

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MORGAN STANLEY SMITH BARNEY
LLC,

Plaintiff,

v.

WADE MARTIN *et al.*,

Defendants.

Civ. No. 21-647

**TEMPORARY RESTRAINING
ORDER**

THOMPSON, U.S.D.J.

This matter comes before the Court upon cross-Motions for a Temporary Restraining Order filed by Plaintiff Morgan Stanley Smith Barney LLC (“Plaintiff”) (ECF No. 3) and Defendants Wade Martin, Arthur Martin, Zachary Martin, and Brett Scharf (collectively, “Defendants”) (ECF No. 14). The Court has considered the arguments made by the parties in their written submissions and in the hearing held before the Court on January 21, 2021. The Court has concluded that only the Plaintiff has demonstrated that temporary injunctive relief is warranted.

For the foregoing reasons,

IT IS, on this 22nd day of January, 2021,

ORDERED that Plaintiff’s Motion for a Temporary Restraining Order (ECF No. 3) is GRANTED; and it is further

ORDERED that Defendants’ Motion for a Temporary Restraining Order (ECF No. 14) is DENIED; and it is further

ORDERED that Defendants are temporarily enjoined and restrained, directly or indirectly, and whether alone or in concert with others, from doing any of the following:

- (A) Soliciting or attempting to solicit any of Plaintiff's clients they serviced, or whose names became known to them, while in the employ of Plaintiff or as a result of their employment with Plaintiff, with respect to securities, commodities, financial futures, insurance, tax advantaged investments, mutual funds, or any other line of business in which Plaintiff or any of its affiliates is engaged (excluding (i) Defendants' immediate family and (ii) solicitations or attempted solicitations by Defendant Wade Martin or Defendant Arthur Martin of clients they serviced prior to joining Plaintiff as employees);
- (B) Using, disclosing, or transmitting for any purpose, any records, documents, or information relating in any way to the clients, business or marketing strategies, or business operations of Plaintiff, whether in original, copied, computerized, handwritten, or any other form, excluding only the names, addresses, phone numbers, and email addresses of clients Defendant Wade Martin or Defendant Arthur Martin serviced prior to joining Plaintiff as employees ("Records and Information");
- (C) Retaining, in any form, including original, copied, computerized, or handwritten, any Records and Information; and it is further

ORDERED that Defendants, and anyone acting in concert or participation with them, must return to Plaintiff all Records and Information, whether in original, copied, computerized, handwritten, or any other form, and must purge any such Records and Information from their possession, custody, or control after providing all such information to Plaintiff's counsel, within twenty-four (24) hours of notice of the terms of this Order; and it is further

ORDERED that, pursuant to the requirements of Sections 3 and 4 of the Federal Arbitration Act, 9 U.S.C. §§ 3–4, the parties are directed to proceed toward an expedited arbitration hearing on the merits before a duly appointed panel of arbitrators in accordance with Rule 13804 of the Financial Industry Regulatory Authority (“FINRA”) Code of Arbitration Procedure; and it is further

ORDERED that this Order shall remain in place for fourteen (14) days or until such time as the parties receive a decision from a duly appointed FINRA Panel pursuant to Rule 13804, whichever is sooner; and it is further

ORDERED that the parties submit a joint notice to the Court once a FINRA decision is entered.

/s/ Anne E. Thompson
ANNE E. THOMPSON, U.S.D.J.