

State of Missouri
Office of Secretary of State

Case No. AP-10-05

In the matter of:

STIFEL, NICOLAUS &
COMPANY, INCORPORATED,
CRD#793

Serve Stifel, Nicolaus & Company,
Incorporated at:
501 North Broadway
St. Louis, Missouri 63102,

Respondent.

CONSENT ORDER

WHEREAS, Stifel, Nicolaus & Company, Incorporated ("Stifel") is a Missouri-registered broker-dealer with its home office at 501 North Broadway St. Louis, Missouri 63106; and

A multi-state task force led by the Enforcement Section (the "Enforcement Section") of the Missouri Securities Division (the "Securities Division") conducted an investigation into Stifel's marketing and sale of auction rate securities to investors during the period January 1, 2006 through February 14, 2008; and

Stifel has advised the Enforcement Section of its agreement to resolve the multi-state task force investigation relating to its marketing and sale of auction rate securities to investors; and

Stifel elects to permanently waive any right to a hearing and appeal under Chapter 409 or Chapter 536, RSMo. (Cum. Supp. 2008), with respect to this Consent Order (the "Order"); and

Stifel agrees that Stifel is not the prevailing party in this action and Stifel elects to specifically forever release and hold harmless the Missouri Office of Secretary of State, Secretary of State, Commissioner of Securities and their respective representatives and agents from any and all liability and claims out of, pertaining to, or relating to this matter; and

Stifel agrees not to take any action or to make or permit to be made any public statement creating the impression that this Order is without a factual basis. Nothing in this paragraph affects Stifel's: (a) testimonial obligations; (b) right to take legal or factual positions in defense of litigation or in defense of other legal proceedings in which the Commissioner of Securities is not a party; or (c) right to make public statements that are factual;

NOW, THEREFORE, the Commissioner hereby enters this Order.

FINDINGS OF FACT

1. Stifel admits the jurisdiction of the Commissioner for purposes of this Order, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order, and consents to the entry of this Order by the Commissioner.
2. Auction rate securities are long-term debt or equity instruments that include auction preferred shares of closed-end funds, municipal auction rate bonds, and various asset-backed auction rate bonds (collectively referred to herein as "ARS"), with variable interest rates that reset through a bidding process known as a Dutch auction.
3. At a Dutch auction, bidders generally state the number of auction rate securities they wish to purchase and the minimum interest rate they are willing to accept. Bids are ranked, from lowest to highest, according to the minimum interest rate each bidder is willing to accept. The lowest interest rate required to sell all of the auction rate securities at auction, known as the "clearing rate," becomes the rate paid to all holders of that particular security until the next auction. The process is then repeated, typically every seven, twenty-eight, or thirty-five days.
4. While ARS are all long-term instruments, one significant feature of ARS (which historically provided the potential for short-term liquidity) is the interest/dividend reset through periodic auctions. If an auction is successful (i.e., there are enough buyers for every ARS being offered for sale at the auction), investors are able to exit their positions at the auction. If, however, auctions "fail" (i.e., there are not enough buyers for every ARS being offered for sale), investors are required to hold all or some of their ARS until the next successful auction in order to liquidate their funds.
5. Beginning in February 2008, the ARS market experienced widespread failed auctions.
6. Stifel and its Missouri-registered securities agents ("Registered Agents") sold ARS to Missouri residents.

7. Stifel's Registered Agents recommended ARS as safe and/or liquid investments, and compared ARS to cash alternatives, such as certificates of deposit or money market accounts.
8. Stifel did not formally train its Registered Agents regarding the risks and features, of ARS.
9. A number of Registered Agents did not sufficiently understand, and therefore did not adequately communicate to retail purchasers, the risks and features of ARS. As a result, in April, 2008 some Missouri retail investors who had purchased ARS from Stifel or its Registered Agents began to submit complaints to the Enforcement Section regarding these purchases.

Stifel's Failure to Supervise the Sale of ARS

10. Stifel failed to reasonably supervise its Registered Agents, which is grounds to discipline Stifel under Section 409.4-412(d)(9), RSMo. (Cum. Supp. 2008). Stifel failed to provide reasonable supervision by failing to provide pertinent information and comprehensive training to its Registered Agents and other sales and marketing staff regarding ARS and the mechanics of the auction process.

II.

CONCLUSIONS OF LAW

11. The Commissioner has jurisdiction over this matter pursuant to the Missouri Securities Act of 2003, Chapter 409, RSMo. (Cum. Supp. 2008).
12. The Commissioner finds Stifel failed to reasonably supervise its Registered Agents in Missouri, and that this conduct constitutes grounds to discipline Stifel under Section 409.4-412, (d)(9), RSMo. (Cum. Supp. 2008).
13. The Commissioner finds this Order and the following relief appropriate, in the public interest, and consistent with the purposes intended by the Missouri Securities Act of 2003.

III.

ORDER

On the basis of the Findings of Fact, Conclusions of Law, and Stifel's consent to the entry of this Order,

IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the Securities Division and any other action that the Commissioner could commence under applicable Missouri law on behalf of Missouri as it relates to Stifel, relating to the marketing and sale of auction rate securities. The Securities Division shall refrain from initiating any action against any of the Defendants named in the Petition filed by the Secretary of State of Missouri and the Attorney General of Missouri as plaintiff in the Circuit Court of Franklin County, Missouri, styled *State of Missouri ex rel Secretary of State Robin Carnahan and the Missouri Attorney v. Stifel, Nicholas and Company, Incorporated, et al., Case No. 09AB-CC00075*, based upon or related to the conduct set forth in the Petition.
2. This Order is entered into solely for the purpose of resolving the multi-state investigation and is not intended to be used for any other purpose.
3. Stifel will CEASE AND DESIST from violating the Missouri Securities Act of 2003 and will comply with the Missouri Securities Act of 2003.
4. Stifel will retain, at its expense, not to exceed thirty thousand dollars (\$30,000), an outside consultant ("Consultant") not unacceptable to the Commissioner, no later than one (1) month after the execution of this Consent Order. The scope of Consultant's work shall be to conduct a review and make written recommendations concerning Stifel's supervisory and compliance policies and procedures relating to the product review of non-conventional investments and the training, marketing, and sale of non-conventional investments by Stifel and its Registered Agents throughout Stifel's retail branch office system. If the Consultant becomes unable to perform his or her duties, Stifel shall have thirty (30) days to select a replacement Consultant not unacceptable to the Commissioner.
5. A report prepared by the Consultant describing his or her recommendations shall be provided to Stifel within six (6) months from the date of this Order, and Stifel will promptly provide to the Enforcement Section a copy of such report. The Enforcement Section may speak with the Consultant at any time during the period that the Consultant is retained by Stifel. Any costs and/or fees associated with the Enforcement Section's speaking with the Consultant shall be borne by the Enforcement Section.
6. For a period of one (1) year following the conclusion of the Consultant's work, Stifel, and its affiliates may not employ or hire the Consultant in any capacity.
7. Stifel shall modify its Voluntary Offer to Repurchase Eligible Auction Rate Securities at Par dated April 9, 2009 (the

"Voluntary Offer") for all Eligible Investors as described in Paragraphs 8 and 9 below. For purpose of this Order, Eligible Investors shall be defined as investors who hold Eligible Accounts as that term is defined in the Voluntary Offer. Except as modified by this Order, all other terms and conditions of the voluntary offer shall remain in full force and effect and shall in no way be modified by this Order.

8. Stifel shall accelerate its repurchase of Eligible ARS from Eligible Investors who have accepted the Voluntary Offer as follows:
 - a. January 2010 Repurchase
Stifel will repurchase at par up to the greater of twenty-five thousand dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%) of the remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend of such amount no later than January 15, 2010.
 - b. December 2010 Repurchase
Stifel will repurchase at par up to the greater of twenty-five thousand dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%) of the remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend of such amount no later than December 31, 2010.
 - c. 2010 Supplemental Repurchase
Stifel will repurchase at par all of the Eligible ARS which remain after the December 2010 Repurchase from Eligible Investors who, as of January 1, 2009, maintained in an Eligible Account, Eligible ARS in an amount of one hundred fifty thousand dollars (\$150,000) or less. Such repurchase shall be completed no later than December 31, 2010.
 - d. 2011 Repurchase
Stifel will repurchase at par all of the remaining Eligible ARS holdings plus any accrued and unpaid interest. Such repurchase shall be completed no later than December 31, 2011.
9. Stifel will make its Voluntary Offer as modified by this Order to:
 - a. those Eligible Investors who have not previously accepted the Voluntary Offer; and
 - b. those investors identified in Exhibit A ("Additional Eligible Investors") who currently hold ARS originally purchased, and at one time held in an account, at Stifel. Stifel's repurchase shall be limited to the ARS originally purchased at Stifel and currently held by the Additional Eligible Investors. In addition to executing the documents associated with the modified Voluntary Offer, the Additional Eligible Investors will be required to execute such documents as are necessary to effectuate a transfer to Stifel of the ARS being repurchased.
10. Subject to applicable regulatory requirements and limitations, Stifel will cooperate with its bank affiliate to use its best efforts to make no-net-cost loans to Eligible Investors, provided such investors have demonstrated need for liquidity.
11. Stifel shall, within fifteen (15) days of the end of each calendar quarter following the execution of this Order, provide to the Missouri Commissioner of Securities a written report describing and updating, in detail, all repurchase/buyback, issuer redemption and investor arbitration claims related to Eligible ARS that occur or continue to occur. Where applicable and in describing repurchase, redemption and arbitration developments or occurrences, Stifel shall include investor or issuer names and state of residence and amounts of repurchases, redemptions and/or arbitration claims/awards. Missouri shall be authorized to share these written reports with any state pursuant to Missouri law, provided that such written reports are given confidential treatment and are treated as nonpublic, nondisclosable records to the extent possible under applicable state law.
12. Stifel shall pay fines and/or penalties totaling five hundred twenty-five thousand dollars (\$525,000) to the states and other jurisdictions participating in this multi-state task force as allocated by the North American Securities Administrators Association to resolve matters relating to Stifel's marketing and sale ARS in those states or other jurisdictions.
13. Stifel shall pay the sum of two hundred fifty thousand dollars (\$250,000) to the State of Missouri for costs, expenses and payments. This amount shall be sent to Missouri Securities Enforcement Section at 600 West Main Street, Jefferson City, Missouri 65101 within thirty (30) days of the effective date of this Consent Order as follows: two hundred thousand dollars (\$200,000) shall be made payable to the Secretary of State's Missouri Investor Education and Protection Fund and fifty thousand dollars (\$50,000) shall be made payable to the Attorney General's Office.
14. If Stifel defaults in any of its obligations set forth in this Order, the Commissioner may vacate this Order, at his sole discretion, upon 10 days notice to Stifel and without opportunity for administrative hearing or may refer this matter for enforcement as provided in Sections 409.6-603 and 409-6-604, RSMo. (Cum.Supp.2008).
15. This Order is not intended to indicate that Stifel or any of its affiliates or current or former employees shall be subject to any disqualifications contained in the federal securities law, the rules and regulations there under, the rules and regulations of self-regulatory organizations or various states' securities laws, including any disqualifications from relying upon the registration exemptions or safe harbor provisions. In addition, this Order is not intended to form the basis for any such disqualifications.
16. This Order may not be read to indicate that Stifel or any of its affiliates or current or former employees engaged in fraud or violated any federal or state laws, the rules and regulations thereunder, or the rules and regulations of any self regulatory

organization.

- 17. For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against Stifel including, without limitation, the use of any e-mails or other documents of Stifel or of others for the marketing and sale of auction rate securities to investors, limit or create liability of Stifel, or limit or create defenses of Stifel to any claims.
- 18. This Order shall not disqualify Stifel or any of its affiliates or current or former employees from any business that they are otherwise qualified or licensed to perform under applicable state law, or form the basis for any such disqualification.
- 19. Nothing herein shall preclude Missouri, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Missouri Securities Enforcement Section and only to the extent set forth in paragraph 1 above, (collectively, "State Entities") and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Stifel in connection with the marketing and sale of auction rate securities at Stifel.
- 20. Stifel shall pay its own costs and attorneys' fees with respect to this matter.

SO ORDERED:

WITNESS MY HAND AND OFFICIAL SEAL OF MY OFFICE AT JEFFERSON CITY, MISSOURI THIS 22ND DAY OF JANUARY, 2010.

ROBIN CARNAHAN
SECRETARY OF STATE

(Signed/Sealed)
MATTHEW D. KITZI
COMMISSIONER OF SECURITIES

Consented to by:

Mary S. Hosmer
Missouri Securities Enforcement Section

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY STIFEL

Stifel hereby acknowledges that it has been served with a copy of this Consent Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

Stifel admits the jurisdiction of the Commissioner; neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Commissioner as settlement of the issues contained in this Order.

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

_____ represents that he/she is _____ of Stifel, Nicolaus & Company, Incorporated, and that, as such, has been authorized by Stifel, Nicolaus & Company, Incorporated to enter into this Order for and on behalf of Stifel, Nicolaus & Company, Incorporated

Stifel agrees that it shall not seek or accept, directly or indirectly, reimbursement or indemnification, including, but not limited to payment made pursuant to any insurance policy, with regard to any administrative monetary penalty that Stifel shall pay pursuant to this Order. Stifel further agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any administrative monetary penalty that Stifel shall pay pursuant to this Order. Stifel understands and acknowledges that these provisions are not intended to imply that the State of Missouri would agree that any other amounts Stifel shall pay pursuant to this Order may be reimbursed or indemnified (whether pursuant to an insurance policy or otherwise) under applicable law or may be the basis for any tax deduction or tax credit with regard to any state, federal or local tax.

Dated this ____ day of _____, 2010.

Stifel, Nicolaus & Company, Incorporated
By: _____
Title: _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20__.

Notary Public

My commission expires: _____

EXHIBIT A

Missouri Resident 1
St. Louis, Missouri

Missouri Resident 2
Creve Coeur, Missouri

Missouri Resident 3
St. Louis, Missouri