

## CT Attorney General

### Connecticut Attorney General's Office

#### Press Release

##### ***Attorney General Announces Landmark Insurance Case Victory: Court Declares Insurance Broker Should Have Disclosed Hidden Fees To Consumers***

April 21, 2010

Attorney General Richard Blumenthal announced today a first-in-the-nation court victory declaring that Wells Fargo's insurance arm broke the law when it failed to tell consumers about hidden kickbacks the company was paid in exchange for favoring a group of "preferred" insurers.

The court ruled that insurance broker Acordia, Inc., now owned by Wells Fargo, had a fiduciary duty to be open and honest with its clients -- and that it violated that trust.

Blumenthal said this decision will have a significant impact on law enforcement cases involving such practices -- and is a profound victory for insurance consumers, particularly businesses throughout Connecticut. Several business representatives testified at trial that they would have wanted to know about the hidden commissions because the costs were eventually paid by their businesses.

Blumenthal's case alleged that Wells Fargo should have disclosed to clients that it received a kickback for every insurance policy that it sold on behalf of its "preferred" stable of national insurers.

A state court judge agreed with Blumenthal's lawsuit that Wells Fargo had a fiduciary duty to its clients -- and should have disclosed when it accepted contingent commissions from insurers because such commissions are a conflict of interest.

Connecticut's case against Wells Fargo is the first case in the country to go to trial on the issue of whether an insurance broker owes a fiduciary duty to its clients to disclose the existence of so-called contingent commissions.

"This case is a significant victory for insurance consumers -- and honest, competitive businesses that were illegally shut out of the market by Wells Fargo's exclusive pay-to-play club," Blumenthal said. "This victory is the first of its kind in the country -- a resounding message to insurance brokers about their legal duty to be open and honest with clients.

"This decision confirms our hard-fought position: secret agreements and kickbacks are bad for businesses and bad for consumers. There can be no confusion that brokers owe a duty of honesty to their clients. Wells Fargo must now identify and eventually disgorge profits that it illegally earned at the harm of Connecticut businesses and consumers. Today's ruling follows several settlements between my office and insurance brokers and insurers in recent years that have returned hundreds of millions of dollars to taxpayers and consumers, most of the consumers being businesses."

Since 2005, cases brought by Blumenthal and other attorneys general from around the

country have returned billions of dollars in improper fees and kickbacks to consumers. Each of these payments resulted from out-of-court settlements.

In this case, the court agreed with Blumenthal's claims that Wells Fargo's practices were illegal. The court ruled that "the Millennium Partnership constituted a conflict of interest between Acordia and its clients because under the Millennium Partnership Acordia received more money when Millennium insurer products were sold to Acordia clients..."

The court did not rule on a settlement dollar amount, but ordered Wells Fargo to identify and disclose how much money it earned through its illegal practices.

The court agreed with Blumenthal's position that Wells Fargo broke the law when it concealed partnerships from its clients -- secret agreements known as the "Millennium Partnership" -- in which certain insurers paid Wells Fargo undisclosed commissions in exchange for giving those insurers "first shot" at selling insurance to its customers.

In many cases, these hidden commissions -- negotiated only with a small number of insurers -- were in addition to the normal sales commission and other standard sales incentives that Wells Fargo received for each policy it sold. As one carrier put it, Acordia had a "VERY LUCRATIVE plan!"

In January 1999, Acordia initiated the "Millennium Agency System Partnership" in order to obtain financial support over a three-year period to offset the costs associated with launching "AMS Segetta," a new agency management system that would directly link its offices through the Internet with a few "partner" insurers, providing an "inside track" for future business with Acordia.

Under the partnership, certain insurers were offered various ways to help Acordia meet its financial objectives, including grants and other incentives over and above standard contingent sales bonuses.

By August of 1999, insurers Atlantic Mutual, Chubb, The Hartford, Travelers, and Royal SunAlliance had all agreed to participate in the plan. Acordia made the consequences clear to those who refused to participate. One former senior vice president and chief marketing officer wrote this to Kemper Insurance after the company declined to participate: "Please let me know if we can find a solution before our marketing plans for the next 18 months exclude you from growth potential."

Blumenthal thanked those in his office who tried the court case -- Assistant Attorneys General Matthew Budzik, George O'Connell, and Kirsten Rigney, and those who worked on the investigation, Assistant Attorney General Dinah Bee, and Paralegal Holly MacDonald, all working under the direction of Assistant Attorney General Michael Cole, chief of the Office of the Attorney General's Antitrust Department.

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Content Last Modified on 4/21/2010 2:55:07 PM