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BEFORE THE DIVISION OF SECURITIES
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF:

**MORGAN STANLEY & CO.
INCORPORATED, CRD#8209**

Respondent.

**STIPULATION AND CONSENT
ORDER**

Docket No. 10-10-0048

The Utah Division of Securities ("Division"), by and through its Director of Compliance, Dave R. Hermansen, and the Respondent, Morgan Stanley & Co. Incorporated, hereby stipulate and agree as follows:

WHEREAS, Morgan Stanley & Co. Incorporated ("Morgan Stanley") is a broker-dealer registered in the state of Utah; and

WHEREAS, coordinated investigations of the activities of Morgan Stanley in connection with the marketing and sale of auction rate securities ("ARS") have been conducted by a multistate task force composed of members of the North American Securities Administrators Association Inc. ("NASAA"); and

WHEREAS, Morgan Stanley has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and providing regulators with access to facts relating to the investigations; and

1 4. Representatives of Morgan Stanley represented to certain customers of Morgan
2 Stanley that ARS were short-term investments. In fact, because ARS are bonds with long-term
3 maturities, their short-term liquidity was dependent on the successful operation of a bidding
4 process known as a Dutch auction. Certain representatives of Morgan Stanley failed to disclose to
5 certain customers with short-term liquidity needs that they might be unable to sell their ARS if the
6 auction process failed.

7 5. In connection with the sale of ARS, certain Morgan Stanley salespeople told certain
8 investors that ARS were "just like cash" and "liquid with seven days notice."

9 6. Morgan Stanley marketed ARS to investors within a brochure entitled "Money
10 Market Instruments." Within this brochure, ARS are listed under the subsection "Other Short-
11 Term Instruments."

12 7. Since it began participating in the auction rate securities market, Morgan Stanley
13 submitted support bids—purchase orders for the entirety of an auction rate security issue for which
14 it acted as the sole or lead broker. Support bids were Morgan Stanley proprietary orders that would
15 be filled, in whole or in part, if there was otherwise insufficient demand in an auction. When
16 Morgan Stanley purchased auction rate securities through support bids, auction rate securities were
17 then owned by Morgan Stanley and the holdings were recorded on Morgan Stanley's balance sheet.
18 For risk management purposes, Morgan Stanley imposed limits on the amounts of auction rate
19 securities it could hold in inventory.

20 8. Because many investors could not ascertain how much of an auction was filled
21 through Morgan Stanley proprietary trades, they could not determine if auctions at Morgan Stanley
22 were clearing because of normal marketplace demand, or because Morgan Stanley was making up
23 for the lack of demand through support bids. Generally, investors were also not aware that the
24 liquidity of the auction rate securities as to which Morgan Stanley was the managing broker-dealer
25 depended upon Morgan Stanley's continued use of support bids. While Morgan Stanley could track
26 its own inventory as a measure of the supply and demand for its auction rate securities, ordinary

1 investors had no comparable ability to assess the operation of Morgan Stanley's auctions. There
2 was no way for such investors to monitor supply and demand in the market or to assess when
3 broker-dealers might decide to stop supporting the market, thereby causing its collapse.

4 9. Starting in August 2007, the credit crisis and other deteriorating market conditions
5 strained the auction rate securities market. Some institutional investors withdrew from the market,
6 decreasing demand for auction rate securities.

7 10. The resulting market dislocation should have been evident to Morgan Stanley.
8 Morgan Stanley's support bids filled the increasing gap in the demand in its auctions for auction
9 rate securities, sustaining the impression that the demand for auction rate securities had not
10 decreased. As a result, Morgan Stanley's auction rate securities inventory grew significantly,
11 requiring Morgan Stanley to raise its risk management limits on its auction rate securities
12 inventory.

13 11. From the Fall of 2007 through February of 2008, demand for auction rate securities
14 continued to erode and Morgan Stanley's auction rate securities inventory reached unprecedented
15 levels. Morgan Stanley eventually became aware of the increasing strains in the auction rate
16 securities market, and recognized the potential for widespread market failure. Morgan Stanley
17 never disclosed these increasing risks of owning or purchasing auction rate securities to its
18 customers.

19 12. In February 2008, Morgan Stanley and other firms stopped supporting the auctions.
20 Without the benefit of support bids, the auction rate securities market collapsed, leaving investors
21 who had been led to believe that these securities were cash alternative investments appropriate for
22 managing short-term cash needs, holding long-term or perpetual securities that could not be sold at
23 par value until and if the auctions cleared again.

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1 **Failure to Supervise**

2 13. Although ARS are complex products, Morgan Stanley did not provide its sales or
3 marketing staff with the training necessary to adequately explain these products or the mechanics
4 of the auction process to their customers.

5 14. Morgan Stanley did not adequately train all of its brokers and financial advisers
6 regarding the potential illiquidity of ARS, including the fact that Morgan Stanley may stop
7 supporting the market.

8 **II.**

9 **CONCLUSIONS OF LAW**

10 15. The Division has jurisdiction over this matter pursuant to Section 61-1-6 of the Act.

11 16. The Division finds that the above conduct subjects Morgan Stanley to sanctions
12 under Sections 61-1-6(2)(a)(ii)(G) and (J) of the Act.

13 17. The Division finds the following relief appropriate and in the public interest.

14 **III.**

15 **ORDER**

16 On the basis of the Findings of Fact, Conclusions of Law, and Morgan Stanley's consent to
17 the entry of this Order, for the sole purpose of settling this matter prior to a hearing and without
18 admitting or denying the Findings of Fact or Conclusions of Law,

19 **IT IS HEREBY ORDERED:**

20 1. This Order concludes the investigation by the Division and any other action that the
21 Division could commence under applicable Utah law on behalf of Utah as it relates to Morgan
22 Stanley's marketing and sale of auction rate securities to Morgan Stanley's Retail ARS Investors, as
23 defined below. Specifically excluded from and not covered by this paragraph are any claims by the
24 Division arising from or relating to the Order provisions contained herein.

1 2. This Order is entered into solely for the purpose of resolving the investigation into
2 Morgan Stanley's marketing and sale of auction rate securities, and is not intended to be used for
3 any other purpose.

4 3. This Order shall be binding upon Respondent Morgan Stanley and its successors
5 and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct
6 subject to the provisions above and all future obligations, responsibilities, undertakings,
7 commitments, limitations, restrictions, events, and conditions.

8 4. Morgan Stanley shall cease and desist from violating the Act and will comply with
9 the Act in all future business in this state.

10 5. Morgan Stanley shall pay the aggregate sum of \$35 million dollars to participating
11 jurisdictions.

12 6. Within ten (10) calendar days following the entry of this Order, Morgan Stanley
13 shall pay to the state of Utah the sum of \$541,598.20, which amount constitutes Utah's allocated
14 share of the total settlement payment described in the preceding paragraph.

15 7. In the event another state securities regulator determines not to accept Morgan
16 Stanley's settlement offer, the total amount of the payment to the state of Utah shall not be affected.

17 **Requirement to Repurchase ARS from Retail ARS Investors**

18 8. Morgan Stanley shall provide liquidity to Retail ARS Investors by buying-back, at
19 par, in the manner described below, Eligible ARS that were not clearing as of September 30, 2008.

20 9. "Eligible ARS," for the purposes of this Order, shall mean auction rate securities
21 purchased at Morgan Stanley prior to February 13, 2008.

22 10. "Retail ARS Investors," for the purposes of this Order, shall mean:

23 i. Natural persons (including their IRA accounts, testamentary trust and estate
24 accounts, custodian UGMA and UTMA accounts, and guardianship accounts) who
25 purchased Eligible ARS at Morgan Stanley;
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1 ii. Charities and nonprofits with Internal Revenue Code Section 501(c)(3)
2 status that purchased Eligible ARS at Morgan Stanley; and

3 iii. Small Businesses that purchased Eligible ARS at Morgan Stanley. For
4 purposes of this provision, "Small Businesses" shall mean Morgan Stanley customers not
5 otherwise covered in paragraph 10(i) and (ii) above that had \$10 million or less in assets in
6 their accounts with Morgan Stanley, net of margin loans, as determined by the customer's
7 aggregate household position(s) at Morgan Stanley as of August 31, 2008, or, if the
8 customer was not a customer of Morgan Stanley as of August 31, 2008, as of the date that
9 the customer terminated its customer relationship with Morgan Stanley. Notwithstanding
10 any other provision, "Small Businesses" does not include broker-dealers or banks acting as
11 conduits for their customers.

12 11. Morgan Stanley shall offer to purchase, at par plus accrued and unpaid
13 dividends/interest, from Retail ARS Investors their Eligible ARS that were not clearing as of
14 September 30, 2008 ("Buyback Offer"), and explain to such Retail ARS Investors what they must
15 do to accept, in whole or in part, the Buyback Offer. The Buyback Offer shall remain open until at
16 least January 11, 2009 ("Offer Period"). Morgan Stanley may in its sole discretion extend the
17 Offer Period beyond this date.

18 12. Morgan Stanley shall have undertaken its best efforts to identify and provide notice
19 to Retail ARS Investors who invested in Eligible ARS that were not clearing as of September 30,
20 2008, of the relevant terms of this Order by October 20, 2008.

21 13. Retail ARS Investors may accept the Buyback Offer by notifying Morgan Stanley at
22 any time before midnight, Eastern Time, January 11, 2009, or such later date and time as Morgan
23 Stanley may in its sole discretion decide to extend the Offer Period. For Retail ARS Investors who
24 accept the Buyback Offer prior to December 11, 2008, Morgan Stanley shall have purchased their
25 Eligible ARS by December 15, 2008. Morgan Stanley shall have purchased the Eligible ARS of all
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1 other Retail ARS Investors who accept the Buyback Offer within the Offer Period, on or before
2 January 16, 2009.

3 14. If at any time between January 12, 2009, and December 31, 2009, a Retail ARS
4 Investor who did not accept the Buyback Offer contacts Morgan Stanley and affirms that he or she
5 did not receive notice of the Buyback Offer prior to January 11, 2009, Morgan Stanley will
6 purchase the Eligible ARS of such investor.

7 15. No later than October 20, 2008, Morgan Stanley shall have established: a) a
8 dedicated toll-free telephone assistance line, with appropriate staffing, to provide information and
9 to respond to questions concerning the terms of this Order; and b) a public Internet page on its
10 corporate Web site(s), with a prominent link to that page appearing on Morgan Stanley's relevant
11 homepage(s), to provide information concerning the terms of this Order and, via reasonable means,
12 to respond to questions concerning the terms of this Order. Morgan Stanley shall maintain the
13 telephone assistance line and Internet page through December 31, 2009.

14 **Review of Customer Accounts**

15 16. For a period of two years from the date of this Order, upon request from any firm
16 that is repurchasing auction rate securities, Morgan Stanley shall take reasonable steps to provide
17 notice of that firm's offer to repurchase auction rate securities to Morgan Stanley customers that
18 Morgan Stanley can reasonably identify, that hold such auction rate securities subject to the other
19 firm's repurchase.

20 **Relief for Investors Who Sold Below Par**

21 17. No later than December 11, 2008, Morgan Stanley shall pay any Retail ARS
22 Investor that Morgan Stanley can reasonably identify who sold Eligible ARS below par between
23 February 13, 2008, and August 13, 2008, the difference between par and the price at which the
24 Retail ARS investor sold the Eligible ARS.

1 **Claims for Consequential Damages**

2 18. Notwithstanding this Order, an investor may pursue any claims related to the sale of
3 auction rate securities via any method normally available to the investor. However, if the investor
4 is pursuing claims related exclusively to consequential damages, Morgan Stanley shall provide the
5 investor with the option to proceed in arbitration according to the following provisions:

6 a. The arbitrations will be conducted by a single public arbitrator in accordance
7 with FINRA's special arbitration procedures for claims of consequential damages filed by
8 Retail ARS Investors;

9 b. Morgan Stanley shall pay all applicable FINRA forum and FINRA filing
10 fees;

11 c. Any Morgan Stanley Retail ARS Investors who choose to pursue such
12 claims shall bear the burden of proving that they suffered consequential damages and that
13 such damages were caused by the investors' inability to access funds consisting of Eligible
14 ARS holdings purchased at Morgan Stanley; and

15 d. Morgan Stanley shall be able to defend itself against such claims; provided,
16 however, that Morgan Stanley shall not contest liability related to the sale of auction rate
17 securities, and provided further that Morgan Stanley shall not be able to use as part of its
18 defense a Morgan Stanley Retail ARS Investor's decision not to borrow money from
19 Morgan Stanley.

20 19. Retail ARS Investors who elect to use the special arbitration process provided for
21 herein shall not be eligible for punitive damages.

22 20. All customers, including but not limited to Retail ARS Investors who avail
23 themselves of the relief provided pursuant to this Order, may pursue any remedies against Morgan
24 Stanley available under the law. However, Retail ARS Investors that elect to utilize the special
25 arbitration process set forth above are limited to the remedies available in that process and may not
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1 bring or pursue a claim against Morgan Stanley or in any case where Morgan Stanley is
2 underwriter relating to Eligible ARS in another forum.

3 **Institutional Investors**

4 21. Morgan Stanley shall endeavor to work with issuers and other interested parties,
5 including regulatory and governmental entities, to expeditiously provide liquidity solutions for
6 institutional investors that purchased auction rate securities not covered by the Retail ARS Investor
7 repurchase provisions delineated above.

8 22. Beginning December 11, 2008, and within 45 days of the end of each quarter
9 thereafter, Morgan Stanley shall submit a written report to a representative specified by NASAA
10 outlining the efforts in which Morgan Stanley has engaged and the results of those efforts with
11 respect to Morgan Stanley institutional investors' holdings in Eligible ARS. Morgan Stanley shall,
12 at the option of the representative specified by NASAA, confer with such representative no less
13 frequently than quarterly to discuss Morgan Stanley's progress. Such quarterly meetings shall
14 continue until no later than December 2009. Following every quarterly meeting, the representative
15 shall advise Morgan Stanley of any concerns and, in response, Morgan Stanley shall detail the
16 steps that Morgan Stanley plans to implement to address such concerns. The reporting or meeting
17 deadlines set forth above may be amended upon Morgan Stanley's request if written permission is
18 received from the representative specified by NASAA.

19 **Relief for Municipal Issuers**

20 23. Morgan Stanley shall promptly refund to municipal issuers refinancing fees the
21 issuers paid to Morgan Stanley for the refinancing of their auction rate securities, where such
22 refinancing occurred between February 11, 2008, and the date of this Order and where Morgan
23 Stanley acted as underwriter for the primary offering of the auction rate securities between August
24 1, 2007, and February 11, 2008. Nothing in this Order precludes the Division from pursuing any
25 other civil action that may arise with regard to auction rate securities other than the marketing and
26 sale of auction rate securities to retail investors.

Additional Considerations

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2 24. Nothing herein shall preclude Utah, its departments, agencies, boards, commissions,
3 authorities, political subdivisions and corporations (collectively, "State Entities"), other than the
4 Division and only to the extent set forth in paragraph 1 above, and the officers, agents or
5 employees of State Entities from asserting any claims, causes of action, or applications for
6 compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief
7 against Morgan Stanley in connection with certain auction rate securities practices at Morgan
8 Stanley.

9 25. This Order shall not disqualify Morgan Stanley or any of its affiliates or current or
10 former employees from any business that they otherwise are qualified or licensed to perform under
11 applicable state law and this Order is not intended to form the basis for any disqualification.

12 26. To the extent applicable, this Order hereby waives any disqualification from relying
13 upon the registration exemptions or registration safe harbor provisions that may be contained in the
14 federal securities laws, the rules and regulations thereunder, the rules and regulations of self
15 regulatory organizations or any states' or U.S. Territories' securities laws. In addition, this Order is
16 not intended to form the basis for any such disqualifications. In addition, this Order is not intended
17 to form the basis of a statutory disqualification under Section 3(a)(39) of the Securities Exchange
18 Act of 1934.

19 27. This Order and any dispute related thereto shall be construed and enforced in
20 accordance with, and governed by, the laws of the state of Utah without regard to any choice of law
21 principles.

22 28. Evidence of a violation of this Order proven in a court of competent jurisdiction
23 shall constitute prima facie proof of a violation of the Act, in any civil action or proceeding
24 hereafter commenced by the Division against Morgan Stanley.

25 29. Should the Division prove in a court of competent jurisdiction that a material breach
26 of this Order by Morgan Stanley has occurred, Morgan Stanley shall pay to the Division the cost, if

1 any, of such determination and of enforcing this Order including without limitation legal fees,
2 expenses, and court costs.

3 30. If Morgan Stanley fails to make the payment specified in paragraph 6, the Division
4 may, at its sole discretion, pursue any legal remedies, including but not limited to initiating an
5 action to enforce the Order, revoking Morgan Stanley's registration within the state, or terminating
6 this Order.

7 31. If in any proceeding, after notice and opportunity for a hearing, a court of competent
8 jurisdiction, including an administrative proceeding by a state securities administrator, finds that
9 there was a material breach of this Order, the Division, at its sole discretion, may terminate the
10 Order. If Morgan Stanley defaults on any other obligation under this Order, the Division may, at
11 its sole discretion, pursue legal remedies to enforce the Order or pursue an administrative action,
12 including but not limited an action to revoke Morgan Stanley's registration within the state. Morgan
13 Stanley agrees that any statute of limitations or other time related defenses applicable to the subject
14 of the Order and any claims arising from or relating thereto are tolled from and after the date of this
15 Order. In the event of such termination, Morgan Stanley expressly agrees and acknowledges that
16 this Order shall in no way bar or otherwise preclude the Division from commencing, conducting or
17 prosecuting any investigation, action, or proceeding, however denominated, related to the Order,
18 against Morgan Stanley, or from using in any way any statements, documents or other materials
19 produced or provided by Morgan Stanley prior to or after the date of this Order, including, without
20 limitation, such statements, documents or other materials, if any, provided for purposes of
21 settlement negotiations, except as may otherwise be provided in a written agreement with the
22 Division.

23 32. Morgan Stanley shall cooperate fully and promptly with the Division and shall use
24 its best efforts to ensure that all the current and former officers, directors, trustees, agents,
25 members, partners, and employees of Morgan Stanley (and of any of Morgan Stanley's parent
26 companies, subsidiaries, or affiliates) cooperate fully and promptly with the Division in any

1 pending or subsequently initiated investigation, litigation, or other proceeding relating to auction
2 rate securities and/or the subject matter of the Order. Such cooperation shall include, without
3 limitation, and on a best efforts basis:

4 a. production, voluntarily and without service of subpoena, upon the request of
5 the Division, of all documents or other tangible evidence requested by the Division and any
6 compilations or summaries of information or data that the Division requests that Morgan
7 Stanley (or the Morgan Stanley's parent companies, subsidiaries, or affiliates) prepare,
8 except to the extent such production would require the disclosure of information protected
9 by the attorney-client and/or work product privileges;

10 b. without the necessity of a subpoena, having the current (and making all
11 reasonable efforts to cause the former) officers, directors, trustees, agents, members,
12 partners, and employees of Morgan Stanley (and of any of the Morgan Stanley's parent
13 companies, subsidiaries, or affiliates) attend any Proceedings (as hereinafter defined) in
14 Utah or elsewhere at which the presence of any such persons is requested by the Division
15 and having such current (and making all reasonable efforts to cause the former) officers,
16 directors, trustees, agents, members, partners, and employees answer any and all inquiries
17 that may be put by the Division to any of them at any proceedings or otherwise, except to
18 the extent such production would require the disclosure of information protected by the
19 attorney-client and/or work product privileges. "Proceedings" include, but are not limited
20 to, any meetings, interviews, depositions, hearings, trials, grand jury proceedings, or other
21 proceedings;

22 c. fully, fairly, and truthfully disclosing all information and producing all
23 records and other evidence in its possession, custody, or control (or the possession, custody,
24 or control of the Morgan Stanley parent companies, subsidiaries, or affiliates) relevant to all
25 inquiries made by the Division concerning the subject matter of the Order, except to the
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1 extent such inquiries call for the disclosure of information protected by the attorney-client
2 and/or work product privileges; and

3 d. making outside counsel reasonably available to provide comprehensive
4 presentations concerning any internal investigation relating to all matters in the Order and
5 to answer questions, except to the extent such presentations or questions call for the
6 disclosure of information protected by the attorney-client and/or work product privileges.

7 33. In the event Morgan Stanley fails to comply with paragraph 32 of the Order, the
8 Division shall be entitled to specific performance, in addition to any other available remedies.

9 34. Morgan Stanley acknowledges that this Order, upon approval by the Utah Securities
10 Commission ("Commission") shall be the final compromise and settlement of this matter. Morgan
11 Stanley further acknowledges that if the Commission does not accept the terms of the Order, it
12 shall be deemed null and void and without any force or effect whatsoever.

13 35. This Order constitutes the entire agreement between the parties herein and
14 supersedes and cancels any and all prior negotiations, representations, understandings, or
15 agreements between the parties. There are no verbal agreements which modify, interpret, construe,
16 or otherwise affect this Order in any way.

17 Dated this 21 day of June, 2010.

18 Utah Division of Securities

19 Date: June 21, 2010

20 By: Dave R. Hermansen
21 Dave R. Hermansen
22 Director of Licensing and Compliance

1 **CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY MORGAN STANLEY & CO.**
2 **INCORPORATED**

3 Morgan Stanley & Co. Incorporated ("Morgan Stanley") hereby acknowledges that it has
4 been served with a copy of this Stipulation and Consent Order, has read the foregoing Order, is aware
5 of its right to a hearing and appeal in this matter, and has waived the same.

6 Morgan Stanley admits the jurisdiction of the Division, neither admits nor denies the Findings
7 of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the
8 Division as settlement of the issues contained in this Order.

9 Morgan Stanley agrees that it shall not claim, assert, or apply for a tax deduction or tax
10 credit with regard to any state, federal or local tax for any administrative monetary penalty that
11 Morgan Stanley shall pay pursuant to this Order.

12 Morgan Stanley states that no promise of any kind or nature whatsoever was made to it to
13 induce it to enter into this Order and that it has entered into this Order voluntarily.

14 Eric F. Grossman represents that he/she is Managing Director of Morgan
15 Stanley and that, as such, has been authorized by Morgan Stanley to enter into this Order for and on
16 behalf of Morgan Stanley.

17 Dated this 11 day of June, 2010.

18 MORGAN STANLEY & CO. INCORPORATED

19 By: [Signature]
20 Title: Managing Director

21 STATE OF New York)
22 County of New York)

23 SUBSCRIBED AND SWORN TO before me this 11 day of June, 2010

24 [Signature]
25 Notary Public

26 My commission expires:
Nov. 27, 2013

DANA BALACEK
NOTARY PUBLIC, State of New York
No. 01BA5052647
Qualified in Suffolk County Queens
Commission Expires Nov. 27, 2013

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BY THE UTAH SECURITIES COMMISSION:

The foregoing Stipulation and Consent Order is hereby accepted, confirmed, and entered
by the Utah Securities Commission.

DATED this 24th day of June, 2010.



Tim Bangerter

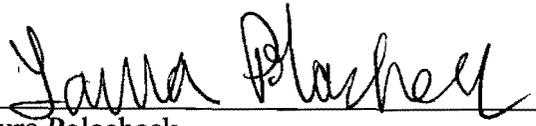


Jane Cameron

Erik Christiansen



Michael O'Brien



Laura Polacheck

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Certificate of Service

I, Julie Price, certify that on the 1st day of July, 2010, I served the

foregoing Stipulation and Consent Order by mailing a copy to:

David Meister
Skadden, Arps, Slate, Meagher, & Flom LLP
Four Times Square
New York, NY 10036

via e-mail: david.meister@skadden.com


Executive Secretary