

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of)	
)	
RBC Wealth Management,)	FINDINGS OF FACT
f/k/a RBC Dain Rauscher,)	CONCLUSIONS OF LAW
One Liberty Plaza,)	AND
165 Broadway,)	CONSENT ORDER
New York, New York; and)	
)	
RESPONDENTS.)	

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Securities Act of Nebraska, Neb. Rev. Stat. §§ 8-1101 to 8-1124 (Reissue 2007, Supp. 2009) (“Act”). Pursuant to Neb. Rev. Stat. § 8-1115 (Reissue 2007), the DEPARTMENT has investigated the acts of RBC Wealth Management, f/k/a RBC Dain Rauscher, One Liberty Plaza, 165 Broadway, New York, New York. As a result of such investigation, and being fully advised and informed in the matter, the Director and RBC Wealth Management enter into the following Findings of Fact, Conclusions of Law and Consent Order (“Order”).

FINDINGS OF FACT

1. RBC Wealth Management (“RBC”) is a division of RBC Capital Markets, a corporation organized under the laws of the State of Minnesota, and registered as a foreign corporation in the State of Nebraska, with its principal place of business at One Liberty Plaza, 165 Broadway, New York, New York.

2. At all times relevant to this Order, RBC was registered as a broker-dealer approved to transact a general securities business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Reissue 2007).

3. At all times relevant to this Order, Randy Rankin (“Rankin”) has been an agent of RBC, registered to transact a general securities business in Nebraska pursuant to Neb. Rev. Stat. § 8-1103 (Reissue 2007). Rankin maintained an office in Nebraska at 6940 “O” Street, Suite #400, Lincoln, Nebraska, which is a branch office of RBC registered with the Financial Industry Regulatory Authority.

4. At all times relevant to this Order, Gary Hoebelheinrich (“Hoebelheinrich”) was the branch manager of the RBC Wealth Management office at 6940 “O” Street, Suite # 400, Lincoln, Nebraska.

5. On or about November 12, 1999, JW, a resident of the State of Nebraska, opened an account for financial and investment services with RBC, with Rankin as her agent on that account. RBC is aware of the identity of JW, which is being kept confidential for privacy reasons.

6. On or about February 12, 2001, Hoebelheinrich and Rankin reviewed the account of JW at RBC for the calendar year 2000. The review disclosed that:

- a. The “annualized commission on assets (equity)” for the account as a percentage was nine point eight (9.8%);
- b. The average account value for the year had been four hundred fifty-nine thousand six hundred eight dollars and eleven cents (\$459,608.11);
- c. The total commissions paid were forty-five thousand two hundred fifty-three dollars and seven cents (\$45,253.07); and

d. A total of one hundred and thirty-one (131) trades were made in the account for the calendar year 2000.

Rankin stated that the client relied on his recommendations one-hundred percent (100%) of the time.

7. On or about April 25, 2002, Hoebelheinrich and Rankin conducted a review of the account of JW at RBC for the calendar year 2001. The review disclosed that:

a. The “annualized commission on assets (equity)” for the account as a percentage was thirteen point zero (13.0%);

b. The average account value for the year had been one hundred fifty thousand eight hundred twenty-eight dollars and five cents (\$150,828.05);

c. The total commissions paid were nineteen thousand six hundred sixteen dollars and seventy-three cents (\$19,616.73); and

d. A total of one hundred and twenty-two (122) were trades made in the account for the calendar year 2001.

Rankin stated that the client relied on his recommendations one-hundred percent (100%) of the time.

8. On or about February 17, 2003, Hoebelheinrich and Rankin conducted a review of the account of JW at RBC for the calendar year 2002. The review disclosed that:

a. The “Commission as a % of average Balance” for the account as a percentage was twelve point zero six (12.06%);

- b. The average account value for the year had been one hundred and ten thousand four hundred sixty-seven dollars and zero cents (\$110,467.00);
- c. The total commissions paid were thirteen thousand four hundred thirty-eight dollars and zero cents (\$13,438.00); and
- d. The total of seventy-three (73) trades were made in the account for the calendar year 2002.

Rankin stated that one-hundred percent (100%) of the time solicitation of the trades came from Rankin.

CONCLUSIONS OF LAW

- 1. The DEPARTMENT has jurisdiction over this matter pursuant to the Act.
- 2. Neb. Rev. Stat. 8-1103(9) (Reissue 2007) provides, in part, that the Director may by order deny, suspend, or revoke the registration of any registrant, or bar, censure, or impose a fine pursuant to Neb. Rev. Stat. § 8-1108.01(4) on a registrant if the Director finds that the order is in the public interest and the registrant has, among other things, engaged in dishonest or unethical practices in the securities business, or if a broker-dealer failed to adequately supervise its agents or employees to assure compliance with the Act. 48 NAC 4.008 provides that a broker-dealer is ultimately responsible for the acts of its agents and other associated persons, and must maintain reasonable supervision and control at all times.
- 3. The facts set forth in Findings of Fact Nos. 1 through 8, above, constitute a failure by RBC to supervise its agent Rankin to ensure compliance with the Act and the rules promulgated pursuant to the Act, in that RBC did not enforce policies and procedures designed to prevent Rankin, over a three-year period, from engaging in

trading in JW's account which appears to be excessive in size or frequency in view of the customer's financial resources and the character of the account.

4. Under the Act's statutory framework, the Director has legal and equitable authority to fashion significant protective remedies.

5. It is in the best interest of RBC, and it is in the public's best interest, for RBC and the Director to resolve the issues included herein.

CONSENT ORDER

NOW THEREFORE, the parties to this Order agree as follows:

Stipulations: In connection with this Order, RBC and the Director stipulate to the following:

- a. The DEPARTMENT has jurisdiction as to all matters herein.
- b. An Order should be entered in this matter, which shall be in lieu of all other proceedings by the DEPARTMENT, except as specifically referenced in this Order.

RBC further represent as follows:

1. RBC is aware of its respective rights to a hearing on this Order at which it may be represented, either individually or collectively, by counsel, present evidence, and cross-examine witnesses. The right to such a hearing and any related appeal on all matters covered by this Order, is irrevocably waived.
2. RBC is acting free from any duress or coercion of any kind or nature.
3. RBC neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order and consents to entry of this Order by the DEPARTMENT as settlement of the issues contained in this Order.

FURTHER, RBC agrees to take whatever action is necessary to ensure compliance with all provisions of the Act in the future. If, at any time, the DEPARTMENT determines that RBC has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

IT IS THEREFORE ORDERED as follows:

1. RBC Wealth Management, f/k/a RBC Dain Rauscher, shall disgorge commissions paid by JW in 2000, 2001 and 2002 in the amount of forty thousand dollars (\$40,000.00) within thirty (30) days of the effective date of this Order. RBC shall provide the DEPARTMENT with proof of the payment of the disgorgement within fifteen (15) days of the payment.

2. RBC Wealth Management, f/k/a RBC Dain Rauscher, shall pay a fine in the amount of fifteen thousand dollars (\$15,000.00).

3. RBC Wealth Management shall reimburse the DEPARTMENT for a portion of the costs of the investigation in the amount of five thousand dollars (\$5,000.00).

4. RBC Wealth Management shall pay the total amount of the fine and costs assessed against RBC Wealth Management pursuant to this Order in the amount of twenty thousand dollars (\$20,000.00), by check or money order payable to the Nebraska Department of Banking and Finance, within thirty (30) days of the effective date of this Order.

5. For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against RBC, limit or create liability of RBC or limit or create defenses of RBC to any claims.

6. Nothing herein shall preclude the State of Nebraska, its departments, agencies, boards, commissions, authorities, political subdivisions, and corporations, other than the DEPARTMENT (collectively, "State Entities"), and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against RBC in connection with the subject matter of this Order.

In the event that either RBC fails to comply with any of the provisions of this Order, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.

The effective date of this Order will be the date of the Director's signature.

DATED this 30 day of March, 2010.

RBC WEALTH MANAGEMENT

By: 

Printed Name: THOMAS SAGER
Title: Midwest Regional Director
One Liberty Plaza
165 Broadway
New York, New York

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DATED this 1st day of April, 2010.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**



By: John Munn
John Munn, Director

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