

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT  
IN AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA, *et al.*,

Plaintiffs,

v.

Case No.:

THE TRAVELERS COMPANIES, INC. ,

Defendant.

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**COMPLAINT**

Bill McCollum, in his capacity as Attorney General of the State of Florida, Department of Legal Affairs, Alex Sink, in her capacity as Chief Financial Officer of the State of Florida, Department of Financial Services, and Kevin M. McCarty, in his capacity as Insurance Commissioner, Florida Office of Insurance Regulation (collectively, the "Plaintiffs"), by and through their undersigned counsel, sue The Travelers Companies, Inc. (the "Company") concerning compensation and other arrangements between the "Company"'s United States - domiciled affiliates that issue insurance policies ("the Travelers Insurers") and various "Producers," including Marsh & McLennan Companies, Inc. and its affiliates or subsidiaries (collectively "Marsh") and allege as follows:

**I.**

**JURISDICTION AND VENUE**

1. This is an action for injunctive relief, civil penalties, costs, and attorneys' fees brought pursuant to the Florida Antitrust Act, Chapter 542, Florida Statutes (2007) and the Florida Insurance Code.

2. Venue as to the Defendant is proper in this court. The Travelers Insurers do business in and affect commerce in Leon County, Florida. The Court has personal jurisdiction over the Defendant because insurance products and services provided by Travelers Insurers are sold and purchased in Florida and certain Travelers Insurers engaged in trade and commerce within and affecting Florida at material times.

## II.

### PLAINTIFFS

3. The Attorney General is the enforcing authority of Chapter 542, Florida Statutes (2007). The Chief Financial Officer and the Insurance Commissioner are regulatory authorities of the Florida Insurance Code. The Court has subject matter jurisdiction.

## III.

### DEFENDANTS

4. The Company is incorporated under the laws of Minnesota, headquartered in St. Paul, Minnesota and is the ultimate parent of the Travelers Insurers which do business throughout the United States and in the State of Florida.

5. Until February 2007, The Company was named The St. Paul Travelers Companies, Inc. In April, 2004, The St. Paul Travelers Companies, Inc. was formed through the merger of The St. Paul Companies, Inc. and Travelers Property and Casualty Corporation. When appropriate, the conduct of the individual, pre-merger companies will be specified in this Complaint.

## IV.

### INSURANCE TERMINOLOGY

A. Insurers, Brokers, and Customers

6. 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") that are hired by policyholders to advise them 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.

7. 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.

8. "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

9. Insureds make two payments: one to the insurer and one to the "Broker". Payments to the insurer are called premiums. 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.



10. There are also "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. At all times material hereto, these arrangements typically were not disclosed to the customer.

C. Excess Casualty Insurance

11. "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." Some customers self-insured for the risk of a small dollar loss. This is called a "self-insured retention", which is similar to a deductible. If this amount comes due, the customer pays the damages without assistance from an insurance company. Other customers purchase casualty insurance against the risk of even small losses. Either way, 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 layer 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."

V.

**FACTUAL ALLEGATIONS**

12. The Travelers Insurers 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 Florida. The conspiracies allowed a group of competing insurance carriers to allocate customers, divide markets for commercial insurance, and charge those customers inflated premiums.

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

14. The most sophisticated version of this steering occurred through a bid-rigging conspiracy involving several national insurers and national "Broker" 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.

15. 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, Marsh 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. Marsh 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 Marsh Global Broking were heavily influenced by the rate of increase sought by the "partner" insurers. Marsh Global Broking did not set the prices it would seek to obtain from insurers at the lowest point Marsh Global Broking believed it could obtain. Rather, Marsh Global Broking 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. Marsh Global Broking virtually always had a "broking plan" in place with a partner insurer that frequently described benefits to the insurer for participating in the Marsh conspiracies.

16. 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" or "back-up quotes" from them. In those cases, the insurers understood that the target premium set by Marsh was higher than the quote provided by the incumbent, and that the insurance company should not bid lower than the target. 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. At Marsh's urging, the Travelers Insurers and other insurers submitted artificially high quotes designed to make a pre-designated insurer's quote appear competitive. "Brokers" would request these fictitious quotes in order to deceive their clients into believing that they were receiving the best price or terms and conditions for their insurance and that it was subjected to a competitive bidding process.

18. For example, The Walt Disney Company ("Disney") does a significant amount business in the State of Florida. Disney retained Marsh to provide broker services, including competitive marketing of the June 30, 2004 renewal of its excess casualty insurance coverage. The St. Paul Companies was the incumbent insurance carrier for Disney's excess casualty coverage at that time. In early 2004, a Marsh Global Broking Senior Vice President disseminated Disney's renewal submission to various Marsh Global Broking Local Broking Coordinator ("LBC") team leaders, so the LBCs could in turn contact the respective insurance carriers, regarding Disney's renewal. The Marsh LBC assigned to the insurer ACE Group Holdings, Inc. inquired of the Marsh Senior Vice President, "(p)lease advise soonest the agreed upon Broking Plan for Disney. I must know if your agreed upon renewal action plan includes a serious alternative lead quote from ACE excess." The Marsh Senior Vice President's response was "(we) are not looking to put St. Paul into competition on the lead since this is their first renewal. We have already had meetings with St. Paul and appears OK...More likely we would need ACE for the back up in the excess." This Marsh Senior Vice President subsequently entered a plea of guilty in the Criminal Court of the City of New York, New York County, for his participation in similar schemes involving Marsh and various insurance carriers from 2002 through 2004.

19. Spherion Corporation (“Spherion”), a Florida-based corporation, retained Marsh to provide broker services, including competitive marketing of the 2003 renewal of its excess general liability insurance coverage. The Marsh Broking Plan for placing this renewal coverage included protecting the incumbent insurer by seeking a “B” quote from two insurers, including The St. Paul Companies. Pursuant to the Broking Plan, a Marsh broker told the “B” quote insurer conspiring with the incumbent insurer and The St. Paul Companies to give us a “bad price...and then we can be done with this,” depriving Spherion of meaningful competition and causing the policyholder to believe the incumbent insurer’s price was the best available.

20. Fidelity National Financial, Inc., a Florida-based corporation, retained Marsh to provide broker services, including competitive marketing of the 2003 renewal of its umbrella insurance coverage. In March 2003, a Marsh Global Broking Senior Vice President requested of another Marsh Global Broking employee, “(c)an you get me a B from Zurich. Client will be binding with St. Paul at \$270,000 all coverages as expiring. \$325,000 should work.” The “client” in this instance was Fidelity National and the 2003 insurance coverage was subsequently renewed with St. Paul. This Marsh Senior Vice President later entered a plea of guilty in the Criminal Court of the City of New York, New York County, to the charge of “Scheming To Defraud,” for his participation in similar schemes involving Marsh and various insurance carriers from 2002 through 2004.

21. These unfair and deceptive models also led insurance customers across the country, and in particular, in the State of Florida, to suffer substantial harm. Consumers paid more money for insurance services than they would have paid in a competitive system and they often received an insurance product that was inferior. Additionally, The Travelers Insurers’ participation in these schemes to undercut competition distorted the market for commercial



insurance, causing consumers generally to pay higher prices and obtain lower quality services. The injuries customers suffered by paying these increased prices were a direct and proximate result of The Travelers Insurers' illegal acts.

## VI.

### CAUSES OF ACTION

22. The Plaintiffs incorporate and adopt by reference the allegations contained in every paragraph of this complaint.

23. The aforementioned conspiracies by The Travelers Insurers were and are in violation of the Florida Antitrust Act, Chapter 542, Florida Statutes (2007) and the Florida Insurance Code.

## VII.

### PRAYER

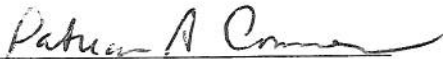
**WHEREFORE**, based upon the foregoing, Plaintiffs demand judgment against Defendant as follows:

- a) Adjudging and decreeing that the Travelers Insurers engaged in conduct in violation of the Florida Antitrust Act, Chapter 542, Florida Statutes (2007) and the Florida Insurance Code.
- b) Awarding the Plaintiffs injunctive relief to prevent The Travelers Insurers from engaging in future conduct similar to the improper conduct alleged in this Complaint;
- c) Awarding the Plaintiffs such other relief including, but not limited to, civil penalties, as the Court finds necessary to redress The Travelers Insurers' violation of Florida law;

- d) Awarding the Plaintiffs' costs of this action, including reasonable attorneys' fees and costs; and,
- e) Directing such other and further relief as the Court deems just and proper.

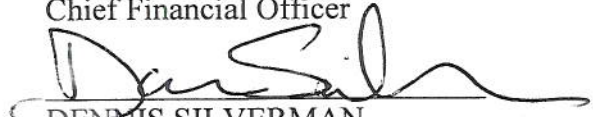
Respectfully submitted, this \_\_\_\_ day of December, 2007.

**BILL McCOLLUM**  
Attorney General



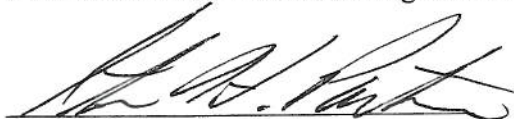
**PATRICIA A. CONNERS**  
Associate Deputy Attorney General  
Florida Bar No. 361276  
**CHRISTOPHER R. HUNT**  
Assistant Attorney General  
Florida Bar No. 832601  
Office of the Attorney General  
PL01, The Capitol  
Tallahassee, Florida 32399-1050  
Telephone: (850) 414-3300  
Facsimile: (850) 488-0134

**ALEX SINK**  
Chief Financial Officer



**DENNIS SILVERMAN**  
Chief Counsel  
Florida Bar No.  
Department of Financial Services  
200 East Gaines Street  
Suite 612  
Tallahassee, Florida 32399-0333  
Telephone: (850) 413-4162  
Facsimile: (850) 488-0697


**KEVIN M. McCARTY**  
Insurance Commissioner  
Florida Office of Insurance Regulation



**STEVEN H. PARTON**  
General Counsel  
Florida Bar No. 188357  
**JIM L. BENNETT**  
Executive Senior Attorney  
Florida Bar No. 0764442  
Assistant General Counsel  
Florida Office of Insurance Regulation  
200 East Gaines Street  
Suite 612  
Tallahassee, Florida 32399-4206  
Telephone: (850) 413-4171  
Facsimile: (850) 413-2543

**CERTIFICATE OF SERVICE**

I hereby certify that correct copies of the foregoing COMPLAINT have been served via U.S. Mail and facsimile transmission on this \_\_\_\_ day of December, 2007.

  
Christopher R. Hunt, Esq.

By U.S. Mail and facsimile transmission:

Peter Homer, Esquire  
Homer Bonner PA  
1200 Four Seasons Tower  
1441 Brickell Avenue  
Miami, Florida 33131  
Telephone: (305) 350-5100  
Facsimile: (305) 372-2738