

STATE OF CALIFORNIA

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

DEPARTMENT OF BUSINESS OVERSIGHT

1
2
3
4
5 **In the Matter of :**)
6 **RBC Capital Markets, LLC,**) **ENF Case No. 12366**
7 **Respondent.**) **ADMINISTRATIVE CONSENT ORDER**
8)
9)

10 The Commissioner of Business Oversight (“Commissioner”) finds that:

11 WHEREAS, RBC Capital Markets, LLC (“RBC”) is a broker-dealer registered in the State of
12 California, with a Central Registration Depository (“CRD”) number of 31194; and

13 State securities regulators have conducted coordinated investigations into the registration of
14 RBC Client Associates (“CAs”) and RBC’s supervisory system with respect to the registration of CAs;
15 and

16 RBC has cooperated with regulators conducting the investigations by responding to inquiries,
17 providing documentary evidence and other materials, and providing regulators with access to facts
18 relating to the investigations; and

19 RBC has advised regulators of its agreement to resolve the investigations pursuant to the terms
20 specified in this consent order (the “Order”); and

21 RBC agrees to make certain changes in its supervisory system with respect to the registration of
22 CAs, and to make certain payments in accordance with the terms of this Order; and

23 RBC elects to waive permanently any right to a hearing and appeal under The California
24 Securities Law of 1968 (“CSL”) found at Corporations Code section 25000 *et seq.* with respect to this
25 order; and

26 Solely for the purpose of terminating the multi-state investigation, and in settlement of the
27 issues contained in this Order, RBC, without admitting or denying the findings of fact or conclusions of
28 law contained in this Order, consents to the entry of this Order.

1 NOW, THEREFORE, the Commissioner, as administrator of the CSL, hereby enters this Order:

2 **I.**

3 **FINDINGS OF FACTS**

4 1. RBC admits the jurisdiction of the California Department of Business Oversight in this matter.

5 Background on Client Associates

6 2. The CAs function as sales assistants and typically provide administrative and sales support to
7 one or more of RBC's registered representatives ("RRs"). There are different CA positions, including
8 Registered Client Associate and Registered Senior Client Associate.

9 3. The primary job duties vary depending on the specific CA position. In varying degrees, the
10 "Major Job Accountabilities" of a CA include:

- 11 a. Handling client requests;
- 12 b. Resolving client inquiries;
- 13 c. Determining if client issues require escalation to the RR or the branch management
14 team; and
- 15 d. Processing of operational documents such as letters of authorization and client check
16 requests.

17 4. In addition to the responsibilities described above, and of particular significance to this Order,
18 some CAs are permitted to accept unsolicited orders from clients, others are permitted, with the
19 assistance of a RR, to prospect for new clients, open new accounts, gather assets and select investments
20 to recommend to clients. As discussed below, RBC's written policies and procedures require that any
21 CAs accepting client orders first obtain the necessary licenses and registrations.

22 5. Notably, RRs might have a "primary CA" and a "secondary CA", or a "primary CA team" and
23 a "secondary CA team". As suggested by the designation, the customary practice is that the primary
24 CA team would handle the RR's administrative matters and client orders. However, if the primary CA
25 or team was unavailable, the secondary CA or team would step in to handle the RR's administrative
26 matters and client orders.

27 6. During the period from 2005 to 2009, RBC employed an average of approximately 672 CAs per
28 year.

1 Registration Required

2 7. Pursuant to Corporations Code section 25210(b), no person shall, on behalf of a broker-dealer,
3 effect any transaction in, or induce or attempt to induce the purchase or sale of, any security in this state
4 unless that broker-dealer and agent have complied with any rules as the commissioner may adopt for
5 the qualification and employment of those agents.

6 8. Pursuant to the general prohibition under 25210(b), an agent cannot accept unsolicited orders in
7 California without being registered in California.

8 9. Pursuant to California Corporations Code section 25252(d), a broker-dealer may be assessed an
9 administrative penalty for selling securities in California through agents other than registered agents in
10 violation of section 25210(b).

11 RBC Requires Registration of Client Associates

12 10. In order for a CA to accept client orders, RBC generally required each CA to pass the series 7
13 and 63 qualification exams and to register in the appropriate jurisdictions.

14 11. At all times relevant to this Order, RBC's policies and procedures specified that each CA
15 maintain registrations in the same jurisdictions as his or her RR, or broadly required that each CA
16 maintain registrations in all necessary jurisdictions.

17 Regulatory Investigations and Findings

18 12. During late 2009, RBC received regulatory inquiries regarding CA registrations.

19 13. The multi-state investigation focused on systemic issues with RBC CA registrations and related
20 supervisory structure. Specifically:

21 a. After accepting an order from a client, CAs accessed the electronic order entry system to
22 place the order;

23 b. The order entry system automatically recorded the identity of the person entering the
24 order using the user's login information. If the order was received from the client by someone other
25 than the person entering the order, the person entering the order was required to identify the person who
26 accepted the order from the client by typing the name or initials in a text box;

27 c. RBC's trading system checked the registration of the RR assigned to the account, but
28 did not check the registration status of the person accepting the order, if different from the RR, (the

1 “who accepted field”) to ensure that the person was registered in the appropriate jurisdiction.

2 14. The multi-state investigation identified instances in which CAs supported RRs registered in
3 California when the CAs were not registered in California as agents of RBC. This difference in
4 registration status increased the possibility that CAs would accept orders which they did not solicit
5 from customers without proper registration.

6 15. The multi-state investigation determined that it was highly likely that certain RBC CAs
7 accepted orders, which they did not solicit, in California at times when the CAs were not appropriately
8 registered in California.

9 16. As a result of the inquiries by state regulators, RBC conducted a review of its CA registration
10 practices.

11 17. RBC’s review found that as of November 2008, the firm had 692 registered CAs. While CAs
12 were registered in approximately 7 states, at that time RRs were registered, on average, in 17 states.
13 Approximately 454, almost 66% of those registered CAs, were only registered in their home state and
14 one additional state.

15 18. Many RBC CAs were not registered in the same jurisdictions as their respective RRs. RBC’s
16 review identified incidences where CAs who were not properly state registered accepted orders they
17 had not solicited.

18 19. Beginning in 2010, RBC took steps to enhance its policies and procedures regarding CAs’ state
19 registrations, and added a substantial number of CA state registrations.

20 a. In January 2010, RBC amended its registration policy to require that each CA register in
21 the same states as the RRs whom they support. RBC alerted the field to this policy.

22 b. In November 2010, Supervisors in RBC’s branches and complexes reviewed the current
23 CA registrations to ensure the CAs were properly registered prior to the annual renewals.

24 c. RBC updated its training to include additional information on registration requirements
25 and on the firm’s policies on CA registration. RBC also, as part of the annual registration renewal
26 process, added to the annual renewal notice information regarding the CA registration policy.

27 d. RBC modified its procedures regarding the manner in which it grants electronic order
28 entry access to client accounts. The required forms were revised to identify supporting CAs and the

1 forms are provided to the Licensing and Registration department to verify that proper registrations are
2 in place for RRs and CAs when access is granted.

3 e. RBC conducted Compliance Training sessions for CAs covering information on order
4 entry procedures and registration requirements.

5 f. RBC revised its registration forms to identify assigned CAs on RRs' registration forms
6 and assigned RRs on CAs' registration forms. This allows the registration and licensing group to
7 submit registrations for the CAs that mirror those held by the RRs whom they support.

8 20. RBC has also undertaken to implement enhancements to its order entry systems and to its
9 supervision of the order entry procedures. The order entry systems will require the individual entering
10 an order either to attest that he or she also accepted the order or to identify the person who accepted the
11 order by entering that person's system ID. RBC policies and procedures prohibit RBC personnel from
12 using any credentials but their own to log on to the order entry systems. RBC is developing an
13 exception report to identify any trades entered in an account for which the person who accepted the
14 order did not hold the necessary state registration.

15 21. RBC provided timely responses and substantial cooperation in connection with the regulatory
16 investigations into this issue.

17 II.

18 CONCLUSIONS OF LAW

19 1. The California Department of Business Oversight has jurisdiction of this matter pursuant to the
20 CSL.

21 2. RBC's failure to establish an adequate system to monitor the registration status of persons
22 accepting client orders constitutes a violation of Corporations Code section 25217(a) and California
23 Code of Regulations, Title 10, section 260.218.4, for a failure to establish a reasonably designed
24 supervisory system.

25 3. RBC's failure to ensure its CAs were registered in the appropriate jurisdiction constitutes a
26 failure to enforce its established written procedures in violation of California Code of Regulations,
27 Title 10, section 260.218.4(c).

28 4. Pursuant to the CSL, RBC's acceptance of orders in California through CAs who were not

1 properly registered in California constitutes a violation of Corporations Code section 25210(b) and
2 25217(a) for use and employment of unregistered agents, and / or sales representatives.

3 5. Pursuant to Corporations Code section 25252(d), the violations described above constitute a
4 basis for the assessment of an administrative penalty against RBC.

5 6. The California Department of Business Oversight finds the following relief appropriate and in
6 the public interest.

7 **III.**
8 **UNDERTAKINGS**

9 RBC hereby undertakes and agrees to establish and maintain policies, procedures and systems
10 that reasonably supervise the trade process so that a person can only accept client orders that originate
11 from jurisdictions where the person accepting the order is appropriately registered.

12 **IV.**
13 **ORDER**

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

16 **THE COMMISSIONER HEREBY ORDERS:**

17 1. This Order concludes the current action of the California Department of Business Oversight and
18 any other action that the Department could commence under the CSL as it relates to unregistered
19 activity in California by RBC's CAs and RBC's supervision of CA registration during the period from
20 January 1, 2005 through the date of this Order.

21 2. This Order is entered into solely for the purpose of resolving the referenced multi-state
22 investigation, and is not intended to be used for any other purpose. For any person or entity not a party
23 to the Order, this Order does not limit or create any private rights or remedies against RBC, limit or
24 create liability of RBC, or limit or create defenses for RBC, to any claims.

25 3. RBC is hereby ordered to pay the sum of \$33,520.17 to the California Department of Business
26 Oversight within 10 days of this order (payable to the California Department of Business Oversight c/o
27 Erik Brunkal, Senior Corporations Counsel, 1515 K St., Suite 200, Sacramento, CA 95814.)

28 4. RBC is hereby ordered to comply with the Undertakings contained herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. This Order is not intended by the California Department of Business Oversight to subject a Covered Person to any disqualifications under the laws of the United States, any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands including, without limitation, and disqualification from relying upon the state or federal registration exemptions or safe harbor provisions. "Covered Person," means RBC or any of its affiliates and their current or former officers or former officers, directors, employees, or other persons that would otherwise be disqualified as a result of the Orders (as defined below).

6. This Order and the order of any other State in related proceedings against RBC (collectively, the "Orders") shall not disqualify any Covered Person from any business that they otherwise are qualified, licensed or permitted to perform under applicable securities laws of the State of California, and any disqualifications from relying upon this state's registration exemptions or safe harbor provisions that arise from the Orders are hereby waived.

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

Dated: October 31, 2013
Sacramento, California

JAN LYNN OWEN
California Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY RBC

RBC hereby acknowledges that it has been served with a copy of this Administrative Consent Order (“Order”), has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

RBC admits the jurisdiction of the Department of Business Oversight, neither admits nor denies the Findings of Facts and Conclusions of Law contained in this Order, and consents to entry of this Order by the Department of Business Oversight as settlement of the issues contained in this Order.

RBC agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal, or local tax for any administrative monetary penalty that RBC shall pay pursuant to this Order.

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

Joe Fleming represents that s/he is Sr. V.P. Compliance Director of RBC and that, as such, has been authorized by RBC to enter into this Order for and on behalf of RBC.

Dated this 22 day of October, 2013.

RBC Capital Markets, LLC

By: _____

Title: _____

SUBSCRIBED AND SWORN TO before on this ___ day of _____, 2013.

[affix seal]

Notary Public in and for the State of California

My Commission expires:

