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18 *Attorneys for the Plaintiffs*

19 UNITED STATES DISTRICT COURT

20 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

21 DAISY JAFFE, DENISE WILLIAMS, and
22 MARGARET BENAY CURTIS-BAUER
23 on behalf of themselves and all others
24 similarly situated,

24 Plaintiffs,

25 vs.

26 MORGAN STANLEY & CO.
27 INCORPORATED, f/k/a/ MORGAN
28 STANLEY DW, INC.,

Defendant.

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Morgan Stanley & Co. Incorporated

Case No. C 06 3903 (TEH)

**JOINT STIPULATION AND ~~[PROPOSED]~~
ORDER APPROVING MODIFIED
SETTLEMENT AGREEMENT**

1 Plaintiff Margaret Benay Curtis-Bauer on behalf of the certified plaintiff class
2 (“Plaintiffs”) and Morgan Stanley & Co. Incorporated (“Morgan Stanley”), the parties to the
3 above-entitled action (collectively, the “Parties”), respectfully submit the following stipulation to
4 the Court for its approval:

5 **STIPULATION**

6 WHEREAS, on October 22, 2008, this Court granted final approval of the Settlement
7 Agreement in the above-referenced case (the “Settlement Agreement”). *Docket No. 250.*

8 WHEREAS, an Appeal to the Ninth Circuit challenging the final approval was filed by
9 certain objectors. *Docket No. 253.*

10 WHEREAS, on July 9, 2010, the Stipulation and Agreement to Dismiss the Appeal was
11 granted by the Ninth Circuit. *Docket No. 266.*

12 WHEREAS, on January 13, 2009, Morgan Stanley and Citigroup announced that they
13 had reached an agreement to combine Morgan Stanley’s Global Wealth Management Group
14 (Morgan Stanley GWMG”) and Citigroup’s Smith Barney into a new joint venture to be called
15 Morgan Stanley Smith Barney (“MSSB”). Under the terms of the agreement, Citigroup
16 exchanged 100 percent of its Smith Barney, Smith Barney Australia and Quilter units for a 49
17 percent stake in the joint venture, while Morgan Stanley exchanged 100 percent of its Global
18 Wealth Management business for a 51 percent stake in the joint venture. *Turman Decl.*, ¶ 2.

19 WHEREAS, the employees of Morgan Stanley GWMG and Smith Barney were
20 contributed to MSSB on June 1, 2010 and all of the employees covered by the Settlement
21 Agreement are now employed by MSSB. *Turman Decl.*, ¶ 3.

22 WHEREAS, this Court has jurisdiction over the terms of the Settlement Agreement, as set
23 forth in the Court’s October 22, 2008 Final Approval Order. *Docket No. 250* (“The Court retains
24 jurisdiction over this matter, pursuant to the terms of the Settlement Agreement.”).

25 WHEREAS, the Settlement Agreement provides, “The Court shall retain jurisdiction of
26 this Action for five years from the Effective Date of the Settlement Agreement solely for the
27 purpose of entering all orders and judgments authorized hereunder that may be necessary to
28 implement and enforce the relief provided herein.” *Docket No. 250, Exh. 1 at 9-10.* Additionally,

1 “No material modifications to this Agreement may be made without prior Court approval.” *Id. at*
2 51.

3 WHEREAS, MSSB and Class Counsel have agreed, subject to the Court’s approval, to
4 include the former Smith Barney Financial Advisors and Registered Financial Advisor Associates
5 within the non-monetary provisions of the Modified Settlement Agreement. The contribution of
6 employees to MSSB from Morgan Stanley and the inclusion of the contributed employees from
7 Smith Barney necessitate certain non-substantive changes to the Settlement Agreement (as
8 modified, the “Modified Settlement Agreement”).

9 WHEREAS, because of the disruptions and changes resulting from the formation of
10 MSSB, the parties have agreed, subject to the Court’s approval, to change the Effective Date to
11 October 1, 2010 from July 9, 2010 (the date Stipulation and Agreement to Dismiss the Appeal
12 was granted by the Ninth Circuit) with the Modified Settlement Agreement remaining in effect
13 for five years from that date. (Sections II.B.4, III.A.16 and III.B of the Modified Settlement
14 Agreement).

15 WHEREAS, Morgan Stanley and Smith Barney had separate settlement agreements
16 covering certain female employees of their respective firms. The creation of the MSSB Joint
17 Venture necessitated the consolidation of those settlement agreements and the need to reconcile
18 the differences between those agreements that in turn have created the need to reconcile certain
19 provisions in the Consolidated Settlement Agreement with this Settlement Agreement. In
20 addition, titles of some positions and some terminology have changed as a result of the formation
21 of the Joint Venture. *Turman Decl.*, ¶ 4.

22 WHEREAS, the proposed changes in the Modified Settlement Agreement, other than the
23 changes to the job titles, terminology and history, are as follows:

24 1. Changing the Effective Date to October 1, 2010 with the Modified Settlement
25 Agreements to run for five years from that date (sections II.B.4, III.A.16 and III.B of the
26 Modified Settlement Agreement).

27 2. MSSB will have the discretion to uniformly extend the 12 month period during
28 which lateral recruits will be ineligible for account re-distributions (section VII.D.3.b).

1 3. MSSB will have the discretion to modify, subject to certain limitations, the
2 limitation on Financial Advisor associates receiving account re-distributions until they have
3 satisfied certain requirements (section VII.D.3.b).

4 4. Financial Advisors who are on parental or short term disability leave will have the
5 option to elect that to receive account re-distributions while on leave or receive credit for the re-
6 distributions that they would have received while on leave (section VII.D.3.b).

7 5. A system of debits and credits has been added to the Account Distribution Policy
8 in section VII.D.3.d. It generally provides that a Financial Advisor receiving a re-distribution
9 through an exception will be disqualified from receiving other re-distributions of approximately
10 equal asset value in the same or subsequent re-distributions and a Financial Advisor who does not
11 receive a specific re-distribution as a result of an exception shall receive additional accounts in
12 the same or subsequent re-distribution of approximate equal value.

13 6. The period of time by which accounts must be held in a Joint Production
14 Agreement (“JPA”) in order to justify the re-distribution of accounts to the remaining members of
15 the JPA was reduced from 24 to 12 months (section VII.D.5.a).

16 7. Where the Financial Advisor of the Day is not qualified to handle a prospect’s
17 accounts the Branch Manager will now refer the prospective client to the next available Financial
18 Advisor of the Day on the monthly roster qualified to handle the accounts rather than having the
19 client interview a diverse slate of Financial Advisors to the extent available (section VIII.D.6.c).

20 8. The parties also agreed to add another Industrial Psychologist, who was the
21 previously appointed Industrial Psychologist under the Smith Barney Settlement Agreement, to
22 work with the two previously designated Industrial Psychologists under this settlement (section
23 VII.G.2.a).

24 9. In reviewing the Settlement Agreement, Counsel noticed that there was not any
25 reference to the amount of the monetary payment the Named Plaintiff would receive, although the
26 amount had been expressly set forth in the Class Notice and approved by the Court. The parties
27 have now inserted that amount in section V.B.

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NOW THEREFORE, the Parties, through their respective counsel of record, hereby
STIPULATE to respectfully request that the Court approve the Modified Settlement Agreement.
Attached hereto are the proposed Modified Settlement Agreement and a redlined version showing
all of the changes from the approved Settlement Agreement.

IT IS SO STIPULATED.

Dated: August __, 2011

By: /s/ James M. Finberg
James M. Finberg

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Attorneys for Plaintiffs

Dated: August __, 2011

By: /s/ L. Julius M. Turman
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

For the reasons described in the Parties' Joint Stipulation, approval of the Modified Settlement Agreement is GRANTED.

DATE: 9/7/2011

The Hon. Thelton E. Henderson
United States District Court

