

Joel A. Parker, OSB #001633

Email: jparker@schwabe.com

Anna Helton, OSB #054424

Email: ahelton@schwabe.com

SCHWABE, WILLIAMSON & WYATT, P.C.

Pacwest Center

1211 S.W. Fifth Avenue, Suite 1900

Portland, OR 97204

Telephone: 503.222.9981

Facsimile: 503.796.2900

Christopher C. Coss (*pro hac vice*)

Email: ccc@cossmomjian.com

Thomas J. Momjian (*pro hac vice*)

Email: tjm@cossmomjian.com

COSS & MOMJIAN, LLP

111 Presidential Boulevard, Suite 214

Bala Cynwyd, PA 19004

Telephone: 610.667.6800

Facsimile: 610.667.6620

Of Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

MEDFORD DIVISION

MORGAN STANLEY SMITH BARNEY
LLC,

Plaintiff,

v.

ROBERT SEVCIK,

Defendant.

No. 1:21-cv-01120-AA

**STIPULATED PRELIMINARY
INJUNCTION ORDER**

This cause having come before the Court by the parties' agreement on Plaintiff Morgan Stanley Smith Barney LLC's ("Morgan Stanley" or "Plaintiff") request for a Temporary Restraining Order and Preliminary Injunction, and the Court being duly advised,

IT IS HEREBY ORDERED as follows:

1. Defendant Robert Sevcik (“Sevcik” or “Defendant”) is hereby enjoined from initiating, whether directly or indirectly, including in concert with any D.A. Davidson & Co. (“Davidson”) representative or other person, any contact or communication of any kind with any Morgan Stanley client that is subject to the Financial Advisor Program Agreement entered into by Defendant (“FAP Client”) and/or the Joint Production Policy and any related Joint Production Agreement entered into by Defendant (“JPA Client”).

2. Nothing in Paragraph 1 of this Order shall prohibit Defendant from: (a) processing account transfer requests received from FAP and JPA Clients; (b) doing business with FAP and JPA Clients after they transferred their accounts to Davidson; or (c) responding to communications from FAP and JPA Clients that are initiated by the FAP and JPA Clients, provided that Defendant shall keep a log of all such clients who initiate contact with him including the identity of the client, the date on which the contact was made and the mode of contact

3. Defendant is enjoined from using, disclosing, and transferring to any person or entity any Morgan Stanley confidential information which he created, developed, received, used, learned of or had access to by virtue of his employment with Morgan Stanley, that Defendant retained upon his departure from Morgan Stanley, including, but not limited to, all documents (whether in hard copy or electronic form) containing client names, contact information, account numbers, and/or account information (“Confidential Information”).

4. Within two business days of the execution of this Stipulated Preliminary Injunction Order, to the extent he has any, Defendant will return to Morgan Stanley any Morgan Stanley Confidential Information in his possession custody or control, and all other information Defendant retained upon his departure from Morgan Stanley which was not voluntarily disclosed by clients

to Defendant after he joined Davidson. If Defendant contends he is not in possession of any such Confidential Information, he shall certify in writing, under penalties of perjury, that after a diligent search of his personal effects and electronic devices, Defendant does not have any such Confidential Information in his possession, custody or control.

5. Any FAP and JPA Clients who inquire of Defendant's whereabouts shall be advised he works with Davidson. Morgan Stanley will provide contact information for Defendant at Davidson upon request by any FAP and JPA Clients.

6. Plaintiff and Defendant understand and agree that they have an obligation to preserve all evidence related to the claims and defenses in this case, including but not limited to evidence of Defendant's communications with Morgan Stanley clients, specifically those communications that occurred after July 12, 2021.

7. By stipulating to this Preliminary Injunction Order, the parties waive their right to a temporary restraining order and/or preliminary injunction hearing and, other than the execution of this Order, the Court shall take no other action on Plaintiff's request for such relief.

8. Plaintiff acknowledges that by Defendant stipulating to this Preliminary Injunction Order and consenting to a Preliminary Injunction, Defendant is not agreeing to or admitting liability or acknowledging any wrongdoing. Nothing in this Stipulated Preliminary Injunction Order makes any findings of fact or any determination as to liability and, further, it is not making any findings as to whether Defendant violated his agreements with Morgan Stanley. This Stipulated Preliminary Injunction Order is not a decision on the ultimate merits of this dispute, and is without prejudice to the rights, remedies, claims, or defenses of any party hereto, and no party hereto shall argue in the FINRA arbitration that this Order precludes the making of any substantive argument in the FINRA arbitration.

9. This Preliminary Injunction Order is entered without bond by agreement of the parties and remains in effect until the FINRA arbitration panel issues an order resolving Morgan Stanley's claim for permanent injunctive relief.

SO STIPULATED this 14th day of October, 2021:

SCHWABE WILLIAMSON & WYATT PC

O'HAGAN & MEYER LLP

By: s/ Anna Helton

Joel A. Parker, OSB #001633

jparker@schwabe.com

Anna Helton, OSB #054424

ahelton@schwabe.com

Telephone: 503.222.9981

Of Attorneys for Plaintiff

By: s/ Nancy L. Hendrickson

Theodore C. Peters, OSB #944050

tpeters@ohaganmeyer.com

Telephone: 949.942.8500

Nancy L. Hendrickson (*pro hac vice*)

nhendrickson@ohaganmeyer.com

Telephone: 312.422.6100

Of Attorneys for Defendant Robert Sevcik

Of Counsel:

Christopher C. Coss (*pro hac vice*)

ccc@cossmomjian.com

Thomas J. Momjian (*pro hac vice*)

tjm@cossmomjian.com

COSS & MOMJIAN, LLP

Telephone: 610-667-6800

IT IS SO ORDERED.

DATED this 15th day of October, 2021.

/s/Ann Aiken

The Honorable Ann Aiken

United States District Judge