STATE OF MISSOURI
OFFICE OF SECRETARY OF STATE

IN THE MATTER OF:	)	
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	)	
	)	
MORGAN STANLEY & CO. INCORPORATED,	)	Case No. AO-03-19
	)	
	)	
Respondent.	)	
	)	

ORDER OF PAYMENT FROM THE INVESTOR RESTITUTION FUND

THE COMMISSIONER OF SECURITIES, Matt Kitzi, having received and reviewed the previous orders and all other relevant items related to this matter, does hereby find and order that:

Background Facts and Events

1. On November 24, 2003, Commissioner of Securities Douglas M. Ommen issued a consent order with Morgan Stanley & Co. Incorporated (the "Respondent") as part of the global research analyst settlement memorialized in the final judgment in a proceeding filed by the United States Securities & Exchange Commission ("SEC") against the Respondent in Securities and Exchange Commission v. Morgan Stanley & Co. Incorporated, Case No. 03 Civ. 2948 (WHP), United States District Court, Southern District of New York (the "SEC Final Judgment").

2. In the November 24, 2003 consent order described above (the "Consent Order") and in the SEC Final Judgment, the Respondent was ordered to, among other things, pay certain amounts to the Missouri Secretary of State to be deposited to the credit of the Investor Restitution Fund pursuant to Section 409.407(f), RSMo. (2000) (the "Investor Restitution Fund Payment").

3. Section 409.407, RSMo., was repealed by 2003 House Bill 380, effective

September 1, 2003. That same legislation promulgated and enacted the Missouri Securities Act of 2003 (the "2003 Act"). Under the 2003 Act, the Investor Restitution Fund is addressed at Section 409.6-603(e), RSMo. (Supp. 2007).

4. Section 409.6-603(e), RSMo. (Supp. 2007), states that the Investor Restitution Fund is created for the purpose of "preserving and distributing to aggrieved investors, disgorgement or restitution funds obtain through enforcement proceedings under [the 2003 Act]."

5. Section 409.6-603(e), RSMo. (Supp. 2007), states that "[i]t shall be the duty of the commissioner to distribute such funds to those persons injured by the unlawful acts, practices or courses of business" which led to collection of the disgorgement or restitution funds.

6. Section 409.6-603(e), RSMo. (Supp. 2007), states that "if the commissioner is unable ***with reasonable efforts*** to ascertain the aggrieved investors, then the funds may be transferred to the investor education and protection fund" (emphasis added).

7. On May 13, 2003, prior to entry of the SEC Final Judgment, then-Secretary of State Matt Blunt wrote a letter to Stephen M. Cutler, Director of the Division of Enforcement for the SEC, in which then-Secretary of State Blunt expressed his interest in directing any state disgorgement proceeds to Missouri investors, and specifically inquired as to whether Director Cutler and his staff would provide the commissioner with information on criteria and procedures for distribution of restitution.

8. Following Director Cutler's affirmative response, entry of the Consent Order, and the later appointment of a distribution fund administrator under the SEC Final Judgment (see below), the Missouri Secretary of State's office, the Missouri Securities Division and the Missouri commissioner of securities worked in concert with the SEC and said distribution fund administrator and his consultants to distribute to aggrieved Missouri investors monies received pursuant to the Consent Order and deposited to the Investor Restitution Fund.

9. The Commissioner of Securities takes official notice that the determination to pay Missouri's recovery under the SEC Final Judgment to investors was exclusive to Missouri, and that other state securities administrators directed such payments to a general revenue fund or an investor education fund.

10. Pursuant to the SEC Final Judgment, a "Distribution Fund Administrator" was to be appointed to, among other things, administer a distribution fund plan described in the SEC Final Judgment and distribute monies from a distribution fund created by the SEC Final Judgment (the "Federal Fund") to eligible recipients.

11. Pursuant to an order of appointment under the SEC Final Judgment, Francis

McGovern was appointed as the distribution fund administrator (the "Fund Administrator") on February 6, 2004.

12. The Fund Administrator's distribution plan under the SEC Final Judgment was approved by court order on April 22, 2005 (the "Federal Distribution Plan").

13. The Federal Distribution Plan was devised by the Fund Administrator as a "process for the equitable and practicable distribution of funds" from the Federal Fund. The Federal Distribution Plan was prepared by the Fund Administrator and his economic consultants, and consisted of various formulas for identifying and categorizing those who should receive payments, and for determining the compensation amounts to be paid. A copy of the Federal Distribution Plan is attached hereto as Addendum A.

14. Following approval of the Federal Distribution Plan, the Fund Administrator began implementation of the same. Between December 2005 and March 2006, the Distribution Fund Administrator mailed checks to all eligible claimants. *See* U.S. Securities & Exchange Commission, The Global Research Analyst Settlement Timeline, http://www.sec.gov/spotlight/globalsettlement/gstimeline.htm, (last modified May 23, 2007 (a copy of this timeline from the SEC's website is attached hereto as Addendum B).

15. Following the initial distribution, the Fund Administrator determined that there were unexpended funds of about $172 million in the Federal Fund, and the Court directed the Fund Administrator to submit a proposal for the distribution or use of the unexpended funds. *Id.* By order dated September 22, 2006, the Court ordered the distribution of residual funds to late-filed claimants and additional outreach efforts to eligible investors who had not previously filed a claim. *Id.*

16. Payments pursuant to the September 22, 2006 order under the Federal Distribution Plan began on May 8, 2007, and the last of those payments was issued on September 27, 2007 (the "September 2007 Federal Payments").

17. In the weeks following the September 22, 2006 order, the Commissioner of Securities contacted the Fund Administrator and confirmed that the Fund Administrator would provide assistance in ascertaining aggrieved Missouri investors and the compensable losses they could reasonably recoup through payments from the Investor Restitution Fund, using the formulas and processes devised by the Fund Administrator.

18. On February 23, 2007, consultants to the Fund Administrator stated that they would provide to the Commissioner of Securities data on all Missouri investor claims filed with, and payment-eligible investors identified in Missouri by, the Fund Administrator (the "Missouri Data").

19. On June 25, 2007, the Fund Administrator's consultants notified the Commissioner of Securities that the judge overseeing the SEC Final Judgment determined that all firms settling pursuant to a final judgment in the research analyst conflict cases with the SEC must give their permission prior to release of the Missouri Data.

20. Following the September 2007 Federal Payments, the Commissioner of Securities secured all required permissions for release of the Missouri Data by the Fund Administrator.

21. On May 14, 2008, the Fund Administrator provided the Missouri Data to the Commissioner of Securities.

Findings

22. The Commissioner of Securities finds that the Federal Distribution Plan administered by the Fund Administrator is the optimal and most reasonable method for ascertaining Missouri investors aggrieved by the Respondent's actions, and that the Federal Distribution Plan included the optimal method for determining the compensable losses for such aggrieved investors.

20. The Commissioner of Securities, following review of the Federal Distribution Plan and the Missouri Data, finds that certain aggrieved Missouri investors did not receive the full amount of their compensable losses from the Federal Distribution Plan, as the amount paid by the Respondent into the Federal Fund was not adequate to cover the full amount determined compensable to Missouri investors under the Federal Distribution Plan.

21. The Commissioner of Securities finds that there are adequate and appropriate funds in the Investor Restitution Fund to pay those amounts ordered below to Missouri investors who were aggrieved by the Respondent and found to be compensable by the Federal Distribution Plan, but who were not paid the full compensable amount under the Federal Distribution Plan.

22. The Commissioner of Securities finds that the payments to Missouri investors as ordered below are authorized and contemplated by Section 409.6-603(e), RSMo. (Supp. 2007).

23. The Commissioner of Securities finds that this Order is in the public interest and is consistent with the purposes intended by the 2003 Act.

Order

NOW, THEREFORE, it is hereby ordered that, following and based upon the Commissioner's reasonable efforts to ascertain investors aggrieved by the acts, practices of courses of business of the Respondent, then pursuant to Section 409.6-603(e), RSMo. (Supp. 2007), payments shall be issued from the Investor Restitution Fund to the recipients specified in Exhibit A hereto and in the amounts specified therein.

SO ORDERED.

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 25 DAY OF AUGUST, 2008.

ROBIN CARNAHAN
SECRETARY OF STATE

MATTHEW D. KITZI
COMMISSIONER OF SECURITIES