

1 STATE OF ALASKA
2 DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
3 DIVISION OF BANKING AND SECURITIES

3 In the matter of)
4 STIFEL, NICOLAUS & COMPANY,) ORDER NO: 10-18-S
INCORPORATED)
5 CRD #793) ADMINISTRATIVE CONSENT ORDER
6 501 North Broadway)
St. Louis, Missouri 63102)
Respondent.)

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

10 WHEREAS, a multistate task force led by the Enforcement Section of the Securities
11 Division of the Missouri Secretary of State (the "Enforcement Section") conducted an
12 investigation into Stifel’s marketing and sale of auction rate securities to investors during the
13 period January 1, 2006, through February 14, 2008; and

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

17 WHEREAS, Stifel elects to permanently waive any right to a hearing and appeal under the
18 Alaska Securities Act, Alaska Statutes (“AS”) 45.55, and the Administrative Procedures Act, AS
19 44.62, with respect to this Administrative Consent Order (the “Order”); and

20 WHEREAS, Stifel agrees that Stifel is not the prevailing party in this action and Stifel
21 elects to specifically forever release and hold harmless the State of Alaska, Department of
22 Commerce, Community, and Economic Development, Division of Banking and Securities (the
23 “Division”) and its representatives and agents from any and all liability and claims arising out of,
24 pertaining to, or relating to this matter; and

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

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

6 6. Stifel and its Alaska-registered securities agents (“Registered Agents”) sold ARS to
7 Alaska residents.

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

10 8. Stifel did not formally train its Registered Agents regarding the risks and features of
11 ARS.

12 9. A number of Registered Agents did not sufficiently understand, and therefore did
13 not adequately communicate to retail purchasers, the risks and features of ARS.

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

15 10. Stifel failed to reasonably supervise its Registered Agents, which is grounds to
16 discipline Stifel under AS 45.55.060(b)(1). Stifel failed to provide reasonable supervision by
17 failing to provide pertinent information and comprehensive training to its Registered Agents and
18 other sales and marketing staff regarding ARS and the mechanics of the auction process.

19 **II. CONCLUSIONS OF LAW**

20 11. The Division has jurisdiction over this matter pursuant to the Alaska Securities Act
21 (the “Act”).

22 12. The Division finds Stifel failed to reasonably supervise its Registered Agents in
23 Alaska, and that this conduct constitutes grounds to discipline Stifel under AS 45.55.060(b)(1).

24 13. The Division finds this Order and the following relief appropriate, in the public

1 interest, and consistent with the purposes intended by the Act.

2 **III. ORDER**

3 On the basis of the Findings of Fact, Conclusions of Law, and Stifel's consent to the entry of
4 this Order,

5 **IT IS HEREBY ORDERED:**

6 1. This Order concludes the investigation by the Division and any other action that the
7 Division could commence under applicable Alaska law on behalf of Alaska as it relates to Stifel,
8 relating to the marketing and sale of auction rate securities. The Division shall refrain from initiating
9 any action against Stifel based upon or related to the conduct set forth in this order. Specifically
10 excluded from and not covered by this paragraph are any claims by the Division arising from or
11 relating to the Order provisions contained herein.

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

14 3. Stifel will CEASE AND DESIST from violating the Alaska Securities Act and will
15 comply with the Act.

16 4. In accordance with the Consent Order entered against Stifel by the Missouri Office
17 of the Secretary of State dated January 22, 2010, Case No. Ap-10-05 ("Missouri Order"), Stifel has
18 or will retain, at its expense, an outside consultant ("Consultant"). The scope of Consultant's work
19 is to conduct a review and make written recommendations concerning Stifel's supervisory and
20 compliance policies and procedures relating to the product review of nonconventional investments
21 and the training, marketing, and sale of nonconventional investments by Stifel and its Registered
22 Agents throughout Stifel's retail branch office system. Stifel will receive a report prepared by the
23 Consultant describing his or her recommendations and Stifel will provide to the Enforcement
24 Section a copy of such report. Stifel shall authorize the Enforcement Section to share these written

1 reports with the Division pursuant to Missouri law, provided that such written reports are given
2 confidential treatment and are treated as nonpublic, nondisclosable records to the extent possible
3 under Alaska law.

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

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

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

14 a. January 2010 Repurchase

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

19 b. December 2010 Repurchase

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

1 c. 2010 Supplemental Repurchase

2 Stifel will repurchase at par all of the Eligible ARS that remain after the
3 December 2010 Repurchase from Eligible Investors who, as of January 1, 2009, maintained
4 in an Eligible Account, Eligible ARS in an amount of one hundred fifty thousand dollars
5 (\$150,000) or less. Such repurchase shall be completed no later than December 31, 2010.

6 d. 2011 Repurchase

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

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

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

24 10. Stifel shall make payments totaling Five Hundred Twenty-Five Thousand Dollars

1 (\$525,000) to the states and other jurisdictions participating in this multistate task force as
2 allocated by the North American Securities Administrators Association to resolve matters relating
3 to Stifel's marketing and sale ARS in those states or other jurisdictions.

4 11. Within ten (10) calendar days following the entry of this Order, Stifel shall pay to
5 the State of Alaska the sum of One Thousand Four Hundred Forty-Six Dollars and Twenty-Five
6 Cents (\$1,446.25), such amount to be restricted to the following specific use by the Division:
7 promoting investor education, investor protection, and compliance with the securities laws. This
8 amount constitutes Alaska's allocated share of the total settlement payment described in the
9 preceding paragraph.

10 12. If Stifel defaults in any of its obligations set forth in this Order, the Division may
11 vacate this Order, at its sole discretion, upon ten (10) day notice to Stifel and without opportunity
12 for administrative hearing or may refer this matter for enforcement as provided in the Alaska
13 Securities Act.

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

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

23 15. For any person or entity not a party to this Order, this Order does not limit or create
24 any private rights or remedies against Stifel including, without limitation, the use of any e-mails or

1 other documents of Stifel or of others for the marketing and sale of auction rate securities to investors,
2 limit or create liability of Stifel, or limit or create defenses of Stifel to any claims.

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

6 17. Nothing herein shall preclude Alaska, its departments, agencies, boards, commissions,
7 authorities, political subdivisions and corporations (collectively, "State Entities"), other than the
8 Division and only to the extent set forth in paragraph 1 above, and the officers, agents or employees of
9 State Entities from asserting any claims, causes of action, or applications for compensatory, nominal
10 and/or punitive damages, administrative, civil, criminal, or injunctive relief against Stifel in
11 connection with the marketing and sale of auction rate securities at Stifel.

12 18. Stifel shall pay its own costs and attorneys' fees with respect to this matter.
13

14 SO ORDERED this 27th day of October, 2010.
15

16 State of Alaska
17 Department of Commerce, Community, and
Economic Development
Division of Banking and Securities

18
19
20
21 /s/ Lorie L. Hovanec
By: Lorie L. Hovanec, Director
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY STIFEL

Stifel hereby acknowledges that it has been served with a copy of this Administrative 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 Division; 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 Division 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 payment that Stifel shall make 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 payment that Stifel shall make pursuant to this Order. Stifel understands and acknowledges that these provisions are not intended to imply that the Division 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 21st day of October, 2010.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Stifel, Nicolaus & Company, Incorporated

By: /s/ Scott B. McCuaig

Title: President

SUBSCRIBED AND SWORN TO before me by Scott B. McCuaig this 21st day of October,
2010.

/s/ Karen L. Kehr
Notary Public

My commission expires:
12/03/13