

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. S-09-024

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ARKANSAS SECURITIES DEPT.

IN THE MATTER OF

Order No. S-09-024-10-OR12

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**

CONSENT ORDER

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

WHERE, a multistate task force led by the Enforcement Section of the Securities Division of the Missouri Secretary of State (the "Enforcement Section") 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

WHEREAS, Stifel has advised the Enforcement Section of its agreement to resolve the multistate task force investigation relating to its marketing and sale of auction rate securities to investors; and

WHEREAS, Stifel elects to permanently waive any right to a hearing and appeal under the Arkansas Securities Act ("Act"), Ark. Code Ann. §§ 23-42-101 through 23-42-509, and the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201 through 25-15-219 with respect to this Consent Order (the "Order"); and

WHEREAS, Stifel agrees that Stifel is not the prevailing party in this action and Stifel elects to specifically forever release and hold harmless the Arkansas Securities Department and its representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter; and

WHEREAS, 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 Arkansas Securities Commissioner is not a party; or (c) right to make public statements that are factual;

NOW, THEREFORE, the Arkansas Securities Commissioner hereby enters this Order.

I.

FINDINGS OF FACT

1. Stifel admits the jurisdiction of the Arkansas Securities 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 Arkansas Securities 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 ARS 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 ARS 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 Arkansas-registered securities agents (“Registered Agents”) sold ARS to Arkansas 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. A number of Registered Agents did not sufficiently understand, and therefore did not adequately communicate to retail purchasers, the risks and features of ARS.

Stifel’s Failure to Supervise the Sale of ARS

9. Stifel failed to reasonably supervise its Registered Agents, which is grounds to discipline Stifel under Ark. Code Ann. § 23-42-308(a)(2)(J). 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

10. The Arkansas Securities Commissioner has jurisdiction over this matter pursuant to Ark. Code Ann. § 23-42-205.

11. The Arkansas Securities Commissioner finds Stifel failed to reasonably supervise its Registered Agents in Arkansas, and that this conduct constitutes grounds to discipline Stifel under Ark. Code Ann. § 23-42-308(a)(2)(J).

12. The Arkansas Securities Commissioner finds this Order and the following relief

appropriate, in the public interest, and consistent with the purposes intended by the Act.

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 Arkansas Securities Department and any other action that the Arkansas Securities Department could commence under applicable Arkansas law on behalf of Arkansas as it relates to Stifel, relating to the marketing and sale of auction rate securities. The Arkansas Securities Commissioner shall refrain from initiating any action against Stifel based upon or related to the conduct set forth in this order. Specifically excluded from and not covered by this paragraph are any claims by the Arkansas Securities Commissioner arising from or relating to the Order provisions contained herein.
2. This Order is entered into solely for the purpose of resolving the multistate investigation and is not intended to be used for any other purpose.
3. Stifel will CEASE AND DESIST from violating the Act and will comply with the Act.
4. In accordance with the Consent Order entered against Stifel by the Missouri Office of the Secretary of State dated January 22, 2010, Case No. Ap-10-05 ("Missouri Order"), Stifel has or will retain, at its expense, an outside consultant ("Consultant"). The scope of Consultant's work is to conduct a review and make written recommendations concerning Stifel's supervisory and compliance policies and procedures relating to the product review of nonconventional investments and the training, marketing, and sale of nonconventional investments by Stifel and its Registered Agents throughout Stifel's retail branch office system. Stifel will receive a report prepared by the Consultant describing his or her recommendations and Stifel will provide to the Enforcement Section a copy of such report. Stifel shall authorize the

Enforcement Section to share these written reports with the Arkansas Securities Department 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 Arkansas law.

5. 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.

6. 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 Paragraph 7 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.

7. 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 that 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. Stifel will make its Voluntary Offer as modified by this Order to those Eligible Investors who have not previously accepted the Voluntary Offer.

8. 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.

9. In accordance with the Missouri Order, Stifel shall, within fifteen (15) days of the end of each calendar quarter following the execution of the Missouri 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 the Arkansas Securities Department 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 Arkansas law.

10. 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 multistate 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.

11. Within ten (10) calendar days following the entry of this Order, Stifel shall pay to

Arkansas the sum of \$1,314.17 in two payments as follows: (1) \$131.41 to the Arkansas State Fund at the Investor Protection Trust a nonprofit organization devoted to investor education; and (2) \$1182.76 payable to the Arkansas Securities Department; the total amount constitutes Arkansas's allocated share of the total settlement payment described in the preceding paragraph.

12. If Stifel defaults in any of its obligations set forth in this Order, the Arkansas Securities Commissioner may vacate this Order, at his sole discretion, upon ten (10) days notice to Stifel and without opportunity for administrative hearing or may refer this matter for enforcement as provided in Ark. Code Ann. § 23-42-209.

13. 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.

14. The parties admit and acknowledge that the Arkansas Securities Commissioner has no authority or jurisdiction over any other state or federal agency or regulatory authority. Nonetheless, the Arkansas Securities Commissioner does not intend for this Order to serve as a basis for Stifel's or any of its affiliates' disqualification from registration exemptions or safe harbor provisions contained in the following:

- a) Arkansas Securities Act, or rules or regulations thereunder;
- b) Federal securities laws, or the rules and regulations thereunder;
- c) Rules and regulations of self regulatory organizations; or
- d) Various states' or U.S. Territories' securities laws.

15. The Arkansas Securities Commissioner also does not intend for this Order to form a basis for Stifel's or any of its affiliates' and their employee's disqualification from any business that they are otherwise qualified or licensed to perform.

16. Nothing herein shall preclude Arkansas, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations (collectively, "State Entities"), other than the Arkansas Securities Department and only to the extent set forth in paragraph 1 above, 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.

17. Stifel shall pay its own costs and attorneys' fees with respect to this matter.

Dated this 19th day of October, 2010.

BY ORDER OF THE ARKANSAS SECURITIES COMMISSIONER

A handwritten signature in cursive script, appearing to read "A. Heath Abshire", written over a horizontal line.

A. Heath Abshire, Commissioner

CONSENT TO ENTRY OF CONSENT ORDER BY STIFEL

Stifel hereby acknowledges that it has been served with a copy of this Consent Order (“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 Arkansas Securities 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 Arkansas Securities 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.

Scott B. McCuaig represents that he/she is President 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 Arkansas Securities Commissioner 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 20th day of September, 2010.

Stifel, Nicolaus & Company, Incorporated

By: Scott B. McCuaig
Title: President

STATE OF Missouri)
City of St. Louis) ss.
County of St. Louis)

SUBSCRIBED AND SWORN TO before me by Scott B. McCuaig, this
20th day of September, 2010.

Karen L. Kehrer
Notary Public

My commission expires:

12-3-13

