers, the Respondents are not obligated to purchase the securities.



1 15. Reports and Meetings

2 a. Respondents shall submit a bi-monthly written report detailing Respondents’
3 progress with respect to the provisions of this Order within 45 days of the end of each month in
4 which a report is required, beginning with a report covering July 2011 and continuing through
5 and including a report covering March 2012. This report shall be submitted to a representative
6 specified by the North American Securities Administrators Association (“NASAA”).

7 b. Beginning October 27, 2011, Respondents shall confer at least quarterly with the
8 representative specified by NASAA to discuss Respondents’ progress with respect to the
9 provisions of this Order. Such quarterly conferences shall continue until March 29, 2012.

10 c. The reporting and conference deadlines set forth above may be amended or
11 modified with written permission from the representative specified by NASAA.

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

18 17. Except in an action by the Director to enforce the obligations of Respondents in
19 this Order, this Order may neither be deemed nor used as an admission of or evidence of any
20 alleged fault, omission or liability of Respondents in any civil, criminal, arbitration or
21 administrative proceeding in any court, administrative agency or tribunal. For any person or
22 entity not a party to this Order, this Order does not limit or create any private rights or remedies
23 against Respondents including, without limitation with respect to the use of any emails or other
24 documents of Respondents or of others concerning the marketing and/or sales of ARS, limit or
25 create liability of Respondents, or limit or create defenses of Respondents to any claims.

26 18. This Order is not intended to disqualify Respondents or any of their affiliates or

1 current or former employees from any business that they otherwise are qualified or licensed to
2 perform under applicable state securities law and this Order is not intended to form the basis for
3 any disqualification.

4 DATED this 13th day of October, 2011 at Salem, Oregon.

5 SCOTT L. HARRA, Acting Director
6 Department of Consumer and Business Services

7
8 /s/ David Tatman
9 David C. Tatman, Administrator
10 Division of Finance and Corporate Securities

11 Approved as to Form:

12
13 /s/ Christian R Bartholomew Date: 10/12/11
14 Christian R. Bartholomew
15 Attorney for Respondents
16 Raymond James & Associates, Inc., and
17 Raymond James Financial Services, Inc.

18 **CONSENT TO ENTRY OF ORDER BY RAYMOND JAMES**

19 Raymond James & Associates, Inc. and Raymond James Financial Services, Inc.
20 (together "Raymond James") hereby acknowledges that it has been served with a copy of this
21 Order to Cease and Desist, Order Assessing Civil Penalty, and Consent to Entry of Order
22 ("Order"), has read the foregoing Order, is aware of its right to a hearing and appeal in this
23 matter, and has waived the same.

24 Raymond James admits the jurisdiction of the Director, neither admits nor denies the
25 Findings of Fact and Conclusions of Law contained in this Order, and consents to entry of this
26 Order by the Director as settlement of the issues contained in this Order.

27 Respondents shall not claim, assert, or apply for a tax deduction or tax credit with regard
28 to any state, federal, or local tax for any civil penalty payment that Respondents shall pay



1 pursuant to this Order.

2 Raymond James states that no promise of any kind or nature whatsoever was made to it
3 to induce it to enter into this Order and that it has entered into this Order voluntarily.

4 Dennis W. Zank represents that he/she is President of Raymond James & Associates, Inc., and
5 that, as such, has been authorized by Raymond James & Associates, Inc., to enter into this Order
6 for and on behalf of Raymond James & Associates, Inc.

7 Donald K. Runkle represents that he/she is Senior Vice President, Chief Compliance Officer of
8 Raymond James Financial Services, Inc., and that, as such, has been authorized by Raymond
9 James Financial Services, Inc., to enter into this Order for and on behalf of Raymond James
10 Financial Services, Inc.

11 DATED this 11th day of October, 2011.

12 RAYMOND JAMES & ASSOCIATES, INC.

13 By: /s/ Dennis W Zank

14 Title: President

15 STATE OF Florida)

16 County of Pinellas)

17
18 SUBSCRIBED AND SWORN TO before me this 11th day of October, 2011.

19
20
21 /s/ Cynthia A. Crane
22 Notary Public

23 My commission expires:
24 _____
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26

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



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RAYMOND JAMES FINANCIAL SERVICES, INC.

By: /s/ Donald K Runkle

Title: Sr. VP, Chief Compliance Officer

STATE OF Florida)
)
County of Pinellas)

SUBSCRIBED AND SWORN TO before me this 11th day of October, 2011.

/s/ Cynthia A. Crane
Notary Public

My commission expires:

Division of Finance and Corporate Securities
Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

