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**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
ENFORCEMENT SECTION
BEFORE THE DIRECTOR OF THE
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

In the matter of:

Case #S-10-0003

**STIFEL, NICOLAUS & COMPANY,
INCORPORATED**
CRD #793
501 North Broadway
St. Louis, Missouri 63102

**ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL PENALTY,
AND
CONSENT TO ENTRY OF ORDER**

Respondent.

WHEREAS, Stifel, Nicolaus & Company, Incorporated (“Stifel”) is a broker-dealer licensed in Oregon, with its home office at 501 North Broadway, St. Louis, Missouri 63102; and

WHEREAS, 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 (“ARS”) 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 ARS to investors; and

WHEREAS, Stifel elects to permanently waive any right to a hearing and appeal under ORS 59.295, ORS 59.305 and ORS Chapter 183 with respect to this Order to Cease and Desist, Order Assessing Civil Penalty, and Consent to Entry of 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 Oregon Department of Consumer and Business Services (“DCBS”), Division of Finance and Corporate Securities (“DFCS”) and its representatives and agents from any and all liability and claims arising out of, pertaining to, or relating to this matter; and

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1 however, auctions “fail” (i.e., there are not enough buyers for every ARS being offered for sale),
2 investors are required to hold all or some of their ARS until the next successful auction in order
3 to liquidate their funds.

4 5. Beginning in February 2008, the ARS market experienced widespread failed
5 auctions.

6 6. Stifel and its Oregon-licensed securities salespersons (“securities salespersons”)
7 sold ARS to Oregon residents.

8 7. Stifel’s securities salespersons recommended ARS as safe and/or liquid
9 investments, and compared ARS to cash alternatives, such as certificates of deposit or money
10 market accounts.

11 8. Stifel did not formally train its securities salespersons regarding the risks and
12 features of ARS.

13 9. A number of securities salespersons did not sufficiently understand, and therefore
14 did not adequately communicate to retail purchasers, the risks and features of ARS. As a result,
15 some retail investors who had purchased ARS from Stifel or its securities salespersons began to
16 submit complaints regarding these purchases.

17 **Stifel’s Failure to Supervise the Sale of ARS**

18 10. Stifel failed to reasonably supervise its securities salespersons, which is grounds
19 to discipline Stifel under ORS 59.205(13). Stifel failed to provide reasonable supervision by
20 failing to provide pertinent information and comprehensive training to its securities salespersons
21 and other sales and marketing staff regarding ARS and the mechanics of the auction process.

22 **II.**

23 **CONCLUSIONS OF LAW**

24 11. The Director has jurisdiction over this matter pursuant to ORS 59.235 and ORS
25 59.245.

26 12. The Director finds Stifel failed to reasonably supervise its securities salespersons

1 in Oregon, and that this conduct constitutes grounds to discipline Stifel under ORS 59.205(13).

2 13. The Director finds this Order and the following relief appropriate, in the public
3 interest, and consistent with the purposes intended by the Oregon Securities Law.

4 **III.**

5 **ORDER**

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

8 **IT IS HEREBY ORDERED:**

9 1. This Order concludes the investigation by DFCS and any other action that the
10 Director could commence under the Oregon Securities Law on behalf of Oregon as it relates to
11 Stifel, relating to the marketing and sale of ARS. The Director shall refrain from initiating any
12 action against Stifel based upon or related to the conduct set forth in this order. Specifically
13 excluded from and not covered by this paragraph are any claims by the Director arising from or
14 relating to the Order provisions contained herein.

15 2. This Order is entered into solely for the purpose of resolving the multistate
16 investigation and is not intended to be used for any other purpose.

17 3. Stifel will CEASE AND DESIST from violating the Oregon Securities Law and
18 will comply with the Oregon Securities Law.

19 4. In accordance with the Consent Order entered against Stifel by the Missouri
20 Office of the Secretary of State dated January 22, 2010, Case No. Ap-10-05 (“Missouri Order”),
21 Stifel has or will retain, at its expense, an outside consultant (“Consultant”). The scope of
22 Consultant's work is to conduct a review and make written recommendations concerning Stifel’s
23 supervisory and compliance policies and procedures relating to the product review of
24 nonconventional investments and the training, marketing, and sale of nonconventional
25 investments by Stifel and its securities salespersons throughout Stifel's retail branch office
26 system. Stifel will receive a report prepared by the Consultant describing his or her

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1 recommendations and Stifel will provide to the Enforcement Section a copy of such report.
2 Stifel shall authorize the Enforcement Section to share these written reports with DFCS pursuant
3 to Missouri law, provided that such written reports are given confidential treatment and are
4 treated as nonpublic, nondisclosable records to the extent possible under Oregon law.

5 5. For a period of one (1) year following the conclusion of the Consultant’s work,
6 Stifel, and its affiliates may not employ or hire the Consultant in any capacity.

7 6. Stifel shall modify its Voluntary Offer to Repurchase Eligible Auction Rate
8 Securities at Par dated April 9, 2009 (the “Voluntary Offer”) for all Eligible Investors as
9 described in Paragraph 7 below. For purpose of this Order, “Eligible Investors” shall be defined
10 as investors who hold “Eligible Accounts” as that term is defined in the Voluntary Offer. Except
11 as modified by this Order, all other terms and conditions of the Voluntary Offer shall remain in
12 full force and effect and shall in no way be modified by this Order.

13 7. Stifel shall accelerate its repurchase of Eligible ARS from Eligible Investors who have
14 accepted the Voluntary Offer as follows:

15 a. January 2010 Repurchase

16 Stifel shall have repurchased at par up to the greater of twenty-five
17 thousand dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%)
18 of the remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend
19 of such amount no later than January 15, 2010.

20 b. December 2010 Repurchase

21 Stifel shall have repurchased at par up to the greater of twenty-five
22 thousand dollars (\$25,000) of the remaining Eligible ARS holdings or ten percent (10%)
23 of the remaining Eligible ARS holdings plus any accrued and unpaid interest or dividend
24 of such amount no later than December 31, 2010.

25 c. 2010 Supplemental Repurchase

26 Stifel shall have repurchased at par all of the Eligible ARS that remain



1 after the December 2010 Repurchase from Eligible Investors who, as of January 1, 2009,
2 maintained in an Eligible Account, Eligible ARS in an amount of one hundred fifty
3 thousand dollars (\$150,000) or less. Such repurchase shall have been completed no later
4 than December 31, 2010.

5 d. 2011 Repurchase

6 Stifel will repurchase at par all of the remaining Eligible ARS holdings
7 plus any accrued and unpaid interest. Such repurchase shall be completed no later than
8 December 31, 2011. Stifel will make its Voluntary Offer as modified by this Order to
9 those Eligible Investors who have not previously accepted the Voluntary Offer.

10 8. Subject to applicable regulatory requirements and limitations, Stifel will
11 cooperate with its bank affiliate to use its best efforts to make no-net-cost loans to Eligible
12 Investors, provided such investors have demonstrated need for liquidity.

13 9. In accordance with the Missouri Order, Stifel shall, within fifteen (15) days of the
14 end of each calendar quarter following the execution of the Missouri Order, provide to the
15 Missouri Commissioner of Securities a written report describing and updating, in detail, all
16 repurchase/buyback, issuer redemption and investor arbitration claims related to Eligible ARS
17 that occur or continue to occur. Where applicable and in describing repurchase, redemption and
18 arbitration developments or occurrences, Stifel shall include investor or issuer names and state of
19 residence and amounts of repurchases, redemptions, and/or arbitration claims/awards. Missouri
20 shall be authorized to share these written reports with DFCS pursuant to Missouri law, provided
21 that such written reports are given confidential treatment and are treated as nonpublic,
22 nondisclosable records to the extent possible under Oregon law.

23 10. Stifel shall pay fines and/or penalties totaling \$525,000 (five hundred twenty-five
24 thousand dollars) to the states and other jurisdictions participating in this multistate task force as
25 allocated by the North American Securities Administrators Association to resolve matters
26 relating to Stifel's marketing and sale ARS in those states or other jurisdictions.



1 11. Pursuant to ORS 59.995(1), within ten (10) calendar days following the entry of
2 this Order, Stifel shall pay to DCBS, for the General Fund of the State Treasury, a civil penalty
3 of \$2,502.92 (two thousand, five hundred two dollars and ninety-two cents), which amount
4 constitutes Oregon’s allocated share of the total settlement payment described in the preceding
5 paragraph.

6 12. If Stifel defaults in any of its obligations set forth in this Order, the Director may
7 vacate this Order, at his sole discretion, upon ten (10) days notice to Stifel and without
8 opportunity for administrative hearing or may refer this matter for enforcement as provided in
9 ORS 59.245 and ORS 59.295.

10 13. This Order is not intended to indicate that Stifel or any of its affiliates or current
11 or former employees shall be subject to any disqualifications contained in the federal securities
12 law, the rules and regulations thereunder, the rules and regulations of self-regulatory
13 organizations or various states’ securities laws, including any disqualifications from relying upon
14 the registration exemptions or safe harbor provisions. In addition, this Order is not intended to
15 form the basis for any such disqualifications.

16 14. This Order may not be read to indicate that Stifel or any of its affiliates or current
17 or former employees engaged in fraud or violated any federal or state laws, the rules and
18 regulations thereunder, or the rules and regulations of any self regulatory organization.

19 15. For any person or entity not a party to this Order, this Order does not limit or
20 create any private rights or remedies against Stifel including, without limitation, the use of any e-
21 mails or other documents of Stifel or of others for the marketing and sale of ARS to investors,
22 limit or create liability of Stifel, or limit or create defenses of Stifel to any claims.

23 16. This Order shall not disqualify Stifel or any of its affiliates or current or former
24 employees from any business that they are otherwise qualified or licensed to perform under
25 applicable state law, or form the basis for any such disqualification.

26 17. Nothing herein shall preclude Oregon, its departments, agencies, boards,

1 commissions, authorities, political subdivisions and corporations (collectively, “State Entities”),
2 other than the Director and only to the extent set forth in paragraph 1 above, and the officers,
3 agents or employees of State Entities from asserting any claims, causes of action, or applications
4 for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive
5 relief against Stifel in connection with the marketing and sale of ARS at Stifel.

6 18. Stifel shall pay its own costs and attorneys’ fees with respect to this matter.

7 Dated this 17th day of February, 2011.

8
9 SCOTT L. HARRA, Acting Director
Department of Consumer and Business Services

10
11 /s/ David Tatman

12 David C. Tatman, Administrator
13 Division of Finance and Corporate Securities

14 CONSENT TO ENTRY OF ORDER

15 BY STIFEL, NICOLAUS & COMPANY, INCORPORATED

16 Stifel, Nicolaus & Company, Incorporated (“Stifel”) hereby acknowledges that it has
17 been served with a copy of this Order to Cease and Desist, Order Assessing Civil Penalty, and
18 Consent to Entry of Order (“Order”), has read the foregoing Order, is aware of its right to a
19 hearing and appeal in this matter, and has waived the same.

20 Stifel admits the jurisdiction of the Director of the Department of Consumer and Business
21 Services (“Director”); neither admits nor denies the Findings of Fact and Conclusions of Law
22 contained in this Order; and consents to entry of this Order by the Director as settlement of the
23 issues contained in this Order.

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

26 Scott B. McCuaig represents that he/she is President of Stifel,



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1 and that, as such, has been authorized by Stifel to enter into this Order for and on behalf of Stifel.
2 Stifel agrees that it shall not seek or accept, directly or indirectly, reimbursement or
3 indemnification, including, but not limited to, payment made pursuant to any insurance policy,
4 with regard to any civil penalty that Stifel shall pay pursuant to this Order. Stifel further agrees
5 that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state,
6 federal, or local tax for any civil penalty that Stifel shall pay pursuant to this Order. Stifel
7 understands and acknowledges that these provisions are not intended to imply that the Director
8 would agree that any other amounts Stifel shall pay pursuant to this Order may be reimbursed or
9 indemnified (whether pursuant to an insurance policy or otherwise) under applicable law or may
10 be the basis for any tax deduction or tax credit with regard to any state, federal, or local tax.

11 Dated this 1st day of February, 2011.

12 Stifel, Nicolaus & Company, Incorporated

13 By: /s/ Scott B. McCuaig

14 Scott B. McCuaig
15 (Printed Name of Signator)

16 Title: President

17 STATE OF Missouri)

18 City of St. Louis)

19 SUBSCRIBED AND SWORN TO before me by Scott B. McCuaig, this 1st
20 day of February, 2011.

21 /s/ Karen L. Kehrer
22 Notary Public

23 My commission expires:

24 12-3-13