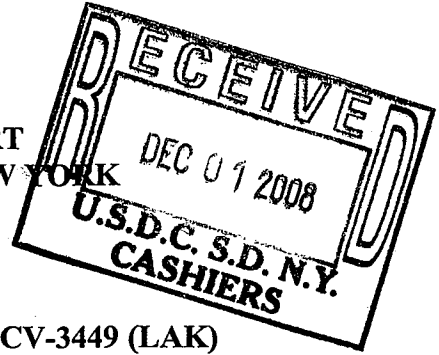


UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK



DEFER LP, Individually  
And On Behalf of All Others Similarly Situated,

Plaintiff,

v.

RAYMOND JAMES FINANCIAL, INC.,  
RAYMOND JAMES & ASSOCIATES, INC.,  
and RAYMOND JAMES FINANCIAL  
SERVICES, INC.,

Defendants.

Case No. 1:08-CV-3449 (LAK)

**FIRST AMENDED CLASS ACTION  
COMPLAINT FOR VIOLATION OF  
THE FEDERAL SECURITIES LAWS**

**JURY TRIAL DEMANDED**

1. Lead Plaintiff Laurie Rubin, by her counsel, alleges the following based upon personal knowledge as to her own acts and upon the investigation of by her counsel, which includes, among other things, a review of: (a) public statements, sales presentations and marketing materials by Raymond James Financial, Inc., Raymond James & Associates, Inc. and Raymond James Financial Services, Inc. (collectively “Raymond James” or “Defendants”), and their affiliates, agents and employees; (b) Securities and Exchange Commission (“SEC”) filings made by Raymond James and other brokerages, financial services firms and investment companies; (c) public filings and statements in court proceedings and civil government and regulatory investigations involving Raymond James and other brokerages, financial services firms and investment companies; (d) documents believed to be authentic copies of internal emails and other business records of various brokerages, financial services firms and investment companies obtained from public record sources; (e) securities analysts’ reports, press releases and media reports; (f) interviews with purchasers of auction rate securities and other knowledgeable individuals; and (g) discussions with consultants.

### **INTRODUCTION**

2. This is a class action under Sections 10(b) and 20(a) of the Securities Exchange Act of 1934 (“Exchange Act”) on behalf of all persons or entities who purchased auction rate securities from Raymond James between April 8, 2003 and February 13, 2008, inclusive (“Class Period”), and who were damaged thereby.

3. Auction rate securities are bonds or preferred stocks that pay interest or dividends at rates set at periodic auctions. During the Class Period, Raymond James sold auction rate securities to investors as highly liquid investments and appropriate short-term investments.

4. During the Class Period, Raymond James engaged in a scheme to defraud purchasers of auction rate securities by making omissions and misrepresentations of material fact about the risks, value and liquidity of those securities. The scheme allowed Raymond James to

reap millions of dollars in sales commissions, underwriting fees and auction management fees at the expense of investors who purchased auction rate securities at overvalued prices.

5. Raymond James pushed more than one billion dollars of auction rate securities onto investors, including its own inventory of auction rate securities, in order to avoid being stuck with them on its own balance sheet.

6. Raymond James failed to disclose material facts relating to the liquidity and risk characteristics of auction rate securities and to the scope and extent to which broker-dealers intervened in the auctions for auction rate securities

7. On February 13, 2008, the auction rate securities market collapsed after all major auction rate securities broker-dealers abruptly ended their policy of propping up the market, leaving Class Members holding billions of dollars in illiquid auction rate securities, often earning interest far below market rates.

#### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1337, and Section 27 of the Exchange Act (15 U.S.C. § 78aa). The claims asserted herein arise under Sections 10(b) and 20(a) of the Exchange Act (15 U.S.C. §§ 78j(b) and 78t(a)), and Rule 10b-5 promulgated thereunder by the SEC (17 C.F.R. 240.10b-5).

9. Venue is proper in this District pursuant to Section 27 of the Exchange Act and 28 U.S.C. §§ 1391(b) and 1337. Defendants maintain offices within this District and many of the acts giving rise to the violations complained of herein took place in this District.

10. In connection with the acts alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce including, but not limited to, the mails, interstate telephone communications and the facilities of the national securities markets.

## PARTIES

11. Lead Plaintiff Laurie Rubin is the trustee of the Laurie Rubin Revocable Trust, the trustee for Cole Goldenberg, and the President of Laurie Rubin, Inc. Ms. Rubin purchased auction rate securities for the Laurie Rubin Revocable Trust, Cole Goldenberg and Laurie Rubin, Inc. from Raymond James during the Class Period.

12. Defendant Raymond James Financial, Inc. (“RJF”) is a Florida corporation headquartered in St. Petersburg, Florida. RJF is a leading financial firm and conducts its brokerage and investment banking business through subsidiaries including Raymond James & Associates, Inc. and Raymond James Financial Services, Inc.

13. Defendant Raymond James & Associates, Inc. (“RJA”) is a Florida corporation headquartered in St. Petersburg, Florida. RJA, a wholly-owned subsidiary of RJF, is registered with the SEC as a broker-dealer pursuant to Section 15(b) of the Exchange Act and is a member of the Financial Industry Regulatory Authority (“FINRA”). During the Class Period, RJA underwrote auction rate securities and managed auctions for auction rate securities that Raymond James sold to Class members.

14. Defendant Raymond James Financial Services, Inc. (“RJFS”) is a Florida corporation headquartered in St. Petersburg, Florida. RJFS, a wholly-owned subsidiary of RJF, is registered with the SEC as a broker-dealer pursuant to Section 15(b) of the Exchange Act and is a member of the FINRA. During the Class Period, RJFS sold auction rate securities to Class members.

15. Unless specifically noted, “Raymond James” refers collectively to defendants RJF, RJA and RJFS.

## CLASS ACTION ALLEGATIONS

16. Lead Plaintiff brings this action as a class action pursuant to Federal Rule of Civil Procedure 23(a), 23(b)(1), (b)(2) and/or (b)(3), and 23(c)(4) on behalf of a Class consisting of all

persons and entities that purchased auction rate securities from Raymond James between April 8, 2003 and February 13, 2008, inclusive, and were damaged thereby (the "Class").

17. Excluded from the Class are Defendants; the subsidiaries and affiliates of any Defendant; any person or entity who is a partner, officer, director, employee or controlling person of any Defendant; members of Defendants' immediate families and their legal representatives, heirs, successors or assigns; and any entity in which any Defendant has or had a controlling interest.

18. The members of the Class are so numerous that joinder of all members is impracticable. The market for auction rate securities, while it existed, was estimated to exceed \$300 billion in the United States.

19. Raymond James was a substantial seller of auction rate securities while the market for such securities existed. During the Class Period, Raymond James's clients held as much as \$1.9 billion of auction rate securities they purchased from Raymond James.

20. During the Class Period, Raymond James sold auction rate securities to thousands of customers. While the exact number of Class members is unknown to Lead Plaintiff at this time and can only be ascertained through appropriate discovery, Lead Plaintiff believes that there are thousands of members of the proposed Class.

21. Record owners and other members of the Class may be identified from records maintained by Defendants and other brokerage firms and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

22. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a. Whether the federal securities laws were violated by Defendants' acts as alleged herein;

- b. Whether Defendants made omissions or misrepresentations of material fact about the risks, value and liquidity of auction rate securities and the market for such securities;
- c. Whether Defendants failed to disclose that broker-dealers artificially supported and manipulated the market for auction rate securities to maintain the appearance of liquidity and stability, and if so, whether the omitted facts are material; and
- d. Whether Class members have sustained damages and the proper measure of damages.

23. Lead Plaintiff's claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

24. Lead Plaintiff will fairly and adequately protect the interests of the members of the Class and has retained counsel competent and experienced in class and securities litigation.

25. A class action is superior to all other available methods for the fair and efficient adjudication of Lead Plaintiff's claims. The damages suffered by individual Class members are relatively small given the burden and expense of individual prosecution of the complex litigation necessitated by Defendants' conduct. It would be virtually impossible for members of the Class to individually redress the wrongs done to them.

26. Furthermore, even if Class members could afford such individualized litigation, the court system could not. Individualized litigation would create the danger of inconsistent or contradictory judgments and increase the delay and expense to all parties and the court system. By contrast, the class action device presents far fewer management difficulties, is in fact manageable, and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court. The benefits of adjudicating this controversy as a class action far outweigh any difficulties in managing the Class.

27. In the alternative, the Class may be certified under the provisions of Fed. R. Civ. P. 23(b)(1), 23(b)(2) and/or 23(c)(4) because:

- a. The prosecution of separate actions by the individual Class members would create a risk of inconsistent or varying adjudications with respect to individual

Class members which would establish incompatible standards of conduct for Defendants;

- b. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests;
- c. Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole; and
- d. The claims of Class members are comprised of common issues that are appropriate for certification under Rule 23(c)(4).

### **FACTUAL ALLEGATIONS**

#### **A. Background: Auction Rate Securities**

28. Auction rate securities are long-term or perpetual variable-rate equity or debt instruments that pay interest or dividends at rates set at periodic “auctions.”

29. Auction rate securities were an attractive financing vehicle while the market for those securities existed, because they allowed issuers to obtain long-term capital at short-term rates.

30. The market for auction rate securities experienced dramatic growth since the securities were first introduced in 1984.

31. By February 2008, approximately \$330 billion of auction rate securities were outstanding.

32. Investments in auction rate securities when they were first marketed in the 1980s were limited to highly sophisticated institutional investors, with required minimums of \$250,000 or more.

33. Prior to the beginning of the Class Period, issuers and underwriters lowered the minimum investment to \$25,000.

34. The reduced minimum investment enabled sellers to market auction rate securities to retail investors including individuals, charities and small businesses.

**B. The Auction Process**

35. Prior to February 2008, auction rate securities typically traded at par value through periodic auctions.

36. The rates of interest or dividends paid on auction rate securities were determined at the periodic auctions, which were conducted as “Dutch” auctions.

37. Although the amount of time between each auction varied between individual securities, in general auctions were held every 7, 28, 35 or 49 days, with interest paid at the end of the auction period.

38. Auction rate securities were sold to investors by broker-dealers that had entered into agreements to manage auctions and accept orders for the purchase and sale of those securities, or by other designated brokerages, often referred to as “remarketing agents” or “distributing firms.”

39. In theory, before an auction took place, broker-dealers surveyed investor interest and gave guidance to potential investors, providing a range of rates within which the broker-dealers believed the auction would clear. This conduct was referred to as “price talk.”

40. Price talk enabled broker-dealers to influence the clearing rate for the auctions they managed. Among other things, if investors placed bids well above the price talk, the broker-dealers were able to and did place sufficient bids to clear the auctions at lower interest rates.

41. According to typical auction procedures, each prospective buyer submitted a bid for a specific amount of securities and a specified interest or dividend rate. Sell orders were filled beginning with bids at the lowest rate and continuing with bids at progressively higher rates, until all securities available for sale were sold. The interest or dividend rate bid at which the last of the securities were sold was the “clearing rate.” The clearing rate was then applied to all securities sold in the auction.

42. Auction procedures typically provided for the following types of orders:

- a. Hold: The holder kept the securities regardless of the clearing rate;

- b. **Hold at Rate:** The prospective seller kept the securities only if the clearing rate was at least as much as the rate that the person specified; if the clearing rate was less than the rate specified, then the person sold his or her securities;
- c. **Sell:** The prospective seller sold the securities regardless of the clearing rate; and
- d. **Buy:** The prospective buyer submitted a bid to purchase securities at a specified minimum interest or dividend rate.

43. Auctions could end in one of three ways: as a successful auction, an “all-hold” auction, or a failed auction.

44. In a successful auction, the number of shares bid for purchase was equal to or greater than the number of shares offered for sale. All shares for sale were purchased, and the clearing rate applied to all securities sold until the next auction. If several bidders had bids at the clearing rate, and there were more bids than shares offered for sale, the shares were divided pro-rata between the clearing rate bidders.

45. As an example of a successful auction, assume an auction took place in which \$1,000,000 of securities were for sale, and the auction received four bids: Bid A was for \$500,000 at 3.2 percent; Bid B was for \$500,000 at 3.3 percent; Bid C was for \$500,000 at 3.3 percent; and Bid D was for \$250,000 at 3.4 percent. In this example, the clearing rate would be 3.3 percent, which would be paid as interest or dividends on all securities in the auction until the next auction. Bid A would be allocated \$500,000, Bids B and C would receive pro-rata allocations of \$250,000 each, and Bid D would not receive any allocation.

46. If all investors decided to hold and not sell their securities, then the auction was an all-hold auction. No securities changed hands, and a formula specified in the offering documents set the interest or dividend rate for all securities until the next auction.

47. The all-hold rate was generally lower than the market rate. Thus, if investors failed to bid their auction rate securities at rate, the interest or dividend rate on those securities would be reduced.

48. An auction failed if the number of shares offered for sale exceeded the number of shares bid for purchase. If the auction failed, then none of the current shareholders could sell

their shares, no matter what type of order they issued. An interest or dividend rate called the “penalty rate” or “maximum rate” (hereafter referred to as the “maximum rate”) would then apply until the next auction. The maximum rate was specified in the offering documents as either a formula or a multiplier of a reference rate, such as a specified index rate.

49. The maximum rate on an auction rate security was intended to ensure that the security remained liquid if the auction failed, by attracting new buyers or prompting the issuer to refinance. If the maximum rate was insufficient to attract liquidity in the event of an auction failure, however, the risk characteristics of an auction rate security were fundamentally altered. An auction rate security that carried a low penalty rate was dependent on the broker-dealers’ pervasive intervention and “support” for the periodic auctions to ensure liquidity, and in the absence of the broker-dealer’s support, any auction failure would render the security illiquid.

50. Auction rate securities have no “put” feature guaranteeing that an investor could either sell the securities back to the broker-dealer on demand at par value or force the issuer to redeem the securities if the auctions failed. Holders of auction rate securities depended on the integrity of the broker-dealers and the auctions to ensure that the securities remained liquid.

**C. Broker-Dealers Manipulated The Market For Auction Rate Securities**

**i. Broker-Dealers Routinely Intervened In The Auctions To Create The Appearance Of Stability And Liquidity**

51. During the Class Period, financial firms underwrote billions of dollars of auction rate securities that carried insufficient maximum rates to ensure the liquidity of those securities if the auctions failed.

52. To mask the inherent lack of liquidity of auction rate securities, broker-dealers engage in a wide range of tactics to conceal the liquidity characteristics of auction rate securities while protecting themselves from the consequences of intervening in auctions to prevent failures.

53. Throughout the Class Period, broker-dealers intervened in the auctions by placing “support bids” to purchase auction rate securities for their own account when the auctions otherwise would have failed due to lack of sufficient demand.

54. Between January 1, 2006 and February 28, 2008, broker-dealer UBS placed support bids in more than 30,000 auctions of its municipal and student loan auction rate securities which prevented more than 85 percent of those auctions from failing. During the same time period, UBS placed support bids in more than 27,000 auctions of its auction rate preferred securities which prevented more than 50 percent of those auctions from failing. Between January 3, 2006 and May 27, 2008, broker-dealer Merrill Lynch placed support bids that prevented more than 5,800 auctions for auction rate securities from failing.

55. Broker-dealers were able to place support bids and prevent auctions from failing, because they were aware of the other bids in the auctions and could place their own bids after the bidding deadline for other investors.

56. The extensive and sustained interventions by broker-dealers to prevent auction failures created the outward appearance that auction rate securities were readily liquid investments.

57. By intervening to prevent auction failures, broker-dealers masked the liquidity risks inherent to auction rate securities. Due to the lack of transparency in the auction market, investors had no way of knowing the extent to which broker-dealers' interventions were needed to sustain the auction rate market and ensure that auctions continued to clear.

58. Had broker-dealers not supported these auctions, or had the extent of their interventions been apparent, widespread auction failures would have alerted the public to the risk characteristics of the auction rate securities.

**ii. Broker-Dealers Routinely Intervened In Auctions to Set the Rates of Interest Paid on Auction Rate Securities**

59. Unlike fixed rate bonds, commercial paper or money market funds, auction rate securities are designed with the understanding that the holder will actively "trade" the securities by monitoring the relative rates of return paid on auction rate securities in relation to other short term investment options available to the holder, and "hold at rate," (an instruction to sell unless the rate paid on the security is equal to or greater than a specified rate of interest) or sell the

security outright if the rate of return the holder anticipates receiving on the auction rate security is inferior to other alternatives.

60. In the absence of active trading by holders, auction rate securities became increasingly vulnerable to intervention by broker-dealers to influence interest and dividend rates.

61. As a result of insufficient investor participation in the auctions, broker-dealers were able to assert almost complete control over the rates of interest paid on the auction rate securities for which they managed auctions.

62. Broker-dealers set the clearing rate for the auctions that would have failed but for their support bids throughout the Class Period.

63. Broker-dealers did not base their pricing decisions on a hypothetical market rate or fair value. Instead, when setting the clearing rate, broker-dealers did so in a manner that placed their own interests ahead of investors.

64. Throughout the Class Period, broker-dealers set interest rates in such a manner as to allow continued sales of auction rate securities to the public without letting clearing rates become or stay so high as to alienate the issuer clients on whom they depended for continuing business and attendant underwriting commissions and auction management fees.

65. While at times during the Class Period broker-dealers increased rates to draw buyers, they generally caused interest rates to decrease once they had sold sufficient auction rate securities to reduce their own inventory.

66. The interest rates on auction rate securities failed to compensate holders for the risk of illiquidity and in general were below the interest rates for comparable, but more liquid, securities such as variable-rate debt obligations and commercial paper.

**iii. The Viability of the Auction Market Depended Upon Broker-Dealer Interventions**

67. The continued viability of the entire auction rate securities market depended upon concerted efforts by all broker-dealers. If one broker-dealer permitted widespread auction failures, a “run on the bank” would ensue, with panic selling by investors, and the broker-dealer

being forced to choose between attempting to sustain the auction rate securities market by buying all securities offered at auction and allowing the auctions to fail *en masse*.

68. As a result, all broker-dealers had a common interest in suppressing auction failures. In furtherance of their common interests, and with a tacit or express understanding that other broker-dealers would similarly act to suppress auction failures, broker-dealers continued to intervene to prevent auction failures even after they anticipated the ultimate demise of the auction rate securities market.

**iv. The Auction Rate Securities Market Begins To Unravel**

69. By intervening to support otherwise failing auctions, broker-dealers increased the amount of auction rate securities in their proprietary accounts.

70. Broker-dealers pressured their sales personnel and remarketing agents to sell auction rate securities in order to decrease their inventories of those securities in 2007 and 2008.

71. Broker-dealers including UBS, Lehman Brothers, Merrill Lynch and Deutsche Bank limited their exposure to increased inventories of auction rate securities by allowing some auctions to fail between August 2007 and early February 2008. These securities represented a small fraction of the entire auction rate securities market, however, and the failures were not widely known to the market or investors in auction rate securities.

72. During that time, broker-dealers engaged in an aggressive campaign to increase sales of auction rate securities by having their sales personnel and their remarketing agents describe the securities as safe, highly liquid, cash equivalent investments. Broker-dealers and remarketing agents did not disclose the risks associated with those securities, the fact that several auctions had failed, and the likelihood that the broker-dealers would abandon the auction market leaving investors with illiquid securities.

73. Broker-dealers and their remarketing agents continued to encourage investors to purchase auction rate securities through the first half of February 2008, despite increasing turmoil in the auction rate securities market including failures of auctions conducted by Lehman

Brothers, Piper Jaffray, Stifel Nicolaus and Goldman Sachs during the last week of January 2008 and the first week of February 2008.

74. On or around February 13, 2008, all major broker-dealers of auction rate securities refused to continue to support the auctions. As a result, 87% of all auctions of auction rate securities failed.

75. Broker-dealers did not notify investors or publicly announce that they would allow the auctions to fail before February 13, 2008.

76. As a result of the withdrawal of support by the major broker-dealers, the market for auction rate securities collapsed, rendering more than \$300 billion of securities illiquid.

**D. Raymond James Actively Participated In The Auction Rate Securities Market**

77. Raymond James was actively involved in the auction rate securities market throughout the Class Period.

78. Raymond James acted as a remarketing agent for auction rate securities. Through its brokerage division, RJFS, Raymond James sold approximately \$1.9 billion in auction rate securities to its clients throughout the Class Period.

79. Both before and during the Class Period, Raymond James's investment banking division, RJA, served as an underwriter for hundreds of millions of dollars of auction rate securities including several auction rate securities that Lead Plaintiff purchased. Raymond James served as an underwriter for Nuveen Dividend Advantage Municipal Fund Series T, Nuveen Insured Quality Municipal Fund, Inc. Series TH, Nuveen Select Quality Municipal Fund, Inc. Series TH, Nuveen Dividend Advantage Municipal Fund 2 Series M and T, and Jefferson County Alabama Limited Obligation School Warrants Series 2005-A and Series 2005-B, among other auction rate securities.

80. In addition, Raymond James acted as a broker-dealer that managed auctions for several hundred million dollars of auction rate securities during the Class Period.

81. By virtue of its substantial participation in the auction rate securities market as a remarketing agent, underwriter and broker-dealer, Raymond James was intimately acquainted with the liquidity features and risk characteristics of those securities.

82. Among other things, Raymond James knew that auction rate securities were not liquid cash equivalents, but were long-term equity or debt securities; that the auction market operated without transparency, leaving it prone to manipulation by broker-dealers; that broker-dealers routinely intervened in auctions to maintain the appearance of liquidity and stability of the market; and that rates of return were not set at competitive Dutch auctions, but rather were managed by broker-dealers acting with knowledge of the bids of other market participants.

83. As Thomas James, Chairman and Chief Executive Officer of RJF, conceded in a conference call on September 22, 2008, Raymond James was an auction market maker for at least a limited number of auction rate securities, engaged in auction rate securities transactions between certain auction periods, and maintained its own inventory of auction rate securities.

84. Along with other broker-dealers, Raymond James withdrew its "support" for the auction rate securities market in February 2008.

85. During the Class Period, Raymond James served as the broker-dealer managing auctions for several hundred million dollars of auction rate securities issued by Jefferson County, Alabama.

86. Raymond James allowed the auctions for each of these securities to fail, beginning with the first auctions following the February 2008 collapse of the auction rate securities market, and continuing to the present.

87. Raymond James allowed the auctions to fail in order to avoid having to take unwanted securities onto its balance sheet.

88. By allowing these auctions to fail, Raymond James forced investors to hold hundreds of millions of dollars in illiquid auction rate securities.

**E. During The Class Period, Raymond James Misrepresented And Omitted Material Facts About The Auction Market And The Liquidity Of And Risks Associated With Auction Rate Securities**

89. In order to perpetuate the auction rate securities market and earn lucrative commissions and fees for selling, underwriting, and managing auctions for auction rate securities, Raymond James directed its financial advisors throughout the United States to represent to investors in its written materials and uniform sales presentations that auction rate securities were equivalent to cash and were safe, highly liquid short-term investment vehicles suitable for any investor with at least \$25,000 of available cash and as little as one week in which to invest.

90. Raymond James knew that auction rate securities were not equivalent to cash, however. Since at least March 2005, the “Big-4” accounting firms, the Financial Accounting Standards Board (“FASB”) and the SEC have adopted the position that auction rate securities do not qualify as “cash equivalents.” According to the SEC, “because the auction rate securities have long-term maturity dates and there is no guarantee the holder will be able to liquidate its holdings, these securities do not meet the definition of cash equivalents in paragraphs 8 and 9 of FASB Statement No. 95, *Statement of Cash Flows*.”

91. Nonetheless, Raymond James’s financial advisors sold auction rate securities as cash equivalent pursuant to management directives without disclosing the following material facts about those securities:

- a. Auction rate securities were not cash alternatives, but were long-term financial instruments with maturity dates of 30 years or longer, or no maturity whatsoever;
- b. With the exception of some auction rate securities issued by state agencies, municipalities and other government authorities that had maximum rates high enough to attract liquidity or cause the issuer to refinance, auction rate securities lacked features designed to ensure the holder’s ability to sell the security, and in the event of an auction failure, the purchaser would be required to hold the security to maturity or indefinitely;
- c. Many auction rate securities were subject to interest rate caps, which if triggered, would reset their interest rates to levels well below market rates for comparable securities, often as low as zero, and render those securities unmarketable.

- d. Auction rate securities appeared readily liquid at the time of purchase and sale because broker-dealers were artificially supporting and manipulating the auction market to maintain the appearance of liquidity and stability;
- e. The short-term nature of auction rate securities and the ability of investors to liquidate their auction rate securities at par depended on the perpetuation of the artificial auction market by broker-dealers;
- f. The periodic auctions at which the rates of interest or dividends on auction rate securities were set required that investors actively bid their securities to maximize the rate of return on their investments and minimize the impact of manipulative conduct by the broker-dealers and others, and in the absence of the investor's active participation in the time consuming and highly specialized process of monitoring "price talk" and the bidding process, investors were likely to earn interest or dividends at reduced rates; and
- g. In the event of persistent auction failures, auction rate securities would be only be saleable at a substantial discount from their purchase price.

92. Raymond James's financial advisors also sold auction rate securities pursuant to management directives without disclosing the following material facts about the auction market in which those securities were traded:

- a. The auction market operated without transparency to investors, thus enabling manipulation by broker-dealers;
- b. The "auctions" for auction rate securities were not true Dutch auctions, as broker-dealers submitted "support" bids and engaged in other manipulative practices for their own accounts in auctions that would have otherwise failed during the Class Period, did so with knowledge of the other bids in the auctions, and often did so after the bidding deadline imposed on other investors;
- c. Broker-dealers routinely intervened in auctions during the Class Period for their own benefit, to set rates and prevent all-hold auctions and failed auctions;
- d. Broker-dealers directly or indirectly set the clearing rate in most of the auctions in which they submitted bids during the Class Period;
- e. Broker-dealers managed the interest rates for auction rate securities to ensure that rates of interest or dividends paid were at levels sufficiently low to attract continued interest from their issuer clients in future auction rate securities issuances, while paying sufficient interest to make auction rate securities saleable to retail investors;
- f. By manipulating the auctions for auction rate securities, broker-dealers prevented investors from learning the true risk, value and liquidity features of auction rate securities;

- g. Broker-dealers intended to continue to market auction rate securities as cash equivalent and highly liquid, safe investments, even if they determined that they were likely to stop supporting and manipulating the auctions; and
- h. Purchasers of auction rate securities were expected to monitor the auctions at all times to protect their interests, as broker-dealers considered themselves free to “manage” auction outcomes and withdraw its support for the auctions at any time.

93. Raymond James’s financial advisors failed to disclose the information in paragraphs 91-92 above to investors, because they had not been provided with that information by Raymond James during the Class Period.

94. During the Class Period, Raymond James failed to provide mandatory instruction or compliance training about auction rate securities to its financial advisors.

95. As a result, Raymond James’s financial advisors lacked a rudimentary understanding about auction rate securities and how the auction rate securities market functioned during the Class Period.

96. Raymond James’s practice was not to deliver a prospectus to Class members who purchased auction rate securities at periodic auctions, as it treated such purchases as “secondary market sales” exempt from the prospectus delivery requirement.

97. Raymond James also made misrepresentations and omissions of material fact about auction rate securities in the trade confirmations it sent to clients after they purchased those securities.

98. Through at least January 2007, Raymond James failed to disclose the liquidity characteristics of auction rate securities or the risk of auction failure in its trade confirmations.

99. Raymond James made the following statements in subsequent trade confirmations:

Auction rate securities offer payments which reset at predetermined intervals at rates determined by Dutch auction. Dutch auction is a competitive bidding process by which securities are sold at the highest yield at which sufficient bids are received to sell all securities offered.

This security is subject to failed auction risk. There is no assurance that any particular auction will be successful. Neither the issuer, nor the broker-dealer, is obligated to take any action to ensure success. In the

absence of successful auctions, there is no assurance that a secondary market will develop or that the security will trade at par.

100. While Raymond James could have made these disclosures in its sales presentations to prospective buyers of auction rate securities and on all trade confirmations throughout the Class Period, it did not.

101. Raymond James failed to make corrective disclosures by providing this information to investors to whom it had sold auction rate securities before it changed the language of its trade confirmations.

102. After changing the language of its trade confirmations, Raymond James did not alter its uniform sales practices or instruct its financial advisors to disclose this information directly to clients before they purchased auction rate securities. Instead, Raymond James continued to instruct its financial advisors to sell auction rate securities as safe, short-term, cash management vehicles, emphasizing the liquidity of those instruments.

103. The revised language in Raymond James' trade confirmations also contained misrepresentations and omissions of material fact, as described in paragraphs 91-92 above. Among other things, Raymond James failed to disclose that interest or dividend payments were not determined at a competitive Dutch auction but rather were managed by broker-dealers that routinely intervened in the auctions for their own benefit, to set rates, and to prevent all-hold auctions and failed auctions; that the apparent liquidity of auction rate securities depended upon the perpetuation of an artificial auction market by broker-dealers; and that broker-dealers could allow the auction rate securities market to collapse at any time by refusing to intervene in the auctions.

104. On or around August 28, 2007, Raymond James published a webpage pertaining to auction rate preferred securities on its internet site which stated, among other things, as follows:

**Are Auction Rate Preferred Securities Cash Equivalents?**

As mentioned before, Auction Rate Preferred Securities are perpetual securities that reset their rates periodically – usually every 7, 28, 35 or 49 days. These are often regarded as short-term alternatives since rates are

set by a Dutch Auction process and investors can normally hold, sell or buy the securities on the auction dates.

\* \* \*

### **Risk Considerations**

**Failed Auction (liquidity)** – Simply put, a failed auction may occur when there are more sellers than buyers. Although not a frequent occurrence, a failed auction is still a possibility. In this event, all holders, including those that submitted a sell, must hold securities until the next successful auction which may be for an indeterminate period of time, possibly until maturity or perpetually. The issuer is not obligated to redeem the securities. In the event of a failed auction, the maximum auction rate would apply. Please note: If there is a failed auction in the future, there is no assurance or guarantee that an interested party will step in to support the auction process. These securities are not listed and there is no guarantee that a secondary market will develop.

\* \* \*

The client should be aware that, as part of its regular course of business, Raymond James may routinely:

(a) place one or more Orders in Auctions generally for its own account, even after obtaining knowledge of some or all of the other Orders, and it may do so in any particular auction;

(b) place Bids on the firm's behalf or those of others, and may encourage others to place Bids likely to affect the Clearing Rate (including preventing the Clearing Rate from becoming the Maximum Rate) and the allocation of securities being auctioned (including displacing other Prospective Holders).

In addition, under exceptional circumstances Raymond James may:

(a) place one or more bids in auctions generally to prevent a Failed Auction or a Clearing rate the Broker-Dealer believes is not a market rate at the time it makes its Bid, even after obtaining knowledge of some or all of the other Orders, but is not obligated to continue to place such Bids or to bid in any particular Auction;

(b) encourage bidding by others in Auctions generally to prevent a Failed Auction or a Clearing Rate it believes is not a market Rate, even after obtaining knowledge of some or all of the other Orders, and it may do so in any particular Auction.

105. Raymond James published these disclosures on its website for the first time, following several auction failures at the end of August 2007.

106. While Raymond James could have made these disclosures throughout the Class Period, it did not.

107. Raymond James failed make corrective disclosures by providing this information to investors to whom it had sold auction rate securities before the end of August 2007.

108. After publishing these disclosures on its website, Raymond James did not change its uniform sales practices or instruct its financial advisors to disclose this information directly to clients before they purchased auction rate securities. Instead, Raymond James continued to instruct its financial advisors to sell auction rate securities as safe, short-term, cash management vehicles, emphasizing the liquidity of those instruments.

109. Raymond James' website disclosure was incomplete and misleading in that it failed to disclose that the degree of intervention needed to prevent the auction rate securities resale market from collapsing was far greater than the isolated or sporadic interventions hinted at in the disclosure; that the market for auction rate securities was under increasing stress brought on by the deteriorating credit environment; that the levels of support needed by "interested parties" to prevent auction failures was increasing as the balance sheets of those interest parties was weakening (thereby increasing the likelihood that the interested parties would withdraw their support for the auctions and the securities would become illiquid); that industry professionals anticipated increasing liquidity problems in the auction rate securities market; that the suppression of material facts relating to the intervention of interested parties in auctions resulted in the rates of interest paid on auction rate securities being inadequate to compensate auction rate investors for the risk of illiquidity; that failure of the auctions and the resulting illiquidity of auction rate securities were not a "possibility," but were certainties, absent the persistent and self-interested interventions of broker-dealers, including Raymond James; and that upon failure of the auctions, investors would be left investors holding securities that could not be sold at par.

110. In addition, Raymond James continued to describe auction rate securities as short-term investments, when those securities carried a substantial risk of long-term illiquidity.

111. By publishing these disclosures, however, Raymond James acknowledged knowing that it and other broker-dealers routinely (a) intervened in auctions for their own benefit or in order to prevent failed or all-hold auctions; (b) intervened in auctions directly or indirectly

to set or influence the interest or dividend rate; and (c) did so as market-makers with knowledge of the bids of other auction participants. Raymond James further acknowledged that disclosures contained in the prospectuses and other offering documents for auction rate securities it sold to its clients during the Class Period were inadequate.

**F. Lead Plaintiff's Experience**

112. Lead Plaintiff Laurie Rubin serves as trustee of the Laurie Rubin Revocable Trust, as trustee for her son, Cole Goldenberg, and as the President of Laurie Rubin Inc., and brings her claims in these capacities.

113. As identified on Attachment A, Ms. Rubin purchased auction rate securities from Raymond James throughout the Class Period, and continuing through early February 2008.

114. Ms. Rubin's long-time primary contact with Raymond James has been Richard W. Barnard, a Raymond James financial advisor located in Raymond James' Chicago office. Based on Mr. Barnard's long relationship with Ms. Rubin and her written investment criteria, Mr. Barnard was aware that Ms. Rubin was a conservative investor and that the funds invested were either maintained in trust or would be used to run Ms. Rubin's business and pay anticipated taxes.

115. Prior to the commencement of the Class Period, Mr. Barnard encouraged Ms. Rubin to invest in auction rate securities as an alternative to maintaining cash in the bank, which was Ms. Rubin's practice.

116. Mr. Barnard told Ms. Rubin that auction rate securities were safe, short-term investments, that they were similar to money market funds, that they were good cash management vehicles, and that they were better than keeping money in the bank.

117. Ms. Rubin was unfamiliar with auction rate securities and had not considered investing in those securities prior to her conversations with Mr. Barnard.

118. Based exclusively on Mr. Barnard's advice and recommendation, Ms. Rubin authorized Mr. Barnard to purchase auction rate securities. Ms. Rubin relied on Mr. Barnard to select the auction rate securities to be purchased for the various accounts.

119. Throughout the Class Period, as additional cash became available to be invested, Ms. Rubin had numerous conversations with Mr. Barnard about investment options. These conversations were generally by telephone, and occasionally by e-mail.

120. During the Class Period, Ms. Rubin inquired about alternatives to the auction rate securities, including money market funds and certificates of deposit. In each instance, Mr. Barnard continued to recommend that Ms. Rubin invest all of the cash in auction rate securities for the reasons described above.

121. Based on Mr. Barnard's advice and recommendation, Ms. Rubin authorized Mr. Barnard to purchase additional auction rate securities at various times during the Class Period. In each instance, Mr. Barnard selected the auction rate securities to be purchased for the various accounts.

122. RJA was one of the underwriters for several of the auction rate securities that Mr. Barnard selected for Ms. Rubin's purchase, including Nuveen Dividend Advantage Municipal Fund Series T, Nuveen Insured Quality Municipal Fund, Inc. Series TH, Nuveen Select Quality Municipal Fund, Inc. Series TH, and Nuveen Dividend Advantage Municipal Fund 2 Series M and T.

123. Mr. Barnard continued to encourage Ms. Rubin to purchase auction rate securities into the first week of February 2008, just one week before the auctions failed. Based on Mr. Barnard's advice and recommendation, Ms. Rubin authorized Mr. Barnard to purchase auction rate securities in late January and early February 2008.

124. Neither Mr. Barnard nor any other Raymond James employee provided Ms. Rubin with a prospectus for any of the auction rate securities Ms. Rubin purchased, including those for which RJA served as an underwriter.

125. Neither Mr. Barnard nor any other Raymond James employee provided Ms. Rubin with a written description of Raymond James' auction rate securities practices and procedures or any written materials concerning auction rate securities before or at the time of any of Ms. Rubin's purchases of those securities.

126. Neither Mr. Barnard nor any other Raymond James employee provided Ms. Rubin with the information Raymond James disclosed about auction rate securities on its website at the end of August 2007.

127. Neither Mr. Barnard nor any other Raymond James employee explained to Ms. Rubin how auction rate securities were traded or priced or that Ms. Rubin could seek to influence interest rates by bidding in the auctions.

128. Neither Mr. Barnard nor any other Raymond James employee explained to Ms. Rubin the extent to which the auction rate securities market was being supported by broker-dealers including Merrill Lynch and UBS, two broker-dealers that managed auctions for auction rate securities Ms. Rubin purchased from Raymond James and that routinely intervened in their auctions in order to prevent the auction rate securities resale market from collapsing.

129. Neither Mr. Barnard nor any other Raymond James employee informed Ms. Rubin of the information in paragraphs 91-92 before she bought auction rate securities from Raymond James.

130. Had Ms. Rubin known about the information in paragraphs 91-92, she would not have purchased auction rate securities from Raymond James or would not have done so at the prices she paid.

#### **ADDITIONAL SCIENTER ALLEGATIONS**

131. Auction rate securities were highly profitable for Raymond James.

132. As an underwriter and broker-dealer of auction rate securities during the Class Period, Raymond James earned substantial fees for its services from the issuers of those securities.

133. To compensate Raymond James for its underwriting services, issuers typically paid Raymond James 40 basis points or more on the outstanding amount of securities it had underwritten.

134. Pursuant to agreements with the issuers and/or auction agents, Raymond James served as a broker-dealer for certain auction rate securities it had underwritten and was paid annualized broker-dealer fees for managing those auctions. Typically, issuers paid auction management fees of at least 25 basis points per year on outstanding auction rate securities.

135. Raymond James was further motivated to make false and misleading omissions and statements of material fact about auction rate securities in order to perpetuate its interests as a remarketing agent for those securities.

136. As a remarketing agent, Raymond James was typically paid at least 15 basis points in fees and commissions for the auction rate securities it sold.

137. The fees paid to Raymond James for underwriting issuances of auction rate securities, managing auctions, and remarketing auction rate securities were particularly attractive to Raymond James as they allowed Raymond James to profit from its clients' short-term, cash management investments. These investments would ordinarily have been committed to other cash management vehicles such as money market funds, from which Raymond James would stand to earn little or no additional revenue.

#### **NO SAFE HARBOR**

138. The statutory safe harbor provided for forward-looking statements under certain circumstances does not apply to any of the allegedly false statements pleaded in this complaint.

139. The statements pleaded herein were not identified as "forward-looking statements" when made.

140. To the extent there were any forward-looking statements, there were no meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those in the purportedly forward-looking statements.

141. Alternatively, to the extent that the statutory safe harbor applies to any forward-looking statements pleaded herein, Defendants are liable for those false forward-looking statements because at the time each of those forward-looking statements was made, the particular speaker knew that the particular forward-looking statement was false, and/or the forward-looking

statement was authorized and/or approved by a director or an executive officer of Raymond James who knew that those statements were false when made.

### **LOSS CAUSATION/ECONOMIC LOSS**

142. As alleged above, during the Class Period, Defendants engaged in a scheme and course of conduct to create, prop up and perpetuate for their own benefit an artificial market for auction rate securities, to inflate the perceived value of those securities, and to generate underwriting fees, auction management fees and sales commissions to the detriment of Lead Plaintiff and Class members.

143. This scheme and course of conduct operated as a fraud or deceit on Lead Plaintiff and Class members by, among other things, omitting to disclose material foreseeable risks concerning the market for auction rate securities and the value, safety and liquidity risks of those investments.

144. The materialization of the risks concealed by Defendants was foreseeable to Defendants throughout the Class Period.

145. Those risks materialized when most of the auctions failed on or about February 13, 2008, because broker-dealers refused to continue serving as buyers of last resort.

146. Materialization of those risks and subsequent disclosures of those risks directly and/or proximately caused the damages sustained by Lead Plaintiff and Class members.

147. Only through the persistent conduct of broker-dealers in artificially supporting, maintaining and intervening in the auctions and acting as buyers of last resort was the market for auction rate securities able to exist during the Class Period.

148. Defendants failed to disclose to Lead Plaintiff and Class members that the auction rate securities market depended on the voluntary, pervasive and ongoing participation of broker-dealers in the auctions.

149. It was also materially deceptive for Defendants to represent to Lead Plaintiff and the Class that auction rate securities were cash equivalents or highly liquid investments.

150. When the auctions failed on or around February 13, 2008, the concealed risks that auction rate securities would stop trading as cash equivalents materialized.

151. Because of Defendants' failure to disclose these and other material risks, Lead Plaintiff and Class members were damaged when broker-dealers withdrew their support for the auction market.

152. If not for Defendants' omissions and false and misleading statements of material fact about auction rate securities and the auction market in which those securities were traded, Lead Plaintiff and Class members would not have purchased auction rate securities or would not have purchased them for the prices and/or at the interest rates at which they did.

153. Among other things, Defendants' deceptive conduct caused the interest and dividend rates on auction rate securities both before and after the collapse of the auction market to be considerably lower than the rates that the market would have placed on them had the investing public been aware of the true characteristics and risks of auction rate securities and the auction market.

154. Accordingly, Defendants' wrongdoing directly or proximately caused economic losses to Lead Plaintiff and Class members by rendering their auction rate securities illiquid and by limiting the interest and dividends that they would have otherwise received. Lead Plaintiff and Class members remain unable to sell their auction rate securities and continue to receive interest and/or dividends on those securities at below market rates that are insufficient to compensate for the lack of liquidity features inherent in the securities.

155. Given the higher interest and dividend rates both before and after the collapse of the auction market that would have resulted from full disclosure, Lead Plaintiff and Class members would have been able to acquire a lower face amount of auction rate securities while still obtaining the same dollar amount of interest or dividends they received on the auction rate securities actually purchased.

156. As a result of the materialization of the concealed risks, the perceived values of auction rate securities have declined substantially. Well over \$1 billion in auction rate securities

that Raymond James sold to Class members remain illiquid and are unable to be sold at any price. Investors who have sold their auction rate securities on a recently developed secondary market have done so at steep discounts to par value. Finally, following the collapse of the auction rate securities market, Lead Plaintiff and Class members received interest on their auction rate securities at below-market rates that are insufficient to compensate for the lack of liquidity features that are inherent in the securities.

### **TRANSACTION CAUSATION:**

#### **APPLICABILITY OF THE PRESUMPTION OF RELIANCE**

##### **A. Reliance on Material Omissions**

157. To the extent required, a presumption of reliance is applicable here due to Raymond James's use of standardized sales pitches which omitted on a uniform basis the material facts described in paragraphs 91-92 regarding auction rate securities and the auction market in which those securities were traded.

158. The facts described in paragraphs 91-92, which Raymond James failed to disclose, were material in that there is a substantial likelihood that the disclosure of these facts would have been viewed by a reasonable investor as having significantly altered the total mix of information about auction rate securities made available.

159. Raymond James's financial advisors were required to and did use uniform, standardized and materially identical sales pitches created and/or approved by Raymond James's senior management to market and sell auction rate securities to Lead Plaintiff and Class members. The sales pitch did not vary appreciably, if at all.

160. In light of Defendants' knowledge that their sales force routinely represented to investors that auction rate securities were safe, highly liquid investments with interest rates established by periodic auctions, it was materially misleading for Defendants to fail to correct the record and state expressly that auction rate securities were, among other things, neither safe nor liquid investments and/or had interest rates managed by broker-dealers.

161. Lead Plaintiff and Class members would not have invested in auction rate securities, or alternatively, would not have purchased those securities on the terms at which they did, had Defendants' omissions of material fact not concealed the true nature of those securities and the auction market in which those securities were traded.

162. Lead Plaintiff's and Class members' fraud-based claims stem primarily, if not exclusively, from these omissions of material fact for which reliance may be presumed.

**B. Fraud on the Market**

163. In the alternative, and to the extent required, a presumption of reliance is applicable here because the auction rate securities market was well-developed and efficient throughout the Class Period.

164. The presumption of reliance, based on the fraud-on-the-market doctrine, is applicable here, because among other things:

- a. Defendants made false and misleading omissions and misrepresentations of fact concerning auction rate securities during the Class Period;
- b. The omissions and misrepresentations were material in that there is a substantial likelihood that the disclosure of these facts would have been viewed by a reasonable investor as having significantly altered the total mix of available information about auction rate securities;
- c. The omissions and misrepresentations alleged would tend to induce a reasonable investor to misjudge, among other things, the value of the securities at issue; and
- d. Lead Plaintiff and Class members purchased auction rate securities after Defendants made these omissions and misrepresentation, and did so without knowledge of the omitted and misrepresented facts.

165. Auction rate securities and the auction market have existed since 1984, and have developed rapidly since that time.

166. Throughout the Class Period, the auction market digested current information regarding auction rate securities and reflected that information in the prices of those securities.

167. Material news concerning auction rate securities had a prompt and immediate effect on the market price of those securities, as evidenced by, among other things, the rapid decline in the market price occurring after the collapse of the auction market in February 2008.

168. Under these circumstances, all purchasers of auction rate securities suffered similar injury due to the fact that those securities were overvalued throughout the Class Period.

169. When Lead Plaintiff and Class members purchased auction rate securities, they did not know about, and could not reasonably have discovered, Defendants' wrongful conduct alleged in this Complaint.

170. Lead Plaintiff and Class members would not have purchased auction rate securities from Defendants, or alternatively, would not have purchased those securities on the terms at which they did, but for Defendants' misconduct.

### **COUNT I**

#### **Violation Of Section 10(b) Of The Exchange Act And Rule 10b-5(b) Promulgated Thereto Against All Defendants By Lead Plaintiff And The Class**

171. Lead Plaintiff repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein. Lead Plaintiff brings this cause of action on behalf of herself and the Class against all Defendants.

172. During the Class Period, Defendants employed manipulative or deceptive devices or contrivances, in contravention of Rule 10b-5(b) promulgated by the SEC, which was intended to and, throughout the Class Period, did: (i) deceive the investing public, including Lead Plaintiff and Class members; (ii) enable Defendants to sell approximately \$1.9 billion of auction rate securities to investors, and on which Defendants made substantial fees and commissions; and (iii) cause Lead Plaintiff and Class members to purchase overvalued auction rate securities from Defendants.

173. Defendants, jointly and individually (and each of them), engaged in a scheme to defraud and made untrue statements of material fact and/or omitted to state material facts necessary to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of Section 10(b) of the Exchange Act and Rule 10b-5(b).

174. All Defendants are sued either as primary participants in the wrongful and illegal conduct charged herein or as controlling persons as alleged below.

175. Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a comprehensive scheme to defraud and a continuous course of conduct to conceal adverse material information about auction rate securities, as specified herein including in particular the information specified in paragraphs 91-92 above.

176. The information that Defendants failed to disclose to Lead Plaintiff and Class members was material in that there is a substantial likelihood that the disclosure of the omitted information would have been viewed by a reasonable investor as having significantly altered the total mix of information about auction rate securities made available.

177. Defendants employed manipulative or deceptive devices or contrivances, while in possession of material adverse non-public information, and engaged in acts, practices, and a course of conduct as alleged herein in an effort to assure Lead Plaintiff and Class members that auction rate securities were the same as cash and were highly liquid, safe short-term investment vehicles suitable for almost all investors.

178. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein, or acted with deliberate disregard for the truth in that they failed to ascertain and to disclose such facts.

179. Defendants made the material misrepresentations and/or omissions described herein knowingly or deliberately and for the purpose and effect of (a) concealing the truth about the value, liquidity and risks of auction rate securities from Lead Plaintiff, Class members and the investing public, and (b) supporting the overvalued price and market for auction rate securities.

180. If Defendants did not have actual knowledge of the misrepresentations and omissions alleged herein, they were reckless in failing to obtain such knowledge and refraining from taking those steps necessary to discover whether those statements were false or misleading.

181. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of auction rate securities sold by Raymond James was artificially inflated during the Class Period.

182. In ignorance of the fact that the market prices of auction rate securities were artificially inflated, and relying directly or indirectly on the false and misleading statements or omissions of material fact made by Defendants, and/or on the absence of material information that was known to or deliberately disregarded by Defendants but not disclosed in public statements by Defendants during the Class Period, and/or on the integrity of the auction market in which auction rate securities traded, Lead Plaintiff and Class members acquired overvalued auction rate securities from Defendants during the Class Period and were damaged thereby.

183. At the time of said misrepresentations and omissions, Lead Plaintiff and Class members were ignorant of their falsity, and believed them to be true.

184. Lead Plaintiff and Class members acted with due diligence, did not act with recklessness, and could not have discovered the true facts that Defendants misstated and/or failed to disclose.

185. Had Lead Plaintiff, Class members and the marketplace known the truth regarding the value, liquidity and risks of auction rate securities, which were not disclosed by Defendants, Lead Plaintiff and Class members would not have purchased auction rate securities from Defendants, or, if they had acquired such securities during the Class Period, they would not have done so at the overvalued prices which they paid.

186. By virtue of the foregoing, Defendants have violated Section 10(b) of the Exchange Act, and Rule 10b-5(b) promulgated thereunder.

187. As a direct and proximate result of Defendants' wrongful conduct, Lead Plaintiff and Class members suffered damages in connection with their respective purchases of auction rate securities from Defendants during the Class Period.

## COUNT II

### **Violation Of Section 20(a) Of The Exchange Act Against RJF And RJA By Lead Plaintiff And The Class**

188. Lead Plaintiff repeats and realleges each and every allegation set forth in the paragraphs above as if fully set forth herein. Lead Plaintiff brings this cause of action on behalf of herself and the Class against RJF and RJA.

189. RJF and RJA acted as controlling persons of RJFS within the meaning of Section 20(a) of the Exchange Act for the reasons alleged in this Complaint.

190. By virtue of their operational and management control of RJFS's business and systematic involvement in the fraudulent scheme alleged in this Complaint, RJF and RJA had the power to influence and control and did influence and control, directly or indirectly, the decision-making and actions of RJFS, including the content and dissemination of the various statements and omissions of material fact which Lead Plaintiff contends are false and misleading.

191. RJF and RJA had the ability to prevent the issuance of the statements and omissions of material facts described in this Complaint.

192. RJF and RJA had direct and supervisory involvement in the operations of RJFS, and therefore, are presumed to have had and exercised the power to control or influence the particular conduct giving rise to the securities violations alleged in this Complaint.

193. As set forth above RJFS violated Section 10(b) of the Exchange Act and Rule 10b-5(b) promulgated thereunder by its acts and omissions as alleged in this Complaint.

194. By virtue of their positions as controlling persons, RJF and RJA are liable pursuant to Section 20(a) of the Exchange Act.

195. As a direct and proximate result of RJF's and RJA's wrongful conduct, Lead Plaintiff and Class members suffered damages in connection with their purchase of auction rate securities from Raymond James during the Class Period.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Lead Plaintiff prays for relief and judgment, as follows:

A. Determining that this action is a proper class action, certifying Lead Plaintiff as a representative of the Class under Rule 23 of the Federal Rules of Civil Procedure and appointing Plaintiff's Lead Counsel as counsel for the Class;

B. Awarding damages, including but not limited to rescission, other compensatory damages, consequential damages, restitution and disgorgement of ill-gotten gains in favor of Lead Plaintiff and Class members against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

C. Awarding Lead Plaintiff and the Class their reasonable costs and expenses incurred in this action, including counsel fees and expert fees;

D. Awarding Lead Plaintiff and the Class pre-judgment and post-judgment interest;

E. Awarding extraordinary, equitable and/or injunctive relief as permitted by law, equity and the federal statutory provisions sued hereunder; and

F. Granting such other and further relief as the Court may deem just and proper.

**JURY TRIAL DEMANDED**

Lead Plaintiff hereby demands a trial by jury.

Dated: December 1, 2008

Respectfully submitted,

**GIRARD GIBBS LLP**

By: 

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Jonathan K. Levine (JL-8390)  
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**ATTACHMENT A**

**TRANSACTIONS OF LAURIE RUBIN IN AUCTION RATE SECURITIES SOLD  
BY RAYMOND JAMES BETWEEN  
APRIL 8, 2003 AND FEBRUARY 13, 2008,  
AND HELD AS OF FEBRUARY 13, 2008**

**Account: Laurie Rubin Revocable Trust dated Oct. 20, 1988**

<b>TRADE DATE</b>	<b>AUCTION RATE SECURITY</b>	<b>NUMBER OF SHARES</b>	<b>PRICE PER SHARE/UNIT</b>	<b>BUY OR SELL</b>
5/14/2004	Nuveen Investment Quality Municipal Fund Inc., Series F	2	\$25,000	Bought
4/13/2006	Nuveen Insured Quality Municipal Fund Inc., Series TH	1	\$25,000	Bought
12/26/2006	Nuveen Performance Plus Municipal Fund, Series T	3	\$25,000	Bought
1/24/2008	Nuveen Performance Plus Municipal Fund, Series TH	1	\$25,000	Bought
1/18/2007	Nuveen Premium Income Municipal Fund Inc., Series C	1	\$25,000	Bought
6/14/2007	Nuveen Premium Income Municipal Fund Inc., Series C	1	\$25,000	Bought
2/8/2008	Nuveen Premium Income Municipal Fund Inc., Series D	1	\$25,000	Bought
3/26/2006	Nuveen Premium Income Municipal Fund 2, Inc., Series M2	1	\$25,000	Bought
9/13/2005	Nuveen Premium Income Municipal Fund 2, Inc. Series T	2	\$25,000	Bought
2/26/2004	Nuveen Premium Income Municipal Fund 2, Inc., Series TH	2	\$25,000	Bought
7/13/2006	Nuveen Premium Income Municipal Fund 2, Inc., Series TH	2	\$25,000	Bought

7/16/2007	Nuveen Premium Income Municipal Fund 2, Inc., Series M	1	\$25,000	Bought
11/26/2007	Nuveen Dividend Advantage Municipal Fund, Series T	7	\$25,000	Bought
9/11/2007	Nuveen Insured Premium Income Municipal Fund 2, Series T	2	\$25,000	Bought
1/17/2006	Nuveen Premium Income Municipal Fund 4, Inc., Series T2	1	\$25,000	Bought
9/12/2006	Nuveen Premium Income Municipal Fund 4, Inc., Series T2	1	\$25,000	Bought
1/11/2006	Nuveen Premium Income Municipal Fund 4, Inc., Series W	6	\$25,000	Bought
9/26/2007	Nuveen Premium Income Municipal Fund 4, Inc., Series W	1	\$25,000	Bought
7/12/2004	Nuveen Dividend Advantage Municipal Fund 2, Series M	1	\$25,000	Bought
12/18/2006	Nuveen Dividend Advantage Municipal Fund 2, Series M	1	\$25,000	Bought
2/7/2006	Nuveen Dividend Advantage Municipal Fund 2, Series T	1	\$25,000	Bought
11/6/2007	Nuveen Dividend Advantage Municipal Fund 2, Series T	1	\$25,000	Bought
2/28/2007	Nuveen Dividend Advantage Municipal Fund 3, Series W	1	\$25,000	Bought
9/19/2006	Nuveen Insured Dividend Advantage Preferred Municipal, Series T	1	\$25,000	Bought
7/18/2005	Nuveen Select Quality Municipal Funds, Inc., Series M	4	\$25,000	Bought
8/10/2006	Nuveen Select Quality Municipal Funds, Inc., Series TH	1	\$25,000	Bought
4/5/2007	Nuveen Quality Income Municipal Fund, Series F	1	\$25,000	Bought

9/23/2003	Nuveen Quality Income Municipal Fund, Series T	5	\$25,000	Bought
2/14/2006	Nuveen Premier Municipal Income Fund, Series T	1	\$25,000	Bought
12/20/2007	Nuveen Premier Municipal Income Fund, Series TH	6	\$25,000	Bought

**Account: Cole Goldenberg, UTMA Custodial Account**

TRADE DATE	AUCTION RATE SECURITY	NUMBER OF SHARES	PRICE PER SHARE/UNIT	BUY OR SELL
5/25/2006	Nuveen Insured Municipal Opportunity Fund, Series TH	4	\$25,000	Bought

**Account: Laurie Rubin Inc.**

TRADE DATE	AUCTION RATE SECURITY	NUMBER OF SHARES	PRICE PER SHARE/UNIT	BUY OR SELL
3/14/2006	Nuveen Premium Income Municipal Fund 2, Inc., Series T	1	\$25,000	Bought
5/15/2007	Nuveen Premium Income Municipal Fund 4, Inc., Series T2	3	\$25,000	Bought
1/16/2008	Nuveen Select Quality Municipal Funds, Inc., Series W	3	\$25,000	Bought

**CERTIFICATE OF SERVICE**

J. Daniel Mora, being duly sworn, hereby deposes and says:

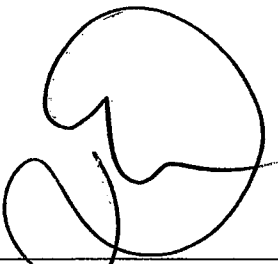
I am over the age of eighteen years and not a party to the within action and am employed by the firm Seeger Weiss LLP, counsel for the plaintiff. On December 1, 2008 I cause a true and correct copy of the foregoing First Amended Class Action Complaint for the Violation of the Federal Securities Laws, to be served via U.S. Mail, with proper postage prepaid on counsel of records for defendants at following addresses:

Christian R. Bartholomew, Esq.  
E. Andrew Southerling, Esq.  
Morgan, Lewis & Bockius, L.L.P.  
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