



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

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In the Matter of

**MARSH & McLENNAN COMPANIES, INC.,  
MARSH, INC., MARSH PLACEMENT INC.  
(formerly known as Marsh Global Broking  
Inc.), MARSH USA INC., MARSH USA (ALASKA),  
MARSH USA (CONNECTICUT), MARSH USA  
(MASSACHUSETTS), MARSH USA (MICHIGAN),  
MARSH USA (NEVADA), MARSH USA (OHIO),  
MARSH USA (PENNSYLVANIA), MARSH USA  
(TEXAS), MARSH USA (UTAH), MARSH  
INSURANCE AGENCY & INVESTMENTS and  
SEABURY & SMITH INC.,**

**AMENDED CITATION  
No. 2004-0123-C**

Respondents.

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**TO THE ABOVE NAMED RESPONDENTS:**

**YOU ARE HEREBY CITED** to appear at a hearing to be held at the office of the New York State Insurance Department ("Department"), 25 Beaver Street, New York, New York, at 10:00 a.m. on the 23rd day of November, 2004, to show cause why all licenses issued to you by this Department should not be suspended or revoked, and all pending applications for licensure or renewal thereof denied; why an order should not be made assessing civil penalties against you pursuant to Section 2127 of the Insurance Law; why a report pursuant to Section 2405 of the Insurance Law should not be made charging you with determined violations; and why such other punitive, remedial or preventive action as may be authorized by law, including restitution of all commissions and fees improperly received from insurers and/or insureds, should not be imposed, by reason of the charge(s) and specification(s) hereinafter set forth.

**CHARGE I**

**RESPONDENTS HAVE USED FRAUDULENT, COERCIVE AND/OR DISHONEST  
PRACTICES, AND HAVE DEMONSTRATED UNTRUSTWORTHINESS  
WITHIN THE MEANING OF SECTION 2110(a)(4) OF THE INSURANCE LAW**

1. During the approximate period from the late 1990's to the present, while acting as insurance brokers in connection with the placement of insurance for their

clients, the Respondents used fraudulent, coercive and/or dishonest practices, and demonstrated untrustworthiness, by engaging in the conduct alleged in the civil complaint filed in the Supreme Court of the State of New York, County of New York, by the Attorney General of the State of New York in the action entitled, *The People of the State of New York v. Marsh & McLennan Companies, Inc., et al.*, Index No. 04-403342. A copy of said complaint is attached hereto and fully incorporated herein by reference.

2. As alleged in said complaint, among other things, the Respondents:

(a) failed to fully disclose to their clients the nature and extent of additional compensation arrangements Respondents had entered into with insurers so as to enable their clients to understand the actual costs of the coverage and motivation of Respondents in placing the business with a particular insurer;

(b) acted against the best interests of their clients by placing business with insurers who paid Respondents the highest compensation rather than with insurers that offered the best available coverage and pricing to the client;

(c) pressured insurers to agree to pay Respondents additional compensation in the form of contingent commissions as a condition for the placement of business with the insurers;

(d) pressured their employees to steer business to insurers that paid Respondents the highest contingent commissions; and

(e) solicited false, inflated or otherwise non-competitive quotes from insurers so that Respondents' clients would agree to have their coverage placed with the particular insurer recommended by Respondents.

## **CHARGE II**

### **RESPONDENTS VIOLATED SECTION 340 OF THE GENERAL BUSINESS LAW**

3. The allegations of paragraphs 1 and 2 are repeated and realleged as if fully set forth herein.

## **CHARGE III**

### **RESPONDENTS HAVE ENGAGED IN DETERMINED VIOLATIONS WITHIN THE MEANING OF SECTION 2402(c) OF THE INSURANCE LAW**

4. The allegations of paragraphs 1 through 3 are repeated and realleged as if fully set forth herein.

5. Pursuant to Section 2402(c) of the Insurance Law, a determined violation is “any unfair method of competition or any unfair or deceptive act or practice, which is not a defined violation but is determined by the superintendent pursuant to section two thousand four hundred five of this article to be such method, act or practice.”

6. The aforesaid conduct of Respondents constitutes a determined violation within the meaning of Section 2402(c).

**PLEASE TAKE FURTHER NOTICE THAT:**

(A) According to the records of the Insurance Department: Marsh Placement Inc. (formerly known as Marsh Global Broking Inc.) is licensed as a broker under Section 2104 of the Insurance Law and as an excess line broker under Section 2105 of the Insurance Law; Marsh USA Inc. is licensed as a broker under Section 2104 of the Insurance Law, as an excess line broker under Section 2105 of the Insurance Law and as an agent under Section 2103(b) of the Insurance Law; Marsh USA (Alaska) is licensed as an agent under Section 2103(b) of the Insurance Law; Marsh USA (Connecticut) is licensed as a broker under Section 2104 of the Insurance Law, as an excess line broker under Section 2105 of the Insurance Law and as an agent under Section 2103(a) of the Insurance Law; Marsh USA (Massachusetts) is licensed as a broker under Section 2104 of the Insurance Law and as an agent under Section 2103(a) of the Insurance Law; Marsh USA (Michigan) is licensed as a broker under Section 2104 of the Insurance Law and as an agent under Section 2103(a) of the Insurance Law; Marsh USA (Nevada) is licensed as a broker under Section 2104 of the Insurance Law; Marsh USA (Ohio) is licensed as an agent under Section 2103(b) of the Insurance Law; Marsh USA (Pennsylvania) is licensed as a broker under Section 2104 of the Insurance Law, as an excess line broker under Section 2105 of the Insurance Law, as an agent under Section 2103 (a) and (b) of the Insurance Law, and as a life broker under Section 2104(b)(1)(A) of the Insurance Law; Marsh USA (Utah) is licensed as a broker under Section 2104 of the Insurance Law; Marsh USA (Texas) is licensed as an agent under Section 2103(b) of the Insurance Law; Marsh Insurance Agency & Investments is licensed as an agent under Section 2103(a) of the Insurance Law; and Seabury & Smith Inc. is licensed as a broker under Section 2104 of the Insurance Law, as an excess line broker under Section 2105 of the Insurance Law, as an agent under Section 2103(a) and (b) of the Insurance Law, and as an independent adjuster under Section 2108 of the Insurance Law. Marsh & McLennan Companies, Inc. and Marsh Inc. are not licensed under any section of the Insurance Law.

(B) This citation is issued pursuant to Sections 109, 303, 304, 305, 2110, 2127 and 2405 of the Insurance law.

(C) Your attention is directed to a statement in plain language, attached hereto, entitled "Summary of Hearing Procedures," summarizing the provisions of Department Regulation No. 97 (11 NYCRR 4). This statement contains important information concerning your rights and the Department's hearing procedures and should be read carefully. A copy of Regulation No. 97 will be furnished upon request.

(D) Should you fail to appear at the time and place fixed for the hearing, or any adjourned date thereof, the hearing will proceed as scheduled. Disciplinary action, if any, taken as a result of the hearing may result in the suspension or revocation of any and all licenses previously issued to you, the denial of any and all pending applications for licenses or renewal thereof, the imposition of civil penalties, and such other punitive, remedial or preventive action as may be authorized by law.

Dated: New York, New York  
October 25, 2004

NEW YORK STATE INSURANCE DEPARTMENT

By: \_\_\_\_\_  
Jon G. Rothblatt  
Principal Attorney  
212-480-5278

CERTIFIED MAIL:

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