No. D-1-GV-08-000197

THE STATE OF TEXAS §
PLAINTIFF, §
v. §
AMERICAN INTERNATIONAL GROUP, INC. §
DEFENDANT. §

IN THE DISTRICT COURT OF
TRAVIS COUNTY, TEXAS
98 JUDICIAL DISTRICT

Filed in The District Court
of Travis County, Texas
JAN 29 2008
At 8:10 M.
Amalia Rodriguez-Mendoza, Clerk

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Plaintiff, the State of Texas, by and through its Attorney General, Greg Abbott sues American International Group, Inc. ("AIG") concerning arrangements by certain of AIG's domestic property casualty insurance subsidiaries listed in Exhibit A, whose offices are situated and issue commercial insurance policies in the United States, and for its cause of action would respectfully show the Court:

I.

DISCOVERY CONTROL PLAN

1. The discovery in this case is intended to be conducted under Level 2 pursuant to Texas Rule of Civil Procedure 190.3.

II.

NATURE OF SUIT

2. This action is brought in the name of the State of Texas by the Attorney General of Texas, acting within the scope of his official duties under the authority granted to him by the

Constitution and the laws of the State of Texas, and specifically under the authority granted by the Texas Free Enterprise and Antitrust Act of 1983. TEX. BUS. & COM. CODE § 15.01 et seq. ("the Texas Antitrust Act" or "the Act").

III.

JURISDICTION AND VENUE

3. Jurisdiction and venue are proper in this Court pursuant to Article 5, Section 8 of the Texas Constitution and Sections 15.20 and 15.26 of the Texas Antitrust Act.

IV.

DEFENDANT

4. Defendant, American International Group, Inc. is incorporated under the laws of Delaware and owns insurance companies that do business throughout the United States and in the State of Texas. Exhibit A lists AIG subsidiaries based in the United States along with their state of incorporation

V.

INSURANCE TERMINOLOGY

A. Insurers, Brokers, and Customers

5. In general, there are three categories of participants in the commercial insurance market. First, there are the insureds, or policyholders: companies, individuals, and public entities that purchase insurance against various types of risk. Second, there are brokers and independent agents (collectively "brokers") who advise policyholders as to coverage, procure quotes from insurance companies, and make recommendations regarding the insurance companies offering that coverage. Brokers also place and bind coverage with insurers, and often remit premiums from the insureds to the insurance companies. Finally, there are the insurance companies that

enter into contracts with policyholders to insure specified risks in exchange for the payment of premiums.

6. In the case of complex commercial insurance products, a high level of expertise is required to ascertain the non-price differences between the products offered by competing insurers. Even sophisticated companies require the kind of specialized insurance advice and advocacy that brokers offer.

7. Brokers represent the insureds—their clients—when advising them as to insurance needs and options, and when obtaining and negotiating the terms of insurance coverage with insurance companies. Clients rely on the broker's expertise and objective advice to determine which insurance products and services best suit their needs, and from which insurers to purchase those products and services.

B. Premiums, Fees, Commissions, and Contingent Commissions

8. Brokers are compensated by their clients by payments directly from the clients or indirectly from premiums the clients pay to insurers. The client's payment to the broker is sometimes a flat "fee." Other times, brokers receive a "commission" from the insurer that is calculated as a percentage of the premium the client pays to the insurer.

9. Insurers also pay brokers through arrangements known as "contingent commission" arrangements, in which the insurer pays the broker based on various premium goals, such as volume of business placed with the insurer, retention of previous accounts, and the profitability of the business placed by the broker with the insurer. These arrangements typically were not fully disclosed to the customer.

C. Excess Casualty Insurance

10. "Casualty insurance" is a kind of insurance that, among other things, protects companies, non-profits, and government entities from the risk of significant unexpected monetary losses. Casualty insurance is often purchased in multiple "layers." The first layer of risk is known as the "primary layer." Above the "primary layer," many companies pay insurance companies to insure against the risk of greater loss. The point at which the insurance company's obligations are triggered is known as the "attachment point." If an insured risk is greater than the attachment point, the insured pays the amount up to the attachment point out-of-pocket (or the primary insurer pays the primary amount), and an excess insurer pays the amount above the attachment point, up to a certain pre-determined ceiling. The first "layer" of insurance above the primary policy is known as the "lead" or "umbrella" layer. If a customer wants insurance to cover amounts that exceed the ceiling set in the contract with the "lead" or "umbrella" layer insurer, the customer must pay for an additional layer or layers of excess casualty insurance. These are known as the "excess layers." The excess layer insurer's obligations are triggered when the cost exceeds the limit or ceiling set in the customer's contract with the "lead" or "umbrella" insurer.

VI.

FACTUAL ALLEGATIONS

A. Customer Allocation Conspiracy

11. AIG is a commercial insurance carrier that knowingly and willfully participated in unlawful conspiracies to restrain trade in the market for certain insurance products purchased by customers located across the country and, in particular, the State of Texas. The conspiracies allowed a group of competing insurance carriers to allocate customers, divide markets for commercial insurance, and charge those customers inflated premiums.

12. Motivated by the desire to maximize contingent commission income, commercial insurance brokers orchestrated collusive conduct among a group of competing insurance carriers, including AIG. In exchange for undisclosed contingent commission payments, brokers steered business to AIG and other preferred insurers.

13. The most sophisticated version of this steering occurred through a bid-rigging conspiracy involving several national insurers and national broker Marsh & McLennan ("Marsh"). Marsh solicited and obtained intentionally uncompetitive quotes from insurance companies in order to deceive customers into believing that the process had been competitive. Through Marsh, the insurance companies in the conspiracy protected the incumbent insurer in exchange for either similar protection on another account or protection from competition (and inflated prices) on another "layer" of the same account.

14. At the center of this plan was a Marsh division called Global Broking which began operating in the late 1990s. Marsh Global Broking obtained quotes from insurers and oversaw policy placement decisions in Marsh's major business lines. In Marsh's business plan, Global Broking established broking plans (also known as game plans) for each account. These broking plans laid out which insurer would quote each layer and often set specific pricing targets. Global Broking also negotiated the contingent commission agreements with the insurers and created "tiering" reports designating certain insurers as "partner" or "preferred" insurers. The broking plans favored the insurance markets that provided the most lucrative contingent commissions to Marsh. Moreover, the prices were not set competitively. Instead, the prices set by Global Broking were heavily influenced by the rate of increase sought by the "partner" insurers. Marsh did not set the prices it would seek to obtain from insurers at the lowest point Marsh believed it could obtain. Rather, Marsh approached insurers with prices that were

calculated to be as high as possible and still result in the placement of the client's business with the partner insurer.

15. In many instances, the co-conspirators pre-designated the winner of the bidding process. Marsh would approach the incumbent "partner" with an inflated price that it believed it could sell to the client. The incumbent could be assured that if it met that price, it would win the business. Then, Marsh would approach "back up" markets and request "B-quotes," "protective quotes," "indications," "fake quotes," "back-up quotes," or "back-up indications" from them. In particular with AIG, Marsh would request and receive an "alternative lead" which was synonymous with B-quote. When Marsh requested protective quotes, insurers understood that target premiums set by Marsh were higher than quotes provided by incumbents and that the insurance companies should not bid lower than the target.

16. The backup insurer knew that it would not receive the business. Marsh sometimes shared broking plans with insurers so that everyone knew who was "slotted" to get each layer. Sometimes, Marsh would ask for a B-quote, back-up quote, indication, fake quote, or protective quote, but would not specify a target amount. In these cases, the insurer was instructed to look at the expiring pricing terms and come up with a quote that was high enough to ensure that it would not get the business. In B-quote situations, the insurer submitting the B-quote would generally not receive the business, but would be rewarded on another layer of that account or on another account.

17. As the leading excess casualty insurer and because it was frequently an incumbent, AIG benefited from Marsh's solicitation of protective quotes more than any other insurer that participated in the scheme. For example, in the 2002 Fortune Brands placement, ACE Excess Casualty submitted a quote for $990,000 that was more competitive than AIG's.

Hours later, ACE faxed a revised bid to Marsh increasing the quote to $1,100,000. An ACE underwriter stated on the fax cover sheet "per our conversation attached is revised confirmation. All terms & conditions remain unchanged." On following day, the ACE underwriter explained to another ACE employee: "Original quote $990,000.... We were more competitive than AIG in price and terms. MMGB requested that we increase premium to $1.1M to be less competitive, so AIG does not loose [sic] the business."

18. This unfair and deceptive model also led insurance customers across the country, and in particular, the State of Texas to suffer substantial harm. Consumers paid more money for insurance services than they would have paid in a competitive system, and may have received an insurance product less well-suited to their needs than would have been the case in a competitive market. Additionally, AIG's participation in this scheme to undercut competition distorted the market for commercial insurance, causing consumers generally to pay higher prices and obtain lower quality services from brokers and insurers. The injuries customers suffered by paying these increased prices were a direct and proximate result of AIG's illegal acts.

B. Illegal Agreement Not to Compete

19. In November 2001, AIG along with Chubb, Goldman Sachs, an affiliate of Swiss Reinsurance Company, and over 250 other non-principal shareholders, formed an independent insurance company named Allied World Assurance Company ("AWAC"). AWAC entered the market as a Bermuda-based surplus lines property and casualty insurer with a focus on the tower layers of excess casualty coverage. The founding investors capitalized AWAC with $1.5 billion in equity to meet the post-9/11 demand for additional insurance capacity. Following their investments, AIG owned approximately 24% of AWAC, while Chubb held 19% of its equity, and Goldman Sachs held 16%.

20. AWAC was the brainchild of AIG Chairman Maurice ("Hank") Greenberg, who was personally involved in AWAC's creation. Greenberg served as AWAC's Board Chairman from its inception until April 2004. In addition, a former AIG executive, Michael Morrison, was named AWAC's first President and CEO; several other top posts at AWAC were similarly filled with former AIG executives.

21. Despite its close ties with AIG, however, AWAC was structured as an independent company, and was not a subsidiary of AIG or its founding investors. AWAC's formation documents contemplate that AWAC would function independently of, and compete with, its founders.

22. The October 2001 Private Placement Memorandum issued by Goldman Sachs as part of AWAC's initial $473 million capital stock offering states, "AIG, Chubb and other Investors and their respective affiliates will be free to underwrite risks in the same lines and layers as [AWAC] and to compete with [AWAC]. AIG and Chubb and certain of the other Investors currently offer or may offer coverage in various lines in which [AWAC] may offer coverage." In fact, at least three of AIG's affiliates, Lexington Insurance Company, Starr Excess Liability Insurance Company, and (beginning in 2004) American Home Assurance Company were in the business of underwriting risks in the same excess casualty layers that AWAC was targeting in its business model.

23. Moreover, section 7.6(c) of the AWAC Shareholder Agreement states, "The Shareholders acknowledge that certain Shareholders (including AIG, Chubb and Affiliates of Securities) are, and may in the future be, engaged in businesses and activities which, directly or indirectly, compete with the businesses of [AWAC]."

24. The Goldman Sachs Private Placement Memorandum also acknowledges that

"[w]hile a significant portion of revenues may come through AIG and Chubb referrals, neither AIG nor Chubb has any contractual obligation to refer business to the Company," further underscoring the fact that AWAC was structured as an independent company and potential competitor of its founding investors.

25. In practice, however, AWAC and AIG informally agreed not to compete against one another. AWAC and AIG frequently refused brokers' requests for quotes when one learned that the other was the incumbent carrier or was intending to quote the same piece of business.

26. Brokers in the Bermuda market were told that AIG and AWAC would not compete against one another for the same business. For example, in May 2004, in response to a broker's request for a quote for the Children's Hospital of Orange County, an AWAC underwriter said, "I am going to have to decline to look at this. We have elected not to compete against our investor companies and as [Lexington] is the incumbent on this program xs of $25M I am not going to be able to offer a quote for that layer."

27. AIG and AWAC shared information about, and coordinated responses to bidding opportunities through AIG's universal reservations system, called E-Start. Before an AIG subsidiary provides a quote for a prospective insured, the underwriter must reserve that customer's business in the E-Start database. If another AIG entity has already reserved that business, the system tells the underwriter that the account is "blocked," and the system prevents the underwriter from providing a quote.

28. AIG provided AWAC with access to E-Start when AWAC first entered the market in December 2001, and AWAC used E-Start through January 2006. When presented with prospective new business, AWAC would log into E-Start to determine whether AIG had

already reserved the business and "blocked" AWAC from competing for that business. Sometimes AWAC underwriters and managers would contact AIG underwriters and managers requesting that AIG to release or "unblock" a certain piece of business so that AWAC could provide a quote. AIG often refused, in order to preserve its incumbent position or prevent AWAC from competing for the business. The reverse sometimes happened too, where AWAC reserved a piece of business and refused to release it so that AIG could provide a quote. In this manner, for at least four years AIG and AWAC unlawfully allocated customers between themselves.

29. For example, in June of 2004, an underwriter at Starr Excess emailed AWAC regarding a pending insurance placement for the Baylor College of Medicine. Noting that a London insurance broker had said AWAC was quoting this business, the Starr underwriter wrote to AWAC: "I can't find anything in e-start for you guys; can you have the [AWAC] underwriter contact me to ensure that we are not competing against each other." AWAC replied that Lexington was quoting the first excess layer, AWAC was on the second and third excess layers, and Starr London was on the fourth excess layer.

30. On several occasions, AIG executives complained to AWAC about certain excess casualty accounts where AWAC's pricing was deemed too low. AIG attempted to exert an upward influence AWAC's pricing so that AIG would not be forced to lower its pricing on or decline to quote other layers in the same placement. Under the industry practice of rate relativity, an excess casualty insurer expects to receive a proportionately similar increase in premium (or a similar price per million dollars of coverage) as its competitors in other layers. This practice is facilitated by a broker sharing bidding information with the insurance companies

invited to quote the various layers of coverage in an excess casualty placement. AIG used its access with AWAC to discipline the market further by directly contacting AWAC when its pricing was considered to be too aggressive.

31. AWAC and AIG's agreement not to compete was unrelated to the joint venture, and not ancillary to the formation or operation of the joint venture. Therefore, the coordination of bids and pricing terms by AIG and AWAC, and their customer allocation scheme are *per se* violations of Texas Business and Commerce Code section 15.05(a).

VII.

FIRST CAUSE OF ACTION

32. The State incorporates and adopts by reference the allegations contained in every paragraph of this complaint.

33. The State alleges that beginning at a time uncertain, but at least as early as 1999, continuing until an uncertain date, but at least until June 1, 2004, Defendants and others entered into a combination and conspiracy to suppress and eliminate competition by allocating customers and rigging bids for commercial insurance covering risks located in Texas, in an unreasonable restraint of interstate trade and commerce, in violation of Texas Business and Commerce Code section 15.05(a).

VIII.

SECOND CAUSE OF ACTION

34. The State incorporates and adopts by reference the allegations contained in every paragraph of this complaint.

35. The State alleges that beginning with AWAC's formation in late 2001 and continuing until at least December 2004, AIG and others entered into a combination and

conspiracy to suppress and eliminate competition by allocating customers, and coordinating bids and pricing terms for insurance placements on risks located in Texas, in an unreasonable restraint of interstate trade and commerce, in violation of Texas Business and Commerce Code section 15.05(a).

IX.

PRAYER

WHEREFORE, plaintiff, demands judgment against Defendants as follows:

a) Adjudging and decreeing that AIG engaged in conduct in violation of Texas Business and Commerce Code section 15.05(a);

b) Awarding the State of Texas injunctive relief to prevent AIG in the future from engaging in conduct similar to the improper conduct alleged in this complaint;

c) Awarding the State of Texas such other relief, including, but not limited to civil penalties, as the Court finds necessary to redress AIG's violation of Texas law;

d) Awarding the State of Texas its costs of this action, including reasonable attorneys' fees, costs, and where applicable, expert fees as provided in Business and Commerce Code section 15.20(b) and Texas Government Code section 402.006(c); and

e) Directing such other and further relief as the Court deems just and proper.

Respectfully submitted,

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EXHIBIT A
AIG Subsidiary List

Insurance Company Name	**State of Incorporation**
AIG Casualty Company	Pennsylvania
AIG Excess Liability Insurance Company Ltd.	Delaware
AIU Insurance Company	New York
American International Pacific Insurance Company	Colorado
American International South Insurance Company	Pennsylvania
American International Specialty Lines Insurance Company	Illinois
American Home Assurance Company	New York
Audubon Indemnity Company	Mississippi
Audubon Insurance Company	Louisiana
Commerce and Industry Insurance Company	New York
Granite State Insurance Company	Pennsylvania
The Hartford Steam Boiler Inspection and Insurance Company	Connecticut
Illinois National Insurance Co.	Illinois
The Insurance Company of the State of Pennsylvania	Pennsylvania
Landmark Insurance Company	California
Lexington Insurance Company	Delaware
National Union Fire Insurance Company of Louisiana	Louisiana
National Union Fire Insurance Company of Pittsburgh, Pa.	Pennsylvania
New Hampshire Insurance Company	Pennsylvania