

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF IDAHO

MORGAN STANLEY SMITH BARNEY,  
LLC,

Plaintiff,

vs.

MICHAEL W. ARMON, DONALD B.  
SCHARENBERG and GUY E. GERBER,

Defendants.

Case No. 2:13-cv-000234-BLW

**TEMPORARY RESTRAINING ORDER**

Having heard the parties on the 20th day of May, 2013, upon consideration of (1) the Complaint and Emergency Motion for a Temporary Restraining Order of Plaintiff Morgan Stanley Smith Barney (“MSSB”) and supporting Declarations (Michelle Brandel, Tonya Smith, Chris Ishii, Tom Lynch, Robert Yuditsky, Stephen Thomas), and (2) the Memorandum in Opposition filed by Defendants, together with three Declarations (Michael Armon, Donald Scharenberg, Guy Gerber), and (3) all other submissions to date in this case by Plaintiff and Defendants, and having heard oral argument of counsel for Plaintiff and Defendants, and having determined that:

1. Except as noted below, MSSB has not demonstrated a substantial likelihood of success on the merits of its claims under Rule 65, Federal Rules of Civil Procedure and its motion is hereby DENIED in all respects except and only as to solicitation of MSSB employees by Defendant ARMON. In that regard, temporary relief is hereby granted as described below

**IT IS HEREBY ORDERED AND DECREED THAT:**

1. Plaintiff's Emergency Motion for a Temporary Restraining Order and Preliminary Injunction (Dkt. 2) is GRANTED in part and DENIED WITHOUT PREJUDICE in part, as explained above. Plaintiff may renew its motion if it obtains evidence that defendants have wrongly taken or used confidential client information beyond the five data points set forth in the Protocol for Broker Recruiting.

2. Defendant Michael W. "Mic" Armon is immediately enjoined and restrained – directly and indirectly, whether alone or in concert with others, including any officer, agent, employee, and/or representative of defendants' new employer Stifel, Nicolaus & Company ("Stifel") – until further Order of this Court, from soliciting or otherwise initiating any further contact of communication with any employee of MSSB for the purpose of inviting, encouraging, or requesting the MSSB employee to terminate his/her employment with MSSB and/or to join Stifel;

3. This Order shall be deemed to have been in effect since 5:00 p.m. on May 20, 2013, when first issued verbally by this Court;

4. The Court's Order shall remain in full force and effect until such a time as either a FINRA (Financial Industry Regulatory Authority) arbitration panel renders a final decision on MSSB's request for injunctive relief, or this Court specifically orders otherwise.



DATED: June 11, 2013

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill  
Chief Judge  
United States District Court