



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT
Civil Clerk Docket

In re: Morgan Stanley & Co., INC.)
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08-3497 (D)

ASSURANCE PURSUANT TO G.L. CHAPTER 93A, § 5

The Commonwealth of Massachusetts through its Attorney General, Martha Coakley, has been conducting an investigation concerning the marketing and sale of certain Auction Rate Securities by Morgan Stanley & Co. Incorporated ("Morgan") to Massachusetts towns, cities and other political subdivisions. Morgan has cooperated fully with the Attorney General's Office's investigation. At this point the Attorney General and Morgan have determined to resolve certain aspects of the outstanding investigation on the terms set forth in the attached agreement and therefore file this Assurance, pursuant to G.L. c. 93A, § 5, incorporating the terms of the attached agreement. This Assurance does not constitute an admission by Morgan Stanley of any unlawful or wrongful conduct or unfair or deceptive business practices. The Assurance contains the complete agreement between the parties. This Assurance supersedes all prior communications, discussions, or understandings, if any, of the parties whether written or oral. This Assurance can be modified or supplemented only by a written document signed by both parties. The parties acknowledge that the Attorney General may enforce the terms of the incorporated agreement as set forth in G.L. c. 93A sec. 5.

COMMONWEALTH OF MASSACHUSETTS
MARTHA COAKLEY,
ATTORNEY GENERAL

MORGAN STANLEY & CO.
INCORPORATED

By: Glenn Kaplan 8/6/08
Glenn Kaplan (BBO# 567308)
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 727-2200 ext. 2453

By: Corin Swift (JCS)
Corin Swift (BBO# 647672)
Bingham McCutchen LLP
One Federal Street, Boston MA, 02110
(617) 951-8000

AGREEMENT

This Agreement is dated and executed as of August 5, 2008 and is made and entered into by and among (the "Parties"): (1) the Office of the Attorney General for the Commonwealth of Massachusetts (the "Attorney General's Office") and (2) Morgan Stanley & Co. Incorporated ("Morgan").

The Attorney General's Office has been conducting an investigation concerning the marketing and sale of Auction Rate Securities (as defined below) by Morgan to Massachusetts Entities (as defined below). On February 14, 2008, the Attorney General's Office served Morgan with Massachusetts Civil Investigative Demand No. 08-IFS-06 under G.L. c. 12, sec. 5N and G.L. c. 93A, sec. 6, and began gathering information and materials from Morgan. Morgan has cooperated fully with the Attorney General's Office's investigation, and has informed the Attorney General's Office that it has repurchased at par value the Auction Rate Securities held by the Massachusetts Towns and Cities listed on Attachment A. The Attorney General's Office and Morgan agree that Auction Rate Securities are not explicitly provided for under G.L. c. 44. At this point the Parties have determined and agreed to resolve certain aspects of the outstanding investigation as follows:

A. Definitions

As used in this Agreement, the following terms shall have the meanings specified below:

1. The term "Auction Rate Security" refers to any security commonly known as an auction rate security, auction market security, auction rate certificate, auction rate preferred stock, auction market preferred stock, variable rate preferred security, money market preferred security, or such other similar term, which security: (i) has a maturity from date of issuance of longer than one year or has no maturity at all and (ii) is sold pursuant to an auction-type mechanism managed by a broker dealer on a periodic basis shorter than one year.
2. The term "Massachusetts Entity" refers to the Commonwealth of Massachusetts, any city, town, or county located therein, and any governmental entity that is authorized or created by Massachusetts state law, including public corporations, authorities, and members of the Massachusetts system of public higher education. The term "Massachusetts Entity" shall also include any subdivisions, departments, boards, commissions, or investment funds of the foregoing.
3. The terms "Towns and/or Cities" refers to towns, cities, and other municipal bodies in Massachusetts, including any subdivisions, departments, boards, commissions, or investment funds of the foregoing.

B. Terms of Agreement

1. Morgan shall continue to cooperate with the Attorney General's Office in any investigation or related proceeding or action regarding any person, corporation or entity with respect to the sale of Auction Rate Securities to Massachusetts Entities. This cooperation includes but is not limited to:

- a) the use of reasonable best efforts on the part of Morgan to ensure that current and former officers, directors, employees and agents of Morgan or any related or affiliated entities fully and promptly cooperate with the Attorney General's Office in connection with any Auction Rate Securities investigation, including attendance (without service of a subpoena) at any examination or proceeding as requested by the Attorney General's Office;
- b) Morgan shall not object to the production of non-privileged documents or witnesses on the ground that the documents or witnesses requested relate to matters outside the Commonwealth and/or are governed by federal law; and
- c) with respect to any document withheld or redacted on the grounds of privilege, Morgan shall submit a written log indicating: (i) the type of document; (ii) the date of the document; (iii) the author and each recipient of the document; (iv) the general subject matter of the document; (v) the reason for withholding the document; and (vi) the Bates number or range of the withheld document.

2. Morgan shall, within five (5) days of this Agreement, verify and aver in a letter to the Attorney General's Office that Morgan has:

- a. conducted in good faith a thorough review of all relevant documents and other business records within its control in order to identify any and all Auction Rate Securities purchased and held by Massachusetts Towns or Cities at Morgan;
- b. repurchased at par value all Auction Rate Securities held by Towns and Cities in accounts at Morgan as listed in Exhibit A attached hereto; and
- c. provided sufficient documentation to show the re-purchase and the corresponding transfer of funds to the relevant Towns and Cities.

3. In the event that Morgan learns of another Massachusetts Town or City that purchased and held at Morgan Auction Rate Securities that have failed in auctions, it agrees promptly to offer to repurchase at par value any such additional Auction Rate Securities held by Towns and Cities. Each such entity shall have ten (10) days within which it can accept or reject the offer. If such offer is accepted by such entity, Morgan shall execute the purchase within seven (7) days of the acceptance of the offer. Morgan

shall promptly notify the Attorney General's Office in the event that it makes an offer pursuant to this paragraph.

4. Morgan agrees that any repurchase pursuant to paragraph 3 herein shall be made by paying the full principal amount (at par value) in exchange for the transfer by the relevant Massachusetts Entity of the corresponding Auction Rate Security to Morgan, which payments and transfers Morgan shall facilitate at Morgan's own expense.

5. The Attorney General's Office pursuant to this Agreement hereby concludes its review of Morgan's acts and practices relating to the sale of Auction Rate Securities to those Massachusetts Entities whose securities have been repurchased pursuant to paragraphs 2 to 4 of this Agreement, and agrees that it will not seek further damages or penalties from Morgan relating to those transactions under G.L. c. 93A, G.L. c. 12 sec. 5, or any other civil enforcement remedy.

6. Morgan agrees to toll any statute of limitations applicable to any claim the Attorney General's Office may bring against Morgan with respect to auction rate securities for a period of sixty (60) days from the date of execution of this agreement. This Agreement shall not be construed as waiving or impairing any enforcement rights of the Attorney General's Office relating to Auction Rate Securities held by other Massachusetts Entities.

7. Nothing contained herein shall be deemed to constitute an admission by Morgan of any wrongdoing in connection with any matter. Nor shall this Agreement or any negotiations, transactions, or proceedings connected in any way with this Agreement be offered or received in evidence in any proceeding to prove any liability, any wrongdoing, or an admission on the part of any party hereto, by any individual or entity not a party hereto; provided however, that nothing herein shall prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce any or all of the terms of this Agreement.

8. This Agreement constitutes the entire agreement among the Parties, and no representations, warranties, or inducements have been made by any Party concerning this Agreement other than those contained and memorialized herein.

9. If any provision of this Agreement is found to be in violation of law or regulation, the violating provision will be deemed null and void. If any provision is deemed null and void, the Attorney General's Office may, in its discretion, terminate this Agreement.

10. This Agreement shall be governed solely by the laws of the Commonwealth of Massachusetts. A copy of this agreement shall be filed with the clerk of the Superior Court (Suffolk County) pursuant to G.L. c. 93A, sec. 5, appended to a statutory Assurance notice, signed by the parties, in the form set forth in Exhibit B.

IN WITNESS THEREOF, the undersigned subscribe their names:

Dated: August 1, 2008

**ATTORNEY GENERAL OF
THE COMMONWEALTH
OF MASSACHUSETTS**
Martha Coakley

By: Glenn Kaplan
Name: Glenn Kaplan, AAG
Title:

Morgan Stanley & Co.

By: James E. Murray
Name: James E. Murray
Title: Executive Director

Exhibit A

Town of Hopkinton
City of New Bedford

Exhibit B

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SUFFOLK, SS.

SUPERIOR COURT
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In re: Morgan Stanley & Co., INC.)
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MARTHA COAKLEY,
ATTORNEY GENERAL

MORGAN STANLEY & CO.
INCORPORATED

By: _____
Glenn Kaplan (BBO# 567308)
Assistant Attorney General
One Ashburton Place
Boston, MA 02108
(617) 727-2200 ext. 2453

By: _____
Name:
BBO:
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