

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009020904501**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: RBC Capital Markets, LLC, Respondent
(BD No. 31194)

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, RBC Capital Markets, LLC ("RBC," the "firm," or "Respondent"), formerly known as RBC Capital Corporation, submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against the firm alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. RBC hereby accepts and consents, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

RBC has been registered as a member firm with FINRA since March 19, 1936. The firm's principal place of business is in New York, New York.

RELEVANT DISCIPLINARY HISTORY

On September 23, 2004, FINRA issued AWC No. E05040142 regarding RBC Dain Rauscher Inc. ("DAIN") (BD No. 31194), which firm subsequently merged into RBC. That AWC found that the firm (1) executed a municipal securities transaction with a customer at an aggregate price that was below fair market value, and (2) failed to ensure that the transaction was executed at an aggregate price that was fair and

reasonable. The AWC found that the firm acted in violation of MSRB Rules G-17 and G-30(a). The firm was censured, fined \$10,000, required to pay restitution, and to provide FINRA with a copy of its updated written supervisory procedures as they related to the determination of the fair market value of municipal securities being bought or sold from a public customer.

On October 28, 2005, FINRA issued AWC No. 2005000162002 regarding DAIN and RBC Capital Markets Corporation (BD No. 6579), which firm subsequently merged into RBC. That AWC found, among other things, that each firm in certain instances charged improper markups in violation of NASD Conduct Rules 2110 and 2440 and IM-2440. Additionally, that AWC found that each firm's supervisory system for their respective high-yield bond trading desk did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations and the Rules of NASD concerning Fair Pricing and NASD's Mark-Up Policy. Furthermore, the AWC, in relevant part, found that the firms generated an exception report that identified all intraday transactions that had markups/markdowns that exceeded five percent and that these reports generated inadequate additional review, discussion and corrective action. Each firm was censured, required to pay restitution to the impacted customers. RBC was fined \$2,000,000, DAIN was fined \$1,000,000, and each firm was required to revise its supervisory procedures with respect to the deficiencies.

On January 6, 2010, FINRA issued AWC No. 2006006102602 regarding RBC, which cited the firm for various violations. Among the findings in the AWC was that DAIN, during the period October 1 through December 31, 2007, in six municipal securities transactions charged markups or markdowns that were not fair and reasonable and which violated MSRB Rules G-17 and G-30(a). The firm was censured, fined \$10,000 for the municipal fair pricing violations, and required to pay restitution to the impacted customers.

On August 25, 2011, FINRA issued AWC No. 2008013634901 regarding RBC, in 40 municipal transactions in 2008, the firm charged markups and markdowns that were not fair and reasonable and which violated MSRB Rules G-17 and G-30(a). The firm was censured, fined \$95,000 and required to pay restitution to the impacted customers.

OVERVIEW

During June 4, 2008 through June 26, 2009, RBC failed to reasonably supervise markups and markdowns on transactions, in the firm's Wealth Management division, involving Collateralized Mortgage Obligations ("CMOs"). Specifically, in 234 CMO transactions with mostly retail customers, RBC charged markups and markdowns as high as 16.9%. These charges exceeded the firm's guidelines intended to ensure that charges were fair, reasonable and compliant with NASD Conduct Rule 2440. The firm flagged the charges for price adjustment, but due to internal miscommunications, did not adjust any of the charges until after FINRA staff brought the matter to the firm's attention. RBC's supervisory review failed to verify that the trade corrections had actually been effected.

RBC also failed to establish, maintain and enforce a supervisory system and written supervisory procedures reasonably designed to ensure that the firm only charged customers markups and markdowns on CMO transactions that were fair, reasonable and compliant with NASD Conduct Rule 2440.

By reason of the foregoing, RBC violated NASD Conduct Rules 3010 and 2110 and FINRA Rule 2010.

FACTS AND VIOLATIVE CONDUCT

During June 4, 2008 through June 26, 2009, in 234 transactions in Collateralized Mortgage Obligations ("CMOs") with mostly retail, non-institutional customers, RBC charged markups and markdowns that were as high as 16.9%. These charges exceeded RBC's own internal guidelines based on the type and maturity of each security. RBC's internal guidelines were intended to ensure that charges were fair, reasonable and compliant with NASD Conduct Rule 2440. According to the firm's procedures, charges exceeding the firm's guidelines had to be adjusted if not otherwise justified in writing on the firm's order records.

The firm's next day surveillance reports flagged each of the 234 transactions as outside of the firm's markup/markdown policy thresholds. The charges were not justified on the firm's order records, and accordingly, each transaction was identified for price adjustment. However, due to miscommunications between the firm's Fixed Income Trading Desk and trade support personnel responsible for making the price adjustments, RBC personnel assumed that the markups and markdowns on the transactions were adjusted to comply with the firm's guidelines.

RBC failed to verify that the trade corrections had actually been effected. Accordingly, the firm did not adjust any of the charges imposed on the firm's customers that were flagged as exceeding the firm's guidelines, which totaled \$30,000, until after FINRA staff brought the matter to the firm's attention in or around July 2010.

RBC also failed to establish, maintain and enforce a supervisory system and written supervisory procedures reasonably designed to ensure that the firm only charged customers markups and markdowns on CMO transactions that were fair, reasonable and compliant with NASD Conduct Rule 2440. Specifically, the firm's supervisory system did not include written supervisory procedures providing for (1) identification of the person(s) responsible for ensuring that markups and markdowns on fixed income transactions that were flagged as exceeding the firm's internal guidelines and designated for correction were actually adjusted consistent with NASD Conduct Rule 2440; (2) a statement as to the supervisory steps to be taken by the identified person(s) to ensure the adjustments were made; (3) a statement as to how often such person(s) should take such step(s); and (4) a statement as to how the completion of the step(s) included in the written supervisory procedures should be documented.

NASD Rule 3010 requires that member firms establish and maintain a system of supervision reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA/NASD Rules and that it establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of its registered and associated persons.

By reason of the foregoing, RBC violated NASD Conduct Rules 3010 and 2110 and FINRA Rule 2010.

B. RBC also consents to the imposition of the following sanctions:

- Censure; and
- A fine of \$25,000.

The firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The firm has submitted an Election of Payment form showing the method by which firm proposes to pay the fine imposed.

The firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

II.

WAIVER OF PROCEDURAL RIGHTS

RBC specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against the firm;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, RBC specifically and voluntarily waives any right to claim bias or prejudice of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

RBC further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

RBC understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;

- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the firm; and
- C. If accepted:
1. this AWC will become part of RBC's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the firm;
 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the firm's disciplinary record;
 3. FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and
 4. RBC may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. The firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

The undersigned, on behalf of RBC, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the firm agrees to its provisions voluntarily; and that no offer,

threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the firm to submit it.

RBC Capital Markets LLC

12/07/2011
Date

By: Richard T. Chase
Richard T. Chase
Managing Director & General Counsel

Reviewed by:
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Accepted by FINRA:

January 3, 2012
Date

Signed on behalf of the
Director of ODA, by delegated authority

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