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, and HOWARD MILLS,
Superintendent of Insurance of the State
of New York,

Plaintiffs,

Index No. :

-against-

SUMMONS

AMERICAN INTERNATIONAL GROUP, INC.,
MAURICE R. GREENBERG and
HOWARD I. SMITH,

Defendants.

Plaintiff Designates
New York County as
the Place of Trial

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TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer in this action and serve a copy of your answer, or if the complaint is not served with the summons to serve a notice of appearance, on the Plaintiffs' attorney within twenty (20) days after the service of this summons, exclusive of the day of service. If this summons is not personally served upon you, or if this summons is served upon you outside of the State of New York, then your answer or notice of appearance must be served within thirty (30) days. In case of your failure to appear or answer, judgment will be taken against you by default, for the relief demanded in the complaint.

Filed: May 26, 2005
New York, New York

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State of New York
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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, and HOWARD MILLS, Superintendent of Insurance of the State of New York,	:	
Plaintiffs,	:	**COMPLAINT**
-against-	:	Index No.
AMERICAN INTERNATIONAL GROUP, INC., MAURICE R. GREENBERG and HOWARD I. SMITH,	:	
Defendants.	:	

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1. Plaintiffs, the State of New York, by Eliot Spitzer, Attorney General of the State of New York ("Attorney General"), and Howard Mills, Superintendent of Insurance, allege upon information and belief, that:

PRELIMINARY STATEMENT

2. American International Group, Inc. ("AIG") is the world's largest commercial insurance company. For 2004 it reported net income of more than $11 billion on revenues of nearly $100 billion. It has approximately 93,000 employees in 130 countries. For 38 years, AIG was run by defendant Maurice R. Greenberg ("Greenberg"), also known as "Hank" or, in internal AIG documents, as "MRG."

3. Between the 1980s (if not earlier) and Greenberg's departure from AIG in 2005, the defendants routinely engaged in misleading accounting and financial reporting,

projecting an unduly positive picture of AIG's underwriting performance for the investing public. As part of this effort, defendants:

- Engaged in at least two sham insurance transactions to give the investing public the impression that AIG had a larger cushion of reserves to pay claims than it actually did – transactions that Greenberg personally proposed and negotiated in phone calls with the then CEO of General Reinsurance Corporation, Inc. ("GenRe");

- Hid losses from its insurance underwriting business by converting underwriting losses to capital losses; and

- Created false underwriting income – a scheme personally approved by Greenberg and defendant Howard I. Smith ("Smith") that involved falsely reporting the income from the purchase of life insurance policies as underwriting income.

4. Each of these fraudulent schemes misled the investing public as to the true state of AIG's business.

5. When asked about certain of these transactions under oath, Greenberg and Smith repeatedly refused to answer on the grounds that their testimony would tend to incriminate them.

6. Both Greenberg and Smith had a direct personal interest in AIG's stock price; both held hundreds of thousands of shares of AIG stock. For example, the value of Greenberg's holdings increased or decreased approximately $65 million for every dollar AIG stock moved.

7. Greenberg was intensely focused on the daily movement of AIG's stock price, and he repeatedly directed AIG traders to aggressively purchase AIG stock for the purpose of propping up its price. For example, on February 3, 2005, two days after AIG announced that

natural disasters would create $200 million of underwriting losses in AIG's fourth quarter 2004 earnings, Greenberg called one of AIG's traders, ordered him to buy stock with the company's money, and directed: "I don't want the stock below $66 so keep buying." When the trader asked whether there was any limit to the number of shares Greenberg wanted him to buy, Greenberg replied: "If you have to go to half a million [shares], go to half a million." On Friday, February 18, 2005, four days after AIG had publicly announced its receipt of a subpoena from this office, Greenberg called the AIG trading desk from his private jet. AIG's shares were down, and Greenberg told the trader to buy up to 250,000 shares. When Greenberg called back, the trader had only purchased 25,000 shares. "I want you to be a little bit more aggressive," Greenberg said. "If you have to go up to half a million shares, go up to half a million shares," he added. Greenberg called back again as the market was closing, urging the trader to keep buying even after the 3:50 pm cut-off for company buybacks, designed in part to prevent issuers from "marking the close" in their own stock: "[Y]ou can keep buying a little more stock, it's alright. I wanna push it up a little bit if we can."

8. In addition, for decades AIG deliberately booked workers compensation insurance premiums as regular liability insurance revenue. This practice had the potential to reduce AIG's contributions to state workers compensation systems and avoid paying state taxes on those premiums.

9. And, AIG repeatedly deceived the New York State Insurance Department and other state regulators about its relationships with several offshore affiliate reinsurers. In the wake of this office's investigation, Greenberg's "Assistant to the Chairman, Director: Foreign

Companies," L. Michael Murphy ("Murphy"), ordered the destruction of documents relating to one of those offshore affiliates.

PARTIES

10. This action is brought by the Attorney General on behalf of the People of the State of New York based upon his authority under Article 23-A of the General Business Law, § 63(12) of the Executive Law and the common law of the State of New York, and by Howard Mills, Superintendent of Insurance of the State of New York upon his authority under Insurance Law §§ 201 and 327.

11. Defendant AIG is a Delaware Corporation with its principal place of business in New York County, New York.

12. Defendant Greenberg is an individual residing in New York State. Until recently, Greenberg was the Chairman and Chief Executive Officer of AIG.

13. Defendant Smith is an individual residing in New York State. Until recently, Smith was the Chief Financial Officer of AIG.

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. 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, moreover, has an interest in upholding the rule of law generally. Defendants' conduct injured these interests.

15. Thus, the State of New York sues in its sovereign and quasi-sovereign

capacities, as *parens patriae*, and pursuant to Executive Law §§ 63(1) and 63(12) and General Business Law §§ 352 *et seq.* (the Martin Act). The State sues to redress injury to the State and to its general economy and citizenry-at-large. The State seeks disgorgement, restitution, damages, including punitive damages, and costs and equitable relief with respect to defendants' fraudulent and otherwise unlawful conduct.

16. The New York Insurance Department is headed by the Superintendent of Insurance, who possesses all rights, powers and duties under the Insurance Law. Under Insurance Law § 327, the Superintendent may seek injunctive relief against any insurer, its officers, directors, and agents to enjoin future violations of the Insurance Law.

FACTUAL ALLEGATIONS

I. The Insurance Industry

17. Insurance is fundamentally simple. Clients pay money (premiums) and, in return, insurance companies provide coverage for losses resulting from accidents or catastrophes. The companies try to set premiums high enough to cover all the claims that they will have to pay, plus their expenses, and still have some money left over for profit. The business of figuring out how much money to charge in premiums is called "underwriting."

18. Insurance companies make money a second way as well. Premiums generally get paid up front, but claims are paid after accidents happen. In between, insurance companies can invest the money and derive income from their investments.

19. An insurance company's ability to make money is the key measure of that company's value as an investment. But *how* the insurer makes its money is critically important

as well. While insurance companies derive substantial revenues from investing premiums, many in the insurance industry, including defendants, consider an insurance company's ability to make money through the underwriting process the core of the insurance business and the key to understanding whether the insurance company will enjoy sustained profits in the long run. As Greenberg himself once put it, "If you don't make a profit in your basic business, which is underwriting, you won't make a profit for very long." (Crain's Business Insurance Article, September 21, 1992)[1]

20. The insurance business is regulated by the states. A primary purpose of such regulation is to make sure that companies are financially sound and have set aside enough of the premium money to pay claims when they come in, which can be years after the premiums were collected. The money set aside to pay claims is called "reserves" or "loss reserves."

21. Stock market analysts sometimes look at fluctuations in an insurer's reserves as an indicator of the quality of its earnings. During a period of business growth, insurers generally report increased premium income as well as the increased reserves necessary to cover potential future claims on new policies being written. If premium income is on a steady upward trend but the reserves are not, regulators and industry analysts worry because they fear the insurer is not setting aside sufficient reserves to meet its obligations under the policies. Such under-reserving could jeopardize the insurer's long-term financial health.

22. A downward trend in reserves during a period of premium growth may also indicate that the insurer is engaged in financial trickery to boost its profits. Insurers are

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

constantly assessing and reassessing their reserves based on actuarial projections for the insurance they write. If claims experience on a given policy or book of policies is better than expected during the early phases of the policy period, the insurance company might decide that it has over-reserved and change its loss projections. The insurance company can thus legitimately "release" some of its reserves into its income.

II. Creating False Reserves

23. In late 2000, AIG's stock price dropped, a decline that analysts speculated was based on fears that AIG's reserves were being released into income so that it could meet its projected income numbers. To counter this perception, defendants engaged in two sham transactions with GenRe, through which defendants hoped to create the appearance of additional reserves and thus fraudulently support the stock price.

A. Falling Reserves Call AIG's Earnings Into Question

24. On October 26, 2000, AIG issued a press release describing its financial condition at the end of the third quarter 2000. (AIG Press Release, October 26, 2000) At the close of market the day before, October 25, AIG's stock had traded at $99.38 per share. Although AIG's earnings met or exceeded the expectations of Wall Street analysts, AIG's shares dropped to $93.31 at close on October 26.

25. Many industry analysts attributed the drop in price to the fact that, along with positive earnings, AIG had reported a decrease of $59 million in its total loss reserves. Investors suspected that AIG was drawing down its loss reserves to boost its profits. For example, on or about October 27, 2000, analyst Michael Smith wrote, "Put simply, the reduction

in reserves caused some investors to challenge the quality of the company's earnings." (AIG/GEN-RE-TRANS 0001086) Similarly, analyst Kenneth Zuckerberg expressed his belief that "the downward pressure on the stock" stemmed in part from "concerns about the negative change in P&C [Property & Casualty] loss reserves." (AIG/GEN-RE-TRANS 0001074-75)

26. Some of the analysts who covered AIG were not so worried about that quarter's reserve drop, but continued to express concerns about long-term loss reserve trends. For example, industry analyst Alice Schroeder wrote:

> Reserves – we're not concerned. The market was disturbed by AIG's net reserve decrease of $59 million . . . . Pass the popcorn, we've seen this movie before . . . to us this looks like a classic buying opportunity. . . . We do care a lot about reserves, and if we see a steady trend of unexplained releases during a period of premium growth, we'd definitely be concerned. But that's not the case here. (AIG/GEN-RE-TRANS 0001094)

27. On or about October 31, 2000, AIG's Vice President for Investor Relations sent Greenberg a number of these third quarter analyst reports and noted the concern about the decline in reserves. (GR1_0126220)

B. Greenberg Tackles the Reserves Problem

28. That same day, Greenberg initiated a scheme to falsely inflate AIG's reserves for the next two quarters. The scheme began that day when Greenberg called Ronald Ferguson ("Ferguson"), President of GenRe. In that phone call, Greenberg suggested that GenRe purchase up to $500 million in reinsurance from AIG because he wanted AIG to show increased reserves. But, in the same conversation, Greenberg also said that he wanted the deal to be risk-free. A riskless transaction that creates reserves is nonsensical. An insurer can properly generate and record reserves only if it is taking on genuine risk that there may be claims that would

require future payment. Greenberg wanted AIG to be able to book hundreds of millions of dollars in reserves from GenRe, but he did not want there to be any risk that AIG would actually have to pay any claims.

29. Mentioning a concern about analysts, Greenberg told Ferguson that the deal only needed to last for six to nine months. Ferguson said that this proposed transaction would be highly unusual for GenRe, which was in the business of selling reinsurance, not buying it. Accordingly, Greenberg and Ferguson discussed the possibility that AIG would pay a fee to GenRe. Finally, Greenberg told Ferguson that Christian Milton ("Milton"), Vice President of Reinsurance, would be the contact at AIG for the deal.

30. Over the next two weeks, Greenberg's proposal was refined in a series of conversations between Milton and GenRe personnel. It was agreed that the deal would be extended to a 24-month term from the original term proposed by Greenberg. (GR1_0126378)

31. On or about November 17, 2000, Greenberg called Ferguson to discuss the deal. Ferguson told Greenberg that he thought they had put together a structure that would accomplish Greenberg's objectives. They also discussed the fact that AIG would "not bear real risk" in the transaction, and that, in the end, AIG would pay GenRe a $5 million fee. (GR1_0126232) Greenberg told Ferguson that defendant Smith and Milton would handle the transaction on AIG's end. Later that day, a GenRe employee emailed Milton at AIG to provide details of the proposed transaction, along with a draft contract. (GR1_0126245-51)

32. Ultimately, AIG's subsidiary, National Union, and GenRe's subsidiary, Cologne Re of Dublin, entered into two contracts. In form, GenRe was to pay a total of $500

million to AIG, and AIG was to provide $600 million of reinsurance coverage. (GR1_0126257.) As a consequence of this fiction, AIG would be able to show reserves of $500 million in accordance with Greenberg's original design. (GR1 0126113-33) The first of the sham contracts would allow AIG to book $250 million of reserves in the fourth quarter of 2000, and the second sham contract would allow AIG to book another $250 million of reserves in the first quarter of 2001. In fact, GenRe did not pay premiums. And in fact, AIG did not reinsure genuine risk. To the contrary, AIG paid GenRe $5 million, and the only genuine service performed by either party was that GenRe created false and misleading documentation to satisfy Greenberg's illicit goals.

33. Even the $10 million that GenRe actually paid ultimately was secretly paid back, along with the $5 million fee. All this was accomplished a year later by entering into a convoluted series of transactions involving an AIG subsidiary which accepted $15 million less than it was owed in an entirely unrelated deal with GenRe, yielding GenRe's $5 million fee.

34. To cover up this scheme, AIG and GenRe created additional false documents, making it appear that GenRe had approached AIG and asked to buy reinsurance. On or about December 20, 2000, John Houldsworth, the then CEO of Cologne Re Dublin, had a subordinate send an email to Milton at AIG. (AIG/GEN-RE-TRANS 00000134-42; 00000203-10) The email attached a draft term sheet for the AIG-GenRe transaction as well as a draft letter from Houldsworth to Milton. Finally, on December 27, 2000, Houldsworth emailed Milton another unsigned letter embellishing the fiction further: "We are encouraged that you believe AIG will be able to provide us with cover for approximately 50% of what we originally had in mind." (AIG/GEN-RE-TRANS 00000130-32)

35. The entire AIG-GenRe transaction was a fraud. It was explicitly designed by Greenberg from the beginning to create no risk for either party – AIG never even created an underwriting file in connection with the deal. Indeed, the true nature of the deal is clear if one follows the money: AIG paid GenRe $5 million for the deal – exactly the opposite of what would happen if AIG were actually taking on potential liabilities from GenRe. AIG admitted in March of this year that "the Gen Re transaction documentation was improper and, in light of the lack of evidence of risk transfer, these transactions should not have been recorded as insurance." (AIG Press Release, March 30, 2005) When questioned about the AIG-GenRe transactions in early 2005, Greenberg, Smith and Milton refused to answer, on the ground that their answers would tend to incriminate them.

C. "Topside" Reserve Adjustments

36. The GenRe transaction was not the only way that AIG sought to boost its reserves illegally. In a somewhat more direct scheme of similar effect, defendants made unsupported accounting entries to increase AIG's reserve levels before AIG issued its quarterly reports.

37. At the end of each reporting quarter, AIG goes through an extensive process of consolidating the financial information from its subsidiaries. Part of this entails making company-wide adjusting entries known as "topside" or "top level" adjustments.

38. Defendants employed fictitious "adjustments" to create additional reserves in late 2000 and early 2001. Smith personally directed that a number of alterations be made to the reserve numbers, instructing a subordinate named Vincent Cantwell ("Cantwell") who wrote

the changes down in a spiral bound notebook. Cantwell then photocopied the relevant pages from his notebook and handed them to a clerk to enter into the official books and records of the firm. After making the entries, the clerk retained copies of the photocopied pages for his records. (Cantwell notes for the first quarter of 2001 are attached hereto.)

39. As a result of these terse handwritten directions, AIG reserves increased in the fourth quarter of 2000 by approximately $32 million and in the first quarter of 2001 by approximately $70 million. AIG reports that it has searched for documentation or analysis to support the directions contained in the spiral notebook, and has found none. At least as far back as the early 1990s, Smith and Cantwell made similarly unsupported changes. For quarter after quarter, AIG's official books and records were altered on the basis of nothing more than Smith's say so and Cantwell's handwritten sheets, with hundreds of millions of dollars shifting from account to account.

* * *

40. Having inflated its reserves through the artifices of both the GenRe deal and unsupported topside adjustments, AIG announced its fraudulently enhanced reserves in the press release that accompanied its fourth quarter 2000 results. (AIG Press Release, February 8, 2001) AIG posted a reserve increase from the prior quarter of $106 million. This deception had the desired effect on industry analysts. On or about February 8, 2001, analyst Zuckerberg wrote, "AIG added to loss reserves during the quarter – the net change was $106 million – a clear positive from an earnings quality standpoint." (AIG/GEN-RE-TRANS 0000910) Similarly, Michael Smith wrote:

> In past quarters, American International Group has received criticism from some corners regarding what has been viewed to be a rather small increase in loss reserves, but we believe there is little room for criticism on this score in the most recent quarter. The company increased reserves by a total of $106 million . . . . (AIG/GEN-RE-TRANS 0000925)

AIG also reported reserve increases in its first quarter 2001 press release. (AIG Press Release, April 26, 2001) Again, the analyst Smith wrote positively about the reserves: "[T]he underlying quality of general insurance results also improved, evidenced by the increase in loss reserves . . ." (AIG/GEN-RE-TRANS 0000777-78)

41. The investing public relied upon AIG's reported loss reserves to its detriment and was financially damaged.

42. Until the foregoing facts came to light in 2005, defendants concealed from the investing public all facts that would have provided notice of their fraudulent and illegal scheme.

III. Disguising Underwriting Losses

43. As noted above, Greenberg considered underwriting results to be the key measure of AIG's success. In order to preserve AIG's image in this area, defendants participated in two separate schemes to disguise underwriting losses. The first involved the concealment of auto warranty insurance losses by making it falsely appear as if they were investment losses instead. The second involved the fraudulent transformation of Brazilian life insurance losses into investment losses.

A. Disguising Auto Warranty Losses as Investment Losses

44. In the mid-1990s AIG began writing auto warranties. This business

proved to be disastrous: by 1999, AIG's subsidiary National Union projected claims of $420 million, creating a loss of $210 million on the business. Rather than post a loss of this size and publicly reveal AIG's underwriting misstep, defendant Smith, with the approval of defendant Greenberg, decided to turn this loss in AIG's "basic business" into a less embarrassing investment loss.

45. In a December 20, 1999 memo, Smith laid out a scheme for converting the auto warranty losses into investment losses. (The December 20, 1999 Memo is attached hereto.) Smith directed: "Discussion of this deal should be limited to as few people as possible."

46. On or about March 6, 2000, Smith met with other high-level AIG executives, including Joseph Umansky ("Umansky"), and discussed how to convert the auto warranty losses into investment losses. In testimony compelled pursuant to General Business Law § 359 and Criminal Procedure Law § 50.20(2), Umansky has stated that Smith directed the plan to recharacterize the losses.

47. Umansky laid out the particulars of the plan to Greenberg and Smith in an April 20, 2000 memo:

> Our objective was to convert an underwriting loss into a capital loss. The approach we devised is unique but conceptually, somewhat simple. AIG forms an off-shore reinsurer and reinsures the warranty book into that wholly-owned subsidiary. AIG then sells the subsidiary through a series of partial sales, thus recognizing a capital loss. As the warranty losses emerge they are recognized in this off-shore company that is not consolidated as part of AIG. The accounting is aggressive and there will be a significant amount of structuring required in order to address all the legal, regulatory and tax issues.

(AIG-F 0000144-45)

48. In other words, the scheme was for AIG to "invest" in a shell corporation. The shell corporation would take on AIG's auto warranty losses and then fail, leaving AIG with an investment loss, instead of an embarrassing insurance underwriting failure.

49. At Smith's direction, Umansky sought an offshore vehicle suitable for "reinsuring" the auto warranty losses. Umansky had learned that Western General Insurance Ltd. – a company with which AIG had a longstanding business relationship – planned to wind down its offshore subsidiary, CAPCO Reinsurance Company, Ltd. ("CAPCO"), a small Barbados insurance company. Smith approved Umansky's suggestion that AIG use CAPCO as the offshore vehicle for the auto warranty scheme.

50. AIG, however, had to take control of CAPCO without appearing to do so. If AIG overtly controlled CAPCO, AIG would have to consolidate CAPCO's underwriting results on AIG's books, when the whole point was to get them off AIG's books. Under New York Insurance Law, insurance companies are presumed to "control" entities for which they own "ten percent or more of the voting securities." N.Y. Ins. Law § 1501(a)(2). Therefore, on paper, AIG needed to make it appear that someone else was running CAPCO.

51. Consequently AIG's use of CAPCO involved several steps. First, Western General transferred almost all of the existing business and capital out of CAPCO, leaving only $200,000 in capital. (AIG/GEN-RE-TRANS 0012429) This reduced CAPCO to a shell.

52. Second, AIG needed to find individuals who would be the nominal shareholders and mask AIG's control of CAPCO. Umansky has testified that, to find these "investors," Greenberg personally dispatched him to Switzerland to meet with AIG's private

bank in Zurich, which then helped select suitable non-U.S. passive investors for the deal.

53. Third, AIG had to invest in CAPCO. Smith authorized Bermuda-domiciled AIG subsidiary, American International Reinsurance Company ("AIRCO"), to purchase non-voting CAPCO shares for $170 million. (AIG-GEN-RE Transaction 0012457) And the three Zurich "investors" each paid $6.33 million to CAPCO for voting common shares for a total of $19 million. (AIG/GEN-RE-TRANS 0012581-86) But the "investors" did not have to put up their own funds. Instead, their purchases of the CAPCO securities were 100 percent financed by non-recourse loans from another AIG subsidiary, which defendants knew "in all probability" would never be repaid. (AIG/GEN-RE-TRANS 0012456) Thus, even if their CAPCO "investment" became worthless, the Swiss investors would incur no liability on the loans, and would suffer no losses. (AIG/GEN-RE-TRANS 0012449) Although the individual investors played no active management role in CAPCO, they each received a $33,000 fee for every year of their "investment" and another $33,000 payment upon its termination.

54. John L. Marion, President of Western General, and a director of Union Excess, another of AIG's offshore affiliates, was appointed a director and served as president of CAPCO. AIG, however, exercised complete control over CAPCO. AIG appointed MIMS International (Barbados) Ltd. to manage CAPCO and AIG Global Investment Corp. (Ireland) Limited to handle CAPCO's investments.

55. Umansky continued to keep Greenberg, Smith, and other senior executives apprised of CAPCO's progress. Three months later, in a memorandum to Greenberg, Smith and others, dated November 16, 2000, Umanksy wrote:

> The warranty treaty (#21) is designed to cover $210 million of losses through a unique structure. The cash has been transferred into the structure and is shown on our balance sheet as assets; nothing has yet been charged to expense. The expectation is that as the losses develop and are recovered from the reinsurer, a capital loss will be recognized.

(AIG-D 0023603)

56. Having set up CAPCO, AIG next needed to transfer its underwriting losses to CAPCO. To do this, CAPCO reinsured National Union for the all but certain $210 million in auto warranty losses, receiving a premium of only $20 million. As Umansky testified, the transaction was designed from the beginning to lose money for CAPCO, a fact known to both Greenberg and Smith. In or around early 2001, CAPCO began paying out on reinsurance claims to National Union in order to cover the auto warranty losses.

57. The scheme succeeded. On or about September 25, 2001, Umanksy reported: "Warranty structure (Capco) is working. 2001 will be second year end. I want to close down the structure as soon as possible." (AIG-D 0023584)

58. CAPCO, as planned, steadily paid AIG for the incoming auto warranty claims that it had reinsured. Also as planned, by the end of 2001, this had nearly depleted CAPCO's assets. All that remained was for AIG – which, through its subsidiary, AIRCO, still held CAPCO stock – to determine how to account for this now worthless investment. In the fourth quarter of 2001, AIG sold $68 million of its shares back to CAPCO for pennies on the dollar, realizing an enormous investment loss. Over time, AIRCO, at Smith's direction, wrote off the balance of its interest in CAPCO as a loss.

59. The final result of this complex series of transactions was that AIG had

moved its underwriting losses to an off-balance sheet entity where AIG investors could not see them. Instead AIG reported a far less noticeable investment loss.

60. By 2002, CAPCO had served its purpose. The board of directors and shareholders of CAPCO voted to wind up its affairs and liquidate it. (AIG/GEN-RE-TRANS 0012581) Umanksy sent Greenberg and Smith a memorandum dated September 9, 2002, stating: "CAPCO will be liquidated by year-end. AIG contracts in CAPCO will be commuted or novated by September 30." (AIG-D –0024421)

61. When the liquidation was complete by the end of 2002, CAPCO's few remaining assets were distributed to AIRCO, as the holder of CAPCO's preferred shares. (AIG/GEN-RE-TRANS 0012581) In a March 4, 2003 memo to Greenberg and Smith, Umansky reported: "Capco has been liquidated and the AIG contracts novated." (AIG-D 0023570)

62. Even as defendants were executing the CAPCO plan, Umansky began to express misgivings about its propriety. In a memorandum to Greenberg and Smith dated May 22, 2002, Umansky wrote: "The Capco structure needs to be revamped in order to put us farther from criticism in today's environment." (AIG-D 0023586)

63. In a March 30, 2005 press release, AIG admitted that its transactions with CAPCO:

> involved an improper structure created to recharacterize underwriting losses as capital losses. That structure, which consisted primarily of arrangements between subsidiaries of AIG and Capco, will require that Capco be treated as a consolidated entity in AIG's financial statements. The result of such consolidation is to recharacterize approximately $200 million of previously reported capital losses as an equal amount of underwriting losses relating to auto warranty business from 2000 through 2003.

(AIG Press Release, March 30, 2005)

64. When Greenberg was asked in April 2005 about his involvement in CAPCO, he refused to answer, asserting his right not to testify under the Fifth Amendment. Umansky has testified that the transaction was improper.

65. The investing public relied upon AIG's reported underwriting results to its detriment and was financially damaged.

66. Until the foregoing facts came to light in 2005, defendants concealed from the investing public all facts that would have provided notice of their fraudulent and illegal scheme.

B. Disguising Brazilian Life Insurance Losses as Investment Losses

67. In 1999, AIG's Brazilian life insurance business had unfavorable underwriting results which were magnified by currency exchange losses occasioned by the collapse of the Brazilian *real*. To avoid reporting these negative results, all of which would be characterized as an underwriting loss, the defendants, among others, devised a scheme to convert these Brazilian losses into investment losses. In furtherance of this goal, AIG entered into a series of complex and fraudulent reinsurance transactions, known as Nan Shan I and Nan Shan II. Greenberg personally was apprised of the progress of both Nan Shan I and II.. As in the CAPCO scheme, the end result of Nan Shan I and II was conversion of embarrassing underwriting losses to more palatable investment losses.

1. Nan Shan I

68. According to Umansky's sworn testimony, in 1999 he attended a meeting

with Smith and another AIG employee in which Smith directed Umansky to recharacterize underwriting losses arising from Unibanco Seguros ("UNISEG"), AIG's Brazilian life insurance business. Without such a plan, these negative results would have been recorded as underwriting losses on the books of AIRCO, the same entity that was used to purchase CAPCO's shares in the auto warranty scheme.

69. The following plan was initially conceived: Union Excess, one of AIG's off-balance sheet affiliates, would reinsure AIRCO for the already existing underwriting losses (AIG/GEN-RE-TRANS 0013431-37), but would be made whole through a "swap" transaction between Union Excess and AIRCO. The effect of these transactions would have been to convert AIG's Brazilian life insurance losses to investment losses. A December 9, 1999 internal AIG email set forth the purpose of the transaction:

> [W]e have a foreign exchange loss of $44m in our Brazilian life operations and we are being asked to come up with a reinsurance contract before the end of the year which will somehow 'cancel' out the loss. The source of the request is from Joe Umansky's team, apparently based on Howie Smith's instructions.

(AIG/GEN-RE-TRANS 0016636)

70. This initial plan proved unworkable because Union Excess was not licensed to reinsure life insurance. So, at Smith's direction, AIG searched for another entity whose underwriting results would be reported on the line at AIRCO where the Brazilian losses would have appeared. AIG identified such an entity: Nan Shan Life Insurance Company, Ltd. ("Nan Shan"), a Taiwanese AIG company, which had incurred major accident and health losses in 1999.

71. The new plan called for Union Excess to reinsure AIRCO for Nan Shan's losses; then, AIRCO, in order to "compensate" Union Excess, entered into the swap transaction with Union Excess, for which AIRCO declared an investment loss. After these machinations, AIRCO's (and therefore AIG's) Brazilian underwriting losses were converted to investment losses.

72. Umansky testified that he briefed Greenberg and Smith on this transaction. When questioned about it in April 2005, Greenberg refused to answer, invoking his rights under the Fifth Amendment.

2. Nan Shan II

73. AIG repeated this scheme in 2000 to convert more underwriting losses into investment losses.

74. On or about March 9, 2000, an executive in AIG's Life Management Division received an email discussing Nan Shan I. (AIG/GEN-RE-TRANS 0016610) He responded, "Are you aware that [Greenberg] wants a similar transaction for 2000 for about $56 million." (AIG/GEN-RE-TRANS 0016610)

75. Indeed, Greenberg was aware of the Nan Shan I transaction and was being apprised of the new initiative. In an April 20, 2000 memorandum to Greenberg and Smith, Umanksy reported:

> This contract is one where a significant recovery is realized and a compensating arrangement through a swap generates a capital loss for [American Life Insurance Company] and a gain for the reinsurer. The accounting is very aggressive and it's a duplication of a contract that was done last year. The 1999 swap will not be repeated, although a similar swap will be put in place to accomplish

> the same objective. There are a number of other issues that I look forward to discussing with you on Monday.

(AIG-F 0000145)

76. Under the second Nan Shan transaction or "cover," as it was referred to in an internal AIG May 10, 2000 email, Union Excess agreed to reinsure AIRCO for $30 million of losses arising from Nan Shan's 2000 accident year. (AIG/GEN-RE-TRANS 0016651) In consideration, AIRCO paid Union Excess $2 million for the reinsurance. Because Nan Shan's losses were certain, this agreement was, according to that same email, "designed to yield a 28m underwriting benefit (2m premium and 30m recovery)" for AIRCO, where the Nan Shan losses would have been be reported.

77. Once again, Union Excess needed to be "made whole," and so AIRCO entered into three swap transactions with Union Excess, which were later terminated with an "investment loss" to AIRCO of $28.3 million. (AIG/GEN-RE-TRANS 0016625) Thus, similar to the first Nan Shan transaction, the result of this transaction was to convert $28 million in underwriting losses into capital losses.

78. Umansky notified both Smith and Greenberg about the Nan Shan II transaction.

79. The investing public relied upon AIG's reported underwriting results to its detriment and was financially damaged.

80. Until the foregoing facts came to light in 2005, defendants concealed from the investing public all facts that would have provided notice of their fraudulent and illegal scheme.

IV. Creating False Underwriting Income

81. Greenberg's efforts to boost the public view of the soundness of AIG's core business extended to the false reporting of income from AIG's "life settlements" investments as underwriting income.

82. In 2001, AIG decided to enter into the life settlements business. In a life settlement an investor purchases an insurance policy from a policyholder who is near the end of his or her life, for a price somewhat higher than the cash surrender value of the policy. The policyholder gets an immediate, though discounted, payout on the policy. The investor continues paying premiums on the policy and collects the benefits when the policyholder dies. The investor is making a simple bet that the death benefits will exceed the sum of the cash paid to the policyholder and any premiums the investor pays while waiting for the policyholder to die.

83. AIG and Greenberg decided as a public relations matter that it was best not to use the AIG name to handle its life settlements business, which amounted to purchasing life insurance policies – often from sick or elderly persons with a life expectancy greater than two years – as a bet that they would die sooner rather than later. As Forbes Magazine put it in its March 19, 2001 issue: "This is a pretty ghoulish way to make a buck, but as a cold-blooded investment it sounds good." (AIG-Cov 005949) On or about April 16, 2001, Greenberg expressed his concerns to AIG's David Fields ("Fields") who headed up the initiative: "It seems to me that anybody doing anything in the field stands the risk of adverse PR. . . . I am uneasy about this." (AIG-COV 005746, 005944)

84. AIG was also concerned that under Generally Accepted Accounting

Principles ("GAAP"), purchasers of life settlements must carry the investment at a loss because the purchase price of such a policy exceeds its cash surrender value at the time of purchase. To avoid the public relations risk and the accounting issues, AIG decided to conduct its life settlement transactions through a third-party trust.

85. Greenberg worked with Fields and Murphy to set up the life settlements structure. (AIG-COV 006010-11) In a September 19, 2001 memorandum to Greenberg, Fields reported that AIG would set up a trust called Coventry Life Settlement Trust ("Coventry"), which would be majority owned by Hanover Life Reassurance (Ireland) Limited, a non-AIG entity. Coventry would act as owner and administrator of a trust that would permit AIG to book its life settlement activities as underwriting volume, thereby enhancing AIG's underlying insurance underwriting results. (AIG-F 0000349)

86. Under the Fields scheme, American Home Assurance Corp. ("AHAC"), an AIG affiliate, would loan Coventry all of the funds needed to purchase the life settlement policies and pay the premiums on the purchased policies. Instead of using that money directly to purchase life settlements, however, Coventry would use the borrowed funds to pay a "premium" to an Alaskan insurance subsidiary of AIG known as American International Specialty Lines Insurance Co. ("AISLIC") in exchange for a fake surety insurance policy – i.e., a policy that would guarantee Coventry's obligations to third parties. Coventry would then file a "claim" with AISLIC for the same amount that it had just paid to AISLIC as a premium. AISLIC would pay the amount back to Coventry, which would use the same funds to purchase the life settlements and pay its other expenses. When the death benefits were ultimately paid under the life

settlements, Coventry would pay the benefits to AISLIC as further "premium" on the insurance policy, and AISLIC would be able to report the life settlement income as underwriting income on its surety policy.

87. On or about September 26, 2001, Fields wrote to Greenberg: "Coventry will sign documents partnering with us as soon as practicable - which at the latest should be Monday, October 1st. We expect premium production of at least $10 Million before the end of that week." (AIG-COV 006011) Two years later, on or about August 4, 2003, Smith reported to Greenberg that net written premium for life settlements had grown to $927 million with losses incurred of $851 million and a GAAP underwriting profit of $76 million. (AIG-COV 006034) AIG has continued to falsely report this investment income as underwriting income to the present day, contributing to AIG's highly-touted underwriting results.

88. In 2004, the Alaska Department of Insurance issued a determination that AISLIC's policy with Coventry did not constitute insurance, and directed AISLIC its underwriting reporting. (AIG-COV 000070-72) Facing this adverse determination from the state where AISLIC was domiciled, AIG moved its life settlement business offshore to AIRCO, the same entity used in the CAPCO and Nan Shan schemes. AIG continues to account for this investment as if it were insurance.

89. In April 2005, Greenberg invoked his Fifth Amendment privilege when asked about the Coventry matter.

90. The investing public relied upon AIG's reported underwriting results to its detriment and was financially damaged.

91. Until the foregoing facts came to light in 2005, defendants concealed from the investing public all facts that would have provided notice of their fraudulent and illegal scheme.

V. Mischaracterizing Premiums on Workers Compensation Policies

92. For over a decade, AIG engaged in a scheme to mischaracterize premiums paid on the workers compensation line of insurance. Documents obtained during the investigation show that the conduct continued for years after internal personnel repeatedly warned that it was illegal.

93. Specifically, when selling workers compensation insurance, insurers generally pay higher premium taxes and pay additional monies into state funds, known as special assessment funds. AIG avoided paying these monies by using a secret side agreement with customers (one never filed with or approved by the New York Insurance Department) that had the effect of recharacterizing a portion of workers compensation premiums as general or auto liability insurance, where there were no such assessments.

94. High-ranking employees of AIG were warned that these practices were illegal. In a June 1989 memorandum, one employee memorialized a meeting he had with his supervisors, urging that AIG stop the practice. The employee stated that the practices constituted a violation of the risk assessment rules and "illicit tax evasion," and added that he "pointed out the prospect we will be caught." The employee memorialized one supervisor's response:

> [He] responded to the effect that none of my presentation was news to him; and that in fact he had made a similar presentation (using stronger language) to his superiors some time ago. The policy decision in those higher councils had been to continue the illicit practices, pending

> discovery and implementation of another effective scheme to avoid some substantial part of the taxes and Assigned Risk assessments on our Worker's Compensation business. Therefore [he] prohibited me from directing our operations staffs to adopt the recommendation above.

95. That year and through 1991, the employee continued memorializing his view that the practice was illegal, and, indeed, that it "imperils the insurance licenses of the insurance companies for which we produce business."

96. In 1991, AIG's general counsel, newly arrived from a law firm, undertook a review of the practice. Interview notes that he made during his inquiry reflect that employees had been told "that MRG knows the whole prog. & that he wants it this way." One interviewee told him: "You should be aware that MRG knows about this and has approved it."

97. In his interviews, the General counsel learned about the cost that the company would have to incur in order to "get legal." It would have to hire about 40 new people to do filings properly, charge clients more, and pay "much higher" assessment fees. Indeed, the General counsel's notes reflect that at one stage, an employee went to AIG's president and was told "that MRG did not want him to change things to make it legal – he wants to continue as is." In another interview a witness recounted a meeting he and others had with Greenberg. According to the notes, "MRG" asked "are we legal?" When an employee responded, "If we were legal, we wouldn't be in business," then "MRG began laughing and that was the end of it."

98. In addition to being told of the history of noncompliance, counsel learned that for years AIG had evaded answering certain questionnaires from the California Department of Insurance. A responsive submission, one employee reported, "would reveal that we had made false reports."

99. The General counsel summarized his findings in a memorandum to Greenberg dated January 31, 1992. Counsel warned that the practices that he had examined were "permeated with illegality." The result, he wrote, "is that AIG makes millions of dollars illegally each year." Moreover, "[t]he situation is so serious that it could threaten the continued existence of senior management in its current form." (AIG-D 0023434-41)

100. After detailing the ways in which the misbooking violated the law, the General counsel concluded: "A jury could find that the above conduct constitutes various kinds of State and Federal civil and criminal violations, including common law fraud, mail fraud, Securities Act violations, RICO violations, State statutory and regulatory violations, State tax fraud and breach of contract." (AIG-D 0023439)

101. The memorandum recommended specific "corrective actions," including an immediate end to the illegal conduct, discharge of employees involved, restitution, and the institution of a compliance program. (AIG-D 0023440) As it turned out, AIG did none of these things.

102. What it did do was promptly engage two law firms to review the General counsel's memorandum. They named their inquiry the "AIG – X MATTER." Fax transmission sheets bore handwritten notations: "<u>Extremely</u> Confidential" (emphasis in original).

103. In doing their investigation, the outside firms reviewed a 1989 memorandum from AIG's actuarial department. A portion of the memorandum discussed how proper booking of workers compensation premiums would increase assessments and taxes that AIG would have to pay. In the margins of the copy from the lawyers' files are two notations.

One reads "! Admits Div 50 is avoiding proper WC tax + [state assessment] charges." The other reads "$20-30M tax and [state assessment] dodge."

104. Draft memoranda created by the law firm described the two main practices General counsel had found unlawful. As to one, the firm reported a possible defense, but added: "We should not be understood as endorsing this argument, or suggesting that it would necessarily carry the day in a litigation or regulatory proceeding. Nor should we be understood as condoning [the practice]." At best, the draft noted, the practice "may be" in a "grey area." As to the other practice, the firm observed that it was even "more problematic," but noted that it "appears" that the genesis of the practice was not an "intent to reduce RMLs or premium taxes" and that recent efforts to reduce the extent of understatement have been "partially successful." Finally, the firm noted, "[o]n a going-forward basis, both practices . . . are being discontinued."

105. The outside law firm also produced a draft memorandum titled "Duty to Report Internal Insurance Fraud" which analyzed a corporation's duty to report fraud under the laws of a number of states. This draft concluded that "in their capacity as agents of a corporation, corporate directors and officers must cause the corporation to report fraudulent insurance transactions." It additionally stated, "An obligation of a director or an officer, including the general counsel of an insurance corporation . . . to disclose internal insurance fraud might exist as a result of the individual's fiduciary duties to the corporation and its shareholders as developed under the New York Business Corporation Law."

106. Although AIG has reported that it is confident today that the misbooking has stopped, it has been unable to say *when* the misbooking stopped. In addition, AIG has

admitted having no evidence that disclosure of the decades of deception was ever made to the regulators of any state. To the contrary, each year AIG files forms with the New York Insurance Department, reporting the amount of workers compensation premiums it has received for each of the preceding nine years. In 2000, those forms continued to reflect the understated number falsely reported in 1991.

107. Until the foregoing facts came to light in 2005, defendants concealed from the investing public and regulators all facts that would have provided notice of their fraudulent and illegal scheme.

VI. Misleading Regulators About Offshore Entities

108. AIG's deceit has gone beyond statements of reserves, earnings, losses and workers compensation premiums. Beginning at least in the mid 1980s, AIG set up several offshore entities for the purpose of reinsuring AIG and its subsidiaries. AIG has repeatedly misled regulators about the nature of its relationships with these entities.

109. In 1987, AIG set up Coral Re, a Barbados-based reinsurer, for the purpose of reinsuring AIG business. By 1991, AIG had purchased from Coral Re approximately $1 billion in reinsurance, although Coral Re had a capitalization of only $15 million. (AIG-F 0001218)

110. By the early 1990s, Coral Re had come under regulatory scrutiny from insurance departments in Delaware, New York and Pennsylvania. In 1995, the New York Insurance Department raised concerns that AIG might control Coral Re. Pursuant to GAAP accounting on a consolidated basis, if an insurer purchases reinsurance from a reinsurance

company that it owns or controls, the insurer cannot claim on its books a reinsurance recoverable, i.e. protection against potential losses covered by the reinsurance, because the insurer is effectively reinsuring itself. In addition, under Section 1505 of the New York Insurance Law, AIG was required to file such arrangements for review by the New York Insurance Department before entering into them.

111. In its examination, the New York Insurance Department cited the following facts as evidence that AIG controlled Coral Re: (1) AIG created Coral Re; (2) AIG found the investors and drafted all documents related to the initial capitalization of Coral Re; (3) Coral Re was undercapitalized from the start and assumed huge amounts of risk through the sale of reinsurance to AIG; (4) in 1991 approximately 83% of Coral Re's assets were pledged for letters of credit with AIG as the beneficiary; (5) a material amount of the premiums from AIG to Coral Re was paid to a bank that is an affiliate of AIG and acted as collateral agent on the letters of credit; (6) all of Coral Re's management and administrative functions were performed by an AIG affiliate; (7) AIG unilaterally amended certain provisions in its reinsurance contracts with Coral Re; and (8) there were numerous relationships between the Coral Re investors and AIG.[2] (AIG-F 0001211)

112. As a condition of resolving the New York Insurance Department's examination, the Department mandated that AIG agree to stop purchasing reinsurance from Coral Re and that AIG would "report any reinsurer that has characteristics similar to Coral Re as an

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[2]For example, a director of AIG also sat on the board of an investor company, one of the Coral Re investors had common officers and a common chairman with AIG, and investors, Coral Re and AIG entites shared the same management company.

affiliate reinsurer in future filings with state insurance regulators." (AIG-F 0001222)[3]

113. At no time during the negotiations for the resolution of the Coral Re examination or thereafter did AIG disclose to the New York Insurance Department that it already had two preexisting offshore affiliates with "characteristics similar to Coral Re." In 1986, AIG had formed Richmond Reinsurance Company, a Bermuda holding company with a Barbados reinsurance subsidiary similar to Coral Re, and having a similar purpose. And in 1991, AIG had formed Union Excess Reinsurance Company Ltd., under a different name, a Barbados reinsurer similar to Coral Re, also for a similar purpose. Although there were minor variations, Richmond, Union Excess and Coral Re shared the following "characteristics": (1) they were created by AIG; (2) AIG found the investors and drafted all documents related to the initial capitalization; (3) they were undercapitalized; (4) they had passive investors backed by AIG or its affiliates; (5) the management and administrative functions of each were performed by the same AIG affiliate; and (6) officers of the three offshore entities had numerous relationships with AIG and with each other.[4]

114. Umansky, who was responsible for setting up Union Excess, testified that he modeled the Union Excess structure on Coral Re. He further testified that he had a number of conversations with both defendants Smith and Greenberg about Union Excess, and that they too were aware that Union Excess was modeled on Coral Re. They nonetheless failed to make the

[3]AIG had reached a similar settlement with Delaware in 1992. (AIG-F 0001121)

[4]For example, Coral Re, Richmond and Union Excess all shared a management company owned by AIG, the three entities had investors in common, certain individuals sat on the board of all three, and Murphy, an AIG employee, was an officer and alternate director of Richmond.

required disclosure to the insurance departments.

115. AIG's deceit was not limited to omissions. In 1999, when the New York Insurance Department inquired whether AIG controlled Richmond, AIG unequivocally answered that AIG "does not control [Richmond]." (AIG/GEN-RE-TRANS 0013514) The Insurance Department then requested that AIG file a formal Disclaimer of Control.[5]

116. AIG and its subsidiary, AIUO Ltd. ("AIUO"), filed a Disclaimer of Control in November 1999 with the Insurance Department. The filing was signed by Murphy and omitted three critical facts bearing directly on the issue of control: (1) a Richmond subsidiary had a management agreement with an AIG subsidiary; (2) Richmond's investors had a put agreement with AIUO, obligating AIUO to repurchase their shares at a value that rendered the "investments" riskless to the investors; and (3) defendant Greenberg, on behalf of AIG, had guaranteed AIUO's put obligations to the investors under the Shareholders Agreement. At least two of these omissions violated specific New York Insurance Department regulations.[6]

117. AIG's submission had the intended effect: the Insurance Department in a letter dated November 13, 2000 determined that AIG did not control Richmond. (The November 13, 2000 letter is attached hereto.)

118. Not until March 30, 2005, did AIG concede the truth. In a press release it

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[5]Under New York law, where questions exist concerning control over an insurance company, the suspected controlling entity may file a Disclaimer of Control to resolve the issue under Insurance Law § 1501(c) and Insurance Department regulation 11 N.Y.C.R.R. § 80-1.3. If approved by the Insurance Department, the filing entity is deemed not to control the insurer.

[6]11 N.Y.C.R.R. § 80-1.3(b)(2) required Murphy to report any interest that AIG had in Richmond's securities. 11 N.Y.C.R.R. § 80-1.3(c) required Murphy to report any contract for services between AIG and Richmond.

stated:

> [T]he review of the operations of the Richmond subsidiaries has shown significant previously undisclosed evidence of AIG control. Therefore, AIG has determined that Richmond should be treated as a consolidated entity in AIG's financial statements.

119. Until the foregoing facts came to light in 2005, defendants concealed from the regulators and the investing public all facts that would have provided notice of their fraudulent and illegal scheme.

120. But even as AIG internal investigations and those of law enforcement and regulators were uncovering facts that would lead to this acknowledgment, efforts to hide the true nature of AIG's relationships to these offshore entities persisted.

121. In November 2004, in the wake of disclosure of this office's inquiry into finite insurance, a Richmond investor advised Murphy that it wanted to sell its shares back to AIG. (AIG/GEN-RE-TRANS 0014315) Beginning on or about March 16, 2005, Murphy called a board of directors meeting to discuss the investor's desire to sell its shares and this office's investigation. The meeting was subsequently adjourned over several days. The meeting was tape recorded and, according to routine practice, an AIG employee took possession of and stored the recordings after the meeting. Over the weekend of March 19, Murphy removed the recordings (which have not yet been recovered) and issued a directive that electronic files of any draft transcripts of the recordings be deleted. Unbeknownst to Murphy, a hard copy draft transcript of the meeting exists and was subsequently turned over to AIG management, who provided it to law enforcement and regulatory authorities.

122. Defendants' actions as set forth above were gross, wanton, and wilful; were aimed at the public generally; and involved a high degree of moral culpability.

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

123. The acts and practices alleged herein constitute conduct proscribed by § 63(12) of the Executive Law, in that defendants engaged in repeated fraudulent or illegal acts or otherwise demonstrated persistent fraud or illegality in the carrying on, conducting or transaction of business.

SECOND CAUSE OF ACTION
(Securities Fraud - Gen. Bus Law §352-c(1)(a))

124. The acts and practices of the defendants 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, where said uses or employments were engaged in to induce or promote the issuance, distribution, exchange, sale, negotiation, or purchase within or from this state of any securities.

THIRD CAUSE OF ACTION
(Securities - Gen. Bus. Law § 352-c(1)(c))

125. The acts and practices of the defendants alleged herein violated Article 23-A of the General Business Law, in that defendants made representations or statements which were false, where (i) they knew the truth, or (ii) with reasonable efforts could have known the truth, or (iii) made no reasonable effort to ascertain the truth, or (iv) did not have knowledge concerning the representations or statements made, where said representations or statements were engaged in to induce or promote the issuance, distribution, exchange, sale, negotiation, or

purchase within or from this state of any securities.

FOURTH CAUSE OF ACTION
(Common Law Fraud)

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

FIFTH CAUSE OF ACTION
(Insurance Law § 310(a)(3))
(As to Defendant AIG Only)

127. The acts and practices alleged herein constitute conduct proscribed by § 310(a)(3) of the Insurance Law, in that AIG did not facilitate and aid Insurance Department examiners in the examination of American Home Assurance Company, an AIG subsidiary, to wit, AIG failed to report Union Excess and Richmond Reinsurance Company as affiliated reinsurers in AIG's regulatory filings with the Insurance Department, when it was in AIG's power to do so.

WHEREFORE, plaintiffs demand judgment against the defendants as follows:

A. Enjoining and restraining defendants, their 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, or agreement, 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 defendants, pursuant to Article 23-A of the General

Business Law and section 63(12) of the Executive Law and the common law of the State of New York, disgorge all gains and pay all restitution and damages caused, directly or indirectly by the fraudulent and deceptive acts complained of herein;

C. Directing that defendants pay punitive damages;

D. Directing that defendants pay plaintiffs' costs, including attorneys' fees as provided by law;

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

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

Dated: New York, New York
May 26, 2005

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