

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MORGAN STANLEY SMITH BARNEY,

Plaintiff,

v.

Case No. 15-13460

BRIAN GREEN,

HON. AVERN COHN

Defendant.

ORDER CONTINUING TEMPORARY RESTRAINING ORDER

This is an employment dispute in the financial industry. On October 2, 2015, the Court entered a temporary restraining order (TRO) requiring defendant Brian Green to return certain documents and computerized materials to plaintiff Morgan Stanley Smith Barney and enjoining Green from taking certain actions. (Doc. 7).

The TRO states it is in full force and effect for ten (10) days. See Doc. 7 at ¶ 5. The TRO also set a hearing for October 6, 2015 at 10:00 am for Green to show cause why the TRO should not be converted to a preliminary injunction until a panel of the Financial Industry Regulatory Authority (FINRA) arbitrators decides Morgan Stanley's request for permanent injunctive relief. See id. at ¶ 7.

The parties appeared for the hearing on October 6, 2015 at which Morgan Stanley requested that the TRO be continued pending arbitration before the FINRA or that a preliminary injunction issue. Counsel for Morgan Stanley contended that in accordance with FINRA Arbitration Rule 13804, a party must seek a TRO before being able to obtain an expedited hearing on a request for permanent injunctive relief in

FINRA arbitration.¹ Counsel for Morgan Stanley also advised that a hearing for permanent injunctive relief before FINRA arbitrators will be held by October 19, 2015.

For the reasons stated on the record at the hearing, the TRO is continued for two (2) weeks. The parties shall appear on Tuesday, October 20 at 2:00 pm to determine whether the TRO should continue or be dissolved.

SO ORDERED.

Dated: October 6, 2015
Detroit, Michigan

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

¹The Court notes that in Prudential Ins. Co. of Am. v. Inlay, 728 F. Supp. 2d 1022 (N.D. Iowa 2010), the district court interpreted FINRA Rule 13804 to permit a court to issue a TRO, not a preliminary injunction, pending a FINRA hearing on the request for permanent injunctive relief. As noted in Prudential, courts in other jurisdictions have explicitly or implicitly interpreted FINRA Rule 13804 as authorizing the entry of a preliminary injunction. See Merrill Lynch v Murvin, 2009 WL 528605 (M.D. Fla. Mar. 2, 2009); Morgan Stanley & Co., Inc. v. Choy, 2009 WL 330210 (D. Hawaii Feb. 10, 2009); Bank of Am., N.A. v. Lee, 2008 WL 4351348 (C.D. Ca. Sept. 22, 2008).