

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2009017072302**

TO: Department of Enforcement
Financial Industry Regulatory Authority ("FINRA")

RE: Morgan Stanley & Co. Incorporated, Respondent
Member
CRD No. 8209

Pursuant to FINRA Rule 9216 of FINRA's Code of Procedure, Morgan Stanley & Co. Incorporated ("Morgan Stanley" or the "Firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described below. This AWC is submitted on the condition that, if accepted, FINRA will not bring any future actions against me alleging violations based on the same factual findings described herein.

I.

ACCEPTANCE AND CONSENT

- A. I hereby accept and consent, without admitting or denying the findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by FINRA:

BACKGROUND

Morgan Stanley & Co. and its predecessors have been members of FINRA since 1936. Morgan Stanley & Co. is a wholly-owned subsidiary of Morgan Stanley, a Delaware corporation, located in New York, New York whose shares are traded on the New York Stock Exchange. Morgan Stanley engages in a general securities business that includes retail and institutional brokerage services, trading and advisory services. Prior to April 1, 2007, Morgan Stanley was registered and operated under the name Morgan Stanley DW Inc.

RELEVANT DISCIPLINARY HISTORY

On May 9, 2007, pursuant to NYSE Hearing Panel Decision 07-66, Morgan Stanley entered into a stipulation of facts and consent to penalty with the NYSE in which it was censured and fined \$500,000 for failing to provide for appropriate supervisory controls regarding the monitoring of customer guardian accounts for suitability and for certain trades processed through its block trading desk, supervise certain accounts handled by its representatives, supervise the review of

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employee communications, and timely and accurately report statistical information regarding certain customer complaints.

On August 9, 2006, pursuant to Letter of Acceptance, Waiver and Consent No. E9B2005010702, NASD found that Morgan Stanley failed to enforce its supervisory review procedures implemented to determine whether its registered representatives should be subject to heightened supervision by Morgan Stanley and censured and fined the firm \$100,000.

OVERVIEW

Between August 1999 and December 2008 (the "Relevant Period"), RG, a former Associated Person and employee of the Firm in its New York Position Services Group ("NYPS"), misappropriated in excess of \$2.5 million from the Firm, institutional Firm customers, and a Firm counter-party by transferring money from different accounts, comingling those funds in other accounts and issuing or causing to be issued approximately 50 checks from those comingled funds to a shell corporation he established for himself. In furtherance of the misappropriation, RG entered numerous false journal entries in the Firm's books and records.

During the Relevant Period, the Firm failed to establish and implement an adequate system of follow-up and review for journal entries and failed to establish an adequate system of follow-up and review for the request and issuance of checks in the New York Position Services Group. As a result, the Firm failed to properly supervise RG and failed to detect RG's misappropriation scheme.

FACTS AND VIOLATIVE CONDUCT

The Firm's NYPS Group

At all times relevant, NYPS was responsible for processing corporate actions related to US and Canadian/Latin American securities. Corporate actions are actions, such as tender offers, mergers, dividends, warrants and rights subscriptions, that bring a material change to a company and affect its stakeholders, stockholders and/or bondholders.

The processing of corporate actions involved journaling money and securities to and from institutional customer accounts. To aid this process, suspense accounts are used to facilitate the processing of corporate actions. The Firm debited securities and/or funds from the affected customer accounts and credited them to the appropriate suspense account. The funds and/or securities were then journaled between and among the appropriate accounts, leaving a zero balance in the suspense account. When a balance remained in the suspense account, members of the NYPS Group were responsible for reconciling the differences.

RG's Misappropriation

Between August 1999 and December 2008, RG misappropriated approximately \$2.5 million from the Firm, Firm customers, and a Firm counterparty by entering or causing to be entered numerous false journal entries into the Firm's electronic system to transfer and credit money

associated with corporate actions. Thereafter, he entered or caused to be entered into the Firm's electronic system requests for 50 checks to be issued to his shell corporation against the suspense and/or fee accounts that he was using to misappropriate funds. RG entered 11 of the check requests himself, which were later approved by NYPS employees that reported to him. He caused employees who reported to him in NYPS to enter approximately 35 check requests and he used the identification number and password of another NYPS employee who reported to him to enter the remaining check requests. He later approved all of those check requests.

The Firm Failed to Have Adequate Systems and Procedures Relating to its Corporate Actions Process

The Firm failed to establish and implement an adequate system of follow-up and review of journal entries and adequate procedures for reviewing and approving check requests related to corporate actions. In particular, the Firm did not have any procedure to review RG's check requests and journal entries. RG was able to approve journal entries he made as well as check requests he caused to be made. As a result, the Firm failed to properly supervise RG and failed to detect that from 1999 to 2008, RG entered or caused to be entered false check requests and false journal entries related to corporate actions, which allowed RG to misappropriate approximately \$2.5 million from the Firm, its institutional customers and a Firm counterparty. By virtue of the foregoing, the Firm violated NASD Rules 3010 and 2110 and FINRA Rule 2010.

Morgan Stanley Failed to Establish and Implement an Adequate System of Follow-up and Review for Journal Entries

Prior to April 2003, the Firm did not have a system for reviewing journal entries entered by NYPS. In or about April 2003, NYPS introduced an internal reporting and/or process to generate and review a list of journal entries that raised certain concerns. A November 2005 Sarbanes-Oxley review found some deficiencies with the system and, in or about June 2006, RG was assigned to review the journal entries made by NYPS, including his own.

In June 2007, the Firm introduced a new system, the Summary of Manual Journals ("SOMJ"), to replace the review of all journal entries and require the review and approval of journal entries that the Firm determined to be "high priority." These journal entries remained on the SOMJs until reviewed and approved by an NYPS supervisor. Between June 2007 and June 2008, RG was assigned to review and approve all high priority journal entries flagged on the SOMJs, including his own.

In June 2008, the Firm assigned three NYPS supervisors, all of whom reported directly to RG, to review and approve journal entries flagged on SOMJs. Nobody was assigned to review high priority journal entries entered by anyone not on one of those teams, including RG.

During this time, the Firm failed to have a system to inform NYPS management if journal entries flagged on the SOMJs were not approved.

Between June 2007 and December 2008, RG made at least 450 journal entries, at least 168 of which were flagged as "high priority." RG approved 57 of them; 111 were not reviewed and were listed on the SOMJs pending approval at the time of RG's termination.

Morgan Stanley had Inadequate Procedures for Reviewing and Approving Check Requests Related to Corporate Actions

During the Relevant Period, check requests entered by NYPS personnel were required to be approved by another NYPS employee. However, the Firm did not require the person approving the check to be a supervisor or have supervisory responsibility. As a result, NYPS Associates approved check requests entered by an NYPS supervisor, and entered check requests on behalf of a supervisor, which the supervisor subsequently approved.

Moreover, the Firm did not require any review to determine if the check request was associated with a corporate action. Indeed, the approver simply ensured that all the required information was included in the check request.

By virtue of the foregoing, the Firm violated NASD Rules 3010 and 2110 and FINRA Rule 2010.

OTHER FACTORS

In determining the appropriate sanctions, FINRA considered the following factors: (1) the Firm discovered and self-reported RG's misconduct; (2) after conducting a review and before the completion of FINRA's investigation, the Firm identified the causes of the violations and corrected its systems and procedures to prevent future violations; (3) after conducting a review and before the completion of FINRA's investigation, the Firm made extraordinary efforts to remediate its customers; and (4) the Firm provided substantial assistance to FINRA's investigation by sharing the details of its forensic analysis of RG's misconduct, and providing comprehensive information about the results of its investigation as it learned of it and without the need for ongoing requests from FINRA.

SANCTIONS

B. The Firm also consents to the imposition of the following sanctions:

1. Censure; and
2. A fine in the amount of \$375,000.

The sanctions imposed herein shall be effective on the date set by FINRA staff.

The Firm agrees to pay the monetary sanction upon notice that this AWC has been accepted and that such payment is due and payable. The Firm has submitted an

Election of Payment form showing the method by which it proposes to pay the fine imposed.

The Firm specifically and voluntarily waives any right to claim that it is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

II.

WAIVER OF PROCEDURAL RIGHTS

The Firm specifically and voluntarily waives the following rights granted under FINRA's Code of Procedure:

- A. To have a Complaint issued specifying the allegations against it;
- B. To be notified of the Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the National Adjudicatory Council ("NAC") and then to the U.S. Securities and Exchange Commission and a U.S. Court of Appeals.

Further, the Firm specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

The Firm further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of FINRA Rule 9143 or the separation of functions prohibitions of FINRA Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

III.

OTHER MATTERS

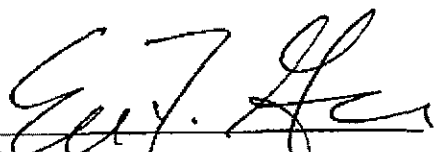
The Firm understands that:

- A. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by the NAC, a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA"), pursuant to FINRA Rule 9216;
- B. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against the Firm; and
- C. If accepted:
 - 1. this AWC will become part of the Firm's permanent disciplinary record and may be considered in any future actions brought by FINRA or any other regulator against the Firm;
 - 2. this AWC will be made available through FINRA's public disclosure program in response to public inquiries about the Firm's disciplinary record;
 - 3. *FINRA may make a public announcement concerning this agreement and the subject matter thereof in accordance with FINRA Rule 8313; and*
 - 4. the Firm may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any finding in this AWC or create the impression that the AWC is without factual basis. The Firm may not take any position in any proceeding brought by or on behalf of FINRA, or to which FINRA is a party, that is inconsistent with any part of this AWC. Nothing in this provision affects the Firm's right to take legal or factual positions in litigation or other legal proceedings in which FINRA is not a party.
- D. The Firm may attach a Corrective Action Statement to this AWC that is a statement of demonstrable corrective steps taken to prevent future misconduct. The Firm understands that it may not deny the charges or make any statement that is inconsistent with the AWC in this Statement. This Statement does not constitute factual or legal findings by FINRA, nor does it reflect the views of FINRA or its staff.

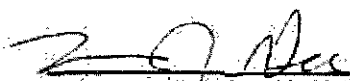
The undersigned, on behalf of the Firm, certifies that a person duly authorized to act on its behalf has read and understands all of the provisions of this AWC and has been given a full opportunity to ask questions about it; that the Firm has agreed to its provisions voluntarily; and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein and the prospect of avoiding the issuance of a Complaint, has been made to induce the Firm to submit it.

MORGAN STANLEY & CO. INCORPORATED

3/24/11
Date


By: ERIC F. GROSSMAN

Reviewed by:


Mary Jeanette Dee, Esq.
Richards Kibbe and Orbe LLP
One World Financial Center
New York, NY 10281-1003
(212) 530-1819
Counsel for Respondent

Accepted by FINRA:

4/5/11
Date

Signed on behalf of the
Director of ODA, by delegated authority


Penny Rosenberg
Enforcement Director
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, New York 10005
Phone: 646-315-7397
Facsimile: 202-689-3420