SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
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THE PEOPLE OF THE STATE OF NEW YORK by ELIOT SPITZER, Attorney General of the State of New York,	:	
Plaintiff,	:	**COMPLAINT**
-against-	:	Index No.
AON CORPORATION,	:	
Defendant.	:	

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1. Plaintiff, the People of the State of New York, by Eliot Spitzer, Attorney General of the State of New York ("Attorney General"), complaining of the above-named defendant, alleges upon information and belief, that:

PARTIES

2. This action is brought by the Attorney General on behalf of the People of the State of New York based upon his authority under § 63(12) of the Executive Law, Article 23-A of the General Business Law (the Martin Act), and the common law of the State of New York.

3. Defendant Aon Corporation is a Delaware corporation with its main place of business in Chicago, Illinois and subsidiaries and affiliates around the world (collectively "Aon").

PRELIMINARY STATEMENT

4. Aon is the world's second largest insurance broker and the world's largest reinsurance broker. Aon is also a leading provider of risk management, human capital and management consulting, and specialty insurance underwriting. Businesses and individuals who

need insurance retain Aon to help them design an insurance plan and negotiate with insurers to get the best mix of coverage, service, financial security and price.

5. Aon told a client on October 22, 2004, that "it is our mission to represent you and your interests and not those of an insurance company." (AON-68-002385)[1] Separately, Aon affirmed: "We're objective. Our clients control the compensation for our services -- whether it is commission-based or fee-for-service." (AON-F-016395) Aon's code of business conduct, posted on its website, states Aon will "describe [its] products and services truthfully and accurately" and "never mislead clients through deceptive acts or practices . . . or [engage in] other unfair methods of competition." http://www.aon.com/about/pdf/aon_businessconduct guidelines.pdf (last visited Sept. 2, 2004)

6. Contrary to the foregoing claims, Aon has engaged in business practices in which its clients' interests have often been placed well behind those of Aon or insurers. Aon has entered into numerous agreements to obtain compensation from insurers in exchange for increasing the volume or profitability of insurance policies it places with these insurers. Aon has misled clients about the nature and amount of this compensation, concealing the obvious conflicts of interest it creates.

7. Aon has ignored its clients' interests when steering customers to preferred insurers to achieve maximum payoff for Aon and its insurers. As Carol Spurlock, Aon's then Managing Director of Commercial Risk, explained to an insurance company executive on April 14, 2003:

> Let me further confirm our ability to effect [sic] placement

[1]Bracketed citations refer to documents attached as exhibits hereto.

> behaviors. Our syndicators are evaluated on the percentage of their books that are with our "premiere" markets. Each Regional Syndication Director is held accountable as well. This is a measurable, compensated item that each syndicator is financially motivated to drive. (AON-6-018789)

8. These practices have not been limited to one business unit or line of insurance products. Undisclosed conflicts of interest and steering to the detriment of its clients' interests have been found in numerous parts of Aon, including: (1) Aon Risk Services, which handles commercial retail insurance brokerage; (2) Aon Personal Risk Management, which focuses on personal lines insurance; (3) Aon Re, which performs reinsurance brokerage services; and (4) Aon Consulting, which handles health care, life insurance and other employee benefits.

9. Aon has pursued a number of other complex and creative schemes to obtain improper compensation from insurers including:

- suggesting that an insurer raise its quote for a client's business in order to settle a debt to the insurer and increase its contingent commission payout, boasting that: "This is an example of AON letting Zurich have more rate and premium when we could have held them to a cheaper price";
- promising increased retail business to insurers in return for their commitments to use Aon's reinsurance services, so that one insurer explained "that Aon handling [reinsurance] is critically important to Aon and Chubb having positive relations and that if Chubb give[s] its [reinsurance] to Aon, [Pat] Ryan [Aon's Chairman and CEO was] willing to put his personal credibility and friendship with Dean [O'Hare, Chubb's Chairman and CEO] on the line to make sure Chubb received preferential treatment from Aon";
- entering into "producer funding agreements" whereby insurers directly funded the hiring of Aon brokers who held themselves out as Aon employees without disclosing that their positions were funded by the paying insurer;

- entering into secret “pay-to-play” arrangements with insurers whereby Aon required compensation from insurers that wished to bid on a client’s business;

- agreeing with preferred insurers to “freeze out” a competing insurer from Aon placements when that insurer did not provide comparable improper compensation to Aon;

- withholding a lower quote and placing a client with a higher bidding insurer with which Aon had a contingent commission agreement; and

- providing preferred insurers with first looks, last looks and exclusive looks on preferred business in exchange for improper compensation.

10. Each of these improper compensation schemes had the same objective: to increase income to Aon in return for preferential treatment to the insurer, at the potential expense of Aon’s clients.

11. Aon’s highest officers have participated in certain of these schemes. Patrick G. Ryan, Aon’s Chairman and CEO, personally agreed to assist The Chubb Corporation (“Chubb”) in increasing retail placements in exchange for Chubb’s use of Aon Re for reinsurance brokering. Michael O’Halleran, Ryan’s second-in-command, personally negotiated “clawback” arrangements in which Aon Re would provide discounts or incentives to insurers on its reinsurance on the condition that Aon could recover or “claw back” the discounts by increasing retail placements, which gave Aon incentives to steer to the same insurers. O’Halleran also oversaw Aon’s efforts to steer business to favored insurance companies. Robert Needle, Managing Principal of Retail Syndication, directly reported to O’Halleran, and participated in steering activities.

12. In fact, since at least 2001, the effort to obtain compensation from these improper schemes has been central to Aon’s business model. For example, just one form of such

compensation, contingent commissions, accounted for approximately $170 million of Aon's revenue in 2003. Because little or no services were performed in exchange for any of Aon's contingent commissions, this amount accounted for nearly one-fourth of Aon's net income of $663 million.

13. The losers in this have been Aon's clients and the marketplace for insurance. The clients have been harmed in at least two ways. First, insurers often passed the cost of contingent commissions on to the clients in the form of higher premiums. As one insurer noted about the contingent commissions it would have to pay Aon: "It appears that [contingent commissions] could hit 2.5% this year. Let's load an additional 2.5% in their premiums." (Internal Endurance Specialty Insurance Ltd. ("Endurance") e-mail, dated May 20, 2003) Second, the clients have not received what they paid for -- Aon's undivided loyalty and objective advice on their complex insurance placements.

JURISDICTION

14. The State of New York has an interest in the economic health and well-being of those who reside or transact business within its borders. The State also has an interest in ensuring the presence of an honest marketplace in which economic activity is conducted in a competitive manner, without fraud, deception or collusion, for the benefit of marketplace participants. In addition, the State has an interest in ensuring that the marketplace for the trading of securities functions fairly with respect to all who participate or consider participating in it. The State also has an interest in upholding the rule of law generally. Defendant's conduct has injured these interests.

15. Thus, the State of New York brings this complaint in its sovereign and

quasi-sovereign capacities, as *parens patriae*, and pursuant to Executive Law § 63(12), General Business Law §§ 340 *et seq.* and General Business Law §§ 352 *et seq.* (the Martin Act). The State seeks disgorgement, restitution, damages, costs, and equitable relief with respect to defendant's fraudulent, anti-competitive and otherwise unlawful conduct.

FACTUAL ALLEGATIONS

16. Aon, which employs over 50,000 professionals, provides numerous insurance placement and advisory services to its clients. Across the many practice areas of Aon's business in recent years, a pattern emerges. Aon has: (a) provided misleading or inadequate disclosure of compensation received from insurers; (b) acted as a fiduciary or trusted advisor to its clients; (c) accepted improper compensation from insurers; and (d) engaged in schemes to maximize that compensation to the detriment of its clients. Set out below are the facts relating to Aon's misleading disclosure and how Aon has followed the above pattern of client deception in each of its major product lines -- commercial insurance, personal lines, reinsurance, and health care consulting.

A. AON'S MISLEADING DISCLOSURE

17. Aon has never adequately disclosed its contingent commissions. As late as September 2004, Aon's website stated that it "believes a foundation of trust between broker and client must be supported by disclosure and transparency. Disclosure of agreements and relationships with insurers is an important part of this relationship." Http://www.aon.com/about/csu/csu_faq.jsp (last visited October 26, 2004) However, Aon consistently misled its clients about the true nature of its compensation agreements and in many cases provided no disclosure whatsoever to its clients about the role incentives played in its

placement decisions.

18. On its website in 2004, Aon described the justification for its contingent commission payments to its clients and the public as follows:

> Aon performs activities and provides services of value to insurers, including providing access to its substantial distribution networks, pre- and post-placement technical services, sharing of Aon's knowledge and expertise as an industry leader, policy design and review, research and development, risk analysis, claims management, administration and other underwriting-related activities. Providing these services ultimately benefits our clients, the insurance markets and Aon. (Http://www.aon.com/about/csu/csu_faq.jsp (last visited Sept. 2, 2004)

These so-called "services" were largely illusory and provided no real value to insurers. The "distribution" Aon cited is not a "service," but rather a necessary concomitant of Aon going to market on behalf of its clients, something Aon was duty bound to do as its client's agent and fiduciary -- and for which Aon was already compensated by legitimate fees and commissions from its clients. Nor did the other vague "services" mentioned (such as "sharing of Aon's knowledge") justify any of the payments that Aon received in contingent commissions.

19. Aon's disclosure to investors was no better. Aon never revealed to the investing public the true nature of its undisclosed compensation arrangements or the role they played in Aon's earnings.

B. AON RISK SERVICES HAS ENGAGED IN STEERING FOR UNDISCLOSED COMPENSATION AND HAS DIRECTED AN INSURER TO RAISE ITS BIDS FOR CLIENTS' BUSINESS

20. Aon Risk Services ("ARS") is the brokerage and risk management services arm of Aon. Brokers like ARS are hired by clients to advise them as to needed coverage

and to find insurers offering that coverage. ARS purports to represent the client, obtaining price quotes, presenting the quotes to the client, and making recommendations to the client based on many factors such as price, differences in coverage, an insurance company's financial security, or an insurer's reputation for service or claims payment.

21. In this structure, the client makes two types of payments: (1) it pays its broker an advisory fee or a commission for locating the best insurer, and (2) it pays the chosen insurance company premiums for the coverage itself. Aon and other brokers also have received "contingent commissions" from insurers pursuant to arrangements generally known as contingent commission agreements. The precise terms of these arrangements have varied, but they commonly have required the insurer to pay the broker based on one or more of the following: (1) how much business the broker's clients placed with the insurance company; (2) how many of the broker's clients renewed policies with the insurance company; and (3) the profitability of the business placed by the broker. Aon structured its business in an effort to maximize contingent commissions.

1. Steering

22. Beginning in or about 2001, Aon reconfigured its ARS brokerage business in an effort to consolidate control over contingent commissions in the hands of a small group of executives, known as the Syndication Group, which oversaw multiple product lines. The leading executives were Robert Needle, Managing Principal of Retail Syndication (the largest division of the Syndication Group), Carol Spurlock, Managing Director of Commercial Risk, and Ronald Moyer, Managing Director of Financial Services.

23. The Syndication Group named certain insurers "premiere" or "partner"

insurers based not on the price or service those insurers could provide to ARS's clients, but on the amount of money those insurers paid in contingent commissions.

24. The Syndication Group organized each product line into national units that oversaw placements and the negotiations of new contingent commission agreements intended to replace smaller local and regional contingent agreements with large national ones. These national agreements, originally called Placement Service Agreements or Override Agreements, were misleadingly renamed "Compensation for Services to Underwriters" or "CSUs" in March 2004. (AON-12-012682)

25. As ARS put national contingent commission agreements in place with various insurers, it put out the word internally to deliver on promises that were made to steer business to the insurers. For example, in March 2003, Carol Spurlock, who at the time was the head of Middle Markets, wrote to a colleague who had inquired whether business should be directed to Zurich North American Insurance Company ("Zurich"), as it had not paid contingent commissions to the Middle Markets department during the prior year: "Going forward, we are going to push Zurich. I just today negotiated our incentive so that we will get paid next year." (AON-13-000228) A month later, she described the Zurich relationship to another colleague:

> We have always had an extremely nice contingency with the excess folks at Zurich. We received a huge check from them on umbrella business last year. We did not have a middle market contingency last year, we do this year. So yes place lotz [sic] of business with [Zurich]. . . . (AON-13-000446)

This tone was set at the top. Robert Needle, the Managing Principal of Retail Syndication, told his subordinates at a Syndication Operations meeting that "[w]e should continue to grow our book with Chubb and also Hartford and Wausau based on our favorable contingency agreements." (AON-1-000224)

26. ARS also used its ability to steer as a means of pressuring and in some cases punishing insurers with decreased business if they displeased Aon. In December of 2003, The Hartford Financial Services Group ("Hartford") decided to no longer use Aon as its broker for placing its own directors and officers ("D&O") insurance. In a discussion between Needle and top Hartford executives, however, Hartford offered to "make it up to [Aon]" by using Aon as its broker on Hartford's own property insurance which had been previously placed without a broker. Michael O'Halleran was not satisfied with this offer. In a December 1, 2003 e-mail to Needle he stated "[i]s this a good trade off. Let's also take some business from them." (AON-6-004314) In response, Needle examined Aon's contingent commission agreements with Hartford, and suggested to O'Halleran that Aon keep its clients with Hartford only in insurance lines where Hartford paid Aon favorable contingent commissions. Further, Needle suggested that Aon could punish Hartford for the D&O decision by steering business away from it in the insurance lines where Hartford's contingent commissions were less favorable:

> In terms of taking business from [Hartford] our commercial [contingent commission] is favorable and I don't want to negatively impact. However, the D&O [Director and Officer] deal is not that attractive and Eric [Andersen, co-head of the Financial Services Group] and I have discussed trying to drive more end of year premium to our major partners in that line -- AIG, XL and Chubb. (AON-6-004314)

ARS also used its ability to steer business as a way of pressuring insurance companies to sign contingent commission agreements. As one ARS executive informed an insurer that had not yet signed a contingent commission agreement:

> We have been operating on the good faith that this [contingent

> commission agreement] would be mutually agreed quickly after our meeting here in NY.
>
> Based on the fact that we are almost halfway through the year, I will be advising our people in the field that we in fact don't Have a [contingent commission agreement] with [Industrial Risk]." (AON-6-003018)

27. ARS also provided financial incentives to employees who steered placements to insurers that paid ARS the most. Needle told one insurer that, "Insurer incentives are a key factor in the property bonus pool." (Internal Endurance e-mail, dated November 22, 2002) This message was reiterated by Needle's subordinates and the executives from the other ARS product groups. As Spurlock explained to an insurance company executive whom she was attempting to persuade to enter into a contingent commission agreement:

> Let me further confirm our ability to effect [sic] placement behaviors. Our syndicators are evaluated on the percentage of their books that are with our "premiere" markets. Each Regional Syndication Director is held accountable as well. This is a measurable, compensated item that each syndicator is financially motivated to drive. (AON-6-018789)

Eric Andersen, co-head of Aon's Financial Services Group, stated:

> To provide commentary on the [contingent commissions]. The revenue that arrives from the [contingent commissions] are [sic] integral to our budget and profit derived from FSG [Financial Services Group]. When we are being evaluated, they look at the full picture of earnings. Our bonus pool is set as a percentage of revenue. . . . If our [contingent commissions] fall, our ability to use the percents that we use to pay individual brokers would need to be changed. In short, it is a critical factor in our business and has a direct impact on how much we can pay people in FSG. (AON-1-000106)

In a later e-mail, the Managing Director of the Financial Services Group, Ronald Moyer, chastised an employee for questioning how contingent commissions are helpful to the group:

> it is safe to say that, over the past couple of years, [contingent commission] money has funded our entire bonus pool as well as our investment hires and still contributed significantly to the bottom line of the company. Anyone who does not see that as advantageous for them personally is looking through the wrong end of their telescope. (AON-1-000110)

28. ARS's disclosure of these business practices was woefully incomplete:

> It is agreed by Client and ARS that any revenue ARS may be entitled to from third parties due to contingencies, overrides, bonus commissions, and/or administrative expense reimbursements is strictly for the benefit of ARS. ARS will provide Client with further information upon request. (Aon fee compensation agreement template, Dec. 30, 2003, p.1)

2. Bid Inflation

29. In at least two instances, ARS's willingness to place its own interests ahead of its clients has led it to cause insurers to submit higher bids than the insurer otherwise would.

a. Fieldstone/Pearlstine

30. In September 2003, ARS instructed Zurich that its bid of $246,922 for the workers compensation business of Fieldstone Investment Corp. was too low and suggested that Zurich raise its bid before the bids were shown to the client. In this way, ARS sought to help Zurich recoup funds Zurich had expended on an unrelated client's account, Pearlstine Distributors, Inc.

31. Three months earlier, Aon had sought insurance coverage for Pearlstine. After the contract was bound, Zurich became concerned that it had provided coverage for a poor risk and to protect itself against that risk, paid $18,000 for an excess insurance policy. Zurich was upset about this additional cost and ARS offered to make up the $18,000 through future

transactions with Zurich, a strategic partner. Thus, in an e-mail, Spurlock promised Zurich that ARS would "re-imburse [sic] you folks for the Additional Reinsurance costs associated with umbrella coverage on Pearlstine through 9-1. . . ." (AON-PL-000041) In a subsequent conference call, Aon's middle market employees were told of ARS's undertaking on the Pearlstine account and were told to look for "opportunities" for Zurich, presumably as a means of "reimbursement."

32. An opportunity presented itself when Fieldstone Investment Corp. retained ARS to obtain a variety of coverages, including workers' compensation insurance. On September 18, 2003, Zurich provided a formal quote to ARS that was broken down by coverage area. Zurich bid $246,922 for the workers' compensation insurance portion.

33. Shortly after the initial bid was submitted, ARS contacted Zurich and suggested that Zurich could raise its quote without losing the bid. On September 26, 2003, Zurich provided a revised quote of $290,005 for the workers' compensation portion. Later, that bid was raised again to account for an increase in the number of Fieldstone employees covered. Nonetheless, Zurich's adjusted bid remained artificially inflated because it incorporated the revised inflated quote.

34. On November 13, 2003, after the account was bound with Zurich, the ARS employee assigned to the Fieldstone account wrote to Spurlock to explain what had occurred:

> We wanted to let you know that when we first started negotiating this deal with [the Zurich underwriter], his initial WC premium came in at $246,922. The expiring premium with the same payroll was $283,532. He quoted $36,610 less than expiring. We came back to him and allowed him to increase his initial WC quote to approx. same as expiring, $283,532. We allowed Zurich to get more money on this. . . . *This is an example of AON letting Zurich*

> *have more rate and premium when we could have held them at a cheaper price.* (AON-FM-000208) (emphasis added)

35. The next day Spurlock wrote to the Zurich executive who had negotiated the agreement on the Pearlstine account. She attached the November 13th e-mail and stated:

> [t]his one deal gave you twice the amount compromised on the Pearlstine account. Are we in agreement that we have now met that obligation[?] (AON-FM-000208)

On January 5, 2004, Spurlock again wrote to Zurich and attached both the November 13th and 14th e-mails:

> I never heard from you or [the Zurich executive] on this subject and we assumed that you are in agreement with the statements made below [the November 13th and 14th e-mails]. To refresh the circumstances surrounding this topic, remember that we agreed at a senior management level to forgive the additional premium generated by building the primary limit to $2M to Pearlstine with the promise that we would make it up to you in other business. This was done twice over on [Fieldstone]. (AON-FM-000207)

36. A later Aon internal e-mail noted that the inflated bid not only settled the Pearlstine debt to Zurich but helped Aon get closer to achieving payout on its contingent commission goal:

> Congrats again on Fieldstone. Not only was that a nice new hit, it certainly helped us on two fronts. It obviously helps to get us closer to our premium goal with Zurich and also to make up the $18K in premium that they helped us out on [Pearlstine], go away. As I recall you were able to get them $36K more in premium than they originally quoted to more than make up for what we owed them. That is the way a National operation should work. (AON-FM-000205)

b. Pitcairn

37. In another instance Aon also encouraged Zurich to raise the bid it was

willing to submit, even though Zurich ultimately did not get the coverage.

38. On July 9, 2004, a syndicator in the ARS environmental unit sent out requests for submissions to insurers for coverage of pollution liability on a condominium project in New York City being developed by Pitcairn Properties, Inc. (AON-F-015854) Zurich's underwriter, who had worked in the industry for approximately fifteen years, determined that a reasonable quote for the coverage would be in the mid-sixty thousand dollar range.

39. In a telephone call with the Aon syndicator, he communicated this bid. In response, the Aon syndicator told the underwriter that the quote was too low and that he wanted Zurich to quote in the upper ninety thousand dollar range. The Zurich underwriter agreed to provide the higher quote. The conversation was followed by an e-mail from the Aon syndicator to the Zurich underwriter: "[i]t was good talking with you just now, and it was refreshing to hear some willingness to take this opportunity on. . . . [t]he target is in the upper 90s." (AON-F-015854)

40. Four days after the conversation, Zurich provided a formal quote to ARS of $92,497. In its bid, however, Zurich failed to provide coverage for three scheduled non-owned disposal sites, something the syndicator had indicated that Pitcairn required. In a follow-up conversation, the Aon syndicator again told the underwriter that it was essential for Zurich to provide coverage for the disposal sites to win the bid. The Zurich underwriter orally agreed to cover the disposal sites without increasing its premium.

41. Although Zurich had the lowest quote, ARS advised Pitcairn to reject Zurich and take a higher AIG quote of $99,519. ARS justified the recommendation by telling Pitcairn that Zurich had refused to cover the disposal sites.

C. AON'S PERSONAL LINES INSURANCE UNIT ENGAGED IN STEERING AND OTHER DECEPTIVE PRACTICES IN RETURN FOR UNDISCLOSED COMPENSATION

42. Through its Aon Private Risk Management ("APRM") unit, Aon sells personal lines insurance products to individual clients, including homeowners, automobile, personal liability, and umbrella coverage. APRM targets the high end of this market, consisting of affluent individuals who can generate at least $1,000 in commission revenue to APRM per year. (AON-32-013509) Similar to its other business units, APRM's business model relies upon establishing lucrative contingent commissions and other agreements with selected insurers and directing premium to these "strategic partners" to achieve, in APRM's words, "maximum payout." (AON-34-000587)

43. APRM's clients place a great deal of trust and confidence in their brokers, due to both the complexity of insurance products and, as Bruce Macbeth, APRM's director of syndication, explained: "insurance kind of scares them." Once placed with a particular insurer, clients tend to renew with that carrier and not to re-shop the policy or seek competitive price bids. APRM has exploited these circumstances to steer clients to preferred insurers or to maintain their clients' programs with favored incumbents. APRM's clients were not informed that Aon maintains close ties with certain insurers, resists doing business with other insurers, and that the salaries and benefits of certain Aon employees may be paid for by insurers.

1. Insurer Funding of Aon's Personal Lines Employees

44. In or around 1999, Aon entered into "producer funding agreements" with select insurers providing for the insurers to fund directly the hiring of Aon personal lines brokers. These individuals held themselves out as Aon employees in every respect without disclosing that

insurers were funding their salaries as part of an Aon commitment to steer business to those insurers. In 1999, 2000 and 2001, Chubb funded 50% of salary and benefits for certain Aon personal lines brokers for the purpose of selling Chubb insurance. (2Chubb-001795-97, 002219, 002232, AON-F-020172) In some documents these Aon employees were referred to as "dedicated Chubb Personal Lines Producer[s]." (2Chubb-002273)

45. As part of its investment, Chubb played an active role in the recruitment and oversight of Aon producers, often hand-picking new Aon employees based on their previous demonstrated commitment to Chubb. For instance, in 1999, Chubb was charged $18,800 in fees by a recruiting firm to find "just the right person" to staff a personal lines position in Aon's Chicago office. (2Chubb-002797-98) Chubb also recommended a producer for Aon's New York office, who was subsequently hired by Aon and funded by Chubb.

46. The producer funding agreements themselves contained plain incentive for Aon "producers" to recommend Chubb insurance. A 2000 employment letter from Aon to a Chubb-funded producer in Aon's Cleveland office provided that in addition to a base salary of $65,000: "You are eligible for an annual bonus once you have reached your annual sales goal of $300,000 in new Chubb Personal Lines Premiums." (AON-F-020168) In the first year of his employment, the same Cleveland producer was instructed by his supervisors that when making sales calls to prospective clients, he should only offer Chubb insurance. Other insurance could be sold but only if Chubb insurance was not available.

47. Similar Chubb funding arrangements were in place in Aon's New York, Illinois, Oregon and Florida offices. (2Chubb 002215, 002265; AON-F-020172, 2Chubb 002797) Aon also accepted producer funding from Fireman's Fund Insurance Co. in 1999 and

2001 to fund 50% of compensation for up to 15 Aon producers. (AON 108435-37) According to a 2001 e-mail from Carter Brydon, APRM's former managing director, AIG wanted to engage in producer funding, but Aon "rebuffed AIG in their desire to join the party." (Chubb-029343)

48. These producer funding programs were an overlay to regional and national agreements calling for substantial steering to Chubb and Fireman's Fund. In Aon's Illinois office, to further motivate the Chubb/Aon producer, Chubb promised escalating contingent payments to Aon for writing automobile policies and bonuses of $1,000 or $2,000 to the Chubb/Aon producer, the Chubb/Aon producer's supervisor and other Aon staff if personal lines growth exceeded 8%. (2Chubb-002275-76) A letter memorializing a national Chubb/Aon producer funding agreement dated December 22, 1999 provided for Chubb to fund producers in certain Aon offices and stated: "Aon agrees to give Chubb & Son first right of refusal to personal lines business written through the Aon Private Client Group at the assigned offices." (2Chubb-002232) A similar proposal in 2000 contained the same language. (2Chubb-002278) And in 2001, Chubb loaned $500,000 to Aon "to assist in building your personal lines operation." (2Chubb-002655) The agreement further provided for forgiveness of the loan if Aon produced 13% premium growth to Chubb in 2001 and further that Chubb would pay Aon an additional $250,000 contribution if Aon achieved 15% growth. (2Chubb-002655) Aon never disclosed any of the above producer funding agreements to its clients.

2. The AIG "Freeze Out"

49. As a result of these and other arrangements, Aon actively worked to protect the market share of Chubb and Fireman's Fund in the personal lines area. When AIG entered the high-end personal lines market in 2000, Chubb communicated to Aon that its

"relationship" with Aon would be damaged if Aon established a significant partnership with AIG. (2Chubb 001063, 000951, 001887) In an internal memorandum dated August 30, 2000, Chubb wrote that Aon "agreed whole heartedly that Aon should be very wary of AIG's involvement in the high-end Personal Lines business and they would work hard to make sure that the local offices would not entertain AIG approaches." (2Chubb-001063)

50. In 2001, Aon reorganized its personal lines business under the APRM name, and named Macbeth APRM's director of syndication. One of Macbeth's first tasks was to draw up a "Syndication Master Plan," calling for APRM to consolidate its high net worth clients with the two insurers that paid APRM the highest contingent commissions: Chubb and Fireman's Fund. (AON-32-013509) APRM sought to enter into a contingent commission agreement with AIG, but AIG declined, and in response APRM's syndication plan stated: "we do need to develop a relationship with AIG's Private Client Group, but within very limited guidelines." (AON-32-013509) The plan elaborated that: "as I would consider them a minor strategic partner, [AIG] would only have the ability to consolidate these clients after Chubb and Fireman's Fund had their opportunity." (AON-32-013512)

51. APRM's contingent commission agreements with Chubb had a clear effect on APRM's placement efforts on behalf of its clients. On November 13, 2001, Brydon exhorted his staff in an e-mail: "we need to get $3,000,000 in written premium with Chubb by years end -- a daunting task no doubt -- but it means $500,000 to APRM if we do." (AON-32-015016) He further instructed: "[w]hen we get a good AIG quote, we should share it with Chubb and [Fireman's] Fund as a last look. *They are paying us to be in this position, we need to force them to act.*" (AON-32-015015 (emphasis added)) Brydon added: by doing business with AIG, "we

may be leaving a substantial sum of money on the table." (AON-32-015015)

52. In the following weeks, Macbeth reiterated the need to meet the Chubb contingent commission goals. He discouraged the practice of requesting bids from AIG as it would slow down the placement process by creating competition among insurers that would invariably favor AIG's lower prices:

> in the short term, we need to steer all submissions to Chubb. I am finding that most submissions are submitted to all three carriers and we all now [sic] what AIG will do to buy market share. We need to emphasize that AIG should only be used if there is an underwriting issue with Chubb, which we can address. If we approach AIG on all submissions, the reason for carrier chosen will always be rate and it will slow submission process. (AON-32-015171)

A few days later, Macbeth prepared the speaking points for a joint conference call among APRM's executives and its originators and relationship managers, who handle personal insurance placements on the front line:

> *With our override agreements with Chubb and Fire Fund, we need to direct all new business exclusively to them for the next month and beyond.* Chubb should be the first choice for any risk with Fireman's Fund a second thought. (AON-32-015217 (emphasis added))

After reviewing the speaking points, Brydon added a qualifying comment:

> let's don't go on record with putting Chubb 1st and Fund 2nd. They should be equal. We should just push Chubb a little harder behind the scenes to get them the business. (AON-32-015217)

With regard to AIG, Macbeth's speaking points directed APRM's brokerage staff:

> We must use [AIG] only for the complex accounts, which generate over $35,000 in premium. If we submit all risks to them, the [sic] they will write a majority of them because of their rate flexibility. In addition, we do not have any overrides for growth, nor will we

> get any in the forseeable [sic] future, just standard brokerage commissions. (AON-32-015217)

53. In 2003, AIG entered into a contingent commission agreement with APRM and APRM refined its approach, generally quoting all new business to Chubb, AIG, and Fireman's Fund. APRM, however, continued to show a preference to Chubb. In a 2003 e-mail concerning AIG, Macbeth wrote to Brydon: "I would like to discuss with you how to diplomatically put into action a strategy of playing with them, but at arm's length." (AON-34-000191)

54. After 2003, APRM continued to use a number of devices to control the placement process and ensure that premium was placed with its preferred insurers, including limiting remarketing of accounts once a client was placed with a preferred incumbent, limiting marketing of new clients to preferred insurers, providing preferred insurers with first looks, last looks, or exclusive looks at client business, and constantly reminding, and in some cases reprimanding APRM brokers who exercised independent judgment in the placement process. Aon's clients were not informed that it provided these market favors to insurers in return for contingent commissions.

55. For instance, in a May 2, 2003 e-mail, Brydon complained that an Aon broker was prepared to move a high profile account from Chubb to AIG "without giving Chubb a chance to get a last look. This is unacceptable." (AON-34-000606) He added: "it is time for consequences. No commission for the sale . . . regardless of what happens. He needs to be written up." (AON-34-000606) Similarly, another broker was cited by Macbeth in a June 24, 2003 e-mail for "let[ting] the cat out of the bag" with regard to "substantial rate increases" by

Chubb in Illinois and the existence of more competitive rates by AIG. (AON-34-013449) Macbeth stated: "I understand the issues with IL rate increases, but should we just throw up our hands and remarket all our IL accounts to AIG? We can certainly find a better solution, but not once we have whispered in a client's ear." (AON-34-013441) On October 27, 2003, the then acting head of APRM, wrote concerning an APRM broker who touted AIG to a prospective client: "why wouldn't he have mentioned Chubb. Sounds like he needs an education . . . . " (AON-34-004756)

______ 56. Like ARS, APRM took care to conceal the manner in which its contingent commission and producer funding agreements with insurers compromised APRM's loyalty to its clients. Even after the New York Attorney General's Office had sued another broker for similar activities, APRM continued to misrepresent the effect of undisclosed compensation agreements to its clients. On October 19, 2004, an APRM relationship manager wrote to a client who had inquired about Aon's contingent commission policies:

> Aon is structured in a fashion that does not lend itself to the abuses that are aledged [sic] of the industry. We market individual client insurance programs on a case by case basis, and the local office is not aware of contingent income agreements, and is therefore not influenced by them in any way. (AON-68-002386)

D. AON HAS EXPLOITED ITS RETAIL PLACEMENTS TO OBTAIN REINSURANCE BROKERAGE BUSINESS AND HAS ENGAGED IN STEERING

57. Aon Re Global ("Aon Re") is the largest reinsurance broker in the world. Reinsurance is insurance purchased by insurers to cover or balance the risks associated with their own insurance portfolios. Whereas the customer in the retail insurance market is an individual or business corporation, the customer in the reinsurance market is the insurer itself, seeking to cover

risk created by its retail insurance policies. Aon Re and other reinsurance brokers represent insurers and advise them in selecting reinsurance packages.

58. Beginning in the 1990s, Aon Re devised numerous ways of obtaining improper compensation in return for steering. Aon leveraged its retail insurance services over insurers by demanding that the insurers use Aon Re's reinsurance services in exchange for Aon's agreeing to increase retail placements with the carrier. Such promised leveraging provided streams of undisclosed compensation to Aon in the form of insurance carrier commitments to use Aon Re for reinsurance. Aon Re also received contingent commissions from reinsurers in exchange for increased reinsurance placements.

59. Thus, through its multifaceted business lines, Aon devised improper methods to obtain multiple bites at the compensation apple. One insurer, reviewing an Aon compensation scheme, commented "I can think of 5 ways we potentially pay aon [sic] on the same account." (LM 006157) These included: (1) the standard commission, which would be disclosed to the client; (2) a national contingent commission agreement; (3) a local contingent commission; (4) reinsurance brokerage arising from the insurer's undisclosed commitment to use Aon Re's reinsurance services for facultative (policy-specific) reinsurance; and (5) a similar commitment to use Aon for the insurer's treaty (multiple policy) reinsurance. In addition, although not mentioned in the e-mail, when Aon Re placed the insurer's reinsurance business with one of Aon's partner reinsurers, Aon might also receive a reinsurance contingent commission.

1. Retail Steering in Exchange for Reinsurance Brokerage

60. Aon's effort to leverage its retail brokerage arrangements to obtain

reinsurance involved its top executives. Around 2000, Aon Re representatives often claimed that by doing business with Aon Re, the insurer would gain access to, and sometimes preference from, the entire Aon organization, including Aon's retail brokerage units. Aon marketers and top executives used the slogans "Interdependency" and "One Aon" to describe this practice.

61. Documents indicate that, as early as 1994, Aon's Chairman and CEO, Patrick G. Ryan, "allegedly demanded" reinsurance business from CNA Insurance Companies ("CNA"), another insurance carrier, in exchange for a promise to deliver two lines of retail business to CNA. (Carvill America Letter dated January 7, 1994; CNA Letter dated January 11, 1994; Memorandum to File relating meeting of January 7, 1994) Later, in 2000, Ryan personally negotiated an arrangement with Chubb whereby Chubb would give certain reinsurance business to Aon Re in return for preferential treatment from Aon's retail brokers.

a. The Chubb Corporation

62. In the summer of 2000, Chubb Executive Risk, a newly acquired Chubb subsidiary focusing on the insurance needs of business executives, conducted an extensive review of its insurance lines to determine how to structure its reinsurance purchases. Prior to being acquired by Chubb in 1999, Executive Risk had used Carvill America, Inc. as a reinsurance broker for its D&O reinsurance program.

63. On June 19, 2000, Aon's chief reinsurance officer from its Philadelphia office wrote a memorandum to Michael O'Halleran, Aon's President and Chief Operating Officer at the time, describing his conversations with top Chubb executives about Aon Re's desire to handle Chubb Executive Risk's reinsurance. Chubb Executive Risk's president reacted negatively to the "One Aon" message, explaining: "Aon Re originally received the Chubb

casualty reinsurance program some three years ago because of commitments made by O'Halleran/Ryan to Dean O'Hare regarding increased retail growth." Chubb believed that "this did not happen and therefore, [Chubb's] attitude was so much for the leverage card." (AON-F-020487)

64. Two months later, the same Aon executive wrote a second memorandum to O'Halleran describing his meeting with three top Chubb executives about reinsurance. Once again, the Aon executive said that "any conversations we would have would be in the context of the overall Aon/Chubb corporate trading relationship." (AON-F-020379) This time, Chubb's chief underwriting officer "became extremely angry and animated," and "strongly advised me not to go there." (AON-F-020379) The Chubb executive explained: "[i]n Chubb's mind, Aon did not deliver on original promises made when [Chubb] awarded Aon Re the casualty reinsurance some three years ago." The Chubb executive raised a number of other areas of contention between Aon and Chubb, including that the "Aon/Chubb relationship is deteriorating," noting that "[o]verall premium volume between Aon/Chubb down some $90,000,000." (AON-F-020379)

65. Chubb had voiced similar complaints that year. (2Chubb 000951, 000962-63) In another correspondence, an executive from Chubb Executive Risk complained: "Pat Ryan is well-known for leveraging the scope of Aon's brokerage relationships. Can you ask him why they just moved $15,000,000 in non-profit D&O . . . business from me in Washington, DC . . . when at the same time you were soliciting [Chubb Executive Risk's reinsurance] business here in Simsbury?" (AON-F-020514)

66. On September 13, 2000, Ryan and Chubb's Chairman and CEO, Dean

O'Hare, met for dinner at the Four Seasons Hotel in Chicago. (2Chubb 000984) At some point prior to the meeting, Ryan had called O'Hare by telephone to inquire about Aon Re's bid to obtain Chubb Executive Risk's D&O reinsurance. O'Hare said he would look into the matter, but stressed to Ryan that Chubb was not happy with the current Aon relationship, as Aon was not giving enough retail business to Chubb.

67. In preparation for the Four Seasons dinner, a Chubb executive spoke with O'Halleran and then briefed O'Hare on the issues to be discussed. Chubb's first priority was to stop the "bleeding" in new retail business by highlighting its contingent commission with Aon: "We need to tell them we are open for business (e.g., their new business production) and are <u>paying</u> them extra for it." (2Chubb 000978) (emphasis in original) The Chubb executive also told O'Hare that Aon Re would like to "quote" Chubb Executive Risk's reinsurance program. (2Chubb 000979)

68. At the Four Seasons, Ryan stressed that Aon Re could do a better job for Chubb on its reinsurance business. O'Hare complained that Aon was not giving Chubb enough retail placements. With regard to personal lines, O'Hare told Ryan that he was concerned that AIG, a new entrant to the high-end segment of the market, was "trying to burn into the market" by offering lower prices than Chubb. After the meeting, O'Hare told his executives to look at the reinsurance business to "see what Aon can do for us."

69. Despite these conversations, on October 11, 2000 Chubb Executive Risk recommended continuing with Carvill as the broker for the placement of a layer of the D&O reinsurance. (2Chubb 000906-911) Chubb's management in Warren, New Jersey agreed with Chubb Executive Risk's recommendation to keep the business with Carvill.

70. On or about October 17, 2000, Ryan tracked down O'Hare, who was traveling in Brazil at the time, to discuss Chubb Executive Risk's reinsurance. After the call O'Hare -- without consultation with other Chubb staff -- told his secretary to notify his senior executives, who were still recommending Carvill, that Aon Re would receive the Chubb Executive Risk D&O reinsurance business. One Chubb executive recalls later joking with O'Hare about his decision to overrule his staff: "you [sure] complicated my life as to timing" as Chubb Executive Risk had already recommended Carvill, and the January 1, 2001 renewal date for the D&O reinsurance program was fast approaching.

71. Notes taken by a participant in a conference call between Chubb and Carvill on the next day, October 18, 2000, purport to describe the conversation between Ryan and O'Hare:

> Dean O'Hare has promised Pat Ryan Aon will get the lion share of [Chubb Executive Risk's] reinsurances. Promise made some time ago and Ryan called Dean [O'Hare] in S.A. earlier this week to make sure promise being upheld. Told Dean that Aon handling [reinsurance] is critically important to Aon and Chubb having positive relations and if Chubb give [reinsurance] to Aon Ryan willing to put his personal credibility and friendship w/ Dean on the line to make sure Chubb receive preferential treatment from Aon.
>
> [Four Chubb executives] all opposed to the decision but believe this is a done deal and do not believe they can convince Dean to change his mind

72. A second set of notes relates a conversation between a Chubb executive and an Aon executive on October 23, 2000 and were taken by the Aon employee upon being notified that Aon Re would get the D&O reinsurance. The notes state that a Chubb executive intended to talk to O'Hare about why he believed O'Hare had made the wrong decision. (AON-

F-020510) The notes add: “Dean made decisions w/out talking to anybody.” (AON-F-020510)

73. On October 30, 2000, O’Halleran wrote to Chubb to extend his gratitude for Chubb’s D&O reinsurance business, and noted: “As promised, I am arranging a conference call with our financial services people, you and Executive Risk and also checking on personal lines issues.” (Chubb 035506)

74. O’Halleran continued to monitor the Aon/Chubb relationship. On May 6, 2003, Robert Needle wrote to O’Halleran: “there is quite a bit of attention being paid to the Chubb relationship. We have 3 areas of focus and 3 corresponding PSA agreements,” notably in the commercial insurance, D&O and personal lines areas. (AON-19-006333) Other top Aon executives also monitored the Chubb/Aon relationship. On October 6, 2003, Eric Andersen reported to Chubb:

> I can tell you unequivocally that we have maintained a very aggressive pro-Chubb position as you have repositioned your book of business based on your allocation position. The growth in the middle market area, for example, has been very strong (much to the angst of your competitors who call weekly, pay a larger commission percentage and demand a greater share of that business based on their more active role on the primary placements for the large accounts). (AON-1-000537)

b. AIG

75. Another example of Aon promising to steer retail business in return for insurer commitments to use Aon Re’s reinsurance services concerned AIG. In the fall of 2000, AIG indicated that it was considering handling in-house a particular reinsurance program called CCA. In a November 27, 2000 e-mail to top Aon executives, including Ryan and O’Halleran, on both the retail and the reinsurance sides of the business, an Aon executive explained:

> In return for a commitment of $10,000,000 in new gross premium from ARS US, AIG has agreed to appoint Aon Re for an additional 2.5% placement of the CCA program, which [AIG] has indicated is worth $750,000 in commission for Aon Re. (AON-18-003857)

c. Liberty Mutual

76. Similarly, Aon Re expressly conditioned providing increased retail production in return for reinsurance business in the case of Liberty Mutual Group ("Liberty Mutual"). In the first and second quarters of 2000, Liberty Mutual undertook a review of its property reinsurance program following its 1998 affiliation agreement with Employers Insurance of Wausau .

77. During the week of February 14, 2000, Scott Clark, the head of Aon Re's Property Practice Group, attended a Liberty Mutual meeting, and demanded that Liberty Mutual use Aon Re "on Aon produced business." (AON-44-0000007, AON-F-008723) Clark then demanded Liberty Mutual's treaty reinsurance:

> I told them we are the best qualified to handle their corporate reinsurance program. Reinsurance is extremely important to Aon and without it we just won't grow as well as with it. I told them if we don't get their reinsurance there is no point in these "love ins". Needless to say I got their attention, some say I was too strong but we have got to stop screwing around with the interdependence message, especially to those that can give us their reinsurance, depend on Aon for production and have mediocre brokers . . . . (AON-44-0000007)

Following the 2000 review, Aon Re obtained Liberty Mutual's reinsurance business.

2. "Clawbacks"

78. Aon's practice of leveraging its retail brokerage arrangements to obtain reinsurance business became so routine that it memorialized these arrangements in a variety of

contracts known informally as “clawbacks.”

79. Many of these “clawback” arrangements shared a similar pattern. Initially, the insurer would express displeasure at Aon Re’s brokerage commissions and would threaten to shop around for competitive rates. In order to retain the reinsurance account, Aon Re would offer the insurer an incentive by heavily discounting its reinsurance brokerage commissions. Lastly, in order to recover the compensation lost by the discount, Aon Re would negotiate a "clawback," allowing it to reduce or eliminate the reinsurance brokerage discounts by steering retail insurance business to the insurer.

80. These "clawback" arrangements were governed by confidentiality clauses, (AON-0014304), and, therefore, Aon’s retail clients were not informed that Aon steered, or had incentives to steer, business to selected insurers in return for the insurers’ commitment to use Aon’s reinsurance services. In addition, through steering or promises of steering retail business, Aon Re gained a competitive advantage over competing reinsurance brokers that did not operate retail insurance brokerage units.

81. Michael O’Halleran, Aon’s President and Chief Operating Officer until 2004, was in a unique position to make sure Aon capitalized on the relationship between Aon Re and ARS because both business units reported to him; he negotiated many of the “clawbacks.”

a. Liberty Mutual

82. Liberty Mutual, which as noted above was subjected to leveraging pressure from Aon Re, also entered into “clawback”agreements with Aon in 2002 and 2003.

83. In 2002, Liberty Mutual expressed concern that Aon Re’s brokerage fees in property reinsurance were too high and began exploring using a co-broker or moving its

property reinsurance business to another broker. To retain the business, Aon's O'Halleran and Clark negotiated an agreement whereby Aon promised increased retail premium placement to Liberty Mutual in return for Liberty Mutual's continued use of Aon Re for its property reinsurance. (AON 0014304-09) As an added incentive, Aon Re provided Liberty Mutual with a reduction on its reinsurance brokerage fees. (AON 0014307-09) Aon then had the opportunity to recapture or "claw back" its lost reinsurance brokerage revenue, based on the volume or profitability of retail property business placed with Liberty Mutual. (AON-0014304-05) The terms of the agreement were secret, so purchasers of Liberty Mutual property insurance through Aon did not learn of Aon's incentives to funnel more business to Liberty Mutual in return for reinsurance brokerage commissions. (AON-0014306)

84. Prior to entering into or renewing its "clawback" agreements with Liberty Mutual, Aon executives, on both the retail and reinsurance sides, including O'Halleran, discussed Aon's ability to steer significant business to Liberty Mutual. (AON-19-003790, AON-F-008723). In one e-mail, Scott Clark wrote "I'll speak with [head of Aon property retail department] about the reality of putting significant business into [Liberty Mutual] in order to trigger the partnership dividend." (AON-19-003790)

b. RLI Insurance Company

85. In 2001, Aon entered into a similar clawback agreement with RLI Insurance company ("RLI") that combined incentives for Aon to steer retail placements to RLI with incentives for RLI to use Aon Re for its reinsurance needs. The agreement, again negotiated by O'Halleran, called for Aon Re to pay RLI a 20% rebate on all brokerage it paid to Aon Re for placing its reinsurance agreements. As an added incentive, Aon Re promised to pay RLI an

additional 5% rebate on its reinsurance brokerage commissions if Aon did not produce 20% growth in annual retail premium to RLI. (RLI 000993, 001000-001001, 001291-001292) Thus, the arrangement permitted Aon to "claw back" the 5% reinsurance rebate by producing 20% growth in retail business to RLI. (RLI 001291-001292) As RLI's president and chief operating officer explained in a July 27, 2001 letter to O'Halleran, linking the reinsurance rebate to retail growth provided "a very strong incentive for us to utilize Aon Re as our primary reinsurance intermediary." (RLI 001000)

86. In 2003, Aon Re further linked the relationship between its retail and reinsurance brokerages. On March 25, 2003, RLI's president and COO spoke with Aon Re's vice chairman, David Kelley, concerning the reinsurance business for RLI's executive protection group. Kelley "committed to Aon's delivering more [retail] business to RLI" in exchange for which, Aon would retain RLI's reinsurance business. (RLI 001149, 001151) In a follow-up e-mail, RLI also confirmed Aon's promise "to produce $25 million in retail premium production for the product line." (RLI 001151) Neither Aon's retail incentives under its reinsurance agreements with RLI nor its commitment to produce $25 million in retail business to RLI was disclosed to Aon' s retail customers.

c. Travelers Insurance Company

87. Aon entered into yet another "clawback" agreement with Travelers Insurance Company. In 2001, Travelers Bond communicated to Aon that it was considering moving its reinsurance brokerage business to Guy Carpenter, Aon Re's competitor. Aon Re offered a strategic partnership under which it would increase its placement of retail business to Travelers Bond if Aon Re maintained the reinsurance brokerage business.

88. In a series of meetings with Travelers Bond executives, Aon's O'Halleran stated that if Travelers Bond continued to use Aon Re, Aon would commit to increasing its retail placements with Travelers. These meetings were followed by an formal offer sent from O'Halleran to the CEO and CFO of Travelers Bond, (STP 00002-05), providing that if Travelers maintained the reinsurance relationship, Aon would pay Travelers Bond $1.5 million and that Aon could eliminate or "claw back" Aon's payment if it increased its retail business to Travelers Bond. Ultimately, Aon and Travelers Bond entered into a clawback agreement on slightly different terms. Aon never informed its retail clients of any clawback agreement or its incentives to steer retail business to Travelers Bond.

3. Reinsurance Steering in Exchange for Contingent Commissions

89. As in the retail markets, Aon Re has entered into contingent commissions agreements with preferred reinsurers and has directed reinsurance to these reinsurers without sufficient disclosure to Aon Re's insurance carrier customers. Since 1997, Aon Re has entered into contingent commission agreements with at least 12 reinsurers. (AON 0014181-82) The benefits of entering into reinsurance contingent commission agreements with Aon Re were outlined in a June 19, 2003 letter from an Aon Re senior vice president to Endurance Re Corp. of America:

> You asked me to [sic] other day why would Endurance want to become a strategic partner with Aon's investment in Endurance and the potential that your costs could increase slightly. We think there are a number of good reasons but a couple of the major reasons are as follows. *First you would enjoy favored treatment over non-strategic partners.* As mentioned previously you would have the opportunity to personally review the entire listing of all current treaty abstracts. This gives you a unique opportunity to pre-select programs you are interested in participation [sic] as a reinsurer.

> *Second on new programs you would have the first opportunity to quote and participate on the programs.* On renewal business we would attempt to make room on a program you are interested in and or if an existing reinsurer declined to participate you would have the first crack at replace [sic] the expiring reinsurer. (AON-F-009696)(emphasis added)

Endurance ultimately entered into such an agreement with Aon Re for the 2004-2005 period. (AON-0014363)

90. Aon Re also provided direct financial incentives for its brokers to engage in steering. After entering into a lucrative contingent commission agreement with Kemper Reinsurance Company ("Kemper") in 1998, Aon Re paid an additional bonus to its brokers "as an incentive for having placed business with the Kemper last year." (AON-F-009475-76) Kemper paid Aon Re reinsurance contingent commissions of $557,934.50 in 1997, $570,000 in 1998 and $2.5 million in 1999. (AON-F-0014181)

91. Aon's disclosure of reinsurance contingent commissions was misleading and inadequate. In 2003, in appointing Aon Re as broker of record for its Executive Products Group reinsurance, RLI Insurance Company entered into an understanding that Aon Re would provide "[f]ull disclosure of brokerage charge" in all reinsurance placements for RLI. (RLI 001151) However, Aon Re did not disclose to RLI that it had placed RLI reinsurance with two reinsurers with which Aon Re maintained contingent commission agreements. Later, in early 2004 when RLI asked directly for information on all reinsurance contingent commissions, Aon Re responded in part:

> Aon Re occasionally enters into [contingent commission agreements] with reinsurers. In general, Aon Re performs various services under the [contingent commission agreements], and it receives payments based on certain business volume or

> production targets with respect to business placed with the reinsurer in question. [Contingent commission agreements] are a long-standing practice in the reinsurance industry, and reinsurance customers can benefit from the relationship established between Aon Re and the reinsurer through the [contingent commission agreement]. (RLI 001119)

Unsatisfied, RLI wrote back demanding "a clear answer to our inquiry as to whom the parties are that AON has or has had [contingent commission agreements] with and the nature of the [contingent commissions]." (RLI 001130)

92. Aon Re ultimately provided a second letter dated September 23, 2004, identifying the names of two reinsurers from which RLI had purchased reinsurance through Aon Re and disclosing RLI's "proportionate share" of contingent commissions paid to Aon Re by these reinsurers. (RLI 0001137) Despite RLI's repeated requests for information about the agreements, the letter still did not disclose the gross contingent compensation paid to Aon Re by the reinsurers or that one of the contingent commission agreements provided for Aon Re to use "its best efforts to secure preferential signings on placements." (AON 0014348)

E. AON CONSULTING HAS ENGAGED IN UNDISCLOSED STEERING, "PAY-TO-PLAY" ARRANGEMENTS AND BID INFLATION

93. Aon U.S. Consulting, Inc. ("Aon Consulting") provides clients with consulting on employee benefits insurance. In 2003 alone, Aon Consulting generated approximately $1.2 billion in gross revenues. Its recommendations affect the price and quality of the health, dental, life, and disability benefits received by millions of employees at numerous large private and governmental employers, including General Motors, AT&T, the United States Department of Homeland Security, and the Federal Bureau of Investigation, as well as many

small businesses, municipalities and non profit corporations.

94. Aon Consulting pledges to clients that it will become their "strategic business partner," (AON-12-004883), "make recommendations . . . regarding the most effective plan management," (AON-LIV-000010) and "obtain the greatest level of benefits available, consistent with current dollars expended and investigate options to reduce costs." (AON-LIV-000040) It claims that it is "there to help [its clients] every step of the process, for all types of health and welfare services," so that its clients can achieve their "optimal performance." According to one Aon Consulting executive in January of this year: "Our mantra is the client comes first."

95. In fact, as with ARS and APRM, Aon Consulting has entered into undisclosed national and local contingent commission or "override" agreements that have created incentives to steer business to maximize its revenue. In 2003 alone, Aon Consulting earned in excess of $20 million from such contingent commission payments.

96. Aon Consulting deceived its clients by telling them that contingent commission payments had no impact on their rates. (AON-12-12972-87) In fact, Aon knew that some insurers factor contingent payments directly into their premiums. As a result of these practices, employees often received more expensive and less optimal health, life and disability coverage.

1. Steering

97. Like ARS and APRM, Aon Consulting has steered business to insurers who paid undisclosed contingent commissions. Internally, Aon Consulting has acknowledged that the contingent commission agreements have affected Aon Consulting's recommendations.

For example, one Aon Consulting executive suggested that contingent commission agreements rewarding new business caused Aon Consulting "to move cases to other carriers just to generate [contingent commissions]." (AON-14-000253) Another Aon Consulting executive declared that the intent of its contingent commission agreement with the Guardian Life Insurance Company "was and still is to incent our people to place business with the Guardian. . . ." (AON-14-001024)

98. Contingent commission agreements could function as a stick as well as a carrot for the insurers. Aon Consulting threatened insurers with fewer business opportunities when they sought to reduce contingent commissions. For example, in an August 2002 e-mail, an Aon Consulting executive warned UNUM Provident Insurance Company ("Unum") that "decreasing your renewal compensation levels may have an adverse effect on how often our producers show your product. . . ." (AON-14-000477) The following year, when Unum again sought to lower Aon Consulting's contingent commission compensation, Aon Consulting replied:

> If we were to accept the proposed reduction, our compensation from Unum would be about 80% of the compensation we receive from Met and Mass Mutual. It's almost like you are telling us that we should place our new business with a carrier other than Unum so that we can make [more] money? (AON-14-001117)

And, in December 2002, an Aon Consulting executive in its Chicago office expressed his "concerns" to Mutual of Omaha, a provider of life insurance, that this insurer was offering incentives that were lower than those provided by other insurers at this time:

> This does not make sense to us. . . . Why does Mutual want to discourage us from doing business with you? You need to reconsider this decision. (AON-00001403)

99. Aon Consulting failed sufficiently to disclose the impact of the contingent

commission agreements, stating:

> Aon Consulting, Inc. may receive override commissions based on the aggregate volume of business placed with the insurer. The amount of overrides, if any, will not be known until the end of the plan year. (AON-12-004715)

100. Aon Consulting's own internal audits in 2004 show that some of its primary offices, including New York City, failed to make even this minimal disclosure. (AON-12-016408; AON-12-016416) Moreover, Aon Consulting provided no information to its clients about whether any contingent commissions were received on a particular account and what Aon Consulting did in exchange for these payments.

2. Aon Consulting's Liverpool Office Engaged in Other Deceptive Practices Including a "Pay-To-Play" Arrangement and Bid Inflation

101. Aon Consulting's culture of client deception is well illustrated by the actions of its Liverpool, New York office, which repeatedly lied to its clients and engaged in "pay to play" and bid inflation.

102. Among the clients represented by the Liverpool office was Herkimer County, New York ("Herkimer"), which has approximately 1,000 employees, including the faculty and staff of Herkimer County Community College. Herkimer self-insures its employees' basic healthcare program and secures "stop-loss" insurance for occasions when an employee's health care claims exceed $100,000.

103. Beginning in 1996, Aon Consulting agreed to act as an independent insurance evaluator. Aon supposedly "[m]onitor[ed] the marketplace to ensure that Herkimer County . . . receiv[ed] all services on a cost effective basis." (AON-TS-001159-60) Aon Consulting told Herkimer that it would obtain bids for the "stop-loss" program and provide

advice on which bid best met its coverage and price needs in exchange for an annual fee from Herkimer. (Agreement between Aon Consulting and Herkimer County, dated Jan. 1, 1998) What Aon Consulting did not reveal is that it required insurers to add a 15% commission to Aon Consulting in their proposals as a condition of bidding on the Herkimer business. (AON-TS-000546-47)

104. Aon Consulting received more than $78,153 in such commissions over the five years it placed the "stop-loss" program for Herkimer, the cost of which was passed on to Herkimer's employees in the form of higher premiums. (AON-TS-000546-47) To conceal the payments from its client, Aon Consulting intentionally omitted sections of the insurance contracts referring to these commissions when it faxed the agreements to Herkimer.

105. In 2001, the lowest bidder for the Herkimer business would have been Blue Cross Blue Shield ("Blue Cross") But since the coverage offered by Blue Cross would not have generated a 15% commission for Aon Consulting, it never gave Blue Cross the chance to bid.

106. Herkimer eventually learned from Blue Cross that it had wanted to bid on the Herkimer business but had not been allowed to do so because of its refusal to pay the commission. Thereafter, Herkimer demanded that Aon Consulting allow Blue Cross to bid for its future business. When Aon Consulting received a bid from Blue Cross, it altered it by adding the 15% commission without disclosing the change to Herkimer. Even with Aon Consulting's illicit adjustment, Blue Cross had the lowest quote, and Herkimer ultimately selected it to provide its stop-loss coverage.

107. The City of Rome, New York experienced a similar problem. After

entering into a contract providing for a one-time flat fee from Rome for finding Rome stop-loss insurance for its health care program, Aon Consulting received undisclosed commissions from insurers that received Rome's business.

108. In another instance, Aon's Liverpool office withheld a low quote from an upstate New York client and placed the business with two insurers with higher rates. In November 2002, Aon Consulting client Livingston, Inc. ("Livingston"), a Canadian company with New York operations, asked for Aon Consulting's assistance and advice in obtaining quotes for short term disability insurance ("STD") and long term disability insurance ("LTD"). Aon Consulting canvassed a small subset of available carriers (including Zurich, Guardian and Unum), and made a presentation to the client, indicating that Guardian was the lowest cost carrier for STD, and Unum was the lowest carrier for LTD. The Liverpool Office had a local contingent commission agreement with Guardian (AON-12-014178).

109. During a second round of bidding, Zurich came in with the lowest bids for both STD and LTD. Although an Aon Consulting project manager prepared a chart accurately reflecting that Zurich had the lowest bid and provided it to two supervisors, Aon Consulting conveyed neither the chart nor Zurich's new offer to Livingston. Livingston, unaware of any cheaper alternative, selected Guardian and Unum.

FIRST CAUSE OF ACTION
(Fraudulent business practice – Executive Law §63(12))

110. The acts and practices alleged herein constitute conduct proscribed by § 63(12) of the Executive Law, in that Aon engaged in repeated fraudulent or illegal acts or

otherwise demonstrated persistent fraud or illegality in the carrying on, conducting on transaction or a business.

SECOND CAUSE OF ACTION
(Unjust Enrichment)

111. By engaging in the acts and conduct described above, Aon unjustly enriched itself and deprived its clients and the investing public of a fair market place.

THIRD CAUSE OF ACTION
(Common Law Fraud)

112. The acts and practices of Aon alleged herein constitute actual and/or constructive fraud under the common law of the State of New York.

FOURTH CAUSE OF ACTION
(Securities Fraud - Gen. Bus Law §352-c)

113. The acts and practices of Aon alleged herein violated Article 23-A of the General Business Law, in that they involved the use or employment of a fraud, deception, concealment, suppression, or false pretense, engaged in to induce or promote the issuance, distribution, exchange, sale, negotiation or purchase within or from this State of securities.

FIFTH CAUSE OF ACTION
(Securities - Gen. Bus. Law §352-c)

114. The acts and practices of Aon alleged herein violated Article 23-A of the General Business Law, in that Aon engaged in an artifice, agreement, device or scheme to obtain money, profit or property by a means prohibited by § 352-c of the General Business Law.

WHEREFORE, Plaintiff demands judgment against Aon as follows:

A. Enjoining and restraining Aon, its affiliates, assignees, subsidiaries, successors and transferees, their officers, directors, partners, agents and employees, and all other persons acting or claiming to act on their behalf or in concert with them, from engaging in any conduct, conspiracy, contract, agreement, arrangement or combination, and from adopting or following any practice, plan, program, scheme, artifice or device similar to, or having a purpose and effect similar to, the conduct complained of above;

B. Directing that Aon, pursuant to § 63(12) of the Executive Law and the common law of the State of New York, disgorge all profits obtained, including fees collected, and pay all restitution, and damages caused, directly or indirectly by the fraudulent and deceptive acts complained of herein;

C. Directing that Aon pay plaintiff's costs, including attorneys' fees as provided by law;

D. Directing such other equitable relief as may be necessary to redress Aon's violations of New York law; and

E. Granting such other and further relief as may be just and proper.

Dated: New York, New York
March 3, 2005

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