

FILED

2007 AUG 24 P 3: 17

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

GERALD E. FUERST  
CLERK OF COURTS  
CUYAHOGA COUNTY

STATE OF OHIO, *EX REL*  
MARC E. DANN, ATTORNEY GENERAL  
150 East Gay Street, 20<sup>th</sup> Floor  
Columbus, Ohio 43215

*Plaintiff,*

v.

Civil Action No.:

AMERICAN INTERNATIONAL GROUP  
70 Pine Street  
New York, NY 10270,

and

AMERICAN HOME ASSURANCE COMPANY  
Property and Casualty  
70 Pine Street  
New York, NY 10270,

and

AMERICAN INTERNATIONAL SOUTH  
INSURANCE COMPANY  
Property and Casualty  
70 Pine Street  
New York, NY 10270,

and

COMMERCE & INDUSTRY INSURANCE  
COMPANY  
Property and Casualty  
70 Pine Street  
New York, NY 10270,

and

Judge: JOHN J RUSSO

CV 07 633857

**THE HARTFORD STEAM BOILER INSPECTION  
AND INSURANCE COMPANY**

**c/o Statutory Agent  
CT Corporation System  
1300 East Ninth St.  
Cleveland, OH 44114,**

**and**

**NATIONAL UNION FIRE  
INSURANCE COMPANY OF PITTSBURGH, PA;**

**Property and Casualty  
70 Pine Street  
New York, NY 10270,**

**and**

**NEW HAMPSHIRE INSURANCE COMPANY**

**70 Pine Street  
New York, NY 10270,**

**and**

**THE INSURANCE COMPANY OF THE  
STATE OF PENNSYLVANIA**

**Property and Casualty  
70 Pine Street  
New York, NY 10270,**

**and**

**ILLINOIS NATIONAL INSURANCE COMPANY**

**Property and Casualty  
300 South Riverside Plaza, Suite 2100  
Chicago, IL 60606-6613,**

**and**

**ACE LIMITED**

**17 Woodbourne Avenue  
PO Box HM 1015  
Hamilton HM08  
Bermuda,**

and

**ACE AMERICAN INSURANCE COMPANY**

Property and Casualty  
P.O. Box 1000  
436 Walnut Street WA04R  
Philadelphia, PA 19106,

and

**ACE PROPERTY & CASUALTY INSURANCE  
COMPANY**

Property and Casualty  
P.O. Box 1000  
436 Walnut Street WA04R  
Philadelphia, PA 19106,

and

**INSURANCE COMPANY OF NORTH AMERICA**

Property and Casualty  
P.O. Box 1000  
436 Walnut Street WA04R  
Philadelphia, PA 19106,

and

**WESTCHESTER FIRE INSURANCE COMPANY**

Property and Casualty  
P.O. Box 1000  
436 Walnut Street WA04R  
Philadelphia, PA 19106,

and

**THE CHUBB CORPORATION**

15 Mountain View Road  
Warren, NJ 07059,

and

**CHUBB INDEMNITY INSURANCE COMPANY**

Property and Casualty  
15 Mountain View Road  
P. O. Box 1615  
Warren, NJ 07061-1615,

and

**CHUBB NATIONAL INSURANCE COMPANY**

Property and Casualty  
15 Mountain View Road  
P. O. Box 1615  
Warren, NJ 07061-1615,

and

**FEDERAL INSURANCE COMPANY**

Property and Casualty  
15 Mountain View Road  
P. O. Box 1615  
Warren, NJ 07061-1615,

and

**PACIFIC INDEMNITY COMPANY**

Property and Casualty  
15 Mountain View Road  
P.O. Box 1615  
Warren, NJ 07061-1615,

and

**EXECUTIVE RISK INDEMNITY INC.**

Property and Casualty  
15 Mountain View Road  
P.O. Box 1615  
Warren, NJ 07061-1615,

and

**VIGILANT INSURANCE COMPANY**

15 Mountain View Road  
P.O. Box 1615  
Warren, NJ 07061-1615,

and

**GREAT NORTHERN INSURANCE COMPANY**

15 Mountain View Road  
P.O. Box 1615  
Warren, NJ 07061-1615,

and

THE HARTFORD FINANCIAL SERVICES GROUP  
INC.  
One Hartford Plaza  
Hartford, CT 06115,

and

HARTFORD ACCIDENT AND INDEMNITY  
COMPANY  
Hartford Plaza  
Hartford, CT 06115,

and

HARTFORD CASUALTY INSURANCE COMPANY  
Hartford Plaza  
Hartford, CT 06115,

and

HARTFORD FIRE INSURANCE COMPANY  
Hartford Plaza  
Hartford, CT 06115,

and

HARTFORD INSURANCE COMPANY OF  
THE MIDWEST  
Hartford Plaza  
Hartford, CT 06115,

and

HARTFORD UNDERWRITERS INSURANCE  
COMPANY  
Hartford Plaza  
Hartford, CT 06115,

and

PROPERTY AND CASUALTY INSURANCE  
COMPANY OF HARTFORD

Hartford Plaza  
Hartford, CT 06115,

and

SENTINEL INSURANCE COMPANY, LTD.

Hartford Plaza  
Hartford, CT 06115,

and

TRUMBULL INSURANCE COMPANY

Hartford Plaza  
Hartford, CT 06115,

and

TWIN CITY FIRE INSURANCE COMPANY

Hartford Plaza  
Hartford, CT 06115,

and

MARSH & MCLENNAN COMPANIES, INC.

1166 Avenue of the Americas  
New York, NY 10036,

and

MARSH USA RISK SERVICES, INC.

1166 Avenue of the Americas  
New York, NY 10036,

*Defendants.*

## COMPLAINT

1. The State of Ohio, acting on the relation of Attorney General Marc E. Dann, brings this civil action to enforce Ohio's antitrust law (Ohio Revised Code §§ 1331.01 *et seq.*, commonly known as the Valentine Act) seeking injunctive and other

equitable relief, damages and statutory forfeiture against Defendants' *per se* unlawful conspiracy to allocate customers, divide markets and restrain competition in the business of insurance among the defendant insurance companies in their marketing and sale of certain insurance products in the State of Ohio. In a scheme to thwart bargaining for competitive premium rates and coverages by Ohio buyers of commercial lines of casualty insurance through Marsh & McLennan Company, the world's largest insurance broker, defendant insurers unlawfully conspired secretly, with the guidance, complicity and aid of Marsh & McLennan, to corrupt that market by allocating customers among themselves without competing, and by using false statements, artificially high price quotes and other artifices to feign competition among themselves while raising premiums above competitive levels and depriving customers of competition's benefits.

### **I. JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction under the Ohio Revised Code §1331.11 to restrain and enjoin Defendants' violations of Ohio Revised Code §§1331.01, 1331.04, and 1331.05, and to declare void pursuant to Revised Code §1331.06 their agreements in furtherance of such violations, under Revised Code §1331.03, to order civil forfeiture for each day such violations were committed, and under Revised Code §1331.08 to award damages to the State and its political subdivisions for injuries sustained by them as a result of Defendants' unlawful conduct alleged herein.

3. This Court has personal jurisdiction over the Defendants because the Defendants are authorized by the Ohio Department of Insurance to transact, and regularly do transact business in the State of Ohio, because Defendants contract to provide insurance and insurance services within the State of Ohio, and because Defendants'

unlawful conduct has caused and will continue to cause tortious injury in the State of Ohio.<sup>1</sup>

4. This action is brought by the Attorney General to restrain and enjoin and to seek other equitable relief and damages for defendants' violations of Ohio Revised Code §§1331.01 to 1331.14, therefore, venue in this Court is proper pursuant to §1331.11 Ohio Revised Code. Defendants carried out activities that gave rise to the claims for relief in Cuyahoga County and the claim for relief in this action arose in part in Cuyahoga County; therefore, venue in this Court is proper pursuant to Rule 3(B), Ohio Rules of Civil Procedure.

## **II. THE PARTIES**

5. Pursuant to Revised Code §1331.11, the Ohio Attorney General is authorized to institute and prosecute actions on behalf of the State to enforce the provisions of Ohio's antitrust law, codified in Revised Code §§1331.01 et seq., commonly known as the Valentine Act, and, pursuant to Revised Code §109.81, to represent and seek treble damages, as provided in Revised Code §1331.08, and equitable relief on behalf of the State and political subdivisions of the State harmed by Defendants' unlawful conspiracy against trade in the business of insurance. Plaintiff State of Ohio, through its departments, agencies, institutions and employee retirement systems, has, at times relevant to this Complaint, purchased commercial lines of casualty insurance from defendant insurers employing the brokerage services of Defendant MMC.

---

<sup>1</sup> The Ohio Department of Insurance, in independent actions, has taken steps to protect Ohio consumers by initiating market reform and recommending statutory changes. Further, the Ohio Department of Insurance continues to work in conjunction with the Attorney General's investigation, and continues to utilize the information gained to monitor the regulatory issues within the jurisdiction of the Department.



## AIG

6. Defendant American International Group, Inc. (“AIG Inc.”) is a Delaware corporation whose shares are listed and publicly traded on the New York Stock Exchange with its corporate headquarters in New York, New York. As described by AIG, Inc. itself, “AIG member companies serve commercial, institutional and individual customers through the most extensive worldwide property-casualty and life insurance networks of any insurer.” AIG, Inc. and its related companies are the largest underwriters of commercial and industrial insurance in the United States. Defendants American Home Assurance Company, American International South Insurance Company, Commerce & Industry Insurance Company, The Hartford Steam Boiler Inspection and Insurance Company, National Union Fire Insurance Company of Pittsburgh, Pennsylvania, New Hampshire Insurance Company, The Insurance Company of the State of Pennsylvania, and Illinois National Insurance Company are subsidiaries of AIG, Inc.

7. Defendant American Home Assurance Company is incorporated under the laws of the State of New York with headquarters in New York, New York. American Home is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers’ compensation insurance in the State of Ohio.

8. Defendant American International South Insurance Company is incorporated under the laws of the State of Delaware with headquarters in New York, New York. American International South is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a

provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

9. Defendant Commerce & Industry Insurance Company is incorporated under the laws of the State of Delaware with headquarters in New York, New York. Commerce & Industry is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

10. Defendant The Hartford Steam Boiler Inspection and Insurance Company ("HSB") is incorporated under the laws of the State of Connecticut with headquarters in Hartford, Connecticut. HSB is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

11. Defendant National Union Fire Insurance Company of Pittsburgh, Pennsylvania is incorporated under the laws of the State of Pennsylvania with headquarters in New York, New York. National Union is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

12. Defendant New Hampshire Insurance Company is incorporated under the laws of the State of Delaware with headquarters in New York, New York. New Hampshire Insurance is authorized by the Ohio Department of Insurance to operate, and

has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

13. Defendant The Insurance Company of the State of Pennsylvania is incorporated under the laws of the State of Pennsylvania with headquarters in New York, New York. ICSP is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

14. Defendant Illinois National Insurance Company is incorporated under the laws of the State of Illinois with headquarters in Chicago, Illinois. Illinois National is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

15. Collectively, AIG, Inc. and its subsidiaries as described in paragraphs 6-14 above shall be referred to herein as "AIG."

**ACE**

16. Defendant ACE Limited is the Bermuda-based holding company of the ACE Group of Companies. Its subsidiaries include Defendants ACE American Insurance Company, ACE Property & Casualty Insurance Company, Insurance Company of North America and Westchester Fire Insurance Company.

17. Defendant ACE American Insurance Company is a subsidiary of Ace Ltd incorporated under the laws of the State of Pennsylvania with headquarters in Philadelphia, Pennsylvania. Ace American is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

18. Defendant ACE Property & Casualty Insurance Company is a subsidiary of ACE Ltd. incorporated under the laws of the State of Pennsylvania with headquarters in Philadelphia, Pennsylvania. ACE Property & Casualty is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines insurance which include umbrella, excess liability and workers' compensation insurance in the State of Ohio.

19. Defendant Insurance Company of North America is a subsidiary of ACE Ltd., incorporated under the laws of the State of Pennsylvania with headquarters in Philadelphia, Pennsylvania. ACE American is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include, umbrella, excess liability, and excess workers' compensation insurance in the State of Ohio.

20. Defendant Westchester Fire Insurance Company is a subsidiary of ACE Ltd. incorporated under the laws of the State of Pennsylvania with headquarters in Philadelphia, Pennsylvania. Westchester Fire is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a

provider of commercial lines insurance which include umbrella, excess liability and workers' compensation insurance in the State of Ohio.

21. Collectively, ACE, Ltd. and its subsidiaries as described in paragraphs 16-20 above shall be referred to herein as "ACE."

**CHUBB**

22. Defendant The Chubb Corporation is a holding company incorporated in the State of New Jersey. Its subsidiaries authorized to transact business in Ohio include Defendants Chubb Indemnity Insurance Company, Chubb National Insurance Company, Federal Insurance Company, Pacific Indemnity Company, Executive Risk Indemnity, Inc., Vigilant Insurance Company and Great Northern Insurance Company.

23. Defendant Chubb Indemnity Insurance Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of New Jersey with headquarters in Warren, New Jersey. Chubb Indemnity is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

24. Defendant Chubb National Insurance Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of New Jersey with headquarters in Warren, New Jersey. Chubb National is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

25. Defendant Federal Insurance Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of Indiana with headquarters in Warren, New Jersey. Federal is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

26. Defendant Pacific Indemnity Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of Wisconsin with headquarters in Warren, New Jersey. Pacific is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

27. Defendant Executive Risk Indemnity, Inc. is a subsidiary of the Chubb Corporation incorporated under the laws of the State of Delaware with headquarters in Warren, New Jersey. Executive Risk is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

28. Defendant Vigilant Insurance Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of New York with headquarters in Warren, New Jersey. Vigilant is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of

commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

29. Defendant Great Northern Insurance Company is a subsidiary of the Chubb Corporation incorporated under the laws of the State of Minnesota with headquarters in Warren, New Jersey. Pacific is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

30. Collectively, The Chubb Corporation and its subsidiaries as described in paragraphs 22-29 above shall be referred to herein as "Chubb."

#### **HARTFORD**

31. Defendant The Hartford Financial Services Group, Inc. is a Delaware corporation. Its subsidiaries authorized to transact business in Ohio include Defendants Hartford Accident and Indemnity Company, Hartford Casualty Insurance Company, Hartford Fire Insurance Company, Hartford Insurance Company of the Midwest, Hartford Underwriters Insurance Company, Property and Casualty Insurance Company of Hartford, Sentinel Insurance Company, Ltd., Trumbull Insurance Company and Twin City Fire Insurance Company.

32. Defendant Hartford Accident and Indemnity Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Hartford Accident is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which

include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

33. Defendant Hartford Casualty Insurance Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Hartford Casualty is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

34. Defendant Hartford Fire Insurance Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Hartford Fire is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

35. Defendant Hartford Insurance Company of the Midwest is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Hartford Midwest is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.



36. Defendant Hartford Underwriters Insurance Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Hartford Underwriters is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

37. Defendant Property and Casualty Insurance Company of Hartford is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Property and Casualty Insurance Company is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

38. Defendant Sentinel Insurance Company, Ltd. is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Sentinel is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

39. Defendant Trumbull Insurance Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Trumbull is authorized by the Ohio Department of

Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

40. Defendant Twin City Fire Insurance Company is a subsidiary of The Hartford Financial Services Group, Inc., incorporated under the laws of the State of Delaware with headquarters in Hartford, Connecticut. Twin City is authorized by the Ohio Department of Insurance to operate, and has during times relevant to this Complaint operated, as a provider of commercial lines of casualty insurance which include umbrella, excess liability and excess workers' compensation insurance in the State of Ohio.

41. Collectively, The Hartford Financial Services Group, Inc. and its subsidiaries as described in paragraphs 31-40 above shall be referred to herein as "Hartford."

#### **MARSH & MCLENNAN**

42. Defendant Marsh & McLennan Companies, Inc., is a Delaware corporation for profit with offices in Ohio. Through its Marsh USA, Inc. subsidiary, it was at all times relevant to this Complaint an Ohio Resident and Resident Surplus Lines Insurance Agent licensed by the Ohio Department of Insurance pursuant to Ohio Revised Code §3905.02 and appointed pursuant to Ohio Revised Code §3905.20 by Defendants AIG, ACE, Chubb and Hartford to represent them within the State of Ohio. In 2003, Marsh Inc. had operating income of \$1.8 billion from revenues of \$6.9 billion. It was then and remains the largest insurance broker in the United States.

43. Defendant Marsh USA Risk Services, Inc., is a Maine corporation for profit. Marsh USA Risk Services is a successor in interest to Marsh USA, Inc., which was at all times relevant to this Complaint authorized to do business in Ohio.

44. Collectively, Marsh & McLennan Companies, Inc. and Marsh USA Risk Services, Inc. as described in paragraphs 42-43 above shall be referred to herein as “MMC.”

### **III. CO-CONSPIRATORS**

45. Various individuals and corporations, who are known and unknown to plaintiff and are not named in this Complaint, participated with defendants as co-conspirators in the violations alleged in this Complaint and performed acts and made statements in furtherance thereof.

### **IV. DEFINITIONS**

46. “Casualty” is a category of insurance coverage for third party damage claims against the insured. Casualty claims do not include claims for damage to the property of the insured.

47. “Excess” insurance is a layer or layers of indemnity protection that sits on top of a primary layer of coverage (such as a self-insurance program) and provides a higher level of protection above the primary layer purchased.

48. “Insured” means the purchaser of insurance that is entitled to make a claim against the purchased policy in the event of a loss covered by the policy’s terms.

49. “Underwriting” means the process of selecting risks for insurance coverage, classifying them according to their degrees of insurability and/or determining

the effective rates to be charged. The process also includes rejection of those risks that do not qualify for insurance coverage.

## V. BACKGROUND

50. Defendants AIG, ACE, Chubb and Hartford and their affiliates (“Defendant Insurers”) are competitors among themselves in Ohio in that each underwrites and sells high limit commercial casualty insurance including insurance commonly categorized for financial reporting purposes as general liability, as well as commercial automobile and excess workers compensation products to businesses and governmental entities located in Ohio. Such insurance is typically written on the basis of rates that are negotiable.

51. Defendant MMC offers its brokerage services to commercial insurance consumers that require primary, umbrella, excess casualty and other lines of high limit commercial casualty insurance in exchange for the payment of commissions by the insured to MMC. MMC promotes its brokerage services to potential clients in part by claiming it secures the best combination of coverage required by the client and low premium costs by obtaining competitive prices for its clients from the global insurance marketplace to which it provides access.

52. MMC's clients in Ohio and elsewhere purchase high limit commercial casualty insurance through MMC, and brokerage services from MMC. MMC's clients rely on MMC, and do business with it, because of MMC's claim that it will secure the best combination of coverage and the lowest premiums by obtaining competitive prices from the Defendant Insurers and others. Throughout the period from 2001 through 2004, MMC represented to its clients that, as the largest insurance brokerage in the United

States, it would ensure a competitive environment for their insurance purchases by “marketing” – *i.e.* seeking competitive proposals for – their insurance programs from competing insurers.

## **VI. DEFENDANTS' UNLAWFUL ALLOCATION OF CUSTOMERS AND CUSTOMERS' PREMIUMS**

53. Beginning at least as early as 2001 and continuing through 2004, Defendant Insurers and their co-conspirators ("Conspiring Insurers") entered into a combination of capital, skill and acts among themselves, orchestrated by MMC on its own behalf and as an agent for the Conspiring Insurers. This combination of capital, skill and acts had the purpose and effect of raising and allocating among the Defendants the premiums paid by clients of MMC for casualty and other insurance products and suppressing competition among them.

### **A. Defendants and Co-Conspirators Agreed to Allocate MMC Clients by Denying Them the Benefits of Competition Among Insurers and by Protecting Incumbent Insurers From Genuine Competition.**

54. In establishing this unlawful and anticompetitive combination, Conspiring Insurers joined into a network of Profit Sharing Agreements, (variously known as "PSAs," "Placement Service Agreements, or "MSAs"), orchestrated through the MMC Global Broking system. Under these agreements, Conspiring Insurers agreed to and did pay MMC an enhanced commission, separate from the regular commission, based on a predetermined percentage of the insurance premium paid by the client for services rendered in a successful placement meeting a client's insurance requirements in a competitive market. This additional commission pursuant to the PSAs was linked to the Conspiring Insurer's aggregate premium revenues from MMC's Global Broking clients beyond the particular client whose insurance was placed in a specified transaction. That

share varied with MMC's success in serving the insurer's interests by increasing and stabilizing the Conspiring Insurer's market share, customer retention rate and premium revenues.

55. As a further step in establishing their unlawful and anticompetitive combination, MMC and Conspiring Insurers entered into a "global broking" arrangement whereby MMC created a centralized placement unit staffed by MMC employees dedicated separately to interacting with underwriters employed by the Conspiring Insurers. Each of the Conspiring Insurers, acting through its parent group, created an internal global broking unit staffed by underwriters dedicated to communicating through agents designated by MMC to serve specific insurers in coordinating the placement and renewal of policies in accordance with the MMC global broking scheme.

56. Each of the Conspiring Insurers entered into these profit sharing, global broking and other agreements (collectively the "Global Broking PSA Network") with MMC with the knowledge that MMC was establishing a network of such Profit Sharing Agreements with competing insurers as well.

B. Defendants Knowingly Adopted and Carried Out a Common Design and Understanding That Each Participant in the Conspiracy Shared a United Purpose

57. The Conspiring Insurers entered into and participated in the Global Broking PSA Network for the purpose and with the effect of restraining competition among themselves by making and carrying out a common commitment, employing MMC as an agent among themselves: (a) to protect and obtain reciprocal protection for policy renewals without competitive marketing in favor of the incumbent insurer at higher than

competitive premiums, and (b) to allocate without competition among themselves placements and premiums for high limit commercial casualty coverage.

58. This unlawful design was described in part, under oath, by former Marsh employees Regina Hatton and Kathryn Winter when their criminal plea agreements with the State of New York were entered into the record. According to Ms. Hatton, she, Ms. Winter, “and others at Marsh participated in a scheme with individuals at ... [Conspiring Insurer], AIG, and ACE. The primary goal of this scheme was to ... control[ ] the market, and protect[ ] selected insurance companies from competition, to ensure that the selected insurance company would win certain business.” Plea Agreement of Regina Hatton at para 5. Specifically, the conspiracy involved “protecting incumbent insurance carriers when their business was up for renewal.” Plea Agreement of Kathryn Winter at para 5.

59. The purpose and effect of the Conspiring Insurers' common design is illustrated in the following notation dated December 18, 2002 in the files of former ACE Assistant Vice President Patricia Abrams: “We were more competitive than AIG in price and terms. MMGB requested we increase premium to \$1.1M to be less competitive so AIG does not loose [sic] the business.” Ms. Abrams had quoted \$990,000 two days earlier. Ms. Abrams detailed these facts in her criminal plea agreement with the State of New York and also allocuted, under oath, that the purpose of the request was “so that the *incumbent* AIG would not lose the business.” Plea Agreement of Patricia Abrams (emphasis added). Ms. Abrams “discussed MMC's request for a ‘B quote’ with her supervisor at ACE, and then agreed to raise and raised the bid to \$1.1 million,...”, thereby knowingly and unlawfully protecting AIG in keeping with the Conspiring Insurers'

common design and contrary to its own interests were it acting independently as a competitor.

60. Under the Global Broking PSA Network, the Conspiring Insurers and MMC had a common motive and understanding of preventing competition among the Conspiring Insurers with respect to MMC's marketing of the renewals of its clients' policies. In urging Defendant Chubb to join in the scheme, MMC described the common understanding as follows: "[S]ince all Insurance Companies enjoy higher margins on renewal business, there is a strong incentive to retain existing accounts. As a preferred partner market, J&H Marsh & McLennan shares that objective and, in the event our Retention with you exceeds your overall Retention, deserves to be compensated.... **With this commitment in place we believe we can greatly reduce the necessity to 're-market' Chubb renewals, thus keep the integrity of existing pricing.**" (emphasis added).

61. The Defendant Insurers participated in this common scheme with the clear understanding that they would receive protected status on customers allocated to them in exchange for their willingness to submit non-competitive ("B") quotations and otherwise act to restrain competition to benefit other Conspiring Insurers with respect to customers allocated to those insurers. Thus, MMC explained to Defendant ACE: "[c]urrently we [the insurer's designated Marsh Global Broking agent] have about \$6 m in new business which is the best in Marsh Global Broking so I don't want to hear that you are not doing 'B' quotes or we will not bind anything."

62. Each Defendant Insurer participated in this common scheme with the clear understanding that the other participating Conspiring Insurers had agreed likewise – *i.e.*,



to submit non-competitive ("B") quotations and otherwise act to restrain competition to protect incumbent insurers in exchange for receiving protection on the accounts allocated to them. This understanding of reciprocal protection was detailed in part, under oath by AIG manager Karen Radke when entering her criminal plea agreement with the New York Attorney General into the record. She explained her "belie[f] that other carriers were also submitting non-competitive quotes specified by Marsh, thereby allowing AIG to obtain property with a value in excess of \$1,000 from more than one insurance client." Similarly Ms. Abrams' criminal plea agreement states: "While working [at ACE], Abrams learned that ACE had entered into agreements with Marsh & McLennan ("Marsh"), an insurance brokerage based in Manhattan, to submit bids for insurance coverage that were not competitive. In furtherance of these agreements, in situations where Abrams was told that ACE would not be the successful bidder because Marsh intended the business to go to the incumbent or another carrier, Marsh employees and Abrams's supervisors at ACE directed defendant to submit quotes that were less favorable than the incumbent's."

63. The Conspiring Insurers understood that sharing in markets protected against competition through the Global Broking PSA Network would allow them to benefit from suppression of competition and non-competitive premiums in a substantial part of the commercial casualty insurance market because, as one Conspiring Insurer put it: "[w]e must keep in mind that Marsh does control 70% of the higher Commercial and National account business or I wouldn't be making this [PSA] recommendation."

C. Inflated Premiums Enabled Conspiring Insurers to Compensate MMC  
for Its Role in the Conspiracy

---

64. Conspiring Insurers and MMC understood that by entering into the Global Broking PSA Network their relationship changed such that MMC thereafter acted as an agent on behalf of the collective interests of the insurers who participated in this arrangement to restrict the access of MMC's clients to a competitive insurance market and to allocate customers among them. Defendant AIG, reporting on the change brought about by entering this relationship with MMC, wrote: "Prior to having this in place ...[the insurer] was blindly mapped against all other competitors when quoting business for MMC. Since putting this agreement in place, we have been able to obtain the exact quoted premium for any other market that has quoted against us."

65. The Conspiring Insurers understood that a fundamental function of the Placement Service Agreements as implemented through the Global Broking arrangement was to provide enhanced compensation to MMC for its central role in orchestrating, policing and enforcing the Global Broking PSA Network's rule of non-competition, enabling the Conspiring Insurers to charge premiums higher than the competitive levels customers would pay if MMC sought competitive pricing on behalf of its clients under typical commission arrangements. As described by an AIG executive: "[w]e get our Marsh brokerage through Marsh Global and agreed to the 12.5% PSA because they agreed to get us a higher rate than our other brokered business." This executive went on to explain: "[m]any times we are quoting all risks at greater premiums than our current pricing approach would allow. As an example, we quoted to Marsh Global today KeySpan. Our pricing model approach places stat in excess of \$1 million dollars SIR [self insured retention] at \$934,500.... We quoted \$1,171,000 and expect to bind

coverage.” The freedom from competition that Conspiring Insurers were assured through participation in this arrangement was described by an AIG Senior Vice President: “I would like to continue this [PSA] arrangement into the future. We continue to get the “inside track” on all quoted business. This did not exist prior to having the PSA with Marsh.”

66. Conspiring Insurers understood that participation in the Global Broking PSA Network was worth compensating MMC with enhanced PSA commissions because the Conspiring Insurers’ common commitment insured protection from competition not only in renewing existing policies, but in raising rates on those renewals. As an AIG executive described it, the purpose was to base the PSA program on “[r]ate increases on all renewed accounts.”

D. Conspiring Insurers Exchanged Premium Prices, Terms,  
and Customer Information Through the MMC Global Broking Scheme

67. Common participation in the Global Broking PSA Network customer allocation scheme facilitated communications among the Conspiring Insurers with respect to the protection from competitive pricing as needed to (a) convince the insured that it was obtaining competitive terms and premiums, and (b) prevent other participating insurers' actual competition against the incumbent's pricing. Thus, with reference to one Ohio manufacturer, MMC wrote to a Conspiring Insurer: "AIG wants to keep this so see their quote and attachments below: AIG quoted \$2,700,000 for 50xp....Please send me an email with an unattractive premium,...so it won't sell." Referencing another Ohio manufacturer insured by Defendant AIG, the MMC global broking agent communicated to her designated underwriter at a Conspiring Insurer: "[p]lease fax back this "fake" quote....as you know AIG quoted 25xp=\$475,000."

68. The Conspiring Insurers formed and carried out their combination and agreement to allocate customers and allocate markets by, among other things, communicating with one another through their agent, Defendant MMC, information about the identity of clients whose business was allocated to a Conspiring Insurer and the price and other terms to be quoted or withheld by the other Conspiring Insurers, as highlighted by AIG's boast that: "Since putting this agreement in place, we have been able to obtain the exact quoted premiums for any other market that has quoted against us." This communication of Conspiring Insurers' pricing terms through MMC to effectuate customer allocation is exemplified in MMC's October 23, 2003 exchange with a Conspiring Insurer about an account allocated to another Conspiring Insurer: "Since [the incumbent Conspiring Insurer] will be OK on the renewal, please send me an email confirming that [the non-incumbent Conspiring Insurer's] lead for \$25m would be at least \$125,000." The non-incumbent promptly complied in a later e-mail saying: "Our lead \$25,000,000 for the above mentioned will be at least \$125,000."

69. Defendant Insurers understood and agreed that Defendant MMC, as their mutual agent, would act as a conduit to and from the Conspiring Insurers for information essential to the operation of the conspiracy. For example, on September 18, 2002, an AIG underwriter added the following handwritten note to the file on an account brokered by MMC on which AIG was incumbent: "gave indications to Tom W. He'll see what ACE is quoting and will protect us."

70. Defendants' market division conspiracy allocated customers in the market for high limit commercial casualty insurance coverage in Ohio and elsewhere among Conspiring Insurers by utilizing MMC: (a) to communicate proposed premium pricing

and other terms for particular insureds among insurers from whom MMC purported to be soliciting competitive quotes, (b) to designate which conspirator, among ostensibly competing insurers, would quote or bid the most attractive premium and coverage to the insured seeking coverage, and (c) to assist the designated winner in obtaining a higher premium than it could have charged had other conspirators competed for the business of that insured.

#### E. MMC Maintained and Policed the Conspiracy

71. When an insured sought quotes to renew existing coverage, the conspirators' understanding and agreement was that MMC typically would designate, and the conspirators would protect and would not compete against, the incumbent insurer. Defendant Insurers utilized and conspired with MMC, as their authorized agent in Ohio and elsewhere, to carry out this customer allocation agreement and to communicate among insurer conspirators the terms upon which it would direct renewal business to the incumbent. In one instance, an executive of HSB (an AIG subsidiary) described his conversation with an MMC executive on the subject of HSB's PSA: "He maintains that they [Marsh] now have better control of the marketing operation and can effectively direct premium to partners better than in the past. He also told me, once again, that we are more difficult to work with and less responsive, implying that in the absence of an agreement more of the EB business would flow to [other Conspiring Insurers]...." Later in the same discussion, the HSB executive says: "they [Marsh] believe the Marketing Service Agreement goes beyond a contingent commission agreement and they want to be paid for pushing HSB, plain and simple."

72. It was the conspirators' further understanding and agreement that MMC's policing of the allocation agreement and suppression of competition among the participating insurers was intended to yield, and did yield, significant benefits, what one called, "its seat at the table," to those insurers. In discussing the account of an Ohio construction and engineering firm on which one Conspiring Insurer was incumbent, two of the incumbent's underwriters explained: "Currently, Marsh is trying to get this renewal done with [the incumbent] without bringing in competition." Later in the same e-mail chain, they added: "If this account went to market, I guarantee you the program would change and make it hard on us. The good news: ... Marsh is a great partner of ours in the Chicago office and will help us retain."

#### F. Creating the Pretense of Competition

73. MMC effectuated and maintained the Conspiring Insurers' customer allocation agreement by coordinating the pretense of real competition among them to deceive its clients by soliciting false, cover or "B" quotes in order to feign the appearance of genuine competition, especially in situations where the insured became suspicious or was reluctant to accept the incumbent's demanded premium. For example, MMC sought to quell anticipated discontent on the part of the insured, an Ohio supply chain management firm, over a more than 100% premium increase demanded by incumbent AIG by directing Defendant Insurer ACE, along with other two other non-incumbent Conspiring Insurers, to submit fabricated higher quotes, saying: "Guys: AIG quoted 25 x P for \$275,000. Premium increase is 111% due to 3MM auto loss AIG paid on this account recently. This is going to be a tough sale so I need some help. Emails would be

fine. [Non-incumbent X] 25 x P \$525,000, [Non-incumbent Y] Decline Lead, ACE ARM 25 x P \$500,000.”

74. In some instances, Conspiring Insurers as parties to the allocation agreement actually allowed MMC, in its role as their agent and facilitator of the allocation agreement, to dictate the amount of the false or protective quotes they submitted. For example, in March 2003, an MMC employee e-mailed an underwriter for a Conspiring Insurer requesting a quote as follows: “Here is what AIG did, 25 x p (GL 2/4/4 AL 2) =\$2,200,000. ... Reg said [the Conspiring Insurer] should quote \$2,900,000-2,850,000.”

#### G. Enforcing the Conspiracy to Prevent "Cheating"

75. At other times, MMC served the Conspiring Insurers in the role of enforcer of the allocation agreement by demanding that parties to the agreement – other than the Conspiring Insurer who was predetermined to win the account – refrain from quoting. For example, in December of 2003, ACE underwriters discussed via e-mail the stern directive they had received from Marsh Global Broking *not* to quote the lead umbrella for an Ohio equipment manufacturer because AIG was slated to keep the account: “We were told by Randy Tchon [of MMC] not to quote the lead umbrella in support of Custom Casualty’s GL, as they had every intention of renewing the lead with AIG. In addition, if we did release a quote on the lead umbrella AIG would have the opportunity to quote the full \$50M and potentially knock us out of the first excess.”

76. On occasion, the Conspiring Insurers’ executives expressed anger and even threatened retaliatory behavior when they feared that MMC might fail to perform its agreed duties under the allocation agreement. For example, in October 2001, an internal

communication among AIG executives said the following about a piece of AIG business up for renewal: “Given that we’ve had this since 1993 and Marsh now knows that we have a significant potential claim and that we are capped at a 25% increase even with a pending claim due to the premium cap endorsement, I will go ballistic [sic] if Marsh allows this account to move.” This threat to “go ballistic [sic]” if MMC allows a competitor to submit a more successful quote highlights AIG's reliance on the efficacy of Defendants' customer allocation scheme as enforced by MMC to bar genuine competition from determining the price and terms of clients' insurance policies.

77. In March 2003, a Conspiring Insurer's executive vividly describes the Conspiring Insurers' sense of entitlement to freedom from competition under the customer allocation agreement while complaining bitterly to MMC about MMC's perceived unfair administration of that agreement by, saying:

We need and expect to be protected on our renewals just like AIG is protected on theirs. And when I say protected I mean protected at a reasonable adjusted rate increase. ... The only solution I see if we can not get protection against the AWAC's and ACE's of the world who have not been there for MMGB in the past when you needed favors, is to go after AIG leads which we are very prepared to do. If we can not get proper protection, we will go hard after AIG leads that we feel you are protecting. We will no longer provide you with protective quotes for AIG but will put out quotes that you will be forced to release, just like you tell me you are forced to release AWAC and ACE quotes. I do not think we are asking for the moon. We just want the same protection given to AIG and MMGB is definitely not doing that for [us] now.

#### H. Defendant Insurer Knowledge that Competitors Were in the Global Broking PSA Network

78. Each Conspiring Insurer implicitly knew that the nature of the Global Broking PSA Network was such that at least one other insurer – that ordinarily would be a direct competitor – must be involved. As detailed by the admissions contained in the



criminal plea agreements submitted by current or former employees of AIG, ACE and other Conspiring Insurers, a fictitious or "B" quote submitted to feign competition requires at least one insurer acting to protect another. Thus, when a Conspiring Insurer issued or was protected by a fictitious quote or a declination to quote against a protected competitor solicited by MMC, it knew not only that it had conspired with and through MMC, but also, by the interdependent design of the common scheme, that one of its "competitors" must also be involved in the same unlawful scheme even if the Conspiring Insurer did not know to which "competitor" it provided or from which it received protection.

79. Thus, as early as May 2000, Defendant AIG evidenced its knowledge and acceptance of the terms of this unlawful combination and conspiracy by issuing a quote of \$150,000 in order to make incumbent Defendant Chubb's quote of \$140,000 on the lead umbrella for an Ohio manufacturer look competitive. An MMC e-mail ratifies AIG's commitment to the conspiracy, stating: "Last year AIG quoted \$150,000 to validate Chubb's pricing...." When AIG issued the \$150,000 quote in May 2000, it knew at a minimum that at least one other insurer, that ordinarily would have been a direct competitor, also was involved in the unlawful conspiracy. Similarly, in a September 24, 2002 list of potential accounts from MMC, Defendant ACE signified its understanding of the terms of Defendant Insurers' unlawful combination and conspiracy by including in its list of accounts recently submitted to it for consideration a category called "Marginal ("B") Opportunities."

80. MMC documented its understanding of, and reliance upon, Chubb's acceptance of and participation in the terms of the Defendants' unlawful combination and

conspiracy in an early December 19, 2001 internal communication in which the following “type B alternative” was to be obtained from Chubb in order to protect a specified Conspiring Insurer's quote: “Chubb \$25MM x P \$200,000 or decline lead.” Chubb's submission of the requested the “type B” quote would necessarily display actual knowledge of who it was protecting, and consequently that it shared a common, unlawful purpose with that Conspiring Insurer. Moreover, Chubb explicitly stated its understanding of the protection it would receive from the conspiracy when a Chubb executive included the following provision in a memorandum to MMC prepared during the negotiations of Chubb's 2002 PSA: “Based on your assurance that you will enforce a “no shopping” policy for Chubb accounts, we have built the previously discussed \$1 million retention bonus into the basic formula.”

81. When Defendant Insurers submitted fictitious quotes as described herein, each knew that their quotes would not be selected, protected other insurers that ordinarily would be direct competitors, submitted those quotes with the intent unlawfully to protect and prevent competition with incumbent “competitors,” and furthered the united purpose and common design among the Conspiring Insurers and MMC.

82. In many instances, AIG, ACE, Chubb and Hartford knew that they were conspiring with one or more of the Conspiring Insurers because they knew which Conspiring Insurer they protected or from which they received protection. This knowledge is inferable from internal Conspiring Insurer emails documenting “B” quotes that explicitly detail the name of the Conspiring Insurer that had been designated to win the bid and the insurer(s) that would be playing the role of “competitor(s)” by submitting fake “B” quotes in the rigged bid.

83. Defendant Insurers' explicit knowledge and acceptance of the terms and purposes of this unlawful conspiracy is evidenced in the December 18, 2002 notations found in the files of former ACE Assistant Vice President Patricia Abrams regarding renewal of a policy on which AIG was the incumbent, stating: "We were more competitive than AIG in price and terms. MMGB requested we increase premium to \$1.1M to be less competitive, so AIG does not loose [sic] the business." Ms. Abrams' criminal plea agreement with the State of New York details that Ms. Abrams discussed this request with for a 'B quote' with her supervisor at ACE, and then agreed to raise and raised the bid to \$1.1 million. Actual knowledge of this unlawful conspiracy is similarly reflected in a Chubb underwriter's correspondence with MMC in May 2003 regarding an Ohio account on which Marsh was under broker competition. MMC assures Chubb: "If we keep [the Ohio account], you keep [the Ohio account]." Defendant Hartford's knowledge and commitment are similarly evidenced in a 2004 exchange in which an MMC's employee asks a Hartford underwriter: "can you please send me an email officially 'declining' to quote this line of coverage?" Hartford's underwriter dutifully provides the requested e-mail stating: "The Hartford is not a market for monoline installation exposure." Hartford's explicit knowledge of the complicitous protection of other Conspiring Insurers is reflected in this exchange between two Hartford employees: Meaghan Mathews of Hartford forwards AIG's terms to Aileen Marchese, also of Hartford. AIG's terms are \$20m, \$1 million retention for \$141,341. Aileen Marchese writes to Meaghan Mathews who has forwarded information provided by MMC regarding terms offered to an MMC client by AIG: "we have been told that we do not need to match AIG but will need to offer the \$20 million. In your absence, I have agreed

to offer the \$20 million with a \$1 million retention and pricing of \$180K. The broker is not looking to move this from us, agrees that we do not need to match AIG." AIG's actual knowledge and commitment are evidenced in underwriter notations made in an AIG file. On the face of a printed e-mail message where MMC informs AIG that another Conspiring Insurer won the account, the underwriter adds a handwritten notation: "indicated premium is what Jonathan [of MMC] asked me to use". On the following page, he adds: "This is not a real opportunity. Incumbent [Conspirator Insurer] did what they needed to do at renewal."

84. Internal insurer e-mails, such as the following e-mail between Chubb employees Douglas Vahey and Joseph O'Donnell, reflect the Conspiring Insurers explicit understanding of the scope and the nature of the scheme, including which insurers were involved. In the June, 15, 2004 email to Mr. O'Donnell, titled "Re: Marsh-urgent," Mr. Vahey describes a number of issues with Marsh, including that "GB [Global Broking] doesn't want to move from AIG to Chubb (e.g. one focused market to another focused market)." Yet, Mr. Vahey emphasizes that: "Of course, we [Chubb] enjoy good retention b/c of this as well." He later notes in the same email: "I heard that Marsh has removed all mention of 'focused markets' from Global Brokers individual goals due to the Spitzer investigation. . . . They must be wondering how they are going to supplant the PSA \$."

## **VI. VIOLATIONS ALLEGED**

85. The State of Ohio hereby incorporates paragraphs 1-84 of this Complaint as if fully written herein.

86. As early as January, 2001 and continuing at least as late as October, 2004, the exact dates being unknown to the State, Defendants entered and acted pursuant to an agreement that constitutes an unreasonable restraint of trade and commerce in the State of Ohio in violation of §§ 1331.01 and 1331.04 of the Ohio Revised Code in that they acted in combination for the purposes of creating and carrying out restrictions in trade to increase the price and reduce competition among themselves in the sale of insurance, and entered into agreements by which they established prices so as to directly or indirectly preclude a free and unrestricted competition among themselves in violation of 1331.01(B).

87. The Defendants' unlawful restraint of trade consists of a continuing agreement and concerted course of conduct among them and others, the substantial terms of which have been to restrain competition between Defendant Insurers and other insurance companies doing business in Ohio by allocating insurance customers and dividing insurance markets among themselves.

88. Defendants' agreement, conspiracy and concert of action has had the effects of depriving Ohio insurance customers, including taxpayer-supported public entities, of competitive choices among insurers for various, and of competitive pricing and service for the insurance they purchase, and has raised and stabilized premium prices for certain lines of insurance in Ohio, all in restraint of trade and commerce in the State of Ohio.

89. To carry out the unlawful purposes of their unlawful combination and conspiracy, and in pursuance thereof, the Defendants, acting through their employees agents and co-conspirators among other things:

- (A) Participated in meetings and negotiations in furtherance of the conspiracy; and,
- (B) Entered into agreements that, by their terms, allocated customers between themselves.
- (C) Created special Marsh Global Broking units within their companies to ensure that the terms of the conspiracy were carried out.
- (D) Trained their underwriting employees to provide non-competitive, accommodation quotes to protect their co-conspirators from competition when MMC communicated the need for such quotes to them.
- (E) Declined to submit quotes or submitted non-competitive accommodation quotes, in response to applications from insurance customers that had been allocated by their conspiracy to another insurer.
- (F) Communicated premium rates and terms to be quoted by themselves and others through MMC, acting as their agent, to insurers that were ostensibly their competitors.
- (G) Obtained quotes to be submitted by their co-conspirators through agency of MMC, acting as agent for those co-conspirators.
- (H) Raised premiums and quoted inferior coverage terms to take advantage of accommodation quotes and protected markets offered by their co-conspirators.
- (I) Refrained from quoting markets or layers of insurance protected from competition by their conspiracy.

(J) Paid hidden and excessive commissions to MMC in consideration for services in coordinating the allocation of markets and the restriction of competition among the conspirators.

(K) Misrepresented to customers that they were providing and soliciting competitive quotes and otherwise endeavoring to provide the most competitive premiums attainable.

90. In connection with its engagement as a consultant by various public entities within Ohio, Defendant MMC unlawfully solicited and accepted, and the insurer defendants unlawfully promised and paid, in violation of Ohio Revised Code Section 2921.43, fees and other compensation other than and in addition to those allowed by law.

91. Defendant MMC, acting as an agent for the Defendant Insurers and in furtherance of Defendants' unlawful conspiracy against trade, made agreements and carried out other actions to induce competing insurers to refrain from submitting good faith bids, price quotations and other solicitations in competition with one another in Ohio and to divide insurance markets among themselves and others so as to eliminate and restrain competition between them in the pricing and sale of insurance products.

92. The Defendants' Agreement constitutes a horizontal combination and conspiracy for the purpose of creating and carrying out restrictions in trade and commerce in the business of insurance by allocating markets and customers and precluding free and unrestricted competition as between them and to prevent and deny to consumers the benefits of price and service competition in the sale of insurance products, which combination and conspiracy is unlawful *per se* pursuant to Ohio Revised Code §§ 1331.01 and 1331.04, and is void pursuant to Ohio Revised Code § 1331.06.

93. Defendants' unlawful conspiracy restrained and suppressed competition among themselves and with others in the sale of commercial casualty insurance in Ohio, and caused Ohio consumers of such insurance to pay high and non-competitive premiums for such insurance.

94. Agencies, instrumentalities and political subdivisions of the State of Ohio that purchased commercial casualty insurance from Defendants have been injured in their business or property in that they have been deprived of the benefits of free and open competition in the sale of such insurance and have been required to pay high and non-competitive premium rates as a direct result of defendants unlawful combination and conspiracy.

95. Defendants, unless restrained and enjoined by this Court, may continue or renew their unlawful combination and conspiracy to restrain trade in the business of insurance in Ohio thereby depriving Ohio consumers of commercial casualty insurance of the benefits of free and open competition in the pricing and sale of insurance products.

## **VII. FRAUDULENT CONCEALMENT**

96. As alleged above, beginning at least as early as January, 2001, the exact date being unknown to the plaintiff, and continuing until at least October 1, 2004, Defendants and their co-conspirators entered into agreements, and took steps in furtherance of those agreements, that were calculated to, and did, to conceal the existence of their unlawful combination and conspiracy from customers and law enforcement authorities.

97. Defendants and their co-conspirators agreed to take, and took steps to: (a) solicit and submit to insurance buyers inflated and fictitious premium quotations for the



purpose, and with the effect, of causing those buyers to believe they were purchasing insurance coverage through a competitive process when, in fact, the Defendant Insurers and co-conspirators had agreed not to compete for those customers' business; (b) refrain from submitting premium quotations to customers seeking competitive quotations for the purpose and with the effect of causing those customers to believe that suitable and cost competitive alternatives to the premiums demanded by the conspirator to which that customer's business had been allocated by Defendants' conspiratorial agreement were not available for legitimate business reasons; (c) plan and conduct meetings between defendants and risk managers for prospective insurance buyers at which the Defendants pretended to evaluate the risks for which the buyers sought insurance and to make or consider competitive proposals on the basis of those risks when the insurer that would insure those risks had already been chosen by Defendants' conspiratorial agreement; (d) conceal from and misrepresent to insurance buyers the amount and nature of commission payments made to Defendant MMC in connection with insurance business allocated among defendants by their unlawful agreement and conspiracy; (e) make, through Defendant MMC, affirmative and false representations that MMC, through its substantial share of the brokerage market, and the experience, knowledge and skill associated with that market position, had and would use "unparalleled" "leverage and ability to negotiate rates, terms and conditions" on behalf of its clients by "aggressively" "approaching multiple underwriters" to obtain options that would reduce its clients' "total cost of risk."

98. As a result of the acts and agreements of Defendants and their co-conspirators, Plaintiff did not discover, and could not with reasonable diligence have discovered, the existence of the Defendants' conspiracy earlier than October 14, 2004

when facts about defendants' unlawful acts were publicly disclosed in an enforcement action against MMC brought by the State of New York.

99. On or about January, 2003, Defendant MMC falsely and fraudulently represented, in writing, that despite its due diligence in soliciting their competitive bids, five Conspiring Insurers, including AIG, each had declined to submit quotes to sell Errors and Omissions Liability coverage to an Ohio pediatric hospital. This misrepresentation was made for the purpose of concealing the Defendants' arrangement under which MMC arranged the allocation of this policy to Executive Risk Specialty Insurance, Inc., the incumbent provider and an affiliate of Defendant Chubb. As a result of this misrepresentation the pediatric hospital was induced to believe that MMC, in good faith, exercised due diligence to obtain on its behalf the most competitive and favorable terms and premiums available rather than acting, as it was, in concert with Chubb and other Defendant Insurers to deny the benefits of competition to the hospital and other insurance buyers.

#### **REQUEST FOR RELIEF**

Wherefore the Attorney General respectfully requests that this Court:

(A) Adjudge and decree that Defendants' combination and agreement to allocate markets and consumers and to restrain free and unrestricted competition in Ohio in the pricing and sale of insurance products constitutes a conspiracy against trade in violation of Ohio Revised Code Sections 1331.01, 1331.04 and 1331.05 which conspiracy is unlawful *per se*;

(B) Adjudge and decree that the Defendants' combination and agreement to allocate markets and consumers and to preclude free and unrestricted competition as between them in the pricing and sale of insurance products in Ohio, and the written contracts containing or carrying out those agreements are void pursuant to Ohio Revised Code Section 1331.06;

(C) Permanently restrain and enjoin the Defendants, their officers, directors, agents, employees and successors and all other persons acting or claiming to act on their behalf from, in any manner, directly or indirectly, entering into, continuing, maintaining, or renewing any agreements to allocate markets and customers to preclude free and unrestricted competition as between them in the State of Ohio, or from engaging in any other combination, conspiracy, contract, agreement, understanding or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program or device having a similar purpose or effect;


(D) Issue an Order requiring that each defendant, pursuant to Ohio Revised Code Sections 1331.03, 1331.04 and 1331.06, forfeit to the State the sum of \$500 per day for each day that said defendant engaged or took part in the unlawful conspiracy against trade described in this Complaint;

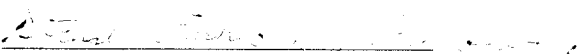
(E) Issue an Order requiring each Defendant to disgorge all ill-gotten profits said Defendant derived from engaging in the unlawful conspiracy against trade described in this Complaint;

(F) Issue an Order requiring each Defendant to pay, jointly and severally, an amount equal to three times all damages sustained by and permitted to be recovered by the State of Ohio on behalf of its public purchasers of commercial casualty insurance, along with all additional damages provided for under the law.

(G) Award to the State such other and further relief as the case requires and this Court may deem just and proper to redress and prevent recurrence of the alleged violation and to dissipate the anticompetitive effects of Defendants' violations.

Respectfully Submitted,  
FOR PLAINTIFF STATE OF OHIO  
MARC E. DANN  
Attorney General of Ohio

  
Mitchell L. Gentile (0022274)  
Principal Attorney, Antitrust Section  
Office of the Attorney General  
150 E. Gay Street, 20<sup>th</sup> Floor  
Columbus, Ohio 43215  
(614) 466-4328  
(614) 995-0266 (fax)  
E-mail: mgentile@ag.state.oh.us

  
Stanley M. Fisher (0013177)  
Commerce Park IV  
23240 Chagrin Blvd., Ste. 450  
Beachwood, OH 44122  
(216) 765-0123  
*Attorneys for the State of Ohio*