

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
July 20, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13559

In the Matter of

**WILLIAM KEITH
PHILLIPS,**

Respondent.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 203(f)
AND 203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940 AND
SECTION 15(b)(6) OF THE
SECURITIES EXCHANGE ACT OF
1934**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) and Section 15(b)(6) of the Securities Exchange Act of 1934 (“Exchange Act”), against William Keith Phillips (“Respondent” or “Phillips”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Respondent was employed as a Senior Institutional Consultant in Morgan Stanley & Co. Incorporated’s (“Morgan Stanley”) Nashville, Tennessee branch from 2000 until 2006. In April 2006, Morgan Stanley permitted Respondent to resign. During the relevant time period, Respondent worked as an investment adviser representative as well as a registered broker-dealer representative licensed with FINRA. In that capacity, Respondent serviced individual retail advisory clients as well as several institutional brokerage customers. Respondent was a member of Morgan Stanley’s Chairman’s Club, comprised of the firm’s top 175 financial advisers, and ranked among the firm’s top 25 financial advisers in revenue. At the time of his resignation, Respondent serviced

approximately 90 advisory clients and about 2000 brokerage accounts. Respondent, age 50, is a resident of Nashville, Tennessee.

B. OTHER RELEVANT ENTITIES¹

2. **Morgan Stanley & Co. Incorporated (“Morgan Stanley”)**, located in New York, New York is dually registered with the Commission as an investment adviser pursuant to Section 203(a) of the Advisers Act and as a broker-dealer pursuant to Section 15 of the Exchange Act. Morgan Stanley is a wholly-owned subsidiary of Morgan Stanley (“Parent Morgan Stanley”), a Delaware corporation, located in New York, New York, whose shares are traded on the New York Stock Exchange. Prior to 2007, Morgan Stanley was registered and operated under the name Morgan Stanley DW Inc.

C. FACTS

SUMMARY

3. From 2000 through at least April 2006 (the “relevant time period”), Respondent worked as a financial adviser at Morgan Stanley, which provided investment advisory services to clients through a subdivision of its Consulting Services Group called Investment Consulting Services (“ICS”). In providing investment advisory services, Morgan Stanley assisted clients in creating an investment profile and objectives and in selecting money managers on whom the firm had conducted due diligence to manage clients’ assets.

4. During the relevant time period, Morgan Stanley’s disclosure materials described the advisory services it provided which included assisting clients in identifying money managers to manage clients’ assets. Morgan Stanley disclosed the detailed due diligence process it followed to select and approve money managers for participation in the firm’s managed account program. According to its disclosure materials, Morgan Stanley financial advisers selected money managers from this approved list of managers to recommend to clients based on the client’s investment profile and objectives.

5. Contrary to Morgan Stanley’s disclosures, Respondent recommended to certain advisory clients of Morgan Stanley’s Nashville, Tennessee branch office (“Nashville Advisory Clients”) certain money managers (“Manager A”, “Manager B”, and Manager C”) (collectively, “the Managers”) who were not approved for participation in Morgan Stanley’s advisory programs and had not been subject to the firm’s due diligence review. This fact was not disclosed to the Nashville Advisory Clients. Further, Respondent had undisclosed relationships with the Managers from which Respondent and Morgan Stanley received substantial brokerage commissions and/or fees. These facts represented a conflict of interest which was not disclosed to the Nashville Advisory Clients.

¹ The following related administrative proceeding was instituted today: In the Matter of Morgan Stanley & Co. Incorporated.

6. As a result, Respondent aided and abetted and caused Morgan Stanley's violations of Section 206(2) of the Advisers Act.

BACKGROUND OF RESPONDENT'S EMPLOYMENT AT MORGAN STANLEY

7. Respondent was recruited by Morgan Stanley in March 2000 from another firm where he had been a top producer and financial adviser for ten years.

8. While employed at Morgan Stanley, Respondent repeatedly disregarded Morgan Stanley's policies and procedures applicable to its investment adviser representatives. For instance, in May 2001, Respondent refused to sign an acknowledgment that he would abide by Morgan Stanley's code of conduct.

9. In addition, Respondent repeatedly failed to follow Morgan Stanley's policy that required its financial advisers to recommend to clients at least three approved money managers for each investment strategy. Instead, Respondent consistently recommended only a single manager to clients, and thereby steered clients to the Managers with whom he had an undisclosed relationship from which he received financial benefits.

10. Furthermore, as discussed more fully below, Respondent displayed a reckless disregard of the basic features of the advisory programs he was recommending to his clients - for example, whether or not money managers that had not been vetted by Morgan Stanley could be recommended to clients.

THE MORGAN STANLEY VISION PROGRAMS

11. Vision I and Vision III were among the types of accounts Morgan Stanley offered its advisory clients. Morgan Stanley described the Vision I and Vision III programs and its due diligence process in a disclosure statement and in its Form ADV, Part II, filed with the Commission.

12. In the Vision I program, Morgan Stanley assisted clients in developing investment objectives and in selecting money managers from a list of money managers, approved to participate in the Vision I program, to manage clients' assets. To become an approved manager for the Vision I program, a money manager had to pass Morgan Stanley's due diligence review. As it was described in its disclosure statements, the due diligence review included, among other things, on-site interviews of the manager's personnel and an evaluation of each manager's performance as compared to standard relative indices, as well as compared to the performance of managers following similar investment styles. Managers were further evaluated by Morgan Stanley on their investment strategy and on the strength and reputation of their organizations, such as the qualifications of management, their administrative capabilities, and their compliance with regulatory requirements. Final selection of managers for the Vision I program was subject to review and approval by a Morgan Stanley senior management due diligence committee.

13. Morgan Stanley provided custody, execution, and performance reporting for clients and also performed ongoing due diligence and monitoring of all managers selected to participate in the Vision I program. The ongoing monitoring of approved managers, as described in disclosure materials, included periodic reevaluation of the manager by Morgan Stanley, including reviews of performance, assets under management, personnel changes and account turnover to determine whether the manager should remain eligible for participation in the Vision I program.

14. Morgan Stanley described the Vision I program as follows:

Each Vision account is individually managed by one or more investment managers selected by the client from a group of investment managers specifically chosen by the ICS Department to participate in the Vision program.

* * *

After receipt of appropriate information from and about the client, Morgan Stanley identifies several investment managers deemed suitable for the client from among those participating in the Vision program.

15. The Vision III program was designed to accommodate advisory clients who came to Morgan Stanley from another advisory firm and sought services under Morgan Stanley's Vision I program, but who had a pre-existing relationship with a money manager who was not approved for the Vision I program and consequently, had not been subject to Morgan Stanley's due diligence review. Under Vision III, clients retained their relationship with the non-approved money manager. In the Vision III program, Morgan Stanley provided some of the same services as in the Vision I program (custody, execution, performance reporting); however, Morgan Stanley provided no due diligence on or ongoing monitoring of the non-approved money managers with which the client had a pre-existing relationship.

16. Morgan Stanley described the Vision III program as follows:

Certain clients may wish to receive some of Registrant's services under the Vision program but utilize an investment manager that does not participate in the Vision program. For such clients, Registrant provides an alternate version of the Vision program, Morgan Stanley Vision III. Except for the investment manager review and monitoring services described above, Vision III is the same in all material respects to the Vision program. Investment managers selected by clients in Vision III have not been approved by Morgan Stanley to participate in Vision, and are not

monitored and evaluated by Morgan Stanley like managers in Vision.

**RESPONDENT AIDED AND ABETTED AND CAUSED
MORGAN STANLEY'S VIOLATIONS OF SECTION 206(2)
OF THE ADVISERS ACT**

17. Under Section 206(2) of the Advisers Act, an investment adviser may not make materially false and misleading statements and must disclose all material potential conflicts of interest. During the relevant period, Respondent misrepresented the firm's money manager recommendation process to certain of his Nashville Advisory Clients and failed to disclose certain potential conflicts of interest inherent in those recommendations. Morgan Stanley thereby violated and Respondent aided and abetted and caused Morgan Stanley's violations of Section 206(2) of the Advisers Act.

18. As reflected above, Morgan Stanley's disclosure statement, in addition to its client services agreement, stated that Morgan Stanley would identify for clients of the Vision I program suitable money managers on whom the firm had conducted due diligence and ongoing monitoring, and who were specifically selected to participate in the Vision I program. Respondent knew or was reckless in not knowing that these were the terms of the Vision I program in which certain of his clients participated.

19. Contrary to the representations in the disclosure statement, during the relevant time period, Respondent on several occasions, recommended to his Vision I advisory clients Money Manager A, Money Manager B, and Money Manager C, who were not approved to participate in the Vision I program. Respondent knew or was reckless in not knowing that the Managers were not approved to participate in the Vision I program and had not been subject to Morgan Stanley's due diligence process. It was not disclosed to these clients that the money managers recommended to them by the Respondent were not approved for participation in the Vision I program.

20. In addition, Respondent had undisclosed relationships with Money Manager A, Money Manger B and Money Manager C from which both he and Morgan Stanley received financial benefits.

21. First, Morgan Stanley, and consequently Respondent, received brokerage commissions from the Managers for trading on behalf of the Managers' institutional clients who were not clients of Morgan Stanley and whose assets were custodied outside of Morgan Stanley. During the relevant period, these three money managers generated at least \$3.3 million in brokerage commissions to Morgan Stanley. Respondent received a portion of those commissions.

22. Second, Manager A and Manager C caused certain of their clients to open advisory accounts with Respondent, in some instances moving assets from another custodian. Respondent and Morgan Stanley were compensated from these advisory

accounts through either an asset fee or commissions. During the relevant time period, Manager A and Manager C generated at least \$200,000 in advisory fees for Morgan Stanley. Respondent received a portion of these fees.

23. When Respondent recommended the three unapproved money managers to advisory clients, the clients were not informed that Respondent and Morgan Stanley had other relationships with the recommended money managers from which both Morgan Stanley and Respondent received financial benefits. These undisclosed financial benefits created an actual or potential conflict of interest which should have been disclosed so that the client could evaluate whether Respondent's recommendations were disinterested.

24. Based on the above, Respondent knowingly or recklessly made misrepresentations about the manager recommendation process to his advisory clients and failed to ensure that the actual or potential conflicts of interest inherent in his recommendation of the Managers were disclosed to those clients. As a consequence, Respondent aided and abetted Morgan Stanley's violation of Section 206(2) of the Advisers Act.

D. VIOLATIONS

25. As a result of the conduct described above, Respondent willfully aided and abetted and caused Morgan Stanley's violations of Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging "in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client."

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act including, but not limited to, civil penalties pursuant to Section 203(i) of the Advisers Act and disgorgement pursuant to Section 203(j) of the Advisers Act, and pursuant to Section 15(b)(6) of the Exchange Act; and

C. Whether, pursuant to Section 203(k) of the Advisers Act, Respondent should be ordered to cease and desist from committing or causing any violations of and any future violations of Section 206(2) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Elizabeth M. Murphy
Secretary