

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES

In the Matter of

**CERTAIN UNDERWRITERS AT LLOYD'S,
LONDON SUBSCRIBING TO INSURANCE
POLICIES ISSUED TO THE NATIONAL RIFLE
ASSOCIATION OF AMERICA**

**CONSENT ORDER UNDER
SECTIONS 1102 AND 3420 OF THE INSURANCE LAW**

The following underwriters at the Lloyd's London market, which are subject to this Consent Order, acting through the undersigned managing agents: KLN 0510, managing agent Tokio Marine Kiln Syndicates Limited; AUW 0609, managing agent Atrium Underwriters Limited; SAM 0727, managing agent S.A. Meacock & Company Limited; CNP 0958, managing agent Canopus Managing Agents Limited; CSL 1084, managing agent Chaucer Syndicates Limited; ROC 1200, managing agent Argo Managing Agency Limited; GER 1206, managing agent AmTrust Syndicates Limited; BRT 2987, managing agent Brit Syndicates Limited; CNP 4444, managing agent Canopus Managing Agents Limited; and LIB 4472, managing agent Liberty Managing Agency Limited (together, the "Underwriters"), and the New York State Department of Financial Services (the "Department") are willing to resolve the matters described herein without further proceedings. This Order is entered into by the undersigned managing agents, who execute this Order on behalf of Underwriters.

THE DEPARTMENT'S FINDINGS FOLLOWING INVESTIGATION

1. Lloyd's of London is an insurance market encompassing underwriting syndicates managed by more than 50 managing agents with whom over 200 registered brokers do business,

some of which involves a global network of over 4,000 local agents, known as “coverholders,” which have underwriting authority on behalf of the underwriting syndicates.¹ The Lloyd’s market is overseen by the U.K.-based Corporation of Lloyd’s.

2. An “admitted” insurer is an insurance company that has received a license from the Department to provide specified types of insurance to customers in New York. Admitted insurers are fully regulated by the Department in order to ensure solvency and adherence to consumer protection standards. A non-admitted insurer is an insurer not licensed by the Department, and may be an insurance carrier that provides “excess line” insurance only under prescribed rules.

3. Excess line coverage offers policyholders an opportunity to obtain insurance that could not be procured through admitted insurance carriers. Excess line carriers are not licensed by the Department but are permitted to do business in New York through a licensed excess line broker. Generally, an excess line policy can be written only after it has been declined by at least three admitted carriers.

4. Lockton Companies, LLC (“Lockton”) is the world’s largest privately owned, independent insurance brokerage firm, offering customers risk management, insurance and employee benefits services. At least one of its affiliates has been licensed by the Department since approximately 1987. Lockton Affinity, LLC (“Lockton Affinity”) is an affiliate of Lockton Companies, and has been licensed by the Department to act as an excess line insurance broker since at least 2013.

5. The National Rifle Association of America (“NRA”) is a New York not-for-profit corporation incorporated in 1871. The NRA describes its mission as “firearms safety, education,

¹ A “coverholder” in the Lloyd’s market is an insurance intermediary authorized by a managing agent to enter into contracts of insurance to be underwritten by the members of a syndicate managed by it, in accordance with the terms of a binding authority. See <https://www.lloyds.com/lloyds-around-the-world/europe/switzerland/becoming-an-intermediary-and-coverholder>.

and training and advocacy on behalf of safe and responsible gun owners.” The NRA is not and has never been licensed by the Department.

6. From approximately January 2000 through March 2018 (or, for certain insuring agreements, for shorter time periods within this span), the NRA (through Lockton Affinity) offered 15 insurance programs to new and existing NRA members in New York and elsewhere that were underwritten by Underwriters, including, *inter alia*:

- a. “Self-Defense Insurance,” which provided coverage for criminal and civil defense costs, and bodily injury and damage caused by the use of a firearm;
- b. “Retired Law Enforcement Officer Self-Defense Insurance,” which provided coverage for criminal and civil defense costs, and bodily injury and damage caused by the use of a firearm;
- c. “Second-Call Defense Insurance,” which provided coverage for criminal and civil defense costs, and bodily injury and damage caused by the use of a firearm;
- d. “ArmsCare Plus Firearms Insurance,” which provided coverage for legal firearms and attached accessories against loss, damage, flood, fire, and theft (including theft from a locked vehicle);
- e. “No Cost ArmsCare Firearms Insurance,” which provided free coverage to NRA members in good standing for legal firearms and their attached accessories, up to \$2,500 in value, against loss, damage, flood, fire, and theft (including theft from a locked vehicle);
- f. “Firearms Instructor Plus Liability Insurance,” which provided coverage for injuries or damage the insured causes while acting as an instructor during a lesson, medical expenses up to \$5,000, legal expenses from lawsuits related to the injuries or damage, and professional liability coverage that protects the member from allegations of negligent training;
- g. “Personal Firearms Protection Insurance,” which provided coverage for any unintentional injuries or damage an insured causes while hunting or trapping on public or private land, shooting in competitions, or shooting at private shooting ranges, with a firearm, air gun, bow and arrow, or trapping equipment, and coverage for lawsuit defense costs;

- h. "Gun Collector Insurance," which provided coverage for certain firearms and their attached accessories against loss, damage, fire, and theft (including theft from a locked vehicle);
- i. "Gun Club Insurance," which provided coverage for loss or damage to any assets the gun club rents, leases or owns, coverage for general liability plus medical payments, coverage for claims of false advertising, and optional coverage for business income, boiler and machinery, glass, computers, valuable papers and records, and accounts receivable;
- j. "Hunt Club Insurance," which provided coverage for hunt clubs and the landowners to protect against injury and damage, provided host liquor coverage, and provides hired and non-owned auto coverage. In addition, an insured may select coverage for "personal and advertising", products/completed operations, and medical expenses up to \$5,000 for any one person;
- k. "NRA Business Alliance Insurance," which provided coverage for a firearms-related business, including coverage for loss or damage to any assets the insured business rents, leases or owns, coverage for general liability plus medical payments, coverage for claims of false advertising, gunsmith coverage, and optional coverage for business income, boiler and machinery, glass, computers, valuable papers and records, and accounts receivable;
- l. "Gun Show Insurance," which provided coverage for the insured's liability arising out of the insured's occupation as a gun show promoter; and
- m. "Home-Based Federal Firearms License Insurance" for gun dealers and gunsmiths, which provided coverage for the insured's business location, equipment and tools, and gear entrusted to the insured by the insured's clients, against theft, damage and other loss, and provided general liability coverage, including products/completed liability to insure the insured's finished work against later claims.

Together, these insurance programs are referred to herein as the "NRA Programs."²

7. Pursuant to written agreements with Lockton, Underwriters served as the underwriters for the NRA Programs, providing insurance policies to individuals and organizations

² This paragraph includes summary descriptions obtained from the NRA website of coverage provided under the pertinent insurance agreements. The specific operative terms and conditions of these coverages are set forth in the actual insuring agreements identified.

who purchased NRA-sponsored insurance. Lockton Affinity placed coverage for individuals whose home state is New York with Underwriters as part of a group policy issued to the NRA in Virginia. Lockton also procured from Underwriters individual policies covering organizations, such as gun clubs, whose home state is New York.

8. Pursuant to written agreements between Underwriters and Lockton Affinity, and between Lockton Affinity and the NRA, Lockton Affinity served as the administrator for the NRA Programs, carrying out such functions as marketing the insurance, binding the insurance, collecting and distributing premiums, and delivering policy documents to insureds.

9. The NRA Programs, as underwritten by Underwriters and administered by Lockton Affinity, unlawfully provided insurance coverage that may not be offered in the New York State excess line market, specifically: (a) defense coverage in a criminal proceeding that is not permitted by law; and (b) liability coverage for bodily injury or property damage expected or intended from the insured's standpoint in an insurance policy limited to use of firearms and that was beyond the use of reasonable force to protect persons or property.

10. The NRA Programs, as underwritten by Underwriters and administered by Lockton Affinity, further failed to comply with Section 3420 of the Insurance Law, which sets forth minimum requirements for liability insurance policies.

11. Moreover, Underwriters issued to the NRA impermissible group policies covering insureds whose home state is New York State, as neither Insurance Law Article 34 nor Insurance Regulation 135 (11 N.Y.C.R.R. § 153) authorize Underwriters to write this type of group property or casualty insurance.

12. Underwriters have represented to the Department that, between approximately January 2000 and May 31, 2018, (a) 24,637 insurance policies or insuring agreements were issued

to persons or entities with a New York address in connection with the NRA Programs; and (b) 401 claims for payment have been filed by persons or entities whose home state is New York for the NRA Programs as of December 18, 2018.

13. Since October 2017, the Department has been conducting an investigation of the involvement of the Corporation of Lloyd's, Underwriters, Lockton and the NRA in the NRA Programs and other matters, including a review of thousands of pages of documents obtained from the Corporation of Lloyd's, Underwriters, Lockton Affinity and the NRA, as well as other information obtained from relevant sources (the "DFS Investigation").

14. Underwriters have represented to the Department that, following initiation of the DFS Investigation, Underwriters suspended their participation in the NRA Programs as of June 1, 2018 with respect to persons or entities whose home state is New York.

15. **NOW THEREFORE**, to resolve this matter without further proceedings, pursuant to Sections 1102 and 3420 of the Insurance Law, Underwriters and the Department (collectively, the "Parties") hereby stipulate and agree as follows:

VIOLATIONS OF LAW AND REGULATIONS

16. Underwriters engaged in the business of insurance without a license by issuing or delivering policies in New York, or otherwise issuing policies covering insureds whose home state is New York State, which provided insurance coverage that may not be offered in the New York State excess line market, specifically: (a) defense coverage in a criminal proceeding that is not permitted by law; and (b) liability coverage for bodily injury or property damage expected or intended from the insured's standpoint in an insurance policy limited to use of firearms and that was beyond the use of reasonable force to protect persons or property, in violation of Insurance Law § 1102.

17. Underwriters issued liability insurance coverage to insureds whose home state is New York that failed to contain required liability insurance policy provisions, in violation of Insurance Law § 3420.

SETTLEMENT PROVISIONS

Civil Monetary Penalty

18. Underwriters shall pay a civil monetary penalty to the Department pursuant to Sections 1102 and 3420 of the Insurance Law in the amount of \$5,000,000. Underwriters shall pay the entire amount within ten days of executing this Consent Order. Underwriters agree that they will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order. Underwriters further agree that they will not claim, seek, or receive indemnification of the civil monetary penalty from any other person or entity.

Prohibition on Certain Insurance Programs

19. Underwriters agree not to issue or deliver in New York State any insurance policies specific to firearm usage that provide liability coverage for bodily injury or property damage from use of a firearm, including, but not limited to, (a) the NRA "Self-Defense Insurance" policy, (b) the NRA "Retired Law Enforcement Officer Self-Defense Insurance" policy and (c) the NRA "Second-Call Defense Insurance" policy; and agree not to provide, to persons or entities whose home state is New York, liability coverage for bodily injury or property damage expected or intended from the insured's standpoint in general liability coverage that is not limited to those occasions where bodily injury results from the use of reasonable force to protect persons or property, whether they are written or issued in New York State or elsewhere including, but not limited to, (a) the NRA "Self-Defense Insurance" policy, (b) the NRA "Retired Law Enforcement

Officer Self-Defense Insurance” policy and (c) the NRA “Second-Call Defense Insurance” policy. For the avoidance of doubt, Underwriters shall not be prohibited from providing homeowners, renters or general liability insurance in New York State, or for New York persons or entities whose home state is New York, that includes bodily injury liability insurance or property damage liability insurance for loss, damage, or expense that results from the negligent use of a firearm.

20. Underwriters agree that they shall not enter into any agreement or program with the NRA to underwrite or participate in any affinity-type insurance program involving any line of insurance covering persons or entities whose home state is New York; provided, however, that the NRA may itself purchase insurance from Underwriters for the sole purpose of obtaining insurance for the NRA’s own corporate operations. Underwriters further agree that they shall not enter into any affinity-type insurance program, involving any line of insurance covering persons or entities whose home state is New York, without undertaking reasonable due diligence to ensure that any person or entity involved in the issuance, brokering, administration or marketing of such affinity insurance program is acting in compliance with the Insurance Law and the regulations promulgated thereunder, including but not limited to, any licensure requirements of the Insurance Law or regulations promulgated thereunder.

21. Underwriters agree not to issue or deliver in New York State any group insurance policy, or issue any group insurance policy covering an insured whose home state is New York State, unless the Insurance Law or regulations promulgated thereunder authorize the Underwriters to write the group insurance policy in the New York State excess line market.

22. Within 10 business days of the full execution of this Order, Underwriters shall cause Lockton Affinity to mail or deliver, within 30 days of the full execution of this Order, to all insureds whose home state is New York under the NRA “Self-Defense Insurance,” NRA “Retired

Law Enforcement Officer Self-Defense Insurance,” and NRA “Second-Call Defense Insurance” programs a notice stating that Underwriters are canceling the insurance coverage provided under these specific NRA Programs effective 90 days from the date of notice. Underwriters agree to cause Lockton to submit the draft notices to the Department for the Department’s review and approval prior to the mailing or delivering such notices. Underwriters further agree to fully refund the insurance premiums for the specific coverages canceled under these NRA Programs. Thereafter, Underwriters shall promptly file a certification with the Department that sets forth their compliance with this Paragraph 22.

23. Also within 10 business days of the full execution of this Order, Underwriters shall cause Lockton Affinity (a) to mail or deliver, within 30 days of the full execution of this Order, to the NRA a notice stating that Underwriters are cancelling the insurance coverage provided under the NRA “No Cost ArmsCare Firearms Insurance Policy” to all insureds whose home state is New York effective 90 days from the date of notice and (b) to direct the NRA to notify such insureds (by the prescribed notice methods set forth in the “No Cost ArmsCare Firearms Insurance Policy”) that this coverage has been cancelled. Underwriters agree to cause Lockton Affinity to submit the draft notice(s) required by Paragraph 23(a) to the Department for the Department’s review and approval prior to the mailing or delivering of such notices. If the NRA does not provide, by the prescribed notice methods set forth in the “No Cost ArmsCare Firearms Insurance Policy,” notice to all insureds whose home state is New York that the “No Cost ArmsCare Firearms Insurance Policy” coverage has been cancelled within the specified (or, if not specified, reasonable) time period, then at the Department’s direction, Underwriters shall take and/or cause Lockton Affinity to take, such further action as reasonably may be required to notify the insureds of the cancellation including, without limitation, publication of notice of cancellation in relevant newspapers,

periodicals or other media, subject to the Department's prior approval. Thereafter, Underwriters shall promptly file a certification with the Department that sets forth their compliance with this Paragraph 23.

24. Underwriters shall direct Lockton Affinity to non-renew any of the NRA Programs, other than the NRA Programs specified in Paragraphs 22 and 23 of this Order, issued under the group policy to an insured whose home state is New York, at the end of the coverage term for that insured. After Lockton Affinity has non-renewed all insureds whose home state is New York, Underwriters shall promptly file a certification with the Department that sets forth their compliance with this Paragraph 24.

25. Underwriters agree not to issue or deliver in New York State an insurance policy, or otherwise issue an insurance policy covering an insured whose home state is New York, that provides legal services coverage, including, but not limited to, defense coverage in a criminal proceeding.

26. Underwriters agree not to issue or deliver in New York State an insurance policy, or otherwise issue an insurance policy covering an insured whose home state is New York, that compensates any broker, agent or other entity in a manner that would constitute either an illegal inducement to the making of insurance or after insurance has been effected, an illegal rebate from the premium which is not specified in the insurance policy, or illegal valuable consideration or inducement of any kind, directly or indirectly, which is not specified in the insurance policy.

Full and Complete Cooperation of Underwriters

27. Underwriters commit and agree to fully cooperate with the DFS Investigation and all terms of this Consent Order. Such cooperation shall include, without limitation:

- a. producing all non-privileged documents and other materials to the Department, as requested, wherever located in the possession, custody, or control of Underwriters;
- b. requiring employees or agents to appear for interviews, at such reasonable times and places, as requested by the Department;
- c. responding fully and truthfully in a prompt manner to all inquiries when requested to do so by the Department; and
- d. testifying at hearings, trials and other judicial, administrative or other proceedings, when requested to do so by the Department, in connection with its investigation of matters relating to the NRA Programs.

Breach of Consent Order

28. If the Department believes Underwriters, or any individual Underwriter, to be in material breach of this Consent Order, the Department will provide written notice to such Underwriter or Underwriters, and such Underwriter or Underwriters must, within ten business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach is not material or has been cured.

29. The parties understand and agree that the failure of Underwriters or such Underwriter to make the required showing within the designated time-period shall be presumptive evidence of any such Underwriter's breach. Upon a finding that an Underwriter or Underwriters have breached this Consent Order, the Department has all the remedies available to it under New York Insurance and Financial Services Law and may use any evidence available to the Department in any ensuing hearings, notices, or orders.

Waiver of Rights

30. The parties understand and agree that no provision of this Consent Order is subject to review in any court or tribunal outside the Department.

Parties Bound by the Consent Order

31. This Consent Order is binding on the Department and Underwriters, as well as any successors and assigns. This Consent Order does not bind any federal or other state agency or any law enforcement authority.

32. No further action will be taken by the Department against Underwriters for the specific conduct set forth in this Consent Order, provided that Underwriters comply fully with the terms of this Consent Order, including Paragraph 27 above.

33. Notwithstanding any other provision contained in this Consent Order, the Department may undertake action against any Underwriter for transactions or conduct that such Underwriter did not disclose to the Department in the written materials that such Underwriter submitted to the Department in connection with this matter.

Notices

34. All notices or communications regarding this Consent Order shall be sent to:

For the Department:

Hadas Jacobi
Assistant Deputy Superintendent
for Enforcement
New York State Department of Financial Services
One State Street
New York, NY 10004

Connor Mealey
Excelsior Fellow
New York State Department of Financial Services

One State Street
New York, NY 10004

For Underwriters:

Michael P. Murphy
Partner, Global Chair, Insurance and Reinsurance
DLA Piper LLP (US)
1251 Avenue of the Americas
New York, NY 10020

Catherine Marshall
Head of Compliance
Tokio Marine Kiln
20 Fenchurch Street
London, EC3M 3BY
United Kingdom
For the Members of Lloyd's Syndicate No. 0510 acting through their managing agent, Tokio Marine Kiln Syndicates Limited.

James Cox
Compliance Director
Lloyd's Building
1 Lime Street
London, EC3M 7DQ
United Kingdom
For the Members of Lloyd's Syndicate No. 0609 acting through their managing agent, Atrium Underwriters Ltd.

David Jones
Compliance Director
Hasilwood House
60 Bishopsgate
London, EC2N 4AW
United Kingdom
For the Members of Lloyd's Syndicate No. 0727 acting through their managing agent, S.A. Meacock & Company Limited.

The Company Secretary
Gallery 9
One Lime Street
London, EC3M 7HA

United Kingdom
For the Members of Lloyd's Syndicate No. 0958 acting through their managing agent, Canopus Managing Agents Limited.

Paul Armfield
Compliance Manager
Chaucer Syndicates
Plantation Place
30 Frenchchurch Street
London EC3M 3AD
For the Members of Lloyd's Syndicate No. 1084 acting through their managing agent, Chaucer Syndicates Limited.

Toby Mills
Head of Compliance - EMEA
ArgoGlobal
1 Fen Court
London, EC3M 5BN
United Kingdom
For the Members of Lloyd's Syndicate No. 1200 acting through their managing agent, Argo Managing Agency Limited.

General Counsel
Exchequer Court
33 St Mary Axe
London EC3A 8AA
United Kingdom
For the Members of Lloyd's Syndicate No. 1206 acting through their managing agent, AmTrust Syndicates Limited.

Tim Harmer, Group Director of Legal and Compliance
Brit Insurance
122 Leadenhall Street
London, EC3V 4AB
United Kingdom
For the Members of Lloyd's Syndicate No. 2987 acting through their managing agent, Brit Syndicates Limited.

The Company Secretary
Gallery 9
One Lime Street
London, EC3M 7HA
United Kingdom
For the Members of Lloyd's Syndicate No. 4444 acting through their managing agent, Canopus Managing Agents Limited.

Nigel Davenport, Group General Counsel
Liberty Specialty Markets
20 Fenchurch Street,
London, EC3M 3AW
United Kingdom

For the Members of Lloyd's Syndicate No. 4472 acting through their managing agent, Liberty Managing Agency Limited.

Miscellaneous

35. Each provision of this Consent Order shall remain effective and enforceable until stayed, modified, suspended, or terminated by the Department.

36. No promise, assurance, representation, or understanding other than those contained in this Consent Order has been made to induce any party to agree to the provisions of the Consent Order.

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IN WITNESS WHEREOF, the parties have caused this Consent Order to be signed this 20th
day of December, 2018.

**UNDERWRITERS AT LLOYD'S,
LONDON**

By: _____

CHARLES FRANKS

Group Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
0510 acting through their managing agent,
Tokio Marine Kiln Syndicates Limited.**

**NEW YORK STATE DEPARTMENT OF
FINANCIAL SERVICES**

By:  _____

MARIA T. VULLO

Superintendent of Financial Services


By:  _____

MATTHEW L. LEVINE

Executive Deputy Superintendent for
Enforcement

IN WITNESS WHEREOF, the parties have caused this Consent Order to be signed this ____ day of December, 2018.

**UNDERWRITERS AT LLOYD'S,
LONDON**

By: 

CHARLES FRANKS

Group Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
0510 acting through their managing agent,
Tokio Marine Kiln Syndicates Limited.**

**NEW YORK STATE DEPARTMENT OF
FINANCIAL SERVICES**

By: 
MARIA T. VULLO

Superintendent of Financial Services

By: _____
MATTHEW L. LEVINE
Executive Deputy Superintendent for
Enforcement

By: 

RICHARD HARRIES

Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
0609 acting through their managing agent,
Atrium Underwriters Ltd.**

By: 

KARL W. JARVIS

Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
0727 acting through their managing agent, S.A.
Meacock & Company Limited.**

By: M. Duffy

MIKE DUFFY

Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
0958 acting through their managing agent,
Canopus Managing Agents Limited.**

By: R.W. Barnett

RICHARD BARNETT

Company Secretary and General Counsel

**For the Members of Lloyd's Syndicate No.
1084 acting through their managing agent,
Chaucer Syndicates Limited.**

By: 

DOMINIC KIRBY

Managing Director

**For the Members of Lloyd's Syndicate No.
1200 acting through their managing agent,
Argo Managing Agency Limited.**

By:  _____

SHELDON LACY

Chief Risk Officer

**For the Members of Lloyd's Syndicate No.
1206 acting through their managing agent,
AmTrust Syndicates Limited.**

By: 

TIM HARMER

Group Director of Legal and Compliance

**For the Members of Lloyd's Syndicate No.
2987 acting through their managing agent, Brit
Syndicates Limited.**

By: M. Duffy

MIKE DUFFY

Chief Executive Officer

**For the Members of Lloyd's Syndicate No.
4444 acting through their managing agent,
Canopus Managing Agents Limited.**

By: 

NIGEL DAVENPORT

Group General Counsel

**For the Members of Lloyd's Syndicate No.
4472 acting through their managing agent,
Liberty Managing Agency Limited.**