

BEFORE THE SECURITIES COMMISSIONER
FOR THE STATE OF DELAWARE

In the matter of)

Case No. 11-11-3

RAYMOND JAMES & ASSOCIATES,
INC., AND RAYMOND JAMES
FINANCIAL SERVICES, INC.,)

ADMINISTRATIVE CONSENT ORDER

Respondents.)

WHEREAS, Raymond James & Associates, Inc. ("Respondent RJ") and Raymond
James Financial Services, Inc. ("Respondent RJFS") (collectively, "Respondents") are broker-
dealers registered in the state of Delaware; and

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

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

WHEREAS, on June 29, 2011 Respondents and the multi-state task force reached an
agreement to resolve the investigations relating to Respondents' sale of ARS to certain customers;
and

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

WHEREAS, Respondents elect to waive permanently any right to a hearing and appeal
under the Delaware Securities Act (6 Del. C. Ch. 73)(the "Act"), with respect to this
Administrative Consent Order (the "Order"); and

1 WHEREAS, Respondents admit the jurisdiction of the Securities Commissioner for the
2 State of Delaware ("Commissioner") and consent to the entry of this Order by the Commissioner;
3 and

4 WHEREAS, Respondents have voluntarily agreed to purchase ARS from certain
5 customers, as described in Section IV below, and to use best efforts to provide liquidity solutions
6 for certain other customers; and

7
8 WHEREAS, Respondents neither admit nor deny the Findings of Fact and Conclusions of
9 Law contained in this Order.

10 NOW, THEREFORE, the Commissioner, as administrator of the Act, hereby enters this
11 Order:

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13 I.

14 **RESPONDENTS**

15 1. Respondent RJA (CRD #705) was, at all times material herein, a Florida
16 corporation with its principal place of business at 880 Carillon Parkway, St. Petersburg, Florida
17 33716.

18 2. Respondent RJFS (CRD #6694) was, at all times material herein, a Florida
19 corporation with its principal place of business at 880 Carillon Parkway, St. Petersburg, Florida
20 33716.

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22 II.

23 **FINDINGS OF FACT**

24 3. Respondents are each in the business of effecting transactions in securities in the
25 State of Delaware as a "broker-dealer" within the meaning of the Act.

4. Respondents have customers located across the United States of America, including Delaware.

5. Prior to February 13, 2008, Respondents sold financial instruments known as auction rate securities (“ARS”) to [state] residents.

ARS

6. ARS are bonds or preferred stocks that have interest rates or dividend yields that are periodically reset through an auction process, typically every seven (7), twenty-eight (28), or thirty-five (35) days.

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

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

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

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

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

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

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

1 14. The final yield rate at which the ARS were sold was the "clearing rate" and the
2 clearing rate applied to that particular ARS until the next auction.

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

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

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

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

11 19. In the event of a failed auction, an ARS issuer pays the holders a maximum rate or
12 "penalty" rate, which is either a flat rate or a rate based on a formula set forth in the ARS offering
13 documents.

14 20. Penalty rates might be higher or lower than the prior clearing rate or market rates
15 on similar products.

16 21. To facilitate the auction process, issuers of ARS selected one or more broker-
17 dealers to underwrite an offering and/or manage an auction process.

18 22. In many instances, these broker-dealers submitted their own bids to support the
19 ARS auctions and to prevent the auctions from failing, maintain an orderly market, or set a
20 clearing rate.

1 23. Due to various market conditions in the early part of 2008, many of the broker-
2 dealers that acted as underwriters of the ARS offerings or as lead managers for the ARS auctions
3 stopped submitting their own bids in support of the ARS auctions.

4 24. As a result, by February 13, 2008, the ARS market began to experience
5 widespread auction failures, leaving ARS investors, including some of Respondents' customers
6 throughout the United States of America, unable to sell their ARS holdings.

7 25. On February 13, 2008, through the date of this Order, the ARS market has
8 continued to experience widespread failures, making ARS holdings illiquid.

9 26. Some ARS have been redeemed by their issuers since February 13, 2008.
10 Thousands of ARS investors, however, including some of Respondents' customers, have been
11 unable to liquidate their ARS positions through the auction process.

12 27. Respondents' customers currently hold hundreds of millions of dollars in illiquid
13 ARS that they are unable to sell through the auction process.

14 **Respondents' Roles in the ARS Market**

15 28. Respondent RJA acted as an underwriter of single-issue municipal auction rate
16 securities ("MARS"). RJA managed the auctions of MARS it underwrote and of MARS
17 underwritten by other broker-dealers. Additionally, RJA submitted bids in the auctions it
18 managed to prevent them from failing, to maintain an orderly market, or to set a clearing rate.

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

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

6 Respondents' ARS Sales to Customers

7 31. In selling ARS to its customers prior to the middle of February 2008, some of
8 Respondents' registered representatives and financial advisors made inaccurate comparisons
9 between ARS and other investments, such as money market funds, telling customers that ARS
10 were "cash equivalents," "the same as cash," and "highly liquid," but with a slightly higher yield.
11 Respondents' registered representatives and financial advisors also did not accurately characterize
12 the investment nature of ARS since ARS are highly complex securities that are very different
13 from money market funds, as evidenced by, among other things, the dependence of ARS on
14 successful auctions for liquidity.
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16 32. Respondents' ARS trade confirmations, sent after customers purchased ARS,
17 disclosed the risks that these auctions could fail and that Respondents were not obligated to
18 ensure their success. Nevertheless, Respondents did not provide customers with adequate and
19 complete disclosures regarding the complexity of the auction process, including failing to
20 adequately disclose to customers that Respondent RJA managed the auctions of the MARS and
21 that RJA routinely bid in MARS auctions to prevent a failed auction, maintain an orderly market,
22 or set a particular clearing rate. For example, some of Respondents' registered representatives
23 and financial advisors did not adequately disclose to customers that their ARS could become
24 illiquid for an indeterminate period of time in the event of an auction failure.
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33. The information described in Paragraphs 31 through 32 was material to Respondents' customers.

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

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

III.

CONCLUSIONS OF LAW

36. The Commissioner has jurisdiction over this matter pursuant to 6 Del. C. 73-102.

37. By engaging in the acts and conduct set forth in paragraphs II.3 through II.35, Respondents engaged in dishonest or unethical practices in violation of 6 *Del. C. sec. 73-304(a)(7)* (formerly 6 *Del. C. sec. 7316(a)(7)*).

38. By engaging in the acts and conduct set forth in paragraphs II.3 through II.35, Respondents failed to reasonably supervise their agents in violation of 6 *Del. C. sec. 73-304(a)(10)* (formerly 6 *Del. C. sec. 7316(a)(10)*).

1 IV.

2 ORDER

3 On the basis of the Findings of Fact, Conclusions of Law, and Respondents' consent to
4 the entry of this Order, without admitting or denying the facts or conclusions herein.

5 IT IS HEREBY ORDERED:

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7 1. This Order concludes the investigation by the Commissioner and precludes any
8 other action that the Commissioner could commence against the Respondents under the Act on
9 behalf of Delaware as it relates to Respondents' sale of auction rate securities to Eligible
10 Investors, as defined below.

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

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14 3. Respondents shall cease and desist from violating the Act and will comply with the
15 Act.

16 4. The Respondents shall pay the sum of \$5,766.45 dollars to the State of Delaware
17 Investor Protection Fund, which amount constitutes Delaware's proportionate share of the total
18 state settlement amount of \$1,750,000.00. The Respondents shall satisfy their obligation to make
19 said payment by delivering to the Commissioner, within twenty days from the date of this order, a
20 check drawn on good and sufficient funds in the amount of \$5,766.45 made payable to the State
21 of Delaware. In the event another state securities regulator determines not to accept Respondents'
22 settlement offer, the total amount of the payment to the state of Delaware shall not be affected.

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24 5. Respondents shall take certain measures with respect to current and former
25 customers with respect to "Eligible Auction Rate Securities", as defined below in Paragraph IV.6.

1 6. "Eligible Auction Rate Securities". For purposes of this Order, "Eligible Auction
2 Rate Securities" means auction rate securities purchased at Respondents on or before February
3 13, 2008, and that have failed at auction at least once since February 13, 2008. Notwithstanding
4 the foregoing definition, the term "Eligible Auction Rate Securities" shall not include auction rate
5 securities that were purchased at Respondents in accounts owned, managed or advised by or
6 through correspondent broker-dealers or unaffiliated registered investment advisers.
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8 7. "Eligible Investors". For purposes of this Order, "Eligible Investors," shall mean
9 the following:

10 (1) Any investor that purchased Eligible Auction Rate Securities at Respondents on or
11 before February 13, 2008, did not transfer such Eligible Auction Rate Securities away from
12 Respondents prior to January 1, 2006, and held those securities on February 13, 2008.
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14 (2) "Eligible Investors," for the purposes of this Order, shall not include institutional
15 money managers.

16 (3) "Eligible Investors," for the purposes of this Order, shall not include customers
17 who resolved their ARS claims through arbitration proceedings or negotiated settlements with
18 Respondents.
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20 8. Purchase Offer. Respondents shall offer to purchase, at par plus accrued and
21 unpaid dividends/interest, from Eligible Investors their Eligible Auction Rate Securities that have
22 failed at auction at least once since February 13, 2008 (the "Purchase Offer").

23 9. Notification and Buyback Procedures.

24 a. Respondents shall create a written notice related to the Purchase Offer (the
25 "Notice"). The Notice shall explain the relevant terms of this Order and describe what Eligible
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1 Investors must do to accept, in whole or in part, the Purchase Offer, including how Eligible
2 Investors may accept the Purchase Offer.

3 b. Initial Notice

4 i. Respondents shall have provided the Notice to Eligible Investors who purchased
5 Eligible Auction Rate Securities at Respondents by no later than thirty (30) days from June 29,
6 2011.

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8 ii. Furthermore, Respondents shall have undertaken their best efforts to identify and
9 locate customers who purchased Eligible ARS at Respondents but who transferred such Eligible
10 ARS away from Respondents prior to January 1, 2006 by no later than thirty (30) days from June
11 29, 2011. Respondents will provide any such customers the Purchase Offer described in Section
12 IV.8, the Notification and Buyback Procedures described in Section IV.9, and the other terms
13 described in Sections IV.11, IV.12, and IV. 13.

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15 c. Second Notice

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

19 d. Offer Period

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

23 ii. Eligible Investors may accept the Purchase Offer by notifying Respondents as
24 described in the Purchase Offer, at any time before 11:59 P.M. Eastern Time, on or before the last
25 day of the Offer Period. For those Eligible Investors who accept the Purchase Offer within the
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1 Offer Period, Respondents shall purchase their Eligible Auction Rate Securities by no later than
2 five (5) business days following the expiration of the Offer Period.

3 e. An Eligible Investor may revoke their acceptance of Respondents' Purchase Offer
4 at any time up until Respondents' purchase of such Eligible Investor's Eligible Auction Rate
5 Securities or provide notice of their intent to purchase such Eligible Auction Rate Securities.

6 f. Respondents' obligation to those Eligible Investors who custodied their Eligible
7 Auction Rate Securities away from Respondents as of the date of this Order shall be contingent
8 on: (1) Respondents receiving reasonably satisfactory assurances from the financial institution
9 currently holding the Eligible Investor's Eligible Auction Rate Securities that the bidding rights
10 associated with such Eligible Auction Rate Securities will be transferred to Respondents; (2) the
11 Eligible Investor reactivating their former account with Respondents; and (3) the transfer of the
12 Eligible Auction Rate Securities to the Eligible Investor's former account with Respondents.

13 g. Respondents shall use their best efforts to identify, contact and assist any Eligible
14 Investor who has transferred the Eligible Auction Rate Securities out of Respondents' custody in
15 returning such Auction Rate Securities to Respondents' custody, and shall not charge such
16 Eligible Investor any fees relating to or in connection with the return to Respondents or
17 custodianship by Respondents of such Eligible Auction Rate Securities.

18 10. Customer Assistance. Within two (2) days of June 29, 2011, Respondents shall
19 have established a dedicated toll-free telephone assistance line and website to provide information
20 and to respond to questions concerning the terms of this Order, and to provide information
21 concerning the terms of this Order and, via an e-mail address or other reasonable means, to
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1 respond to questions concerning the terms of this Order. Respondents shall maintain the
2 telephone assistance line for at least nine months from the date of this Order.

3 11. Relief for Eligible Investors Who Sold Below Par. Respondents shall use their
4 best efforts to identify each Eligible Investor who: (i) purchased Eligible Auction Rate Securities
5 at Respondents on or before February 13, 2008; and (ii) who sold those Eligible Auction Rate
6 Securities below par between February 13, 2008 and the date of this Order ("Below Par Sellers").
7 Within 75 days of June 29, 2011, Respondents shall pay each Below Par Seller the difference
8 between par and the price at which the Below Par Seller sold the Eligible Auction Rate Securities,
9 plus reasonable interest thereon. Furthermore, Respondents will pay promptly the difference
10 between par and the price at which the Below Par Seller sold the Eligible Auction Rate Securities,
11 plus reasonable interest thereon to any Below Par Sellers identified more than 75 days after this
12 Order.
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15 12. Consequential Damages Arbitration Process.

16 a. Respondents shall consent to participate in a special arbitration process
17 ("Arbitration") for the exclusive purpose of arbitrating any Eligible Investor's consequential
18 damages claim arising from their inability to sell Eligible Auction Rate Securities. In the
19 Arbitration, the Special Arbitration Process applicable to firms that have entered into settlements
20 with state regulators (the "State SAP") will be available for the exclusive purpose of arbitrating
21 any Eligible Investor's consequential damages claim. Respondents shall notify Eligible Investors
22 of the terms of the Arbitration process through the Notice.
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1 b. The Arbitration shall be conducted under the auspices of FINRA, pursuant to the
2 NASD Code of Arbitration Procedures for Customer Disputes, eff. April 16, 2007. Respondents
3 will pay all applicable forum and filing fees.

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

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

14 13. Loan Interest Expense.

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

2 Respondents will use their best efforts to provide the institutional money managers, within
3 nine (9) months of the date of June 29, 2011, opportunities to liquidate their Eligible Auction
4 Rate Securities including, but not limited to, facilitating issuer redemptions, restructurings, and
5 through other reasonable means. Although Respondents are required to use their best efforts to
6 liquidate Eligible Auction Rate Securities owned by the institutional money managers, the
7 Respondents are not obligated to purchase the securities.
8

9 15. Reports and Meetings

10 a. Respondents shall submit a bi-monthly written report detailing Respondents'
11 progress with respect to the provisions of this Order within 45 days of the end of each month in
12 which a report is required, beginning with a report covering the month ended after June 29, 2011
13 and continuing through and including a report covering the month ended nine months from June
14 29, 2011. This report shall be submitted to a representative specified by the North American
15 Securities Administrators Association ("NASAA").
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17 b. Beginning 120 days after June 29, 2011, Respondents shall confer at least
18 quarterly with the representative specified by NASAA to discuss Respondents' progress with
19 respect to the provisions of this Order. Such quarterly conferences shall continue for nine months
20 from June 29, 2011.
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22 c. The reporting and conference deadlines set forth above may be amended or
23 modified with written permission from the representative specified by NASAA.

24 16. This Order is not intended to indicate that Respondents or any of its affiliates or
25 current or former employees shall be subject to any disqualifications contained in the federal
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1 securities law, the rules and regulations thereunder, the rules and regulations of self regulatory
2 organizations or various states' securities laws including any disqualifications from relying upon
3 the registration exemptions or safe harbor provisions. In addition, this Order is not intended to
4 form the basis for any such disqualifications.

5
6 17. Except in an action by the State of Delaware to enforce the obligations of
7 Respondents in this Order, this Order may neither be deemed nor used as an admission of or
8 evidence of any alleged fault, omission or liability of Respondents in any civil, criminal,
9 arbitration or administrative proceeding in any court, administrative agency or tribunal. For any
10 person or entity not a party to this Order, this Order does not limit or create any private rights or
11 remedies against Respondents including, without limitation with respect to the use of any emails
12 or other documents of Respondents or of others concerning the marketing and/or sales of auction
13 rate securities, limit or create liability of Respondents, or limit or create defenses of Respondents
14 to any claims.

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16 18. This Order is not intended to disqualify Respondents or any of its affiliates or
17 ~~current or former employees from any business that they otherwise are qualified or licensed to~~
18 perform under applicable state securities law and this Order is not intended to form the basis for
19 any disqualification.

20 DATED this 9th day of January, 2012

21
22 BY ORDER OF

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24 
25 Gregory Strong
26 Acting Securities Commissioner

1 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY RAYMOND JAMES &**
2 **ASSOCIATES, INC. AND RAYMOND JAMES FINANCIAL SERVICES, INC.**

3 Raymond James & Associates, Inc. and Raymond James Financial Services, Inc. (together
4 "Raymond James") hereby acknowledges that it has been served with a copy of this Consent
5 Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter,
6 and has waived the same.

7 Raymond James admits the jurisdiction of the Securities Commissioner for the State of
8 Delaware ("Commissioner"), neither admits nor denies the Findings of Fact and Conclusions of
9 Law contained in this Order, and consents to entry of this Order by the Commissioner as
10 settlement of the issues contained in this Order.
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12 Respondents shall not claim, assert, or apply for a tax deduction or tax credit with regard
13 to any state, federal, or local tax for any administrative monetary payment that Respondents shall
14 pay pursuant to this Order.

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

17
18 Dennis W. Zank represents that he is President of Raymond James & Associates, Inc., and
19 that, as such, has been authorized by Raymond James & Associates, Inc., to enter into this Order
20 for and on behalf of Raymond James & Associates, Inc.

21 Donald K. Runkle represents that he is Senior Vice President, Chief Compliance Officer
22 of Raymond James Financial Services, Inc., and that, as such, has been authorized by Raymond
23 James Financial Services, Inc., to enter into this Order for and on behalf of Raymond James
24 Financial Services, Inc.

25 DATED this 22nd day of Dec., 2011.
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1 RAYMOND JAMES & ASSOCIATES, INC.

2 By: Dennis W. Zank
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5 Title: President

6 STATE OF Florida
7 County of Pinellas

8 SUBSCRIBED AND SWORN TO before me this 22nd day of December,
9 2011.

10 Cynthia A. Crane
11 Notary Public

12 My commission expires:
13 _____



14 RAYMOND JAMES FINANCIAL SERVICES, INC.

15 By: Donald K. Runkle
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18 Title: Senior Vice President, Chief Compliance Officer

19 STATE OF Florida
20 County of Pinellas

21 SUBSCRIBED AND SWORN TO before me this 22nd day of December,
22 2011.

23 Cynthia A. Crane
24 Notary Public

25 My commission expires:
26 _____



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The foregoing Administrative Consent Order
was reviewed and approved by:



Christian R. Bartholomew
Attorney for Respondents
Raymond James & Associates Inc., and
Raymond James Financial Service, Inc.

Date: 11/3/2012