

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

<p>GARY and CARYL LUIS, GARY A. MENTZ, MICHAEL J. VITSE and MERRI L. VITSE, individually and on behalf of all others similarly situated,</p> <p>Plaintiffs,</p> <p>v.</p> <p>RBC CAPITAL MARKETS, LLC,</p> <p>Defendant.</p>	<p>Case No.</p>   <p style="text-align: center;"><b>CLASS ACTION COMPLAINT</b></p> <p style="text-align: center;"><b>DEMAND FOR JURY TRIAL</b></p>
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Plaintiffs Gary and Caryl Luis, Gary A. Mentz, Michael J. and Merri L. Vitse by and through their counsel, Scarlett & Hirsch, P.A., and Gustafson Gluek PLLC, bring this putative class action lawsuit under Minnesota common law, and respectfully request that the Court issue an award granting Plaintiffs compensatory damages, pre-judgment interest, post-judgment interest, attorneys’ fees, and costs.

**NATURE OF THE ACTION**

1. As detailed below, the misconduct of RBC Capital Markets, LLC (“RBC” or “Defendant”) included, *inter alia*, breaches of fiduciary duty, negligence, and breach of contract with respect to the sales of RBC’s proprietary Reverse Convertible Note (“RCN”) offerings. Defendant’s recommendations for Plaintiffs to invest in the RCNs violated Plaintiffs’ expressed and written instructions regarding their restrictions on options trading. Defendant’s conduct caused Plaintiffs to lose a substantial part of their investments in these products, while RBC reaped staggering financial rewards by executing trades outside the

clearly established contractual limits of Plaintiffs' accounts.

2. Reverse Convertible Notes are inherently risky and complex structured securities with embedded short put options. They are inordinately risky and beyond the understanding of most of the American investing public.

3. Financial Industry Regulatory Authority ("FINRA") rules and regulations required RBC to note on opening account documents the expressed trading authorizations given to RBC by each Plaintiff. At the time each member of the putative class opened a brokerage account with RBC, he or she gave RBC express instructions.

4. Each Plaintiff also gave written instructions to RBC with respect to buying or selling options in his or her account. These instructions, as required by FINRA rules and regulations, are reflected on the RBC "Options Client Agreement & Approval Form" ("client options instructions"), a sample of which is attached hereto as Exhibit A. In the case of the recommendation by RBC for investment in RCNs, it was necessary that the client options instructions form authorized selling put options since, as explained above, each RCN contained an embedded put option that was sold by RBC.

5. Members of the putative class consist of RBC customers who did not specifically give authorization in writing for selling put options. In other words, the client options instructions form established whether or not RCNs were permitted in the account. If the form did not authorize put options, which is the foundational make-up of RCNs, and RBC executed trades in those investments anyway, the customers who owned those accounts are members of the putative class.

6. The Defendant's bad conduct is evidenced by the fact that FINRA recently fined RBC \$1 Million for not having appropriate supervisory procedures in place for recommending RCNs.

7. In addition to violating Plaintiffs' client options instructions, FINRA uncovered the fact that RBC marketed and sold these complicated, structured securities without having in place supervisory systems and procedures designed to ensure compliance with, not only applicable securities laws and regulations, but its own internal guidelines. FINRA's investigation into RBC's failures to have the appropriate supervisory systems resulted in a \$1 million fine and \$432,000 restitution, which RBC agreed to pay (Exhibit B). In response to FINRA's findings, RBC signed a Letter of Acceptance, Waiver and Consent ("AWC") on February 27, 2015 (Exhibit C), admitting its pervasive rules violations, agreeing to pay the fine, and restitution and to overhaul its supervisory systems with respect to the sale of RCNs.

8. At the time Defendant invested Plaintiffs' funds in the RCN, they did not authorize investments in put options contained in RCNs. Therefore, RBC's trades violated the account opening contracts with each Plaintiff.

### **THE PARTIES**

9. Plaintiffs Gary (64) and Caryl Luis (67) jointly invested \$279,126.49 in RBC reverse convertibles, losing approximately \$170,000. Gary retired in 2009 and Caryl retired in 2005. They did not authorize RBC to engage in selling puts that are embedded in each and every RCN that Mr. and Mrs. Luis invested in. They are not sophisticated investors and have never traded in options. They currently reside in Granite

Bay, California.

10. Plaintiff Gary A. Mentz (52) invested \$36,000 in RBC reverse convertibles, losing almost the entire investment. Mr. Mentz only gave RBC written authorization to trade in covert equity/index call writing options, not puts required to purchase RCNs. Mr. Mentz did not authorize RBC to engage in selling puts that are embedded in each and every RCN that Mr. Mentz invested in. Mr. Mentz has never traded in options. He currently resides in Faribault, Minnesota.

11. Plaintiffs Michael J. Vitse (62) and Merri L. Vitse (61) jointly invested approximately \$12,000 in RBC reverse convertibles, losing almost the entire investment. They only gave RBC written authorization to trade in covert equity/index call writing options, not puts required to purchase RCNs. They did not authorize RBC to engage in selling puts that are embedded in each and every RCN that they invested in. They were not sophisticated investors and had not traded in options before. They currently live in Rochester, Minnesota.

12. Defendant RBC Capital Markets, LLC is a Minnesota Corporation, with its principal place of business in New York, New York.

### **JURISDICTION AND VENUE**

13. This Court has jurisdiction over this matter pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). CAFA’s requirements are satisfied in that (1) the members of the Class exceed 100; (2) the citizenship of at least one proposed Class member is different from that of at least one Defendant; and (3) the

matter in controversy, after aggregating the claims of the proposed Class members, exceeds \$5,000,000, exclusive of interest and costs.

14. Venue is proper in this federal district because the violations that give rise to this putative class action occurred in this District. Venue is also proper because Defendant transacts and has transacted business in this District at times material to this action.

## **FACTS**

### **Contractual Documents and Fiduciary Duty**

15. Upon opening an investment account with RBC, each Plaintiff entered into a contract with Defendant. That contract is the Account Opening Agreement. Defendant breached its contractual promises and its fiduciary duty owed to each Plaintiff by failing to follow the specific instructions and adhering to clear investment parameters established in those contracts. That breach occurred when RBC invested Plaintiffs' money in RCNs, which contain a put option. Put options are contrary to the express instructions of each Plaintiff and class member.

### **An Embedded Put Option Make RCNs Extremely Risky**

16. Plaintiffs suffered devastating losses because their option trading instructions did not permit RCNs in their accounts.

17. In contrast to a traditional bond, a RCN contains additional risks tied to an asset which is often – as it is here – a single, and most always, a volatile stock. RCNs involve terms, features, and risks that are difficult for individual investors and investment professionals alike to evaluate.

18. RCNs have two components. First, they are debt instruments that pay an above-market coupon. Second, they are a derivative – an aspect understood by relatively few investors – in the form of an embedded short put option that gave RBC the right to repay principal to Plaintiffs in the form of a set amount of the underlying stock, rather than cash, if the price of the underlying stock dipped below a predetermined price (called the “knock-in” level or “barrier price”), which it did for all of the Plaintiffs and class members here as well as all of the RBC investors in the 2015 FINRA enforcement action.

19. FINRA was so concerned with the abuses in the sales of the complicated reverse convertible notes and the flagrant and pervasive supervisory abuses committed by RBC that, shortly after it levied the \$1.4 million fine and restitution against RBC, an “Investor Alert” was issued by FINRA *specifically* because of what FINRA learned about what RBC had failed to do (Exhibit D).<sup>1</sup> FINRA alerted investors to the fact that there are “numerous risks” with reverse convertibles; that they carry “the additional risks of the unrelated assets, which are often stocks”; that “investors in these products take on significantly greater risks”; that they are “all but impossible” for investors to determine

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<sup>1</sup> The Investor Alert begins with this statement: “FINRA is reissuing this alert on the heels of its enforcement action related to supervisory failures resulting in the sale of unsuitable reverse convertibles.” It also characterized such an investment as a “bet.” The following is FINRA’s statement in the Alert:

You are betting that the value of the underlying asset will remain stable or go up, while the issuer [RBC] is betting that the price will fall.

what fee they are paying; that there is no principal protection; and that they are highly illiquid because there is virtually no secondary market for them.

20. RCNs are not conventional fixed-income investments. A conventional fixed-income investment, like a bond, carries only a risk attributable to the issuer. An RCN carries with it not only the issuer's risk, but the risk and the volatility of the underlying security – in these cases, stocks. With a RCN, the investor carries 100% of the risk. RCNs are a terrible deal for the investor, but a terrific deal for RBC. There are several reasons why this is so. First, numerous studies have found that RCNs are overpriced, *i.e.*, upon sale, investors pay a premium to the issuer, here RBC, from 2.5% to as much as 7%. Second, once Plaintiffs made the investment, RBC then immediately sold to the open market the embedded put it purchased as part of the sale, but at a far greater price than was paid to the investor. This resulted in a profit to RBC of a sufficient amount so as to ensure that no matter how the RCN performed, RBC would make a profit. Third, to the extent that the coupon equaled that of RBC's conventional bond payments, there is a factor of profit such as RBC makes on its conventional bond issues. Fourth, RBC kept the dividends that were paid on the underlying stock as long as the stock price remained above the knock-in level. Fifth, if the stock price fell below the knock-in level, such as happened to all of the Plaintiffs here, the devalued stock was "put" to the Plaintiffs and any interest payments by RBC immediately ceased. When all five of these factors are added up, the profit to RBC far exceeded the total sum of interest payments made to the Plaintiffs, even if the value of the underlying stock never breached the knock-in level.

21. The sale of each RCN to Plaintiffs violated each Plaintiff's express instructions. Those instructions did not authorize the sale of put options and, as a result, was not only a breach of fiduciary duty by Defendant, but also a breach of the contract between each member of the class and Defendant.

22. But there is more potential downside to the investors. They do not gain even if the underlying stock shoots up in value. If the underlying stock increased in value (which did not happen to the members of the putative class), RBC would *not* have passed that value increase on to the investor. If, on the other hand, there was a significant drop in the underlying stock price and it breached the knock-in point (which *did* happen to the Plaintiffs here), it was the *Plaintiffs* who suffered the loss in the stock's value, not RBC. RBC simply kept the Plaintiffs' invested principal while the holder of the put option "put" the devalued shares to Plaintiffs. And, to add insult to injury, if any of the Plaintiffs decided to sell the devalued underlying stock, they would likely do it through RBC and would have to pay RBC a commission for the privilege. Simply put, *at the time of initial sale to the investor*, RBC was guaranteed to never lose money whether the instrument converted or whether it successfully reached maturity. Not so with the investor.

### **Volatile Nature of the Underlying Stock**

23. Each RCN was linked to a volatile stock in order to inflate the price of the embedded put option on the open market, thereby greatly increasing the profit margin to RBC.



24. Defendant RBC linked most all of its RCNs to volatile stocks, thereby making the offerings highly risky and costly to the investor, yet extremely profitable for RBC when the embedded put option was sold on the open market.

25. RBC chose volatile stocks because volatility adds value to the embedded put when sold on the open market. Stocks that are volatile go through more frequent strike price levels than non-volatile stocks. Thus, an option on a volatile stock is much more expensive to buy on the open market than an option linked to a far less volatile stock. Even a small change in the volatility estimate can have a substantial impact on an options price.

26. By selling a put option linked to a volatile stock, the risk to the investor was greatly increased, but RBC designed it that way to increase its profit margin, despite the fact that the put options violated the express written instructions by each and every Plaintiff. To give an idea of the volatility injected into the reverse convertibles sold to the Plaintiffs, the following are examples of some of the volatile stocks linked to the notes sold to the Plaintiffs:

**The Manitowoc Co., Inc. (MTW)** – Fluctuated wildly back and forth between \$4 and \$49 over the several years prior to being linked to the reverse convertibles in issue here.

**Silver Wheaton Corp. (SLW)** – Up and down between \$32 and \$47 over the months in 2011 prior to being linked to the reverse convertibles sold to Plaintiffs.

**JDS Uniphase Corp. (JDSU)** – Went from \$8 on January 1, 2011 up to \$16 shortly thereafter then down to \$8 just prior to being linked to the reverse convertibles sold to some of the Plaintiffs.

**LDK Solar Corp., Ltd. (LDK)** – Presently selling for around 7 cents per share. On a steady and precipitous decline from

approximately \$14 per share in the beginning of 2011 down to less than half of that when it was linked to the reverse convertible notes recommended by RBC.

**Hecla Mining Co. (HL)** – Extremely volatile stock. It began 2011 right around \$11 and continued to slip through the year down over 35% to approximately \$7 and bouncing back and forth.

### CLASS ALLEGATIONS

27. Plaintiffs bring this putative class action under Federal Rule of Civil Procedure 23(a) and (b)(3).

28. The Class is defined as:

All persons and entities to whom Defendant sold Reverse Convertible Notes from January 1, 2008 to the present, whose written instructions to RBC did not authorize selling put options.

29. Excluded from the putative class are the Defendant, Defendant's directors and officers, immediate families of Defendant's directors and officers, and any entity in which the Defendant maintained a controlling interest, or that is related to or affiliated with the Defendant, or the legal representatives, agents, affiliates, heirs, successors-in-interests or assignees of any such excluded person.

30. The putative class satisfies Rule 23(a) regarding numerosity, typicality, commonality, superiority, and adequacy.

31. **Numerosity** - The members of the putative class are so numerous and geographically dispersed that joinder of all members would be impracticable. Plaintiffs estimate the number of putative class members to be several thousand or more. Plaintiffs

live in numerous states, and the class would not be primarily composed of plaintiffs from any one state.

32. The precise number of putative class members can easily be ascertained from Defendant's records.

33. Notice may be provided to class members using first-class mail and other means.

34. **Typicality** – Plaintiffs' claims are typical of all putative class members' claims because Plaintiffs and all putative class members' damages stem from the same risky RCNs (built upon volatile underlying stocks and unauthorized embedded put options).

35. **Commonality** - Common questions of law and fact exist as to all putative class members and predominate over questions affecting individual putative class members. Among the questions of law and fact common to the putative class are:

- a. Whether RBC invested Plaintiffs and the putative class in RCNs in violation of their expressed, written instructions with respect to limitations and lack of authorization to sell put options in their accounts;
- b. Whether RBC breached its fiduciary duty to Plaintiffs and the purported class by failing to follow their expressed instructions regarding options trading;
- c. Whether RBC breached its duty of care and loyalty to its customers regarding its sale of the proprietary reverse convertible notes;
- d. Whether RBC was unjustly enriched at the expense of Plaintiffs and the putative class;

- e. Whether, and to what extent, Plaintiffs and the putative class were damaged by RBC's conduct.

36. **Superiority** - A class action is superior to other available methods for the fair and efficient means to resolve this controversy. The expense and burden of individual cases for such putative class members make it quite difficult for individual class members to seek redress against RBC for the misconduct and negligence identified in this putative class action Complaint. Plaintiffs know of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a class action.

37. **Adequacy** - Plaintiffs fairly and adequately represent the putative class. Plaintiff has retained counsel experienced in sophisticated securities class action litigation.

38. Class action treatment is a superior method for the fair and efficient adjudication of this controversy in that, among other things, such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, and expense that numerous individual actions would engender. The benefits of a proceeding through the class mechanism, including providing injured persons with a method for obtaining redress for claims that it might not be practicable to pursue individually, substantially outweigh any difficulties that may arise in management of this class action.

39. The prosecution of separate actions would create a risk of inconsistent or varying adjudications, establishing incompatible standards of conduct for Defendants, and would frustrate the efforts of this Court in efficiently resolving these claims.

**COUNT ONE - BREACH OF FIDUCIARY DUTY**

40. Plaintiffs incorporate here by reference all allegations set forth above, as if fully here alleged.

41. Defendant RBC had a fiduciary duty to act in good faith and engage in fair dealing with Plaintiffs.

42. Defendant RBC breached its fiduciary duty to Plaintiffs by failing to follow the expressed and written instructions of the Plaintiffs and members of the putative class regarding the lack of authorization to engage in selling put options; by selling reverse convertible notes containing a put option to customers that violated the expressed instructions of Plaintiffs and members of the putative class.

43. Defendant's breach of its fiduciary duty caused Plaintiffs and putative class members to suffer substantial financial harm; as Defendant stood in the best position to prevent Plaintiffs and the putative class members from purchasing the reverse convertible notes. Defendant, instead, put its own financial interests ahead of those of Plaintiffs and the putative class members.

44. Plaintiffs and members of the putative class were damaged by RBC's breach of its fiduciary duty.

**COUNT TWO – COMMON LAW NEGLIGENCE**

45. Plaintiffs incorporate here by reference all the allegations set forth above, as if fully here alleged.

46. RBC owed a duty of care in all of its business dealings with Plaintiffs and the putative class members and the duty to follow their expressed instructions.

47. RBC breached that duty by executing the purchase of reverse convertible notes in violation of the expressed instructions of Plaintiffs with respect to their lack of written authorization to invest in securities that contained put options such as the reverse convertible notes in question here. *See Minneapolis Employees Retirement Fund v. Allison-Williams Co.*, 519 N.W.2d 176 (Minn. 1994); *Rude v. Larson*, 207 N.W.2d 709 (Minn. 1973); *See also First Presbyterian Church of Mankato, Minn. v. John G. Kinnard & Co., Inc.*, 881 F.Supp. 441, 446 (D. Minn. 1995) (complaint adequately alleged that stockbroker owed his customer the duty to exercise due care in executing all instructions expressly given to him).

48. RBC's violation of its fiduciary duty to follow expressed instructions given to its registered representatives was the factual and proximate cause of the damages to Plaintiffs and members of the putative class.

### **COUNT THREE – BREACH OF CONTRACT**

49. Plaintiffs incorporate here by reference all the allegations set forth above, as if fully here alleged.

50. Plaintiffs and all putative class members executed "new account" paperwork that consisted of contractual agreements that set forth the express instructions and authorizations of the types of securities Plaintiffs would allow to be offered and sold in their accounts.

51. As part of this new account paperwork, Plaintiffs executed specific contracts for the purchase of option securities. This “Options Client Agreement and Approval Form,” drafted by RBC, expressly provided for the specific kinds of option securities RBC could offer and sell to Plaintiffs. A copy of Plaintiff Vitses’ Options Client Agreement and Approval Forms are attached hereto as Exhibit A.

52. The “Options Client Agreement and Approval Form” is a valid and enforceable contract.

53. The “Options Client Agreement and Approval Form” was supported by valid consideration because the Plaintiffs and putative class members fully performed their obligations under the contract and paid RBC fees to serve as agent and advisor for their accounts.

54. RBC executed the sale of RCNs containing an underlying put option, to Plaintiffs in violation of their express written instructions and authorizations, thereby breaching its contract with each Plaintiff and member of the putative class.

55. As a direct, foreseeable, and proximate result of RBC’s breach of contract, Plaintiffs and members of the putative class suffered great financial harm.

#### **COUNT FOUR – PROMISSORY ESTOPPEL**

56. Plaintiffs incorporate here by reference all the allegations set forth above, as if fully here alleged.

57. Defendant RBC entered into direct contracts with Plaintiffs and each putative class member, and/or was subject to express and implied contracts with third-parties, including, but not limited to, NASD and FINRA.

58. Pursuant to those agreements, Defendant RBC promised to comply with its fiduciary obligations and securities industry rules and regulations, in accordance with Defendant RBC's policies and procedures, to act in good faith and in the client's best interests, and to comply with federal laws, state laws, and FINRA Conduct Rules for the benefit of Plaintiffs.

59. Those agreements established clear boundaries for the types of investments that were allowed to be expressly offered and sold for Plaintiffs and the purported Class. The RCNs in questions violated those express contractual boundaries.

60. RBC's participation in these industry groups and agreements was intend to induce its customer's reliance on its advice.

61. As a result of their reliance Plaintiffs were harmed.

**COUNT FIVE – UNJUST ENRICHMENT/QUASI-CONTRACT**

62. Plaintiffs incorporate here by reference all the set forth above, as if fully here alleged.

63. The embedded put option of the RCN led Plaintiffs to confer a financial benefit on RBC.

64. By the very nature of the product, RBC was able to receive the benefit whether the underlying stock appreciated, or whether it fell below the knock-in level, resulting in a loss to the Plaintiffs, despite the fact Plaintiffs and the members of the class did not authorize RBC to sell them a securities investment that contained a put option.

65. Because of the inherent "win-win" scenario of RCNs to the benefit of RBC only, RBC was unjustly enriched at the expense of Plaintiffs.



**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs seek the following relief and judgment:

- A. That this action is a proper class action, certifying Plaintiffs as Class Representatives under Fed. R. Civ. P. 23(b)(3) and Plaintiffs' counsel as Class Counsel;
- B. An award of compensatory damages for the RBC reverse convertible notes that Plaintiffs and the putative class members purchased;
- C. Pre-judgment and post-judgment interest, at the legal rate, for Plaintiffs' loss of use of capital, as permitted by Minnesota law;
- D. All costs and fees incurred in this action including all forum fees, expert witness-related fees, and any additional costs/fees incurred by the undersigned counsel;
- E. A reasonable award for serving as Class Representative; and
- F. Such further relief as the Court deems just and appropriate.

**JURY TRIAL DEMANDED**

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury of all of the claims asserted in this Complaint so triable.

Dated: November 10, 2016

Respectfully submitted,

**GUSTAFSON GLUEK PLLC**

*s/David A. Goodwin*

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Daniel E. Gustafson (#202241)

Daniel C. Hedlund (#258337)

David A. Goodwin (#386715)

Eric S. Taubel (#0392491)

Canadian Pacific Plaza

120 South 6<sup>th</sup> Street, Suite 2600  
Minneapolis, MN 55402  
Tel: (612) 333-8844  
Fax: (612) 339-6622  
E-mail: [dgustafson@gustafsongluek.com](mailto:dgustafson@gustafsongluek.com)  
[dhedlund@gustafsongluek.com](mailto:dhedlund@gustafsongluek.com)  
[dgoodwin@gustafsongluek.com](mailto:dgoodwin@gustafsongluek.com)  
[etaubel@gustafsongluek.com](mailto:etaubel@gustafsongluek.com)

Scott D. Hirsch  
Charles E. Scarlett  
**SCARLETT & HIRSCH, P.A.**  
7777 Glades Road, Suite 200  
Boca Raton, FL 33434  
Tel: (561) 278-6707  
Fax: (561) 278-6244  
E-mail: [scott@shlawfla.com](mailto:scott@shlawfla.com)  
[charles@shlawfla.com](mailto:charles@shlawfla.com)

*Attorneys for Plaintiffs*

# **EXHIBIT A**



## RBC Wealth Management™

RBC Wealth Management, a division of RBC Capital Markets LLC Member NYSE, FINRA, and SIPC

Dear Options Client:

Thank you for opening an options account with RBC Wealth Management.

It is our firm's responsibility to carefully evaluate your investment needs and objectives, along with your financial circumstances, so that we may be in the best possible position to render investment advice to you.

With this in mind, and in accordance with the rules of the FINRA, your Financial Advisor submitted the enclosed Options Client Agreement & Approval Form on your behalf. Based on the information supplied, we have determined that you have sufficient experience and the financial resources to trade in the options strategies noted on the form.

However, to ensure that we are acting on current and accurate information, we ask you to do the following:

1. Carefully review the information on the form and notify us immediately if any information is not accurate.
2. In the future, please advise us of any material changes in your financial status and/or investment objectives.

**WE WILL ASSUME THAT THE INFORMATION PROVIDED ON THE ENCLOSED CLIENT APPROVAL FORM IS ACCURATE UNLESS YOU ADVISE US TO THE CONTRARY.**

Please feel free to contact your Financial Advisor if you have any questions regarding your account or the important information provided in the options disclosure document (Characteristics & Risks of Standardized Options) which you should have already received.

Again, thank you for your business and the confidence you have shown in our firm.

Sincerely,

RBC Wealth Management  
Enclosure



RBC Wealth Management



Account Number [REDACTED]

Rep ID 0005U7 Alternate Branch 010RH

OPTIONS CLIENT AGREEMENT AND APPROVAL FORM

CLIENT INFORMATION

Name and Address of Primary Account Owner/Trustee Michael J Vitae Merr L Vitae JT TENWROS -TOD- [REDACTED] ROCHESTER MN 55901-2389		Name and Address of Joint Owner (if joint account) Merr L Vitae [REDACTED] ROCHESTER MN 55901-2389	
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Date of Birth [REDACTED]	Home Phone [REDACTED]	Date of Birth [REDACTED]	Home Phone [REDACTED]
Marital Status Married	Business Phone [REDACTED]	Marital Status Married	Business Phone [REDACTED]

Number of Dependents 2	Occupation Executive	Number of Dependents 2	Occupation Nurse, Therapist, Healthcare Sp
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Employer Name and Address (If retired, state previous employer.) [REDACTED] ROCHESTER MN 55901	Employer Name and Address (If retired, state previous employer.) [REDACTED] ROCHESTER MN 55905
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Estimated Annual Income [REDACTED]	Liquid Assets [REDACTED]	Net Worth (Excluding Home) [REDACTED]
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ACCOUNT TYPE

For approval of account types 5-9, please attach a copy of the proper documentation that specifically states who may enter orders and the type of options strategies that may be employed.

<input checked="" type="checkbox"/> 1. Individual or Joint	<input type="checkbox"/> 4. RBC Wealth Management Retirement Plan	<input type="checkbox"/> 7. Partnership
<input type="checkbox"/> 2. Custodian (UTMA/UGMA)	<input type="checkbox"/> 5. Non-RBC Wealth Management Retirement Plan	<input type="checkbox"/> 8. Trust
<input type="checkbox"/> 3. Sole Proprietor	<input type="checkbox"/> 6. Corporation	<input type="checkbox"/> 9. Other _____

Yes Is the account being traded by power-of-attorney or trading authorization? (If yes, attach a copy and complete a separate options approval form for the agent.)

No

Yes Does the Financial Advisor have approved discretionary authority to place trades in the account without prior client approval?

No

Yes Does a person or entity that has the ability to directly or indirectly make investment decisions for this account also have the ability to directly or indirectly make investment decisions for another account held at RBC Wealth Management? If yes, please list the account number: [REDACTED]

No

Date a copy of the current disclosure document was furnished to client 6/1/11

INVESTMENT OBJECTIVE

<input type="checkbox"/> Preservation of Principal/Income-Focus is on preservation of Principal and income. <i>Very conservative.</i> Note: For Advisory accounts, the investment objective for this category is Income.	<input checked="" type="checkbox"/> Growth - Focus is on generating long-term capital growth. <i>Moderate.</i>
<input type="checkbox"/> Balanced/Conservative Growth - Focus is on generating current income and/or long-term capital growth. <i>Conservative</i> Note: For Advisory accounts, the investment objective for this category is either Balanced or Conservative Growth.	<input type="checkbox"/> Aggressive Growth - Focus is on generating growth and/or income with a willingness to assume a high level of risk. <i>Aggressive.</i>
	<input type="checkbox"/> Speculation - Focus is on generating highest potential growth and/or income with a willingness to assume highest level of risk. <i>Very aggressive.</i>

EXPERIENCE

Type of Experience	Yes/No	Length of Time (yrs)	Type of Previous Options Experience			
			Buying	Covered Writing	Spreads	Uncovered Writing
Options	No					
Stocks	Yes	20	Stock Options			
Bonds	Yes	20	Index Options			
Commodities	No					



RBC Wealth Management



Account Number XXXXXXXXXX  
 Rep ID Q006U7 Alternate Branch D10RH

**OPTIONS CLIENT AGREEMENT AND APPROVAL FORM**

STRATEGIES	COMPLIANCE APPROVAL
<p><input checked="" type="checkbox"/> <b>Level 1</b> <b>Covered Equity/Index Call Writing</b> -- Calls fully covered by the underlying stock/index. If assigned, client will be required to sell sufficient shares of stock/index at the strike price which may be substantially lower than the current market price. Potential for loss on the stock/index position is substantial. The hedging benefit of the option is limited only to the amount of the premium received.</p> <p><b>Buying Equity/Index Puts Against Long Stock/Index Position</b> -- Losses are limited to the premium paid. Used as insurance against a decline in a long stock/index position.</p>	
<p><input type="checkbox"/> <b>Level 2</b> <b>Cash-Backed Equity/Index/Foreign Currency Put Writing</b> -- Client must hold in the account 100% of the cash needed to pay for the underlying stock/index at the strike price during the life of the option.</p> <p>(Includes Level 1 Approval)</p>	
<p><input type="checkbox"/> <b>Level 3</b> <b>Purchasing Equity/Index/Foreign Currency Puts and Calls</b> -- Losses are limited to the premium paid. If position is not closed or exercised, options will expire worthless on expiration date.</p> <p>(Includes Level 2 Approval)</p>	
<p><input type="checkbox"/> <b>Level 4</b> <b>Equity/Index/Foreign Currency Spreads</b> -- Requires the use of margin. If the long position is closed out, leaving only a short position, the investment becomes high risk due to the potentially unlimited financial risk assumed and such clients may be required to request approval as Level 5 options investors.</p> <p>(Includes Level 3 Approval)</p>	
<p><input type="checkbox"/> <b>Level 5</b> <b>Equity/Index/Foreign Currency Put Writing on Margin</b> -- Client may use cash and marginable securities to fulfill the margin requirement for the option position.</p> <p><b>Uncovered Equity/Index/Foreign Currency Call Writing</b> -- If a client is assigned an Equity option, they may be required to purchase sufficient shares of the underlying stock in the open market at the prevailing market price which may be substantially higher than the strike price in order to satisfy delivery. If assigned an Index option, client must deliver, in cash, the difference between the option strike and the Index settlement value, which may be substantial. Uncovered call writing requires the use of margin and carries unlimited financial risk.</p> <p><b>Writing Equity/Index/Foreign Currency Combinations/Straddles</b> -- Risk component must be evaluated on a case by case basis. These strategies require the use of margin and present unlimited financial risk.</p> <p><b>Special Signature Required for Level 5 Options Investors</b></p> <p>I represent to RBC Wealth Management, a division of RBC Capital Markets, LLC, Member NYSE/FINRA/SIPC, that I am a knowledgeable and sophisticated investor and I hereby request that my account be approved for high risk options strategies. I further represent that my risk exposure and losses taken from options trading will be significantly within my financial capabilities.</p>	
<p>_____ Client Special Signature                      Date</p>	<p>_____ Client Special Signature                      Date</p>



RBC Wealth Management



Account Number [REDACTED]  
 Rep ID 0005U7 Alternate Branch 010RH

**OPTIONS CLIENT AGREEMENT AND APPROVAL FORM**

**SIGNATURES**

Important: Before signing, please read the agreement on pages 3 and 4 of this form.

- I have received the Disclosure Document, "Characteristics and Risks of Standardized Options," and am aware of the special risks inherent in options trading.
- I confirm that my financial information, investment experience, and objectives as stated on this document are accurate.
- I agree to inform my Financial Advisor of any material changes in the above information
- I have read, understand, and agree to the terms and conditions on pages 3 and 4 of this form.

This agreement contains a pre-dispute arbitration clause, listed on page 4 in bold print.

Client Signature <i>Michael Vitse</i>	Date 6-5-11	Client Signature <i>Maria L. Vitse</i>	Date 6/3/2011
Print Name from Signature Above MICHAEL J VITSE		Print Name from Signature Above MARIA L VITSE	
Financial Advisor <i>[Signature]</i>			Date 5/27/11
Approved by: Branch Director and Assistant Complex Manager/Complex Director <i>[Signature]</i>		<i>[Signature]</i>	Date 6/16/2011
Compliance Approval <i>[Signature]</i>		<i>[Signature]</i>	Date 5-31-11
Date of Initial Transaction Pending			

**CLIENT OPTIONS AGREEMENT**

This agreement shall apply to all transactions handled for any account of mine. I agree to advise you in writing of any changes in my financial situation, needs, experience, knowledge and investment objectives insofar as I deem such changes material to any options transactions.

I understand that any options transaction made for any account of mine is subject to the rules, regulations, customs and usages of the respective exchange, Clearing Corporation or market where such transaction was executed. I, acting individually or in concert with others, will not exceed any applicable position or exercise limits imposed by an exchange or other market with respect to options trading. I further understand that it may be necessary to report to the proper regulatory authority my position in a class of options having the same underlying security. Due to the short-term nature of options, it is likely that I will be trading such options more frequently than stocks and/or bonds. I understand you will charge me a commission in connection with the exercise of any options and each time an options trade is effected.

I believe that I am capable of evaluating, carrying and bearing the financial risks and hazards of options trading, especially those attendant to (a) the writing of a call on a security which is not long in my account with you or which I do not contemplate purchasing concurrently with such call and (b) the writing of a put on a security not presently short in my account. I agree that I will in no way hold RBC Wealth Management, a division of RBC Capital Markets, LLC, Member NYSE/FINRA/SIPC, its officers, directors, employees, or agents responsible for such losses incurred through following your trading recommendations or suggestions offered to me in good faith by your representatives.

In the event I do not satisfy on a timely basis your request for funds or collateral, you are authorized at your sole discretion and without notification to me to take any and all steps you deem necessary to protect yourselves.

I understand that it is my responsibility to give you specific instructions, notice, or directives with respect to taking any action to exercise, sell, or liquidate an option prior to the expiration date of that option. I understand that in the event I fail to give you instructions or take action regarding options positions which are about to expire, you may at your sole discretion exercise, sell, or liquidate those positions; however, you are under no obligation to do so and you shall not be liable for any failure to act. I will bear full responsibility for taking action to exercise a valuable option.

I understand that you randomly assign exercise notices to clients and that all American-style short options positions are subject to assignment at any time, including new positions that were just established. I understand that you will provide me with a detailed description of your random allocation procedure if I request it and that exercise assignment notices are allocated according to an automated procedure by which selection is made randomly from among all your client short positions.

In the interest of better customer service and for our mutual protection, I agree to immediately report any trades or transactions that were executed without my authorization; any transactions which are not properly reflected on my confirmation or monthly statement; or any other activities or



RBC Wealth Management



Account Number

Rep ID 0005U7

Alternate Branch 010RH

## OPTIONS CLIENT AGREEMENT AND APPROVAL FORM

### CLIENT OPTIONS AGREEMENT CONTINUED

omissions by you or your agents or employees that I believe to be improper. Such communication will be directed to the Manager of the branch office where my account is maintained. Unless I immediately object, verbally and in writing, confirmations of transactions and statements for my account shall be binding upon me.

If any provision or condition of this agreement is held to be invalid or unenforceable by any court, regulatory or self-regulatory agency or body, such invalidity or unenforceability shall attach only to such provision or condition. The validity of the remaining provisions and conditions of this agreement shall not be affected thereby, and this agreement shall be carried out as if any such invalid or unenforceable provision or condition were not contained herein.

Except to the extent to which they conflict with this agreement, if I have executed a Margin Agreement with you, the provisions of such Margin Agreement are incorporated here in by reference. In the event of a conflict, this agreement shall control.

### AGREEMENT TO ARBITRATE DISPUTES

This agreement contains a predispute arbitration clause. By signing an arbitration agreement the parties agree as follows:

- All parties to this agreement are giving up the right to sue each other in court, including the right to a trial by jury, except as provided by the rules of the arbitration forum in which a claim is filed.
- Arbitration awards are generally final and binding; a party's ability to have a court reverse or modify an arbitration award is very limited.
- The ability of the parties to obtain documents, witness statements and other discovery is generally more limited in arbitration than in court proceedings.
- The arbitrators do not have to explain the reason(s) for their award.
- The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.
- The rules of some arbitration forums may impose time limits for bringing a claim in arbitration in some cases, a claim that is ineligible for arbitration may be brought to court.
- The rules of arbitration forum in which the claim is filed, and any amendments thereto, shall be incorporated into this agreement.

I agree, and by carrying any account for me you agree, that all controversies between me and RBC Wealth Management or any of its present or former agents or employees concerning any transaction or the construction, performance or breach of this or any agreement between us, whether the transaction or the agreement is entered into prior, on, or subsequent to the date hereof, shall be settled by arbitration pursuant to the Federal Arbitration Act and in accordance with the rules, then in effect, of the Financial Industry Regulatory Authority ("FINRA"). The arbitrability of disputes under this agreement shall be governed by the Federal Arbitration Act.

### SPECIAL STATEMENT FOR UNCOVERED OPTION WRITERS

There are special risks associated with uncovered option writing, which expose the investor to potentially significant loss. Therefore, this type of strategy may not be suitable for all clients approved for options transactions.

1. The potential loss of uncovered call writing is unlimited. The writer of an uncovered call is in an extremely risky position and may incur large losses if the value of the underlying instrument increases above the exercise price.
2. As with writing uncovered calls, the risk of writing uncovered put options is substantial. The writer of an uncovered put option bears a risk of loss if the value of the underlying instrument declines below the exercise price. Such loss could be substantial if there is a significant decline in the value of the underlying instrument.
3. Uncovered option writing is thus suitable only for the knowledgeable investor who understands the risks, has the financial capacity and willingness to incur potentially substantial losses, and has sufficient liquid assets to meet applicable margin requirements. In this regard, if the value of the underlying instrument moves against an uncovered writer's option position, the investor's broker may request significant additional margin payments. If an investor does not make such margin payments, the broker may liquidate stock or options positions in the investor's account, with little or no prior notice in accordance with the investor's Margin Agreement.
4. For combination writing, where the investor writes both a put and a call on the same underlying instrument, the potential risk is unlimited.
5. If a secondary market in options were to become unavailable, investors could not engage in closing transactions, and an option writer would remain obligated until expiration or assignment.
6. The writer of an American-style option is subject to being assigned an exercise at any time after he has written the option until the option expires. By contrast, the writer of a European-style option is subject to exercise assignment only on expiration date.

**NOTE:** It is expected that you will read the booklet entitled **CHARACTERISTICS AND RISKS OF STANDARDIZED OPTIONS** available from your Financial Advisor. In particular, your attention is directed to the chapter entitled *Risks of Buying and Writing Options*. This statement is not intended to enumerate all of the risks entailed in writing uncovered options.



# **EXHIBIT B**



News Release

**FINRA Orders RBC to Pay Fine and Restitution Totaling More Than \$1.4 Million for Unsuitable Sales of Reverse Convertibles**

*For Release: Thursday, April 23, 2015*

*Contact(s): Michelle Ong (202) 728-8464  
Nancy Condon (202) 728-8379*

WASHINGTON — The Financial Industry Regulatory Authority (FINRA) today announced that it has ordered RBC Capital Markets to pay a \$1 million fine and approximately \$434,000 in restitution to customers for supervisory failures resulting in sales of unsuitable reverse convertibles.

Brad Bennett, FINRA Executive Vice President and Chief of Enforcement, said, "Securities firms must ensure that their brokers understand the inherent risks associated with the complex products they are selling, and be able to determine if they are suitable for investors before recommending them to retail customers. When the firm establishes suitability guidelines, it must police the transactions to ensure they appropriately meet their own criteria."

Reverse convertibles are interest-bearing notes in which repayment of principal is tied to the performance of an underlying asset, such as a stock or basket of stocks. Depending on the specific terms of the reverse convertible, an investor risks sustaining a loss if the value of the underlying asset falls below a certain level at maturity or during the term of the reverse convertible. In February 2010, FINRA issued Regulatory Notice 10-09 specific to reverse convertibles, emphasizing the need for firms to perform a suitability analysis in connection with sales of this complex product.

FINRA found that RBC failed to have supervisory systems reasonably designed to identify transactions for supervisory review when reverse convertibles were sold to customers, in violation of FINRA's rules as well as the firm's own suitability guidelines. RBC established suitability guidelines for the sale of reverse convertibles setting specific criteria for customer investment objectives, annual income, net worth, liquid net worth and investment experience. Consequently, the firm failed to detect the sale by 99 of its registered representatives of 364 reverse convertible transactions in 218 accounts that were unsuitable for those customers. The customers incurred losses totaling at least \$1.1 million. RBC made payments to numerous customers pursuant to the settlement of a class action lawsuit; FINRA ordered restitution to the remainder of affected customers.

In settling this matter, RBC neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

FINRA's investigation was conducted by the Enforcement Department. FINRA appreciates the assistance of the Securities and Exchange Commission's Office of Compliance, Inspections and Examinations in this matter.

Investors can obtain more information about, and the disciplinary record of, any FINRA-registered broker or brokerage firm by using FINRA's BrokerCheck. FINRA makes BrokerCheck available at no charge. In 2014, members of the public used this service to conduct 18.9 million reviews of broker or firm records. Investors can access BrokerCheck at [www.finra.org/brokercheck](http://www.finra.org/brokercheck) or by calling (800) 289-9999. Investors may find copies of this disciplinary action as well as other disciplinary documents in FINRA's Disciplinary Actions Online database.

FINRA, the Financial Industry Regulatory Authority, is the largest independent regulator for all securities firms doing business in the United States. FINRA is dedicated to investor protection and market integrity through effective and efficient regulation and complementary compliance and technology-based services. FINRA touches virtually every aspect of the securities business – from registering and educating all industry participants to examining securities firms, writing rules, enforcing those rules and the federal securities laws, and informing and educating the investing public. In addition, FINRA provides surveillance and other regulatory services for equities and options markets, as well as trade reporting and other industry utilities. FINRA also administers the largest dispute resolution forum for investors and firms. For more information, please visit [www.finra.org](http://www.finra.org).

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# **EXHIBIT C**

**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
LETTER OF ACCEPTANCE, WAIVER AND CONSENT  
NO. 2010022918701**

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

RE: RBC Capital Markets, LLC, Respondent  
CRD No. 31194

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, RBC Capital Markets, LLC ("RBC", "Respondent", or the "Firm") 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 RBC 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 a FINRA registered broker-dealer since 1993<sup>1</sup> and maintains its principal place of business in New York, NY. The Firm is indirectly owned by the Royal Bank of Canada, which is a publicly listed company on the New York Stock Exchange. The Firm has two main lines of business, a Capital Markets division, which engages in dealing, underwriting, and customer facilitation activities, and a Wealth Management division, which provides private client, asset management, and correspondent brokerage services. The Firm operates approximately 280 branches and has approximately 5,300 registered representatives.

**RELEVANT DISCIPLINARY HISTORY**

The Firm's relevant disciplinary history is as follows:

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<sup>1</sup> On March 3, 2008, RBC Dain Rauscher Inc. merged with its affiliate, RBC Capital Markets Corporation. In connection with this merger, RBC Dain Rauscher Inc., CRD No. 31194, was renamed RBC Capital Markets Corporation. The name was later amended to RBC Capital Markets, LLC.

- RBC consented to findings that it violated NASD Rules 3010 and 2110 and FINRA Rule 2010 by failing to establish a supervisory system reasonably designed to ensure compliance with its own guidelines and FINRA Rule 2440 regarding permissible markups and markdowns for its Collateralized Mortgage Obligations (“CMO”). Consequently, in 234 CMO transactions with mostly retail customers, the Firm charged markups and markdowns as high as 16.9%. The Firm consented to a sanction consisting of a censure and a \$25,000 fine. *See RBC Capital Markets LLC*, Matter No. 200902094501 (AWC, December 2011).
- RBC consented to findings that it violated Section 5 of the 1933 Securities Act and NASD Rules 3010 and 2110 by executing customer sale orders for more than two billion unregistered shares and eight issuers and by failing to establish, maintain and enforce a system to supervise the activities of its associated persons that was reasonably designed to detect and prevent customers’ sales of more than two billion shares of unregistered securities. The Firm consented to a sanction consisting of a censure and a \$135,000 fine. *See RBC Capital Markets LLC*, Matter No. 20090205457 (AWC, December 2009).

### OVERVIEW

Between 2008 and 2012 (the “Relevant Period”), RBC failed to have in place supervisory systems and procedures reasonably designed to ensure compliance with applicable securities laws and regulations and its internal guidelines concerning the suitability of reverse convertibles. The Firm’s supervisory system and procedures did not adequately identify transactions for responsible supervisory personnel when reverse convertibles were sold to customers in violation of the Firm’s suitability guidelines, including those related to customer investment objectives, annual income, net worth and liquid net worth. Consequently, during the Relevant Period, RBC supervisors failed to detect the sale by 99 of its registered representatives of approximately 364 reverse convertible transactions in approximately 218 customer accounts that were unsuitable for those customers. These customers incurred losses totaling at least \$1.1 million.

Accordingly, the Firm violated NASD Rules 3010(a), 2310 and 2110 and FINRA Rule 2010.

### FACTS AND VIOLATIVE CONDUCT

Structured products are debt securities derived from or based on a single security, a basket of securities, an index, a commodity, a debt issuance and/or a foreign currency. Structured products typically have two components – a note and a derivative (often an option). There are many types of structured products. Some structured products offer full protection on the principal invested, whereas others offer limited or no principal protection. Many structured products pay an interest or coupon rate substantially above the prevailing market rate. Structured products also frequently cap or limit the upside participation in the reference asset, particularly if some principal protection is offered or if the security pays an above-market rate of interest.

Reverse convertibles, a complex structured product, are interest-bearing notes in which principal repayment is linked to the performance of a reference asset, often a stock, a basket of stocks or an index. The reference asset is generally unrelated to the issuer of the note. At maturity, if the

value of the reference asset has fallen below a certain level (the “knock-in level”), the investor may receive less than a full return of principal. The diminished principal repayment could be in the form of shares of stock put to the investor or their cash equivalent. Reverse convertibles expose investors not only to the risks traditionally associated with fixed income products, such as issuer risk, but also to the risks of a decline in value in the underlying reference asset, which can lead to loss of principal. Reverse convertibles tend to have limited liquidity and complex payout structures that can make it difficult for registered representatives and their customers to accurately assess their risks, costs, and potential benefits.

### **Regulatory Guidance**

Reverse convertibles are not suitable for every customer and FINRA Notices to Members (“NTM”) regarding structured products generally and reverse convertibles in particular have set forth guidance to the membership regarding their sale. FINRA issued NTM 05-59 as a result of concerns that broker dealers were deficient in fulfilling sales practice obligations when selling structured products, particularly to retail customers. The Notice advised that some structured products present risks similar to that of options and that FINRA members should develop procedures to ensure that the structured products sold to investors matched those investors’ appetite for risk. FINRA reminded firms to perform a reasonable suitability determination on a structured product before recommending the product, as well as a customer specific suitability determination. FINRA also instructed firms that they must train brokers and their supervisors about each type of structured product before the brokers sell the product to investors.

In February 2010, FINRA issued NTM 10-09 that is specific to reverse convertibles and reiterates the need for firms to perform reasonable basis suitability as well as customer specific suitability analyses in connection with the sales of reverse convertibles. The Notice directs firms to make “reasonable efforts to obtain information concerning: (1) the customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such member or registered representative in making recommendations to the customer.” In sum, NTM 10-09 seeks to ensure that “[reverse convertibles] are only sold to persons for whom the risk of such products is appropriate.”

### **The Firm Failed to Establish Reasonable Systems and Procedures to Supervise Sales of Reverse Convertibles**

NASD Rule 3010(a) requires members to, among other things, “establish and maintain a system to supervise the activities of each registered representative, registered principal, and other associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD Rules. Final responsibility for supervision shall rest with the member.”

As noted above, NTM 10-09 requires FINRA registered firms that sell reverse convertibles to “have adequate [and reasonably-designed] written supervisory procedures and supervisory controls...to ensure that sales of... [reverse convertibles] comply with federal securities laws and FINRA rules.”

Both NASD Rule 2110 and FINRA Rule 2010 provide that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” Violations of federal securities laws and NASD rules are viewed as violations of NASD Rule 2110 because members of the securities industry are expected and required to abide by the applicable rules and regulations.<sup>1</sup>

During the Relevant Period the Firm offered at least 3,000 different reverse convertible products to its customers. The Firm effected through approximately 360 of its registered representatives in excess of 100,000 reverse convertible transactions in at least 5,000 customer accounts during the Relevant Period.

However, during the Relevant Period RBC did not have in place systems and procedures reasonably designed to ensure compliance with applicable securities laws and regulations, NASD/FINRA Rules and its own written supervisory procedures (“WSPs”) in connection with its sale of reverse convertibles.

The Firm’s WSPs for structured product sales set forth suitability requirements and guidelines for sales of reverse convertibles that addressed customer investment objectives and financial profiles as well as requirements for registered representative training. The WSPs prohibited the sale of reverse convertibles to any customer that listed his or her investment objective as “Preservation of Principal/Income.”

Additionally, the applicable WSPs established suitability guidelines for the sale of reverse convertibles pursuant to which investors were expected to have the following profile: (a) \$100,000 annual income; (b) \$100,000 in liquid assets; (c) \$250,000 net worth (collectively, the “Financial Criteria”); and (d) two years of prior investment experience.<sup>2</sup>

The Firm’s WSPs further required registered representatives to complete a web-based structured products training module prior to soliciting sales of structured products.

However, the Firm lacked reasonable systems to ensure that its WSPs for sales of reverse convertibles were followed by RBC registered representatives who sold this product to their retail customers.

### *Unreasonably Designed Surveillance Systems*

The Firm provided its managers with an electronic transaction surveillance system called ProSurv to review all trading activity, including reverse convertible transactions. ProSurv, however, did not generate reports unique to reverse convertible transactions or that measured reverse convertible transactions against applicable requirements and guidelines. For example, ProSurv did not flag reverse convertible transactions where a customer’s annual income, liquid

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<sup>1</sup> FINRA Rule 2010 superseded NASD Rule 2110 effective December 15, 2008.

<sup>2</sup> Until February 2009, the Firm’s WSPs indicated that structured products investors “must” meet the Financial Criteria. Thereafter, the WSPs indicated that structured products investors “should” meet the Financial Criteria.



assets, net worth or investment objective was inconsistent with the requirements and guidelines of the Firm's applicable WSPs. These limitations of the ProSurv system in reviewing reverse convertible transactions continued through the remainder of the Relevant Period and until early 2013. Thus, for a period of at least five years the Firm's electronic surveillance systems did not review transactions for compliance with the requirements and guidelines of its WSPs applicable to reverse convertibles.

#### ***Unreasonably Designed and Implemented Exception Reports***

Prior to June 2008, the Firm generated and distributed reverse convertible-related exception reports to Complex Directors only sporadically on an "as needed" basis as requested by individual Complex Directors<sup>1</sup> and without the Firm's guidance or direction.

Thereafter, in January 2009, the Firm began issuing to the Firm's Complex Directors a quarterly exception report for reverse convertible transactions (the "Quarterly Report"). However, the Quarterly Report was also an ineffective supervisory tool given that it was created and reviewed only after the transactions had been effected. In addition, this report was issued only on a quarterly basis, thereby allowing potentially non-compliant transactions to remain in effect without review for up to three months after they were effected.

Additionally, the Firm lacked any written escalation procedures requiring notification and/or consultation with the Firm's compliance department when potentially violative transactions were identified.

During the Relevant Period, the Firm effected at least 237 reverse convertible transactions where the customer had an investment objective of Preservation of Principal/Income. In addition, from January 1, 2008 through December 31, 2010, of the 9,200 reverse convertible transactions where the stock hit the knock-in level at or about the time of maturity, more than 5,600 reverse convertible transactions failed to meet one or more of the three Financial Criteria, with at least 127 reverse convertible transactions failing to meet all three criteria. Each of these referenced transactions was effected in violation of the Firm's WSPs without being detected by the Firm's applicable supervisory systems and procedures or being identified as violative by the Firm's supervisory personnel.

The foregoing is demonstrative of the Firm's failure to implement a reasonable system of follow-up and review to ensure that it sold reverse convertibles only to those customers for whom the product was suitable. Specifically, the Firm failed to ensure that it implemented reasonably designed systems and procedures to flag for its supervisory personnel potentially unsuitable transactions in reverse convertibles and ensure that its registered persons were adequately trained regarding the risks associated with reverse convertibles and the customers for whom such investments were suitable.

By the foregoing, the Firm violated NASD Rules 3010 and 2110 and FINRA Rule 2010.

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<sup>1</sup> A Complex was composed of various branch offices established in an identified geographical area. The Firm had approximately 35 Complexes during the Relevant Period. Complex Directors had primary responsibility to review all trading activity occurring within their Complexes.

### **Unsuitable Reverse Convertible Transactions**

NASD Rule 2310(a) requires that, in recommending the purchase, sale or exchange of any security, a member have a reasonable basis for believing that the recommendation is suitable for a customer based upon the customer's financial situation and needs. NASD Rule 2310(b) also requires that prior to the execution of a transaction, a member make reasonable efforts to obtain information concerning a customer's financial status.

Structured products generally and reverse convertibles in particular are not suitable for every customer and FINRA NTMs have provided guidance to members regarding the parameters for suitability as noted above. As noted above, FINRA NTM 05-59, in effect during the Relevant Period provides guidance on member obligations when selling structured products. These include the requirements to: (1) ascertain accounts eligible to purchase structured products; (2) perform a reasonable-basis suitability determination; (3) perform a customer specific suitability determination; (4) supervise and maintain a supervisory control system; and (5) train associated persons. Further, FINRA recognized in NTM 10-09 the unique nature of reverse convertibles and directed firms to perform a reasonable basis, as well as customer specific suitability analysis, for each recommended reverse convertible purchase in order to ensure that "[reverse convertibles] are only sold to persons for whom the risk of such products is appropriate."

From January 1, 2008 through December 31, 2010, of all the reverse convertible sales where the stock price dropped below the knock-in level at or about the time of maturity, 127 were recommended and sold by RBC in 100 customer accounts that listed an annual income below \$100,000, liquid assets of less than \$100,000 and a net worth below \$250,000. In addition, from January 1, 2008 through December 31, 2012, RBC permitted its registered representatives to recommend and sell 237 unsuitable reverse convertibles in more than 100 customer accounts that listed the conservative investment objective of "Preservation of Principal/ Income." Losses incurred by these customers totaled at least \$1.1 million.

Given the nature of the reverse convertible product, these transactions exposed the referenced customers to a risk of loss that was inconsistent with their risk tolerance, investment objectives and financial status and RBC did not have reasonable grounds to believe that the recommendation and sale of reverse convertibles were suitable for these customers. Moreover, the guidelines articulated in the Firm's own WSPs establish that reverse convertibles should not have been sold to these customers.

By virtue of the forgoing conduct, RBC violated NASD Rules 2310 and 2110 and FINRA Rule 2010.

- B. The Firm also consents to the imposition of the following sanctions:
  - a. A censure;
  - b. A fine in the amount of \$ 1 million; and

c. Restitution in the amount of \$433,898.10.<sup>1</sup>

RBC agrees to pay the monetary sanctions upon notice that this AWC has been accepted and that such payments are due and payable. RBC has submitted an Election of Payment form showing the method by which it proposes to pay the fine imposed.

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

Restitution is ordered to be paid to the customers listed on Attachment A hereto in the total amount of \$433,898.10, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from the respective dates indicated, until the date this AWC is accepted by the NAC.

A registered principal on behalf of Respondent firm shall submit satisfactory proof of payment of restitution or of reasonable and documented efforts undertaken to effect restitution. Such proof shall be submitted to Josefina Martinez at One World Financial Center, 200 Liberty Street, New York, NY 10281 either by letter that identifies the Respondent and the case number or by e-mail from a work-related account of the registered principal of Respondent firm to EnforcementNotice@FINRA.org. This proof shall be provided to the FINRA staff member listed above no later than 120 days after acceptance of the AWC.

If for any reason Respondent cannot locate any customer identified in Attachment A after reasonable and documented efforts within 120 days from the date the AWC is accepted, or such additional period agreed to by a FINRA staff member in writing, Respondent shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property or abandoned property fund for the state in which the customer is last known to have resided. Respondent shall provide satisfactory proof of such action to the FINRA staff member identified above and in the manner described above, within 14 days of forwarding the undistributed restitution and interest to the appropriate state authority.

Respondent has specifically and voluntarily waived any right to claim an inability to pay at any time hereafter the monetary sanctions imposed in this matter.

The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies.

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

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<sup>1</sup> The Firm made payments to more than 100 of customers pursuant to the settlement of a class action law suit brought against the Firm in the Superior Court of the State of California, County of Los Angeles. Enforcement will not require the payment of restitution to those customers that received a payout pursuant to the settlement of that lawsuit.

**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 it;
- 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 prejudgment 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 waive 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 RBC; 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 accordance with FINRA Rule 8313;
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. RBC 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: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.

- D. RBC may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. RBC 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 the Firm, 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 RBC has agreed 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 RBC to submit it.

February 27, 2015  
Date: \_\_\_\_\_, 2015

Daniel L. Turberson  
RBC Capital Markets, LLC

Reviewed by:  
E. S. Seltzer  
Eric S. Seltzer  
Counsel for Respondent  
Sidley Austin LLP  
85 Exchange Street  
Portland, ME 04101  
(207) 780-8272

By: Daniel L. Turberson  
General Counsel, ABC Wealth  
Management, a division of  
RBC Capital Markets, LLC

Accepted by FINRA:

April 23, 2015  
Date

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

Susan Light  
Susan Light  
Senior Vice President & Chief Counsel  
FINRA Department of Enforcement  
One World Financial Center  
200 Liberty Street  
New York, NY 10281  
(646) 315-7333

# **EXHIBIT D**



## Investor Alerts

### Reverse Convertibles—Complex Investment Vehicles

**Update:** FINRA is reissuing this alert on the heels of its enforcement action related to supervisory failures resulting in the sale of unsuitable reverse convertibles. The alert details the numerous risks associated with reverse convertibles, including their often complex features.

Over the past few years, brokerage firms and banks have been issuing and marketing complex investments known in the industry as "structured products" to individual investors. These include "reverse convertibles," which are popular in part because of the high yields they offer.

Also known as "revertible notes" or "reverse exchangeable securities"—and sold under a variety of proprietary names that may or may not use the term "structured" to describe the product—reverse convertibles are debt obligations of the issuer that are tied to the performance of an unrelated security or basket of securities. Although often described as debt instruments, they are far more complex than a traditional bond and involve elements of options trading. Reverse convertibles expose investors not only to risks traditionally associated with bonds and other fixed income products—such as the risk of issuer default and inflation risk—but also to the additional risks of the unrelated assets, which are often stocks.

FINRA is issuing this alert to inform investors of the features and risks of reverse convertibles. They are complex investments that often involve terms, features and risks that can be difficult for individual investors and investment professionals alike to evaluate. If you are considering a reverse convertible, be prepared to ask your broker or other financial professional lots of questions about the product's risks, features and fees and why it's right for you.

#### What Is a Reverse Convertible?

A reverse convertible is a structured product that generally consists of a high-yield, short-term note of the issuer that is linked to the performance of an unrelated reference asset—often a single stock but sometimes a basket of stocks, an index or some other asset. The product works like a package of financial instruments that typically has two components:

- a **debt instrument** (usually a note and often called the "wrapper") that pays an above-market coupon (on a monthly or quarterly basis); and

- a **derivative**, in the form of a put option, that gives the issuer the right to repay principal to the investor in the form of a set amount of the underlying asset, rather than cash, if the price of the underlying asset dips below a predetermined price (often referred to as the "knock-in" level).



When you purchase a reverse convertible, you're getting a yield-enhanced bond. You do not own, and do not get to participate in any upside appreciation of, the underlying asset. Instead, in exchange for higher coupon payments during the life of the note, you effectively give the issuer a put option on the underlying asset.

You are betting that the value of the underlying asset will remain stable or go up, while the issuer is betting that the price will fall. In the typical best case scenario, if the value of the underlying asset stays above the knock-in level or even rises, you can receive a high coupon for the life of the investment and the return of your full principal in cash. In the worst case, if the value of the underlying asset drops below the knock-in level, the issuer can pay back your principal in the form of the depreciated asset—which means you can wind up losing some, or even all, of your principal (offset only partially by the monthly or quarterly interest payments you received and the ownership of shares in the devaluated asset).

A reverse convertible might make sense for an investor who wants a higher stream of current income than is currently available from other bonds or bank products—and who is willing to give up any appreciation in the value of the underlying asset. But, in exchange for these higher yields, investors in these products take on significantly greater risks.

### How Do Reverse Convertibles Work?

The initial investment for most reverse convertibles is \$1,000 per security, and most have maturity dates ranging from three months to one year. The interest or "coupon rate" on the note component of a reverse convertible is usually higher than the yield on a conventional debt instrument of the issuer—or of an issuer with a comparable debt rating.

For example, some recently issued reverse convertibles have annualized coupon rates of up to 30 percent. A reverse convertible's higher yield reflects the risk that, instead of a full return of principal at maturity, the investor could receive less than the full return of principal if the value of the unrelated reference asset falls below the knock-in level the issuer sets. For a reference asset that is a single stock, the knock-in level can be 20 percent or more below the original price. Since this means that if the stock drops in value but does not break through the knock-in price, the reverse convertible provides you with some conditional downside protection (as explained below) not available if you just own the underlying asset. For this protection, you do give up any opportunity to participate in upside growth of the underlying asset.

Depending on how the underlying asset performs, you will receive either your principal back in cash or a predetermined number of shares of the underlying stock or asset (or cash equivalent), which amounts to less than your original investment (because the asset's price has dropped). While each reverse convertible has its own terms and conditions, you will generally receive the full amount of your principal in cash if the price of the reference asset remains above the knock-in level throughout the life of the note. In some cases, you will also receive a full return of principal if the price of the reference asset ends above the knock-in level at maturity, even if it has fallen below it during the term of the investment—although in other cases, any breach of the knock-in level will result in your receiving less than the original principal. However, you typically will not participate in any appreciation in the value of the reference asset during the life of the note.

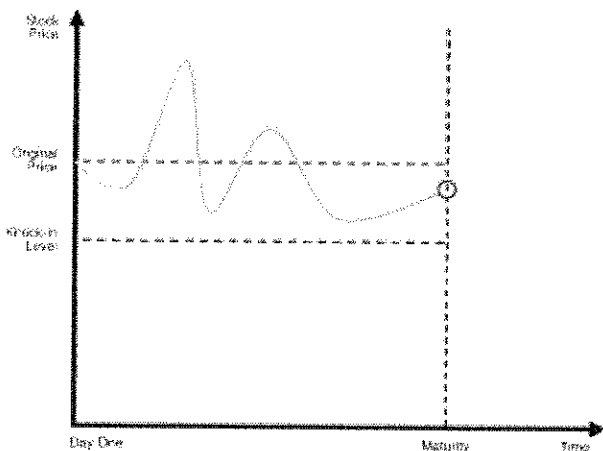
Reverse convertibles can have complex pay-out structures involving multiple variables that can make it difficult to accurately assess their risks, costs and potential benefits. For example, a hypothetical payoff structure of a reverse convertible with common stock as the reference asset could result in the following scenarios:

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#### Scenario:

1. The stock price never declines below the knock-in level, but ends below the original price.

**Stock Price Visual:**



**At maturity, the investor gets:**

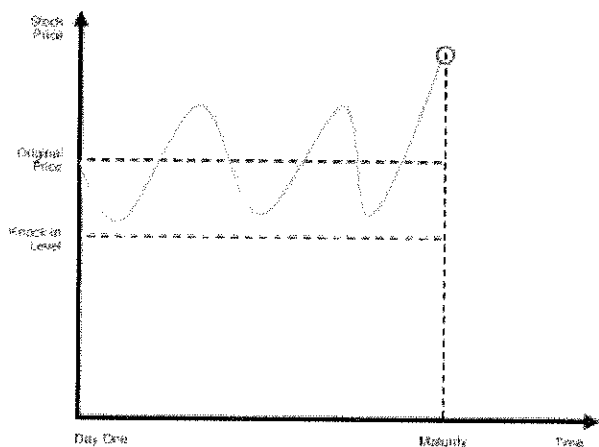
Full return of principal in cash (despite the decline in the stock price), plus any fixed coupon payments.

---

**Scenario:**

2. The stock price never declines below the knock-in level, and ends above the original price.

**Stock Price Visual:**



**At maturity, the investor gets:**

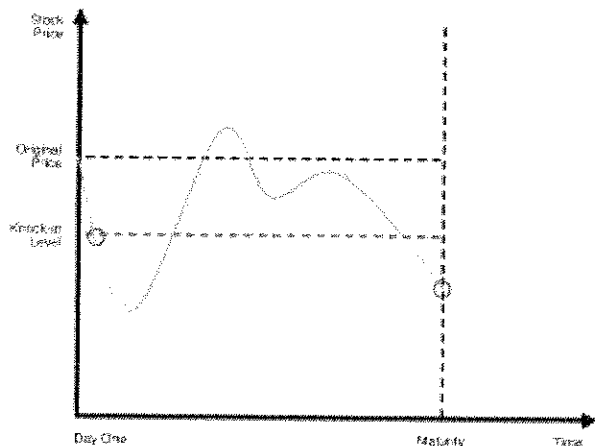
Full return of principal in cash, plus any fixed coupon payments, but no participation in the increase in the stock price.

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**Scenario:**

3. The stock price ends below the knock-in level.

**Stock Price Visual:**



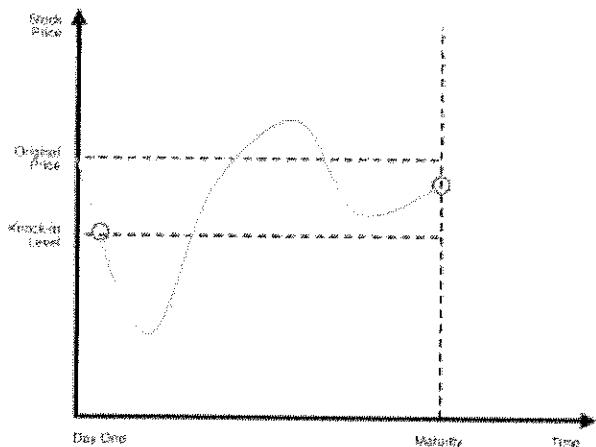
**At maturity, the investor gets:**

Predetermined number of shares of stock (or cash equivalent), worth less than the principal amount, plus any fixed coupon payments.

**Scenario:**

4. The stock price declines below the knock-in level, but ends between the original price and knock-in level.

**Stock Price Visual:**



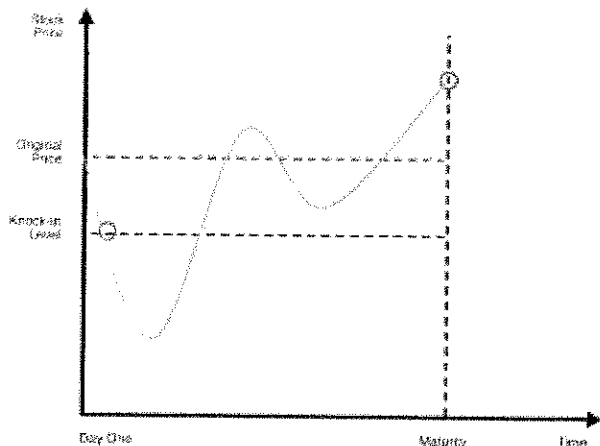
**At maturity, the investor gets:**

Predetermined number of shares of stock (or cash equivalent) worth less than the principal amount, plus any fixed coupon payments; or full return of principal in cash, plus any fixed coupon payments, depending on the issuer and product.

**Scenario:**

5. The stock price declines below the knock-in level, but ends above the original price.

**Stock Price Visual:**



**At maturity, the investor gets:**

Full return of principal in cash, plus any fixed coupon payments, but no participation in the increase in the stock price.

Generally speaking, the higher the coupon rate the note pays, the higher the expected volatility of the reference asset. In turn, the more volatile the reference asset, the greater the likelihood that the knock-in level will be breached, and the investor could receive less than a full return of principal at maturity (as illustrated in cases three and four above).

The bottom line is that reverse convertibles come not only with the risks that fixed income products ordinarily carry—such as the risk of issuer default and inflation risk—but also with any additional risks of underlying asset. When the underlying asset is a stock, this means exposure to the business risks of the company as well as systemic equity market risks, including price volatility. If you are considering investing in reverse convertibles, it is critical that you look beyond the high coupon rate and focus on the risks of the underlying asset. Remember that even if the issuer of the reverse convertible is able to meet its obligations on the note—and even if the yield keeps pace with or surpasses inflation—you could wind up, when the note matures, with shares of a depreciated—or even worthless—asset that you otherwise would not have purchased. If you are not comfortable with the thought of potentially owning the underlying asset, you should not buy a reverse convertible that is based on that asset.

**Why Do Investors Buy Reverse Convertibles?**

**High coupon rate or "stated yield."** Reverse convertibles can offer coupons from 7 percent to 30 percent. Typically, however, a higher coupon rate indicates higher volatility in the underlying stock or asset. This translates into a greater likelihood that the knock-in level will be breached during the term of the reverse convertible and that investors will receive stock (or the current cash value of the asset) at maturity worth considerably less than the full return of principal in cash. As a general rule, the higher the offered yield, the greater the risk of losing all or a portion of the principal invested.

**Expectation of flat markets.** Investors who are betting that a stock price will be relatively flat may expect to do better with a reverse convertible than buying the stock itself. But remember, the coupon rates for reverse convertibles linked to relatively stable stocks may not be as high as for those linked to volatile stocks.

**Convenience for some investors.** Some investors may have a specific strategy in mind that a reverse convertible can replicate. For example, an investor may believe that a stock will only trade within a certain range. Instead of buying options or futures separately that together would allow the investor to profit from that bet, the investor can buy a reverse convertible.

### What's the Downside?

**Exposure to asset-related risks.** When you purchase a reverse convertible, you get all the risks that debt instruments ordinarily entail, *plus* the risks of the underlying asset. That is why it is so critical that you fully comprehend what is behind the higher coupons these products offer—and that you fully understand the product you are buying. Remember that purchasing a reverse convertible means you are either bullish on the underlying asset itself or you are betting that the asset's volatility will be low for the term of the note.

**Embedded options.** When investing in a reverse convertible, you effectively buy a note *from* the issuer and sell a put option *to* the issuer simultaneously. If you don't have the risk tolerance for selling put options generally, you should question whether you want to invest in a security that contains an embedded one. If you are considering reverse convertibles, be sure you fully understand the complexities of the product and have the financial means to bear the risks.

**Fees.** Issuers charge an up-front embedded fee to investors—typically ranging from less than 1 percent to 8 percent or more—for assembling and packaging a reverse convertible's individual components. Prospectuses may call this fee "built-in costs" or "costs of hedging," although the exact amount is not typically disclosed to the investor. Industry experts say that it is all but impossible for individual investors to determine the size of this embedded fee (and therefore whether the reverse convertible represents a good deal), because that would require dissecting the reverse convertible's parts and determining what it would cost for the investor to obtain and assemble them.

### Investor Tip—Be Sure to Adjust for Annualized Yields

While yields on reverse convertibles are often described on an annualized basis, fees are often expressed only for the term of the note. It is important that you consider how these numbers are described—and, if necessary, do a little math so you can make an apples-to-apples comparison of yields and fees. For example, a sales brochure for a 3-month instrument might advertise a yield of 10 percent per year and a fee of 1.5 percent, which is embedded in the \$1,000 price of the product. This is not as attractive as it may sound, because a 1.5 percent fee on a 3-month product amounts to a 6 percent fee on an annualized basis.

**Potential liquidity risk.** As is the case with virtually all structured products, secondary trading for reverse convertibles will generally be limited—which means reverse convertibles can be highly illiquid. Even if the issuer of a reverse convertible states that it intends to maintain a secondary market, it is not required to do so. This means that you could have trouble selling reverse convertibles in a pinch and/or could lose money if you sell the reverse convertible prior to maturity. Finally, transaction costs in the secondary market for these products could be high.

**Credit quality.** A reverse convertible is an unsecured senior debt obligation of the issuer, meaning that the issuer is obligated to make the interest payments and final payments as

promised. These promises, including any principal protection, are only as good as the financial health of the issuer that gives them and that issuer's ability to meet its obligations when they come due. While it is not a common occurrence that an issuer of a reverse convertible is unable to meet its obligations, it can happen.

### **Credit Ratings—They May Not Mean What You Think They Mean**

Credit ratings are a way of assessing default and credit risk—in other words, the creditworthiness of the issuer. While the note component of a reverse convertible carries the issuer's credit rating, that rating does not reflect the risk that the price of the unrelated underlying asset will fall below the knock-in level, resulting in a loss of principal. A reverse convertible packaged by a highly rated issuer could be linked to a poorly rated company—or to a highly rated company whose stock performs poorly.

For more information on credit ratings, read FINRA's Bonds information.

**Tax considerations.** The tax treatment of reverse convertibles is complicated and uncertain. Investors should consult with their tax advisors and read the tax risk disclosures in their prospectuses and other offering documents. Although these documents typically provide instructions on how investors should treat reverse convertibles on their tax returns, there is no guarantee that the IRS or a court would agree with that tax treatment. Little guidance in the way of court decisions or published IRS rulings has been issued on this topic. When considering the tax consequences of any investment, you may want to consult with a tax advisor.

**Call risk.** Some reverse convertibles have "call provisions" that allow the issuer, at its sole discretion, to redeem the investment before it matures. If this is the case, you would not receive any subsequent coupon payments that you were promised for the term of the reverse convertible, and you would immediately receive your principal in either cash or stock. Also, if a reverse convertible is called, it might be difficult or impossible to find an equivalent investment paying rates as high as the original rate (which is known as reinvestment risk). You should carefully read the prospectus to learn whether there is a call provision and what its specific terms are.

**Loss of principal.** While some other structured products may offer principal protection, reverse convertibles do not. The only potential protection against loss they might offer is the conditional downside protection of the knock-in price. Depending on whether the price of the underlying stock or asset breaches the knock-in level, you could lose some—or even all—of your principal. You may be told that, in a down market, you at least "walk away with something." But don't forget that the stock you receive in the case of a breach could, for example, be shares in a company that is about to declare bankruptcy—or that you don't want to own or doesn't make sense for your circumstances. This risk is why research must be done on the underlying asset and why you should think twice about owning a reverse convertible if you are not comfortable with the thought of potentially owning the underlying asset.

**Conflicts of interest.** An issuer may conduct activities that could represent conflicts of interest with respect to investors of its reverse convertibles. For example, the issuer might engage in regular business activities with the company whose stock is the underlying asset, such as investment banking, asset management or other advisory services and writing research reports about the company. An affiliate of the issuer, for example, might publish research reports that

are unfavorable to the stock and could hurt the performance of a reverse convertible that is linked to that stock.

### How to Protect Yourself

Be wary of any advertisements or sales literature suggesting that reverse convertibles are safe and suitable for investors seeking high yields. These sales pitches may play up the high yield on the note and play down the risk of the derivative component.

If you are considering a reverse convertible, you face at least two risks—that the stock or other asset will go down in value, and that the issuer will be unable to repay its obligation on the note. Before taking on these risks, be sure to ask your broker plenty of questions, such as:

Can you review the prospectus, prospectus supplement or offering circular for the product with me? (The prospectus will contain a more extensive and balanced discussion of the risks involved. You should always carefully review the prospectus prior to making any investment decision.)

Given my investment objectives, is this product suitable for my account?

Do I get interest or other cash payments, and if so, how much and how often? What are the risks that I might not receive them?

What are the risks of the underlying asset? How volatile has this asset been recently? Be aware that while past performance can never guarantee future results, looking at historical price information (to the extent it is available) can help you assess the volatility of the underlying asset.

What is the likelihood that the reverse convertible breaches the knock-in-level, such that I might receive the underlying asset (or cash equivalent) instead of the return of my principal at maturity? If I end up owning the asset, how does that asset fit in with my investment objectives?

Is there an active market in this security if I need to sell it before its maturity? If so, what risk of loss might there be?

Can this product be called? If so, what will I receive?

Are there any other risks related to this product?

What are all the fees and expenses associated with this product?

How is the investment treated for tax purposes, and what are the effects on my taxes of any principal and interest payments?

Always remember:

Higher yields go hand-in-glove with greater risk. Reverse convertibles are complex, risky products that do not offer principal protection. They are not plain vanilla bond investments, and they are not right for every investor.

Consider whether you would independently invest in the underlying asset. Remember that you are effectively giving the issuer a put, allowing the issuer to return your principal in the form of the depreciated asset if the asset's value goes down. If you are not comfortable with the concept of writing a put option—and if you would not independently want to purchase the underlying asset—then think twice about investing in a reverse convertible.

Read the prospectus, offering circular and sales literature very carefully. Reverse convertibles are complex financial instruments that vary from product to product.

Make sure you are comparing apples with apples when you are sizing up the fees and stated yields. If yields are described on an annualized basis, be sure to do the math to determine the actual amount of the fees on the same basis. When annualized, yields tend to sound higher.

Typically the stated yield that is advertised is the **maximum** return that you could achieve on the product in the **best** circumstances—not a guaranteed return or even a likely return. In particular, you might not achieve the stated yield if you end up receiving stock instead of cash. And you may receive substantially less—or possibly more—if you hold the stock and sell it at a later date. Be sure you understand what the advertised yields or returns really mean.

For the typical retail investor, it would be unwise to put a significant portion of life savings into riskier structured products such as reverse convertibles. These types of products are not for everyone. Make sure you stick with the bedrock principle of diversification.

If you do not fully understand the product, reconsider your decision to invest in it.

### **If You Run Into a Problem**

If you have a complaint concerning a securities professional, you should contact his or her supervisor or the firm's compliance department or senior management. You may also file a complaint with respect to a brokerage firm or broker using FINRA's Complaint Center. For other financial professionals, such as registered investment advisers, you can turn to their regulators, generally either the Securities and Exchange Commission or your state securities regulator.

### **Additional Resources**

Regulatory Notice 10-09, Reverse Convertibles

Regulatory Notice 05-59, Structured Products

To receive the latest Investor Alerts and other important investor information sign up for Investor News.

Last Updated: July 29, 2011



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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Gary and Caryl Luis, Gary A. Mentz, Michael J. Vitse and Merri L. Vitse

DEFENDANTS

RBC Capital Markets, LLC

(b) County of Residence of First Listed Plaintiff Placer County, CA (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

David A. Goodwin
Gustafson Gluek PLLC
120 So. 6th St., Ste. 2600, Minneapolis, MN 55402 (612) 333-8844

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District (specify)
6 Multidistrict Litigation - Transfer
8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 1332(d)
Brief description of cause: breach of contract

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Judge Nelson

DOCKET NUMBER 16-cv-00175

DATE 11/10/2016

SIGNATURE OF ATTORNEY OF RECORD s/ David A. Goodwin

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [RBC Capital Markets Hit with Breach of Contract Class Action](#)

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