

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE  
SECURITIES DIVISION**

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**IN THE MATTER OF:**

**ADMINISTRATIVE CONSENT ORDER  
NO. LS-12-0454-B**

**FRED E. BRISTER  
CRD # 501097**

**Respondent**

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**CONSENT ORDER**

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**WHEREAS**, the Securities Division of the Mississippi Secretary of State ("Division"), having the authority to administer and provide for the enforcement of all provisions of the Mississippi Securities Act ("Act") codified at Mississippi Code Annotated Sections 75-71-101, *et. seq.*;

**WHEREAS**, the Division has conducted an investigation into certain activities occurring in the Ridgeland, Mississippi branch office of Morgan Stanley during the period of 2007 through 2012 where Fred E. Brister ("Respondent" or "Brister") acted as Branch Manager;

**WHEREAS**, Respondent advised the Division of his agreement to resolve the matter without the expense and delay that formal proceedings would involve;

**WHEREAS**, Respondent, solely for the purpose of concluding this open matter with the Division and without admitting or denying the Findings of Fact and Conclusions of Law set forth herein, agrees to take certain actions described herein, and consents to the terms and conditions of this Administrative Consent Order ("Order"); and

**WHEREAS**, Respondent elects to permanently waive any right to a hearing and appeal under the Act in Sections 75-71-604 and 75-71-609 with respect to this Order;

**NOW, THEREFORE**, the Division, as Administrator of the Act, hereby enters this Order:

### **I. FINDINGS OF FACT**

1. The Act gives authority to the Secretary of State to administer and enforce the Act and regulate the offer and sale of securities in Mississippi including the firms and persons who offer or sell securities or who provide investment advice regarding securities.
2. Respondent is currently registered as a broker-dealer agent and an investment adviser representative with the Division (collectively, the "MS Registrations").
3. Respondent has been the Branch Manager at the Ridgeland, Mississippi office of Morgan Stanley, LLC (CRD No. 8209) and Morgan Stanley Smith Barney, LLC (CRD No. 14977) (collectively "Morgan Stanley" or the "Firm") since March 2007. This office is located at 1018 Highland Colony Parkway, Ridgeland, Mississippi 39157.
4. As the Branch Manager, Respondent is responsible for supervising the financial advisors at Morgan Stanley's Ridgeland Office. Respondent supervises the advisors pursuant to a supervisory system determined and implemented by the Firm.
5. In 2007, Respondent recruited the "Wyatt Group" to join Morgan Stanley's Ridgeland Office. The Wyatt Group included Steven Wyatt ("Wyatt"). The Respondent also recruited Hilary Zimmerman and their administrative assistant. The Wyatt Group managed a portfolio of accounts within the Firm's custom portfolio (CP) program (the "WG Custom Portfolio Accounts" or "WG CP Accounts").

6. Respondent filled out all necessary pre-hire paperwork for Morgan Stanley's hiring of the Wyatt Group.
7. Pursuant to Morgan Stanley's policies, Respondent delegated day-to-day supervision of the Wyatt Group to the Complex Risk Officer (CRO), although he remained ultimately responsible for their supervision.
8. Wyatt engaged in frequent trading in the WG CP Accounts which triggered exception reports on the Firm's surveillance system. Wyatt also did not adhere to his stated strategies of managing the (portfolios in the) WG CP Portfolio Accounts, which was actually a high-risk investment that was unsuitable for some investors.
9. The Firm terminated Wyatt in June 2012 for failing to comply with Firm Policies relating to participation and solicitation of unapproved outside investments.
10. The Division alleges that Respondent in some instances failed to enforce supervisory procedures to prevent and detect conduct in violation of the Act by the Wyatt Group.

## **II. APPLICABLE LAW**

11. The Division is authorized to regulate the sale of securities in Mississippi and has jurisdiction over this matter. *See* Miss. Code Ann. §§ 75-71-601; 75-71-610.
12. Section 412 of the Act authorizes the Secretary of State to impose disciplinary penalties on a person who has failed to reasonably supervise an agent if the agent was subject to the person's supervision and committed a violation of this Act.

## **III. ACTIONS BASED UPON FINDINGS, APPLICABLE LAW AND AGREEMENT**

13. This Order is appropriate, in the public interest and consistent with the proper intent of the Act.

14. The undersigned Respondent agrees that this Order contains, constitutes, and embodies the entire agreement between the undersigned, there being no agreement of any kind, verbal or otherwise, which varies, alters, or adds to this Order; and that this Order supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Order.

15. Respondent, by execution of this Order, affirmatively states that he has freely agreed to the signing of this Order, and that no threats, promises, representations, or inducements of any kind, other than as stated in this document, have been made by the Division or any member of the staff of the Division, or any agent or employee of the Division in connection with the signing of this Order.

16. Based upon the foregoing Findings of Fact, and consistent with the consent of the Respondent, the Division makes the following:

#### **IV. CONCLUSIONS OF LAW**

Solely for the purpose of this Consent Order, Respondent consents to the Division making the following Conclusions of Law:

17. The Administrator has jurisdiction over Respondent as he was a registered broker-dealer agent and investment adviser representative in Mississippi during the time of the conduct.

18. The conduct described above constitutes a violation of Section 412 of the Act.

#### **V. ORDER**

IT IS HEREBY ORDERED:

1. This Order concludes the open matter with the Division with respect to Respondent's

conduct and activities as branch manager of the Firm. However, nothing herein limits the ability of the Division, individually or jointly with other agencies, in pursuing any investigation with respect to any other securities-related matter involving the Respondent.

2. This Order is entered into solely for the purpose of resolving the previously referenced allegations and is not intended to be used for any other purpose by Respondent or by any other person who is not a respondent in this Order.

3. Respondent shall fully and fairly comply with all of the following requirements:

a. Respondent has permanently retired from the Firm effective July 11, 2016.

Respondent shall voluntarily surrender his MS registrations as of his retirement date.

b. Respondent shall refrain from registration in Mississippi with the Division following surrender of the MS Registrations.

c. Respondent shall, upon request by the Administrator, provide all documentation and information reasonably necessary for the Administrator to verify compliance with this Order.

4. Respondent shall not take any action, or make or permit to be made any public statement, denying, directly or indirectly, any finding in this Order or creating the impression that this Order is without factual basis. Nothing in this paragraph affects Respondent's (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Administrator is not a party.

5. Respondent shall fully cooperate with the Division and make himself available to testify in any enforcement action against the Firm and shall fully, fairly, and truthfully disclose all information and produce all records and other evidence in his possession, custody, or control relevant to all inquiries made by the Division concerning the subject matter of this

Order, except to the extent such inquiries call for the disclosure of information protected by the attorney-client and/or work product privileges.

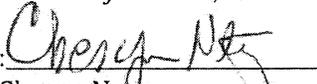
6. Any failure by Respondent follow the terms of this Order shall be considered a violation of this Order, authorizing the Administrator to either enforce this Order pursuant to its statutes or the Administrator may vacate this Order in his sole discretion upon fifteen (15) days' notice to Respondent and without opportunity for administrative hearing and refer this matter for enforcement as provided in Section 75-71-604(g) of the Act. In addition, the Division may impose additional sanctions and seek other appropriate relief for violation of this Order.

7. In the event that one or more provisions contained in this Order shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Order.

8. This Order is not intended to indicate that Respondent shall be subject to any disqualifications contained in the federal securities laws, the rules and regulations thereunder, the rules and regulations of self-regulatory organizations or various states' securities laws. In addition, this Order is not intended to form the basis for any disqualifications.

Date: May 19, 2016

C. DELBERT HOSEMANN, JR.  
Secretary of State, State of Mississippi

By:   
Cheryn Netz  
Assistant Secretary of State,  
Securities Division

**CONSENT TO ENTRY OF FINAL ORDER**

Fred E. Brister acknowledges that he has been served with a copy of this Administrative Consent Order ("Order"), has read this Order, is aware of his right to a hearing and appeal in this matter, and has waived the same, and that he has received independent legal advice with respect to the advisability of executing this Order.

Fred E. Brister 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 solely for purposes of settlement.

Fred E. Brister states that no promise of any kind or nature whatsoever was made to him to induce him to enter into this Order and that he has entered into this Order voluntarily.

Dated this the 17<sup>th</sup> day of MAY 2016.

  
Fred E. Brister

STATE OF Mississippi

COUNTY OF Hinds

SUBSCRIBED AND SWORN TO before me this 17<sup>th</sup> day of May 2016.

Notary Public ShWilliams  
My commission expires:

