

FIRST CIRCUIT COURT  
STATE OF HAWAII  
FILED

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H. CHING  
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII,	)	CIVIL NO. 08-1-0191-01 K S S A
	)	
Plaintiff,	)	COMPLAINT; EXHIBIT "1"; SUMMONS
	)	
v.	)	
	)	
AMERICAN INTERNATIONAL	)	
GROUP, INC.,	)	
	)	
Defendant.	)	

COMPLAINT

Comes now Plaintiff State of Hawaii, by and through its counsel, Mark J. Bennett, Attorney General, and for a complaint against American International Group, Inc., avers and alleges as follows:

I.

NATURE OF THE SUIT

1. This action is brought by the State of Hawaii by Mark J. Bennett, the Attorney General of Hawaii, acting within the scope of his official duties under the authority granted to

I do hereby certify that this is a full, true and correct copy of the original on file in this office.

  
Clerk, Circuit Court, First Circuit

him by the Constitution and the laws of the State of Hawaii, and specifically under the authority granted by Haw. Rev. Stat. sections 28-1, 480-2, and 480-20.

## II.

### DEFENDANT

2. Defendant AIG International Group, Inc. ("AIG") is incorporated under the laws of the State of Delaware. *AIG* is the ultimate parent of certain insurance companies listed in Exhibit "1" attached hereto ("*AIG Insurers*"). The *AIG Insurers* have offices situated in the United States, do business throughout the United States, and hold Certificates of Authority or licenses to conduct the business of insurance and thereby issue insurance policies in various states. Certain of the *AIG Insurers* do business in the State of Hawaii, and hold licenses to conduct the business of insurance and thereby issue insurance policies in the State of Hawaii.

## III.

### JURISDICTION AND VENUE

3. Upon information and belief, AIG, in person or through an agent, transacted business within this State, committed one or more tortious acts within this State, contracted to insure persons, property, or risks located within this State at the time of contracting, and transacted the business of insurance within this State. Furthermore, upon information and belief, AIG, separately or jointly with other co-conspirators, 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 the State of Hawaii. Jurisdiction is proper in this Court pursuant to Haw. Rev. Stat. sections 431:1-215, 480-21, 603-21.5, 603-23, and 634-35. Venue is proper pursuant to Haw. Rev. Stat. sections 431:1-215, 480-21, and 603-36.

## IV.

### INSURANCE TERMINOLOGY

#### **A. Insurers, Brokers, and Customers.**

4. In general, there are three categories of participants in the commercial insurance market. First, there are the insureds or policyholders consisting of 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.

5. In the case of complex commercial insurance products, a high level of expertise can be necessary 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.

6. 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. The insureds 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.**

7. Brokers are compensated by payments received directly from the insureds or indirectly from premiums the insureds pay to insurers. The insured'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.

8. 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 insureds.

**C. Excess Casualty Insurance.**

9. "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-insure for the risk of a small dollar loss which is called a "self-insured retention," and is similar to a deductible. If this amount becomes due, the customer pays the damages without assistance from an insurance company. Other customers may opt to purchase casualty insurance to cover 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. This "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 known as the “excess layers.” The excess layer insurer’s obligations are triggered when the claim exceeds the limit or ceiling set in the customer’s contract with the primary insurer and the “lead” or “umbrella” insurer.

V.

**CLAIM FOR RELIEF**

10.     AIG is a commercial insurance carrier that, beginning at a time uncertain, but at least as early as 1999, and continuing until a date uncertain, but at least until June 1, 2004, knowingly and willfully participated, on its own and/or through the *AIG Insurers*, in unlawful conspiracies to restrain trade in the market for certain insurance products purchased by customers located across the country, by allocating customers and rigging bids for commercial insurance. Upon information and belief, the conspiracies affected insurance products purchased by policyholders in the State of Hawaii.

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

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

13. As an example, a national broker established broking plans (also known as game plans) which laid out which insurer would quote each layer, often setting specific pricing targets. The national broker 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 insurers who provided the most lucrative contingent commissions to the national broker. Moreover, the premiums assessed to the policyholders were neither set competitively, nor were they intended to be the lowest premium that could be obtained for the policyholders. Rather, the premiums were set by the national broker, were heavily influenced by the rate of increase sought by the "partner" insurers, and were calculated to be as high as possible and still result in the placement of the policyholders' business with the partner insurers.

14. In many instances, there was a pre-designated winner of the bidding process. The national broker would approach the incumbent insurer or "partner" with an inflated premium amount that the national broker believed it could sell to the policyholder. The incumbent insurer would be assured that, if it met that premium amount, it would win the business. Then, the national broker would approach "back up" insurers involved in the conspiracy and request them to submit fictitious specified premium quotes, sometimes referred to as "B-quotes," "protective quotes," "indications," "fake quotes," or "back-up quotes." The backup insurers understood that the fictitious specified premium quotes set by the national broker were higher than the quote provided by the incumbent insurer, that they should not submit lower quotes, and that they would not receive the business. The national broker sometimes shared broking plans with insurers so that everyone knew who was predetermined to get each layer. Sometimes, the national broker 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 backup 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 backup 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.

15. As the leading excess casualty insurer and because it was frequently an incumbent, AIG benefited from the national broker's solicitation of protective quotes more than any other insurer that participated in the scheme. For example, in connection with the 2002 procurement and placement of insurance coverage for Fortune Brands, ACE Excess Casualty, an alleged competitor of AIG, submitted a quote for \$990,000, which quote was more competitive than the quote proffered by AIG. Hours later, ACE faxed a revised bid to the national broker increasing its 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 the following day, the ACE underwriter explained to another ACE employee: "Original quote \$990,000. . . . We were more competitive than AIG in price and terms. [National broker] requested that we increase premium to \$1.1M to be less competitive, so AIG does not loose [sic] the business."

16. Upon information and belief, this unfair and deceptive model led insurance customers across the country, and in particular, the State of Hawaii 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.

17. The aforementioned conspiracies were and are in violation of Haw. Rev. Stat.  
sections 480-2 and 480-4.

WHEREFORE, plaintiff, demands judgment against AIG as follows:

- a) Adjudging and decreeing that AIG engaged in conduct in violation of Haw. Rev.  
Stat. sections 480-2 and 480-4;
- b) Awarding Plaintiff injunctive relief to prevent AIG in the future from engaging in  
conduct similar to the improper conduct alleged in this complaint;
- c) Awarding Plaintiff such other equitable relief, including, but not limited to, civil  
penalties, as the Court finds necessary to redress AIG's violation of Hawaii law;
- d) Awarding Plaintiff its costs of this action, including reasonable attorneys' fees  
and costs, and where applicable, expert fees; and
- e) Directing such other and further relief as the Court deems just and proper.

DATED: Honolulu, Hawaii

January 29, 2008

MARK J. BENNETT  
Attorney General of Hawaii



DEBORAY DAY EMERSON  
RODNEY I. KIMURA  
Deputy Attorneys General

ATTORNEYS FOR STATE OF HAWAII



**EXHIBIT 1**  
**AIG Insurer List**

<b>Insurance Company Name</b>	<b>State of Incorporation</b>
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

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII,	)	CIVIL NO.
	)	
Plaintiff,	)	
	)	
v.	)	SUMMONS
	)	
AMERICAN INTERNATIONAL	)	
GROUP, INC.,	)	
	)	
Defendant.	)	
_____		

SUMMONS

STATE OF HAWAII:

TO: AMERICAN INTERNATIONAL GROUP, INC.

YOU ARE HEREBY SUMMONED and required to serve upon Rodney I. Kimura, whose address is 425 Queen Street, Honolulu, Hawaii, 96813, an answer to the Complaint which is herewith served upon you, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing to this summons, personal delivery during these hours.

A failure to obey this summons may result in any entry of default and default judgment against the disobeying party or person.

DATED: Honolulu, Hawaii, JAN 29 2008

H. CHING



CLERK OF THE ABOVE-ENTITLED COURT