

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 59439 / February 24, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13379

In the Matter of

**RBC Capital Markets
Corporation**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 15(b)(4), 15B(c)(2)
AND 21C OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS AND
IMPOSING REMEDIAL SANCTIONS AND A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b)(4), 15B(c)(2) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against RBC Capital Markets Corporation (“RBC” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b)(4), 15B(c)(2) and 21C of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that

SUMMARY

1. These proceedings arise out of violations by RBC of the fair dealing, gifts and gratuities, and supervisory rules of the Municipal Securities Rulemaking Board ("MSRB") for advances made on behalf of and expenses reimbursed to one of its municipal clients (the "City") during the City's municipal bond issuance process. As part of the process of regularly issuing bonds to raise capital to fund its operations, the City obtained credit ratings for its bond offerings from rating agencies based in New York City. City officials traveled to New York on a nearly annual basis to meet with analysts from the rating agencies ("Rating Trip"). On Rating Trips taken in 2004 and 2005, City officials were accompanied by family members, dined at upscale restaurants, attended Broadway shows and sporting events, and had access to a private car service. These two trips lasted six days, even though meetings with the ratings agencies were held on one or two days. After receiving instructions from a representative of the City regarding activities of interest to City officials and family members, RBC organized the activities for each trip, and then advanced the payment for nearly all of the expenses incurred by the City officials and their family members. RBC then obtained, with the knowledge and approval of certain City officials, reimbursement for all expenses incurred on the Rating Trips as a cost of issuance, directly from bond proceeds at closing.

RESPONDENT

2. RBC Capital Markets Corporation ("RBC"), formerly known as RBC Dain Rauscher, Inc., is a Minnesota corporation headquartered in Minneapolis, Minnesota, with offices nationwide. RBC has been registered with the Commission as a broker-dealer since 1992, with the MSRB since 1993, and with FINRA since 1993. RBC is a wholly-owned subsidiary of the Royal Bank of Canada, which has been registered with the Commission since 1981 and trades on the New York Stock Exchange under the symbol "RY."

FACTS

BACKGROUND

3. Since in or about 1990, RBC has acted as financial advisor to the City. As the City's financial advisor, RBC has assisted the City in: (1) putting together its bond issues, (2) getting its bond issues rated by rating agencies, (3) scheduling trips to meet with rating agencies, (4) structuring the bond issues, (5) working with the underwriters for the bonds, (6) advising on general economic matters affecting the City, and (7) advising the City on special development projects.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

4. Throughout its relationship with RBC, the City has undertaken nearly annual bond offerings to raise capital for its day-to-day operations, as well as for specific infrastructure projects such as roads, sewerage, and parks.

5. As a routine part of its bond offerings, the City has sought ratings for its bonds from national rating agencies. As part of the process of obtaining municipal bond ratings, RBC and City officials traveled to New York to meet face-to-face with rating agency analysts.

6. In advance of each Rating Trip, City officials coordinated with RBC to plan and organize various activities. RBC scheduled the official meetings with the rating agencies, made hotel reservations for the Rating Trip participants, and in some years reserved a private car service to transport the City officials around New York City. City officials typically advised RBC regarding entertainment activities (such as theater or sports events) and restaurants it had selected, and thereafter RBC made the necessary reservations and advanced the funds to purchase the requested entertainment tickets.

7. Following each Rating Trip, RBC reimbursed the City officials for expenses they incurred during the Rating Trip, including expenses for meals and entertainment. Then, at the close of the City's annual bond offerings and with the City's knowledge and approval, RBC obtained reimbursement for all Rating Trip expenses that it paid or advanced as part of the Rating Trip as a cost of issuance from the proceeds of that year's municipal bond offerings.

2004 RATING TRIP

8. In early 2004, the City decided that it wanted to meet face-to-face with two rating agencies in support of its annual municipal bond offerings ("2004 Rating Trip"). On the City's behalf, RBC scheduled the relevant meetings to take place in New York on Monday, March 22.

9. RBC's Fixed Income Banking Department Manual, dated February 2004, stated that "before an [RBC] employee provides meals, entertainment, or any other item of value to a public official, it is vital that the employee ascertain whether the gift is permitted under applicable state or local laws."

10. The City's rules and regulations set forth, among other things, certain policies that applied to City employees while traveling on official City business, including the following:

- Travel times for official trips should not exceed one-half day prior to and one-half day following business meetings.
- City employees are expected to select the mode of transportation most economical to the City, and if private vehicles are used, the cost should not exceed the comparable cost of a public vehicle.
- Lodging expenses will be reimbursed for the actual number of days of the meeting (with an allowance for travel time).
- City employees will not be reimbursed for bar bills or entertainment expenses.
- Spouses or other family members may accompany City employees on official trips, but that employee shall pay all incremental costs related to having that family

member along. Examples of incremental costs include the difference in lodging costs between single and double occupancy, and all meal and incidental costs of the family member.

11. Once the official meeting dates were set for the 2004 Rating Trip, the City selected five officials to meet with the rating agencies: the Mayor, the Deputy Mayor Pro Tem, the City Manager, the Director of Finance, and a Councilman. To accompany them on the trip, the Mayor brought along his spouse and two daughters, the Deputy Mayor Pro Tem brought her daughter and grandson, and the Councilman brought his spouse.

12. Even though the meetings were scheduled to take place on Monday, March 22, the Mayor, the Deputy Mayor Pro Tem, the Councilman, and their respective family members arrived in New York on Wednesday, March 17. The City Manager and the Director of Finance arrived in New York on Friday, March 19. Two RBC representatives arrived in New York on Sunday, March 21, the day before the rating agency meetings.

13. Less than a week before the 2004 Rating Trip, RBC sent the City a draft approval letter, with an itinerary and cost estimate for the trip attached thereto. The approval letter stated that the City had reviewed and approved the itinerary and cost estimate, and also indicated that it was appropriate for the individuals taking part in the trip to attend. The letter further set forth that the City authorized RBC to “finalize the arrangements and coordinate the billing of appropriate travel costs to the City at the completion of the financing.” The City’s Director of Finance adopted the letter verbatim, printed it out on City letterhead, signed it, and returned it to RBC.

14. On the 2004 Rating Trip, City officials and their family members stayed at the Westin New York at Times Square at a cost of \$8,958. Three of the five City officials stayed in “regular” rooms, while the Mayor and the Councilman (and their respective family members) stayed in “junior suites” at a higher cost per night than the “regular” rooms. RBC made the reservations and advanced the payment for all of the City’s hotel rooms.

15. During the 2004 Rating Trip, City officials and their family members dined at Tavern on the Green, Rocco’s on 22nd Street, Del Frisco’s Steakhouse, Le Cirque, and Mr. Chow’s at a cost of \$7,552.

16. During the 2004 Rating Trip, City officials and their family members attended the Broadway plays Mama Mia, The Lion King, Chicago, and The Producers, as well as a New York Knicks basketball game, at a cost of \$7,250.

17. For the 2004 Rating Trip, RBC arranged for the City officials and their family members to have access to private car service to drive them to and from the airport, hotel, restaurants, entertainment venues, shopping excursions, and business meetings. The car service for the 2004 Rating Trip cost \$8,883, but only \$1,000 of that amount was attributable to use by the City officials on Monday, March 22, the day they met with the rating agencies.

18. After returning from the 2004 Rating Trip, City officials sent reimbursement requests to RBC for out-of-pocket expenses incurred during the trip, including hotel and restaurant

expenses not previously paid for by RBC. RBC processed the requests and issued reimbursement checks to each City official for their respective out-of-pocket expenses. In total, RBC advanced \$33,452 for expenses incurred by City officials and their family members during the 2004 Rating Trip, including restaurant, car service, hotel, and entertainment expenses.

19. The City officials did not reimburse the City for incremental costs related to having family members along on the trip, entertainment and meal expenses, the costs of a private car service in excess of the cost of public vehicles, or for lodging expenses incurred on the days in addition to the day of the rating agency meetings (with an allowance for travel time).

20. When the City's 2004 bond offerings closed, RBC sought and obtained reimbursement for all of the 2004 Rating Trip expenses directly out of the proceeds of the bond offerings as a cost of issuance. In total, the expenses incurred during the 2004 Rating Trip accounted for approximately eight percent of the City's 2004 bond issuance costs.

SEC EXAMINATION

21. In August and September 2004, a team of SEC examiners ("Exam Staff") conducted an examination of RBC and its municipal bond underwriting and financial advisory activities. The Exam Staff identified certain areas of concern regarding Rating Trips, which it discussed with RBC upon completion of the exam, including (a) the types of expenses being advanced to clients, (b) the fact that RBC was paying expenses for family members of clients, and (c) the possible excessiveness of Rating Trip expenses.

22. On September 8, 2004, RBC circulated an e-mail concerning the propriety of certain expenses incurred on Rating Trips, reminding employees that such expenses may be subject to the scrutiny of regulators and the media.

23. Several months later, on February 14, 2005, RBC circulated another e-mail concerning the propriety of gift and entertainment expenses. The memorandum reminded RBC employees that the payment of meals and sporting or theatrical tickets was allowed and did not count against the \$100 gift limit *only if* (a) an RBC representative is personally acting as host and is present throughout the entertainment, and (b) the entertainment is not so frequent or expensive as to raise a suggestion of impropriety.

2005 RATING TRIP

24. In support of the City's 2005 municipal bond offerings, City officials again decided to meet face-to-face with representatives from the rating agencies, and asked RBC to help plan a Rating Trip on the City's behalf ("2005 Rating Trip").

25. The City selected five officials to meet with the rating agencies for the 2005 Rating Trip: the Mayor, Deputy Mayor Pro Tem, Director of Finance, City Manager, and a Councilman. To accompany them on the trip, the Mayor brought his spouse and two children, the Deputy Mayor Pro Tem brought his spouse and two children, the Councilman brought his spouse and child, and

the City Manager brought his spouse. In total, the City contingent increased from 11 in 2004 to 14 in 2005.

26. For the 2005 Rating Trip, RBC scheduled the City's meetings with one rating agency on Monday, March 14, and another on Tuesday, March 15. The itinerary for the City officials and their family members, however, spanned six days, from Friday, March 11 to Wednesday, March 16. Two RBC representatives traveled to New York on Sunday, March 13, the day before the rating agency meetings.

27. On February 25, 2005, two weeks prior to the 2005 Rating Trip, RBC sent a letter to the City's Director of Finance, advising him and the City about certain expense issues (the "February 2005 Letter"). The February 2005 Letter, which was reviewed and approved by several RBC supervisors, advised that (a) spouses of City officials, while welcome to attend the Rating Trip, should pay their own expenses; (b) when entertainment and related transportation expenses are charged to the City, the individual should reimburse the City; and (c) when meal and related transportation expenses are charged to the City, the City should determine whether the individuals should reimburse some portion of the expense. The City's Director of Finance countersigned the letter on behalf of the City and returned it to RBC.

28. In preparation for the 2005 Rating Trip, RBC worked with City officials to determine where they and their family members wanted to stay and dine, and what Broadway shows and events the officials and their family members wanted to attend. As it had done in 2004, the City advised RBC concerning the entertainment activities and restaurants it had selected, and RBC thereafter located tickets to the entertainment events, made hotel and restaurant reservations, and coordinated the itinerary of activities for all Rating Trip attendees. RBC also advanced the payment for those items.

29. For the 2005 Rating Trip, City officials and their family members stayed at the Westin New York at Times Square at a cost of \$13,262. Two of the five City officials stayed in "regular" rooms, while the Mayor, Deputy Mayor Pro Tem, and Councilman (and their respective family members) stayed in "junior suites" at a higher cost per night than the "regular" rooms.

30. During the 2005 Rating Trip, City officials and family members dined at Sea Grill, Tavern on the Green, Bouley, Del Frisco's Steakhouse, 21 Club, and Shula's Steakhouse, at a cost of \$5,690, and attended the Broadway shows Beauty and the Beast, Wicked, the Lion King, The Producers, and Hairspray, as well as the Metropolitan Opera, at a cost of \$8,450.

31. For the 2005 Rating Trip, RBC again arranged for the City officials and their family members to have access to private car service to drive them to-and-from the airport, hotel, restaurants, entertainment venues, shopping excursions, and business meetings. The car service for the 2005 Rating Trip cost \$14,370.

32. Shortly after the 2005 Rating Trip, City officials sent reimbursement requests to RBC for out-of-pocket expenses incurred during the trip, including hotel and restaurant expenses for them and their family members. As it had done in 2004, RBC processed the requests and issued reimbursement checks to the City officials.

33. On April 26, 2005, as part of the process of compiling the final “cost of issuance” figure for the City’s 2005 bond offerings, RBC asked the City officials to detail any additional costs that they had incurred on the 2005 Rating Trip. The following day, the Director of Finance listed \$3,639.51 in additional costs incurred by City officials and family members on the 2005 Rating Trip, which RBC then reimbursed. These additional amounts brought the cost of the 2005 Rating Trip (including hotel, car service, food, and entertainment) – and the amount advanced by RBC – to \$42,213.

34. RBC then prepared a comprehensive spreadsheet detailing the total costs of issuance, which included a separate line item for RBC’s Rating Trip expenses. This line item included expenses incurred by family members of City officials, entertainment and transportation related expenses, and meal and transportation related expenses.

35. On April 27, at or around the same time RBC was compiling expenses incurred on the 2005 Rating Trip in order to calculate the costs of issuance for the City’s 2005 bond offerings, RBC sent the City a letter (the “April 2005 Letter”) that reiterated the concerns RBC had raised in the February 2005 Letter, and attached a complete, detailed retrospective itinerary that included all activities, participants, and costs.

36. On May 5, 2005, in anticipation of the closing of the City’s bond offerings, RBC sent the City an invoice for RBC’s fees and expenses incurred relating to the City’s 2005 bond offerings. RBC’s invoice contained the following four categories of fees and expenses: (1) financial advisory services: \$128,166.25; (2) structuring fee: \$32,041.56; (3) out-of-pocket expenses [in town]: \$4,500; and (4) out-of-pocket expenses [out of town]: \$42,213.48.

37. The “out-of-pocket expenses [out of town]” listed on the invoice were expenses incurred entirely in connection with the 2005 Rating Trip, which amounted to approximately 11 percent of the City’s 2005 municipal bond issuance costs. RBC sought and obtained reimbursement for these expenses as a “cost of issuance” from the City’s 2005 bond proceeds.

38. Notwithstanding the concerns set forth in both the February 2005 Letter and the April 2005 Letter, RBC reimbursed City officials for 2005 Rating Trip expenses incurred (a) by family members, (b) for entertainment and related transportation expenses, and (c) for meal and related transportation expenses. Supervisors at RBC reviewed these reimbursements. RBC then sought and obtained reimbursement for the 2005 Rating Trip expenses from the City’s bond proceeds as a “cost of issuance.”

39. The City officials did not reimburse the City for incremental costs related to having family members along on the trip, entertainment and meal expenses, the costs of a private car service in excess of the cost of public vehicles, or for lodging expenses incurred on the days in addition to the days of the rating agency meetings (with an allowance for travel time).

40. RBC employees and supervisors reviewed the expenses incurred by City officials on the 2004 and 2005 Rating Trips. RBC thereafter reimbursed City officials for those expenses,

which, under the City's travel policies, the City officials would not have been able to obtain reimbursement from the City.

41. Because the City officials did not reimburse the City for certain expenses incurred on the Rating Trips, the funds for which were advanced by RBC and recouped as a cost of issuance from bond proceeds, the City officials and their family members received, at no cost to them, thousands of dollars of entertainment tickets, private transportation, hotel rooms, and meals.

42. By obtaining reimbursement for all expenses incurred on the Rating Trips as a cost of issuance from the City's bond proceeds, RBC engaged in a deceptive, dishonest, or unfair practice with its client, the City.

43. Since the 2005 Rating Trip, RBC has taken significant steps to improve the way it organizes and oversees Rating Trips taken by its clients. These steps are reflected in RBC's employee policy manuals and employee training programs. Among other things, RBC now requires its clients to arrange and pay for expenses incurred on Rating Trips involving entertainment, transportation, and meals.

VIOLATIONS

44. Section 15B(b) of the Exchange act established the MSRB and empowered it to propose and adopt rules with respect to transactions in municipal securities by brokers, dealers, and municipal securities dealers. Section 15B(c)(1) prohibits a broker, dealer or municipal securities dealer from using the mails or any instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security in violation of any MSRB rule. As a municipal securities dealer, RBC was subject to Section 15B(c)(1) of the Exchange Act and the MSRB rules.

45. As a result of the conduct set forth above, RBC violated MSRB Rule G-17, which requires municipal securities dealers to deal fairly with all persons and not to engage in any deceptive, dishonest, or unfair practice.

46. As a result of the conduct set forth above, RBC violated MSRB Rule G-20(a), which prohibits any broker, dealer, or municipal securities dealer from, directly or indirectly, giving or permitting to be given any thing or service of value, including gratuities, in excess of \$100 per year to a person other than an employee or partner of such broker, dealer, or municipal securities dealer, if such payments or services are in relation to the municipal securities activities of the recipient's employer.

47. As a result of the conduct set forth above, RBC violated MSRB Rule G-27, which requires, among other things, that (a) each broker, dealer and municipal securities dealer supervise the conduct of its municipal securities business and the municipal securities activities of its associated persons to ensure compliance with MSRB rules as well as the applicable provisions of the Exchange Act and the rules promulgated thereunder; and (b) each broker, dealer and municipal securities dealer to adopt, maintain, and enforce written supervisory procedures reasonably designed to ensure compliance with the same rules and Exchange Act provisions.

48. As a result of RBC's violations of MSRB Rules G-17, G-20, and G-27, RBC willfully² violated Section 15B(c)(1) of the Exchange Act.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer. Accordingly, pursuant to Sections 15(b)(4), 15B(c)(2) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent is censured.

B. Respondent cease and desist from committing or causing any violations and any future violations of Section 15B(c)(1) of the Exchange Act, and MSRB Rules G-17, G-20, and G-27.

C. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$125,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies RBC as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to Stephen Korotash, Division of Enforcement, Securities and Exchange Commission, 801 Cherry Street, 19th Floor, Fort Worth, TX 76102.

By the Commission.

Elizabeth M. Murphy
Secretary

² A willful violation of the securities laws means merely "that the person charged with the duty knows what he is doing." *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (quoting *Hughes v. SEC*, 174 F.2d 969, 977 (D.C. Cir. 1949)). There is no requirement that the actor "also be aware that he is violating one of the Rules or Acts." *Id.* (quoting *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965)).